

III. PROMOTING TRADE FACILITATION MEASURES

The improvement of border management alone does not lead to enhancing trade facilitation. This has to be accompanied and supplemented by implementing best practices which are consistent with the RKC. Some of the measures have been implemented by the countries concerned. Other measures are listed in the following paragraphs for consideration.

A. Using Single Administrative Document

The promotion of a Single Administrative Document (SAD) for the purposes of submission of a trade declaration document which is applicable to customs and all others controlling agencies. A SAD is a standard format document containing columns for the entry of trade data to service the purposes of all agencies. This negates the requirement to submit different sets of the same data to obtain the approval of different controlling agencies. SAD can be categorized into different sub-sets with each sub-set being used for the application of a different customs regime. SAD contains exhaustive information about goods, way of its transportation, consignor and consignee of goods, banking data and tax data. The Russian Federation introduced single administrative document on 1 January, 2007.

SAD should adopt the format of the UN Lay-Out Key. The SAD will also facilitate the development of the single window and submission of trade data. Each of the data element set down can also be standardized to comply with international standards.

The ASEAN single administrative document (SAD) takes the form of an ASEAN Customs Declaration Document (ACDD). The ACDD adopted the format of the UN Layout Key for Trade Documents and takes into account the WCO guidelines on single window data harmonization. The ACDD was implemented in June 2006 and the document contains 48 data parameters. The majority of ASEAN member states have adopted the ACDD.

As mentioned in the previous chapter, the EurAsEC¹³ has decided to adopt the SAD. The SAD of the European Union (EU) will serve as the model for the SAD in the EurAsEC Customs Union.

13 The EurAsEC includes four SPECA countries, i.e., Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan

Box 9: European Commission Description of the Single Administrative Document (SAD)

The implementation of the single administrative document (SAD) had the following essential characteristics:

1. *To ensure openness in national administrative requirements.* This openness constitutes the basis for any progress and simplification.
2. *Rationalization of and reduction in administrative documentation* (of a statistical, tax, transport, exchange-control, etc. nature) which have resulted from the introduction of the SAD and which, formerly, required the use of different administrative forms, and the limitation of the administrative documents which may be required in support of the SAD. That is why this is not exclusively a customs document but a single administrative document. The only cases where additional or different documents may continue to be required in types of trade for which the SAD applies. That covers in particular:
 - The documents expressly created by EU acts or provided for by such acts or for the implementation of specific regulations, the application of which cannot be implemented solely by the use of the single document. (For example: additional documents intended for the payment of export refunds).
 - The documents required under the terms of international conventions compatible with the treaty (For example: document 302 for the transport of goods for NATO).
 - The documents required from operators to enable them to qualify at their request, for an advantage or specific facility.
3. *To reduce the amount of information and standardize the required data.* The legislation on the SAD establishes, procedure by procedure, the maximum list of information which can be required of operators. In this system, boxes called "optional boxes for the Member States" enable these to collect information from areas which are not yet completely harmonized at EU level. The EU Customs provisions also provide for, procedure by procedure, the minimum list of the boxes which have to be completed.
4. *The harmonization of the data* likely to be transmitted from one Member State to another, together with the establishment of common codes, constitutes a language understandable in all the Member States and avoids linguistic problems for the documents which are drawn up in other countries. The SAD therefore fits within this framework and provides the basis for coordinated development of computerized systems.

B. Establishing Single Window Environment

Customs administrations world-wide are adopting ICT to simplify their procedures and processes and to enhance compliance management. The promotion of ICT is also one of key elements that are contained in the Revised Kyoto Convention (RKC). Use of ICT also promotes consistency and transparency. Among the Central Asia countries, Kazakhstan is by far the most advanced in this field. Uzbekistan Customs also has its own UAIS. The Uzbek government is looking towards adopting a Single Window environment for the trade as well. In a Decision of 20th January 2009, an Inter-Departmental Working Group was established to study and develop the Single Window Concept. The Interdepartmental Working Group is coordinated by the Ministry of External Economic Relations, Investment and Trade with representatives from the Uzbek SCC, the Ministry of Economy, and members of the

Chambers of Commerce, Tax Department and other Ministries concerned in the border management issues. It has also been mentioned that UAIS was also planned for Tajikistan and Kyrgyzstan. But no further progress has been reported.

A single window is a facility that allows government bodies and the private sector players involved in international trade and transport to lodge standardized information and documents with a single entry point to fulfil all trade declaration and regulatory requirements. When information is submitted in electronic form, individual data elements are only submitted once.

The introduction of SEW is also considered a significant factor in the development of an integrated border management arrangement. One of the country which has successfully implemented the SEW is Ghana, a good example for developing and low-income countries to promote trade through trade facilitation measures. The SEW was built based on the Singapore Customs TRADENET system. The experience of Ghana is illustrated below in Box 10.

Box 10: Ghana Customs – Experience on the Implementation of Single Window

The Ghana Community Network (GCNet) was established in November 2000. The Ghana TradeNet and Ghana Customs Management System (GCMS) were rolled out in 2002.

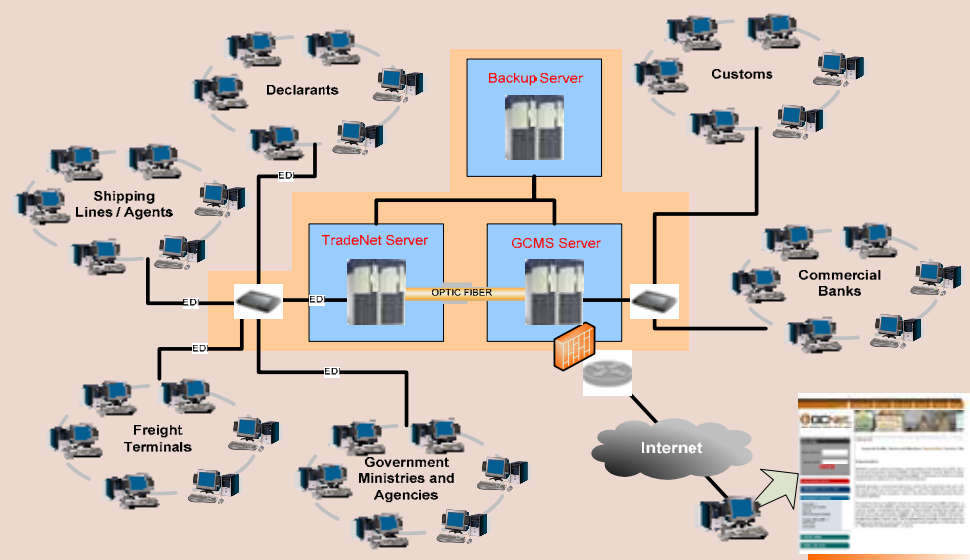
GCNet services include:

- Submission and distribution of Cargo Manifests
- Submission and distribution of Customs Declaration
- Confirmation of duty and tax payments at commercial banks
- Issuing and transfer of Customs release approval
- Provides a Risk Management Module that Effectively Profiles Consignments
- Into Risk categories
- Issuing and Transfer of Delivery orders
- Web Portal with trade-related information, some in real-time
- Direct access to government agencies and ministries

The TradeNet system together with the GCMS was introduced to:

- Facilitate legitimate Trade and Clearance of Goods through Customs in a secured manner
- Enhanced Mobilization of Trade-Related Revenue for Government
- Reduce malpractices Associated with Import and Export Trade
- Reduce Transactions Costs and Delays Trade Operators encounter in clearing consignments from the ports

The systems are used as effective monitoring tools with audit trails to check Customs officers' performance and Compliance by Declarants. The TradeNet system also provides for building a Transaction Value Database. In addition the Tradenet system facilitates post clearance to account for all consignments and proper closure of transactions. All the Customs regimes are included in the system. The system architecture is shown below.



Electronic data interchange under a single window environment serves the purpose of a single submission of data and Information, a single and synchronous processing of data and information, with a single decision-making for release and clearance of goods. The trading

community benefits from submitting the data once only and receives a decision on the clearance status.

The design of the single window also takes into account the ability to send and receive from abroad using current technology. The architecture of the single window also contains risk management tools which support customs and/or other agencies switch from a total physical examination and controlled system to trade facilitation leading to intervention by exceptions.

C. Priority (Preferred) Traders' Scheme

Kyrgyzstan has in place a “fair business entity” scheme which provides for the completion of customs control at the traders’ premises or inland authorized place. The consignee does not have to undergo a possibly long wait at the border. Such a scheme is supported under the transitional standard provided in the General Annex of the RKC. The term used in the RKC is “authorized persons”. Other countries which have similar scheme as a form of trade facilitation include Republic of Vietnam, Malaysia, Singapore, Thailand and Australia.

The Australian Customs also apply a scheme known as the Accredited Client Scheme. The Accredited Client Scheme is designed to simplify the reporting requirements for Australian importers and exporters with a history of satisfactory compliance. The Scheme provides benefits for both clients (in terms of business process savings) and Customs (through improved compliance by traders with Government requirements); and cost savings and higher productivity for Customs. Under this arrangement Customs enters into a legally binding contract with the client to provide an alternative import and export cargo reporting system for specified goods. The client agrees to meet specified performance standards and to undertake regular reviews of business processes to demonstrate standards being met. Within ASEAN, the Malaysian Customs refer to their scheme as the Golden Client Scheme whilst the Thai Customs uses the Golden Card System. See Box 10 for the eligibility criteria that are established in Malaysia. A requirement which the Malaysian Customs place on their clients to be eligible for the scheme is that the clients must agree to pay Customs duties and taxes via electronic fund transfers (EFT). (See Box 11)

Box 11: Malaysian Customs Golden Client Scheme

Objective

The objectives of the Customs Golden Client Scheme are:

- 1.1 To improve the competitiveness of the Malaysian manufacturer and trader.
- 1.2 To minimize business costs in matters of importation, movement and exportation.
- 1.3 To facilitate customs procedures and bureaucracy to make it easier, clearer and more transparent.
- 1.4 To standardize the customs system and procedures by benchmarking against the best in the world.
- 1.5 To create an environment where movement of goods could be managed faster through minimum documentation process.

Facilities

Facilities that could be expected by the Customs Golden Client are:

- 2.1 Dealing with the proper Client Manager.
- 2.2 Clearance of importation, exportation and movement of goods through Green Lane with minimal data.
- 2.3 Using the Self Accounting System to process the movement of goods to licensed manufacturing warehouse and public and private licensing warehouse.
- 2.4 Drawback facility is based on Self Accounting with the condition that a periodic auditing mechanism is created.
- 2.5 Local sale is made using Self System Accounting.
- 2.6 Submitting complete information on importation, exportation and movement of goods periodically through a consolidated statement according to a definite time frame.
- 2.7 Allowed deferred payment on duties / taxes within a certain period and using an agreed mode.
- 2.8 Other facilities which has been approved by the Panel.

Criteria

Company must fulfill the annual sales turnover required, that is:

- 3.1 Operational Procurement Centres (IPCs) and Regional Distribution Centres (RDCs) that have more than RM50 million annual sales turnover.
- 3.2 Licensed manufacturing warehouse that achieved a RM25 million annual sales turnover.
- 3.3 Corporations which are running import / export activities with more than RM50 million annual sales turnover.

This CGC scheme does not include critically listed goods.

Eligibility

- 4.1 Audited and ratified by the Post Import Division that the company practice an accounting system which follows the generally accepted accounting principles with an audit trail that satisfies the Department's criterion.
- 4.2 Signing a Memorandum of Understanding.
- 4.3 Submitting a General Bond.
- 5.4 Filtered and certified clean by the Investigation Branch.
- 4.5 Company is willing to pay taxes / duties via the Electronic Fund Transfer (EFT).

D. Voluntary Disclosure Scheme

To encourage voluntary compliance, several customs administrations have instituted voluntary disclosure schemes which allows for traders to inform customs of errors made

leading to short- payment of duties and taxes. Such a scheme can only be used if customs had not yet instituted any investigations against the traders. The scheme facilitates the traders who may not have to pay any penalties for shortages disclose or may pay a smaller percentage of penalties. An example of the operation of the scheme is shown below in Box 12.

Box 12: Singapore Customs Voluntary Disclosure Program (VDP)

Voluntary Disclosure Program is for individuals or companies who voluntarily come forward in good faith to disclose errors and omissions in exchange for reduced or no penalty quantum.

Eligibility Criteria for VDP Benefits

- a. Disclosure must be voluntary;
- b. Disclosure must be complete;
- c. Disclosure is made before notice or commencement of audit checks and investigations.

Process Disclosure Format

- a. Any written application in form of letter, fax or email OR
- b. VDP form

Disclosure Period/Volume

- a. No fixed period/volume.

Document Submission

- a. Documents may be required for submission to support the VDP application.

(A public consultation exercise on Singapore Customs' Voluntary Disclosure Programme (VDP) was held from 17 Mar – 30 Apr 05 to obtain feedback and comments on the approach of the programme.)

The US customs has similar scheme though the term used is “prior disclosure”. The US scheme is shown at Box 13.

Box 13: Extract of US Customs and Border Protection Notes on Prior Disclosure

Who may submit a prior disclosure to U.S. Customs and Border Protection?

Answer: ANY party involved in the business of importing into the United States. This includes, but is not limited to, importers, accounts, Customs brokers, exporters, shippers, foreign suppliers/ manufacturers, etc.

What is a prior disclosure?

Answer: A valid prior disclosure reveals the circumstances of a violation of 19 U.S.C. 1592. This section of law permits U.S. Customs and Border Protection to assess monetary penalties against parties who make material false statements, acts or omissions in connection with their importations. The material false statements, acts or omissions must result from the parties' negligence, gross negligence or fraudulent conduct. Some typical examples of such violations include undervaluation, misdescription of merchandise, overvaluation, antidumping / countervailing duty order evasion, improper country of origin declarations or markings, or improper claims for preference under a free trade agreement or other duty preference program.

This same section of law (19 U.S.C. 1592) also provides for prior disclosure (19 U.S.C. 1592(c)(4)). Parties are not required to make a prior disclosure. They ELECT to submit the disclosure. If a party elects to make a complete disclosure of such a violation, before or without knowledge of a formal Custom investigation of the violation, the party receives reduced penalties. The penalty is zero if the importations involve unliquidated (i.e., open) Customs entries and no fraud is involved. If the entries are liquidated (i.e., closed or finalized) and no fraud is involved, the penalty is the interest on the loss of duties. If a fraudulent violation is disclosed, the penalty is reduced from the normal assessment of the domestic value of the goods to 1 times the duty loss, or if the violation involves no duty loss, the penalty is reduced to 10 per cent of the dutiable value of the merchandise.

Of course, in all cases involving liquidated entries and duty loss violations, you must tender this duty loss to CBP (see WHEN below regarding the timing of this tender). CBP will notify you later about the validity of your disclosure.

The specific rules governing the prior disclosure provision are set forth in the Customs Regulations at 19 CFR 162.74. These regulatory provisions are provided below for your information. By following these rules carefully, you can avoid common mistakes if you elect to submit a prior disclosure.

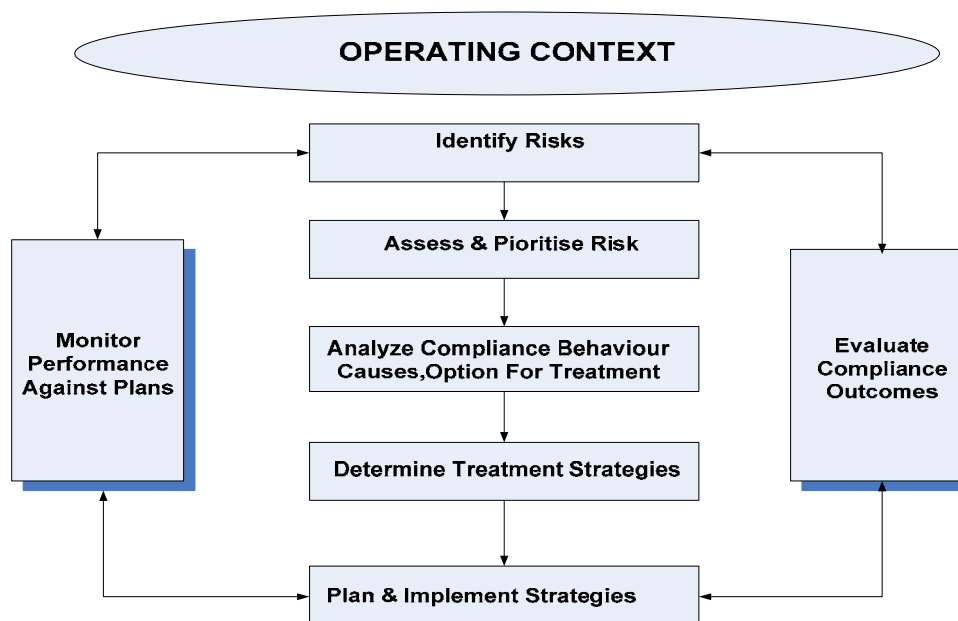
E. Use of Risk Management Techniques

The use of risk management techniques is another key element in the RKC. Risk Management System must be realized by all controlling bodies represented at the border: Introduction of Risk Management System facilitates the controlling agencies focus on high-risk goods while providing free movement for low-risk goods.

WCO Framework of Standards to Secure and Facilitate Global Trade (Standard 4) states that "Customs administration must create risk management system to reveal potentially hazardous cargo and automate such system. The system must include mechanism of risk validation and decisions on tracing the cargo as well as determining the most effective methods of work".

The risk management process is usually based on a cycle which starts with assessing the environment. Risks are then identified, followed by assessment and prioritization, analyzed, determined and strategies developed to tackle the risks. Throughout the process, the monitoring and evaluation takes place. A typical depiction of the risk management process is shown below in Figure below.

Figure 17: Risk Management Process



F. Optimization of Documents for Customs Clearance

State bodies of Central Asian states involved in border management have already started the process of optimization of number of documents required during movement of goods and transport vehicles. For example, the Kyrgyz Republic adopted a number of normative and legal acts aimed at simplification and improvement of customs clearance procedures. Other state bodies such as the Ministry of Economic Development and Trade and the Chamber of Commerce and Industry of the republic have done likewise. The reduction of the requirements for documents should also be made known to the trading community.

G. Advance Lodgment of Goods Declaration

The RKC provides for lodging of Customs declarations before the arrival of the goods into the country. Extending this facility to the trade is beneficial to the trade and the controlling agencies. Advance lodgment of declaration allows the revenue due to be collected. For the trader, he avoids delays at the border and can plan his storage without incurring additional costs for unplanned delays for storage space book beforehand. Costs can vary depending on the volume of the goods to be stored.

Advance lodgment of declarations prior to their import is provided in all the countries Customs Codes. However, in practice this does not apply since the clearance officers will require sighting of actual documents including supporting documents. The introduction of electronic processing will likely result in the application of this facility. However, the controlling authorities should consider implementing this facility now.

H. Payment of Customs Fees at Places of Customs Clearance

Payment of customs fees is usually made at places far from border crossing points. Therefore, entrepreneurs are left with little choice but to leave their cargo at the border, pay all relevant fees and return with receipts to customs office where clearance is made. Only then can they have their goods back. This procedure is very burdensome; therefore coordination between customs services and banks receiving payment at places of clearance is of great significance. Many banks in the region have started to use cashless payment, and application of cash dispensers, plastic cards, etc. to pay customs fees at places of customs clearance. These facilities will not only benefit agents of foreign economic activity (FEA) but also promote development of banking sector.

I. Facilities and Equipment at Border Crossing Points

Facilities and equipment at border crossings should be adequately maintained and provided. The lack of basic infrastructure and equipment at border crossing points, including communication infrastructure needs to be addressed. This will support the establishment of an integrated border management environment. Some of the equipment which should be provided includes basic tools for the identification of falsified documents (magnifier, individual U.V lamps and retro-check box). Weigh platform machinery should also be provided at crossing points which impose control on movement of means of transport. For example, it is superfluous to require the imposition of transport control when no equipment is available to satisfy such controls. For example, this applies to two border crossing points, “Ak-Zhol” BCP, and “Torugart” BCP.

Additionally, the facilities at crossings should introduce the red and green channel system for clearance of travelers. The lack of a two-channel clearance facility results in single file queuing system leading to time wasted for travelers who have nothing to declare in the same stream of traffic of persons who have goods to declare.

One of the underlying principles of the WCO Framework of Standards to Secure and Facilitate Global Trade (Standard 3) is application of state-of-the-art technology of examination using non-intrusive x-ray machines to eliminate the need for physical examination. To facilitate clearance, and ensure effective control and smooth flow of goods and vehicles across BCP, customs services must use modern technology to examine goods. These technical tools include large-size X-ray and gamma therapy units as well as radiation detectors. The use of these tools upholds the integrity of the trade and prevents malpractices by smugglers. To assist administrations, the WCO maintains data bank on state-of-the-art technologies and have prepared detailed Guidelines on purchase and exploitation of equipment to scan containers.

J. Implementation of Joint Customs Control

The use of joint customs control (JCC) has been piloted in Central Asian countries, notably between Kazakhstan and Kyrgyz (“Korday”- “Akjol”). JCC provides a practical way to eliminate duplication of controls. One method is to establish a common border post for two countries which straddles the border. Each country will maintain separate office accommodations to house their officers. Examination can still take place at the same time. The approach reduces costs for both countries and the trading community. This approach also

facilitates exchange of trade documentation, reduces submission of fraudulent trade documents and reduces clearance time.

Another approach is the establishment of a common control area where customs clearance will take place. Office accommodations of the officer can be within their own territorial borders. The common control will lie equidistant from each other's border.

A third form of JCC can be the exchange of officers, each going to the other's territory to conduct clearance. The offices are again located within their own territories.

JCC is one effective method of Customs control under Single Stop Inspection (SSI) in the Greater Mekong Sector (GMS) Cross Border Transport Agreement (CBTA) Initiative. Currently, several JCCs were established in GMS. One was between Vietnam and Laos PDR ("Lao Bao – Dansavahn). The JCC adopted the establishment of a common control approach. The joint control was carried out in stages, initially starting off with joint Customs inspection and which have expanded to joint Customs and Quarantine processing and clearance and immigration clearance.

The use of JCC is dependent on the agreements that are established. The success of JCC is much dependent on the relationship with the neighbouring countries. The viability of JCCs has been proven in the GMS. The Central Asian countries have also embarked on JCCs with countries outside the region, for example, Kazakhstan and PRC.

Box 14: Single Stop Inspection (SSI) in GMS

Single stop inspection is included in the GMS CBTA (Article 4, Annex IV.), Multilateral agreement that covers all aspects of cross border movement of goods, vehicles and people, Makes reference and in conformity with international conventions: Conventions on Road traffic; Road Signs and Signals, TIR; Temporary Importation of Commercial Road Vehicles; Containers; Harmonization of Frontier Control of Goods, Comprises of one framework agreements+20 annexes and protocols

- The objective of SSI is to reduce duplicate inspections by countries sharing a land border
- Single stop inspections are carried out by both customs services at the border on a site that is located in the territory of either country, or straddling the border
- Border processing and inspection is carried out once at the border for imported and exported goods and vehicles.
- Commercial vehicles, drivers and crew undergo export and import processing at the same time, jointly and simultaneously by inspection agencies from both countries.
- Vehicles only stop once at the border

Two basic methods of Customs control under SSI:

1. "Delegated authority/mutual recognition"

Customs of one country delegates inspection authority to the Customs of another jurisdiction.

2. "Joint Customs control/operating in foreign territory"

Customs of both jurisdictions carry out joint, simultaneous/ or near simultaneous inspection in the other's territory.

Source: Ruth Banomyong (2009), Single Stop Inspection Cooperation in the Greater Mekong Subregion,