

CUSTOMS IN THE 21ST CENTURY

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Abstract

In an increasingly globalised world in which both legal and illegal trade is expanding, customs administrations need to identify and understand the key international, regional and national strategic drivers in order to respond appropriately. These drivers are universal, and while most customs administrations recognise that their role has fundamentally changed and their mandate expanded, the international customs response has been uncoordinated. This has engendered an active response by the World Customs Organization (WCO) which, as part of its commitment to a new vision and action plan for Customs, has adopted the Framework of Standards to Secure and Facilitate Global Trade in order to provide a global response to supply chain security and facilitation.

Globalisation and the 21st century

Globalisation is resulting in an increasingly complex world. The world is interconnected as reflected by expanded flows of goods, people, capital, information and technology. It is becoming easier to conduct business internationally. This provides countries with the opportunity to fast-track economic growth and development through increased international trade. This is not only beneficial to legal trade; it benefits illegal trade too and criminals are making use of more integrated markets and freer movement of people to move goods, people and money across borders. These developments are resulting in the growth of the range and complexity of risks that have to be managed at the border. The lack of effective controls presents risks to the economy and society and can undermine gains that have been made.

Key strategic drivers

As a result of the dynamic and rapidly changing environment in which it operates, it is necessary for customs administrations to identify and understand the key international, regional and national strategic drivers in order to be more responsive. Some of these key strategic drivers that are impacting on customs administrations include:

Growing international trade volumes. International trade is continuing to grow globally and reached an all-time high of more than \$10 trillion in 2006. This trend is set to continue. This growth means that Customs have to process more transactions and the workload is increasing, usually with the same or less resources.

Trade liberalisation and reduced tariff and non-tariff barriers. With the end of the Cold War, the focus shifted to the creation of open economies by removing barriers to trade and investment. The average tariff decreased from 26.1% in 1980 to 10.4% in 2002. Tariff reductions were complemented by the removal of non-tariff barriers and measures to facilitate legitimate trade, such as the reduction of border controls. It is now being recognised that these measures not only created opportunities for legitimate trade but also for illicit trade.

New trade rules are emerging. With the conclusion of the Uruguay Round and the establishment of the World Trade Organization (WTO) in 1995, countries committed themselves to new rules that had to be applied to international trade. These cover a wide range of issues such as valuation and the protection of intellectual property rights. International trade is now subject to a wider and more complex set of rules. The conclusion of the Doha Round of trade negotiations will result in additional trade rules and improve and deepen WTO rules on trade facilitation.

Proliferation of Regional Trade Agreements (RTAs). According to a recent WTO report, some 220 RTAs are estimated to be operational and nearly all WTO Members belong to at least one RTA, with an average of six RTAs per Member. The number of RTAs is likely to continue to increase in coming years, considering the number of RTAs under negotiation and delays in concluding the Doha Round. The proliferation of RTAs means that less trade is administered on a Most Favoured Nation (MFN) basis but is subject to complex preferential rules of origin that are administered by Customs. Not only are these rules of origin complex, they are also unique to every RTA. The application of preferential rules of origin is also compelling Customs to have a good understanding of the domestic economy and extend its intervention in the supply chain from the border to the place of production.

Traditional trade patterns are changing and participants are increasing. The share of developing countries in world merchandise trade is now more than 30%, having increased from about 20% in the mid-1980s. Merchandise trade between developing countries, that is, South-South trade, has also significantly increased at an annual average rate of 11% during the past decade and around 40% of exports from developing countries are destined for other developing countries.

The structure of trade has changed significantly. Global production specialisation has advanced, in particular in manufactured goods. Firstly, the share of manufactured goods within world merchandise trade has grown significantly throughout the world. Secondly, the share of parts and components exports of total merchandise exports has greatly increased. Thirdly, exported goods contain a significant portion of imported intermediate inputs. This changing structure impacts on the types of transactions handled by many customs administrations.

New logistics and supply chain models. New procedures such as just-in-time distribution, low inventory retention, reverse logistics and multi-modal transport are resulting in innovative methods of moving goods across borders. These new procedures impact on freight logistics and put increased pressures on supply chains. The needs of modern international business exert pressure on customs administrations to process goods effectively and efficiently and to minimise delays. Unnecessary delays increase international trading costs and erode the competitiveness of traders.

Emergence of transnational organised crime networks. Transnational organised crime facilitates many of the serious threats to international peace and security. According to the United Nations, corruption, illicit trade and money laundering contribute to state weakness, impede economic growth and undermine democracy. Organised crime is increasingly operating through fluid networks rather than more formal hierarchies. This form of organisation provides criminals with diversity, flexibility, low visibility and longevity. Connections among different networks became a major feature of the organised crime world during the 1990s, thus creating networks of networks. The agility of such networks stands in marked contrast to the cumbersome sharing of information and weak cooperation in detecting and preventing crime between national law enforcement agencies and between states.

Security threats recognise no national boundaries. Global economic integration means that a major terrorist attack in the developed world will have devastating consequences for the developing world. At the same time, the security of countries can be held hostage by the inability of one country to contain an emerging disease. Global concerns regarding avian flu is a case in point.

Growing concerns regarding public health and the environment. The international community has adopted a number of international instruments aimed at controlling the international movement of harmful and dangerous goods. These instruments include the Convention on the International Trade in Endangered Species (CITES) and the Basel Convention on the Control of Trans-Boundary Movements of Hazardous Wastes and their Disposal. These and other international instruments are implemented by customs administrations at national borders. Growing concerns regarding the environment are also likely to result in new environmental treaties with an impact on the controls applied by Customs at borders.

The evolution of Customs: the impact of strategic drivers on the role of customs

The strategic drivers are universal and impact on all customs administrations, although the extent of the impact may differ. Notwithstanding, the responses by Customs have been unequal. Some administrations have responded and others have not. Those that have responded have done so in differing degrees ranging from comprehensive reforms to minor adjustments. Some of the trends identified include:

Most customs administrations recognise that a fundamental shift has taken place with respect to their role. The strategic drivers, especially the greater international mobility of goods, capital and people have increased and continue to increase the complexity, range and scope of the Customs' function. In many countries customs administrations, as the frontline trade administrators, are experiencing a sharply expanding scope and complexity of work.

Customs is a central part of the globalisation process and a catalyst to the competitiveness of countries and companies. Customs is no longer only a collector of state revenues at the border but is responsible for administering international trade and securing the economy and society with respect to the cross-border movement of goods. In its 2005 Global Economic Prospects report, the World Bank states that 'More efficient Customs are associated with more trade'.

The role of Customs at the border has expanded. In a number of countries, customs administrations are now regarded as the key border agency responsible for all transactions related to issues arising from border crossings and undertaking functions on an agency basis on behalf of other national administrations. Concerns regarding border security have also resulted in the establishment of unified border agencies by some governments.

Customs plays an important role in administering international trade. Traditionally, this administrative role has been understood as imposing and collecting the customs duties and taxes on imported goods. With the advent of trade liberalisation, more trade rules and the proliferation of trade agreements, this role is becoming more complex. In addition, with the reduction in customs duties, countries are increasingly making use of trade remedies to protect local industry from unfair international competition, and these remedies are administered by Customs.

Trade liberalisation does not mean that the role of Customs is diminishing. Even in times of extensive international trade liberalisation, restrictions and controls are necessary to give effect to trade and industry policy objectives. At the same time, Customs is required to protect society against the importation of dangerous and harmful goods. In the case of regional trade arrangements that are aimed at liberalising trade between the territories of the participating countries, the responsibilities of Customs actually increase. Even if multilateral and regional trade arrangements result in revenue reductions, VAT and other taxes still have to be assessed and imposed on imported goods as a means of both raising taxes and also levelling the playing field vis-à-vis imported goods. A further control function is to prevent unfair competition from goods diverted into the domestic market.

The emphasis is shifting to automation, risk management and intelligence to facilitate the movement of legitimate goods and to focus resources on high-risk areas. The expanding mandate and workload of Customs require a sharper ability to identify which goods or travellers should be allowed free passage and which should be stopped and checked. Scarce resources need to be targeted on high-risk, non-compliant traders. Customs administrations are introducing measures to obtain as much information as possible in advance and prior to the arrival of goods to make timely and effective risk-based decisions. This, in turn, has resulted in the introduction of modern information technology that enables the secure, real-time exchange and receipt of information, risk profiling and processing of declarations.

A total control approach is being adopted by Customs to broaden the scope by focussing on international trade supply chains in securing and facilitating the import, export and transit movement of goods. In line

with the traditional revenue collection focus, most customs administrations focussed on import control. The scope is now being broadened to include improved export and transit controls and some administrations are adopting production-to-destination approaches aimed at developing a total view of the supply chain.

The new and emerging strategic drivers have resulted in big shifts and significant changes for national governments and their customs administrations. Clearly, the traditional role of Customs in terms of mostly focussing on revenue collection is changing and the mandate of customs administrations has expanded. Although the objectives and priorities for controlling the cross-border movement of goods may differ from country-to-country, a greater awareness is emerging of the contribution of customs administrations to socio-economic development by, on the one hand, contributing to the expansion and facilitation of legitimate trade and, on the other, protecting national economies and societies through the application of controls on the cross-border movement of goods. According to the World Bank, it is being recognised that Customs plays a critical role in the implementation of a range of trade, economic and social policies and contributes to the achievement of national development objectives. Without an efficient and effective national customs administration, governments will not be able to meet their policy objectives in respect to revenue collection, trade facilitation, trade statistics and protection of society.

Although some customs administrations have started to respond to these challenges, the overall global reality is that customs administrations still apply unrelated, uncoordinated and overlapping controls to the movement of the same goods and largely operate in silos, resulting in unnecessary duplication.

New international responses and partnerships

A more responsive World Customs Organization

The WCO, as the inter-governmental organisation representing 170 customs administrations, has started to grapple with and understand the implications of the changing global trade, security and economic environment. This has enabled the WCO to develop responses that empower customs administrations, collectively and individually, to respond to the formidable challenges that they are confronted with.

At its June 2005 Sessions, the WCO Council adopted the Framework of Standards to Secure and Facilitate Global Trade. The main objective of the Framework is to establish standards that provide supply chain security and facilitation at a global level to promote certainty and predictability. This will enable the seamless movement of goods through international trade supply chains by creating measures that will enhance Customs-to-Customs cooperation and Customs-to-Business partnerships. The Framework is part of the WCO's comprehensive response to some of the challenges that its Members are faced with. It also represents a new way of doing business for the WCO. On the one hand, it aims to introduce greater standardisation in the way customs administrations operate and, on the other, it is a more flexible instrument than an international treaty and encourages faster implementation.

The Framework of Standards

The Customs-to-Customs provisions of the Framework aim, among others, to establish real-time cooperation between customs administrations through advanced electronic transmission of customs data, enabling Customs to identify high-risk consignments prior to the arrival of goods. This represents a fundamental shift in customs administration as control usually tends to focus on import control that is carried out in isolation from the controls undertaken by the export and transit administrations. To achieve this aim, the Framework envisages the harmonisation of advance electronic information requirements for all shipments and the use of a consistent risk management approach, and encourages the use of non-intrusive detection equipment.

With respect to Customs-to-Business partnerships, the Framework introduces the concept of an Authorized Economic Operator (AEO). AEOs are entities that are involved in the supply chain and the objective is to extend facilitation 'rewards' to compliant traders so that customs administrations can deploy their resources to focus on high-risk traders and goods. In June 2006, the Council adopted an appendix to the Framework on AEOs. The goal is to move towards a set of maximum standards that will enable international mutual recognition of AEOs.

The Framework of Standards is a living instrument. More work is needed to 'unpack' and build on the Framework. This does not, however, mean that the WCO Members should be idle with respect to implementation. Work can and should proceed with implementation in all areas of the Framework while the activities are under way to deepen and expand this instrument.

However, the success of the Framework of Standards depends on its implementation by both the developed and developing country Members of the WCO. With a view to ensuring widespread implementation, the new Capacity Building Directorate of the WCO launched the Columbus program in January 2006 and commenced with diagnostic missions to assist Members to identify the actions required to implement the Framework. The first phase of the Columbus program is nearing completion and the WCO Secretariat is gearing up for the second phase to assist Members with action planning.

Quo Vadis Customs? A new vision for Customs in the 21st century

Together with the development of the Framework of Standards, the WCO has launched a process to develop a new vision and action plan for Customs in the 21st Century. Some of the key principles that have emerged in this process are: the need to optimise the contribution of international trade to economic growth and development through the application of effective and efficient customs controls over the international movement of goods and people accompanying goods; the promotion of certainty and predictability in the international movement of goods and people accompanying goods by establishing clear and precise standards; and the development of capacity to promote compliance in a manner that facilitates legitimate trade. It has also been acknowledged that there is a need to eliminate duplication and delays in international supply chains such as multiple reporting requirements and inspections, and to encourage compliance with standards by clearly defining facilitation benefits.

Global Customs Cooperation Network

The WCO Membership has also recognised that the new challenges of the 21st Century demand much closer collaboration between customs administrations in facilitating legitimate trade and undertaking customs controls. This requires the development of a Global Customs Cooperation Network. The challenge for the WCO is to enable customs administrations to become interconnected, their systems to become interoperable and to build the capacity of customs administrations by creating the necessary policies, strategies and tools and by supporting implementation.

The development of the Global Customs Cooperation Network requires:

- internationally standardised data requirements for export, transit and import
- interconnected and aligned customs databases to enable the electronic exchange of data between customs administrations as early as possible in the international movement of goods
- mutual recognition and coordination protocols between exporting and importing administrations to eliminate unnecessary duplication of controls in international supply chains
- a set of maximum trader standards to enable the development of a system of mutual recognition for AEOs.

It also goes without saying that the Global Customs Cooperation Network relies on professional and competent customs administrations and that intensified and focussed capacity building efforts are required to achieve this objective.

Conclusions

It's no longer business as usual! The challenges of the 21st Century are placing massive demands on customs administrations. Now, more than ever before, there is a need for customs administrations to be more responsive. An understanding is required of issues such as globalisation, the dynamics of international trade, the technicalities of the trade supply chain, emerging policy directions and the complexities of the global landscape. It is imperative that we encourage and stimulate greater intellectual output and analysis. The new and emerging challenges will impact on our future development and demand a more proactive and action-orientated approach.

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Pravin Gordhan, Commissioner, South African Revenue Service (SARS), is currently spearheading a major customs modernisation initiative aimed at preparing Customs for its new role to facilitate and secure South Africa's trade in a fast globalising world. Formerly a Member of Parliament and Chairperson of the World Customs Organization, Commissioner Gordhan has had a lifelong commitment to democracy, human rights, justice and the future of South Africa.