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Business Plus Initiative
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Post Clearance Control Training and Recommendations

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Ulaanbaatar, Mongolia

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Report Title: ***Post Clearance Control Training and Recommendations***
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ABBREVIATIONS AND ACRONYMS

BPI	Business Plus Initiative
CVA	Customs Valuation Agreement
GATT	General Agreement on Tariffs and Trade
IPR	Inward Processing Relief
LOE	Level of effort
PCA	Post Clearance Audit
PCC	Post Clearance Control
WCO	World Customs Organization
WTO	World Trade Organization
OECD	Organization for Economic Cooperation and Development
USAID	United States Agency for International Development
MNT	Mongolian currency
UK	United Kingdom
VAT	Value-added tax

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EXECUTIVE SUMMARY

The purpose of this project was to:

- devise and deliver initial training to meet the perceived needs of the PCA Team; and
- make recommendations to improve the Mongolian Customs law and PCA procedures.

During July and August 2013 the consultant held numerous discussions, via E-Mail, with Mr. Amgalan, Chemonics, Ulaanbaatar and devised training based on Mongolian Customs Law, the General Agreement on Tariffs and Trade (GATT) Customs Valuation Agreement (CVA) and the Organization for Economic Cooperation and Development (OECD) Transfer Pricing studies, and wrote the following courses:

- a six day valuation course covering Methods 2 to 6;
- a one day basic interview skills course;
- a three day seminar introducing the concepts of Tax Planning, Tax Avoidance and Fraud; and
- a one day introduction to Transfer Pricing seminar.

The mission in Ulaanbaatar covered the period 1st September to 22nd September 2013. The training started immediately upon arrival with half the students attending the valuation course and then the interview course. This was immediately followed by the second half of the students attending the same two courses. In the last four days all of the students attended the two seminars covering: Tax Planning, Tax Avoidance and Fraud; and Transfer Pricing.

On the last day there was a closing ceremony at which certificates were presented to all of the students by Mr. O. Ganbat, Director General, Customs General Authority of Mongolia, Mr. T. Munkhchuluun, Head of Customs Post Clearance Audit Department and Mr. Richard Chen, USAID representative.

SECTION I: INITIAL WORK

During July and August, in the UK, the expert examined the Mongolian Customs Law:

- Constitution of Mongolia;
- Customs Law of Mongolia;
- Law of Mongolia on Customs Tariffs and Customs Duties; and
- A Regulation Concerning Post Clearance Audit.

In combination with the WTO's CVA and the OECD's Transfer Pricing reports four training courses were devised. The courses comprise:

- Modules;
- Exercises; and
- Handouts.

All the material was transferred to Mongolia by E-Mail, where it was translated into Mongolian and printed. During the first period in May/June 2013 the expert posed numerous questions for the Mongolian Customs Department to answer. By the commencement of the first course approximately half of the final 100 questions were still outstanding. The majority of these outstanding questions remain unanswered to date.

SECTION II: TRAINING DELIVERED

All four training courses were held over 18 days at the Customs Head Quarters Building in Ulaanbaatar, between 2nd and 21st September 2013. In hindsight, moving the training to the Customs Head Office was a mistake as this enabled Customs Managers to pull students out of the course at a moment's notice and it meant that the students were expected to continue with their normal duties before the training commenced, during the breaks and after the end of each training day. This is not the correct approach to training. The purpose of training is to somehow get knowledge into the heads of the students and then reinforce it before it can be 'pushed out' by other considerations. It was apparent that the students' level of knowledge retention was considerably less than when the previous training was held away from their normal offices.

The content of the courses was;

- the first six days covered the GATT CVA Methods 2to 6;
- the next day covered basic Interview Techniques;
- these two courses were repeated for the second group of students; and
- the remaining four day seminar was for all of the students and covered: Tax Planning, Tax Avoidance and Fraud; and Transfer Pricing

The content of each course is summarized at Annex F.

Both courses received positive feedback, which is summarized at Annex G.

As with the earlier training, students were often using their mobile phones whilst the training was underway and they would leave the room without apology more often than not. Additionally many students did not attend all of the days.

I have said these two things before, but they are worthy of repetition:

The purpose of training is to improve the skills of the students. This requires sufficient time for them to 'digest' new information in order to both understand it and to work out in their own minds how to best put it into practice. This cannot be done if immediately after each training session they are required to think about something other than what they have just learned; and

It is better to train staff to do a thing effectively than to require them to do that thing with inadequate training. Management must learn that staff on training courses are not to be withdrawn for an issue that management perceive as being important to them, especially when only half of the staff are being trained at any one time. These issues can nearly always wait until after the end of the training course or be dealt with by the colleagues who are not attending the training that day.

I accept that when 'over view training' is provided my criticisms are less relevant, but when detailed technical training is being provided it is absolutely fundamental that the students be allowed to absorb the knowledge and develop it.

SECTION III: RECOMMENDATIONS

PROCEDURAL RECOMMENDATIONS

1. **The most vital recommendation is training.** The PCA team must receive additional training in:

1. Criminal Law;
2. Tax Regulations;
3. Investigation Techniques; and
4. Interview Techniques

There are three ways to achieve this training:

- ‘In house’ training. This should take two forms:
 - Each PCA officer, or a pair of officers, should research a subject and provide training to the rest of the team (items 1 & 2 above);
 - It was apparent that several of the students were able to assimilate the training better than others. They should take the opportunity that helping the others will give them to reinforce the knowledge they have gained.
- ‘Official’ training. This will be provided by departmental experts (i.e. investigators) and non-departmental experts such as the courts, lawyers and accountants (items 3 & 4 above); and
- Training from foreign experts. This is last on the list because there are very few ‘foreign experts’ with sufficient knowledge of Mongolian law, procedures and culture to provide really useful, detailed, training. The PCA team members are beyond ‘overview training’. They now require specifics, based on the actual situations they face in their work and the correct understanding of Mongolian law.

2. **Understanding Business Practices.** This means understanding both Mongolian and Multi-National enterprises: how they are structured; their business philosophy; their trading techniques and problems; their accounting practices; and product specific issues (such as seasonal trade, the fragility of certain goods, speed of obsolescence, fashion changes and terms of trade – including samples etc.).

To achieve this outcome the PCA team manager should look for ‘partners in business’. This will include lawyers and accountants, but primarily it will be actual businesses themselves. The idea is that ‘those who practice, should teach’. In other words, get the people who actually do the things the PCA team need to understand, to teach the PCA team to understand them.

3. **Regime training.** It appears that the departmental training the PCA team members have received to date is based on ‘Customs Procedures’, rather than the actual law. As a consequence traders will be able to avoid paying some duty that is due and they will be required to pay additional duty that is not legally due.

All Customs training courses should be structured first from the actual law, then from the Regulations and only last from Customs Procedures. Where Customs Procedures conflict with the law, the procedures should be amended to correctly reflect the law.

4. **Practical training.** Training Duty audits and training Tax Avoidance audits should be arranged. These will be to reasonably compliant medium sized traders (Duty audits) and traders where the amount of duty at risk is acceptable should the PCA team fail to break the scheme (Tax Avoidance audits).

5. **The PCA staff should not be rotated** to other duties before they have spent at least two and preferably three years practicing what they have learned.

LEGAL RECOMMENDATIONS

1. The mandatory definition for undertaking a fraud investigation should be changed to allow the PCA team to conduct audits to large traders without having to treat those audits as fraud investigation. It would be appropriate for the head of Post Clearance Audit to decide whether or not to treat a case as fraud, where the total revenue appears to be less than a pre-determined amount, but at least MNT 100 million.
2. The concept of ‘voluntary disclosures’, where a company is not penalized if it reports an error before the commencement of an audit, should be extended to those businesses that are prepared to assist the PCA staff to improve their knowledge and expertise. Businesses which provide help in understanding their industry and their own accounting practices should only be penalized when a large scale ‘blatant’ fraud is discovered. However, it is to be expected that companies that have undertaken such frauds will not be prepared to assist the PCA team, so there is little likelihood of such a conflict arising.
3. The Head of the PCA team should be empowered to reduce the standard penalties where a business fully cooperates with the auditors. In the UK penalties can be reduced by up to 75% of the standard penalty for a business that fully cooperates and actually undertakes all of the work in calculating the errors. In such situations the PCA team need only check the company’s figures.
4. The PCA staff should be given the power to assess arrears. This means that they can check a small percentage of declarations (say 10%) and the errors discovered can be applied to all importations from the same suppliers during the period allowed for collecting arrears in Mongolian law.
5. The PCA team should be given the power to conduct ‘instant audits’ without the need to formally inform a business of who will be conducting the audit, for how long, about what particular subjects, etc. This will enable them to react to issues that are discovered during one audit and which are likely to affect many other businesses.
6. Where a business ‘looses’ its records, or they are ‘stolen’ or there is a fire just before the start of an audit, the PCA team leader should have the power to assess arrears at an additional 50% of the total revenues declared on the Customs declarations concerned, in the first instance. If the same ‘problem’ occurs again within three years this should be increased to 100%. However, care must be taken not to penalize those few businesses where these issues are actually genuine.

STRUCTURE OF THE AUDIT TEAM

(repeated from the previous report)

I understand that the PCA team does not have any dedicated support staff. I believe that this is an error. There are many routine tasks that can be performed by clerical support staff and trainee auditors. In the UK a team of 20 auditors would be supported by at least four Assistant Auditors and two clerical support officers. These staff can also save the team’s manager considerable time by collating all of the information he will require for monthly statistics etc.

In the UK it is the job of these support staff to:

- book visits for compliance staff and audits for the auditors;
- chase up traders who are late in rendering returns and schedules of arrears;

- obtain the research information required to undertake an audit, including a sample of customs declarations and the information held by other tax authorities;
- obtain details of the person to see at the beginning of the audit and to ensure (s)he knows what the auditors will require during the audit, both in terms of personnel to see and documents to examine; and
- perform the initial checks on the trader's arrears schedules.

All of this work takes time, but it does not require the skills of trained auditors of compliance officers. When this sort of work is undertaken by support staff it can increase the number of audits and compliance visits considerably. In the UK I even used the Assistant Auditors to perform routine visits to traders to ensure repayment claims were correct.

I recommend that a number of audit support staff be recruited to complement the auditors.

In the UK I required all of my trainee officers to give me a presentation on each aspect of customs (the three main arrears of duty payment and all of the duty reliefs), covering the major issues of each regime, its law and the risk areas. We regularly held team meetings during which I updated my staff on amendments to the law and current interpretation of aspects of the law. Additionally, I required each team of two officers to pose a problem to all the trainees. They had to provide a solution, which I vetted for accuracy, and they had to take the rest of the team through both the issues and the solutions. This not only improved the skills of all the team members, but it significantly improved the knowledge of the staff who had to present both the problem and the solution.

I recommend that all Mongolian Customs officers are properly trained in the Customs Laws of Mongolia and that they are regularly tested/updated on the law.

SECTION IV: WEEKLY REPORT 1

Chemonics BPI initiative in Mongolia

Consultant: Laurrie Gidley, Senior Indirect Tax Specialist

2nd September 8th September 2013

This input is entirely focused on training.

1. The training was located at the Customs Head Quarters Building in Ulaanbaatar rather than the Customs Training Centre as was the case in the previous input. The training started with the first course covering the Customs valuation Methods 2 to 6. The Students have demonstrated the same level of commitment as with the previous training and several have commented that they have already made use of some of the concepts from the previous training.

2. At the end of the first day's training a student raised an issue she believed to be a valuation issue. After careful questioning it became clear that this was an issue to do with the Customs Duty Relief: Temporary Admission of Goods. Based on Article 93 of the Mongolian Customs Law (Annex A) and the Temporary Admission of Goods Regulation (Annex B), it is clear that Mongolian Customs has miss-interpreted what can be done with goods imported to this duty relief.

3. It is believed by Mongolian Customs that Article 93.2 allows an importer to use the goods for the purpose for which they were designed, i.e. an earth moving machine can be used to move earth and digging machines can dig mines in Mongolia for a year without payment of duty. This is based on their understanding of the expression "is utilized for designated use." What this phrase actually means is that the goods can be used for the use designated by the Customs Authority. This is supported by Paragraph 1.2 of the Temporary Admissions regulation which states that the relief is for "temporary admission of foreign goods within a stated timeframe which are meant for re-exportation **without changes,**". It is clear that an earth moving machine or a digging machine that is not only used for a whole year to move earth, but is so degraded by the work that it requires repairs in another country on more than one occasion, does not meet this requirement.

4. My current opinion is based on the two pieces of law at Annex I and II. It should be borne in mind that I am not an expert on Mongolian law and there may be additional legislation relating to Customs Duty reliefs which amend the two attached and which I have not seen. However, the usual purpose for this particular relief is either to show goods to prospective buyers (shoes, accessories, jewellery etc.) or to demonstrate items to prospective buyers (TVs, cameras, vehicles, machinery etc.). It is not the usual purpose of this relief to allow a machine to enter a Customs Territory and be put to use for a whole year to fulfil the purpose for which it was manufactured, without payment of Customs duty and Import VAT.

5. Machinery, in particular, is often leased to companies to use for a period, often multiples of years. The GATT Valuation Agreement Study 2.1 specifically deals with the issue of leased machinery and how to calculate the Customs duty. I believe that all leased mining machinery, amongst others, should be valued under Article 7 of the GATT Valuation Agreement, in accordance with Decision 2.1.

6. The Valuation course closed on the 7th September 2013. There are a number of issues to be resolved arising from the training. It was agreed that the students on this course would consult with the students on the next course, due to run between the 10th September and the 15th September, and formulate a strategy for addressing the issues (Annex C).

SECTION V: WEEKLY REPORT 2

Chemonics BPI initiative in Mongolia

Consultant: Laurie Gidley, Senior Indirect Tax Specialist

9th September 15th September 2013

This input is entirely focused on training.

1. The training continued at the Customs Head Quarters Building in Ulaanbaatar with the one day Basic Interview training for the first group of students and the six days of the Customs Valuation Methods 2 to 6 for the second group of students. This second group includes staff from Customs Valuation HQ and the Legal Department. Many of the trainees have a previous commitment for Saturday 20th September, so it was agreed that the training would continue on Sunday 15th September to ensure all of the material can be covered with both teams of students. This shows a commitment to the training by the students that is to be applauded.

2. Amga provided a copy of the Law on Value Added Tax, dated 29th June 2006. I am assured that the English translation is accurate. This document is surprisingly poorly drafted and limited in scope.

Article 8.1 states “Value-added tax shall be imposed according to following procedures: 8.1.1. each and every time during which goods, works and services were imported ...”

Article 9.1. states “Taxable amount of the value-added tax shall be determined by the following procedures: 9.1.1. The taxable amount of value-added tax for imported goods shall be determined by adding customs duty, excise and other tax on customs price which was determined in accordance with the Law on Customs tariffs and tax.... 2008”

Under The WTO’s GATT Customs Valuation Agreement Article 8.1 (a)(i), buying commission is excluded from the Customs value. However, it is usually included in the value for import VAT by most countries. There is no mention of buying commission in the VAT law, neither is there any mention of ‘reverse supply of services’ which charges VAT where the service is received rather than where it originates.

It is normal for National VAT legislation to zero rate international transport. Customs legislation in Mongolia includes in the Customs value all transport costs for imported goods up to the place of introduction into the Customs territory of Mongolia. Consequently there appears to be a conflict between these two pieces of legislation, which should be explained in the National VAT legislation. The rate of VAT applicable to international freight costs for imported goods is the rate applicable to the goods themselves, and not the zero rate mentioned in Article 12.1.2 of the Law on Value-Added Tax.

3. I have been asked on several occasions how ‘contributions to the budget of Mongolia’ can be increased. These questions are all addressed towards Customs import duties. The following figures should indicate where the greatest contribution should be made:

Selling price of goods in Mongolia:	MNT1,000,000	
Profit before tax, say 20%	MNT 200,000	
Profit tax at 10%		MNT 20,000
Import value say 30% of resale price	MNT 300,000	
Import Duty at 10%		<u>MNT 30,000</u>
Total revenues excluding VAT		MNT 50,000
VAT at 10% on gross sales		MNT100,000

It can be seen from the above calculation that VAT represents twice the amount of tax compared to Profit Tax and Customs Duties combined. Where there are no customs duties it will be nearer to five times the level of Profit Tax.

I Recommend that significantly more effort should be put into closing the gap between the true amount of VAT due and the amount actually collected.

4. There is a serious difficulty in completing Customs Post Clearance Audits. The level of arrears is set so low that all audits should exceed this level as there is little point in undertaking audits where 'errors' are below this level.

5. **I Recommend** that the head of the Post Clearance Audit team be authorised to continue with audits regardless of the level of arrears. In particular, where the auditors believe that the Customs value has been understated there is little point passing the case to the investigators as they have had no training in the Mongolian law on Customs valuation.

Laurie Gidley
Senior Customs Consultant
15/09/2013

SECTION VI: WEEKLY REPORT 3

Chemonics BPI initiative in Mongolia

Consultant: Laurie Gidley, Senior Indirect Tax Specialist

16th September 22nd September 2013

This input is entirely focused on training.

1. The training continued at the Customs Head Quarters Building in Ulaanbaatar with the one day Basic Interview training for the second group of students, the three day Tax Planning, Tax Avoidance and Fraud course and the one day Transfer Pricing course.
2. The training course was closed by Mr. O. Ganbat, Director General, Customs General Authority of Mongolia, Mr. T. Munkhchuluun, Head of Customs Post Clearance Audit Department and Mr. Richard Chen, USAID representative.
3. After the end of the training one of the students informed me that she had already had two successes using the valuation training provided, which has resulted in additional revenue and penalties totaling over USD\$500,000. One of the companies concerned had employed an independent Customs Consultant to argue the case that there were no arrears to pay, but by using the information gained from the valuation training she was able to demonstrate to both the consultant and the tax payer that they were wrong and almost MNT 600 million was owed, plus penalties of nearly MNT140 million. I believe that they have agreed to pay these amounts.

Annex D below contains procedural recommendations and Annex E contains legal recommendations.

Laurie Gidley

Senior Customs Consultant

21/09/2013

ANNEX A: MONGOLIAN CUSTOMS LAW

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Article 93. Temporary Admission Procedure

93.1. Foreign goods is temporarily admitted upon the lodgment of required documents in accordance . with temporary admission procedure of goods intended for re-exportation within specified in period with no change.

93.2. Goods temporarily admitted is utilized for designated use.

93.3. Goods temporarily admitted shall not be altered except the changes caused by depreciation under normal conditions of transportation, storage and utilization of such goods.

93.4. In order to preserve quality of goods, service for goods temporarily admitted may be offered.

ANNEX B: TEMPORARY ADMISSION OF GOODS REGULATION

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Annex 3 of the Custom Commissioner's
Order No 676 of 2008

REGULATION TO IMPLEMENT THE CUSTOMS PROCEDURE FOR TEMPORARY ADMISSION OF GOODS

One. Background

1.1. The implementation of the customs procedure for temporary admission of goods /Articles 93-98, hereinafter to refer to as 'the procedure'/ shall take place in accordance with the Customs Law of Mongolia, international treaties to which Mongolia is a party and the present regulation.

1.2. This procedure shall regulate the relations concerning the selection of the customs procedure for temporary admission of foreign goods within a stated timeframe which are meant for re-exportation **without changes**, lodgment of necessary documents, imposition and payment of duties and taxes, their collection, placement of goods under the procedure and termination of the procedure.

1.3. The declarant has the right to choose the procedure. If all the conditions and requirements set for the procedure are met, then the goods shall be placed under the chosen procedure as approved by the Customs.

1.4. This regulation is not applicable for temporary admission of goods and means of transport with ATA and SPD carnets.

I Recommend that the purpose of these two pieces of law be reviewed (Articles 93 and 1.2). Currently items imported under the relief are being used for the purpose for which they were designed, e.g. mining machines are digging mines. As a consequence they are being used to destruction. This is not what this relief is designed for. It is designed to allow importers to demonstrate such vehicles with a view to obtaining purchases in Mongolia. As these machines are very expensive, there is a significant loss to the Mongolian Government's budget.

ANNEX C: ISSUES TO BE ADDRESSED

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1. Imported 'Software'.

The Customs Law of Mongolia 2008 defines goods as follows:

3.1. The terms used in this Law shall have the following meaning:

3.1.1. "Goods" shall mean all kinds of movable properties such as cargo, luggage, personal belongings, currencies, securities, international postal items, all kinds of power, live-stock, animals, plants and means of transport other than those specified in 3.1.5 of this Law, crossing the Customs border;

This piece of law post dates the Mongolian Civil Code (of which I do not have an English copy), which I am told defines software as goods. It is a normal legal convention that when new law is introduced (in this case the Mongolian Customs Code in 2008) that contradicts existing law (in this case the Mongolian Civil Code dated sometime in the 1990s), then the old law ceases to have 'force of law' from the date of entry into force of the new law, in that respect.

What this means in Mongolia is that for Customs Purposes, and possibly only for Customs purposes depending upon any other legislation that defines goods, the definition of goods is the one contained in the 2008 Mongolian Customs Codes. This does not include software in the definition and, consequently, software is not subject to import duty. This view is in agreement of the GATT Valuation Agreement, which clearly intends that 'intellectual property' should not bear customs duty. Decision 4.1 deals with carrier media, but it specifically states: "... if the technical facilities are available to the Parties to the transaction, the software can be transmitted by wire or satellite, in which case the question of Customs duties does not arise."

2. What is the status of the GATT Valuation Agreement Texts (Decisions, Advisory Opinions, Commentaries etc.) in Mongolia?

Article 14 of the Agreement states:

"The notes at Annex I to this Agreement form an integral part of this Agreement and the Articles of this Agreement are to be read and applied in conjunction with their respective notes. Annexes II and III also form an integral part of this Agreement."

However in the 'Texts issued By The Technical Committee On Customs Valuation' it clearly states:

8. "... Advisory opinions, commentaries, explanatory notes, studies or reports do not constitute international law. As distinct from the Agreement's Interpretative Notes contained in Annex I, there is nothing in the Agreement to imply that any of the Technical Committee's decisions would have force of law within the Member countries to the extent that they are not incorporated in the national law of the Member.

9. At the same time, however, it is clear from the language of Annex II that it is expected that the decisions of the Technical Committee are to play an important and vital role in achieving uniformity in the interpretation and application of the Agreement. ..."

3. What is the Mongolian definition of 'control'?

Article 15 of the GATT Valuation Agreement defines who is related to whom:

4. For the purposes of this Agreement, persons shall be deemed to be related only if:

- (a) they are officers or directors of one another's businesses;
- (b) they are legally recognized partners in business;
- (c) they are employer and employee;
- (d) any person directly or indirectly owns, controls or holds 5 per cent or more of the outstanding voting stock or shares of both of them;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person;
- (g) together they directly or indirectly control a third person; or
- (h) they are members of the same family.

5. Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related for the purposes of this Agreement if they fall within the criteria of paragraph 4.

The difficulty comes with the word 'control' in paragraphs 4 (d), (e), (f) and (g). What does this word mean for Customs purposes in Mongolia?

4. What is the definition of the term 'first commercial level after importation'?

The GATT Valuation Agreement Annex I Note to Article 5 states:

1. The term "unit price at which ... goods are sold in the greatest aggregate quantity" means the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.

The UK policy is to use the highest commercial level actually occurring in the period to be considered, not the highest that could have occurred. What is the Mongolian policy?

ANNEX D: PROCEDURAL RECOMMENDATIONS

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1. The most vital recommendation is training. The PCA team must receive additional training in:

1. Criminal Law;
2. Tax Regulations;
3. Investigation Techniques; and
4. Interview Techniques

There are three ways to achieve this training:

- ‘In house’ training. This should take two forms:
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 - It was apparent that several of the students were able to assimilate the training better than others. They should take the opportunity that helping the others will give them to reinforce the knowledge they have gained.
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To achieve this the PCA team manager will have to look for ‘partners in business’. This will include lawyers and accountants, but primarily it will be actual businesses themselves. The idea is that ‘those who practice, should teach’. In other words, getting the people who actually do the things the PCA team need to understand, to teach the PCA team.

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ANNEX E: LEGAL RECOMMENDATIONS

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1. The mandatory definition for undertaking a fraud investigation should be changed to allow the PCA team to conduct audits to large traders without having to treat those audits as fraud investigation. It would be appropriate for the head of Post Clearance Audit to decide whether or not to treat a case as fraud, where the total revenue appears to be less than a pre-determined amount, but at least MNT 100 million.
2. The concept of 'voluntary disclosures', where a company is not required to report an error before the commencement of an audit, should be extended to those businesses that are prepared to assist the PCA staff to improve their knowledge and expertise. Businesses which provide help in understanding their industry and their own accounting practices should only be penalized when a large scale 'blatant' fraud is discovered. However, it is to be expected that companies that have undertaken such frauds will not be prepared to assist the PCA team, so there is little likelihood of such a conflict arising.
3. The Head of the PCA team should be empowered to reduce the standard penalties where a business fully cooperates with the auditors. In the UK penalties can be reduced by up to 75% of the standard penalty for a business that fully cooperates and actually undertakes all of the work in calculating the errors. In such situations the PCA team need only check the company's figures.
4. The PCA staff should be given the power to assess arrears. This means that they can check a small percentage of declarations (say 10%) and the errors discovered can be applied to all importations from the same suppliers during the period allowed for collecting arrears in law.
5. The PCA team should be given the power to conduct 'instant audits' without the need to formally inform a business of who will be conducting the audit, for how long, about what particular subjects, etc. This will enable them to react to issues that are discovered during one audit and which are likely to affect many other businesses.
6. Where a business 'loses' its records, or they are 'stolen' or there is a fire just before the start of an audit, the PCA team leader should have the power to assess arrears at 50% of the total revenues declared on the Customs declarations concerned, in the first instance. If the same 'problem' occurs again within three years this should be increased to 100%. However, care must be taken not to penalize those few businesses where these issues are actually genuine.

ANNEX F: CONTENT OF TRAINING COURSE

TAX PLANNING, TAX AVOIDANCE, FRAUD AND TRANSFER PRICING

Tax Planning, Tax Avoidance, Fraud and Transfer Pricing

17th to 20th September 2013

TIME	Wednesday 18/09	Thursday 19/09	Friday 20/09	Saturday 21/09	TIME
9.30		START	START	START	9.30
	Fraud Tax Avoidance Tax Planning Definitions	Tax Planning Vs Tax Avoidance Vs Fraud	Examples Fraud	Transfer Pricing MNEs	
11:00	COFFEE	COFFEE	COFFEE	COFFEE	11.00
	Definitions Technical Errors	Conduct of Audits	Smuggling Slumbering Products	OECD Guidelines	
12.30	LUNCH	LUNCH	LUNCH	LUNCH	12.30
13.30					13.30
	Tax Planning Tax Avoidance	Regimes	Other Countries Approach Recommendations	Comparison OECD vs CVA Methods Customs Vs Direct Tax	
15.15	TEA	TEA	TEA	TEA	15.15
	Fraud	Examples Tax Planning Tax Avoidance	Mongolian Cases	Customs Vs Direct Tax Appropriate Method	
17.00	FINISH(ish)	FINISH(ish)	FINISH(ish)	FINISH(ish)	17.00

ANNEX G: SUMMARY OF FEEDBACK SHEETS

ANNEX G: SUMMARY OF FEEDBACK SHEETS

EVALUATION QUESTIONNAIRE

In order that the training provided by Valuation can be monitored, problems rectified and improvements made, we would be grateful if you would take a few minutes to fill in this questionnaire:

Course: _____ **Name (optional):** _____

Date: _____ **Trainer (1):** _____

Location: _____ **Trainer (2):** _____

Trainer (3): _____

Trainer (4): _____

Please answer the questions on this form by circling the number which best represents your views.

- (4) Agree strongly - 2 answer
- (3) Agree
- (2) Disagree
- (1) Disagree strongly

		4	3	2	1
1.	The course objectives were clearly explained.	13	1		
2.	The course objectives were consistent with my needs and abilities.	10	4		
3.	The methods used were appropriate to meet the course objectives.	11	3		
4.	The course content was closely related to objectives.	12	2		
5.	The course was well structured.	13	1		
6.	The course introduced me to a lot of new knowledge.	11	3		
7.	There was plenty of opportunity for reinforcement of learning.	13		1	
8.	I felt motivated to learn more.	11	2	1	
9.	The visual aids assisted my learning.	10	4		
10.	The standard of presentation was very high.	11	3		
11.	The course handouts were of a very high standard and reinforced learning	11	2	1	
12.	The tasks presented had practical relevance.	11	2	1	
13.	I always felt my questions were fully answered, at the appropriate time.	9	4	1	
14.	I always felt I could contribute my experience.	10	3	1	
15.	The trainer(s) gave me the support I needed to learn	12	2		
16.	Much of the learning can be taken away and applied to my job.	10	3	1	
17.	My confidence in applying the knowledge gained has increased.	12	1	1	

GENERAL

18. What I found most useful from the course (and please specify why):

- The main principles of GATT, method 4 and ways to solve.
- GATT agreement provisions
- Valuation methods, understood provisions of GATT
- It was useful to understand how to use valuation method #4, 5, 6.
- Customs valuation methods
- Valuation methods, Audit
- Knowledge about detecting transfer pricing and combat with them

- Valuation methods, fraud, transfer pricing
- GATT agreement, valuation methods. I gained a lot of knowledge about how to compare GATT with Customs law and implement it for my work.
- GATT valuation methods
- Nuances of the 6 methods stated in the customs valuation agreement
- Compared GATT with Mongolian Customs law. There were some mistakes.
- It was useful to know about valuation methods more in detail.
- Well understood important issues such as valuation methods #2,3,4 and how to calculate cost of the multinational corporation, how to subtract from sales and etc.

19. What I found least useful from the course (and please specify why):

- Correctly determine customs valuation.
- There weren't such thing
- No
- No
- There weren't unnecessary thing
- I don't know
- No
- No

20. What would improve the course?

- No problem except language
- Translation of the training handout
- Develop training materials in order to determine the concept briefly and simply
- Training about other countries' cases
- It's good with the extent which Laurie taught us.

21. What are your views on the methods of training used on this course?

- Fair
- Good
- I liked the ways of teaching of the training (theory and workshop).
- Methods were good except it was explained a little bit long
- Excellent
- Excellent
- Good method
- Excellent
- It wasn't difficult to understand because it was fresh and instructor devoted himself to deliver the training.

22. Do you think refresher training courses (in the future) would be useful (and please specify why)?

- Very useful for PCA
- Yes
- Needed
- Yes. Specially about technological process of doing PCA
- Very much.
- Yes, Compare activities of other developed countries and learn from them.
- Yes

- Training is necessary. PCA should expand and professionally grow in Mongolia.
- Yes, there weren't such good quality training in Customs before.
- Yes
- Yes
- The training is very useful in the future
- Yes. In specific issues for example audit.

23. Any other comments on the course or the trainer(s)?

- Training went well
- Training and teaching method of the instructor was good. Content of the training was good.
- They were active, tried to teach many things and it was good.
- Training was good, instructor was excellent
- Instructor is hardworking and persistent. He tried its best to teach and devoted himself.
- Good. He devoted himself.
- Training was fresh and successful. The Instructor is well experienced, prepared and has a good way of teaching.
- He taught very well and participants were active.
- Everyone participated actively

Valuation Stage 2

As the Customer, please help us to assess your level of satisfaction with this training. The information gained from the analysis of this form will help us to monitor overall satisfaction levels and improve services to you and your colleagues in the future.

To complete this form answer the questions by marking the box you believe most closely represents your opinion. Please use a black or blue pen or pencil. Any additional comments or information should be written at the back of the form.

Course Start Date:

		/			/		
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(Optional) Surname:

Initials:

Q3. Was the timing given to the training:

- Too short
 About right
 Too long

Q4. Overall how relevant do you think the training is to your job?

- Very relevant 1 2 1 Not at all relevant

Q5. Before the training, the discussion you had with your Line Manager about the learning objectives was:

- Very satisfactor y 7 2 1 Not at all satisfactory

OR 1 You did not discuss the learning objectives

Q6. As a result of the training has your overall confidence

- 12 Increased
 2 Remained the same
 Decreased

Q7. Do you think there is a better way to carry out this training?

- 7 Yes If yes, please comment overleaf

4 No

Q8. Overall, the course was

- Very good 11 3 Very Poor

Q9. Overall the trainer(s) were

- Very good 13 1 Very poor

TRAINERS

Please rate the course trainers in the following aspects:

Trainer 1 Name: Laurrie

Very credible	12	0	1	0	0	Not at all credible
Very knowledgeable	11	2	0	0	0	Not at all knowledgeable
Very professional	13	1	0	0	0	Very unprofessional
Very supportive	11	1	1	0	0	Not at all supportive
Very good presentation	11	1	1	0	0	Very poor presentation

Better way to carry out the training?

- Discussion workshop
- Teaching method was good because instructor is very intelligent, confident and professional.
- It will be better if it takes more practical direction. Also there should be good learning environment
- Fair
- Training can be like this
- To do training connecting with practices
- It needs practice and workshops.

Comments on Trainers:

- Good
- Not to repeat and make it long
- Excellent
- Consultant has a good knowledge and good teaching method. Thank you
- Instructor devoted themselves to deliver and make us understand
- Instructor was very active and he prepared many materials in order to deliver as much as knowledge. He was good.
- Instructor was good

Comments on Course:

- Excellent
- Good
- It was organized well.
- Training was very efficient.
- Training has a good quality and distributed materials were enough
- I got knowledge delivered by this training.