

Customs Valuation Assistance in Nepal Cargo Selectivity Unit Organization and Training Kathmandu, Nepal

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Executive Summary

The Nepal Department of Customs is committed to modernization and reform. An impressive list of accomplishments is summarized in the full report. Much still remains to be done and management is fully aware of the challenges facing them. The IMF, the Integrated Framework and others have recently completed a series of diagnostic studies. Customs accepts the vast majority of the recommendations and desires to implement them, but to do so will require financial and technical assistance. This report acknowledges the excellent work evidenced in those reports and attempts to consolidate their recommendations and the findings of this mission into a plan of action for future technical assistance and reform.

The focus of the International Community must now shift from evaluation to assistance. There is an old maxim that it is dangerous to confuse desire with capability. Throughout the report and this executive summary, serious deficiencies are noted. These deficiencies result primarily from inadequate funding, expertise and training – areas in which the International Community can make invaluable contributions. The noted shortcomings should not be interpreted as reflecting a lack of desire or commitment on the part of Customs management to modernization and reform.

This executive summary focuses on specific technical assistance priorities and opportunities. To obtain a balanced perspective of Customs that includes a more complete discussion of achievements and commitment to change, the reader is encouraged to read the full report. The report addresses 11 major areas of interest in which the International Community can assist the Nepal Department of Customs accomplish meaningful modernization and reform. It does not purport to offer complete solutions in all areas. The last four areas (training, investigations, infrastructure and human resource management) require significant policy decisions by the Government and are unlikely to be corrected in the short term. Nevertheless, changes are necessary, and this report offers specific action recommendations designed to begin the process. Financial and technical assistance will be required. For the last four issues, political influence of Government decision makers by the International Community may be required.

1. Valuation

Customs has revised its valuation law to comply with the WTO agreement on valuation but lacks the technical skills, organizational structure and logistics necessary to fully implement the changes. Customs officers at all levels urgently require training, improved access to value related information and mechanisms for dealing with questionable declarations.

Recommendations: Tariff and valuation responsibilities that are currently split among several units must be consolidated and these units combined. Financial assistance will be required to provide computer workstations with access to ASYCUDA and the Internet. Technical assistance will be required to train the Headquarters and field levels, and trade seminars are necessary. This technical assistance should include developing an enforcement strategy (that may include an automated valuation data base) and standard operating procedures for the Headquarters officers who encounter questionable declarations of value.

2. Risk Management, Cargo Selectivity and Post Clearance Audit

The various diagnostics recommend a risk-based cargo selectivity system supported by a post-clearance audit capability. Customs concurs but lacks the technical and logistical capabilities necessary to implement automated selectivity and requires training in audit procedures. An effective cargo selectivity system is virtually precluded by the current state of the automated declaration processing system, ASYCUDA. The Nepal system lacks basic features necessary to implement automated cargo selectivity and is currently operating in little more than a statistical/accounting mode. ASYCUDA is capable of much more. Key to making full use of its functionalities is a wide area network linking processing sites to a central server. Customs recognizes this and is in search of funding. Also key to the effective use of declaration data for risk management purposes is a local area network to provide real-time connectivity to ASYCUDA for key Headquarters departments (tariff and valuation, post-clearance audit, risk management). During the course of the mission, a half-day briefing was provided to key Customs managers regarding the development of an effective risk-management based cargo selectivity system. Additionally, a detailed action plan is presented as an appendix to the main report. Once the WAN and LAN are in place, Customs can make full use of the many capabilities of ASYCUDA including its selectivity module MODSEL. Audit responsibilities have been assigned to the valuation unit rather than a separate unit, which would be more effective. The valuation unit does not have adequate guidance or technical expertise and the function is of sufficient importance to be assigned to a separate specialized unit.

Recommendations: Funding must be identified to link ASYCUDA sites to the Headquarters through a wide area network and to bring the automated system to an acceptable standard of deployment. Funding also must be identified to create at least a small local area network to provide real time access to the ASYCUDA system by Headquarters technical staff. Technical assistance will be required to train staff in the MODSEL software and in customs risk analysis techniques. At this time, Customs should establish a Risk Management Committee to at least begin working on the action plan provided. A separate Post Clearance Audit Unit should be established. Technical assistance will be required to provide specialized training in

audit procedures and to equip both the Cargo Selectivity Management Unit and the Post Clearance Audit Unit. Once the WAN and LAN are operational, risk management training will be required.

3. Declaration Processing

Declaration processing is overly complicated and inefficient. Rather than automating simplified procedures, ASYCUDA has been overlaid on existing manual procedures. Procedures are both paper and labor intensive. Process simplification should have been accomplished during the ASYCUDA project, which is supposed to be not merely an automation project but also a Customs modernization and simplification project. This appears to be a significant failing on the part of the ASYCUDA project. Significant work toward simplification of procedures remains to be done.

Recommendations: Technical assistance is necessary to simplify procedures and to rationalize and reduce document requirements in accordance with the specific Kyoto Convention annex guidelines and the WTO Valuation Agreement.

4. Integrity Program

Customs has taken preliminary steps to improve officer integrity, but efforts to date have been reactive and technical assistance is needed in designing and implementing a comprehensive and proactive anti-corruption strategy.

Recommendations: Technical assistance is necessary to develop a comprehensive anti-corruption program in the form of written generic instructions that can be fleshed out and implemented without the necessity of an on-site advisor. When Customs has completed the necessary implementation steps, on-site training will be required in basic investigative techniques and case management practices.

5. Trade Interaction

Customs is improving working relationships with the trade community and other government departments. The Director General has established weekly public hearing meetings, both at the Headquarters and at major field offices, as well as a bimonthly Stakeholders Interaction Meeting that include representatives of both governmental departments and the private sector. This process would be improved by exposure to the UNECE model for public/private trade facilitation “Pro-Committees” and some on-site technical assistance.

Recommendation: (TIME SENSITIVE) USAID should arrange for the Director General and at least one member of the FNCCI to attend the UNECE workshop on

Pro-Committees to be held in Geneva on 18-20 October 2004. Follow up with on-site assistance with the establishment and implementation of a Nepal Pro-Committee.

6. Change Management

Customs formed an ad hoc Management Committee to Modernize Customs for preparation and implementation of a three-year plan that includes the recommendations made in the diagnostics. Unfortunately, the committee has since been discontinued. However, the Director General is personally charting progress toward implementation of each recommendation.

Recommendations: A permanent Program Management unit should be established immediately. Technical assistance is required in the form of training in program management techniques. Program Management software and one computer workstation should be included in this TA. Additionally, an executive familiarization mission should be organized to allow the Director General to observe operations at the U.S. Customs and Border Protection Academy as well as small to medium sized border stations and airports.

7. Organizational Structure

The diagnostics recommend the establishment of a relatively large number of new sub-organizations within Customs but neither put these recommendations in the context of an optimal organizational structure nor provide sufficiently detailed guidance regarding composition or functionality. Incorporating the new sections must be done in a studied and reasoned manner. This mission has integrated these recommendations into a proposed organizational structure.

Recommendation: Customs should adopt and implement the proposed table of organization included in the main body of this report.

8. Training

Current training is inadequate to meet basic Customs needs. Customs does not have an internal training capability. The Revenue Administration Training Center trains all Ministry of Finance personnel. Facilities are marginal and there is little interaction between the Center and Customs management regarding the Customs component of the basic training. All new employees undergo identical basic training before being assigned to a specific department. While this practice arguably may produce well-rounded generalists, it does not come close to producing skilled and knowledgeable Customs specialists.

Recommendations: The Revenue Administration Training Center should drop Customs matters from its basic training curricula. Once a new officer has completed basic revenue administration training and has been designated for assignment to Customs, Customs should provide supplemental specialized training in customs law, procedures, and techniques. Substantial technical assistance will be required to develop modules and train instructors. A minimal amount of training equipment will be required as part of this assistance.

9. Investigations

The Ministry of Finance investigative authority and responsibilities are centralized in the Revenue Investigations Division. It does not have the required training, skills or knowledge to effectively investigate Customs fraud and its primary function involves internal VAT checkpoints. Customs does not have an integral investigations component or capability at this time.

Recommendations: The MOF should delegate responsibility for investigation of customs fraud to Customs. Technical training will then be required.

10. Infrastructure Issues

Substandard Customs infrastructure must be modernized. The IMF Report of May 2004 states: "The mission does not expect government departments to be housed in the country's most modern and expensive buildings, but it has to be recognized that there is a minimum standard of accommodation and furnishings in which staff should be expected to work to achieve reasonable levels of productivity, and to provide basic services to taxpayers. The sites visited by the mission fell well below such a standard." This mission affirms that assessment. Customs was funded in the current national budget to contract with national consultants to evaluate all offices and develop a model office plan. It is unlikely that this consultant will be familiar with modern border station design concepts.

Recommendations: The findings of the national consultants should be reviewed by an international technical expert in border station design. Once the national consultants and technical expert concur on the design of a model Customs facility, Customs should develop a list of its most critical infrastructure improvement requirements and funding should be sought.

11. Human Resource Issues

The Director General does not have adequate authority over the management of the human and financial resources at his disposal, there is no career ladder and the MOF rotation policy is detrimental to Customs. These problems stem from overarching

national civil service procedures and MOF policies.

Recommendation: Technical assistance is required to fully evaluate the impact civil service and MOF human resource management procedures on Customs.

12. Explanatory Note Regarding WTO/WCO Standards and Requirements

The primary purpose of this mission was to determine what assistance Customs requires to fully implement an efficient and effective customs valuation system that is fully compliant with the WTO Valuation Agreement. At the time of the mission, Customs had submitted to Government a revision to the Customs Act to bring valuation practices into compliance and was anxiously awaiting enactment. As an interim measure, a Financial Ordinance was implemented in 2003, revising the valuation provisions of the current law to make them consistent with the WTO agreement. Other WTO requirements address such things as transit, fees and formalities and publications and appeals. The scope of this mission did not include the time or the tasking to address these issues in detail.

Subsequent to the completion of the mission, USAID raised the question of how the various recommendations would bring Nepal into compliance with WCO standards, guidelines and commitments. The primary source of these standards is the Revised Kyoto Convention [International Convention on the Simplification and Harmonization of Customs Procedures (as amended)], adopted by the WCO in June 1999. This convention, commonly referred to as the Kyoto Convention or simply Kyoto, provides key principles for Customs modernization and reform, detailed guidelines and recommended practices. Specific annexes cover arrival of goods in a Customs territory, importation, exportation, Customs warehouses and free zones, transit, processing, temporary admission, offences, special procedures and origin. General annexes address general principles, definitions, clearance and other Customs formalities, duties and taxes, security, Customs control, application of information technology, relationship between the Customs and third parties, information, decisions and rulings, and appeals in Customs matters. Currently, 34 of the 40 contracting parties required to bring the revised convention into force have acceded to it. Nepal has neither acceded to the original Kyoto Convention (September 25, 1974) nor to the 1999 revision. Nevertheless, the Director General indicated during the mission that Nepal intends to accede and that modernization and reform efforts should be consistent with the revised convention. While the scope of this mission did not permit an in-depth and detailed analysis of the extent to which current practices comply, the recommendations made in the report are consistent with Kyoto. The recommendations of this report and the diagnostics that preceded it do not go to the level of procedural specificity necessary to address specific annex guidelines. Those guidelines will, by necessity, be specifically addressed in detail by the technical assistance recommended throughout the report.

Background

At the request of the USAID Mission in Kathmandu, Nepal the USAID FASTrade project managed by Booz Allen Hamilton engaged a customs consultant, Robert Holler, to provide assistance to Nepal Customs toward the establishment and implementation of an efficient and effective customs valuation system that is fully compliant with the WTO Valuation Agreement. The ultimate objective of the technical assistance is to provide sustainable professional development and reform in the area of customs valuation and in particular to provide assistance in the establishment of an effective risk management/selectivity system.

The specific objectives of the mission were to:

- Conduct an assessment of Nepal's current customs risk management/selectivity and valuation systems and procedures, and based on this assessment:
- Deliver guidance and training for the establishment and operation of an effective cargo selectivity unit;
- Provide recommendations on steps needed to be implemented to establish and staff an administrative unit responsible for identifying and implementing selectivity criteria governing the valuation of imported goods;
- Identify the administrative authorities necessary for the selectivity unit to effectively implement selectivity criteria in day-to-day customs valuation decisions;
- Recommend a schedule for training Customs personnel assigned to the new cargo selectivity unit in the establishment and maintenance of criteria for the identification of merchandise that is high risk for valuation fraud within incoming cargo;
- Recommend a training schedule for personnel responsible for implementing the criteria in day-to-day customs valuation decisions, at the ports of entry, for headquarters valuation reviewers, and for post entry valuation auditors;
- Assist with the identification of possible follow-on technical assistance activities resulting from conclusions of the assessment and prepare a written report defining recommended Phase 2 training and assistance tasks in the valuation area;
- Observe other aspects of Nepal Customs' cargo entry process and procedures; the readiness and receptivity of the organization to integrity enhancement assistance; and the readiness and receptivity of the trade and commercial environment to assistance with establishment of a public/private trade facilitation group (Pro-Committee);
- Assess Nepal Customs current status in terms of organization structure, operations and infrastructure, and efforts to modernize and simplify

- procedures;
- Identify critical needs in which donor assistance is necessary.

Assessment of Nepal's current customs risk management/selectivity and valuation systems and procedures

The methodology used in preparing this report included:

- A review of recent diagnostic studies of the Nepal Department of Customs conducted by international organizations;
- A review of planning and other documents prepared by the Customs;
- Interviews with Customs managers and officers;
- Observation of Customs operations at Tribhuvani International Airport and at the Customs Headquarters;
- Meetings with representatives of international organizations;; meetings with government officials (Ministry of Industry, Commerce and Industry, the Revenue Investigations Department, the Revenue Administration Training Center);
- Meetings with members of the trading community; and
- Attendance at a Customs public hearing.

Meetings and interviews were conducted during the period of 12-22 July 2004 with those persons listed in Appendix 1.

The following documents were reviewed in the course of this mission and relied upon in the preparation of this report:

- "Three Year Customs Reform and Modernization Action Plan 2003-2006", Nepal Department of Customs, undated;
- "Proposal for the Technical Assistance for the full Compliance of WTO Valuation Agreement (Article VII) after Accession to the World Trade Organization", Nepal Department of Customs, undated;
- "Practical Steps in Revenue Administration Reform", Graham Holland, Adrien Goorman and Sandor Somodi, International Monetary Fund, October 2003;
- "Nepal - Next Steps in Tax Reform", John King, Graham Holland, Adrien Goorman, and Dag Hansen, International Monetary Fund, April 2003.
- "Practical Steps in Revenue Administration Reform", International Monetary Fund, May 2004;
- "Final Report in the Study on Adopting Selectivity in Customs Administration of Nepal", Banshidhar Ghimire, 19 September, 2003.
- "Status at 10 April 2004; Future IA Needs and Potential Donors"; UN-ESCAP ITECD, April 2004;
- "Nepal Trade and Competitiveness Study", Integrated Framework for Trade-

- Related Technical Assistance", His Majesty's Government of Nepal, March 29, 2004;
- "The Statements of Implemented Reforms Programme in the Department of Customs", HMG Ministry of Finance, Department of Customs, 2004
 - "Major Immediate Challenges Identified and Initial Action Proposals", UNESCAP Regional Advisor for Trade and Investment Policy, April 2004;
 - "Expectations from USAID for Modernization of Customs", prepared by Nepal Department of Customs; and
 - "Expectation of Dept. Of Customs from IMF", prepared by Nepal Department of Customs.

These documents present a wealth of information regarding the Department of Customs, including operational and managerial weaknesses, and recommendations for improvement, modernization and reform of the Department of Customs.

This report is divided into three parts. Part 1 presents findings relating to the original scope of the mission. Part 2 presents additional findings relating to the request by USAID to expand the scope of the mission to include a broader review of Nepal Customs. Both parts conclude with an identification of possible follow-on technical assistance. Part 3 includes appendices that contain supporting materials.

Part 1: Establishment and implementation of customs valuation systems, anti-corruption and trade cooperation initiatives

Findings and recommendations

1. Valuation

Current Status and Implications

This assessment found that the Department of Customs is in the process of revising the Customs code to comply with the WTO Valuation Agreement but has not actually implemented those rules.

Nepal became the 147th member of the World Trade Organization in April 2004 and is implementing changes in the Customs Act to comply with the WTO Valuation Agreement. Customs has submitted to the Ministry of Law, Justice and Parliamentary Affairs a revision to the Customs Act that will bring Nepal's valuation rules and methodology into compliance with the WTO Valuation Agreement. It is expected that this revision will be passed in the near future, although a firm date could not be predicted at the time of the mission. As an interim measure, a Financial Ordinance (which has the force of law) was implemented in 2003 requiring revising the transaction price provisions of the seventh amendment (1997) of the Customs Act of 1962 with valuation provision based on transaction value that appear to be consistent with the WTO Valuation Agreement.

Customs has identified implementation of the WTO Valuation Agreement as a high priority but has yet to implement the new rules. They will require technical assistance to do so.

A Valuation Section consisting of a Director, three officers and an assistant has been established in the Headquarters. The office is equipped with one computer. The main function of the Valuation Section has been to revise the Customs Act to comply with WTO Valuation Agreement. The section provides minimal support and guidance to the field. One of the key valuation-related recommendations of the International Monetary fund is the development of an automated valuation database. At the time of this mission, no work has been done on a valuation database

Discussions with the Director General, the Director of the Valuation Department, as well as an observation of field operations confirm that the WTO Valuation Agreement requirements have not been put into practice at this time due to a lack of basic technical knowledge, a lack of sufficient valuation expertise and inadequate automation and communications capacity within Customs.

The Federation of Nepal Chambers of Commerce and Industry stated that Customs does not have trained manpower in the field that can make decisions without delay and pointed out that the time wasted as a result of indecision represents cost to importers. At the time of the mission, no training had been provided to any field or Headquarters personnel on the WTO GATT Valuation rules.

Nepal Customs follows the traditional approach in having one section in its Headquarters responsible for valuation issues and a second section (the Tariff Section) responsible for classification issues. This division of commodity expertise responsibilities is not conducive to the development of officers who are knowledgeable regarding commodity lines. Whenever a field officer has a question regarding a particular importation, he should not have to contact two sections for advice. Rather, he should be able to contact a specialist who is knowledgeable in both classification and valuation issues as they apply to specific commodities.

See Appendix 2, Valuation Issues, for further details.

Recommendations

- Responsibilities for tariff classification and valuation issues should be consolidated into one section. Customs officers in this section should be assigned responsibility for commodity lines (motor vehicles, electronic apparatus and components, etc.) This recommendation is reflected in a proposed new organizational structure for the Department of Customs.

See section 3 of Part 2 of this report and Appendix 3, Recommended Organizational Structure, for further details.

- A minimum of eight desktop computers will be necessary to properly equip the new Tariff and Valuation Section. These computers should be networked.
- Training in valuation rules and procedures needs to be provided to the Headquarters staff, to officers at the major Customs offices, and to the trade. Detailed requirements for this training are presented at the conclusion of Part 1.

2. Risk Management and Cargo Selectivity

Current Status and Implications

The referenced diagnostic studies and the national consultant's report recommend that Customs implement a cargo risk-based cargo selectivity system, provide training to staff provide training and develop criteria for selective checking.

Unfortunately, Customs is unable to implement these recommendations due to the:

- Inadequate state of its automated system, ASYCUDA;
- Absence of an effective valuation process in the Headquarters;
- Undeveloped state of its post clearance audit capacity;
- Lack of centralized information regarding examinations and discrepancies;
- Lack of office space and basic equipment;
- Lack of a local area networks to provide an analytical team with real-time access to declaration data; and the
- Inability to exchange automated data with other departments.

The current ASYCUDA system lacks the very basic requirements necessary to implement automated cargo selectivity. It consists of a seven stand-alone installations at the major commercial Customs offices. These installations are not linked to a central server. Instead, collection data is provided to the Headquarters by email. Customs has neither an Information Technology Center nor a local area network in the Headquarters. Email is downloaded to the one computer in the Headquarters that has Internet access, transferred to a floppy disk, carried downstairs and then loaded into the ASYCUDA server. The system is currently operating in little more than a statistical/accounting mode.

Additionally, Customs does not have a local area network. The tariff section has one computer that it "borrowed" from the ASYCUDA project. The valuation and audit section likewise has one computer. The administrative section, with a staff of seventeen has 2 computers. There is no computer in the Director's office or in his secretary's. None of the Section Officers have a computer. The only sections with more than one or two computers were the statistic section, which also is not linked to one of the primary sources of statistics, ASYCUDA, and the Information Technology section, which has a server, two desktop computers and one laptop.

In order for ASYCUDA's cargo selectivity module to function, Customs will need to establish a special unit to develop examination criteria that will drive the selectivity module. This unit is called a Cargo Selectivity Management Team. Its primary functions are to:

- Gather data from ASYCUDA and a variety of other sources;
- Analyze and evaluate that data;
- Develop risk profiles;
- Enter examination criteria into the selectivity module;
- Monitor results of the examinations, document reviews and post clearance reviews that result from those criteria; and
- Adjust criteria as necessary.

In order to perform these functions, cargo selectivity analysts require real-time access to the ASYCUDA database. This can only be accomplished by providing each analyst with a desktop computer linked to the ASYCUDA server in a local area network.

See Appendix 4, Automation Issues and Appendix 5, Proposal for Wide Area Network.

Technical Assistance to assist Customs in establishing a Cargo Selectivity Management Unit has been provided in the form of a half-day seminar conducted on 19 July 2004 . This seminar explained the manner in which the ASYCUDA selectivity process works and the steps that Customs must take to implement that process. This seminar stressed that implementing cargo selectivity is not as simple as activating the selectivity module of ASYCUDA, that Customs must first have a functioning wide area network to link field installations to a centralized server, a local area network to link the analysts' computers to that same server. It also stressed the importance of establishing a post clearance review section and developing new examination guidelines and training. This seminar was attended by the Director General, the Chief Administrator of the Tribhuvan International Airport, the National Consultant who prepared the "Final Report in the Study on Adopting Selectivity in Customs Administration of Nepal", and Customs Section Directors and officers. The oral presentation encouraged open discussion and questions and promised that detailed written instructions would be provided to Customs as a part of this report.

See Appendix 6, Implementing Cargo Selectivity in Nepal.

Additional Technical Assistance in the form of cargo selectivity analysis training will be required once Customs has completed its wide area network, implemented direct trader input, activated the selectivity module and selected the staff for the new unit and equipped the new unit with computers linked to the ASYCUDA server through a local area network.

Recommendations

- ASYCUDA must be brought up to an acceptable standard of deployment. This will require funding, technical assistance, professional project management and accountability. It is recommended that an external consultant ensure that the description, funding and execution of the ASYCUDA improvement project are satisfactory.
- Funding must be procured for the wide area network connecting all of the ASYCUDA installation sites to a centralized bank of servers in the Customs Headquarters and for a local area network within the Customs Headquarters.

- The Information Technology staff received training in MODSEL in Malta in 1998 and will require refresher training.
- Customs must establish a Risk Management Committee responsible for implementing the plan of action in Appendix 6: Implementing Cargo Selectivity in Nepal. This committee should develop and implement a work plan.
- An Audit Section should be established and trained. This training can be conducted prior to the activation of cargo selectivity.

3. Nepal Customs' cargo entry process and procedures.

Current Status and Implications

Customs cargo release operations observed at Tribhuvan International Airport confirmed that processing is primarily manual beginning with a manual face vetting of the declaration. Once the declaration has been accepted, Customs handwrites corrections and changes on it face; in effect, eliminating any legal basis for penalty action since the handwritten corrections are virtually indistinguishable from the handwritten declaration. Unnecessary documents (business registration, agent authorization, taxpayer identification, etc) are required for every declaration. The declaration is then entered into ASYCUDA by Customs employees and arbitrarily assigned to low graded officers for examination. When discrepancies are found or when values are questionable; these officers must refer it back to a senior officer for a decision. Rather than automating simplified procedures, ASYCUDA has been installed as an overlay to existing manual procedures.

One case was observed in which a courier service shipment was invoiced as samples of no commercial value, and declared at a value of \$36. The box contained 90 identical electronic components. The examining officer, after verifying that there were 90 pieces in the "sample" shipment, referred it back to a senior officer who simply doubled the declared value and appraised the shipment at \$72. When asked the basis for the determination, he replied that sometimes he increased shipments 100%, sometimes 200%. He could not provide any basis for his determination.

The entire operation at this facility can only be described as chaotic. There were hundreds of people milling around and virtually no one had any sort of identification card or badge. Customs officers and employees were not in uniform and most were not wearing badges. To an outsider, they were visually indistinguishable from everyone else in the area. Security appeared to be exceptionally lax.

The referenced diagnostic studies and the National Consultant's report on risk management recommend that Customs:

- Simplify documentary requirements for customs clearance;
- Take full advantage of the existing computerized system to reduce paperwork, strengthen revenue control and limit discretionary action by Customs personnel;
- Develop instruction manuals for customs personnel, explaining step by step the operational procedures for all major customs regimes;
- Review existing control and clearance procedures, eliminate useless steps, and design a modern control strategy based on risk assessment and selective checking supported by post release review;

These actions should have been accomplished during the ASYCUDA project. ASYCUDA projects are not merely automation projects; they are first Customs modernization and simplification projects. Procedural reform is a prerequisite to automation, otherwise, the result is simply automation imposed on top of ineffective procedures as is clearly the case in Nepal. Unfortunately, the ASYCUDA project did not accomplish the expected procedural simplification. This must be corrected and technical assistance will be required.

Recommendations

- Technical assistance should be contracted to review cargo documentation requirements and processing procedures with the goal of simplifying procedures and reducing the documents required with each declaration. Two to three months of technical assistance will be required. This assistance can be provided in advance of or in conjunction with the improvements to the ASYCUDA system described above.

4. Readiness and receptivity for integrity enhancement assistance.

Current Status and Implications

The Director General indicated his sincere commitment to establishing an effective integrity program within the DOC. He was specifically selected to head the Department of Customs for the purpose of reforming operations and eliminating corruption. In the year that he has held the position, Customs has:

- Implemented and published a code of conduct;
- Made it compulsory for all offices to complete examining the declaration (entry) form within two hours of it being presented, eliminating the need for gratuities or "speed money" to expedite release of the goods;
- Begun inquiring into allegations of improper conduct;
- Initiated weekly "public hearings" at its Headquarters and major field

offices where anyone may advise the appropriate manager of unethical behavior; and

- Implemented a rotation policy of transferring Customs employees every two years. Six Customs offices with the highest levels of commercial activity are designated "A" category offices. The policy does not allow employees to transfer from one "A" category office to another.

Reactions, at this point are mixed. Pro-Public, a non-governmental body involved in the anti-corruption campaign, has declared the Department of Customs to be the least corrupt among all the government departments. The Federation of Nepal Chambers of Commerce and Industry cited an indifferent attitude on the part of officers and stated that it's still impossible to trade without having to pay off Customs personnel. This does not diminish the importance of the efforts taken by Customs: elimination corruption is a difficult challenge.

Rudimentary internal controls are performed by the Inspection Section monthly; however, this section also performs the unrelated tasks of supervising transit, bonds, warehouses (particularly manufacturing warehouses), and temporary importation procedures. Customs does not have a staff for the purpose of or the authority to conduct internal investigations. Allegations of corrupt practices must be referred to the Commission for Investigation of Abuse of Authority; however, this Commission reportedly occasionally delegates authority to the Revenue Investigations Department to conduct such investigations. It was not possible to meet with the CIAA during this mission.

The Director General has stated that so far anti-corruption efforts have been reactive and that he needs assistance in designing and implementing a comprehensive revenue administration anti-corruption strategy.

Recommendations

- Technical Assistance should be contracted to develop a multi-faceted, comprehensive anti-corruption program that can be adopted by Nepal Department of Customs without the necessity of on-site technical assistance.
- Once the anti-corruption plan and the revised table of organization are implemented, thirty days on-site technical assistance will be required to teach basic investigative techniques.

5. Readiness and receptivity for assistance with establishment of a public/private trade facilitation group (Pro-Committee).

Current Status and Implications

The Director General of Customs has established weekly public hearing meetings, both at the headquarters and at major field offices. The public hearing meetings are conducted every Monday at 2:00 pm at the Customs headquarters and every Sunday at 2:00 pm at the 29 Customs field offices.

A bimonthly Stakeholders Interaction Meeting consists of representatives of the:

- Department of Customs;
- Ministry of Finance;
- Ministry of Industry;
- Ministry of Trade and Commerce;
- Department of Revenue Investigation;
- Department of Inland Revenue;
- Department of Small Cottage Industry;
- Department of Commerce;
- Department of Standards;
- Army;
- Police;
- Department of National Investigation;
- Department of Food Technology and Quality Control;
- Trade Promotion Center;
- Export Promotion Bank;
- Central Bank;
- Federation of Nepal Chambers of Commerce and Industry;
- Nepal Chamber of Commerce;
- Nepal Foreign Trade Association; the Freight Forwarders Association; and
- Customs Agents Association.

Additionally, Customs is participating in special focus trade meetings. During the mission, customs participated in meetings on "Export of Cargo by Air: Problems and Possibilities".

Customs has clearly opened its doors to the trade in establishing and promoting the meetings described above. Unfortunately, it is not clear that the trade has fully recognized or taken advantage of the opportunities for open communications and collaboration. During a meeting with the Federation of Nepal Chambers of Commerce and Industry, a member began to raise a litany of complaints against Customs and suggested that an "Authority" be established for the purpose of managing Customs modernization. It was pointed out that this mission was probably not the most appropriate venue for raising complaints. Rather, these should be taken to the Stakeholders' Meetings and to the Public Hearings and presented to the Director General and his staff. It was also pointed out that the

Stakeholders' meeting could serve as a public/private coordinating body for customs reforms. The process would be facilitated by exposure to the activities of existing Pro-Committees.

The public and stakeholder meeting process is new and could benefit from participation by Customs and the private sector in the UNECE Seminar of Developing and Managing Pro-Committees scheduled for October 2004. UNECE will be hosting a capacity building workshop for national PRO committees on 18-20 October 2004. The workshop is mainly aimed at exploring established trade facilitation principles and standards. Registration documents can be downloaded from www.unece.org/trade).

See Appendix 7, Pro-Committee Workshop

Recommendations

- The Director and at least one member of the FNCCI should attend the UNECE capacity building workshop on Pro-Committees to be held in Geneva on 18-20 October 2004.

6. Participation in the “Navigating Export Requirements in a Global Market” seminar as panel member on customs issues.

This two-day seminar in Kathmandu was jointly sponsored by several U.S. Government agencies (USAID, USTR, USPTO, APHIS, ITA) with a goal of providing participants from Nepal, Afghanistan, and Bangladesh with guidance and information on improving export promotion and performance. Mr. Holler participated in the seminar as a presenter and panelist on the role of Customs in trade facilitation.

Identification of possible follow-on technical assistance

1. Training in application of the WTO Valuation Agreement should be provided to Customs Officers in the Tariff and Valuation Section, to field officers stationed at major commercial Customs offices and to the trade. A recommended four weeks of on-site technical assistance should include: (1) two weeks on-site technical assistance in the reorganization and merging of the current valuation and tariff sections and in establishing the new organizational structure, responsibilities and procedures of the new section; (2) the provision of a minimum of eight desktop computers, two printers and the necessary hardware to network the workstations and printers; (3) one week formal classroom training for the Customs Headquarters staff and field officers (estimated total participation would be 60 officers); (4) the development of standard operating

procedures for field officers on how to resolve questions of valuation based on the WTO rules and with the assistance of the new Tariff and Valuation Section; and (5) two one day seminars for the trade community, estimated up to 60 participants per session. This technical assistance should be conducted within the next 60 days.

2. Training in Post Clearance Audit procedures should be provided to Customs officers assigned to a new centralized PCA Section. A recommended four weeks of on-site technical assistance should include: (1) familiarization with commercial documents and procedures associated with international trade; (2) an introduction to basic Customs auditing techniques; (3) the development of standard operating procedures, forms and formats; (4) a practical exercise conducting a guided audit of an importer's or agent's office; (5) two desktop computers and a linked printer and two laptop computers; and (6) a one day seminar for the trade community on audit procedures and importer/agent responsibilities, again estimated at up to 60 participants. This technical assistance should be conducted within 60-120 days.
3. Technical Assistance in developing a comprehensive anti-corruption program should be provided to Customs in the form of written generic instructions which could be adapted and implemented by Customs without the necessity of on-site technical assistance. Preparation of these generic instructions would require approximately two weeks of technical assistance. Implementation of the recommendations will require financial resources to implement public outreach and employee identification systems.
4. At a later date, after the anti-corruption plan and the revised table of organization are implemented, four weeks of on-site technical assistance will be required to teach basic investigative techniques, case management procedures and coordination with other authorities.
5. The Director and at least one member of the FNCCI should be invited and funding provided to permit them to attend the UNECE capacity building workshop on Pro-Committees to be held in Geneva on 18-20 October 2004.

Part 2: Review of current status of Nepal Department of Customs

During the course of the mission, representatives of USAID requested that the scope be broadened to provide a more complete summary of the current status of Nepal Department of Customs.

1. Nepal Department of Customs - A Brief Description

The Department of Customs consists of a Headquarters located in Kathmandu, 29 main customs offices and 143 sub offices. The Department is one of three departments within the Ministry of Finance; the other two departments being the Inland Revenue Department and the Department of Revenue Investigations. Training for all departments is conducted at a Revenue Administration Training Center. Training covers all aspects of revenue administration and officers, once trained and assigned to one department are subject to transfer to another department within the Ministry of Finance in as short a period as two years.

Customs duty and VAT collections constitute over 50% of Nepal's tax revenue. Customs revenue collections during the past fiscal year were 15.57 billion Nepal Rupees, exceeding the revenue target of 14.44 billion rupees.

The Department of Customs is headed by a Director General and Deputy Director General. The Headquarters consists of

- An Administrative Section,
- A Valuation and Audit Section,
- A Tariff and Classification Section,
- A Laboratory Section,
- A Monitoring and Inspection Section and
- An Information Technology Section.

At the time of the mission, the Monitoring and Inspection Section and the Information Technology Sections were operating under the supervision of one Director. The other four sections each operated under the supervision of a Director.

Customs total staffing is 1551: 1297 staff are posted to official positions and 254 are not posted and will be retired or assigned to other offices. Officers are either "gazetted" or "non-gazetted". Gazetted officers possess a University degree and have passed an examination. Non-gazetted officers function as assistants and do not have to meet the University or examination requirement. The Department has 82 gazetted officers and 821 non-gazetted officers. Additionally, Customs has 27 drivers, 593 messengers and 66 guards. "Messenger" is a government-wide position title that for all practical purposes denotes unskilled labor.

2. Commitment to Change

Current Status and Implications

Five key elements must be present for a successful customs modernization and trade facilitation program in developing countries:

- A strong political will,
- Dynamic leadership,
- A clear strategic plan,
- Close cooperation with the business community, and
- A well-funded, long-term technical assistance program based on a partnership between the donors and customs.

During the course of this mission, the Nepal Department of Customs demonstrated that it has achieved the first four elements: political will, dynamic leadership, a clear strategic plan and close cooperation with the business community. The only element remaining is the well-funded, long-term technical assistance program. The Federation of Nepal Chambers of Commerce and Industry cited inadequate infrastructure and logistics for Customs and pointed out that there has been a lack of continuity of Donor Agencies to complete projects from beginning to end.

In the introductory meeting, Director General Krishna Hari Baskota briefed the mission regarding his commitment and efforts to date to modernize and reform the Department of Customs, emphasizing automation and improving integrity as key areas of concern. Mr. Baskota advised that during his tenure as Director General, the DOC has for the first time in seven years met its MOF revenue goals and pointed out that this was due entirely to a renewed emphasis on automation and integrity.

The editorial page of New Business Age Magazine, March 2004 editorial offered the following commentary regarding Customs commitment to reform: "First, take the example of Customs reforms being spearheaded by the Director General of the Department of Customs, a government department which was till last year perceived to be impossible for any reforms. The support Baskota has obviously received from his colleagues in the department deserves appreciation. While his track record in the Department of Commerce has helped him in what he is doing in the Customs department, the fact that he is carrying on with his reforms oriented style of administration also in such a challenging department deserves more appreciation. Though these reforms are not enough and there is always room for improvement, these experiences help to refute the still-prevailing general hypothesis that Nepali administrative system is impossible to reform. Recognizing Baskota's contributions by publicly honoring him, (the) Nepal Chamber of Commerce has started a positive tradition."

During the course of this mission, it became clear that the Director General and his Headquarters staff are committed to modernize and reform the Department of Customs and are actively working toward that end. Progress has been made. Much still remains to be done, of course, and management is well aware of the challenges facing them. The Director General and his staff are enthusiastic about this process and fully support, among other things, increasing the Department's valuation and classification expertise, simplifying procedures, adopting risk-management based cargo selectivity, and fielding a comprehensive, preventative anti-corruption strategy.

The Director General holds a morning meeting daily with the principal officers in the Headquarters. This mission was privileged to attend one such meeting. The meeting is held in the Director General's office to discuss progress in each section to date and agree on what each section will accomplish that day. The meeting is cordial and open to free discussion, but purpose-driven.

The problems facing Customs seem, at first glance, almost insurmountable. Nepal is experiencing continuing civil unrest with incidences of violence reported daily. During the course of the mission, a Customs office was bombed and shootings and kidnappings of government officials and the public occurred on a daily basis. Customs and immigration officers are not wearing their uniforms due to the fear that they will be targeted by the Maoist insurgents. The Customs headquarters in an antiquated and poorly maintained facility. Staff does not have basic furniture and equipment necessary to do their jobs. Although widespread flooding and security concerns prevented the mission from visiting border customs offices, photographs of the offices observed during the mission clearly indicate that they are grossly inadequate for a modern customs administration. They are in fact vaguely reminiscent of photographs of 1920's American customs facilities.

Government-wide civil service requirements and the lack of adequate basic and specialized training significantly inhibit Customs ability to develop the specialization necessary to perform functions such as post clearance audit, investigations, intelligence, valuation and risk management. Training is conducted after a new employee is selected by the Ministry of Finance and before he is assigned to one of the three departments within the ministry. Customs is not given priority in the training; it is only one of the Ministry of Finance subject areas included.

These human resource and organizational policies have the cumulative result of there being no such thing in Nepal as a professional Customs officer. Instead, there are revenue officers, administrative officers and IT specialists assigned to Customs, but subject to periodic transfer from Customs to Inland Revenue or other Ministry of Finance duties.

Customs does not currently have the technical expertise to implement many of the changes recommended in the referenced diagnostic studies performed by the International Monetary Fund and the Integrated Framework (World Bank). Customs has identified both to this mission and to the IMF the technical assistance they require to adopt and implement changes that have been recommended in the diagnostic reports. Even if Customs did have the technical expertise, they do not have the financial means to accomplish most of the recommendations. The only thing that they do not lack is the leadership and sincere desire to modernize and simplify their procedures and operations.

Customs has identified short and long-term assistance it requires to obtain its modernization goals.

See Appendix 8, Customs Identified Technical and Financial Assistance Requirements

Despite these formidable challenges, Customs has made progress in the past year that has not been acknowledged in the diagnostic reports. A three-year action plan has been developed, approved and implemented. The Director General stated in a recent interview: "The most important mission ahead of me is the three year reform plan. This is what will guide me through the future. This reform project includes the suggestions of IMF, World Bank, and the customs officers. Lack of resources, weak infrastructures and insufficiently trained human resources are identified as the main hindrances. So what I have seen as important to do in the future is to bring improvements in these areas. For that I have planned for developing a Model Customs Point. We will have to introduce reforms in this model Customs office and then the achievements of this office will be replicated in other Customs offices. I am now asking the government to set aside 0.5% of the total revenue collected by (the) customs administration as budget for (the) customs administration. The Revenue Consultative Committee has already recommended this."

The three-year plan's key focuses on:

- Bringing customs valuation practices into conformity with WTO valuation principles;
- Simplification of customs clearance - both cargo and passengers;
- Automation of customs offices;
- Enhancing integrity within Customs; and
- Introduction of selectivity.

Customs has, in a relatively short period of time accomplished the following;

- Developed a three year action plan;
- Implemented short term corrections to implement WTO valuation agreement standards and initiated revision to the Customs act to make

- these corrections permanent;
- Published a citizens' charter that clearly delineates expected levels of service in twelve areas (To date, this charter only reflects services provided by Headquarters staff and does not provide standards for such tasks as clearance of cargo, vehicles or passengers. Nevertheless, this is an excellent start and Customs is to be complimented.);
 - Published an annual calendar of standing meetings;
 - Established a Help Desk promising quality work, uniformity in Customs procedures, impartiality, simplification and good management to all customers;
 - Established a weekly public hearing meeting, where any interested party can attend and ask questions, resolve issues, and lodge complaints in person;
 - Established a bimonthly Stakeholders Interaction Meeting consisting of over 20 government departments, NGO's, and trade and commerce organizations;
 - Established a Customs Valuation review Committee Meeting twice a month at four Customs offices. This committee consists of the FNCCI, the Chamber of Commerce, the Foreign Trade Association, the Cloth Industry Association, and Customs;
 - Established a daily staff meeting with the Director General and headquarters managers;
 - Posted a list of personnel absent from the department on official business with contact information. (This list is posted at the main gate.);
 - Posted charts at the door of each section listing the manager and personnel and stating their duties;
 - Established a system of personnel records for each employee;
 - Established a system of functional performance indicators by which each field office is rated against 20 indicators monthly;
 - Improved security at Customs headquarters;
 - Established filing systems;
 - Established means of monitoring and revenue collections daily with summaries prepared quarterly semi-annually and annually;
 - Implemented rudimentary uniforms and insignia and a 2,000 rupee annual uniform allowance (approximately \$30 per year for each officer);
 - Obtained Ministry of Finance support and two million Nepal rupees (less than \$30,000 USD) to build a new building next to the Customs headquarters to house the Director General, his secretary, and a computer center. (Unfortunately, no funds were made available for the expansion of ASYCUDA, the purchase of equipment, or the

- development of the much needed wide area and local area networks.);
- Obtained 300,000 rupees to contract for an evaluation of customs facilities and the design of a standard customs office; and
- Submitted a proposal to the Minister of Finance to establish one or two model customs ports as test beds for simplification and modernization procedures, as well as human resource management improvements. (Reception is favorable, but no funding has been made available. Nevertheless, Customs has committed to the IMF that it will establish one model Customs office by October 15, 2004.)

Additionally, Customs has recently published the following in order to enhance the transparency of its operations:

- Customs Guidelines (2004)
- Directory for Completing Customs Entry (2004)
- Customs Work Manual (2003)
- An Introduction to Customs (2004)
- Compilation of Circulars (2004)
- English translation of Tariff (2004)
- ASYCUDA brochure
- Customs Valuation System brochure
- Introduction to Post Clearance Audit brochure
- Code of Conduct for Customs Officers (pocket sized)

These manuals and brochures are professionally printed and bound and clearly exhibit Customs determination to make its requirement and procedures transparent and to encourage compliance.

Recommendations throughout the various studies speak to the need for Customs to improve management processes and capabilities. In addition to the more procedurally-oriented recommendations, these reports have recommended that Customs:

- Draw up and implement a comprehensive strategy for reform including measures recommended in the various reports and including the technical assistance proposals;
- Develop an adequate management information system;
- Develop a performance management system;
- Strive for an adequate degree of autonomy over human and financial resources of the department; and
- Study the benefits of amalgamating Customs into a revenue authority.

The general consensus of the previous diagnostics seems to have been stated as follows: "In spite of some reforms in recent years, the Nepali Customs Service is

very weak in all major areas of administration, including legislation, operational procedures, computerization, organization and management, training and infrastructure. Customs controls, goods classification, and valuation are weak and inadequate. The culture and mindset at the department of Customs are highly oriented toward control and regulation. Service to the trading community is inadequate. Only recently has there been developing a growing awareness of the need to facilitate trade and become more service-oriented.... A program of customs reform would be very difficult for the Nepali authorities to implement on their own. There is an absolute need for technical assistance."

The two weeks spent interviewing managers and officers of the Department of Customs, sitting in on trade meetings and observing operations, albeit to a very limited extent, and reviewing internal documents and publications, paint a rather different picture. Nepal is a clear case of a Customs Administration in transition from traditional to modern methods. The managers and officers in the Headquarters demonstrated a high level of commitment to change. What is clearly lacking is:

- Experience,
- Technical expertise,
- Adequate facilities,
- Basic equipment, and
- Financial resources necessary to implement change.

The Director General and his staff have made considerable progress on their own initiative and with little, if any, meaningful financial assistance. They convened a Management Committee to Modernize Customs. This ad hoc committee has prepared a three-year plan based on the most of the recommendations made in the various reports. Unfortunately, the committee was discontinued once its initial tasking was continued and it has not been replaced with a permanent unit to manage the work plan or modernization in general, though the Director General has recommended this to the Minister of Finance. Instead, the Director General is personally planning and charting progress toward each recommendation made in the various IMF and Integrated Framework reports. Each recommendation has been listed in the chart, responsibility assigned to specific staff members and the progress is documented on a four-month basis. It is entirely appropriate that the Director General provide the leadership and direction necessary to transform Customs from the traditional to the contemporary, but he should not be personally saddled with the responsibility of personally monitoring and charting progress.

Recommendations

Customs clearly needs to establish a Headquarters section responsible for planning, modernization and program management. This section will need training in

program management techniques and project management software.

The international community's focus on the Department of Customs must shift from identifying weaknesses and recommending changes to providing the necessary technical and financial assistance to assist the DOC in implementing the various recommendations which have been made to date. Customs knows what it needs to do. What it needs now is the technical and financial assistance to do it.

3. Table of Organization

Current Status and Implications

The studies and the three-year plan provide valuable insight into the challenges facing the Department of Customs as well as Customs motivation to address these issues in an effective manner. They do, however, raise several questions or concerns.

The first major concern is the extent to which the organizational structure of Customs needs to be modified to accommodate cargo selectivity, post clearance audit, and the procedural simplifications recommended in the various studies. The referenced studies taken together recommend the establishment of:

- Customs Simplification Procedures Section;
- Customs Reform and Modernization Unit;
- Services User Unit;
- Risk Management Unit;
- Customs Modernization Steering Committee;
- Trade Facilitation Committee;
- Internal Control Unit;
- Post Clearance Audit Unit;
- Intelligence, investigation and preventative capability, a post release valuation review function; and
- Decentralized customs laboratories at main border crossings and harmonize laboratory testing with other departments.

These studies do not, however put these recommendations in the context of an optimal organizational structure for the Department. Neither do they provide sufficient guidance regarding the composition or functionality of the various new units that have been recommended, leaving that level of detail to future technical assistance. Incorporating the new sections into the existing structure must be done in a studied and reasoned manner. To simply add these sections would virtually double the number of sections in the Headquarters and would only increase the likelihood of less than optimal cooperation and integration of efforts.

Rather than implementing the recommendations piecemeal, the logical approach would be a comprehensive recommendation to optimize the organizational and management structure of Customs and to provide sufficiently descriptive functional statements of each major element within the Department of Customs. This is consistent with the expectations established for this mission. The implementation of a cargo selectivity management team cannot occur in a vacuum. For cargo selectivity to function effectively, other key elements must be in place, functioning properly, and communicating and cooperating with the cargo selectivity management team on issues of mutual interest. An effective organization is a prerequisite to implementation of an effective, integrated cargo selectivity effort.

The Director General is fully cognizant of the need to restructure Customs and, prior to this mission had developed a reorganization scheme and forwarded it to the Ministry of Finance for approval. This proposal would, without question, improve the management effectiveness of the Department. On the other hand, it is still based on a somewhat traditional customs organizational model and could benefit from further refinement.

The current table of organization includes six sections at the headquarters: administration, valuation and audit, classification and exemptions, monitoring and inspection, information technology and laboratory. These sections report to the Director General and Deputy Director General. Current descriptions of duties for each section are described in writing. Some anomalies exist. For example, the Classification and Exemption section is responsible for transit and baggage rules, the Administrative Section is responsible for appeals of customs cases and investigation of allegations against customs officers, and the Inspection and Monitoring (Supervision) Section is responsible for risk management. The current organizational structure does not include an enforcement component, which would normally include preventative, investigation, and intelligence functions. Internal controls are placed in the same section that is responsible for bonded warehouses, collection of Indian excise duties, and drug control follow-up - all areas that should be independent of and subject to the internal control function. Finally, there is no specifically assigned responsibility for policies and procedures or for managing the modernization process.

An effective organizational structure is a pre-requisite to the modernization efforts that Customs is committed to undertake. At this stage of the modernization process, taking into consideration the numerous recommendations of the IMF, Integrated Framework and others, Customs must integrate these changes into a comprehensive restructuring.

Recommendation

- Customs should be restructured as shown in Appendix 3: Proposed Organizational Structure

4. Tariffs

Current Status and Implications

The Classification Section consists of two officers and ten assistants who deal with exemptions for diplomatic missions, implement exemption decisions made by the Minister of Finance (1-2 per month), respond to questions from field offices on classification of goods (3-4 per month), respond to questions from field offices on unusual situations or interpretations of guidelines and law (1-2 per day), develop and publish procedures on a case-by-case basis, and authorize refunds of demurrage if due to Customs-caused delay.

Recommendations in the referenced diagnostic reports address the need to

- Simplify the tariff;
- Reduce the number of taxes;
- Lower rates;
- Rationalize exemptions;
- Develop an exemption monitoring system, based on statistical information on the cost of exemptions of various types, to allow the Minister to make informed decisions in this area;
- Organize more frequent selective and random checking on the end-use of exempt goods;
- Simplify duty relief and drawback procedures; and
- Develop clear, easy-to-understand instruction manuals.

Customs currently reflects a traditional approach to tariff and valuation matters with the functions being considered as unrelated and assigned to different Sections. Additionally, the current organizational structure assigns responsibility for controlling some special regime issues to the tariff department and others to the inspections department.

Recommendations

- As has been recommended in Part 1 and in the proposed organizational structure, the tariff section and classification sections should be combined in order to develop an integrated approach that will facilitate the establishment of commodity specialist teams.

- Responsibilities for exemptions, bonded warehouses, transit and similar special regimes should be reassigned from the Tariff Section and the Inspection Section to a new Controls and Special Regimes Section

See Appendix 3: Proposed Organizational Structure

5. Training

Current Status and Implications

The Revenue Administration Training Center is responsible for training the following staff:

- Ministry of Finance: 211
- Customs: 1323
- Inland Revenue Department: 919
- Revenue Investigations Department: 125
- Revenue Administration Training Center: 40
- Comptroller General: approximately 4000

The Revenue Administration Training Center consists of two training halls, two discussion rooms, one computer lab (eight positions), a small library and 10 staff offices. Equipment consists of two overhead projectors, two multimedia projectors and two photocopiers. The center suffers from:

- A lack of sufficient physical facilities;
- A lack of motivated and trained instructors;
- A lack of professional skills to develop the center as a research center;
- A lack of integrated training approach under the Ministry;
- The absence of Human Resource Accounting in the concerned agencies; and
- A long gestation period and intangible benefits of training provide a weak basis for competing with other programs in the Ministry for resources.

Basic training at the Revenue Administration Training Center lasts 35 days and covers:

- Monetary policy;
- Fiscal policy;
- Banking;
- Planning;
- Development;
- Management;
- VAT;
- Income tax;

- Commercial fraud; and
- Customs.

In-service training is conducted twice a year and on site training in valuation, classification and technical aspects has been conducted at five customs offices this year. Customs officers and employees currently receive no training in such matters as cargo examination techniques, passenger inspection techniques, vehicle and aircraft search techniques, officer safety or other enforcement-oriented subjects.

The members of the Federation of Nepal Chambers of Commerce and Industry point to a lack of technical training within Customs.

Recommendations

- Technical Assistance should be obtained for the purpose of developing appropriate training modules and training Customs trainers.
- The Revenue Administration Training Center should drop Customs matters from its basic training curricula. Once a new officer has completed the basic training and then been designated for assignment to Customs, Customs should provide supplemental specialized training in customs law, procedures, and techniques.

6. Investigations

Current Status and Implications

The Revenue Investigation Division has 20 gazetted officers, 40 non-gazetted officers, and 40 ex-police and ex-army who serve as security, handle "raids", etc. They report that 60-70% of their investigations deal with Customs and the remainder with other taxes, however, their primary responsibilities are controlling revenue leakage and regulating foreign exchange and their primary function seems to be staffing checkpoints where internal movement of goods are monitored and logged for VAT purposes. They have never received any investigative training or training in patrol techniques, they have no communications system, and they don't have the authority to investigate internal corruption unless the Commission for Investigation of Abuse of Authority grants it to them on a case-by-case basis. There is little justification for the responsibility for Customs investigations being assigned to this unit rather than Customs in view of its lack of investigative training and expertise.

Recommendations

- The Ministry of Finance should assign responsibility for investigation of customs

fraud to Customs. Customs should establish a small investigative unit within the Operations Division.

7. Infrastructure Issues

Current Status and Implications

The IMF Report of May 2004 (Practical steps in Revenue Administration Reform) states: "The mission does not expect government departments to be housed in the country's most modern and expensive buildings, but it has to be recognized that there is a minimum standard of accommodation and furnishings in which staff should be expected to work to achieve reasonable levels of productivity, and to provide basic services to taxpayers. The sites visited by the mission fell well below such a standard."

This mission echoes and confirms that assessment. Unfortunately, government resources are inadequate to provide what would normally be considered even marginally acceptable accommodations, furnishings and office equipment.

The members of the Federation of Nepal Chambers of Commerce and Industry stated that the major problem with Customs is the "complete lack of minimum required infrastructure".

Customs infrastructure and equipment needs are substantial. To date, it does not appear that either Customs or the International Organizations has conducted a thorough assessment of those needs. In fact, none of the background material referred to in this report has provided detailed description of the inadequacies in both facilities and equipment. Appendix 9 provides a series of photographs of various offices in the Customs Headquarters: valuation, tariff, duty refund procedures, laboratory, and information technology, among others. The current state of facilities and basic equipment needs are a major, if not insurmountable, impediment to Customs ability to achieve necessary and desired trade facilitation improvements.

Customs requested and was granted funding in the 2004-2005 budget to contract with national consultants for the purpose of conducting an evaluation of all Customs offices and facilities and developing specifications for a model facility as well as cost projections for upgrading facilities. This effort is critical to Customs modernization. However, while national architects are no doubt competent, the fact is that Nepal has not yet developed a conceptual image of what a modern customs office should be. Technical assistance would ensure that the resulting recommendations and cost projections would reflect modern functional designs.

Two million Nepal Rupees were allocated for a new building adjacent to the Customs HQs. This would house IT center, Director General, and a Customs library. This could be completed within one year of funding being made available.

An inland container depot has been implemented, with the assistance of the World Bank, at Birguni, Bhairahawa and Biratnager. Customs is working with the private sector to introduce privately operated examination facilities at Kailali and Mahendranagar and established a committee chaired by a member of the Federation of Nepal Chambers of Commerce to carry out a feasibility study.

Recommendations

- The findings of the national consultants selected to evaluate Customs facilities and to develop a model customs office should be submitted to a technical expert in border station design.
- Once the national consultants and technical expert concur on the design of a model Customs facility, Customs should develop a list of its most critical infrastructure improvement requirements which would include a new Headquarters building with a computer center and training center, and those border stations with the highest workload. Customs and the Ministry of Finance should then approach potential donors for funding. It is recommended that the first potential source would be the World Bank. The Bank has substantial experience in financing Customs infrastructure and equipment improvements through its Trade Facilitation programs.

8. Legal Issues

Current Status and Implications

The Three Year Plan, the IMF October 2003 report, and the National Consultant report indicate that the Customs Act needed to be revised, recommending that Customs:

- Include in customs law all revisions required to support the modernization plan;
- Amend Customs Act and Rules to accommodate valuation compliance and other WTO compliance requirements;
- Include in the customs rules all regulatory provisions on valuation, bonded warehouses and other customs provisions now included in the back of the tariff;
- Strengthen provisions of the Customs Act relating to examination, right of access, sampling, exchange of information, information retention and submission, and pre-arrival release;

- Arrange for the final version of the draft law and regulations to be scrutinized by a customs legislation expert before submitting it to the higher authority; and
- Establish a well-defined appeal system and fully transparent system of administrative review.

Nepal has implemented changes in the Customs Act to comply with the WTO Valuation Agreement. As an interim measure, a Financial Ordinance (which has the force of law) was implemented in 2003 requiring revising the transaction price provisions of the seventh amendment (1997) of the Customs Act of 1962 with valuation provision based on transaction value that appear to be consistent with the WTO agreement. An eighth amendment that will incorporate this and additional measures to adopt Kyoto Convention provisions has been drafted and forwarded by the Ministry of Finance to the Ministry of Law, Justice and Parliamentary Affairs. At the time of this provision Customs could not predict when this amendment would be approved and incorporated into the Customs Act.

Recommendations

- It appears that adequate attention has been afforded to the legal issues and this report will not recommend further technical assistance at time.

9. Human Resource Issues

Current Status and Implications

A major concern is the extent to which human resources constraints adversely affect Customs ability to develop the necessary expertise to effectively implement and manage cargo selectivity, post-clearance audit, and the management of tariff and valuation questions.

The various diagnostic reports noted that the Director General does not have adequate authority over the management of the human and financial resources at his disposal; that there is no prospect for capable officers to progress through the career ladder based on good performance because there is no career ladder; and that officers only stay in Customs two years and then are transferred elsewhere within the revenue services.

The reports recommend that the Director General be given increased autonomy over human and financial resources; and that a sufficient number of personnel with accounting and/or auditing skills be recruited.

Obviously, a competent Customs administration requires effective management

authority and procedure, well-trained and experienced staff, and clear and concise standard operating procedures. It requires a career ladder and the mission confirmed that there is none in the current structure.

The human resource management issue is one that needs to be addressed, but could not be afforded adequate time during this mission. Customs is held hostage to national civil service guidelines. It is not customs procedures that need modernization; it is the national procedures. While technical assistance could certainly be provided to design a contemporary performance based human resources management system within Customs, it would be of little avail so long as Customs is constrained by national civil service requirements. Either some means must be found to exempt Customs from the national civil service system (such as the creation of an independent revenue authority) or an overhaul of the national civil service should be proposed. Otherwise, Customs will continue to labor under a system that is not conducive to good organizational management. This is a larger issue than Customs and would require long-term technical assistance.

The members of the Federation of Nepal Chambers of Commerce and Industry stated that there are too many low level employees who do not have decision making authority involved in the clearance of imports. They recommend that the number of officers in Customs should be at least doubled.

The Director General advised that the Ministry of Finance is looking for a donor agency to fund a pay-for-performance incentive program.

Recommendation

- A detailed evaluation of governmental Human Resource Management procedures should be conducted. This would require meetings with managers of the civil service system and the Ministry of Finance to assess the impact of civil service rules on Customs. Issues such as hiring, promotion and transfer policies must be examined as well as internal Customs procedures such as position descriptions, training records, etc.

Identification of possible follow-on technical assistance

1. Technical Assistance should be obtained for the purpose of developing appropriate training modules and training Customs trainers. This would require 12 weeks of assistance, at least half of which would be on-site. The assistance should also include two desktop computers and linked printed, one digital projector and one overhead projector.
2. Technical assistance should be obtained for the purpose of reviewing the

findings of the national consultants selected to evaluate Customs facilities and to develop a model customs office should be submitted to a technical expert in border station design. This assistance would require two to three weeks technical assistance depending on the scope and clarity of the results of the national consultants' work product.

3. Technical assistance should be obtained to conduct a detailed evaluation of governmental Human Resource Management procedures should be conducted. This would require two weeks of on-site meetings with managers of the civil service system and the Ministry of Finance to assess the impact of civil service rules on Customs and two weeks to prepare detailed findings and recommendations. Issues such as hiring, promotion and transfer policies must be examined as well as internal Customs procedures such as position descriptions, training records, etc.
4. USAID should consider arranging with U.S. Customs and Border Protection's Office of International Affairs to provide an Executive Familiarization Visit to Director General Baskota. This accompanied mission would include a visit to the Federal Law Enforcement Training Center in Glynco, Georgia, a visit to a small to medium customs airport operation, and a visit to a small to medium Customs border station. This familiarization trip would require two weeks.

Part 3: Report Appendices

Appendix 1: Methodology

Appendix 2: Valuation Issues

Appendix 3: Proposed Organizational Structure

Appendix 4: Automation Issues

Appendix 5: Wide Area Network Specifications

Appendix 6: Implementing Cargo Selectivity in Nepal

Appendix 7: Pro-Committee Seminar

Appendix 8: Technical and Financial Assistance Needs

Appendix 9: Photographs of Customs Infrastructure

Appendix 1: Methodology

Meetings and interviews were held with the following persons:

Mr. Roshan Darshan Barjracharya
Senior Economist
The World Bank

Mr. Surendra G. Joshi
Senior Transport Specialist
The World Bank

Mr. Sukhwinder Singh
Resident Representative
International Monetary Fund

Mr. Prachanda Man Shrestha
Joint Secretary
Ministry of Industry, Commerce and Supplies

Mr. Naren Chanmugam
Economic Growth Officer
USAID/Nepal

Mr. Sribindu Bajracharya
Project Development Specialist
USAID/Nepal

Mr. Arjun Jung Shah
Program Economist
USAID/Nepal

Mr. Krishna Hari Banskota
Director General
Department of Customs

Mr.D.P. Ghimire
Deputy Director
Department of Customs

Mr. Dev Raj Pathak
Chief Customs Administrator
Tribhuvan International Airport

Mr. Banshidahar Ghimire
National Consultant on Risk Management
(See references)

Mr. Dhruv Prasad Pant
Director, Information Technology and Modernization Division
Department of Customs

Mr. Rabi Raj Pant
Director, Valuation and Review Division
Department of Customs

Mr. Tanka Prasad Sakha
Section Officer, Valuation Section
Department of Customs

Mr. Rajendra Dhungana
Section Officer, Valuation Section
Department of Customs

Mr. Purushottan Pd. Tiwari
Director, Administration Division
Department of Customs

Mr. Laxman Bikrom Thiapd
Section Officer, Administration
Department of Customs

Mr. Madhav Prasad Pokharel
Section Officer, Administration
Department of Customs

Mr. Surya Prasad Sedai
Section Officer, Administration
Department of Customs

Mr. Keshav Banadur Roka
Account Officer
Department of Customs

Mr. Sarad Bickram Rana
EDP Expert, ASYCUDA Section
Department of Customs

Mr. Dipesh Ram Sharma
EDP Expert, ASYCUDA Section
Department of Customs

Mr. Shiba Kumar Pokhrel
Computer Officer
Birjumi Customs Office
Department of Customs

Mr. Shree Chaidra Shab
Computer Officer, I.T. Division
Department of Customs

Mr. Yogendra Sharma Ojha
Section Officer, I.T. Division
Department of Customs

Mr. Ram Hari Aryal
Section Officer
Indian Excise Duty Refund Section
Department of Customs

Mr. C.P. Neupane, M.Sc
Laboratory Chief
Department of Customs

Mr. Deep Basnyat
Director General
Department of Revenue Investigation

Mr. Chandi Prasad Dahal
Training Chief
Revenue Administration Training Center

Mr. Nisit Kumar Poudel
Training Officer
Revenue Administration Training Center

Mr. Badri Prasad Ojha
Director General
Federation of Nepalese Chambers of Commerce and Industry

Mr. Kedar Man Singh Shrestha
Senior Tax Expert
Federation of Nepalese Chambers of Commerce and Industry

Mr. Hemant Dadadi, Ph.D.
Executive Director
Federation of Nepalese Chambers of Commerce and Industry

Mr. Ashok K. Todi
Director
Super Lamicoats (Pvt) Ltd.
(FNCCI)

Mr. Pashupati Muraraka
Managing Director
Supreme Cements (Pvt) Ltd
(FNCCI)

Appendix 2: Valuation Issues

The various diagnostic studies conducted by the IMF and others recommend:

- creating an adequate value database so that customs officers in charge of valuation have access to recent prices of identical and similar goods;
- training of officers assigned to the Valuation Department for a more active role in valuation work, including planning the handling of disputes and organizing post release review procedures and activities;
- training and equipping Customs personnel to more effectively perform the valuation function through developing detailed instructions on valuation practice and procedures;
- training and equipping Customs personnel in the preparation of post release valuation reviews;
- Providing seminars for importers and customs agents to inform them about their rights and obligations with respect to valuation;
- Bringing valuation provisions fully in line with the WTO system.

A customs appeals committee (valuation decisions) consists of:

- Customs
- Central Bank
- Commerce Department
- Statistics Office
- State-Owned Corporation for National Training, Ltd.
- Federation of Nepal Chambers of Commerce and Industry
- Chamber of Commerce
- Foreign Trade Association

The committee makes recommendations on valuation appeals to the Director General. The Director General makes the final decision.

The members of the Federation of Nepal Chambers of Commerce and Industry raised the following issues:

- While Nepal has adopted the GATT valuation system, the mentality of the officers has not yet changed
- While the acts, rules, and regulations are scientific, the traditional attitude still prevails.
- Valuation is still done as per the reference price list and the general tendency is that the price can't be lower than that of previous importations.
- It is difficult to convince Customs that prices fluctuate on a day-to-day basis. The reference price list has not been updated.
- While Customs has formed an appeal committee, small importers are not aware of it.

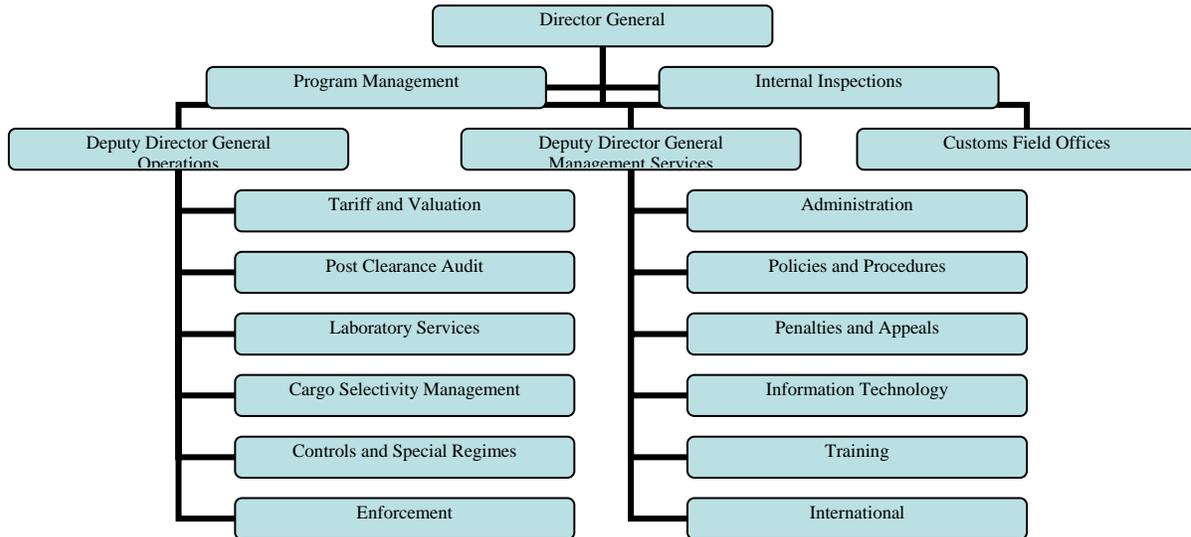
- Customs does not have the resources to solve the valuation problems

The members of the Federation of Nepal Chambers of Commerce and Industry believe that implementation of new valuation procedures and simplification has not been effective and suggested that an implementing authority be established.

Valuation issues raised by the FNCCI include:

- Barter system with Tibet
- Unauthorized trade between Nepal and Tibet is estimated at about US\$370 annually
- Much of the India/Nepal trading is done through non banking channels
- It is estimated y the FNCCI that at least one third of total Nepal/India trade is "out of the tax net".
- Seconds
- Bulk purchases
- Price variations depending on source

Appendix 3: Proposed Organizational Structure



The proposed reorganization establishes two Divisions in Customs: an Operations Division and a Management Services Division. Each Division is supervised by a Deputy Director General. Additionally, two new critical priority units report directly to the Director General: the Internal Inspections Unit and the Program Management Staff.

The Operations Division consists of six sections: Tariff and Valuation, Post Clearance Audit, Cargo Selectivity Management, Laboratory Services, Controls and Special Regimes, and Enforcement.

The Management Services Division would also include six sections: Administration, Policies and Procedures, Penalties and Appeals, Information Technology, Training and International Affairs.

Internal Inspections Unit

This unit would be formed from the existing Monitoring and Inspections unit. It would, however, no longer be responsible for monitoring warehouse and bonded procedures. Its new duties would be to develop a system of effective internal controls and to conduct administrative reviews of allegations of corruption on the part of Customs officers or employees and Customs agents. Delegation of authority

to conduct full-scale investigations should be sought from the Commission for Investigation of Abuse of Authority. Until such time as that authority was delegated, the Internal Inspections Unit will have to refer the findings of its administrative reviews to the Commission for full investigation and commencement of legal actions. Due to the sensitive nature of this section's responsibility, it should be insulated from the operational and management systems divisions and report to the Director General.

Program Management Staff

The program management staff would be responsible for monitoring the Department of Customs efforts to modernize and reform as reflected in its three-year work plan. The staff would provide direct staff support to the Director General in other program management areas.

Tariff and Valuation Customs currently reflects a traditional approach to tariff and valuation matters with the functions being considered as unrelated and assigned to different Sections. Under this new structure, Customs will adopt an integrated approach to classification and value that will facilitate the establishment of commodity specialist teams that are expert not merely in classifications matters or in valuation rules, but in all issues related to specific commodities. For example, rather than dealing with this issues of automobiles and automobile parts from either a classification point of view or a valuation point of view, one commodity team will specialize in the entire range of automotive issues. Only by developing this level of familiarity with a product line, can Customs develop true competence. Commodity specialist teams can be established for those goods that constitute a high level of imports and, exports. This will require that Customs analyze trade activity against tariff chapters to identify industries that require priority attention. These industries will form the basis for establishing specific commodity specialist teams. It will not be necessary to establish a commodity specialist team for every priority industry. Teams can handle more than one specialty as long as the workload is reasonably and equitably distributed among the specialty teams. Low volume import lines can be assigned to commodity generalist team. This organizational structure will facilitate the implementation of risk management-based cargo selectivity since the level of Customs knowledge about trade priorities will be based on increased knowledge resulting from specialization. Furthermore, this organizational structure will facilitate Customs efforts to promote voluntary compliance and can lead to allowing major importers to utilize account-based trading in lieu of requiring individual declarations for each import or export shipment. Technical Assistance will be required to integrate these functions, to identify those tariff lines which should be assigned to commodity specialist teams, and to provide training in valuation rules and techniques.

Post Clearance Audit is a high-priority specialty that should not be considered as just another duty of the valuation section. While the Tariff and Classification Section staff will become specialists in trade lines, the Post Clearance Audit Section staff must become specialists in international trade procedures beginning with the first communications between buyers and sellers, to exchange of catalogs and pricing information, to orders and contracts, to banking arrangements, to insurance and transportation requirements. They will also require accounting expertise sufficient to review trader's banking and other financial documents. Technical Assistance will be required to establish audit procedures and to train the audit staff.

Laboratory Services will provide scientific support in support of classification and valuation determinations and enforcement activities. It has been recommended that laboratory services be extended to three major customs offices. Considering the current physical condition of the laboratory and equipment, this expansion should not be considered until a cost-benefits analysis has been accomplished and adequate funding has been secured. The current laboratory lacks even the most basic of safety features. No thought should be given to creating additional laboratories until the physical, equipment, training and safety deficiencies in the existing laboratory have been rectified.

Cargo Selectivity Management Section will perform risk analysis techniques to gather, analyze and evaluate data and create risk profiles and selectivity criteria which will determine the appropriate type and intensity of treatment that import and export declarations, ranging from automated face vet without officer interaction, to document review prior to release, to post clearance audit, to physical examination. The Cargo Selectivity Management Unit will also be responsible for implementing and managing a Customs Informed Compliance Program. The effectiveness of this unit depends on the free flow of information from field offices and other headquarters sections and the absence of any bureaucratic impediments to this information flow. This unit will serve as the nerve center for the cargo selectivity process and must have the full cooperation and support of the other elements.

Controls and Special Regimes will assume responsibility for managing, overseeing, and accounting for exemptions, refunds, drawback, transit and bonded warehouse activities and procedures. One of the first activities that should be undertaken by the Special Regimes Section is to work in a task-force mode with the Tariff and Classification Section and with the appropriate external authorities (Finance, Commerce, etc) to simplify and rationalize the tariff.

Enforcement Section will initially be limited in size and scope. Its first responsibility will be to address preventative issues such as the creation and deployment of mobile enforcement teams, developing standard operating

instructions and providing training with respect to cargo examination techniques, and aircraft, vehicle and container searches, and identifying equipment needs. The Enforcement Section will also establish working relationships with the Revenue Investigations Service until such time as authority to conduct investigations of suspected Customs fraud is delegated to Customs. The Enforcement Section will also establish working relationships with the Police, the Immigrations, and other governmental organizations with border responsibilities. At a later stage of development, the Enforcement Section can be expanded to include enhanced investigations and intelligence capabilities.

Administrative Section will continue to support Customs in the areas of budgeting, financial accounting, contracting for goods and services, maintenance and upgrading of physical facilities and equipment, and human resources. The Administrative Sections first two priorities should be to develop a capital improvements plan to bring customs facilities up to acceptable standards and to secure funding. Civil Service procedures that adversely affect Customs ability to develop the necessary level of specialization (recruitment and rotation, primarily) must also be addressed, though this may be a more difficult undertaking.

Policy and Procedures Section should be established within the Management Systems Division. This Section would assume responsibility for procedural simplification activities. This section will also be responsible for issuing internal instructions, standard operating procedures, public notices, and manuals.

Penalties and Appeals Section will assume responsibility for developing uniform penalty guidelines, maintaining centralized files of penalties, seizures, and other enforcement actions, providing quality assurance reviews and developing and maintaining a centralized database.

Information Technology Section must divorce itself of the current tie to the inspection and monitoring section. The duties are not sufficiently related to warrant their being combined into one section or to be managed by one section head. The Information Technology Section should have three responsibilities in the following prioritized order: (1) further development of the ASYCUDA system including the linking of existing ASYCUDA sites to a central server in the Customs Headquarters (WAN), (2) the activation of the brokers module (DTI) and the selectivity module (MODSEL), (3) the creation of a local area network within the Customs Headquarters, (4) conducting an IT needs assessment to identify equipment, software, and other IT-related needs, (5) training of non-IT staff in computer operations and software, (6) inventory control and maintenance of equipment and software, and (7) system maintenance and upgrades. The IT section should develop a detailed work plan for accomplishing these goals.

Training Section as a first responsibility, should conduct a formal training needs assessment and recommend a comprehensive training reform strategy that will address the feasibility and relative merits of restructuring the customs training curriculum at the Revenue Service Training Center or establishing a separate Customs training academy, either at a new location or collocated with the Revenue training center. The Training Section should also design a formal on-the-job training program to ensure that all officers and employees receive adequate specialized training necessary for the competent performance of their duties.

International Section would assume all responsibility for interaction with international organizations (including donors and technical assistance providers), the World Customs Organization, the World Trade Association, and other Governments and Customs Administrations.

Appendix 4: Automation Issues

The ASYCUDA selectivity module does not determine risk levels. It compares each declaration processed to examination criteria that have been entered into the module by analysts who utilize risk analysis and management techniques to develop risk profiles. The risk profiles are then converted into ASYCUDA programming language examination criteria. ASYCUDA can designate a set percentage of random examinations without the need for risk profile based examination criteria, but cannot do more than that. A small cargo selectivity management team serves provides the necessary analytical function and serves as the nerve center of the cargo selectivity system. The ability to analyze data depends on being able to access that data. That access is lacking at this time.

While the Department of Customs is anxious to implement risk-based cargo selectivity, this cannot be accomplished until the current inadequacies of its automated systems are rectified. That will take at least eight to twelve months from the time that necessary technical and financial assistance is provided.

The various diagnostic studies conducted by the IMF and others recommend that a computerization master plan be drawn up that:

- significantly reduces paperwork,
- strengthens revenue controls,
- limits to a large extent discretionary action by Customs personnel,
- assigns each examination to a specific Customs officer,
- expands computerization to other offices and new applications,
- activates the risk management and selectivity modules,
- links ASYCUDA installations through a wide area network,
- Align transit documentation with EDIFACT system. DOC/WCO/TA

It is beyond the scope of this report to explain how the Nepal ASYCUDA project could have ever been deemed either completed or successful by Customs, by the implementing agency or by the donors. While there are no published standards for an ASYCUDA project, generally, at the time the Nepal project was undertaken, a successful project would have been expected to include the following:

- Simplification of procedures
- Design of a Single Administrative Document
- Reduction of supporting documentation
- A centralized server in the Customs headquarters linked by wide area network to several remote customs offices, and
- Direct trader input

These are not unreasonable expectations. The only accomplishments to date have been the implementation of the Single Administrative Document and stand-alone

site implementations. There is a server in the Headquarters, but it is not connected to anything other than a computer on the next table. Direct Trader Input (DTI), a key component of modernization and key feature of ASYCUDA since at least 1994 is also not in place. Little appears to have been done regarding simplification of document requirements or procedural simplification. The automated system has been imposed over rather than eliminating manual procedures.

The time necessary to implement this basic system including a wide area network and direct trader input generally ranges from 24-30 months. Currently, similar sized projects are being scheduled for completion in 18 months. The Nepal ASYCUDA project lasted for more than six years. At some level, either in Customs or the implementing agency, or both, it would appear that the ASYCUDA project was grossly mismanaged. It would be difficult at this stage, and in the limited time available for this study, to accurately determine responsibility or to explain why Nepal does not now have a fully functioning system. Again, that would be beyond the scope of this study. It is clear, however, that the system must be brought up to standards before other key initiatives such as risk management, cargo selectivity and targeted post audit can be effectively implemented.

The initial ASYCUDA project was funded by the Asian Development Bank. It commenced in October 1996 and was originally scheduled as an 18 month project. The scope of the project was limited to the adaptation of the base software to meet Nepalese requirements and the installation of the system at the Headquarters and at one pilot site (Tribhuvan International Airport). The reason for this limited scope of work is unknown but may have been due to inadequate funding, inadequate expectations and motivation, inadequate infrastructure or any combination of these.

Subsequently, the funding of the project was assumed by the World Bank and the project was reportedly rolled into a larger Inland Container Depot multi-modal project for an anticipated duration of 18 months. Three additional stand-alone installations resulted: Birgunj, Biratnagar, and Bhairahawa. This project was due to be completed in 1999.

A second extension on indefinite length was granted by the World Bank. This extension was to include linkage via a wide area network, but delays in reaching a bilateral railroad agreement with India and reported delays in transferring funds from the donor to the implementing agency, and from the implementing agency to Customs prevented that from happening. The project was terminated by the Bank in September 2003.

During the course of the initial ADB project and the follow-up World Bank project, UNCTAD assigned two advisors. There was a period of approximately five months between the termination of the first advisor's services and the commencement of the

second advisor's services. In the last year, without the assistance of external advisors, Customs has expanded ASYCUDA to three additional sites: Mechi, Tatopani, and Krishnanagar. With the activation of these offices, approximately 90% of customs declarations are automated.

While the Single Administrative Document is printed in Nepali and completed by the importer or his agent in Nepali, it is entered by Customs employees into the system in English. This is due to the fact that Nepal law requires government documents be in the Nepali language. ASYCUDA does not have the Nepali font and UNCTAD has reportedly been either unable or unwilling to update the software to provide one. As a result, even the very basic capability of ASYCUDA to provide a printed receipt is not being used. Customs cashiers are transcribing receipt information into Nepali and providing importers with a hand-written receipt. This language problem is also a factor that has prevented the implementation of Direct Trader Input.

Appendix 5: Wide Area Network for the Ministry of Finance, Department of Customs, Nepal, prepared by Sudeep Shrestha, May 2004

Introduction

For the Customs offices in Nepal, The flow of information between the different customs offices has become very essential. With a Wide Area Network (WAN) these different customs offices can exchange data between different locations and the central system to exchange information in real time.

A wide area network will enable the customs to collect statistical data, disseminate information, centrally update local systems for any changes required in control databases like tariff, rules, exchange rates etc. The network will also provide a means of efficient communication over the existing conventional means as well as provide means of monitoring local customs offices. This will also help the center in updating valuation databases and extract information from the Internet regarding different types of commodities.

The WAN is a critical part in implementing the modules of ASYCUDA like selectivity and transit, as they require timely exchange and updating of information.

Design Guidelines and Objectives

The following has been taken into consideration while designing the WAN for the customs.

The WAN should:

- Interconnect all customs offices where ASYCUDA has been implemented through the central Customs Department;
- Have reliable dedicated connections where a disturbance in one part of the network should not affect any other part;
- Have a gateway to the Internet;
- Have provisions for other related organizations to connect to this network to exchange information;
- Have low recurring and operating costs;
- Be modular for expansion and;
- Be compatible with existing infrastructure.

The WAN when implemented will fulfill the following objectives.

The WAN will

- Enable the Customs Department to consolidate data at the central server which will also provide means for backing up the data;

- Enable the exchange of information between customs offices;
- Enable the Customs Department to centrally update exchange rates, update rules and valuation databases, and make changes to the customs tariff as and when required;
- Provide communications facilities, like e-mail;
- Provide means for customs officers to get information on goods and commodities from international sources;
- Have provisions for other authorized offices to exchange data through dial-up, leased connectivity or through the Internet;
- Have provisions to publish useful public information like Customs Tariff on the Internet.
- Facilitate traders by providing direct trader input when implemented
- Facilitate other entities like traders, transporters, and other customs by providing timely data.

Coverage of the Wide Area Network

Implementing a communication network to connect the various customs offices to central system through a wide area network is the main goal. This network will also provide a gateway to the Internet and a connectivity medium for other stakeholders. The purpose of the electronic communication will also be to replace most part of the long distance analog communication with digital communication through electronic memos and inter-office electronic mail, which is also a step towards office automation.

The cost will vary depending on the method used for connectivity. If a private wide area network is created then the cost will be higher compared to a virtual private network (VPN) where the cost will be considerably lower.

The Wide Area Network will cover the following offices with Department of Customs acting as Central system.

1. Tribhuvan International Airport Customs
2. Birgunj ICD
3. Birgunj Customs Office
4. Bhairahawa Customs Office
5. Krishnanagar Customs Office
6. Biratnagar Customs Office
7. Mechi Customs Office
8. Tatopani Customs Office
9. Nepalgunj Customs Office
10. Mahakali Customs Office

Some of the Customs offices will be connected directly to the central system while some will be connected through the nearest Customs office.

1. Tribhuvan International Airport Customs
TIA Customs will be connected to the central system directly through a pair of Radio Modems.
2. Birgunj ICD
Birgunj ICD will be directly connected to the central system through an Internet Service Provider (ISP) having VSAT connectivity at both Kathmandu and Birgunj.
3. Birgunj Customs Office
Birgunj Customs will be connected to the Birgunj ICD through a pair of Radio Modems. This will enable the Birgunj ICD and Birgunj Customs to act as a single Customs in terms of ASYCUDA operations. This structure will also connect the Birgunj Customs to the central system through Birgunj ICD.
4. Bhairahawa Customs Office
Bhairahawa Customs will be connected to the central system through an ISP having VSAT connectivity at Bhairahawa and Kathmandu.



5. Krishnanagar Customs Office
Krishnanagar Customs will be connected to the Bhairahawa customs through the pair of Radio Modems enabling Krishnanagar Customs to connect to the central system with Bhairahawa Customs acting as a get-way.

6. Biratnagar Customs Office
Biratnagar Customs will be connected to the central system through an ISP having VSAT connectivity at Biratnagar and Kathmandu.
7. Mechi Customs Office
Mechi Customs will be connected to the central system through an ISP having VSAT connectivity at Mechi and Kathmandu
8. Tatopani Customs Office
The Customs will have their own VSAT at Tatopani Customs, as there is no other means of communication available. In Kathmandu VSAT of the ISP who will provide connectivity to the other Customs offices will be used.
9. Nepalgunj Customs Office
Nepalgunj Customs will be connected to the central system through an ISP having VSAT connectivity at Nepalgunj and Kathmandu
10. Mahakali Customs Office
Mahakali Customs will be connected to the central system through an ISP having VSAT connectivity at Mahakali and Kathmandu

The Components of the Network

The WAN can be broken up into four components.

1. Connectivity based components,
 2. Hardware and Software based components, and
 3. Service based components
- 1. Connectivity based components:**
- Connection from the Customs offices to the Central Customs Department.
 - Connection from the Customs Department to the Internet Gateway.
 - Connection from the Customs Department to other entities and vice-versa.

2. Hardware and Software components:

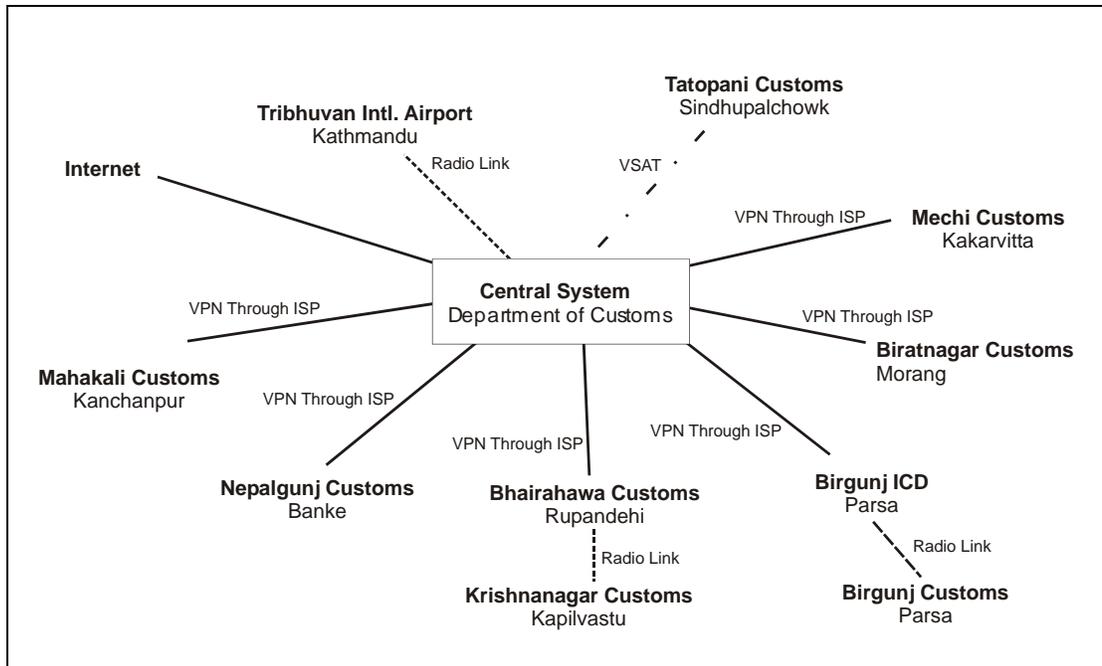
- The Central system needs to have two application servers to consolidate data from all the Customs Offices, backup data and to test rules and selectivity criteria before dissemination.
- The Central system also needs a gateway server to provide communication services, Internet gateway and access point for other entities. This will prevent direct access to the main central server to all the stakeholders of the system.
- Entry-level communication servers will be placed at each location except the center.
- Workstations and peripherals for day to day operations
- Power backups
- In-house network to connect the hardware of the central system.
- Communication Software
- Network Operating System
- Modules or scripts to consolidate data automatically
- Software for e-mail and e-fax.
- Other general software for the connectivity solutions.

3. Service based components:

- Systems integration services
- Services of ASYCUDA experts
- Human Resource Development
- Consulting services for data consolidation
- Consulting services for access, security and system access modules
- Preventive and regular maintenance services

WAN Architecture

Technically, based on the guidelines, objectives and components, the WAN can be implemented in different ways. Because of the high running costs involved in VSAT connectivity (approx. 144,000.00 USD per year) and the nonavailability of leased lines through Nepal Telecommunication Corporation (approx. 45,000.00 USD per year on availability), the WAN has been designed depending on the infrastructure available at different locations while maintaining efficiency and desired throughput of the system.



Other entities which needs to be linked to the system like the ministrty of finanace, the central bank, auditor generals office and stakeholders within the country and outside the country will have controlled access to the system through the Internet.

As the system can be accessed through the Internet through secured channel, the system can function even in the case of connectivity failure as other means of Internet access can be used to temporarily connect to the system. Furthermore this will also provide an infrastructure to communicate with the trading countries in the future.

Required equipment and services

1. Connectivity based components:

Connection from the Customs offices to the Central Customs Department			
1.	TIA		
	1.	Radio Modems with router	1
	2.	40' Tower	1
	3.	UPS (Power Backup)	1
	4.	VPN Connection to ISP	1
	5.	Ethernet Connection	1
	6.	56K Dial-up Modem	1
	7.	12 U Rack	1
2.	Birgunj ICD		
	1.	VPN Router	2
	2.	Radio Modem with router	3
	3.	40' Tower	1
	4.	UPS (Power Backup)	1
	5.	VPN Connection to ISP	1
	6.	Ethernet Connection	1
	7.	56K Dial-up Modem	1
	8.	12 U Rack	1
3.	Birgunj Customs		
	1.	Radio Modems with Router	1
	2.	40' Tower	1
	3.	UPS (Power Backup)	1
	4.	Ethernet Connection	1
	5.	56K Dial-up Modem	1
	6.	12 U Rack	1
4.	Bhairahawa Customs Office		
	1.	VPN Router	2
	2.	Radio Modems with Router	2
	3.	High Gain Radio Modems with router	1
	4.	Signal Amplifier	1
	5.	120' Tower	1
	6.	UPS (Power Backup)	1
	7.	VPN Connection to ISP	1
	8.	Ethernet Connection	1
	9.	56K Dial-up Modem	1
	10.	12 U Rack	1

5.	Krishnanagar Customs	
1.	High Gain Radio Modems with router	1
2.	Signal Amplifier	1
3.	120' Tower	1
4.	UPS (Power Backup)	1
5.	Ethernet Connection	1
6.	56K Dial-up Modem	1
7.	12 U Rack	1
6.	Biratnagar Customs	
1.	VPN Router	2
2.	Radio Modems with router	2
3.	UPS (Power Backup)	1
4.	VPN Connection to ISP	1
5.	Ethernet Connection	1
6.	56K Dial-up Modem	1
7.	12 U Rack	1
7.	Mechi Customs	
1.	VPN Router	2
2.	Radio Modems with router	2
3.	UPS (Power Backup)	1
4.	VPN Connection to ISP	1
5.	Ethernet Connection	1
6.	56K Dial-up Modem	1
7.	12 U Rack	1
8.	Tatopani Customs	
1.	VPN Router	2
2.	UPS (Power Backup)	1
3.	VSAT Terminal	1
4.	Ethernet Connection	1
5.	56K Dial-up Modem	1
6.	12 U Rack	1
9.	Nepalgunj Customs	
1.	VPN Router	2
2.	Radio Modems with router	2
3.	UPS (Power Backup)	1
4.	VPN Connection to ISP	1
5.	Entry level communication server	1
6.	Ethernet Connection	1
7.	56K Dial-up Modem	1
8.	12 U Rack	1
10.	Mahakali Customs	

	1.	VPN Router	2
	2.	Radio Modems with router	2
	3.	UPS (Power Backup)	1
	4.	VPN Connection to ISP	1
	5.	Ethernet Connection	1
	6.	56K Dial-up Modem	1
	7.	12 U Rack	1
11. Central System (Department of Customs)			
	1.	VPN Router	2
	2.	Radio Modems with router	3
	3.	Multi-Port VPN Router	1
	4.	UPS (Power Backup)	1
	5.	40' Tower	1
	6.	Internet Gateway	1
	7.	Ethernet Connection	1
	8.	56K Dial-up Modem	2
	9.	16 U Rack	1
Connection from the Customs Department to the Internet Gateway			
12. Internet Connectivity			
	1.	128 Kbps Shared Internet Connection	1

Connection from the Customs Department to other entities and vice-versa.			
13. External Connectivity			
	1.	Configuration of existing 3COM RAS to be compatible with the new wide area network	1
	2.	Firewall Configuration for external authorized access	1

2. Hardware and software components:

Central system for Wide Area Network			
	1.	Application servers	2
	2.	Gateway server	1
	3.	Entry Level Communication Server	10
	4.	Workstations	3
	5.	Peripherals	1
	6.	UPS (Power backup)	7

7.	In-house Networking	1
8.	Communication software	1
9.	Networking operating system	2
10.	Anti-virus software	1
11.	16 U Rack	1

3. Service based components:

Services for wide area network		
1.	Systems integration services	1
2.	Services of ASYCUDA experts	2
3.	Human Resource Development	1
4.	Consulting services for data consolidation	1
5.	Consulting services for access, security and system access modules	1
6.	Preventive and regular maintenance services	1

Specifications and estimates:

1. Connectivity based components:

S.N	Description	Qty	Price	Amount
1.	Radio modem with router ISM band radio modem At least 16db antenna Bridging and routing facility	18	3,000.00	54,000.00
2.	40' tower	4	1,300.00	5,200.00
3.	UPS power backup 1.4KVA Rack Mount RS-232 Interface with UPS Monitoring Software Automatic Self Test Automatic Voltage Regulation (AVR) Sine-wave output	10	1,000.00	10,000.00

4.	UPS power backup 2.2KVA Rack Mount RS-232 Interface with UPS Monitoring Software Automatic Self Test Automatic Voltage Regulation (AVR) Sine-wave output	6	1,375.00	8,250.00
5.	VPN connection to ISP 64/64 Kbps bandwidth Free dial-up services for backup 3 years @ 275.00 per month = 9,900.00	7	9,900.00	69,300.00
6.	High Gain Radio Modems with router 5.8 GHz Radio Modems At least 22 db Antenna Bridging and Routing Facility	2	4,200.00	8,400.00
7.	Signal Amplifier/Repeater for High Gain Radio Modems	2	1,200.00	2,400.00
8.	120' Tower	2	6,150.00	12,300.00
9.	Router 2 WAN 1 Ethernet VPN	16	900.00	14,400.00
10.	Router 2 WAN 2 Ethernet 1 Serial VPN	1	2,200.00	2,200.00
11.	56K Dial-up Modems External Modem Serial Connection	12	30.00	360.00
12.	VSAT Terminal 3.8m Dish ODU SSPA Modems x 2	1	26,000.00	26,000.00
13.	VSAT Connectivity 64/64K 3 years @ 1100.00 per month= 39,600	1	39,600.00	39,600.00

14.	Internet Gateway 128 KBPS Shared link 3 Years @ 450 per month = 16,200	1	16,200.00	16,200.00
15.	Configuration of 3com 1500 RAS Configuration for compatibility with new system	1	500.00	500.00
16.	Firewall Packet Inspection, Hacker pattern detection and DoS protection URL Filtering/site restriction, Monitoring and logging facilities	1	900.00	900.00
17.	12 U Rack	10	800.00	8,000.00
18.	16 U Rack	1	1,000.00	1,000.00
19.	Ethernet Connectivity	11	200.00	2,200.00
20.	Installation and Commissioning	11	300.00	3,300.00
Total				284,510.00

2. Hardware and Software based components:

S.N	Description	Qty	Price	Amount
1.	Application Servers Rack Mount Dual Intel Xeon processors 512MB memory 72GB x3 Hot Swap Hard drives Redundant power supplies Integrated 10/100/1000 Ethernet 17" Monitor	2	4,600.00	9,200.00
2.	Gateway server Rack Mount Intel Pentium 4 processor 256MB memory 72GB x 2 Hard drives Integrated 10/100/1000 gigabit Redundant Power Supplies 17" Monitor	1	3,800.00	3,800.00

3.	Entry Level Communication server Rack Mount Intel Pentium 4 processor 256MB memory 72GB Hard drive 10/100/1000 gigabit 17" Monitor	10	3,000.00	30,000.00
4.	Desktop Computers Intel Pentium 4 Processor 512 MB Memory 80GB Hard Drive 17" Monitor	3	1,000.00	3,000.00
5.	B/W Laser Printer At least 20ppm 1200 dpi At least 750 Sheets input 32 MB Memory Duplex Printing Ethernet Connectivity	1	2,500.00	2,500.00
6.	B/W Laser Printer At least 12ppm 1200 dpi USB and Parallel Connection	1	400.00	400.00
7.	DVD/RW Drive for backup DVD/RW +- CD-R/RW Packet Writing	1	300.00	300.00
8.	UPS power backup 1.4KVA Rack Mount RS-232 Interface with UPS Monitoring Software Automatic Self Test Automatic Voltage Regulation (AVR) Sine-wave output	4	1,000.00	4,000.00
9.	UPS power backup 2.2KVA Rack Mount RS-232 Interface with UPS Monitoring Software Automatic Self Test Automatic Voltage Regulation (AVR) Sine-wave output	3	1,375.00	4,125.00

10.	In-House Networking 24 port Ethernet Switch Cabling 19" Rack 42U lockable	1	3,500.00	3,500.00
11.	Communication Software Mail Server Proxy	1	800.00	800.00
12.	Network Operating System Solaris 9 for Intel Windows 2003 Server	1	1,100.00	1,100.00
13.	Anti-virus and Security Software	11	500.00	5,500.00
14.	16 U Rack	1	1,000.00	1,000.00
15.	Installation and Commissioning	1	800.00	800.00
Total				70,025.00

3. Service based components:

S.N	Description	Qty	Price	Amount
1.	System Integration services 3 years @ 2,500.00 per man month = 90,000.00	1	90,000.00	90,000.00
2.	Services of ASYCUDA Experts 3 years @ 2,500.00 per man month = 90,000.00	2	90,000.00	180,000.00
3.	Human Resource Development Training on the use of WAN Administrative training and end-user training	1	6,000.00	6,000.00
4.	Consulting Services for Data Consolidation at the Central Level	1	2,000.00	2,000.00
5.	Consulting Services for access, security and system access automation modules ASYCUDA A++ Gate	1	3,000.00	3,000.00
6.	Preventive and Regular Maintenance Service 3 Years @ 11,000.00 per year	1	33,000.00	33,000.00

7.	Travel, Logistics and DSA 12 Man Months @ 1800 per month = 21,600.00	1	21,600.00	21,600.00
Total				335,600.00

Summary of Estimate:

SN	Description	Amount
1.	Connectivity based component	284,510.00
2.	Hardware and Software components	70,025.00
3.	Service based component	335,600.00
Total Estimate		USD 690,135.00

Appendix 6: Implementing Cargo Selectivity in Nepal

Purpose

The purpose of this paper is to provide a generic plan of action for creating a specialized staff that will manage a Customs administration's cargo selectivity processes. For the purposes of this paper, we will call that staff the "Cargo Selectivity Management Team" or "CSMT". The CSMT works with the administration's Information and Communications Technology department as well as operational departments within the Headquarters and the field.

Cargo Selectivity

Today's Customs administrations are faced with the difficult challenges of simplifying merchandise processing procedures and reducing unnecessary delays in order to promote trade while at the same time reducing the level of non-compliance in order to increase revenues, protect national interests and ensure supply chain security. Meeting these challenges is further complicated by the fact that increases in international trade are rarely accompanied by increases in Customs resources. Managers faced with these challenges must inevitably move from the traditional resource-intensive approach of processing cargo to a selective approach that focuses its attention on the Customs transactions that represent the highest risk. "Cargo Selectivity" is a risk-based approach to targeting merchandise most likely to be non-compliant and directing available resources to that merchandise. It provides different treatments at varying levels of intensity based on specific risk indicators, allowing low risk shipments to be released without any intervention other than an automated vetting process, but ensuring that higher risk shipments are processed in the manner that is most likely to achieve results. Cargo Selectivity is made possible by automated declaration processing systems that have the capability to cause certain shipments to be selected based on specific criteria and to direct those shipments for a variety of types and levels of treatment.

While automated declaration processing systems require competent Information and Communications Technology experts, they also require knowledgeable, experienced Customs officers to manage the operational content. This operational content includes all of the data necessary for the processing of Customs transactions:

- Data related to traders, manufacturers, warehouses, financial institutions, rates of exchange, etc.;
- Tariff data, including duties, excises and other taxes, quotas, preferential trade agreements, etc.;
- Descriptive data identifying Customs offices, modes of transport, types of Customs transaction, etc.; and
- Examination criteria based on combinations of any of the data elements associated with each transaction.

The Selective vs. the Traditional Approach

The traditional approach to processing cargo can be characterized by the following:

- Because there are not enough resources to examine every shipment thoroughly, examinations are generally cursory and unreliable;
- Even when the examination results in the discovery of a discrepancy, the results are not properly reported;
- There is little no or analysis of the results of examinations or of past violations, so patterns are not always recognized or dealt with effectively;
- There is a false sense of comfort based on the belief that all shipments are examined and few discrepancies are discovered;
- All traders are considered to be potential violators and there is little effective communications with them;
- Multiple checks require multiple stops in the examination process and the intervention of a unnecessarily large number of officers; and
- The more opportunities for individual officers to delay the process or otherwise intervene, the greater the likelihood of the expectation of a gratuity in order to expedite the processing or overlook technicalities.

Cargo selectivity system can overcome each of these deficiencies. While fewer examinations are conducted, they are conducted in a thorough manner designed to increase the discovery of instances on non-compliance. Voluntary compliance is encouraged and rewarded. Targeting and simplified procedures reduce the level of discretion of individual officers and the opportunities for gratuities. Unnecessary delays are eliminated and transportation costs are reduced.

The Importance of Trader Compliance

If we ask “Why examine cargo?” the answer that often first comes to mind is “to find violations of Customs laws and requirements”. Selectivity suggests a different approach: that Customs goal in processing cargo should be to ensure compliance with the Customs and other laws related to imports and exports. The different perspective is important. If Customs officers perceive that their primary responsibility is to find discrepancies, they tend to assume that every trader is a potential violator. Officers then may concentrate on proving it or, worse, they may view the trader perceived dishonesty as a fertile source of supplementary personal income for themselves. With this perspective, Customs tends to overlook an entire range of activities that can significantly enhance both productivity and compliance.

If Customs perspective is that its primary interest is to improve compliance, additional options focusing on compliance become available. For a cargo selectivity program to be fully effective, a two-pronged approach is called for. First, Customs must actively encourage traders to comply with its laws and requirements. Second, Customs must improve its capability to identify those traders who do not. Even

though its primary goal should be to improve compliance levels, Customs must always maintain an effective enforcement capability, demonstrating its ability to identify and deal appropriately with willful or repetitive negligent non-compliance. Moreover, even those transactions deemed to be low risk must be occasionally be subjected to some level of verification of reliability.

There is little doubt that there are traders in every country who are violating Customs requirements without detection. They know how to conceal goods so that they will not be discovered by cursory examinations. They know when shifts change and officers are not totally focused on the job at hand. They know those officers who can be enticed, through gratuities, to overlook requirements and those who are simply not motivated. They know how to undervalue goods or otherwise avoid their legal responsibilities. They know almost as much about Customs operations as the local managers.

On the other hand, there are those traders who would prefer to conduct business in a reliable and honest manner. These traders want transparency and predictability in order to move their shipments quickly and efficiently and at reasonable cost. Then there are those traders who may not now be operating at an acceptable level of compliance, but given the proper attention and motivation, would do so. Customs should both encourage and reward compliance. Highly compliant traders can be offered such preferential treatments as allowing direct delivery to their premises and allowing consolidated or account based declarations. Traders who have not quite reached acceptable levels can be identified and assisted through an informed compliance program in which Customs officers actually assist the traders to improve their processes.

This paper suggests that each Cargo Selectivity Management Team include at least one officer to be designated as a compliance specialist. That officer's function is to identify both those traders who are already performing at a highly compliant level and those who can be helped to do so by managing:

- An "approved trader" program in which those traders that commit in writing to meeting certain voluntary requirements will be rewarded with simplified processes; and
- An "informed compliance" program, where Customs identifies and assists traders who due to a lack of knowledge or experience tend to make repetitive minor errors.
- A compliance measurement program.

Managing Risk

Risk management is a widely-used discipline for dealing with the possibility that some future event will cause harm. It provides a systematic approach to recognizing and confronting threats faced by an organization in fulfilling its mission. While the

Risk management process can be applied to the selection of passengers, private and commercial vehicles, vessels and rail equipment, the focus of the Cargo Selectivity Management Team is on cargo selectivity: targeting merchandise most likely to be non-compliant and directing available Customs resources to that merchandise. For every Customs law, there is a corresponding risk that traders may break it, intentionally or otherwise. Risk management identifies and quantifies these risks in order to develop the appropriate type and level of preventative and control procedures. Risk management results in improved enforcement and improved facilitation. When there is little likelihood that noncompliance will be detected, there may be little incentive on the part of some traders to comply. Those traders who might otherwise be inclined to comply may find themselves in the untenable position that if they were to do so; they would be at a competitive disadvantage to other traders who are not so-inclined. Risk management increases the probability of detecting violations by non-compliant traders while at the same time allows compliant traders to move their goods through Customs controls with fewer physical examinations. Fewer examinations mean reduced delays and reduced costs to the trader. The promise of expedited shipments can be a strong motivation for traders to comply with Customs requirements.

In our introductory discussions of cargo selectivity and risk management, we have repeatedly used the word “risk” without pausing to define it as it relates to Customs. Generally speaking, “risk” is defined as the possibility of loss or injury, or the likelihood of an occurrence that will impact negatively upon objectives. To Customs “risk” is the degree of exposure to the chance of non-compliance that would result in loss or injury to trade, industry, or the public. The notion of risk can vary widely, which is why the first goal of any organization undertaking the risk management approach must be to assess the specific risks it faces. What is considered a risk by one Customs administration may legitimately not be considered a risk by another. Customs must identify and rank risks based on national concerns and priorities. Only then can the process of effectively directing available resources to counter these threats begin. Risk is generally characterized by the following:

- It is partially unknown (if were 100% sure of the compliance or non-compliance of every shipment, Customs job would be easy)
- It changes with time – as trade laws, importers, and industries change,
- It is capable of being anticipated.
- It is manageable.

Risk management is a logical and systematic method of identifying, analyzing, evaluating, treating and monitoring risks. The risk management process provides the following benefits:

- Better use of existing resources,
- Better achievement of organizational objectives,

- Expedited flow of low risk shipments,
- Lower costs to traders due to fewer physical examinations,
- Increased detections and improved compliance,
- Improved quality of Customs controls,
- Improved management processes, and
- Improved public and business profile

Prerequisites to Implementation

An effective risk-management-based cargo selectivity system does not happen overnight. It begins with a firm personal commitment from senior management. It requires a rigorous program of training for mid-level managers and employees. It calls for establishing or strengthening partnerships with other government agencies and with the trading community. Moving from a traditional environment to an automated environment involves far more than the purchase of equipment and technology. It requires leadership, effective communications and the willingness to change at all levels within the organization. Old habits are hard to break. Traditional methods of doing business are often ingrained in senior officers and managers. Establishing a Cargo Selectivity Management Team in Nepal will require:

- A functional ASUCDA system in which commercial processing sites are linked to central servers in the Customs Headquarters
- A minimum of six Customs officers: A director, three analysts, a compliance officer and an IT specialist
- Six desktop computers linked to the ASYCUDA server
- Office space for six personnel
- Adequate furnishings and equipment: desks, locking filing cabinets, work tables
- Internet access to all computers for research purposes

Recommended course of action

- Establish program management responsibilities;
- Evaluate the operational environment in which the CSMT will function;
- Write a work plan;
- Determine the nature of the CSMT and write a functional statement;
- Write position descriptions;
- Write a policy statement addressing cargo selectivity and compliance and an accompanying press release;
- Write a policy statement on the CSMT's access to internal Customs information and cooperation of other Customs units;
- Write a policy statement authorizing the CSMT to engage in external communications;

- Write a policy statement describing physical examination requirements, including mandatory reporting of results;
- Write a policy statement on the authority and responsibility of the Customs office responsible for post release audit of traders' records;
- Write a policy statement establishing or explaining an informed compliance program;
- Communicate and coordinate changes internally and externally;
- Allocate office space, equipment, and access to records systems;
- Recruit highly qualified personnel;
- Train risk analysts;
- Identify and Prioritize Risks;
- Conduct training in the field;
- Activate cargo selectivity
- Ensure that the CSMT's decision-making process is adequately insulated from improper outside influences; and
- Monitor the process.

STEP 1: Establish Program Management Responsibilities.

The Director General should:

- Appoint a Risk Management Coordinator. The Risk Management Coordinator should be either the Deputy Director General or another respected high-level manager who reports personally to the Director. His or her function will be (1) to lead the implementation of risk management and cargo selectivity processes, (2) to promote the concept to officers at all levels and to the trade, and (3) after implementation, to ensure the ongoing effectiveness of the risk management and cargo selectivity processes.
- Form a Risk Management Committee consisting managers from key Customs offices: field operations, tariff and valuation, post-clearance audit, and information technology. While this committee's first responsibility will be to design and manage the implementation phase of cargo selectivity and risk management, it will have the ongoing function of overseeing the risk management and cargo selectivity processes, insuring the integrity of those processes, monitoring the productivity of the CSMT and ensuring that the processes are supported throughout Customs. The Risk Management Committee should conduct working meetings not less than monthly.

STEP 2: Evaluate the Operational Environment

The first task of the Risk Management Committee will be to conduct a formal evaluation of the operational environment in which the cargo selectivity and the CSMT will function. Risk management is based is inextricably tied to the defined priorities of Customs. The evaluation must ensure that the specified priorities of the Customs administration are current, valid, and understood by employees at all levels. The evaluation must examine strengths and weaknesses in the current

operations of Customs. Cargo selectivity involves more than simply designating which shipments to examine and which to release. It requires:

- Trained, effective enforcement and specialist components within the Customs administration;
- Effective working relationships between the CSMT and these other sub-organizations within Customs;
- Effective working relationships with other government agencies, particularly those who regulate or have a legitimate interest in international trade, border operations and law enforcement;
- Effective working relationships with neighboring Customs administrations and with international organizations; and
- Effective working relationships with importers, exporters and others involved in international trade with an eye toward encouraging and rewarding compliance.

Most Customs administrations will already have some or all of the necessary key components in place; however, it is crucial that the following areas be identified, evaluated and any weaknesses corrected:

- Preventative, investigative, post clearance audit, and intelligence capabilities;
- Technical competence of Customs specialists in valuation, tariff matters;
- Trade priority issues, primary focus industries and high-volume traders;
- Workload and staffing;
- Current level and quality of communications and cooperation;
- Current level of training, motivation, morale and integrity; and
- Opportunities to develop and/or strengthen partnerships.

The completed written evaluation should identify both strengths and weaknesses and it should make recommendations to correct those weaknesses. In conducting the evaluation, the Risk Management Committee should:

- Interview Customs personnel at all levels;
- Seek out the opinions of the trading community;
- Review existing records, reports, statistics and recommendations made in earlier studies; and
- Circulate a draft to all field offices and Headquarters departments inviting comments and suggestions.

The written evaluation with its recommendations should be prepared in such a manner that on approval by the Director it will serve as an action plan.

STEP 3: Write an Action Plan

The next activity for the Risk Management Committee (RMC) is to develop an action plan. The recommendations set forth in the above evaluation constitute the beginning of the action plan. The RMC must now assign responsibility for accomplishing each recommendation to the appropriate persons and establish expected completion dates. Much of the responsibility will be assigned to RMC

members themselves: they are, after all, the managers of the key sub-organizations within Customs. The remainder of the action plan will consist of the remaining steps outlined in this paper, tailored as necessary to reflect the needs and complexities of the specific Customs administration. Responsibility for these steps must also be assigned to specific individuals and monitored by the RMC. Responsibility may be assigned to managers who are not RMC members, such as the manager of the Human Resources Department, or the manager of the Procurement Department, or the manager of the department responsible for providing office space. The Chair of the RMC should make these determinations and ensure that the responsibilities are being carried out in a timely manner.

STEP 4: Write a Functional Statement

The creation of any new unit within Customs generally requires that certain the governmental requirements be complied with. While these requirements will vary from country to country, there are three questions that will need to be answered regarding the new organization during this step:

- Where in the organizational structure, should the Cargo Selectivity Management Team be situated?
- Should the CSMT be centralized or decentralized?
- What are the duties and responsibilities of the CSMT?

The following is an example of a functional statement for a Cargo Selectivity Management Team:

The Cargo Selectivity Management Team (CSMT) reports to the Deputy Director for Operations) of the Department of Customs and operates under the oversight of and within policies and guidelines established by the Risk Management Committee. The CSMT is responsible for gathering, analyzing and evaluating a wide variety of information related to commercial transactions, importers, exporters, manufacturers, transportation companies, brokers and others involved in the international trade process. The purpose of this activity is to establish risk profiles which will enable Customs to identify those transactions most likely to be non-compliant and direct available resources to situations presenting the highest risks. The CSMT serves as the nerve center for commercial processing by gathering information from a wide variety of sources, both internal and external to Customs. The CSMT conducts in-depth analysis/evaluation using a variety of automated analysis and trade-based research tools on importation trends, common traits, profiles, past violations, etc. to develop examination criteria. The CSMT, in collaboration with other headquarters elements, is responsible for establishing and managing a compliance measurement program designed to measure and encourage trader compliance. The CSMT consists of the Chief, (number) risk analysts, (number) compliance specialist(s) and (number) information technology specialist(s) in the headquarters and (number) of regional CSMT analysts/coordinators assigned to field locations.

STEP 5: Write position descriptions

The next step is to write position descriptions for each specialty within the Cargo Selectivity Analysis Team. This includes the manager, the risk analysts, the information and communications technology specialist, and the compliance specialists. The following is a sample position description for a Risk Analyst:

The Risk Analyst performs in-depth analyses and evaluations of customs data, using a variety of automated analysis and research tools. Analyses focus on importation trends, common traits, profiles, past violations, etc. in order to develop examination criteria for the Selectivity Module of the Customs administration's automated system. The Risk Analyst develops and maintains contacts within various program offices in order to gather all available information related to commercial transactions or commercial operators, to analyze and evaluate this information and develop strategic and tactical responses to various risks to Customs. The Risk Analyst analyzes information gathered from internal and external sources and information contained in automated databases in order to develop and enter risk based selectivity criteria and to determine the appropriate treatment for various types and levels of risks. The Risk Analyst is responsible for ensuring appropriate criteria are created and kept current, for ensuring that examination criteria are consistent with workload and resources and for continually monitoring results. The Risk Analyst develops criteria based on his or her own initiative as well as on requests from other Customs officers or units. All requests from other units must be fully considered and evaluated, however, it is the responsibility of the Risk Analyst to determine whether the request is valid, and if so, how to best address the concerns raised in the request. The Risk Analyst applies his or her knowledge of Customs law and regulations, valuation, tariff nomenclature, etc. The Risk Analyst also relies on their prior experience to ensure that examination instructions are clear, concise and capable of being followed.

The following is a sample position description for the Director of the CSMT:

The Director of the Cargo Selectivity Management Team plans, organizes and coordinates the activities of the analytical, information/communications technology specialist(s) and compliance specialist(s) assigned to the CSMT and coordinates their activities with those of the investigations, intelligence, post-clearance audit, and other departments in the Customs administration, as well as with field offices. He or she directs risk analysis activities that lead to the development of targeting criteria for the selectivity module of the automated declaration processing system and to the identification of those traders who have historically high levels of compliance. He or she ensures that the full range of data available in the automated system and in other Customs records is analyzed in order to develop threat assessments, trends, and targeting strategies. The Chief participates in the preparation of training and standard operating procedures for upgrading the skills and knowledge of personnel in the unit and for training field personnel and traders/brokers. He or she

communicates regularly with key field managers on selectivity issues, examination instructions, levels of exams, results, etc. The Chief of the Cargo Selectivity Management Team is guided by the following in the planning, managing and oversight of cargo selectivity: (1) Data and information must be collected from all available pertinent sources including the automated system's data base, the intelligence unit, the investigations unit, the post clearance audit unit, and field offices. (2) Data must be methodically analyzed and assessed in terms of risk. (3) The risk assessment becomes the basis for prescribed action that includes examination criteria being placed in the automated entry processing system's selectivity module and identifying targets for the Post Clearance Audit Unit. (4) Results of examinations and audits are monitored and these results used to validate criteria on an ongoing basis.

Each Cargo Selectivity Management Team should have a dedicated Information and Communications Technology (ICT) specialist who would have the following responsibilities:

The Information and Communications Technology Specialist ensures that the Cargo Selectivity Management Team has the necessary access to the Customs administration's automated declaration processing system to permit them to conduct required data analysis and develop valid examination criteria. The ICT Specialist ensures that the IT equipment supporting the Cargo Selectivity Management Team is in good working order and that appropriate security safeguards are in place. The ICT Specialist develops specialized data analysis programs for use by the Cargo Selectivity Management Team analysts. The ICT Specialist trains analysts how to develop specialized reports from the data in the automated declaration processing system. The ICT Specialist trains new analysts in the use of the selectivity module. The ICT Specialist coordinates on a daily basis with the Customs administration's Information and Communications Technology department. The ICT Specialist may also perform the duties of a risk analyst.

An additional specialty that can be an important part of the Cargo Selectivity Analysis team is the Compliance Specialist.

The Compliance Specialist is responsible for developing and managing a compliance measurement system. He or she is responsible for identifying low risk, highly-compliant traders eligible for defined expedited or simplified procedures and for identifying situations where a compliance intervention can improve the performance of high and medium volume traders who have not achieved the desired level of compliance but are both willing and capable of doing so. The Compliance Specialist is responsible for developing, recommending to management, and upon approval implementing and monitoring an "approved trader" program in which those traders willing to enter into formal memoranda of understanding with Customs agreeing to satisfy specified customs security concerns and to ensure a high degree of compliance

will be recognized by Customs as eligible to participate in simplified procedures. The Compliance Specialist works closely with the risk analysts of the Cargo Selectivity Management Team, those departments responsible for tariff, valuation and penalty matters, and field managers.

STEP 6: Announce Implementation of the Cargo Selectivity Process

Implementing cargo selectivity and establishing a Cargo Selectivity Management Team will change existing policies, procedures and working relationships. Customs officers at all levels as well as traders and brokers must understand the reasons for this change, the nature of the change, and the impact the change will have on their work. This will require careful thought by the Risk Management Committee and the issuance of a number of directives from the Director of Customs clearly establishing policy and procedural expectations in writing. The first of these should advise Customs and the trading community of the establishment of the Risk Management Committee and the Cargo Selectivity Management Team. It should explain their functions and their relationships to other Customs units and it should providing contact information. This directive should be accompanied by a press release and meetings with the trade.

Step 7: Publish Policy on Internal Information Sharing and Cooperation

A Cargo Selectivity Management Team develops criteria by collecting and analyzing relevant information from many sources regarding importers, exporters, manufacturers, high-risk commodities, countries of origin, etc. The quality of the criteria depends on the quality of the analysis and, of course, the quality of the analysis can only be as good as the quality (and quantity) of information to which the team has access. The often-encountered tendency of some units in Customs to not share information with other units must be addressed. The CSMT is responsible for gathering information from a variety of sources as it develops risk profiles related to commercial merchandise and Customs transactions. It must have access to relevant information regarding commercial traders including records of examination results, penalty and seizure reports, intelligence reports when related to individuals or companies engaged in international trade, results of investigations of such individuals and companies as well as post-clearance audits. CSMT analysts must develop good working relationships and communicate on a regular basis with Customs officers in other departments who have access to information that bears on the reliability of importers, exporters, transporters, etc. These contacts should include:

- Field operations (Preventative officers assigned to airports, seaports, land border crossings, and inland inspection stations);
- Regional Offices;
- Investigators;
- Intelligence analysts;
- Revision or post-clearance audit officers;

- Specialists responsible for tariff matters, special regimes, etc.; and
- Legal or other specialists responsible for processing Customs violations, whether administrative penalty, seizure, or criminal prosecution.

The directive must clearly state that communications and information sharing must be open, without unnecessary reservation, and timely. It must educate managers and officers throughout Customs as to the importance of providing relevant information to the Cargo Selectivity Management Team. It cannot be assumed that pertinent information will be freely or willingly shared without clear written direction from the Director.

STEP 8: Publish Policy on External Information Sharing and Cooperation

In addition to developing working relationships and information sharing with other Customs sub-organizations, Cargo Selectivity Management Team analysts need to be able to query other government departments and international sources in order to research potential high risk companies and/or individuals. These contacts will enable the analysts to ensure that they can query other government departments as to their knowledge regarding any subject of an ongoing Customs risk analysis.

Analysts should develop contacts with:

- Border Police/Border Guards;
- Police intelligence unit;
- Other Border Inspection Agencies;
- Other Government Departments and Public Institutions (Ministries of Agriculture, Trade, Transport, etc.);
- Foreign Customs Administrations;
- International organizations such as the World Customs Organization; and
- Foreign Law Enforcement Agencies

Establishing these sources of information may require Memoranda of Understanding with the various law enforcement organizations. Such MOUs should be negotiated at the Director level. The purpose of these contacts is not a massive ongoing exchange of information; it is to facilitate the ability of the CSMT analyst to query the other organization with respect to specific companies or individuals associated with an ongoing analysis. Of course, reciprocity will be expected. Customs must also be willing to share information to the extent allowed by national legislation.

The CSMT analysts can also benefit from effective contact and communications with members of the trade community. It is the function of the team to ascertain risk levels as related to goods, companies and individuals. That means identifying not only those that present a high risk, but also those that present a low risk. By identifying and properly dealing with traders who have demonstrated an acceptable

level of compliance with Customs requirements, the teams can reduce the number of importers about which little is known and from which it must attempt to identify non-compliant, high-risk traders. If we compare this to the proverbial needle in the haystack, it will always be difficult to find the needle, but we can make it considerably easier by reducing the size of the haystack. Some trade contacts may at times be willing to provide information regarding illegal trade practices used by a competitor in order to obtain an unfair market advantage. Business contacts can enhance the analysts' overall understanding of business practices and the intricacies of the international supply chain. Useful contacts include:

- Importers and exporters;
- Brokers or clearing agents;
- Freight forwarders;
- Transportation companies;
- Trade organizations; and
- The general public

STEP 9: Publish Cargo Examination Policy

Customs must develop and publish detailed standards and requirements for cargo examinations. All physical examinations must be conducted in a thorough and systematic manner and that the results (whether positive or negative) must be reported to the Cargo Selectivity Management Team. The examination standards and reporting requirements should be published in the form of a clearly stated policy directive.

Throughout this paper, the focus on selective examinations has been that the selection of merchandise to be examined should be based on risk profiles. Criteria-based examinations must, however, be complimented by random compliance examinations based on statistical sampling. As with the criteria-based examinations, random compliance examinations must be thorough, systematic and accurately reported. It is important also to retain an element of surprise by carrying out these random checks. Random examinations provide a cost-effective means of identifying unknown risks and monitoring or estimating their significance. They also help to ensure that no shipment or trader is exempt from effective Customs controls and verification. Even "approved traders" should be verified periodically with random compliance examinations.

Different types of risk require different types and levels of examination or treatment. Many commercial violations, such as valuation issues, cannot readily be discovered through actual physical examinations. Customs treatments are generally broken into five types:

- The first type is the **Selectivity Review** performed by the automated selectivity module that compares data elements in the declaration against the system

criteria. This type of examination is completely transparent to the uniformed officer.

- The second type is a **Document Review**, wherein the automated system requires the officer to verify that certain documents are included as part of the declaration (e.g., an agricultural certificate for produce).
- The third type is an actual **Physical Examination**. Enforcement priorities and limited resources dictate that a labor-intensive 100% examination is the choice of last resort. Depending upon the risk profile, different levels of examination are performed:
 - For commercial issues such as marking, quantity verification, intellectual property rights, and classification issues, only a few representative, random, widely-selected samples from within the shipment need to be examined.
 - For targeted examinations concerning narcotics or other prohibited merchandise that might be concealed within declared merchandise a 100% examination of the cargo called for and a detailed, methodical examination of the conveyance must also be conducted to ensure the prohibited merchandise is not concealed in the vehicle instead of the merchandise.
 - Examination criteria will designate the level of physical examination required.
- The fourth type is a **Random Compliance Examination**. The purpose of random examinations is to verify continued compliance on the part of all importers, no matter how low-risk they may have been judged. It is important that random examinations be conducted in a thorough manner and that the results are reported. In the early stages of the implementation of cargo selectivity, the rate of random examinations may have to be set at a higher rate until the CSMT has populated the selectivity module with effective examination criteria. Once the risk-based examination criteria begin showing results, the random examination rate should be lowered.

The new policy will be the subject of intensive training later in the implementation process.

STEP 10: Publish Post-Clearance Policy and Guidelines

A key element of a cargo selectivity system is the capability to identify certain declarations for further review after release from Customs custody. This review, typically called a post-clearance audit, is conducted at the importer's, exporter's and/or broker's offices and consists of a thorough review of all of the documents related to the declaration and merchandise in question. These include many documents that are not required to be included in the declaration package presented to Customs but are a part of the commercial transaction. Documents that can be found in the office files are generally associated with the order, purchase, payment

and delivery of the goods, insurance and transportation. Customs authority to conduct post-clearance record reviews (or audits) should be the subject of written directive. The directive should establish the post clearance audit procedure, setting forth the responsibility of the trader to maintain records and to grant Customs officers access to the files for the purpose of validating information that was presented in the Customs declaration and on which financial and other obligations (duty, excise, licenses, quotas, etc.) were based.

STEP 11: Publish Informed Compliance Policy and Guidelines

Earlier in this paper, it was suggested that Customs purpose in examining cargo should be to ensure compliance with the Customs laws and other laws related to the importation and exportation of goods. Whose responsibility is compliance? Certainly it is the responsibility of the trader, but as has been suggested throughout this paper, it is also the responsibility of the Customs Administration to make every effort to assist importers to comply with Customs and related laws and requirements. The Risk Management Committee must establish a compliance policy and implement it through the publication of a formal written directive. This directive should establish a program to encourage compliance by offering certain reasonable benefits to those traders who have historically demonstrated consistently high levels of compliance and to those who are willing to improve their internal processes to certain standards established by Customs. Customs is first and foremost a law enforcement service; however, it must balance its traditional role of enforcement and ensuring supply chain security with its responsibility for moving compliant shipments across its borders efficiently. Compliant trader initiatives can be designed to facilitate the flow of trade for those with a proven compliance record. These do not restrict the authority or ability of Customs to initiate examinations for the presence of narcotics or other prohibited items and Customs will continue to conduct random verification examinations, even of those traders operating under low-risk importer initiatives. New policies and procedures can be developed to shift resources away from traders designated as low-risk and focus those resources to address importers posing a high non-compliance risk. As a result of these new policies and procedures, Customs will be able to more efficiently deploy its finite resources toward enforcement and regulatory responsibilities. The CSMT is responsible for identifying low-risk as well as high-risk traders.

It is entirely reasonable for Customs to enter into agreements with importers who have demonstrated an acceptable level of compliance and indicated a willingness to take additional steps to satisfy Customs concerns. It is up to each Customs administration to determine what it expects from low risk importers and what low risk importers can expect from Customs. Among the many possibilities are:

- Compliant traders can be asked to voluntarily improve security in accordance with Customs guidelines in order to participate in “approved trader” programs;

- Compliant traders can be asked to conduct background checks of employees in order to participate in “approved trader” programs;
- Compliant traders can establish or improve quality controls and record keeping procedures in accordance with Customs guidelines in order to participate in “approved trader” programs;
- Compliant traders accepted into “approved trader” programs can be allowed to have shipments directly delivered to their premises;
- Compliant traders accepted into “approved trader” programs can be allowed deferred duty payment timelines; and
- Compliant traders accepted into “approved trader” programs can be allowed to file consolidated entries covering all importations over an agreed-upon time period, such as weekly, monthly, etc.

It is strongly recommended that the Cargo Selectivity Management Team be assigned responsibility for compliance programs through the presence of a designated compliance specialist. All designated low-risk (or “approved”) traders should be systematically re-evaluated at least annually to determine if they continue to qualify as low-risk. The compliance specialist can also conduct training, onsite evaluations and interventions to assist those traders who do not have a proven historical record, but are desirous of establishing one.

STEP 12: Improve Internal and External Communications and Cooperation

Change is best implemented by ensuring that everyone who will be affected by it understands the reason for the change, the benefits they will derive from the change, and how the change will impact on their work. This includes not only Customs officers and employees but also those in the trading community: importers, exporters, transportation companies, brokers, and others. It includes governmental counterparts in the other border control agencies as well as trade regulatory agencies. Communications regarding the change from traditional procedures to cargo selectivity should begin early and continue throughout the implementation process and beyond. It is not enough for Customs to want to modernize and simplify its procedures and to adapt the risk management philosophy as the basis for its treatment of commercial transactions. It is crucial that Customs gain the understanding and support of the trade and other government agencies in this change. The Risk Management Committee must provide the impetus for these communications, which initially should take the form of face-to-face meetings.

To achieve the full benefits of risk management techniques (better compliance and greater facilitation), good communication, consultation and cooperation between the trade and Customs administrations is vital. Customs administrations must view legitimate traders as partners in this process. If Customs has already established an environment in which there is a good rapport with the trade, the adoption of risk management and cargo selectivity will only enhance that relationship. If not, then

this is an excellent opportunity to establish that rapport. There is a growing realization in many Customs administrations that major change can only be achieved with the active participation of legitimate business operators. The “partnership approach” provides for greater efficiency and more effective controls based on knowledge of commercial operations. A major consequence of an effective cargo selectivity system is that only high-risk transactions will be selected for examination. From a business perspective this results in quicker, smoother clearance of legitimate trade through simplified procedures. It is clearly in business’ interest to work with Customs to achieve the reduced costs and predictability that accompany reduced examinations. It is likewise clearly in Customs interest to work with the trade to encourage them to take whatever steps necessary to improve their level of compliance with Customs requirements.

The collaboration between Customs and the trade has the advantage of improving Customs knowledge of trading practices. Greater familiarity with the conditions of international trade means more effective risk management. The assistance of legitimate traders in the risk management process provides many benefits to both Customs administration and the trade:

- Customs realizes a higher level of compliance
- Customs realizes a valuable source of information;
- Traders with a good record of cooperation receive less Customs intervention;
- Trade cooperation can also particularly valuable to a Customs administration in drug interdiction, CITES, dangerous goods, and hazardous waste control.

The World Customs Organization encourages Customs administrations to enter into formal agreements with private companies engaged in international traffic and provides model agreements that can be adapted by any Customs administration that desires to do so.

Customs Administrations should remember, in communicating proposed changes, to take into account the needs and interests of the other parties and to be able to demonstrate that there truly is some benefit to them in the change. Customs should also remember that the other parties may have something to say that has not been thought of but which will help in the implementation. Customs should remember that it takes time to develop trust and good working relationships. It’s time worth spending, so Customs should not be discouraged if members of the trading community are initially hesitant to offer differing points of view because they feel it will be construed as criticism that may result in some form of retribution. While it is not generally possible to communicate with every importer or exporter or other person involved in international trade, it can be quite effective to establish ongoing relationships with such representative organizations as Broker’s Committees, Transportation Associations, or PRO committees. Many Customs administrations now maintain formal consultative committees with traders, carriers, agents, banks,

port and airport operators and their respective organizations. The role of such committees typically includes the discussion of projected changes in control requirements, identification of difficulties experienced by traders in complying with actual or proposed procedures and arriving at mutually acceptable solutions. If such committees do not exist, they should be established.

STEP 13: Allocate Suitable, Secure Office Space, Equipment, and Access to Records Systems

The Cargo Selectivity Management Team must be provided with adequate office space, furniture and equipment. Office space in many Customs headquarters is at a premium; however, the efficiency and effectiveness of a CSMT is directly dependent on its having enough space to accomplish the work. Each member of the team will require a full size desk. The team's work will often require that its members analyze not only large amounts of computerized data, but also large amounts of paper records, in the form of customs declaration packages, penalty and seizure reports, automated system printouts, etc. The team will require one or two work tables at which they can spread out this paperwork. Locking filing cabinets are necessary for the analysts to securely store risk profiles, analyses in process, and related materials. Each team member will require a fully functional current-model desktop computer with word processing and data base management software, email, internet access, and access to the automated declaration processing system. Each member will require access to a telephone and the team will require a dedicated fax machine, shredder and printer.

The CSMT staff must have access to the Customs administration's automated declaration processing system as well as to other Customs records (seizures, penalties, intelligence reports, post-audit reports, broker and importer/exporter compliance audit reports, etc. which will be vital to the furtherance of their research into transactions and traders which may represent a high risk level. Access to these records is necessary for:

- Collecting and centralizing historical data on trade;
- Establishing cargo compliance and discrepancy rates that help to identify trade risk areas and to assess the effectiveness of cargo exam targeting; and
- Generating trend analyses that provide an overall picture of compliance rates for different categories of travel and trade: commodities, importers, manufacturers/shippers, countries, etc.;

STEP 14: Staff the Cargo Selectivity Management Team

All too often, Customs managers consider the duties of their Cargo Selectivity Management Team to be of a clerical nature and staff the team by assigning low-graded personnel, inexperienced personnel and even personnel who have not proven to be motivated and productive in other positions. There is no better way to ensure that the unit and the cargo selectivity process will fail. These teams are the

operational nerve centers for cargo selectivity and must be considered and treated as high-priority units and be staffed with highly qualified personnel who consider the Cargo Selectivity Management Team as a desirable assignment. The staff should consist of officers who:

- Have a minimum of 2-3 years operational experience – either at a centralized examination station or cargo-oriented border station, airport or seaport, or in an investigative unit or valuation unit.;
- Are familiar with principles of valuation and with tariff nomenclature;
- Have demonstrated good analytical skills as well as a mastery of cargo processing practices and procedures and requirements;
- Have good writing skills;
- Have good computer skills;
- Are expert in the use of database management and spreadsheet programs or have sufficient knowledge that readily available training will enable them to develop the necessary expertise; and
- Are thoroughly familiar with the Customs administration’s automated declaration processing system.

The size and composition of the CSMT will vary from country to country depending on the national requirements and the degree of centralization, but should always be staffed by officers with a variety of backgrounds (e.g., officers with field experience, auditors, investigators, information and communications technology specialists, intelligence analysts, etc.). These officers should return periodically to their respective local offices to update themselves on any recent developments that may not have been brought to the attention of Headquarters.

Assignment opportunities should be announced throughout the entire Customs administration and the selection process should be transparent and based on:

- Demonstrated skills;
- Demonstrated ethical behavior;
- Technical knowledge – variety and depth;
- Computer skills; and
- Exemplary performance in current and previous positions.

Initial assignment to a cargo selectivity management team should be for a minimum of 2 years (unless an individual analyst fails to perform productively). After the initial 24-month assignment, not more than 25% of the cargo selectivity management team staff should be rotated out of the unit per quarter.

STEP 15: Train the Members of the Cargo Selectivity Management Team

Since Cargo Selectivity Management Team members will develop examination criteria through analysis of information in the automated declaration processing system’s database, the team will require training in the following areas:

- The operation and administration of ASYCUDA and MODSEL or other declaration processing system and selectivity module used by Customs;
- Information analysis techniques; and
- Database management and spreadsheet software

The analysts must be capable of designing custom reports to retrieve data from the declaration processing system. These reports include, but are not limited to:

- Listings of importers ranked by value of importations, by cumulative amounts of duties and taxes paid and by number of entry declarations;
- Listing of commodities imported ranked by total amounts of collections;
- Listings of commodities ranked from highest to lowest taxation rates;
- Listings of commodities ranked by past misclassifications; and
- Listings of past transactions by importers, exporters, brokers and others.
- Compliance measurements.
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STEP 16: Identify and Prioritize Risks

The following is a PARTIAL list of typical Customs responsibilities. No doubt, each Custom administration considers many of these responsibilities to be important, but which are more important than others? This list is presented alphabetically and is not intended in any way to suggest an appropriate ranking.

- Anti-Dumping & Countervailing Duties;
- Classification;
- Country of Origin Marking;
- Currency Controls;
- Embargoes & Sanctions;
- Intellectual Property Rights;
- Narcotics;
- Public Health & Safety;
- Quota Evasion;
- Revenue;
- Terrorism;
- Trade Agreements;
- Trade Statistics;
- Transit;
- Transshipment;
- Valuation; and
- Weapons, both conventional and weapons of mass destruction

It is the responsibility of the Risk Management Committee to provide the Cargo Selectivity Management Team, and indeed the entire Customs administration, with a concise statement of its priorities. If collection of revenue is a priority, how much revenue must be involved? Is it more important for the Cargo Selectivity

Management Team to analyze, evaluate and develop risk profiles on small importers who routinely bring suitcases of either undervalued or undeclared goods across the border or to spend their analytical efforts developing risk profiles on the wide-scale smuggling of cigarettes which carry high duties and excise rates and are being smuggled in large quantities? Which is more important? It should not be left to the Cargo Selectivity Management Team to decide. Their responsibility is to ensure that their efforts are directed toward the highest priority risks facing Customs, not to arbitrarily decide which risk is more important than another. Priorities must be defined and should be well publicized throughout Customs.

STEP 17: Conduct Field Training

The Risk Management Committee must organize training sessions for both field Customs officers and the trading community. These, of course, will be conducted separately. The Customs training will concentrate on the new features of cargo selectivity, on examination techniques, and on reporting requirements. The training for the trade should be explain the procedural changes that will affect them, should encourage them to adapt and improve their internal procedures accordingly and to ensure that benefits of new Customs efficiencies are accompanied by efficiencies on their part, such as advance filing of declarations, improved accuracy of declarations, etc. This training should discuss the purpose and function of the CSMT and outline “informed compliance” and “approved trader” procedures that will be implemented in the future. This meeting should encourage open communications between trade and Customs and conclude with an agreement to conduct future Customs-Trade meetings on a mutually agreed upon schedule (example: first Tuesday of every month)

STEP 18: Implement the risk management and cargo selectivity processes

Once the analysts of the Cargo Selectivity Management Team have received the necessary training, they are ready to begin the risk management process. It is not the purpose of this paper to provide guidance or instruction as to the process itself. This is a subject that will require specialized training. As a Customs enforcement process it is not deemed appropriate to openly publish detailed analytical process instructions. Generally, however, the process can be summarized as including the following steps:

- Identifying risks;
- Analyzing risks;
- Evaluating risks;
- Treating risks; and
- Monitoring and reviewing results

It is recommended that once the team has been formed and trained a subject expert be identified to work with the team to assist them in developing their initial risk

profiles and related criteria. At that point, it is appropriate to activate the cargo selectivity system. Obviously there will be a learning curve and it would be a mistake to think that the initial risk profiles will result in immediate and dramatic success. As the analysts gain experience and data based on improved examinations, their examination criteria will soon reach the desired level.

STEP 19: Insulate the CSMT from Improper Outside Influences.

Implementation of an automated cargo selectivity system will offer the added benefit of reducing opportunities for unethical activity on the part of both traders and officers in the field. Automated selectivity systems should have the capability to assign examinations to specific officers and to monitor whether the work of those officers is consistent with demonstrated norms. That is, if the average Customs officer can conduct four examinations a day, how can one officer conduct eight or ten examinations a day and still comply with Customs procedures and expectations? If the average Customs officer finds seven to ten discrepancies for every one hundred examinations, why is another Customs officer finding only one or two, or worse, none? If the average Customs officer is following examination instructions and conducting thorough examinations when directed, why is another Customs officer routinely overriding examination instructions by examining green channel declarations or releasing red channel declarations without examination? Are these discrepancies training issues or are they potential indicators of unethical activity on the part of an officer? In addition to the importance of ensuring ethical activity by field officers, it is equally important to ensure that the CSMT analysts are protected from unethical influences. This is primarily accomplished through the Risk Management Committee's continuing oversight of the work conducted by the CSMT, including fully documented risk profiles, productivity reviews and criteria modifications or deletions.

STEP 20: Monitor the Process

The Cargo Selectivity Management Team must continually evaluate criteria in the automated declaration processing system. As examination reports arrive at the CSMT office, they must be promptly analyzed and tabulated. A continuous series of negative inspections against a given criteria would be cause to eliminate that criteria, to reduce the examination percentage, or to require another type of treatment such as document review. A continuous series of examinations or document reviews that result in finding discrepancies requires further action ranging from initiating Informed Compliance assistance to the generation of penalties to referral to the Post Clearance Audit Unit and/or Investigations Unit. The reviews and resulting actions taken must be documented in the risk profile document. The Risk Management Committee, in its oversight role, should review each active or recently inactivated risk profile and examination criteria. This can best be accomplished by monthly meetings in which the CSMT analysts formally brief the committee members of their activities and results for the preceding month.

Evaluation of the effectiveness of risk management must be ongoing and must be formalized. The success rate is the key criterion for evaluating the effectiveness of the risk profiles. Fewer well researched and well-defined criteria that achieve results are more desirable than a large number of criteria that generate examinations but do not produce results. Criteria must be regularly evaluated to measure, assess and evaluate the effectiveness of the overall Customs control program. Evaluations must be documented and result in corrective actions when there is a demonstrated lack of results. Measurements include:

- Reliable reporting of examination results;
- Compliance measurement activities;
- Feedback from the business community; and
- Results analysis and data comparisons

TRAINING

Specialized training will be necessary for the CSMT staff. This training will include either computer (or information technology) skills and analytical skills. It is likely that the computer skills training can be provided by the Customs Information and Communications Technology staff. The analytical skills training, however, will require technical assistance from an outside source.

Appendix 7: Pro Committee Workshop

CAPACITY BUILDING WORKSHOP ON TRADE FACILITATION IMPLEMENTATION: TOOLS, TECHNIQUES AND METHODOLOGIES

Geneva, Palais des Nations, Room XVI
18 - 20 October 2004

The United Nations Economic Commission for Europe (UNECE), in cooperation with other key national and international organizations, will hold a three-day capacity building Workshop on current trade facilitation tools, techniques and implementation models in Geneva, 18 - 20 October 2004. The purpose of the Workshop is to enhance the technical and administrative knowledge and skills of trade facilitation practitioners from Trade Facilitation Procedures Organizations (Pro Organizations) and other relevant organizations focused on the facilitation of international trade. The workshop will present in-depth training in key trade facilitation instruments such as: document harmonization and simplification, e-business standards and codes, supply chain efficiency and integration, assessment of trade facilitation needs and priorities, approaches to establishing a Single Window for the submission of trade information and documents, and other current issues in Trade Facilitation.

Expected benefits

Upon completion of the Workshop, participants will have an in-depth knowledge of key trade facilitation tools, standards, trends and practices and an enhanced capacity to implement, or encourage the implementation of, necessary trade facilitation initiatives in their country or region.

Who should attend

The Workshop is targeted at trade facilitation practitioners from Pro Organizations and other relevant organizations from transition or developing economies. It is also of relevance to practitioners from developed economies.

Registration process

The Workshop registration form is downloadable from the website at www.unece.org/trade. There is no charge for registration but participants are responsible for their own travel and accommodation expenses. Organisations or individuals wishing to attend are advised to register early, as space is limited.

Appendix 8: Customs Identified Technical Needs

1. Valuation

- Establishment of central valuation data base
- Development of valuation and post clearance manual
- Establishment of intelligence unit

2. Automation

- Fully implement ASYCUDA system
- Extension of ASYCUDA in 3 border Customs
- Establishment of wide area network
- Establishment of management information system
- Implement all ASYCUDA models, such as direct trader input, selectivity, manifest, and transit
- Development of software for those areas which are not now covered by ASYCUDA like DRP, bank guarantees, passenger clearance, transit cargo clearance.
- Develop Nepalese font to print ut the declaration & receipt in Nepali
- Develop criteria for selectivity & risk management
- Implement selectivity & risk management system

3. Physical Facility

- Develop Customs layout according to declaration processing path
- Provide machinery like X-Ray, scale
- Provide equipment like computer, printer, fax, photocopy, air-condition, etc.
- Provide laboratory equipment
- Provide motor vehicle for patrolling
- Provide furniture and furnishing
- Establish laboratories in main border customs
- Establish ICD

4. Human Resource Development

- Training in WTO valuation system
- Training in post clearance audit, post release review, post entry verification, post release valuation review
- Training in Commercial Fraud
- Training in ASYCUDA operation system
- Training in selectivity and risk management
- Training in direct trader input operations
- Training to operate other modules of ASYCUDA.
- Training in investigations and intelligence
- Training in classification of goods

- Training in Customs clearance procedures
- Trainer's training
- High level observation tour

