

**Training and Advisory Assistance in
Valuation and Classification; Risk Management;
Internal Investigations and Integrity; and Training of Trainers
for Nepal Customs**

October 27 - November 12, 2006

Activity Report

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Facilitating Streamlined Trade "FASTrade" Project

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Section I. Activity Background and Overview

In July 2004, the USAID Trade Facilitation and Capacity Building Project (FASTrade), implemented by Booz Allen Hamilton, conducted a broad assessment of Nepal Customs' organization, procedures, operations and infrastructure and of the overall customs environment in order to provide recommendations in support of Customs reform and the facilitation of trade in Nepal. Nepal Customs had recently undergone a series of diagnostic studies by the IMF, the Integrated Framework, and other donor organizations. The findings of these assessments, as well as further observations and interviews, were the basis of a set of recommendations for Customs modernization and reform that were summarized in a Technical and Financial Assistance Needs Matrix prepared by the FASTrade Project.

To date, several of the technical assistance needs identified on the Matrix have been addressed by USAID and other donors. Assistance was last provided to Nepal Customs by the FASTrade Project in the areas of program management and integrity and internal investigations during April and May 2005. Additional FASTrade assistance was suspended after that time due to the political volatility that developed in Nepal.

With the improvement of the political climate in mid-2006, the USAID Mission in Nepal expressed an interest in resuming the project's technical assistance to Nepal Customs. Based on discussions with the counterpart regarding developments and needs in Customs, it was determined that priority areas from the Technical and Financial Needs Assistance Matrix in which training and advisory assistance was needed included: valuation and classification; risk management; and work on internal investigations and integrity issues. A training-of-trainers component to complement these technical areas was also identified as a desirable element of the planned assistance.

Ms. Lori Brock, FASTrade Chief of Party, led the project team in Nepal and was accompanied by Mr. Walter Hekala, risk management expert, Mr. Ben Irvin, customs valuation expert and Mr. Christopher Nelson, internal investigations trainer. This report summarizes the work completed during the training and advisory assignment. In each section, pertinent background information is provided, the training topics and delivery are discussed, and recommendations for further technical assistance are provided. The assignment also involved working with the training participants to develop one-year action plans to identify priority tasks to be addressed in each of the technical areas. The action plans developed are included in Appendix B.

Opening and closing ceremonies were held to mark the training event and were attended by the Director General of Nepal Customs. Copies of all of the training materials were provided to the participants, in both English and Nepali. Certificates of participation were given to the participants for each section.

Section II. Risk Management

Prepared by Walter Hekala, CQA, PMP

Overview and background

The initial review established that Nepal has not committed to one of the foundational documents for customs administration standards, the WCO's revised Kyoto Convention. The review did confirm that Nepal has formally notified the WCO of its intent to implement and follow the "Framework of Standards to Secure and Facilitate Global Trade" (SAFE Standards). These two agreements and the standards they contain are fundamental to the modern business practice of risk management within a customs administration. Having committed to observe the SAFE Standards means that Nepal, as part of its risk management strategy for customs, will introduce an Authorized Economic Operator (AEO) program that recognizes and rewards low-risk companies. Nepal Customs does not currently have an AEO program, but they appear to be keen on starting this type of program. Also under the WCO SAFE Standards, Nepal has agreed to formally exchange risk assessment information with other customs administrations.

Nepal Customs does not currently have a functional risk management unit. Furthermore, the practice of post-entry control including visits to importers' premises is not in place. The current practice for post-clearance audit is more in line with an internal rechecking of the same documents provided by the importers rather than an external auditing program.

Based on the initial review, the validation of revenue-related risks appears to be based on the erroneous assumption by Nepal Customs that undervaluation can be controlled through border examinations. The FASTrade Project handbook on risk management and prior advisory visits to Nepal by the FASTrade team attempted to overcome this misconception, with limited success. Valuation verification rarely can be confirmed based on physical examination of a shipment and is better done through post-entry audits of the importer's records **at the importer's premises.**

Review of the documents also indicated that Nepal Customs could have a misunderstanding of the capabilities of the ASYCUDA system. ASYCUDA is a fundamentally sound customs declaration processing software system. It contains a historical database of information on prior declarations that the Customs user can access. ASYCUDA also includes rudimentary features that permit the entry of selectivity criteria that can help the customs administration suggest to front line officers the physical examination level that should be applied to goods at the time they cross the border. ASYCUDA does not, however, allow the user to address the core function of risk management: the analysis of the historical data on prior importations to predict

future probability of compliance or non-compliance by the importer. This analysis must be done outside of ASYCUDA, either by manual statistical calculations or by another automated program. Another key difference between the ASYCUDA approach to risk management and the modern customs business practice applied under the WCO SAFE Standards is in the recognition and establishment of high confidence in low-risk shipments. Low-risk targeting as a priority allows a customs administration to maximize the use of resources by eliminating low-risk shipments from the overall pool of transactions as the first step.

Based on this review, the training materials Mr. Hekala prepared and modified from existing FASTrade materials met the objectives of introducing Nepal Customs to modern risk management practices. This included information on how to introduce an AEO program that is compliant with the WCO SAFE standards and how to maximize the use of the limited capacity of the ASYCUDA system to implement risk management lookouts. Mr. Hekala used the last day of the assignment to assist with the development of a one-year action plan that is designed to help Nepal Customs focus on the macro issues of the establishment of a risk management approach to their business practices.

Training topics and delivery

Mr. Hekala delivered four half-day sessions on risk management and covered the topics outlined in the training agenda below. The training methodology used a combination of presentation, interactive discussions and participant assignments. A general objective of the training was to show the participants that “risk management” within a customs administration is not a “flip the switch” change that will resolve revenue or other non-compliance concerns but rather is a business process change that requires the introduction of many related components to be effective.

Another objective of the training was to help the participants achieve a clear understanding that the business practices of Customs itself are often the root cause of the risks and the resultant losses in revenue. This approach promotes the idea that Customs must first understand the concept of risk management at a high level before getting into development of specific programs for implementing a risk management approach to declaration processing. Even with technical assistance, shifting Customs’ business practices to implement an effective risk management program will take a long-term commitment of at least one to two years.

As an illustrative example of the training, Mr. Hekala introduced the participants to the three fundamental principles that are core to an effective customs risk management program. These are:

1. For business – where the cost of compliance is lower than the cost of non-compliance, good businesses will be compliant.

2. For government – voluntary compliance is more effective and economical than involuntary compliance.
3. For business and government – you cannot comply with or enforce regulations if you do not know the regulations.

Following these three core principles, the training led the participants through a series of illustrative examples of how the principles can drive the decision process of customs risk management. The participants were given a demonstration of the Jordan Customs Integrated Tariff System (CITS), an Internet-based program that provides both government and the private sector with easy access to all government regulations applied at the time of import, export or transit. The participants were also given training on the WCO SAFE Standards approach to an AEO program that can target building a high confidence level within Customs that eighty percent or higher of customs revenue is collected through voluntary compliance.

Risk management training agenda

DAY	TOPICS
November 1	<ul style="list-style-type: none"> • Meeting with Director and Management Staff • Introduction • Current Status of Nepal Customs with Respect to Risk Management • Customs Challenges in the 21st Century; Understanding the Necessity for Risk Based Customs Controls • The Concept of Risk; Likelihood x Consequence • Putting Risk Management into Context; The First Step in the Process
November 2	<ul style="list-style-type: none"> • Identifying Potential Risks; Brainstorming, Interviewing and Data-Mining • Analyzing Risk; Gathering Information • The Proactive Approach; Making Sense of Your Data • Risk Indicators; Objective vs. Subjective, Historical vs. Predictive
November 3	<ul style="list-style-type: none"> • Evaluating Risk; Quantifying Risk for Comparative Purposes • Treating the Risk; Different Treatments, Varying Intensities • Quality Examination Instructions and Reporting; Risk Analysis Unit Involvement
November 5	<ul style="list-style-type: none"> • Follow up Activities; Monitoring & Reviewing, Consulting & Communicating • Compliance; Measuring and Encouraging Business Compliance • Risk Management Action Plan Development
November 6	<ul style="list-style-type: none"> • On-site mentoring. Drafting of one-year action plan

Development of a one-year action plan

Following the formal training session, the risk management advisor used the final day of the assignment to work with a small team to develop a one-year action plan for Nepal Customs to begin the shift to a risk-based, intervention-by-exception approach to customs processing of commercial shipments. During the development of the first draft of the action plan, the participants were challenged to develop a logical sequence following project management best practices. The action plan is based on the assumption that the Director General will, among other steps, actually assign staff to jobs within a permanent risk management unit. This is an important action. The one-year action plan will be modified further and translated into Nepali for submission to the Director General of Customs. The first draft of the one-year action plan is included in this report as Appendix B.

Recommendations for further technical assistance

During the course of the training, the participants identified that Nepal has reached an agreement with the Asian Development Bank (ADB) and the United Nations Conference on Trade and Development (UNCTAD) to establish a wide area network (WAN) linking all of the Customs offices with ASYCUDA processing to a central server in the headquarters, to implement the selectivity module, to generally upgrade the ASYCUDA software, and to provide training on risk management. Nepal Customs believes that UNCTAD will dispatch a technical advisor to Nepal to start a three-year project during the first quarter of 2007. Further technical assistance by USAID in this area should be confirmed with ADB and UNCTAD in order to prevent overlap with the ADB/UNCTAD project. That said, relative to risk management training and applications, the technical assistance that will be provided by UNCTAD on risk management will likely focus on the application of selectivity that can be applied in ASYCUDA. It is less likely that the UNCTAD assistance will focus on the more modern approaches to customs risk management that place a greater emphasis on identifying high-confidence in low-risk through AEO programs or addressing root causes of non-compliance such as a lack of information on regulations readily available to stakeholders.

Because Nepal Customs must be responsive to revenue collection goals imposed by other government agencies, the potential for the actual collection of revenues at the legal rate is at risk. Given existing practices, the best return on investment for further technical assistance could be in the development of an automated trade information system, such as is currently in place in Jordan. Investing in transparent information systems and placing Customs in a responsible role for the upkeep of such a system would both increase transparency and permit a key foundational tool for better risk management to be put in place. The ADB/UNCTAD project that will link border posts to Customs headquarters also has the potential to support the development of an

intranet within Nepal Customs. The same infrastructure that will support the flow of declaration information to Customs headquarters can also be used to manage the flow of information back to the outlying Customs posts.

A second area for continued technical assistance that would not likely overlap with the proposed ADB/UNCTAD project would be the development of an AEO program compliant with the WCO SAFE Standards. Currently, there are very few developed countries that have programs that meet the SAFE criteria. Nepal could move forward with such a program with the objective of not having to later chase after developed countries by coming up to par to the current international best practices. This type of program would need to be very carefully designed so that it does not become simply another way of extending benefits based on the payment of unofficial payments to Customs officers.

A final recommendation would be to do an assessment of Nepal customs and to make modifications based on the WCO's revised Kyoto Convention. It is surprising that Nepal has not received technical assistance in this area, particularly as they are preparing a new customs law that should be based on the revised Kyoto Convention if it is intended to meet the best international standards. The application of a revised Kyoto approach could also help resolve issues such as the current lack of a holistic, multi-agency approach to border management.

Section III. Valuation and Classification

Prepared by Ben Irvin

Overview and background

WTO Customs Valuation Agreement

Nepal became a member of the World Trade Organization in 2003. Prior to that, the Nepal Customs Administration used the Brussels Definition of Value (BDV) to determine the customs value of imported goods. The BDV is a “notional” system of valuation, meaning that it reflects the price that the goods should fetch under normal market conditions. The WTO Customs Valuation Agreement (CVA) is a “positive” system of valuation, meaning that it reflects the actual price paid or payable for the imported goods. Transition from BDV to the WTO CVA is more than a philosophic change. It also requires changes in customs valuation procedures, thinking and techniques. As a condition of membership in the WTO, the Government of Nepal promised to fully implement the WTO Customs Valuation Agreement by January 1, 2007.

Customs Classification under the Harmonized System (HS)

Member countries of the WTO are required to submit import and export data based on the Harmonized System. Accurate statistical data is the basis of a country’s trade policy, and is relied on by WTO member countries for trade negotiations, application of preferential trade benefits, and other trade provisions.

Training topics and delivery

In consultation with Nepal Customs, a training agenda was prepared to provide the participants with a basic understanding of the WTO Customs Valuation Agreement, and customs classification under the Harmonized System (HS) and to work with them to prepare a valuation Action Plan. The topics covered are outlined in the training agenda below. The workshops were well received, and many relevant questions were asked by the workshop participants.

Mr. Irvin observed that although the training participants understood many of the WTO CVA valuation principles, additional training is needed for Nepal Customs Administration officials on the CVA.

Mr. Irvin presented a workshop on the General Rules of Interpretation (GRIs), and then tested the application of the GRIs to specific product classification examples. From previous training experience with other Customs administrations, it has usually been the case that the principles of the HS and the GRIs to the HS are reasonably well

understood. Unfortunately, most of the Nepal workshop participants did not understand the GRI principles, or perhaps were not able to apply the principles to a specific classification problem and/or example.

Valuation and classification training agenda

DAY	TOPICS
November 1	<ul style="list-style-type: none"> • Meeting with Director and Management Staff • Introduction • Current Status of Nepal Customs with Respect to Classification and Valuation • Customs Challenges in the 21st Century; Understanding the Necessity for Risk Based Customs Controls • History of Customs Valuation; GATT and the WTO • Transaction Value
November 2	<ul style="list-style-type: none"> • Transaction Value of Identical Merchandise • Transaction Value of Similar Merchandise • Deductive Value • Computed Value
November 3	<ul style="list-style-type: none"> • Fallback Method • The Use of Valuation Databases • Valuation Fraud
November 5	<ul style="list-style-type: none"> • Classification Principles and Techniques • Classification Fraud
November 6	<ul style="list-style-type: none"> • On-site mentoring. Drafting of one-year action plan

Development of a one-year action plan

Following the formal training session, the valuation and classification advisor used the final day to work with a small team to develop a one-year action plan for Nepal Customs to address key topics in customs valuation and classification. The action plan is included in this report as Appendix B.

Recommendations for further technical assistance

As a condition of membership in the WTO, the Government of Nepal promised to fully implement the WTO Customs Valuation Agreement by January 1, 2007. It is imperative that the WTO CVA provisions be correctly implemented as soon as possible. For that reason, it is recommended that additional valuation training be undertaken as soon as possible.

Lack of understanding of WTO valuation provisions

Without regard to timing and/or donor funding, additional valuation training appears to be required in three specific areas:

1. Customs officers at border posts. This area of training is perhaps the most important as Nepal Customs employs a “decentralized” (rather than a centralized) system of valuation control. If errors in application of the WTO CVA are made by local officers, such errors will not be discovered unless the importer protests. The training participants, many of whom were from border posts, did not appear to grasp many of the underlying principles of the WTO CVA.

2. Valuation Department at Nepal Customs Headquarters. It was noted that most (if not all) of the training participants did not have a copy of the WTO CVA agreement. The FASTrade advisor gave a photocopy of the Customs Valuation Agreement as well as the Interpretative Notes to a member of the Nepal Customs headquarters Valuation Directorate.

The Valuation Directorate needs to receive in-depth training on the principles of the WTO CVA as well as the Interpretative Notes. Training participants seemed surprised when they were informed that 1) there are a set of Interpretative Notes to the CVA, and 2) the Interpretative Notes to the CVA have the same legal status as the Agreement itself.

Obviously, if the Nepal Customs Valuation Directorate is to implement the principles, procedures and administration of the WTO CVA, then the Directorate must have a firm understanding of the WTO CVA.

3. Training-of-trainers. The Nepal Customs Administration should identify and prepare selected customs officers with training abilities, to be part of a “train-the-trainers” cadre. Such trainers should be available at each post for the purpose of training new customs officers, as well as upgrading the knowledge of existing customs officials.

Lack of understanding of principles of the General Rules of Interpretation of the Harmonized System

As stated earlier, member countries of the WTO are required to submit import and export data based on the Harmonized System. For this reason, and referencing the comments to lack of understanding of the HS GRI principles, it is imperative that further training on customs classification utilizing the HS GRIs be delivered.

Without regard to timing and/or donor funding, this observer believes that additional training on the General Rules of Interpretation (GRIs) should be conducted, along with specific classification problems to evaluate the ability to apply the HS GRI principles.

Section IV. Internal Investigations and Integrity

Prepared by Christopher Nelson

Overview and background

Preparations for the advisory assignment were informed by review of key information including: trip reports submitted by previous FASTrade assistance efforts; material available on the Nepal Customs website in reference to their organization chart, the Three Year Customs Reform and Modernization Action Plan for 2003 – 2006, their Code of Conduct dated 2004, News Bulletins and other information; and e-mail exchanges with a Nepal Customs liaison officer on specific issues related to internal investigations and integrity.

This information helped to establish an accurate appraisal of developments seen in Nepal Customs since the previous FASTrade training mission in 2005. With reference to the Internal Inspection Unit, the following issues were identified and considered in the development of the training lesson plans for this mission:

- The Internal Inspection Unit is a non-operational unit with three full-time employees. The Unit lacks even the most basic equipment and has no legal authority to conduct investigations;
- It is still uncertain whether the Internal Inspection Unit will report to the Director General, as recommended, or will remain under the Deputy Director for Customs Management. The reorganization plan was submitted to the Ministry of Finance for approval but had not been approved as of the time of the assistance activity;
- The Internal Inspection Unit has not engaged in any meaningful training activity since the last USAID sponsored integrity awareness training mission conducted in 2005. There are new personnel in the Internal Inspection Unit and they did not receive the previous integrity awareness training;
- No meaningful organizational or functional activity was noted with reference to the Internal Inspection Unit in the Three Year Customs Reform and Modernization Action Plan for 2003 – 2006; and
- The Customs Hotline no longer exists.

Training topics and delivery

The advisor prepared appropriate instructional materials for the training to be conducted and made adjustments and revisions to the standard training material to meet the current skill levels of the Internal Inspection Unit and to enhance the previous training and assistance that was provided in 2005. The topics covered are outlined in the training agenda below.

The training material was divided into two sections, with the first section geared to the most basic elements of the roles and responsibilities required of the agency, the employee, and the internal inspector in reference to integrity awareness and ethical conduct. This section also covered the Code of Conduct and promoted an understanding of what corruption is and the need for accountability, responsibility and transparency in the daily work of Customs employees.

The second section was organized to improve the participants' skills and enhance their use of interview and interrogation techniques that could be used by the internal inspectors when they are conducting basic integrity investigations that fall within their limited authority. Until the passage of legislation giving Customs direct authority to conduct criminal investigations, the inspectors will be limited in the scope of their investigative activity.

The training methodology used a combination of presentation, interactive discussions and practical examples of what constitutes corruption and bribes. The table of offenses was reviewed and each offense was dissected and discussed, particularly the relationship between the business community and Customs employees. Offenses committed on duty and off duty, financial matters and relationships were discussed in an open and candid manner.

On the last day of training, the Internal Inspection Officers participated in a series of exercises in which they put to use what they had just learned. They were given certain information about a theft from a Customs controlled warehouse. The information contained the date and approximate time and place of the theft, the value and description of the merchandise, the possible mode of transportation used to remove the merchandise and sworn statements from four witnesses placing a suspect at the scene of the theft. The FASTrade instructor played the part of the suspect and had information that the trainees had to obtain in order to solve the case. The "suspect" would only give the answers if the inspectors asked the right questions. The exercises were a success, not only did the trainees solve this basic case but they observed and commented on the instructor's intentional use of body language and non-verbal communication ploys used during the interrogation. The interviewing and interrogation techniques demonstrated can be applied by the participants whether or not they are assigned to the Internal Inspection Unit.

The advisor also provided advisory assistance to appropriate internal investigations personnel to address institutional and technical issues during non-classroom time.

The participants from the Internal Inspection Unit gave all the indications that they wanted additional integrity and investigative training and responded to this training with an enthusiastic attitude and a desire to learn more about investigations. They expressed frustration about the slowness of the legislative process and wanted their

Customs service to improve during the coming years. They all wanted additional investigative training in internal investigations and by doing so they recognized their limitations.

Internal investigations and integrity training agenda

DAY	TOPICS
November 5	<ul style="list-style-type: none"> • Observe training method and become familiar with venue
November 6	<p>Introduction to Corruption and the role it plays as a barrier to the development of national goals. Why fighting corruption is important to Nepal Customs.</p> <ul style="list-style-type: none"> • Role of the agency • Role of the employee • Role of the internal investigator • Code of Conduct and the Table of Offenses
November 7	<ul style="list-style-type: none"> • Procedures and authority • Administrative vs. criminal cases • Cooperation with other entities • Documents of international trade • Receipt and evaluation of information • Creating the investigative plan • Evidence collection and preservation
November 8	<ul style="list-style-type: none"> • Sources of information for customs investigators • Special investigative techniques • Integrity testing, confidential source development • Resources available from other customs services and police organizations
November 9	<ul style="list-style-type: none"> • Witness information gathering • Taking written and recorded statements • Interviewing techniques • Interviewing vs. interrogation • Non-verbal communication
November 10	<ul style="list-style-type: none"> • Practical exercises in interviewing and interrogations • Reporting the findings • Case presentation • Reporting to executive management • Discussion of course topics and a question and answer period • Development of a one-year action plan • Conclusion with visit by the Director General of Nepal Customs

Development of a one-year action plan

At the conclusion of the formal training, the FASTrade advisor worked with a small team to develop a one-year action plan for Nepal Customs to set a timetable for adopting the principles of the Revised Arusha Declaration (2003), which provides a clear blueprint for Nepal Customs to follow on integrity issues. The Arusha Declaration outlines the necessary steps that Nepal Customs should take in the fight against corruption in their service. During the development of the first draft of the one-year action plan, the participants were challenged to develop a logical sequence following project management best practices. The action plan also includes steps to formalize the Internal Inspection Unit, an important consideration. The one-year action plan will be modified further and translated into Nepali for submission to the Director General of Customs for his review. The action plan is included in this report as Appendix B.

Recommendations for further technical assistance

The action plan developed with the training participants includes following the steps outlined in the Revised Arusha Declaration to address integrity issues in Customs administrations and assistance should focus on the topics identified in that blueprint.

A priority issue will be to resolve the status of the Internal Inspection Unit, which is currently a non-operational unit that has no legal authority to conduct investigations. The reorganization plan was submitted to the Ministry of Finance for approval but had not been approved as of the time of the assistance activity. When this issue is resolved, additional training in investigative techniques and procedures would be warranted. The members of the Internal Inspection Unit demonstrated above average willingness to participate in the course and would benefit from additional training based on their positive attitude and willingness to approach the concept of fighting corruption from within.

The training program was discussed with the Director General, who related that he was pleased to have the mission come to Nepal to train his staff. He was impressed by the enthusiastic attitude of his staff for the training and stated that he would talk to USAID and others regarding future training.

Section V. Training of Trainers

Prepared by Lori Brock

Overview and background

During the period October 31 to November 15, 2006, FASTrade Chief of Party Lori Brock performed the following to meet the objectives of the USAID funded FASTrade program in Nepal:

- Reviewed previous reports and materials relevant to the design and delivery of training to the Nepal Customs for risk management, valuation and classification, and internal investigations;
- Prepared appropriate training materials for the training of Nepal Customs for a Training of Trainers program in all three areas;
- Provided training to trainers within Nepal Customs that will enable them to then train new staff in risk management principles, valuation and classification, and internal investigations;
- Assisted each unit in preparing a short training presentation with the new materials they had learned during the two weeks;
- Assisted in the preparation of action plans for risk management, valuation and classification, and internal investigations;
- Provided advisory assistance to the Nepal Customs relative to risk management, valuation and classification, and internal investigations outside of the classroom instruction; and
- Contributed to the post-training report projecting possible required follow-up assistance to ensure success and sustainability of the training provided.

Initial Research and Training Preparation

Initial research conducted prior to the preparation of the training materials included:

- Review of a prior report prepared by Robert Holler, consultant to FASTrade in July 2004 entitled "Customs Valuation Assistance in Nepal, Cargo Selectivity Unit Organization and Training, Kathmandu, Nepal"
- Review of a prior trip report prepared by Robert Holler, consultant to FASTrade on May 14, 2005 entitled "Nepal Customs Modernization and Reform Advice and Assistance"
- Review of proposed organization chart reflecting creation of a director for each of the proposed new units for risk management, valuation and classification, and internal investigations in Nepal Customs.

The initial review established that even though an organization chart was created showing the establishment of the three new units. The new units are not functioning or even coordinated and acting as separate groups. Nepal Customs has a training center and a representative from the center was present during the training. However, the training center does not offer training on any of the three topics that were presented during this assignment. In addition, the center does not hold any subsequent or continuing education programs for the customs officers. The three people chosen by their Customs Director to be the “trainers” under these new subjects were also the individuals chosen to lead each unit and was not anyone from within the training center.

Based on this review, the training materials Ms. Brock prepared incorporating the new information presented during the risk management, valuation and classification, and internal investigations training met the objectives of equipping Nepal Customs to prepare their own training manuals and training presentations. This includes information on how to engage their audience and test their participants on their newly learned skills.

Training topics and delivery

Ms. Brock worked as a facilitator during all of the training modules and she delivered five, half-day sessions on training of the trainers during the period of November 1 to November 13, 2006. During the training course, she covered the points of the proposed training as outlined in the schedule. The training methodology used a combination of presentation, interactive discussions and participant assignments. The participants prepared their own training presentations which were given and evaluated on the last day of the program. The objective of the training was to show the participants how to prepare a training guide and presentation using global best practices and making it applicable to their particular situation. This approach proved successful and the presentations that the participants gave were outstanding (Appendix C). They were confident in their presentations, engaged the audience, gauged the audience’s understanding of the materials presented, and kept all in good cheer. The training in this limited timeframe could not cover all the aspects of even a single component of a customs risk management/ internal investigation/ valuation and classification program in detail. Once the new trainers have been fully educated in all aspects of the new materials, another two months developing their own training program would be required to have a complete program at the ready.

Training of trainers training agenda

DAY	TOPICS
November 6	<ul style="list-style-type: none">• Putting action plans into use• Creating a training manual
November 7	<ul style="list-style-type: none">• Creating training presentations• Timing presentations
November 8	<ul style="list-style-type: none">• Addressing your participants, engaging participants, making sure participants understand and absorb materials• Coordinating successful working groups and break-out sessions
November 9	<ul style="list-style-type: none">• Presentation dry run for new trainers (Group A)• Review and feedback on session
November 10	<ul style="list-style-type: none">• Presentation dry run for new trainers (Group B)• Review and feedback on session

Recommendations for further technical assistance

Other than the additional technical assistance recommended by the FASTrade advisors for risk management, valuation and classification, and internal investigations, additional assistance could be given to the unit leaders to continue to develop their skills and training materials. In addition to having the leaders of these units able to provide the necessary training for its staff, trainers in the official training center should have those skills and house the materials.

Appendix A. List of Participants

The participants were identified by Nepal Customs and included Directors, Section Officers and customs officers from several Customs posts outside of Kathmandu. The participants' names, designations and offices are listed below.

Name	Designation	Office
Mr. Rabi Raj Pant	Director	DOC - Tariff Classification
Mr. Hari Prasad Pandey	Director	DOC - IT
Mr. Mitra Lal Regmi	Director	DOC - Valuation
Dr. Gyanu Raja Shrestha	Director	DOC - Inspection
Mr. Chakrapani Neupane	CDK	DOC - Laboratory
Mr. Jyoti Koirala	Investigation Officer	DRI
Mr. Achyut Prasad Shiwakoti	Section Officer	DOC - IT
Mr. Surya Prasad Sedai	Section Officer	DOC - Valuation
Mr. Ganga Prasad Sharma	Section Officer	DOC - Tariff
Mr. Shishir Ghimire	Section Officer	DOC - Inspection
Mr. Mukunda Poudel	CCO	Tribhuvan International Airport (TIA)
Mr. Sebantak Pokharel	Customs Officer	Mechi Customs
Mr. Yogendra Sharma Ojha	Customs Officer	Biratnagar Customs
Mr. Dil Bahadur Chhetry	Customs Officer	Janakpur Customs
Mr. Kedar Prasad Paneru	Customs Officer	ICD Sirsia Customs
Mr. Rajendra Dhungana	Customs Officer	Birgunj Customs
Mr. Ishwori Prasad Aryal	Customs Officer	Bhairahawa Customs
Mr. Maniram Paudel	Customs Officer	Krishnanagar Customs
Mr. Jagadishwor Upadhyaya	Customs Officer	Nepalgunj Customs
Mr. Gyanendra Raj Dhakal	Customs Officer	TIA Customs
Mr. Shiva Bhandari	Customs Officer	Sunsari Customs
Mr. Gauri Shankar Upadhyaya	Customs Officer	Sarlahi Customs
Mr. Gopal Khatri	Customs Officer	Kailali Customs
Mr. Ram Kumar KC	Instructor	RATC

Appendix B: One-year action plans

Risk Management Action Plan

Development Date: November 6, 2006

Authors

Mr. Achyut P. Shiwakoti

Mr. Yogendra Ojha

Mr. Kedar Paneru

Mr. Shiva Bhandari

Approval(s) Director General Nepal Customs, Bal Gobinda Bista

(Signature)

Approval Date: (Target: November 15, 2006)

ASSUMPTIONS:

1. Director General assigns staff to a risk management unit and assigns an acting director of the risk management unit.
2. Statistics Division is directed by Director General to take assignments from Risk Management Director.
3. Other government agencies will permit Nepal Customs to assist them.
4. ADB will fund and provide ASYCUDA Selectivity training during the first quarter of 2007.

1. COMPLIANCE RISK BASICS

What needs to be done?

Nepal Customs needs to conduct a root cause analysis to determine why companies fail to comply with regulations. This analysis may identify ways to increase the opportunities and benefits for voluntary compliance. This should be a combined effort with other stakeholders involved in border clearance issues including other border mandate agencies and the private sector.

Priorities for the coming year	Target Date	Responsible for Ensuring Success
(1.1) Identify all stakeholders: Categories: Importers (include volunteer representatives from business associations) Exporters Brokers Other Government Agencies Other Customs Offices	January 1, 2007	Mr. Sudeep
(1.2) Schedule event with stakeholders for problem identification and root cause analysis <ul style="list-style-type: none"> ▪ Root Cause Analysis with stakeholders - What is causing companies to potentially not be compliant? <ul style="list-style-type: none"> – Over reaching duties, taxes and fees? – Information accessibility? – Technical capacity of customs and private sector? – Integrity issues? 	March 1, 2007	Mr. Rajan Khanal

<p>– Other issues?</p> <p>Identify Nepal Customs strategy and resource balance between informed and enforced compliance</p>		
(1.3) Prepare recommendations report to Customs Director and Government of Nepal	March 15, 2007	Mr. Achyut
(1.4) Lobby Director General of Customs and Secretary of Finance for acceptance of recommendations and authority for Nepal Customs to implement them.	April 15, 2007	Mr. Achyut
(1.4.1) Acceptance, rejection or modification of recommendations, appointment of Project Manager for risk management changes	May 1, 2007	Director General of Customs and Secretary of Finance
(1.5) Implement recommendations: Phased approach? (May extend beyond one year)	Start Date: June 1, 2007	Project manager to be named by Director General (May be Director of Risk Management)
(1.5.1) Finalize project plan	July 1, 2007	Project Manager
(1.6) Report to Government and stakeholders on implementation success	Start date: July 1, 2007 - periodic reports every six months	Project Manager

2. INFORMED COMPLIANCE - AEO PROGRAM

What needs to be done?

Nepal Customs needs to develop an Authorized Economic Operator (AEO) Program that will identify and reward those companies that Nepal Customs has the highest confidence will be voluntarily compliant with all requirements. This program should be open to all sectors of the international trade community following the “Full Circle Due Diligence” process.

Priorities for the coming year	Target Date	Responsible for Ensuring Success
(2.1) Form Compliance Audit Team in Nepal Customs (contingent on 1.3, 1.4.1)	May 1, 2007	Director General
2.1.1) Pre-select candidates for audit training	December 1, 2006	DG, Acting Director of RM, HR Director
(2.2) Train compliance auditors Contingency - Trainer and funding for training identified and secured.	March 1, 2007	DG, training provider
(2.3) Identify beta test companies in each sector (with 1.1 process)	January 1, 2007	Mr. Sudeep
(2.4) With beta test companies develop and review standards and rewards for AEO companies Contingent on 1.4.1, 2.2, 2.3	July 1, 2007	Director of Risk Management , trained auditors
(2.5) Write draft Nepal Customs Authorized Economic Operators standards & rewards Contingent on 2.4	August 1, 2007	PM, DG, Finance Secretary
(2.6) Beta test companies implement standards and document in a due diligence manual Contingent on 2.5	November 1, 2007	Beta Test companies (potential technical assistance)

(2.7) Customs audits beta test companies Contingent on 2.2, 2.6	Target date exceeds one year - estimate February 1, 2008	DG, Director of Risk Management
(2.8) Customs issues audit report to beta test companies for acceptance, conditional acceptance subject to changes to internal processes or rejection from program	Two weeks after audits	Director of Risk Management
(2.9) Customs and accepted beta companies review standards and rewards for final adoption	1 month after all beta test audits	Director General, Director of Risk Management
(2.10) Customs launches open program for Authorized Economic Operator program	1 month after 2.9	Director General
(2.11) Customs and private sector establish periodic review of standards and Authorized Economic Operator program for continuous improvement	Periodic review after 2.10	Director of Risk Management

3. ENFORCED COMPLIANCE - STATISTICAL ANALYSIS

What needs to be done?

Once Nepal Customs has established an internal policy on the balance of resources between informed and enforced compliance, Nepal Customs must conduct a complete initial plan of how goods will be channeled into red, yellow or green inspection lanes. Customs can then enter the targeting criteria into ASYCUDA. The entry of risk indicators into ASYCUDA will be contingent on Nepal Customs receiving training on the ASYCUDA selectivity module. This training is tentatively planned for 2007 with Asian Development Bank funding. International experience suggests that ASYCUDA often becomes clogged with “raised flags” with no continued justification. While ASYCUDA is a very good, dependable declaration processing engine, the ASYCUDA system is heavily reliant on external manual systems to modify the risk flags and entry of new regulation changes.

Priorities for the coming year	Target Date	Responsible for Ensuring Success
(3.1) Identify targets for risk management to put into ASYCUDA - conduct statistical analysis for valuation, tariff classification and country of origin Contingent on 1.1	January 1, 2007	Mr. Sudeep and Mr. Pandey
(3.1.1) Send to border posts and customs houses written instructions to test risk targets identified in 3.1 Contingent on 3.1 and assignment of resources to risk management	February 1, 2007	Director General, Director of Risk Management, all Chief Customs Officers
(3.2) Create data base of inspection results <ul style="list-style-type: none"> • Define data to be collected • Write database • Create system for collection 	January 1, 2007	Director of Risk Management, Mr. Pandey, IT Director, Mr. Shresthen, Director of Inspection
(3.3) Conduct internal review and review with other border mandate	April 1, 2007	Director General, Finance

agencies of risk priorities Contingent on 1.1, 1.2, assignment of agency coordination responsibility by Director General		Secretary
(3.4) Write proposed new polices for ASYCUDA flag raising and lowering with mandatory review dates Contingent on 1.2	June 1, 2007	Director General and Director of Risk Management
(3.5) Write proposed new criteria for ASYCUDA flags and program ASYCUDA Contingent on receiving further training in the ASYCUDA system.	Unknown	Director of Risk Management, Mr. Pandey, IT Director, Mr. Shresthen
(3.6) Implement new criteria Contingent on 3.5	Unknown	Director of Risk Management, Mr. Pandey, IT Director, Mr. Shresthen
(3.7) Review new criteria for impact and validly per new policy	Unknown	Director of Risk Management, Mr. Pandey, IT Director, Mr. Shresthen, with stakeholder review

4. COMPLIANCE UPDATES - TEAM REVIEW

What needs to be done?

Nepal Customs must recognize that risk management is a continuous process and a way of doing business, not a donor responsibility. As part of the Nepal Customs business process, Nepal Customs must establish policies for continual management of risks and identify the organizational support structures to maintain the risk management processes. This includes commitments to infrastructure and human capital development and management. Without the long-term planning and commitment of resources to risk management, advances to the process will not be met.

Priorities for the coming year	Target Date	Responsible for Ensuring Success
(4.1) Track and monitor steps one through three above at periodic milestone review dates	Ongoing, monthly	Director General, Mr. Shiwakoti
(4.2) Conduct analysis of long-term impact of risk management changes on <ul style="list-style-type: none"> • Infrastructure (hardware, software, facilities) • Human Capital Development and Management (position descriptions and assignments including secondary aspects of pay, performance monitoring, recruitment, career track and accession planning) 	Ongoing, reported every four months	Director General, Mr. Shiwakoti
(4.3) Prepare long-term (five year) strategic and sustainability plans and implement	July 15, 2007	Director General, IT and Modernization Director
(4.4) Assign responsibility for periodic review and update of risk management strategy.	Quarterly review and at least annual update	Director, Risk Management
(4.5) Conduct at least one scheduled risk management strategy review	July 15, 2007	Director, Risk Management

Valuation Action Plan

Development Date: November 6, 2006

Authors

Surya Prasad Sedai (Coordinator)

Mitralal Regmi

Ganga Prasad Sharma

Rajendra Dhungana

Sebantak Pokharel

Approval(s) Director General Nepal Customs, Bal Govinda Bista

(Signature)

1. VALUATION BASICS

What needs to be done?

Nepal Customs needs to conduct an analysis to identify improvements in the processing of declarations. This analysis may identify valuation improvements both at the field level as well as at the headquarters level.

Priorities for the coming year	Target Date	Responsible for Ensuring Success
(1.1) Identify all steps in valuation declarations processing	December 31, 2006	Mitra Lal Regmi
(1.2) In-depth analysis of ways to improve valuation processing		
A. Centralized vs. decentralized valuation	February 28, 2007	Mitralal Regmi Dhruba Panta Binod Upadhyaya
B. Valuation control (undervaluation) system	July 14, 2007	Mitralal Regmi
C. Guidelines for application of Article 17 of the WTO Customs Valuation agreement - Customs satisfied itself as to accuracy of documents.	December 31, 2006	Mitralal Regmi
D. Identification of related party transactions	November 30, 2006	Mitralal Regmi
E. Identical & similar previously accepted transactions database	December 31, 2007	Hari Prasad Pandey
F. Training of customs officers		
a. Customs officers	March 31, 2006	Mitralal Regmi
b. Experts at headquarters	"	Hari Prasad Pandey
c. Train-the-trainers	"	
G. Resources and budget for improved valuation system		
H. Make available Customs Valuation Agreement (CVA) documents	July 14, 2007	Bal Govinda Bista
	November 30, 2006	Mitra Lal Regmi

I. Implementation of Interpretative Note of the CVA	July 14, 2007	Mitra Lal Regmi
(1.3) Prepare recommendations report to Director General and MoF/GoN	November 30, 2006	Mitra Lal Regmi
(1.4) Implement recommendations	July 14, 2007	Mitra Lal Regmi

Integrity and Internal Investigations Action Plan

Development Date: November 10, 2006

Authors

**Gyanu Raja Shrestha
Shishir Ghimire**

Approval(s) Director General Nepal Customs, Bal Govinda Bista _____
(Signature)

CUSTOMS INTEGRITY

What needs to be done?

The Arusha declaration of 1993 (and revision of 2003) provides a clear blueprint for Nepal Customs to follow. It outlines the necessary steps that should be taken in the fight against corruption.

1. PUBLICIZING CODE OF CONDUCT

What needs to be done?

Have every Customs employee, including management, sign a receipt for a copy of the Code of Conduct stating that he or she understands the content therein. Make this available to the public as an example to customs commitment to the fight against corruption.

Priorities for the coming year	Target Date	Responsible for Ensuring Success
(1.1) Develop a Code of Conduct for Customs Agents to include penalties or table of offenses <ul style="list-style-type: none">- Identify and compare at least three other countries CoC/penalties or table of offenses for customs agents- Set up a working group to decide the most appropriate penalties for offenses in Nepal to include agents, HR, private sector, and Directors- Review and approval of revisions to be made with Ministry of Finance- Once approved put in for implementation and enforcement	March 2007 April 2007 July 2007 August 15, 2007	Dr. Gyanu Raja Shrestha
(1.2) Training for customs agents on CoC with penalties and/or table of offenses	September 2007	Mr. Shishir Ghimire

-Have customs employees sign that they understand contents		
(1.3) Enforcement of Code of Conduct and penalties/or table of offenses - Head of Internal Investigation Unit maintain record of penalties - Internal Administration Division publicize offense penalty statistics in bulletin and other media - Consultation with private sector stakeholders at public hearings on feedback of conduct of customs agents	September 2007 January 2008 Monthly	Mr. Gyanu Raja Shrestha Director of Administration Director General Chief Customs Officers

2. PROMOTING TRAINING

What needs to be done?

To revisit the issue of the training of Customs Officers. To attempt to persuade the Ministry of Finance of the benefits of having future customs officers trained by qualified customs instructors.

Priorities for the coming year	Target Date	Responsible for Ensuring Success
(2.1) Training of Trainers in Internal Investigations - Develop training manuals and materials - Develop training presentations	October/November 2007	Dr. Gyanu Raja Shrestha Internal Inspection Unit
(2.2) Training of Internal Investigations staff - Initial training for new unit employees - Annual refresher trainer on up-to-date on new detection and investigative techniques		Internal Inspection Unit

(2.3) Training of Agents on internal investigations		Internal Inspection Unit
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3. ESTABLISHING INTERNAL INSPECTION UNIT

What needs to be done?

To reach out to the Commission for the Investigation of the Abuse of Authority (CIAA) and attempt to establish a dialogue for the establishment of a workable Internal Inspection Unit within Customs. Even if it means assigning members of the CIAA and using their investigative authority to begin a meaningful integrity program within customs.

Priorities for the coming year	Target Date	Responsible for Ensuring Success
(3.1) Establish Internal Inspection Unit for Central Customs Authority <ul style="list-style-type: none"> - Database of employees and agents accused of offenses for internal inspection unit - Job titles and description - Develop job manual policy and procedures - Assignment of staff 	March 2007	Director General
	March 2007	Inspection Unit
	September 2007	Internal Administration
	September 2007	Internal Administration
(3.2) Develop standard indicators of performance for internal investigation officers	October 2007	Dr. Gyanu Raja Shrestha

Appendix C. Example Presentation from Training of Trainers Module

Training Manual on Internal Investigation

Trainers

- Shishir Ghimire
- Ishwori Pd. Aryal
- Maniram Paudel
- Gyanendra Dhakal
- Ram Kumar K C

1

Purpose

- ❑ Integrity in customs service
- ❑ Control of abuse of authority
- ❑ Increase of Private sector confidence
- ❑ Reduce corruption
- ❑ Develop effective and transparent system for public service.

2

Background

- ❑ Increase customs integrity and develop private sector confidence through the reduction of abuse of authority, control of corruption and by serving effective and transparent service.
- ❑ All customs employees including field officers and inspectors at DoC twice a year.
- ❑ Mistrust between customs administration and business community

3

Current Status

- ❑ 29 main customs offices, 143 sub-customs offices and 1317 employees
- ❑ Public complain about customs personnel and customs organization as a whole.
- ❑ No such training program till now and demand of training from field level offices and business community
- ❑ Budget has allocated to conduct such type of training

4

Customs integrity

- ❑ Code of conduct of customs personnel
- ❑ Customs rules and regulations
- ❑ Public service delivery system
- ❑ Conflict of interest
- ❑ Disciplinary actions according to civil service act
- ❑ Disclosure of personnel assets and liabilities

5

Control Abuse of Authority

- ❑ Customs rules and regulations
- ❑ Anti-corruption Act
- ❑ Role of anti-corruption agencies i.e. NVC, CIAA, CMU, Pro-public etc.
- ❑ Transparent systems (Procedures, Payments, Automation etc.)
- ❑ Customs Manuals, Notifications and Directives etc.

6

Increase Private Sector Confidence

- ❑ Information Sharing system (Publication of rules and regulations , Posters , Manuals, citizen charters etc.)
- ❑ Public hearing/complain box
- ❑ Periodic meetings and interactions with stakeholders.

7

Reduce Corruption

- ❑ Accountability of Customs Personnel
- ❑ Civil Society Participation System
- ❑ Role of Private Sector, DoC and MoF
- ❑ Public Sector Management

8

Effective and Transparent Systems for public service

- ❑ Develop policies ,procedures, practices and institutions influencing ethical conduct in public service.
- ❑ Promote govt. Actions to maintain high standards of conduct and counter corruption in the public sector
- ❑ Incorporate the ethical dimensions into mgmt frameworks to ensure that mgmt practices are consistent with the values and principles of public service.
- ❑ Assess the effects of public mgmt. reforms on public sector ethical conducts.
- ❑ Use major reference principles of mgmt in the public service to ensure high standards of ethical conduct.

9

Conclusions

- After having this training programme
- ❑ internal investigation system of the customs personnel will improve their performance of work.
 - ❑ Customs integrity will be increased.
 - ❑ Service delivery system will be more effective, efficient and economic.
 - ❑ Customs personnel will be more accountable to the clients.

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