

EMERGING ISSUES ON THE ROLE OF CUSTOMS IN THE 21ST CENTURY: AN AFRICAN FOCUS

Creck Buyonge

Abstract

The future role of customs administration in Africa, specifically in the context of inevitable modernisation and reform, will need to respond to increasing demands for revenue optimisation, greater involvement in trade facilitation, and enforcement of regulatory policies and practices through adjustment to both national and international imperatives. To compete in the global arena, African nations will need to adapt to changes in government and the strategic operating environment of international business, while concurrently responding to developments in technology and communications and the concept of integrated supply chain management and security.

Introduction

‘Plus ça change, plus c’est la même chose.’¹ This French expression aptly captures the genuine feelings of some observers of the customs reforms that have been taking place in many countries in Africa. So, are things changing or remaining the same? Or is it both?

There are three forces that are having an impact on the role of African customs administrations in this century. The first is the push for revenue optimisation, an agenda pursued through revenue consolidation using the revenue agency model. The second is a demand for Customs to play a greater role in facilitating trade in the context of various preferential trade arrangements. The third is the requirement for Customs to take on more enforcement responsibilities either as part of a global Customs response to the threat of terrorism, or part of the mission of Customs to protect society and the nation through enforcement of various restrictions and prohibitions.

Impact on Customs

Revenue optimisation

Apart from a few countries like South Africa, Customs still contributes the greatest revenue to the government in comparison to internal taxes. For example, in Kenya Customs contributes up to 40% of annual tax collections, and this is after the collection of local excise was transferred to the department responsible for internal taxes.

Up to now, there are some administrations that rely on collecting import duties and taxes ‘at the border’, in the belief that if you ensure all the revenue is collected at that point, there is nothing to worry about. This thinking is a relic of the fortress model of Customs currently under siege in our increasingly interconnected world. In line with the recommendations of the World Customs Organization (WCO), the World Trade Organization (WTO), and even donors, administrations are now setting up post clearance audit units. Operation of such units requires other skill sets, such as auditing and information technology, in addition to tariff classification, valuation and origin determination.

Some of the reforms are taking place in countries where revenue collection, including Customs, has been consolidated in one semi-autonomous revenue agency (Taliercio Jr 2004). This is the preferred model in sub-Saharan Africa. However, it is important to note two points. First, revenue optimisation reform programs are being carried out even in countries that have not adopted the revenue agency model (Kidd & Crandall 2006). Secondly, the inclusion of Customs in the revenue agency needs to take account of the fact that 'Customs and internal tax administration are two rather different administrative worlds' as one study notes:

While they do share numerous general features (e.g. the need for computerisation, personnel management and monitoring systems), their daily processes and procedures are quite dissimilar (Mann 2004).

In many cases, there is an assumption that Customs should pursue a reform path with leadership provided from the internal tax administration. In reality, in some countries Customs has championed reform, and customs leadership has been critical in improving the efficiency and effectiveness of revenue agencies.² In Kenya, Uganda, and Mauritius (to give examples from the East and Southern region of Africa), reforms in Customs preceded and provided an impetus to reforms in internal tax administration.

Trade facilitation

An August 2006 study report by the Business Action for Improving Customs Administration in Africa (BAFICAA)³ acknowledges that 'much work has been done on customs reform in the developing world, including Sub-Saharan Africa' (McTiernan 2006). At the same time, the report says that businesses find it very difficult to comply with customs laws and procedures in Africa:

In almost all countries, the general feeling was that the most senior customs officials did understand the issues faced by businesses. But equally, frontline customs officers everywhere were perceived as being usually unaware and mostly unsympathetic about the problems their individual performance could cause for businesses. They were generally seen as officious and unwilling to listen, always choosing to refer queries to their superior officers rather than seek to resolve them. They were also seen as susceptible to petty corruption. Legitimate businesses with unblemished histories of compliance with regulations and tax payment find themselves constantly treated with suspicion by customs officers. This was the case even in countries where substantial customs modernisation had already been achieved (McTiernan 2006).

Customs is therefore under pressure to play its part in reducing the cost of doing business in Africa. The World Bank, through its annual *Doing Business* publications, has helped to put the spotlight on ways in which Customs is facilitating trade, as well as cases where it is a hindrance. More impetus is being provided by national initiatives to improve the business climate and attract greater domestic and foreign investment. Thirdly, the World Trade Organization's trade facilitation agenda has provided an opportunity for countries to examine their trade facilitation environment as negotiations towards a possible agreement move forward.

A greater role in enforcement

The theme for International Customs Day 2003 was *The role of Customs in the protection of society*.⁴ In Kenya, the day was celebrated through a number of activities based on that theme. To add a little drama to the event, seized counterfeit goods were destroyed in a ceremony covered by the print and electronic media. Customs officials marched through the streets of Nairobi carrying placards with various messages on the theme. At a workshop and mini-exhibition later that afternoon, members of the business and trade community expressed surprise that Customs had another role other than revenue collection.

In contrast to 2003, celebrations for the year 2007 on the theme *No to counterfeiting and piracy* did not raise eyebrows. Intellectual property rights holders joined Kenya Revenue Authority officials in a march

through the city. A workshop held on the theme saw the participation of various members of the diplomatic corps, senior government officials from the ministries responsible for trade and finance, chief executives of manufacturing organisations, and representatives of the Kenya Association of Manufacturers, Kenya International Freight & Warehousing Association, Music Copyright Society of Kenya, and Microsoft. There is now greater awareness of the role of Customs in enforcement generally, in response to the various threats to the security of nations and the world at large.

At the global level, the World Customs Organization Council adopted the *SAFE framework of standards to secure and facilitate global trade* in July 2005. As at February 2006, 42 African countries had signed the Letter of Intent to implement the Framework. Sixty diagnostic studies for implementation of the Framework have been conducted worldwide, including in 28 African countries.⁵ Recommendations from these studies most certainly include initiatives on strengthening Customs' enforcement capability in the face of various threats including the threat of global terrorism.

A number of countries have begun making investments in this area. For example, Kenya has already procured two X-ray container scanners, deployed at the port of Mombasa, and is in the process of procuring five more with funding from the Government. In addition, a tender for procurement of four motor boats has been awarded and delivery is expected before the end of 2007. Other countries that are currently using scanners include Ghana, Senegal, South Africa, Tanzania and Zimbabwe. Therefore, Customs in Africa will not continue with its revenue stance, it will be *revenue-plus*, that is, revenue plus enforcement, trade facilitation and environmental protection.

What will the future African Customs look like?

Given the structure of Africa's economies, revenue collection will still remain important as a key mandate of Customs for most countries for many years to come. There are 55 countries in Africa, with 34 designated as Least Developed Countries (LDC).⁶ The LDC account for 19% of the continent's exports and 21% of its imports.⁷ Africa's four largest exporters—South Africa, Algeria, Nigeria and Libya—account for over 57% of all exports, most of which is oil. Angola, the fifth largest exporter, provides only 8% of exports. Mining products (including oil) accounted for some 65% of Africa's exports and 14% of imports in 2005. Agricultural products represented 11% of exports and 14% of imports. Manufactures were worth 21% of exports and 70% of imports. If the figures for manufactures are disaggregated further, the picture changes: the high figure for manufactures is accounted for by South Africa and a few North African countries, as most countries in Africa rely almost solely on agricultural exports and sell virtually no manufactures overseas.

Table 1: Merchandise trade of Africa by region and by major product group, 2005

	Value (US \$b)	Share (%)	
	Exports	Exports	Imports
World	298	100.0	100.0
Region			
North America	60	20.2	7.3
South and Central America	8	2.8	2.4
Europe	128	42.9	46.6
CIS	1	0.3	2.1
Africa	26	8.9	11.0
Middle East	5	1.7	6.4
Asia	49	16.3	22.5
Product group			
Agricultural products	32	10.9	13.9
Fuels & mining products	194	65.2	13.8
Manufactures	63	21.2	70.2

Source: World Trade Organization 2006

International Network of Customs Universities

As shown on Table 1, Western Europe is Africa's largest trading partner, accounting for about 43% and 47% of the continent's exports and imports respectively. In terms of exports, the other significant destination is North America (20% of the total) and Asia (16%). Intra-Africa trade is low, accounting for 9% of exports and 11% of imports. Manufactured goods attract high import duties in African countries and are a significant source of revenue.

Customs will be expected to play an important role in safeguarding the economic and trade interests of countries in the context of preferential trade agreements. While the development of trade policy is usually the responsibility of ministries responsible for trade, Customs has a role to play in administering tariffs, the valuation code and origin regulations. Through the Cotonou Partnership Agreement (CPA) of 2000, many African countries have been able to export to the European market on non-reciprocal duty-free basis. This situation will soon come to an end with the expected signing of Economic Partnership Agreements between groups of countries and the European Union. Another non-reciprocal arrangement is the US *African Growth and Opportunity Act* (AGOA). In these cases, Customs must ensure that the goods being exported to the European Union and the United States of America under the respective arrangements qualify for such treatment.

In Africa itself, there are numerous regional economic blocs, sometimes with overlapping membership. Through such regional economic arrangements, countries are learning how to compete in this era of globalisation. For example, Kenya is one of the countries that joined the Common Market for Eastern and Southern Africa (COMESA) Free Trade Area in the year 2000. Customs is responsible for administering the COMESA Protocol on Rules of Origin. Any lapse could mean the duty free importation of non-admissible goods and consequent loss of revenue. Administration of a multiplicity of preferential trade arrangements in addition to the revenue collection and enforcement mandates means that customs administrations have to manage multiple reporting relationships.

Policy direction on revenue matters would be issued by the ministry responsible for finance, trade policy by the ministry of trade (or in some countries, ministry responsible for foreign affairs), and security policy by the ministry responsible for internal affairs. All have different expectations from Customs which must be fulfilled. The interplay between the different forces in government sometimes makes for vibrant, if unnecessary, public debates on what the core business of Customs should be.

The integrated revenue agency model will still be popular. In line with the expectation that import duties and taxes will provide an important source of government revenue for years to come, more and more countries that have not adopted the integrated revenue agency model are likely to move in that direction. The first revenue authorities in the world were established in the mid-1980s. Some have been established in more recent years such as the Mauritius Unified Revenue Authority (2004) and the Mozambique Revenue Authority (2007).

There is a perception amongst the existing revenue authorities that the model has significantly improved revenue administration, although this proposition has neither been proved nor disproved in an empirical sense (Kidd & Crandall 2006). In countries where governments have not undertaken public service reform, the model certainly helps kick-start reform, especially if it is given some level of autonomy to make decisions on human resource recruitment, remuneration, and operation of the governing board.

Technology will continue to be a significant driver of customs reform in the years to come. The traditional view of Customs as the gatekeeper to an impregnable fort is coming under increasing challenge, because the world has become more integrated and Customs has to embrace the concept of integrated supply chain management. How do we apply the power to technology to process great amounts of information quickly across large distances? Traders experience significant delays transporting goods from the hinterland to ports and vice versa, some of which are due to avoidable processing delays.

African countries will need to improve their information and communications technology (ICT) capability, as a trade facilitation measure, to compete in the global arena.⁸ In this regard, Egypt has

introduced a single window for trade documentation and merged 26 approvals into five;⁹ and electronic filing of customs documents has been introduced in Ghana, Kenya, Mauritius, Rwanda, and Uganda among other African countries.¹⁰ In Kenya, the *Simba 2005* IT system was introduced on 1 July 2005. Despite the expected initial hiccups of system stability, and acceptance by stakeholders, the new IT system has introduced a level of transparency that was previously unknown. In March 2006, document processing became centralised in a Document Processing Centre based in Nairobi, thus eliminating human contact between customs entry processing staff and the public. However, there are numerous remaining challenges in Africa including inadequate infrastructure, high cost of access to ICT facilities, and connectivity between and within African countries and the rest of the world.¹¹

Human resource transformation and stakeholder consultation issues are likely to be given greater focus. The people element is very important in implementation of any customs ICT project. The 'people' element includes providing training; sensitising and obtaining the buy-in of internal and external stakeholders; managing relationships with internal and external stakeholders; and conducting corporate communications and public affairs.¹²

Reformers like Kenya have already realised that reform is less about technology and more about people applying technology to improve the efficiency and effectiveness of procedures and processes. In its 2nd Corporate Plan (2003-04 to 2005-06), Kenya Revenue Authority put a lot of emphasis on revenue collection. This has changed in its 3rd Corporate Plan (2006-07 to 2008-09), which emphasises human resource transformation. We are therefore likely to see more expenditure on training and capacity building, including training undertaken in collaboration with education service providers outside Africa.¹³ Governments and the business community expect greater professionalism from Customs, in terms of technical competence, focus on corporate strategy, appreciation of the complexities of the international trading environment, and a client service orientation across all levels of management.

This emphasis on the people element can also be seen in regional approaches to address the challenge of corruption in Customs.¹⁴ While in the past corruption was essentially seen as a customs problem, it is now realised that it is important to develop a positive and effective partnership with the business community to address the problem.¹⁵

Anti-corruption is not the only area where consultation with business is vital. Consultation must be embedded in the design of the various customs reform and modernisation programs, otherwise the risks of possible disruption of activities is great.¹⁶

The time is up for the lone ranger. As has already been pointed out, customs administrations have in the past been mainly concerned about revenue collection due to the structure of our economies. Most enforcement activities were left to other law enforcement agencies, such as state security and police. All interveners in the cargo movement process including Standards bodies and phytosanitary agencies acted independently, thus leading to unnecessary delays.

A number of international organisations such as the World Customs Organization, the World Trade Organization and the United Nations Conference on Trade and Development (UNCTAD) have for some years now been working on a program for simplification and harmonisation of customs procedures. The international standard is the *Revised International Convention on the Simplification and Harmonization of Customs Procedures* (Kyoto Convention 1974, revised 1999).

An assessment for 'Kyoto-compliance'¹⁷ would certainly take account of ways in which delays occur due to separate inspections by Customs and other government agencies. It would also assess the extent to which joint border procedures have been introduced to ease processing of documents and goods at contiguous borders. Some of the joint border posts that have been set up include Malaba on the Kenya/Uganda border and Beit Bridge on the border between South Africa and Zimbabwe. In January 2006, the World Bank approved a credit for the construction of various joint border posts on the borders between Kenya and Uganda, Kenya and Tanzania, Tanzania and Uganda, Uganda and Rwanda and Tanzania and Rwanda.

Administrations will be expected to measure progress in the implementation of various programs. Although Customs is not an exact science, it is necessary to demonstrate results in the use of resources as a basis for budget-making and proposals for funding of reform and modernisation programs. Over the years following the achievement of political independence in the 1960s and 1970s, the performance of most African public service agencies consistently fell below public expectations, often due to excessive controls, frequent political interference, poor management and outright mismanagement. Partly as a response to citizen demands for transparency and accountability, activist parliaments and donor conditionality, many governments are now institutionalising a performance-orientated culture, linking reward and recognition to measurable performance, and strengthening and clarifying obligations required of the government and its employees to achieve agreed targets.

In addition to revenue collection, Customs will be expected to measure the progress they are making in facilitating international trade. The World Customs Organization and the World Trade Organization are some of the organisations that have promoted the use of the Time Release Study (TRS) as a measure of progress in trade facilitation. Kenya conducted its first TRS in the year 2004 when most customs operations were manual, before implementation of the new IT system (1 July 2005). A second TRS, expected to be completed by the end of March 2007, is now under way. Other countries that have conducted TRS include Malawi and Tanzania.

Conclusions

It is very difficult to predict what the future of Customs is going to be. One thing is certain – the future will be a challenging one, with change as the greatest constant.

In the 1990s, some governments toyed with the idea of ‘privatising’ Customs through contracts to pre-shipment inspection companies and private/public sector management companies. With the benefit of experience, many governments have come to the conclusion that the solution to inefficiencies in Customs does not necessarily lie in privatisation, but in reforming the administration to enable it to take on the challenges of operating in the modern trading environment.

In the future, we can expect to see tension between the revenue collection, trade facilitation and enforcement roles of Customs, and more and more adaptation to fulfil the demands of citizens and governments. Given the high number of countries that are reforming and modernising their customs administrations, and the scope of the various programs, future customs managers will be required to have a strategic grasp of the operating environment, and move in tandem with the changes taking place in the world of business. The future customs organisation will be agile, capable of adapting to changes in government and in business. It will be driven by technology, adopt more-or-less objective measures of success, and ensure a proper balance between its various mandates.

References

- Taliercio Jr, Robert 2004, *Designing performance: the Semi-autonomous Revenue Authority model in Africa and Latin America*, World Bank Policy Research Working Paper No. 3423, Washington, DC.
- Kidd, Maureen & Crandall, William 2006, *Revenue authorities: issues and problems in evaluating their success*, IMF Working Paper No. WP/06/240, International Monetary Fund, Washington, DC.
- Mann, Arthur J 2004, *Are Semi-autonomous Revenue Authorities the answer to tax administration problems in developing countries? A practical guide*, Development Alternatives Inc., in assoc. with the Georgia State University and the Boston Institute for Developing Economies for the ‘Fiscal Reform in Support of Trade Liberalisation Project’ of USAID.
- McTiernan, Andrew 2006, *Customs and business in Africa: a better way forward together*, Report prepared for Business Action for Improving Customs Administration in Africa.

Endnotes

- ¹ Translated in English as ‘The more things change, the more they stay the same’.
- ² In the same manner, Andrew McTiernan (2006) observes that many studies on customs reform in Africa are made by development agencies, and the perspective of the business community does not come out, in spite of the fact that business is both the main subject of customs regulations and the major source of customs revenues.
- ³ The study covered West Africa (Côte d’Ivoire, Ghana, Togo, Benin and Nigeria); Southern Africa (RSA, Mozambique, Botswana and Zambia); and East Africa (Tanzania, Kenya and Uganda).
- ⁴ International Customs Day is celebrated each year on 26 January, to commemorate the establishment in 1952 of the Customs Cooperation Council, the official name of the World Customs Organization.
- ⁵ Angola, Botswana, Burkina Faso, Cameroon, Congo (Brazzaville), Egypt, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Madagascar, Mali, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Swaziland, Tanzania, Togo, Uganda and Zimbabwe.
- ⁶ Algeria, Angola (LDC), Botswana, Burkina Faso (LDC), Burundi (LDC), Cameroon, Cape Verde (LDC), Central African Republic (LDC), Chad (LDC), Comoros (LDC), Congo, Democratic Republic of the Congo (LDC), Benin (LDC), Egypt, Equatorial Guinea (LDC), Ethiopia (LDC), Eritrea (LDC), Djibouti (LDC), Gabon, Gambia (LDC), Ghana, Guinea (LDC), Cote D’Ivoire, Kenya, Lesotho (LDC), Liberia (LDC), Libyan Arab Jamahiriya, Madagascar (LDC), Malawi (LDC), Mali (LDC), Mauritania (LDC), Mauritius, Morocco, Mozambique (LDC), Namibia, Niger (LDC), Nigeria, Guinea Bissau (LDC), Reunion, Rwanda (LDC), Sao Tome and Principe (LDC), Senegal (LDC), Seychelles, Sierra Leone (LDC), Somalia (LDC), South Africa, Sudan (LDC), Swaziland, Tanzania (LDC), Togo (LDC), Tunisia, Uganda (LDC), Western Sahara, Zambia (LDC) and Zimbabwe.
- ⁷ This section relies heavily on Patrick Low, Zainab Mchumo and Vonai Muyambo 2006, ‘Africa in the world trading system: prospects and challenges’, a paper prepared for the African Development Bank/Africa Economic Research Consortium International Conference on *Accelerating Africa’s development five years into the 21st century*, Tunis, 22-24 November.
- ⁸ According to a recent study by Simon Djankov, Caroline Freund and Cong Pham entitled *Trading on time* (2006), it takes 116 days to move an export container from the factory in Bangui (Central African Republic) to the nearest port and fulfil all the customs, administrative and port requirements to load the cargo onto a ship, while it takes 71 days to do so from Ouagadougou (Burkina Faso) and 87 days from N’djamena (Chad).
- ⁹ For case studies, see UNECE 2006, *Case studies on implementing a single window*, United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), available at www.unece.org/trade.
- ¹⁰ See World Bank 2006, *Doing business 2006*, for highlights of various reforms taking place in Africa to improve the ease of doing business.
- ¹¹ See Statement by H.E. Professor J Mwandosya, Minister for Communications and Transport, United Republic of Tanzania at the World Summit on the Information Society, Tunis, Tunisia, 16-18 November 2005.
- ¹² For an experience paper on this aspect, see C Buyonge 2005, *People and technology: preliminary lessons from Kenya’s implementation of a new customs information technology system*, Government of Mozambique/Commonwealth Secretariat Workshop on Best Practices in Information Technology and Trade Facilitation Systems, 17-18 August, Maputo, Mozambique, viewed 25 February 2007, http://www.alfandegas.gov.mz/WorkShop_mptisfc.htm.
- ¹³ A case in point is the Memorandum of Understanding signed in 2005 between KRA and the Centre for Customs & Excise Studies, University of Canberra for provision of university-level training to staff admitted to the KRA Training Institute, and short-term management development programs.
- ¹⁴ For example, Commissioners and Directors General of customs administrations from the WCO East and Southern Africa countries met in Nairobi, Kenya from 20 to 23 February 2007 and agreed on a *Nairobi resolution on integrity*. The officials, inter alia, resolved ‘to modernize systems, promote the application of modern technologies for customs clearance and control, based on international standards such as the Revised Kyoto Convention’ and ‘to develop and implement appropriate human resource management and development strategies, including training and motivation, aimed at strengthening and ensuring the highest standards of professional ethics and conduct’.
- ¹⁵ *Nairobi resolution on integrity 2007*.
- ¹⁶ See Buyonge (2005) for highlights of what went wrong in Kenya’s implementation of the new IT system in July 2005. There were public demonstrations, media wars, even court cases pressing for a return to the former system. It took almost two months for the cacophony to die down.
- ¹⁷ An agency is ‘Kyoto-compliant’ if it accepts a responsibility to construct its regulatory policies and practices in a manner that is consistent with the principles laid down in the Convention. On this subject, see APEC Secretariat 2003, *The Revised Kyoto Convention: a pathway to accession and implementation*, prepared by the Centre for Customs & Excise Studies, University of Canberra, for and on behalf of the APEC Sub-Committee on Customs Procedures (SCCP), Asia Pacific Economic Cooperation (APEC) Secretariat, Singapore.

Creck Buyonge



Creck Buyonge is a Deputy Commissioner of the Kenya Revenue Authority (KRA). He is a founding member of the WCO East and Southern Africa Regional Steering Group, and Vice Chairperson of the Permanent Technical Committee of the WCO. Before joining KRA in 1996, he was a lecturer in Linguistics at Egerton University and UEA, Baraton.