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CUSTOMS REFORMS IN THE PHILIPPINES

IMPROVING EFFICIENCY, EFFECTIVENESS AND
ANTI-CORRUPTION OUTCOMES

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Executive Summary

Sustained and widespread corruption in the Philippines Bureau of Customs has been a fact acknowledged by its Commissioners for over 30 years. The Bureau has conducted modernization and anti-corruption programs continuously since 1972 to improve the efficiency of cargo clearance, increase the effectiveness of tax collection, and reduce opportunities for corruption. This study analyzes the latest of these programs -- the USAID-sponsored Economic Growth Technical Assistance (EGTA) program -- which was conducted between 1998 and 2004.

The EGTA program targeted three major reforms in the Bureau of Customs: implementation of a transaction value methodology for assessment, development of a Super Green Lane, and initiation of post-entry audits. EGTA objectives were to strengthen the Bureau's operations by helping it implement the Customs Valuation Act and several executive orders; the project was *not* charged with explicit anticorruption goals. But was corruption reduction an ancillary outcome of these reforms?

An earlier World Bank-supported project, conducted between 1992 and 1998, implemented a major IT system for customs processing that targeted many of the early stages in the shipment clearance process. By bringing these customs procedures into the automated operating system, major achievements during that period were observed, reducing red tape and processing times for importers. While quantitative data indicate explicit improvements in efficiency and effectiveness, the impact of the IT system on corruption remains implicit, based on the assumption that transaction streamlining, fewer face-to-face interactions, and reduced bureaucratic discretion would yield fewer opportunities for corruption.

Early results issued by the EGTA project were optimistic, suggesting initially faster clearance times and higher tax collections as a result of the reforms supported by EGTA (largely in the later stages of shipment clearance: assessment and audit). However, subsequent analyses suggest that the faster clearance times might be attributed to the earlier automation reforms conducted between 1992 and 1998, and if anything, clearance times have gradually increased since the newer reforms have been in place -- an increase of 38 percent on average. In addition, while tax collections were somewhat higher (up by 2.6 percent) in the initial two years after the newest reforms, these increases may be an artifact of higher exchange rates. Thus, the statistics indicate mixed results; it may still be too soon to determine if the positive or negative trends will become dominant.

As to anti-corruption outcomes, both perceptual and experiential measures indicate that the newest reforms have had little, if any, effect on the generally increasing trend of corruption in the Customs Bureau. Twenty four percent of Bureau clients believe that corrupt practices have either stayed the same or increased over the past five years. Twenty three percent of firms report actually experiencing demands for unofficial payments or gifts by Customs officials. In particular, high levels of such unofficial practices were indicated by firms in the very domains where the EGTA interventions were implemented -- 45 percent of firms indicated that they experienced more or the same amount of unofficial practices since the transaction valuation regime was established; 93 percent of firms indicated that they have been asked for bribes *during* the post-entry audit process some or most of the time; and 74 percent of firms accredited to the Super Green Lane have had to pay unofficial fees during clearance processing.

What went wrong? While the EGTA reforms were well-conceived, well-harmonized with current world standards, and implemented effectively by the EGTA project team, a major part of the failure to produce anticipated outcomes appears to lie with inadequate management supervision, poor enforcement, and lack of controls within the Bureau. Some of the reforms have been delayed substantially, others have been severely circumvented by Bureau staff, and others were suspended due to complaints from clients.

These problems appear *not* to be issues with the EGTA project *per se*, but with a lack of adequate management and control of the new processes by the Bureau of Customs. Those factors contrast with the situation that the World Bank found during 1992-98 – when strong leadership from the head of Customs and higher political leaders had been evident.

Achieving positive efficiency, effectiveness and anti-corruption outcomes and ensuring sustainability of these types of customs reforms in other countries is likely to depend upon strong political will by top leadership, depoliticization of the Bureau, strict enforcement of procedures, predictable and swift sanctions for abuses, an adjustment to incentives, and personnel reorganization.

1. Introduction

Customs performs many crucial functions as the gatekeeper of a nation and, as a result, corruption within its operations is an extremely serious matter.¹ Customs is the enforcer of trade policy and responsible for administering differential tariffs, quota restrictions, rules of origin, anti-dumping, valuation, and trade embargoes. It also plays a large part in export promotion, through the administration of duty drawback schemes and other export incentives. Customs is one of the lead agencies responsible for monitoring and prohibiting the entry of socially harmful goods, for example, narcotics, arms, ammunition, harmful chemicals, and endangered species, and it monitors the import of foodstuffs, ensuring that they meet health regulations. It also plays a principal role in anti-terrorism programs. Lastly, Customs is a very significant tax collection agency for many countries. Not only must Customs carry out these duties, but it must do so effectively and with minimal interruption to international trade. Volume and speed in the international trade environment is critical.

At the heart of Customs operations are the multitude of government-business transactions that determine the movement of goods and materials across national borders, the collection of tax revenues, the management of foreign trade policy, and the promotion of foreign trade. However, lax accountability and transparency practices, combined with the transfer of large sums of money in these transactions, make Customs administration highly vulnerable to corruption unless strict and enforced control mechanisms are put in place to avert such problems. In general, Customs bureaus tend to be more prone to corruption than other comparable revenue collection agencies because they have real time discrete control over tangible wealth.

Both supply-side and demand-side incentives for corruption flourish in these transactions. Customs officers can benefit from rent-taking, while importers can benefit from speedy processing. On the other hand, customs corruption reduces revenue collection for the state, creates an uneven playing field for competitive economic activity, and yields a generally inhospitable environment for commerce that discourages domestic and foreign investors. Corruption can be a major disincentive and obstacle to trade expansion.

Corruption manifests itself in customs operations in three basic ways: paying bribes to hasten the release of goods, turning a “blind eye” or active collusion to facilitate fraud, and bribing to permit illegal operations.² In each of the areas that customs regulates, there will be interested parties who may seek to circumvent the law. Importers may seek to avoid trade restrictions, undervalue or mis-describe goods in order to reduce tax and duty payments. Exporters may wish to claim unwarranted export incentives and, of course, smugglers will wish to completely circumvent controls. Customs officers hold the key as to whether these parties can succeed in their designs. If they are vigilant and enforce the laws fairly but firmly, they will not only deny the attempts at fraud, but will be able to impose substantial monetary penalties and instigate criminal proceedings. However, if officers choose to accept illegal payments, close their eyes, interpret the law in a favorable manner or openly collude, they can facilitate offenders and enable them to gain substantial economic advantage. The incentives to corrupt officers make all Customs departments extremely vulnerable.

¹ This case study was written by Bertram I. Spector, Lorelei de Dios and Glenn McKenzie-Frazer between September 2005 and January 2006.

² Hors, Irene (2001) “Fighting Corruption in Customs Administration: What Can We Learn from Recent Experiences?” Paris: OECD Development Centre (April) Working Paper No. 175, p. 9.

Many public opinion surveys on corruption, especially in transitional economies, find that Customs administration is perceived to be one of the most corrupted institutions of government. Forty percent of firms across 80 countries in the 2003 World Bank's Investment Climate Survey assert that customs/trade regulation is a major or moderate constraint on business investment.³ For low- and medium-income countries, between 25 and 50 percent of all government revenue is collected by Customs administrations, and the leakage of funds due to corruption can result in significant tax losses.⁴

The causes of corruption in Customs, as in other public sector entities, are complex.⁵ Trade policies set the agenda for Customs. They specify goods that can be imported freely, require import licenses or are restricted or prohibited. They identify industries that need protection and the tariffs to be imposed on competing imports. Trade policies lay down import quotas for various trade partners and may bar imports from some countries for political/economic reasons. With regard to export, trade policies provide various incentives to export industries and prescribe the qualifying conditions. This complexity leaves customs officers with extensive discretion in interpreting rules and regulations and creates loopholes that can be easily exploited and manipulated by corrupt officials.

The consequences of corruption can be serious. Smuggling of prohibited items exposes society to serious public health and law and order issues. Acceptance of misclassification and undervaluation of imports, perfunctory investigation of customs fraud and improper disposal of seized goods can and will lead to significant revenue loss. Delays in processing of imports and exports -- imposed to solicit a bribe -- will cause economic losses and increase the costs of doing business, thereby deterring investment and affecting the competitiveness of domestic companies.

Some countries have targeted modernization and automation of customs services as a way to remove discretion and deter corrupt practices, but these programs may fail in controlling corruption because effective accountability controls and enforcement are lacking and stakeholders simply find ways to thwart or circumvent the new procedures to cash in on lucrative corruption schemes.

2. Customs and Corruption in the Philippines

The Philippines Bureau of Customs (BOC) is the largest collector of revenue for government *after* the Bureau of Internal Revenue. Its collections equal approximately 20 percent of the national government's total revenue.⁶ As a result, the Bureau is a highly attractive target for predators both in and out of government. In fact, in 2002, the then Bureau Commissioner admitted publicly that corrupt practices pervade every component step of the customs operation in the Philippines.⁷

³ Ibid.

⁴ Ibid., p. 68; and Baunsgaard, T. and M. Keen, "Tax Revenue and (or?) Trade Liberalization," Washington, International Monetary Fund, 2005.

⁵ McLinden, Gerard (2004) "Integrity in Customs," in de Wulf, Luc and Jose Sokol, editors, *Customs Modernization Initiatives: Case Studies*. Washington, DC: World Bank.

⁶ Jereos, George (2001) Address to WTO Workshop on Technical Assistance and Capacity Building in Trade Facilitation. Geneva, May 10-11.

⁷ Bernardo, Antonio (2002) "Streamlining the Customs Process," www.tag.org.ph/events/2002/facing_aBernardo.htm

There are several major factors that facilitate corruption in BOC:

- The Bureau is a target of political and business leaders, who may use it to satisfy their pecuniary and political self-interests. It is also vulnerable to influence peddling, bribery and political patronage in hiring.
- Corruption has become so entrenched that it is considered a normal and established practice. Changes in personnel or regime have had little impact on changing this culture. Administrative, technical and organizational reforms are consistently undermined to preserve the corrupt system, and not only by Bureau personnel. They circumvent or override the reforms and find loopholes where bureaucratic discretion can trump attempts to control corruption.
- The alleged “victims” of corruption in the customs process – the importers and brokers -- are often willing participants in undermining the system. They may have incentives to collude with customs officials and resist change as this would disrupt arrangements, reduce predictability of the customs process, and delay the release of shipments.
- The BOC maintains few effective mechanisms for monitoring performance or maintaining accountability of Customs personnel. Automation has proved to be insufficient to detect and track misconduct. Internal audits are lax. Sanctions for abuse of power are limited and employed infrequently. The main drivers of Bureau operations are revenue targets. Considering that the Bureau was able to deliver its targets despite leakages,⁸ implies either that targets are underestimated or officials choose to ignore the potential revenue.

The Bureau recognized early on that administrative and operational loopholes have made it vulnerable to graft and corruption and has conducted campaigns periodically to remove erring personnel and adjust critical procedures and systems. The first major reform effort that focused on the elimination of graft and corruption was undertaken when Martial Law was imposed in 1972. Then, 414 undesirable personnel were purged and the tariff law was revised to make the Bureau a more effective revenue and anti-smuggling organization. Streamlining reforms introduced “assembly-line” processing of import documents, established schedules, and disallowed face-to-face transactions.

A continuous series of reform and modernization initiatives have been undertaken over the years, mostly yielding only short-lived improvements in reducing corruption.⁹ With each change of administration, new programs were implemented, and often, new Commissioners were brought to the helm of the Customs Bureau that have shown varying degrees of commitment to enforce these programs. Between 1972 and 1986, many corrupt customs officials were fired. In 1974, the valuation methodology was overhauled to reduce official discretion. The Bureau was again reorganized in 1975, the results of which are still reflected in the current structure. In 1976, a mainframe computer system was installed to maintain clear and authoritative records of transactions.

A major impetus for new reform came during the Aquino administration between 1986 and 1992. A Public Ethics and Accountability Program was launched to increase the risks of engaging in corrupt practices. Attempts failed to exempt certain key customs positions from the civil service

⁸ In 1989, the Department of Finance estimated that uncollected revenues were as high as actual collections. Underinvoicing was estimated as ranging from 12.2 to 53.0 percent of recorded imports (Parayno 2004a).

⁹ Parayno, Guillermo (2004a) “Philippines,” in de Wulf, Luc and José Sokol, editors, *Customs Modernization Initiatives: Case Studies*. Washington, DC: World Bank.

law that regulated those positions. The reorganized structure of BOC improved coordination and monitoring of previously poorly managed functions in collections, bonds auditing, and warehousing and auction activities.

Another major customs reform and modernization thrust was implemented from 1992 to 1998 during the Ramos administration. Its initiatives were viewed as basically successful but, in the end, they were not fully sustained and backsliding was evident. Many changes were incorporated in the overall campaign to reduce face-to-face interactions and speed up customs clearance for cargo. Red tape was addressed with the “non-stop procedure in the release of shipments” (NPRS) that reduced 42 signatories to 7, while entry processing was hastened with “express processing in the release of shipments” (EPRS) which allowed importers to secure the release of their shipments after complying with specific requirements. Mandatory inspections for all shipments were abolished and in their place, selective inspections were instituted on the basis of risk analysis. Physical modernization improvements in customs facilities were implemented, paperless and cashless clearance processes were introduced, partnerships were established with business associations to assist in customs processing, and manpower was drastically reduced from 7302 to 6530 for efficiency reasons.

But perhaps, most importantly during this program, a major IT system for customs processing was implemented between 1992 and 1998. The Automated Customs Operating System (ACOS) brought together systems previously developed with the private sector, using the UNCTAD’s Automated System for Customs Data Management (ASYCUDA++) software as the core.¹⁰ ACOS aimed to automate the entire import clearance process, covering electronic manifest submission, electronic entry through encoding centers or direct trader input, automatic assessment, selectivity, and computerized collection, the latter consisting of transmittal of payments data from banks, matching of payments and payables, reconciliation of payments with bank remittances to the National Treasury, and online release instructions to cargo handling operators. The previous operation required over 90 steps and more than 40 signatures to clear imports. Under the new automated system, paper-based manual processes were cancelled and certain activities (release, selection for inspection, inspection, reporting, clearances, computation and collection of duties) were redesigned and automated, reducing the number of steps and approvals substantially. Anti-corruption effects have been credited to the implementation of this IT system because it greatly reduced typical opportunities for corrupt transactions, but there is little hard data to confirm these assertions. The total cost of the project, completed for 21 ports by mid-1998, was approximately \$27 million, of which \$19 million was provided under a World Bank loan.¹¹

Since 1998, new initiatives to reduce corruption in Customs have been implemented. A BOC Code of Conduct was developed in 2001. In 2003, the Revenue Integrity Protection Service (RIPS) was created as the Finance Department’s internal anti-corruption unit. To date, RIPS has filed over 20 cases with the Ombudsman and six officials have been dismissed. In 2004, an

¹⁰ Automation had already been undertaken much earlier when a mainframe computer was installed in 1976 to manage records of customs declarations, bonds, orders of payment, and generate statistics. However this broke down soon afterwards due to the lack of a maintenance budget. Again in the late 1980s a simple database system at each district port and a mainframe as the core module at the central office were set up, but this was also abandoned owing to the failure to integrate the different parts. (Abrenica and Tecson 2003)

¹¹ See Parayno (2004a); Bernardo (2002); Bhatnagar, Subhash (2001) “Philippine Customs Reform,” www1.worldbank.org/publicsector/egov/philippinecustomscs.htm

Integrity Action Plan was developed and approved, but to date, there has been little progress in implementing this plan.

3. The EGTA Interventions

This case study focuses on the most recent multifaceted technical assistance program for BOC sponsored by the United States Agency for International Development (USAID) – the Economic Growth Technical Assistance (EGTA) Project – that operated between 1998 and 2004. Implemented by a consortium led by Development Alternatives Inc. (DAI),¹² the EGTA project (a) supported legal drafting and implementation of a new law, the Customs Valuation Act (RA-9135), that implemented the transaction valuation regime and reformed selective inspections, (b) helped to establish a Super Green Lane as part of BOC's trade facilitation program, and (c) assisted in the development of the post-entry audit office. Given this tasking, EGTA was largely a demand-driven project and could only implement reforms as far as its counterparts were willing to act.

Transaction Valuation

In 1995, the Philippines acceded to the WTO Agreement on Customs Valuation (GATT Article VII, 1994), signifying the pursuit of a liberalized, competitive, rule-based trade regime. The following year, RA 8181 legislated the shift to the transaction value system, to be implemented after five years (in 2000) as provided for in the agreement. However, this law included the mandatory use of published reference values as substitute values in lieu of the declared transaction value and lacked a safeguard mechanism against potential abuses in value declarations. Such additions were perceived to be crucial to trade facilitation objectives while protecting revenue, though they violated the WTO agreement.

The EGTA project supported the development of a more precise and internally-consistent law, RA 9135, that was passed in April 2001, removing the mandatory use of reference values. Import procedures were revised in accordance with the requirements of the new valuation system and a computer system was also redesigned.

The selectivity or risk classification system was also enhanced by the new law. Only high-risk goods would be subjected to documentary or physical examination through the selectivity system that classifies goods into green, yellow or red lanes using 28 risk management criteria; previously, Filipino law required mandatory 100 percent inspection of all shipments.¹³

The BOC's risk management group was strengthened by the law to review and update selectivity criteria, profile clients, and maintain a database relevant to risk profiling. A Customs Valuation Team was also constituted to gather values of import commodities from technical publications and other sources to complement the Value Reference Information System (VRIS) that collects values from previous entries. Shipments that fail the value reference screen go to the Value Classification Review Committee. The VRIS Office is authorized to recommend Alert Orders for shipments suspected to be grossly undervalued or misclassified.

¹² DAI (2004) *Economic Governance Technical Assistance Program: Philippines, Final Report* (October), Bethesda, MD: Development Alternatives Inc.

¹³ Parayno (2004a).

The EGTA project provided support to the BOC in the form of legal drafting, legislative advocacy, procedural and institutional development, implementation of computer systems, and capacity building and training of staff. This technical assistance was intended to support the BOC enact a WTO-consistent law implementing transaction value as the basis for import valuation, and improve its capacity to apply such a method. By subscribing to the WTO principles, the law would help the Bureau collect rightful revenues, increase transparency and certainty, reduce discretion, and facilitate trade. More precise and internationally-consistent legal provisions would make BOC less vulnerable to local judicial disputes with importers, while the government would be less vulnerable to disputes at the WTO since domestic law would be aligned with the agreement.

The transaction value system is a complicated method to implement and requires information that is not readily available upon entry declaration. While importers' transaction value declarations are to be accepted unless proven otherwise, Customs often lacks the information to prove the authenticity of these values. Given BOC's mandate of revenue collection, the WTO method had the potential of aggravating the problem of undervaluation.

EGTA was not asked by BOC to improve the selectivity system, but integrity problems did arise here.¹⁴ There are unverified reports that when a shipment is selected, assessors typically give importers the options of going to the VCRC as the regulation stipulates or of upgrading their declared values so that they fall within the value range. An unofficial negotiation usually ensues since the importer would like to avoid the additional cost of going to the VCRC or filing a bond to secure a conditional release for its goods. The problem is worse where the importer intentionally undervalues and his entry gets a "hit" by the selectivity system. It is suspected that unofficial payments are often made.

In addition, high personnel turnover at the Bureau has resulted in uneven valuation know-how and poor monitoring. Numerous training workshops were conducted by the EGTA project, but only during the early implementation period to educate personnel at that time on the application of the method.

Super Green Lane Facility

A Super Green Lane (SGL) began to operate under Executive Order 230 in 2000 as a special customs clearance facility for the top 1000 tax-paying importers. It was intended to facilitate trade, providing swift and hindrance-free import processes and reducing port storage fees and handling costs.¹⁵ SGL clients require accreditation and electronic data input (EDI) for entry lodgment. SGL shipments are processed and cleared in advance and are exempt from physical or documentary checks for a 2500 peso fee per declaration (versus only 40 pesos for regular lane); however, they can be inspected after release at the importers' premises (post-entry audit).

The SGL is intended to provide win-win incentives for all parties. The BOC minimizes its exposure to risk through the prior accreditation process and its ability to conduct post-entry audits at the importers' facilities. Moreover, BOC can realize manpower and time savings, allowing

¹⁴ Clarete, R. L. (2004). "Customs Valuation Reform in the Philippines," background paper prepared for the World Development Report 2005.

¹⁵ Partly encouraged by the observation that in 1999 the top 100 importers, who constituted less than 1% of the total number, paid duties equivalent to 27% of revenue, imported goods accounting for 42% of the total value but only 19% of the number of entries.

redeployment of its staff to higher risk shipments. Importers benefit by moving their shipments quickly through the port and avoiding handling and storage charges.

The initial implementation of the SGL was greeted well by the importing community; all parties could see the benefits of the new process. The BOC took ownership of the intervention with total cooperation and commitment. However, the initial enthusiasm appears to have waned. The registration process has proved to be lengthy and, from a possible 1000 importers, there are currently only 90 that have been accredited to SGL, with ten more that are still awaiting accreditation. This was possibly the single biggest factor detracting from the success of the SGL. To promote SGL use, starting in 2003, the facility was opened to all importers who had transacted with BOC for at least one year and were willing to undergo post-entry audit; fees were graduated depending on the FOB value of the shipment.

Post-Entry Audit

To balance the competing demands of importers for the timely release of shipments with BOC's core responsibility of protecting revenue through the proper collection of duties, post-entry audit (PEA) was considered necessary. It allows Customs to examine import transactions after the shipment has been released, hence import processing is not hindered by the need to resolve valuation issues during entry lodgment. RA 9135 gave BOC the authority to conduct post-entry audit to verify in an objective and quantifiable manner an importer's compliance level and provided for record-keeping requirements, audit and examination of importer records, and fines and penalties. Post-entry audit would serve as a safety net for trade facilitation systems at BOC, and promote importer compliance while verifying the decisions and actions of BOC personnel. The PEA Group was created in 2003 under Executive Order 160.

Post-entry audit is an essential tool in any Customs organization arsenal, if used correctly. In the case of the SGL, it allows importers who have signed up to have their cargoes and documents checked at their premises, should a Reason for Check be generated by the automated risk management function within the BOC clearance procedures. This is a trade facilitation function, as in theory, no cargoes should be held up at ports or airports. Any discrepancies discovered at the traders' premises are dealt with through post-clearance actions. This may be an adjustment in values or quantities or, if a fraud is discovered, the situation can be dealt with through enforcement action.

With the technical assistance of the EGTA project, the PEA procedures were established. A team of 40 officers were assigned to the function. The PEA was generally accepted by the importing community. All parties could see the benefits of the examination of goods at traders' premises. The BOC took ownership of the intervention and was on board. However, inadequate training and leadership appear to have been the main stumbling blocks. The Deputy Commissioner appointed as the head of the unit was unskilled in PEA procedures and audit orders issued by the unit appear to have had no basis, resulting in a backlash from the importing community.

Initial Results

At the conclusion of the project, the EGTA Chief of Party analyzed and documented several clear and positive outcomes resulting from these activities:

“As a result of the changes brought about by the Customs Valuation Act, the Philippine government not only increased its collection, but it also reduced Customs administration costs and improved trade facilitation. Based on one estimate, the ex-post effect of transaction valuation on revenues indicates revenue gains of about 3.7 billion pesos or 2.6 percent of the 2000 to 2001 collection of the three ports. More importantly, because the expensive preshipment inspection was abolished in compliance with the transaction valuation law, Customs administration costs were reduced by US\$68 per trade declaration, or approximately 2 to 3 billion pesos a year. Without preshipment inspection, the total clearance time of imported cargo, which ranged from 6.43 to 11.43 days when the BOC required preshipment inspection, dropped to 5.43 days when the Customs valuation reform was implemented, indicating a savings of from 1 to 5 days.

The Super Green Lane (SGL) facility added a layer to the BOC’s trade facilitation program, which is open to all importers who qualify. It saves only up to two-thirds of a day in processing time at present, but it has the potential of speeding up the clearance procedures to only an hour and saving about five and a half days. One estimate of the benefit of the SGL facility puts the savings to the BOC at US\$20 per trade declaration. Using a general equilibrium model of the world economy, an Australian Department of Foreign Affairs and Trade study estimated that the SGL results in a 0.09 percent increase of gross domestic product (GDP), or a gain of US\$376 million in real income per year.”¹⁶

The following sections examine these initial findings in the context of subsequent data and assess the extent to which corruption may also have been impacted.

4. Anticipated Impacts

The anticipated outcomes of these interventions – the working hypotheses -- address the three goals of increased efficiency (speed of release and trade facilitation), increased effectiveness (increased revenue collection), and reduced corruption (reduced requests for and offers to pay bribes) within BOC operations. Essentially, the EGTA interventions were intended to increase transparency of reporting, reduce official discretion, increase predictability of customs processing, and reduce face-to-face interactions between customs officials and their clients. If these intended effects could be achieved, then it was hoped that improved entry of goods, higher tax collections, and reduced bribery could also be realized. The assumed dynamics of each intervention are described below.

Transaction Valuation

Establishing transaction valuation methods that adhere to the principles of objectivity and predictability were expected to reduce corruption by protecting importers from discretionary abuses. They would also enable trade facilitation and reduce the costs of doing business.

¹⁶ DAI, Ibid., DAI (2004) “Corruption Abatement TA Programs of EGTA at the BIR and BOC,” unpublished technical note. Other results about the Customs Valuation Reform are analyzed in Clarete, Ramon (2004) “Customs Valuation Reform in the Philippines,” Background Paper prepared for the World Development Report 2005, and Clarete, Ramon (n.d.) “Trade Gains and Transaction Costs: Making Trade Work for the Poor,” unpublished.

Super Green Lane

By enabling importers to pre-register their goods for the SGL, it is expected that many common Customs risks will be reduced and there will be a limited need for discretionary interaction between importers and BOC officials. It is anticipated that if all the relevant documentation is completed and in order, the goods will automatically be cleared and there will be no need to even discuss the importation with a BOC officer.

The message to the importing community was clear, if the rules and regulations are followed, there will be a mutual benefit for both parties. It was foreseen that some of the old habits could be broken. The ingrained perception by the importing community was that it was easier to pay a bribe than to follow the lawful procedures. (This is a misconception as it often takes longer to place the bribe than to complete the procedures in the prescribed manner). By seeing the benefits of the SGL and its faster interference-free clearance times, importers and the trade community in general will come to expect this service level in all their interaction with the BOC.

Post-Entry Audit

By agreeing to post-entry audits, it is expected that valuation disputes will be settled after the goods have entered the country rather than at the border. The result will be a reduction in the cost of doing business. Negotiations between customs officers and importers that cause delay and offer opportunities for corruption will also be rendered unnecessary.

A more focused approach to risk through the post-entry audit ensures that indiscriminate and discretionary checks would be minimized, thereby reducing the interface between BOC officers and the import community. However, the BOC reserves the right to carry out PEA action for specific risks.

5. Results

These hypotheses were tested by analyzing several sources of data. First, a survey of 93 general importers, SGL-accredited importers, and brokers was commissioned and conducted by Pulse Asia Inc. in the National Capital region between October 11 and December 16, 2005. The survey asked respondents about their firms' actual experiences with the Bureau of Customs in relation to the particular EGTA interventions, comparing current approaches with prior procedures. Second, secondary analyses were conducted on previous studies that relate to the efficiency and effectiveness hypotheses. Third, data were collected from the BOC on tax collections and import volume and value over time by port, and analyzed to detect possible leakage of collections. This discrepancy analysis failed to uncover conclusive results; while discrepancies were identified – trends showing increasing import values and volumes at the same time as slipping collections – they could easily be explained by alternative explanations, not solely by corrupt practices. As a result, this analysis is not reported.

The analytical findings are presented below. First, there are results that are specific to the particular interventions. Second, data on the three broader outcomes of greater efficiency, greater effectiveness and reduced corruption are reported.

Results of Specific Interventions

Pre-EGTA Results: The World Bank found that BOC exceeded its revenue collection targets in 1993, 1995, 1996 and 1999. Other researchers calculated that between 1993 and 1998 the actual customs duty collected compared to a projected value that takes tariff rates and GDP into account, varied from 78 to 118 percent.¹⁷ After the major automation project was completed, cargo clearance time dropped from 10 days to less than 3 hours due to reduced paper documents and signatures, and automation of routine tasks. Human intervention and vulnerabilities to fraud were lessened. Private-public partnerships were forged with the outsourcing of data entry at the ports and management of the gateway.¹⁸

Transaction Valuation and Selectivity Results: The USAID intervention resulted in an approved legal text that followed internationally-accepted, uniform and harmonized customs procedures and removed the mandatory use of published values. The Pulse Asia survey of importers and brokers¹⁹ found that the major clients of BOC are pleased with the implementation of the transaction valuation method and selectivity procedures (see Figure 1). Ninety-five percent of all respondents understood how the transaction value assessments were calculated. Eighty-four percent believe that is a fairer valuation method than the previously used home consumption value (HCV) method. Seventy-nine percent believe that the new methodology has been implemented as intended by law. When it comes to the associated selectivity procedures implemented as part of the Customs Valuation Act and ACOS, 61 percent say that they view these procedures as basically fair. However, 70 percent indicated that they believe that selection of particular shipments is open to bureaucratic discretion, as opposed to more objective risk management criteria.

Owing to the priority given by BOC to revenue collection over trade facilitation and potential importers' abuses through undervaluation, reference values continue to be used on the basis of Article 17 of the WTO Agreement, which allows Customs to exercise the right to doubt the transaction value as long as it is consistent with the objectives of the agreement. This has lessened the objectivity of valuation and rendered dutiable values less than predictable and non-transparent.

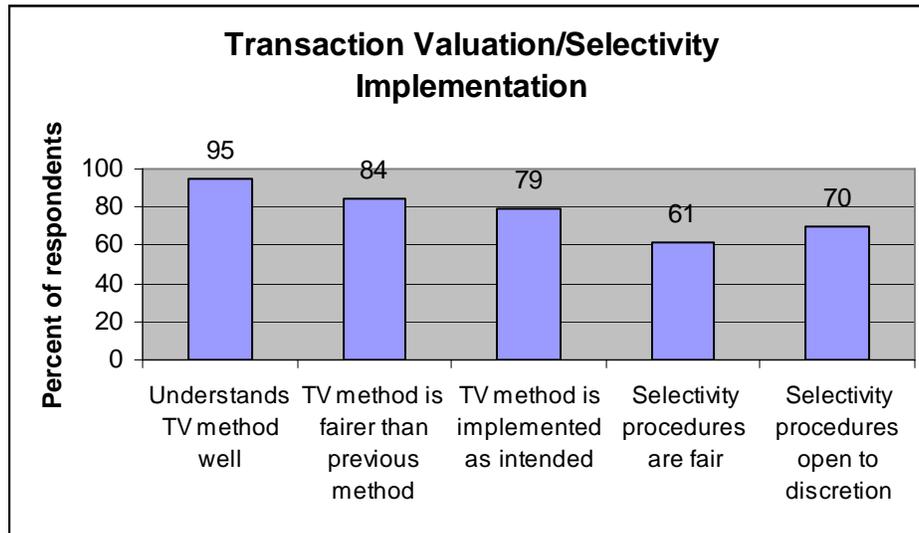
Rather than reduce inspection selection to only the high-risk shipments, manipulation of the selectivity system has reversed the proportion of tagged entries, which is contrary to trade facilitation. The sheer volume of inspection necessitated by 80% Red Lane entries implies that unofficial deals need to be made between importers/brokers and Customs officials to avoid the time-consuming inspection queue.

¹⁷ Clarete, Ramon, "Customs Valuation Reform in the Philippines," Background paper, Washington: World Bank, 2004.

¹⁸ Before automation 10 or more documents in triplicate had to be filed, recorded in 20 logbooks, passed through 90 steps, and required 40 signatures before clearance. With automation, a single document is encoded and only 4 approving signatures is needed. A 2000 World Bank implementation completion report rated the BOC project satisfactory, noting that the BOC "attained enormous efficiency gains from both its internal reengineering prior to the computerization work and from the new system itself".

¹⁹ Pulse Asia Inc., *Survey of Importers and Brokers, October 11-December 16, 2005, National Capital Region*. Washington, DC: Management Systems International.

Figure 1. Implementation of Transaction Valuation and Selectivity Procedures



Source: Pulse Asia survey of importers and brokers, 2005

This combination of continued use of reference values and increased selectivity hits has given assessors more discretion, with additional valuation issues being raised at the time of entry lodgment. Moreover, the increased transactions costs of dealing with the VCRC or posting a bond provide strong incentives to importers and brokers to upgrade their valuation and pay the requested rent to release their shipments. This all adds to the cost of doing business.

Super Green Lane Results: The 2005 Pulse Asia survey indicates that 74 percent of those accredited with Super Green Lane status have availed themselves of this special procedure. Forty-four percent say that 100 percent of their imports go through the SGL and 74 percent believe that the BOC processes SGL shipments in accordance with the law and accepted procedure. Fifty-five percent of respondents said that they were accredited quickly, between one to four months, but 15 percent indicated that they had to wait a year or longer for SGL accreditation.

For those importers who were able to complete the registration process, the initial use of the SGL had a marked improvement on clearance times. At its peak, almost 80 percent of SGL shipments benefited from automatic clearance. This certainly met the requirements of trade facilitation. This is not now the case and in fact the reverse is now true, with almost 80 percent of goods reportedly held up for either documentary or physical examination. Revenue collection and its increase can be attributed to the use of the SGL as the valuation and classification processes are already completed prior to the arrival of the goods, however natural increases in trade volume and market growth are also contributing factors.

It is extremely hard to gauge the effect, if any, of the SGL on anti-smuggling actions. The vision was that the use of the SGL by accredited importers would enable the more thorough examination of cargoes not cleared under the scheme. A more risk-based approach to anti-smuggling would have/should have been the natural result of the intervention, as by the very nature of the scheme, staff would have been available. This does not appear to have been the case. If the scheme had been working at its full potential it would have been feasible for containers to be craned directly from a vessel, onto the back of a vehicle and out of the gate, with all Customs procedures

completed and all relevant taxes and duties retained for the government. This would also have the effect of cutting down on congestion in port areas and allow the free flow of goods.

The theory is sound, but the intervention has not been carried through to its full potential and any effect on reducing corruption for SGL or non-SGL shipments has been minimal. The intervention started well and the importers were enthusiastic about the SGL, but it appears to have floundered. Moreover, the accreditation process has ground to a halt. Accreditation should have taken a maximum of four weeks. Currently, no new applications are being encouraged.

The SGL function is extremely desirable. In hindsight, it is easy to say where the process went wrong. The SGL was introduced as a standalone idea and its full ramifications were not addressed.

Post-Entry Audit Results: According to the 2005 Pulse Asia survey, 32 percent of respondents have undergone a post-entry audit or have been contacted that they have been selected for an audit. Sixty-two percent of all respondents believe that the rules and procedures for post-entry audits are clear and transparent. However, 41 percent believe that despite these rules and procedures, the PEA teams exercise moderate to excessive discretion in conducting these audits.

The results have, in fact, been adverse. The importing community has no faith in the PEA unit. This has resulted in a recent review of its operating procedures and the laws under which it operates. The unit is currently suspended from carrying out any further audits and the staffing level has dropped from the required 40 officers to 18 officers. There has been no measurable impact on revenue collection, efficiency, anti-smuggling or trade facilitation.

The importing community currently views the PEA unit as yet another level of corruption. Again the theory is sound, but the intervention has not been carried through to its fullest potential and there has been no real effect on corruption. Unfortunately, the level of expertise within the unit was woefully inadequate and this has led to the unit making unsound decisions within its audit selection process.

The inefficiency of the risk management system within the BOC customs clearance processes has exacerbated the situation, with between 80 and 90 percent of all cargoes now undergoing some sort of additional examination process. The risk management function of the automated clearance process should be regularly updated to address new risk. It is currently being used as a tool to carry out as much physical/documentary examination as possible, the exact opposite of the desired result.

Efficiency, Effectiveness and Anti-Corruption Outcomes

The overall findings related to the efficiency, effectiveness and anti-corruption impacts of the EGTA interventions are presented below. They suggest a mixed picture.

Efficiency Findings

Data collected on importer/broker perceptions indicated an inconsistent picture as to the efficiency of the current Customs operation. According to the 2005 Pulse Asia survey of importers and brokers, 47 percent of respondents believe that their shipments are released faster now under the transaction valuation regime than under the previous procedures. Sixty-seven percent of SGL-accredited respondents attribute faster clearance times to the SGL.

However, businesses questioned about their perceptions of how Custom’s procedures impact business activity between 2001 and 2005 indicate more pessimistic outcomes (see Figure 2). Across five different questions, the responses were consistently negative. Customs procedures tend to be damaging to business activity, hinder efficient transit of goods, and slow down imports. These procedures are viewed by businesses as promoting hidden and unofficial barriers to trade and as generating a highly unfavorable customs regime that suffers from a lack of openness.

Figure 2. Perception of Customs Efficiency

| Question | 2001-02 | 2004-05 |
|---|---------|---------|
| The impact of customs procedures on firm’s business (1=damaging, 7=beneficial) * | | 2.7 |
| Customs bureaucracy hinders the efficient transit of goods (1=agree, 10-disagree) ** | 2.06 | 3.61 |
| Efficiency of inbound customs activities for imports (1=slow/inefficient, 7=most efficient) * | | 2.7 |
| Hidden import barriers other than published tariffs and quotas (1=important problem, 7=not important) * | 3.4 | 3.2 |
| Openness of customs regime (1=highly unfavorable, 7=most liberal) * | | 2.8 |

Sources: * Global Competitiveness Report, World Economic Forum, 2001-2005

** World Competitiveness Yearbooks, 2001-2004

On the other hand, efficiencies are well-noted in some, though not all, studies that observed actual movement of shipments at port. A definitive study in 2004 analyzed the impact on efficiency of the major reform intervention – the shift from the home consumption valuation (HCV) and pre-shipment inspection (PSI) regime to transaction valuation.²⁰ It found that there *was* a major time savings - from one to five days in processing - starting from the arrival of goods at the port to their release as a result of the change. Thus, the total time needed to process entries under the new regime was 5.4 days. The Philippine Ports Authority agreed with these findings, indicating from their records that the average dwell time is only five calendar days now, compared to 10 days in 1994. Comparing data from 1993 (pre-reform) and 2003 (post-reform), the 2004 study found that this time savings took place almost entirely in the time interval between the arrival of the vessel and lodgment; the reform eliminated the need to wait for the documentation required for lodgment.

In addition, the total administrative cost burden declined significantly after abandonment of the pre-shipment inspection (PSI) requirement that prevailed until 1999. The PSI fee paid by the importer (estimated to total about \$70 million per year, extrapolating from a 1993 study by Medalla, de Dios, and Aldaba) was eliminated and the BOC’s administrative costs did not increase.²¹

However, the processing from lodgment to clearance is the period usually ascribed particularly to the actions of Customs. The results of several studies demonstrate that *no appreciable improvements* in throughput during these Customs-specific processes have been achieved subsequent to the reform intervention. In July 2000, soon after selectivity and transaction

²⁰ Clarete (2004)

²¹ Presented in Clarete, Table 9.

valuation were implemented, time measurements were taken in three major ports to assess the throughput times for import clearance.²² Within a four-day period, there were 1330 entries selected to go through the Yellow Lane. Of these, 75 percent of the shipments were processed within a one-day period, the *slowest* expected throughput (the quickest was assumed to be a little over 2 hours).

Another study compared clearance time measurements in March 2000 and March 2003 – before and after the EGTA reforms.²³ It compared average Customs processing time at three major ports and found that the shift to transaction valuation yielded significantly *longer* clearance times (a 38 percent increase – from an average time elapsed in 2000 of 21.6 hours to 29.9 hours in 2003). These actual times are compared with a range of processing times that had been calculated for each lane as a benchmark (see Figure 3).²⁴ The results clearly indicate that the actual processing for the Yellow Lane in 2003 took longer than the most time consuming process envisioned in the benchmark (33.9 hours actual versus 26.2 hours benchmark). Across the entire sample of shipments, the average times for clearance in 2000 and 2003 (21.6 hours and 29.9 hours, respectively) are at the upper range or exceed the longest amount of time benchmarked for the Yellow Lane.

In 2003, another time measurement study²⁵ showed that the actual mean time associated with a sample of 16,770 shipments—from lodgment to customs release—totaled 28.5 hours, a bit longer than the sample measured in 2000 and more than four times the benchmarked time for the quickest Red Lane imports.

Only the Super Green Lane showed slightly faster clearances, on average about 3 percent faster in 2003 over 2000. Based on these studies, improvements in throughput efficiency – from lodgment to clearance -- cannot be ascribed to the Customs procedural changes implemented in 2000; in fact, over time, clearance times appear to be increasing.

What has occurred over time – resulting in this drop in efficiency – is *an increase in risk selection*, that is, examination of documents and/or physical inspection appears to have become the rule rather than the exception since the reform in 2000. This risk management activity is causing the efficiency of customs processing to backslide. The share of selected entries has risen steadily – from 26 percent in 1997, to 44 percent in 2000, to 71 percent in 2002, to 90 percent in 2004.²⁶

Findings of Effectiveness in Revenue Collection

Customs collections from 1990 to 2002 missed annual targets more than half of the time. Deviations were significant *and* lower than the targets in 1997, the year after automation was rolled out, and in 2002, the year after transaction valuation was initiated, although this may be because targets were raised both years based on the previous years' record collections. However, a before-and-after analysis by Clarete (2004) concluded that the switch to transaction valuation, at least in the first two years following the reform, expanded customs duty yields.

²² BOC-MISTG

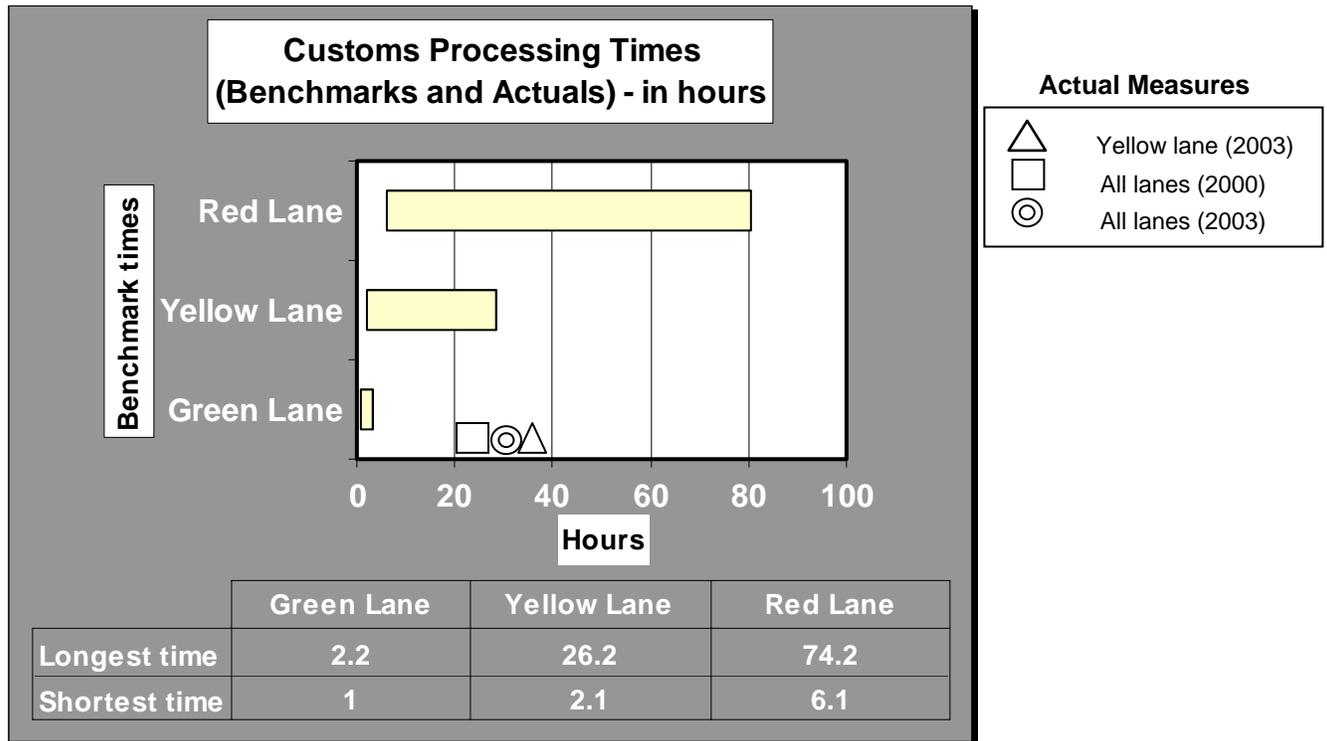
²³ Abrenica and Tecson (2003)

²⁴ Abrenica and Tecson (2003) based on a BOC powerpoint presentation

²⁵ UPECON Foundation, "Measurement of the Time Required to Release Goods in the Republic of the Philippines," JICA, 2003.

²⁶ Abrenica and Tecson (2003)

Figure 3. Customs Processing Times – Actual vs. Benchmarks



Other analyses show that in comparison to expected revenue collections, actual duty collection either met or exceeded expectations up to 10 percent since the changeover to transaction valuation.²⁷ The ex-post effect is revenue gains of about 3.7 billion pesos or 2.6 percent of the 2000-2001 collection at the three major ports in the Philippines. These findings dispel the anticipated concern that collections would be adversely affected by transaction valuation.²⁸ Reinforcing these findings, the 2005 Pulse Asia survey of importers and brokers indicates that 34 percent of respondents assert that their duty payments have increased as a result of the transition to the transaction valuation regime.

Anti-Corruption Findings

While there is some fluctuation over the years, the BOC has remained consistently the lowest rated of 26 government agencies in terms of the business community’s perceptions of its corruption and the BOC’s desire to reform itself (see Figure 4). More specifically, firms reported the necessity of having to make extra payments or bribes to get export or import permits increased between 2001 and 2004.

²⁷ Abrenica and Tecson (2004) in Clarete (2004)

²⁸ Medalla, E., L. de Dios and M. Aldaba (1993) “An Evaluation of the Home Consumption Value System,” *Journal of Philippine Development* XX (2).

Figure 4. Business Perceptions of Corruption in the BOC, 2000 – 2005

| | Percent respondents naming BOC as most corrupt government agency* | Net rating of BOC's sincerity in fighting corruption (scale from -100 to +100)* | How common are unofficial payments and bribes for export or import permits? (scale from 1=common to 7=never occurs)** |
|---------|---|---|---|
| 2000 | 74 | -83 | 2.9 |
| 2001 | 65 | -71 | 3.4 |
| 2002/03 | 66 | -65 | |
| 2003/04 | 70 | -69 | 2.8 |
| 2005 | 65 | -75 | |

Sources: * Social Weather Station Enterprise Corruption Surveys, 2000-2005 (www.i-site.ph)

** Global Competitiveness Report, World Economic Forum, 2001-2005

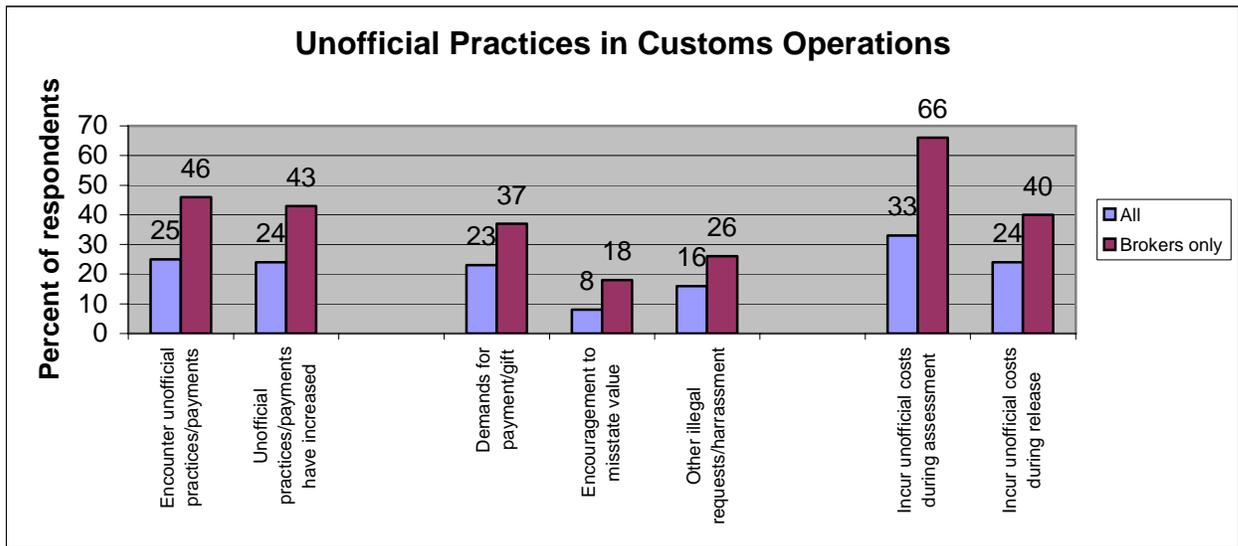
A December 2005 corruption survey of regional business managers²⁹ ranked the Philippines as third from the bottom among 12 Asian countries and especially noted that the need to make bribe payments to Customs officials had changed very little since the Estrada administration (1998-2001). These perceptual findings were reinforced by the 2005 Pulse Asia survey of importers and brokers (see Figure 5). In all cases, brokers responded in much higher percentages than general importers. In particular, 25 percent of all respondents currently encounter unofficial practices or requests for unofficial payments by BOC personnel some or most of the time (46 percent of brokers). Twenty-four percent of all respondents say that these corrupt practices have increased or stayed the same over the past five years (43 percent of brokers).

The Pulse Asia survey asked experiential questions about corruption as well. Twenty-three percent of all respondents indicated that their firm actually experienced demands for unofficial payments or gifts by Customs officials some or most of the time (37 percent of brokers). Only eight percent of firms experienced encouragement by Customs officials to misstate values or amounts of shipments some or most of the time (18 percent of brokers). And 16 percent of firms experienced other types of unofficial requests or harassment by Customs officials some or most of the time (26 percent of brokers).

Most of these corrupt transactions occur either during the assessment stage of the import process (for 33 percent of total respondents and 66 percent of brokers in particular) or the release stage (for 24 percent of all respondents and 40 percent of brokers). When this rent-taking behavior is encountered by firms, do they merely comply or do they ever resist? The survey indicated that 19 percent of all respondents refuse to pay unofficial fees (37 percent for brokers) and 23 percent indicate that their shipments were released anyway (34 percent for brokers). Very few respondents (three percent) indicated that their firms ever lodged official complaints against Customs officials for misuse of power.

²⁹ "Survey: Corruption Still Rampant in RP," <http://igma.tv/article.php?articleid=3813>. December 6, 2005.

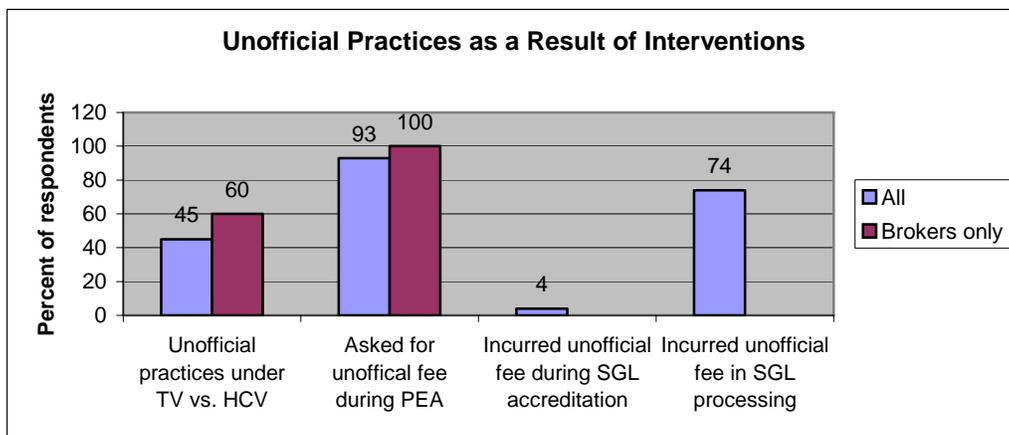
Figure 5. Unofficial Practices in Customs Operations



Source: Pulse Asia survey of importers and brokers, 2005

Corruption trends are very high as they relate to particular EGTA interventions (see Figure 6). Forty-five percent of all respondents indicate that their firms have experienced more or the same amount of unofficial practices by Customs personnel since the transaction valuation regime was established than before (for brokers alone, this finding grows to 60 percent). On average the bribe per shipment is 5000 pesos or less.

Figure 6. Unofficial Practices that Relate to Interventions



Source: Pulse Asia survey of importers and brokers, 2005

Of those firms that have undergone post-entry audits or have been contacted about a future audit, 93 percent indicate that they have been asked for bribes during the audit some or most of the time. Finally, when it comes to the Super Green Lane accreditation process, only four percent of those firms that were accredited indicate that they incurred an unofficial payment. However, 74

percent of these accredited firms have experienced paying unofficial fees in the SGL processing itself.

Summary

Several major conclusions can be drawn from these results:

- The IT reforms conducted between 1992 and 1998 appear to have produced a major reduction in cargo clearance times, reducing the bulk of paperwork and signatures that fostered opportunities for corruption. These efficiencies occurred primarily *in the early stages of cargo processing*, when goods arrive at port through lodgment. These early steps appear to be more amenable to automation and streamlining reforms. However, none of the *later stage* EGTA-assisted reforms seem to have had additional effects in reducing clearance times; in fact, just the opposite is indicated. This appears to have resulted from counter-reform actions that have increased the selection of shipments for documentary and physical checks – offering opportunities for corrupt transactions. While importers generally perceive that clearance is now faster, they believe that customs procedures are still plagued by corruption, insider dealing, and lack of openness.
- Despite extensive training, and the provision of resources and technical assistance from the EGTA project, BOC officials did not manage the implementation of these reforms effectively. Major elements of each reform component were circumvented, yielding excessive discretion, increased opportunities for bureaucratic interaction, delay, and continued corruption. The blame should not be placed solely on the Bureau, as its clients also appear to be complicit in seeking out loopholes and tempting BOC officials through bribes to speed the clearance process and reduce tax collections. While initial post-implementation analyses may show early benefits of the reforms, these impacts tend to dissipate over time as BOC personnel and their clients find ways to circumvent the new procedures.
- The EGTA reforms may have influenced collections in a positive fashion. However, these improvements are slight and time will tell if they persist.
- Corruption in the Bureau has not abated as result of EGTA-supported reforms. Businesses perceive the practices of the Bureau to have remained consistently corrupt over the past six years. In addition, the actual experience of firms indicates that corruption is at the same levels or has increased since the EGTA reforms. Unofficial payments are still common practice even after transaction valuation, SGL and post-entry audit procedures have been implemented.

6. Lessons Learned and Recommendations

What went wrong? The EGTA reforms were well-conceived and effective support to BOC was provided by the project team. Moreover, the legal and procedural frameworks for the reforms were in accord with world standards for modern customs operations. Yet, efficiency outcomes failed to be achieved, revenue- and cost-effectiveness improvements were minor, and anti-corruption outcomes appear to have failed entirely.

A large part of the problem lies with the Bureau's management or lack of such. Customs has suffered from extensive turnover in leadership in recent years – it has had four Commissioners in the past seven years, since 1998. And while there may have been sincere buy-in for these reforms at high levels, at one point in time, that commitment apparently did not last across administrations and did not reach down very deep into the management structure. Moreover, the absence of clear and sustained leadership at BOC had an impact on low level corrupt activity; newly installed Bureau managers were preoccupied with revenue generation at the expense of trade facilitation, modernization and anticorruption initiatives.³⁰ Middle management and lower level officials appear to have provided minimal compliance with changed procedures and found opportunities to use loopholes and circumvent the intent of the reform programs. The insider culture of corruption at the Bureau was maintained despite external goals to control and eliminate it.

Those factors contrast with the situation that the World Bank found in the Philippines BOC during 1992-98 – when strong leadership from the head of customs and higher political leaders had been evident. In particular, in their recent overview, Duran and Sokol concluded that “decisive factors in the success of [that] reform .. included strong top-level political backing; strong, able and sustained operational leadership; ownership of the reform by the head of customs; and support that included some funding by private sector users of customs services.”³¹

Another major element of the problem is the Bureau's client base. While not unique to the Philippines, importers and brokers are naturally focused on facilitating their shipments through cargo clearance by any means. Interviews and survey data suggest that they are as complicit in corrupt transactions as the Bureau's personnel. New reforms – even if they are aimed at reducing business problems with BOC over the longer term -- are seen as just temporary barriers to the immediate needs of getting shipments cleared.

How can the results of this Philippines case be used to promote future customs reforms more effectively, in the Philippines and elsewhere? Improved management supervision and strict and enforced control mechanisms are critical to implementing customs reform programs to achieve effective results. New procedures need to be clearly stated and transmitted to customs officials at all levels; they need to be institutionalized, firmly embedded and well understood by all parties. Most importantly, all parties – in the customs service and among the clients of the customs service -- need to understand that they will not be able to conduct their business with impunity. They need to believe that there are real risks to bypassing these reforms and resorting to corrupt transactions to get things accomplished.³²

What practical steps can be taken? At a minimum,

- Personnel need to be managed and monitored strictly.
- Time limits need to be imposed for accomplishing basic clearance steps
- Random checks of personnel and procedures need to be carried out by management
- Sanctions need to be carried out to send a strong signal that abuse will not be tolerated
- Training needs to be conducted on a continuous basis to account for personnel turnover and changing procedures

³⁰ Parayno, 2004b.

³¹ Paul Duran and José B. Sokol, “Policy and Operational Lessons Learned from Eight Country Case Studies,” in De Wulf and Sokol, *Customs Modernization Handbook*, 2005.

³² An inventory of administrative, criminal and Ombudsman cases filed against BOC personnel from 2001 to 2005 identify 151 cases of which 6 personnel were exonerated, 28 had their cases dismissed, 4 received warnings, 5 received reprimands, 30 were suspended, 11 were fired, and 67 were still pending decision.

- Management needs to re-target the Bureau's goals, providing greater incentives for trade facilitation and less for tax collection.
- Improved certification for brokers and importer agents, including an enforceable code of conduct, should be implemented via industry associations.

The numerous attempts at customs reform in the Philippines over the years demonstrate how difficult it is to transform such organizations in which rent-seeking has been institutionalized and the right incentives and/or penalties are missing. Corruption in many customs organizations has become an established norm. Despite many reform initiatives, these relatively closed semi-autonomous entities tend to resist change, political patronage flourishes, excessive bureaucratic discretion is rampant, large illicit rewards accrue to officials, abuse is lightly penalized, and behavior is poorly monitored.

Procedural changes alone are insufficient to generate short-term effects, let alone long-term sustainable impacts. Strict management, monitoring and sanctions are required to sustain a real change in behavior. While quantitative measurements are not provided, similar customs modernization reforms in Bolivia, Peru, Mozambique, Morocco, Turkey, Uganda and Ghana have purportedly demonstrated positive effects in controlling corruption.³³ In these cases, the statistics generally demonstrate that processing times go down and revenues go up immediately after the reforms are implemented. Moreover, these customs bureaus report *assumed* reductions in corruption that are byproducts of reduced face-to-face interaction between customs officials and businesses and reduced opportunities for official discretion due to the reforms implemented. If their assumptions are correct, the difference between success and failure is typically characterized in terms of:

- A strong political commitment by customs management to enforce the reforms strictly.
- Implementation of reliable control systems for detection and punishment of corruption.
- Clear, predictable and harsh disciplinary responses to corruption abuses.

Overall, effective reforms can only be realized if there is strong political will at the highest levels, and an uncompromising non-political Commissioner who is given unqualified support and a free hand in changing the Bureau's bureaucracy. Frequent turnover in Commissioners can be detrimental to any reform program, causing it to lose focus and commitment. Middle management must be assured that top management wants the reforms to succeed and they must be given not only the training and resources to make them happen, but must know that intentional circumvention of the reforms, as well as outright corrupt practices, will result in predictable, swift, and harsh disciplinary action. Training in the new procedures and automation reforms must be provided on a continuous basis to take into account natural personnel turnover and staff rotation.

Revenue may have to be given second priority during the reform period, and changes must be wholesale and not piecemeal. Personnel will have to be replaced, systems and procedures tightened, fully automated, and strictly monitored.

³³ Lanyi, A., W. Guevara, and S. Bell (2000) "Bolivian Customs Reform: A Case Study of Consolidating Democratic Institutions," College Park, MD: Center for Institutional Reform and the Informal Sector, Working paper No. 247 (November); de Wulf, Luc and Jose Sokol, editors, (2005) *Customs Modernization Initiatives: Case Studies*. Washington, DC: World Bank.

Reform of the bureaucracy requires a recognition that rents will not be relinquished easily and may have to be compensated since vested interest groups will work to preserve the status quo, as they have in the past. The Bureau must be insulated from political interference or depoliticized and political connections need to be severed and the incentives for political corruption removed. Only under these conditions can other measures addressing bureaucratic corruption – for example, improved pay, hiring and performance standards, and strict accountability for all -- succeed.

Finally, importers and brokers are a part of the reform equation. Their partnership with the customs administration is required to make sure the reforms are carried out as intended. In addition, accountability and control mechanisms must be designed and implemented to keep importers and brokers in line with anti-corruption objectives. Professional associations need to adopt ethical codes of conduct for their members and engage in self-enforcement of these codes. All parties involved in customs transactions – from the government and business sectors – must know that they cannot act with impunity. Only then will customs reforms and anti-corruption measures have a chance in achieving their goals.

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Appendix

SURVEY OF IMPORTERS and BROKERS

The purpose of this survey is to better understand how leading companies in the Philippines interact with the Bureau of Customs. Your answers should reflect your firm's actual experiences of doing business with the Bureau.

The results of the survey will be used to help improve the services provided by the Customs Bureau. The survey supports ongoing reform programs conducted by the Government of Philippines. Management Systems International, a US consulting firm, is conducting this survey for an international development agency.

Answering the survey questions will take only 15 to 20 minutes.

I would like to assure you that the information you provide will be treated strictly anonymously and confidentially. Neither your name nor the name of your firm will be used in any document based on this survey. No governmental organization will be informed of any individual firm's responses or participation in this survey.

-
1. In 2001, the Bureau of Customs officially changed its assessment method from one based on home consumption values to one now based on transaction values.

1.1 Do you understand how transaction value assessments are calculated?

| | |
|-----------------|---|
| Very well | 1 |
| Well..... | 2 |
| Somewhat..... | 3 |
| Not much..... | 4 |
| Not at all..... | 5 |

1.2 Do you believe that it is a fairer valuation method than the previous method?

| | |
|----------------------------|---|
| Very much so | 1 |
| A lot | 2 |
| Somewhat..... | 3 |
| Not much..... | 4 |
| Not at all..... | 5 |
| Can't say/Don't know | 9 |

1.3 Do you believe that it has been implemented as intended by the law?

| | |
|----------------------------|---|
| Very much so | 1 |
| A lot | 2 |
| Somewhat..... | 3 |
| Not much..... | 4 |
| Not at all..... | 5 |
| Can't say/Don't know | 9 |

1.4 Have your duty payments increased, decreased or stayed the same in comparison with the previous method?

| | |
|----------------------------|---|
| Increased | 1 |
| Stayed the same..... | 2 |
| Decreased..... | 3 |
| Can't say/Don't know | 9 |

1.5 Has your firm experienced more or less unofficial practices by Bureau of Customs personnel since transaction values have been instituted than under the previous assessment method?

| | |
|----------------------------|---|
| More..... | 1 |
| The same | 2 |
| Less | 3 |
| None..... | 4 |
| Can't say/Don't know | 9 |

1.6 Do you think the selection procedure (into green, yellow and red channels) is fair?

| | |
|----------------------------|---|
| Very fair | 1 |
| Somewhat fair | 2 |
| Unsure | 3 |
| Not very fair | 4 |
| Not fair at all | 5 |
| Can't say/Don't know | 9 |

1.7 Do you think the selection procedure is open to bureaucratic discretion?

| | |
|----------------------------|---|
| Most of the time | 1 |
| A lot | 2 |
| Somewhat..... | 3 |
| Not much..... | 4 |
| Not at all..... | 5 |
| Can't say/Don't know | 9 |

1.8 Have your shipments been released faster using this transaction value method than using the previous method?

- Faster.....1
- Stayed the same.....2
- Slower3
- Can't say/Don't know9

1.9 Have your declared values ever been brought into question by the Customs Bureau?

- Most of the time1 → Continue
- A lot2 → Continue
- Somewhat.....3 → Continue
- Not much.....4 → Continue
- Not at all5 → Go to Q1.10
- Can't say/Don't know9 → Go to Q1.10

1.9.1 If your declared values have ever been brought into question by the Customs Bureau, has the Bureau provided sufficient basis for their assessed value?

- Provided extensive reasons1
- Provided many reasons2
- Provided some reasons.....3
- Not much.....4
- Not at all.....5
- Can't say/Don't know9

1.10 Has your firm incurred more, less, the same or no unofficial fees with this transaction value method than under the previous method?

- More.....1 → Continue
- The same2 → Continue
- Less3 → Continue
- None.....4 → Go to Q2.1
- Can't say/Don't know9 → Go to Q2.1

1.11 If your firm has incurred unofficial fees, what is the average amount per shipment? (in pesos)

_____ average amount per shipment (in pesos)

2. In 2001, the Bureau of Customs established a Post-Entry Audit process.

2.1 Has your firm undergone a Post-Entry Audit or have you been contacted by the Post-Entry Audit Unit indicating that your firm may be selected for an audit?

- Yes1 → Continue
- No2 → Go to Q2.3
- Can't say/Don't know9 → Go to Q2.3

2.2 Has your firm been asked for or incurred unofficial fees during a post-entry audit?

- Most of the time1
- A lot2
- Somewhat.....3
- Not much.....4
- Not at all.....5
- Can't say/Don't know9

2.2.1 If so, how much was the average amount of these unofficial fees?

_____ average amount per shipment (in pesos)

2.3 How much discretion do you believe has been given to this post-entry audit team?

- Too much1
- A lot2
- Moderate amounts.....3
- Some4
- None.....5
- Can't say/Don't know9

2.4 Do you believe that post-entry audits are clear and transparent?

- Very much so1
- A lot2
- Somewhat.....3
- Not much.....4
- Not at all.....5

3. In 2000, the Super Green Lane was established to speed the release of import shipments.

3.1 Has your firm applied to be accredited to the Super Green Lane?

- Yes1 → Continue
- No2 → Go to Q3.12
- Can't say/Don't know9 → Go to Q3.12

3.2 If YES, was your firm given accreditation?

- Yes1 → Continue
- No2 → Go to Q3.4
- Still Waiting3 → Go to Q3.4
- Can't say/Don't know9 → Go to Q3.4

3.3 How long did it take to get the accreditation (number of months and years)?

_____ months/years

3.4 Were any unofficial payments incurred during the accreditation process?

- Yes1 → Continue
- No2 → Go to Q3.5
- Can't say/Don't know9 → Go to Q3.5

3.4.1 If so, what was the amount of these unofficial payments? (in pesos)

_____ Pesos

3.5 Have you used the Super Green Lane?

- Yes1 → Go to Q3.7
- No2 → Continue

3.6 If you have not used the SGL, why not?

_____ → Go
to Q3.12

3.7 If yes, how many shipments per month have you sent through the Super Green Lane on average?

_____ average number of shipments

3.8 If you have used the Super Green Lane, have the actual procedures followed the prescribed steps?

- Very much so1
- A lot2
- Somewhat.....3
- Not much.....4
- Not at all.....5
- Can't say/Don't know9

3.9 Did it take less time to clear your shipments than if it were in the other lanes?

- More1
- About the same2
- Less3
- Can't say/Don't know9

3.10 During the Super Green Lane import process, did your firm incur unofficial fees?

- Most of the time1 → Continue
- A lot2 → Continue
- Somewhat.....3 → Continue
- Not much.....4 → Continue
- Not at all.....5 → Go to Q3.12
- Can't say/Don't know9 → Go to Q3.12

3.11 If so, what was the average unofficial amount your firm paid per shipment when using the Super Green Lane? (in pesos)

_____ Pesos

3.12 Approximately, what proportion of your firm's imports go through the Super Green Lane, Green, Yellow or Red lanes (percentages should add to 100%)?

Super Green %

Green %
 Yellow..... %
 Red %

3.13 Based on your experience, please rank order the lanes to indicate where you have paid the most in terms of unofficial fees – from least amount paid (1) to most paid (4).

Rank

Super Green Lane
 Green
 Yellow.....
 Red

3.14 Based on your experience, please rank order the lanes in terms of quickest shipment clearance – from fastest (1) to slowest (4).

Rank

Super Green Lane
 Green
 Yellow.....
 Red

4. We have a few additional questions about how your firm interacts with the Bureau of Customs.

4.1 Does your firm currently encounter unofficial practices or requests for unofficial payments by the Bureau of Customs?

Most of the time1 → Continue
 A lot2 → Continue
 Somewhat.....3 → Continue
 Not much.....4 → Continue
 Not at all.....5 → Go to Q4.3
 Can't say/Don't know9 → Go to Q4.3

4.2 If so, have these unofficial practices increased or decreased over the past 5 years?

Increased1
 Stayed the same.....2
 Decreased3
 Don't happen at all.....4
 Can't say/Don't know9

4.3 Has your firm ever experienced:

4.3.1 Demands for unofficial payments or gifts by Customs Bureau officials?

| | |
|----------------------------|---|
| Most of the time | 1 |
| A lot | 2 |
| Somewhat..... | 3 |
| Not much..... | 4 |
| Not at all..... | 5 |
| Can't say/Don't know | 9 |

4.3.2 Encouragement by Customs Bureau officials to misstate values or amounts of your shipments?

| | |
|----------------------------|---|
| Most of the time | 1 |
| A lot | 2 |
| Somewhat..... | 3 |
| Not much..... | 4 |
| Not at all..... | 5 |
| Can't say/Don't know | 9 |

4.3.3 Other types of unofficial requests or harassment from Customs Bureau officials?

| | |
|----------------------------|---|
| Most of the time | 1 |
| A lot | 2 |
| Somewhat..... | 3 |
| Not much..... | 4 |
| Not at all..... | 5 |
| Can't say/Don't know | 9 |

4.4 If so, what is the approximate amount of unofficial payments that your firm incurred over the past year? (in pesos)

_____ amount (in pesos)

4.5 If your firm has incurred unofficial costs at the Customs Bureau, at what step in the import process did it happen? (Check as many as apply) Multiple answer allowed.

MA

| | |
|------------------------------|----------------|
| Manifest submission | 1 |
| Lodgement of entry..... | 2 |
| Selectivity | 3 |
| Assessment..... | 4 |
| Payment..... | 5 |
| Release | 6 |
| Never experienced this | 9 → Go to Q4.8 |

4.6 Has your firm ever refused to pay these unofficial fees?

| | |
|----------------------------|---|
| Yes | 1 |
| No | 2 |
| Can't say/Don't know | 9 |

4.7 If so, what was the result?

4.8 Has your firm ever filed a complaint against a Customs Bureau official for misuse of power and authority?

| | |
|----------------------------|----------------|
| Yes | 1 → Continue |
| No | 2 → Go to Q5.1 |
| Can't say/Don't know | 9 → Go to Q5.1 |

4.9 If so, with what agency was your complaint lodged?

4.10 If so, what was the result of your complaint?

5. We are almost finished with the survey. We have just a few questions about your firm.

5.1 What is your job title?

5.2 What was the value of total imports brought in by your firm in 2004? (in pesos)

_____ total 2004 imports (in pesos)

5.3 What was your firm's total sales in 2004? (in pesos)

_____ total 2004 sales (in pesos)

5.4 Which entry port does your firm use the most? (Identify first, second and third most used ports of entry)

| | <u>FIRST</u> | <u>SECOND</u> | <u>THIRD</u> |
|------------------------|--------------|---------------|--------------|
| a. POM..... | 01 | 01 | 01 |
| b. MICP..... | 02 | 02 | 02 |
| c. NAIA..... | 03 | 03 | 03 |
| d. Batangas..... | 04 | 04 | 04 |
| e. Cebu..... | 05 | 05 | 05 |
| f. Subic..... | 06 | 06 | 06 |
| g. Davao..... | 07 | 07 | 07 |
| h. Clark..... | 08 | 08 | 08 |
| i. Cagayan de Oro..... | 09 | 09 | 09 |
| j. Iloilo..... | 10 | 10 | 10 |
| k. San Fernando..... | 11 | 11 | 11 |
| l. Legaspi..... | 12 | 12 | 12 |
| m. Tacloban..... | 13 | 13 | 13 |
| n. Surigao..... | 14 | 14 | 14 |
| o. Zamboanga..... | 15 | 15 | 15 |
| p. OCOM..... | 16 | 16 | 16 |
| q. Other: _____ | | | |

5.5 What commodities does your firm typically import? (Check as many as apply) Multiple answers allowed.

MA

| | |
|-----------------------------------|----|
| Chemicals..... | 1 |
| Electrical machinery | 2 |
| Food | 3 |
| Fuel and oil | 4 |
| Hardware..... | 5 |
| Iron and steel..... | 6 |
| LPG | |
| Machinery (computers)..... | 7 |
| Machinery (heavy equipment) | 8 |
| Machinery (non-electrical)..... | 9 |
| Miscellaneous | 10 |
| Motor Vehicles..... | 11 |
| Paper and paperboard..... | 12 |
| Textiles..... | 13 |
| Tobacco and spirits | 14 |
| Others, please specify _____() | |

Thank you for your time and thoughts!