

PERSPECTIVES OF CUSTOMS IN THE 21ST CENTURY: FROM THE EXPERIENCES OF JAPAN CUSTOMS

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Abstract

The role of customs authorities throughout the world is increasing to respond both to the rapid changes in the international trade environment and to domestic issues. Japan Customs is committed to making the utmost efforts to accomplish its mission. However, the efforts of a single customs administration are not sufficient to adequately cope with the activities of trans-border criminal organisations, terrorists, etc. The importance of Customs' role has become more significant, domestically and globally. Customs administrations across the world must cooperate to ensure sustainable development globally.

The circumstances surrounding Japan Customs

As economic globalisation continues to accelerate, international trade is growing substantially faster than the growth of the world economy. Countries around the world are actively participating in the WTO Doha Round negotiations, and meanwhile making their move towards forming bilateral/regional economic partnerships and cooperative agreements. In Asia especially, where the economic growth is the most vibrant, there are ongoing discussions on regional frameworks such as ASEAN, ASEAN+3, ASEAN+6, and APEC in addition to the many bilateral Free Trade Agreements/Economic Partnership Agreements (FTAs/EPAs) being negotiated and agreed. On the other hand, when we look at the domestic situation in Japan, there are many issues to be tackled, such as economic disparities between urban and rural areas, coping with an ageing society, and the reconstruction of public finance. The Government of Japan is increasingly expected to optimise its operations to ensure the safe and stable lives of its people.

Under these rapidly changing circumstances surrounding our country, Japan has to cope with two challenges at the same time. One is to reform its domestic systems and the other is to build more open relationships with countries around the world. Taking these situations into account, Japan Customs, as a border enforcement authority, is making the following efforts to meet these challenges.

Recent trends in policy developments

In order to tackle all the relevant issues that it faces, Japan Customs has set three primary missions, namely:

- realising a safe and secure society,
- collecting customs duties and domestic consumption taxes in an appropriate and fair manner, and
- further facilitating trade procedures.

In line with these primary missions, Japan Customs is emphasising and promoting the following policies.

1. Security and safety

Japan Customs is actively implementing border control measures. In order to strengthen counter-measures for smuggling and terrorism, Japan Customs has deployed inspection equipment such as large scale X-ray inspection systems across the country and has been engaged in the research and development of new inspection equipment using advanced technologies including terahertz wave and biosensor equipment. To protect Intellectual Property Rights (IPR), Japan Customs has amended its law on border enforcement measures as necessary, such as expanding the scope of rights to be protected. IPR enforcement procedures have also been refined to allow rights holders and importers to request Customs to consult with the competent authorities such as Japan Patent Office and specialists such as patent attorneys. Moreover, from April 2005, Tokyo Customs has employed and posted two patent attorneys to its IPR Center to serve as advisory staff to customs officials so as to perform IPR border enforcement in a more effective manner. As a result of these reforms to strengthen IPR border enforcement, the recent record of import suspension of IPR infringing goods is showing an increasing trend.

Since the effort of Japan alone or customs administrations alone is not sufficient to ensure the security and safety of international trade, Japan Customs is working on developing cooperative relationships with foreign customs authorities and building partnerships with relevant domestic Ministries and agencies.

The scope of border control expected to be performed by Customs is not limited to areas such as anti-smuggling or terrorism. Japan Customs considers that customs authorities must also respond to the environmental issues which represent a common challenge to the international community. In this context, at the ASEM (Asia-Europe Meeting) Customs Directors-General - Commissioners Meeting held in November 2007 in Japan, I, as the Chairperson, raised Customs' contribution to environmental issues as one of the agenda items for the first time.¹ The meeting recommended that customs authorities should strictly enforce the Multilateral Environmental Agreements (MEAs) such as the Basel Convention and the Montreal Protocol, to protect the Ozone layer and to control the cross-border movement of hazardous waste. It was also recommended that customs authorities should continue international dialogue and cooperation to solve these global problems.²

2. Customs as the responsible revenue authority

Japan Customs is formulating and implementing the appropriate and fair tax/tariff policies to realise a healthy national economy and robust public finance. Japan Customs collected customs duties and consumption tax totalling about 5.4 trillion yen (approximately \$US47 billion) in the financial year 2006. This is about 10% of the total national tax revenue, which indicates that Japan Customs is working as an important revenue agency along with other relevant agencies such as the National Tax Agency. In partnership with the National Tax Agency, Japan Customs is collecting duties and taxes in a fair and appropriate manner with due consideration to the effectiveness of its operations. In order to ensure the fair and appropriate collection, Japan Customs has implemented an 'Advance Ruling System' for correct import duty declaration, 'Post Clearance Audit' for appropriate duty taxation, and 'Criminal Investigation' to elucidate violations of Customs Laws.

3. Customer convenience and security

Japan Customs has been applying a risk-based customs clearance system for more than 40 years to ensure the security and facilitation of international trade. Japan Customs has developed its Authorised Economic Operator (AEO) program to further enhance this approach, having launched this program for importers in 2001. The simplified customs procedures have been introduced for importers, exporters, and warehouse operators that meet certain compliance criteria. Furthermore, in this year's law revision, Japan Customs is reviewing the AEO program to expand the scope of the participants to other businesses in the international trade, such as customs brokers, forwarders and carriers, in cooperation with relevant agencies such as the Ministry of Land, Infrastructure and Transport (MLIT) which is in charge of the

transportation industry. As for international partnerships regarding AEO, Japan Customs is conducting consultations/discussions with countries such as the USA, EU, Australia, and New Zealand to establish mutual recognition of AEO programs. Japan Customs is carrying this movement forward based on the idea that mutual recognition of AEO programs could maximise the benefits for honest stakeholders, and that this is a totally different approach to the existing international customs cooperation regime which has put its focus on 'negative' information exchange for enforcement purposes.

Japan Customs is also working towards more efficient customs clearance procedures by making full use of IT. The NACCS³ (Nippon Automated Customs Clearance System) that was introduced in 1978 is playing a key role in achieving prompt customs clearance, and in 2003, the Government of Japan introduced the Single Window System (SWS). In order to further promote the use of IT, Japan Customs, in cooperation with relevant agencies, will establish the 'new NACCS center' that will manage the next generation Single Window System scheduled to be introduced in October 2008.⁴

4. International activities

Japan Customs is actively contributing to the WTO Doha Round negotiations as a trade negotiator, while promoting regional frameworks such as APEC, ASEM, and bilateral FTAs/EPAs, so as to address the issues attributed to the globalisation of the world economy and the challenges within its domestic economy. In addition to these international frameworks, Japan Customs focuses on the activities of the WCO. Japan Customs is actively committed to the planning and implementation of WCO policies, not only in existing work areas such as classification and valuation, but also for the promotion of the Framework of Standards to Secure and Facilitate Trade (FOS), the enhancement of capacity building including a regional framework such as the establishment of the Regional Office for Capacity Building (ROCB), and so on. Moreover, Japan Customs is a big contributor to the WCO in terms of personnel and budget. We are prepared to enhance these contributions in the future.

5. Efficient administrative management

The Government of Japan is prioritising structural reform for effective and appropriate management of public administration. In order to ensure efficiency and to appropriately assess the performance of its operations, Japan Customs conducts policy evaluations every year and announces the result to ensure transparency for its stakeholders.

As high integrity is a necessary basis for appropriate administrative management, Japan Customs is also implementing performance reviews of customs officers, and conducting training to maintain integrity.

Reforms

With the recent trend in customs policy management mentioned above, Japan Customs has been conducting the following reforms.

1. Legal framework

In order to promote trade facilitation and to enhance security, Japan Customs has been reviewing relevant laws and regulations every year, based on the recommendations of the 'Council on Customs, Tariff, Foreign Exchange, and Other Transactions' and opinions received from stakeholders, and has amended them in consultation with the Cabinet Legislation Bureau and Ministry of Justice, as appropriate.⁵ For instance, Japan Customs amended the law to introduce the AEO program in accordance with these recommendations. In order to strengthen border enforcement, penal regulations and the investigation process have been reviewed and strengthened for the offences of smuggling of illicit guns, goods infringing intellectual property rights, etc. In terms of tax policies, Japan Customs has introduced a surcharge for deficient declarations to ensure more appropriate and fairer tax collection.

2. Organisational restructuring

The organisational structure must be suitable to meet the challenges we are facing today. In this regard, Japan Customs has integrated its enforcement functions and strengthened its intelligence units. The organisation of regional customs houses has been restructured to ensure that cargo control procedures, which used to be dealt with separately by different sections, are managed by a single division. As a result, Japan Customs has achieved unified control of cargo, from lading/unlading, via Hozei (bonded) areas, through to domestic delivery. The intelligence function has been reinforced by merging all the intelligence units into one special division.⁶

3. IT system – promotion of a Single Window System (SWS)

Japan Customs has been making efforts to promote efficient and facilitated customs procedures by making full use of IT. In particular, the computerisation of customs procedures is being promoted through NACCS which was introduced in 1978. Japan Customs evaluates the efficiency of its operations and reviews and updates them where necessary. In terms of recent developments, a Single Window System (SWS) was introduced in 2003 under close liaison with relevant agencies with responsibility for trade-related procedures such as food sanitary, plant quarantine, animal quarantine, and vessel clearance. Now Japan Customs is developing the next generation SWS to provide greater efficiency, in consultation with other relevant agencies, and by reference to the New Zealand Customs' experience on inter-agency cooperation as a useful guide. Japan Customs is taking the lead in this project among other agencies.⁷

4. Development of high-technology inspection equipment

Constant research and development of new technology is also necessary to counteract increasingly complex and sophisticated fraud and smuggling. Japan Customs is engaged in the research and development of inspection equipment using high-technology including terahertz wave and biosensor technology which can detect illicit materials and goods more accurately. Japan Customs will continue such efforts and deploy these high-precision inspection tools.

Japan Customs has also launched a project to develop inspection equipment, on the recommendations of the 'Council for Science and Technology Policy' chaired by the Prime Minister, in cooperation with National Institute of Advanced Industrial Science and Technology, Tokyo University and Kyushu University. In this regard, we have set two directions: firstly we focus on improving research and development of inspection equipment; and secondly, we aim to establish a new compendium of basic technology which can be used in the research and development of new technology.

5. Human resources development

The implementation of appropriate training for customs officers is absolutely necessary to update customs operations. Since customs officers are required to acquire highly technical knowledge and practical expertise, these training programs must be aligned with actual policies and operations. In this regard, Japan Customs is conducting such training constantly at the Customs Training Institute, and continuously reviewing its training programs, incorporating opinions from industry, academia and government agencies, to cover relevant issues such as anti-terrorism measures and multilateral/bilateral trade facilitation.

6. Strengthening the partnership among government, industry and academia

To ensure the success of these reforms, not only Customs' effort but partnerships with industry, government agencies and academia are essential. Opinions from the various sectors are necessary to ensure the effectiveness of customs policy revisions. In this regard, Japan Customs is holding discussions on policy revisions with industry and academia through the 'Council on Customs, Tariff, Foreign Exchange, and Other Transactions' and other study groups.

Importance of international cooperation

The role of the customs authority is increasing to respond to both the rapid change in the international trading environment and domestic issues, not only in Japan but throughout the world. The effort of individual customs administrations is not enough to cope with the activities of trans-border criminal organisations or terrorists. The importance of Customs' role to ensure the world's sustainable development has become more significant, not only domestically but globally. Having these facts in mind, all customs administrations must work cooperatively to accomplish their mission through the following measures.

1. Strengthening capacity building

The problems every customs administration is facing have been globalising. In this context, capacity building of developing countries' customs is an important issue. Considering that the customs administrations of developing countries and Japan are important partners in international trade, Japan Customs puts a high priority on capacity building in terms of both amount and quality. We believe that high-level capacity building assistance should be provided, with sufficient cooperation from each donor, to meet the needs of developing countries. Japan Customs is actively undertaking activities including regional/national seminars which meet the recipients' needs, and promotion of coordination among donors. We believe that elements of the WCO's network such as the Regional Offices for Capacity Building (ROCB) and the Regional Training Centres (RTC) must be fully utilised and should play a central role in capacity building.⁸

2. Improving expertise

With the rapidly changing international situation, Customs is expected to respond to emerging issues such as countermeasures for international terrorism including proliferation of weapons of mass destruction (WMD), goods infringing intellectual property rights, environmentally harmful materials, and money laundering activities, as well as addressing newly arising problems in traditional fields such as classification, valuation, customs laboratory analysis, rules of origin, customs statistics,⁹ and drug and firearms smuggling. For this reason, we have to develop experts with advanced techniques in areas such as inspection equipment, rule making, information exchange, and ICT. The existing training programs performed by individual customs administrations are not enough to cope with the current globalising issues that we face. From this standpoint, we must strengthen the existing capacity building being provided by developed countries to developing countries. And at the same time, in order to raise the overall level of the capacity of Customs, especially in terms of advanced techniques, we have to start implementing 'newly defined' capacity building in which advanced techniques are developed and shared among all customs administrations. It is also important to establish a new framework which will provide information on each country's status of implementation of WCO instruments, so that other countries can utilise the information as a reference when implementing such measures. In this regard, it would be useful to establish a 'library' in the WCO that provides best practices of member countries in terms of the legal framework and the utilisation of newly developed techniques for enforcement, in order to provide a reference for those countries which need the experience of those precedents.

3. Strengthening international cooperation

International cooperation must be strengthened in order to address the above mentioned issues. In particular, the WCO, which is the sole intergovernmental organisation tasked with customs issues, must provide strong leadership on the common challenges that members are facing. For this reason, the WCO administration should be reformed. By improving its internal governance, the WCO should create a mechanism whereby each member can participate in the policymaking discussion and decision making, so that members' needs may be increasingly reflected in its operations. As the scope of Customs' mission has been increasing, the WCO should also expand and deepen its cooperation with various stakeholders

such as scientists/technicians on advanced technology, the legal community (both members of the bar and academia), and specialists in organisational management, in addition to its cooperation with international organisations such as the WTO, World Bank, and WIPO.

Conclusions

Customs is the public service at the border that is tasked to ensure a safe and secure society, collect duties and taxes, and promote trade facilitation. While the legal framework in each country is different, we share these same goals. For instance, FOS and Provisional Standards Employed by Customs for Uniform Rights Enforcement (SECURE) which have been agreed at the WCO are major attempts to establish common standards to address these common issues that every customs administration is facing today. Moreover, all customs administrations must enhance their capacity to accomplish their mission. As I described above, Japan Customs is committed to making the utmost efforts for this purpose. I would like to urge all customs administrations across the world to work in cooperation to realise sustainable development globally, sharing my thoughts. Every customs administration must exert its effort to approach the ultimate goal. We must recognise that, while the mission for Customs is becoming complex in the 21st Century, every customs agency is examined on its competitiveness, and judged accordingly.

Endnotes

- 1 Environmental issues will be the main topic at the G8 Hokkaido-Toyako Summit to be held in Japan this year.
- 2 Yokohama Declaration, available at <http://www.aseminfoboard.org/Calendar/OfficialsMeetings/>.
- 3 NACCS originally stood for 'Nippon Air Cargo Clearance System' when it was established in 1978. This was changed in 1991 when the scope was expanded to sea cargoes.
- 4 Many trade-related procedures coordinated by six Ministries, such as food sanitary, plant quarantine, animal quarantine, vessel clearance, crew landing permission, and trade control will be processed in the next generation SWS.
- 5 Japan Customs also consults with professors on tax law, criminal law, administrative law, international law, etc.
- 6 Japan Customs is working in cooperation with the National Police Agency, Japan Coast Guard, Public Security Intelligence Agency, etc., under the instruction of the 'Headquarters for the Promotion of Measures Against Transnational Organisation Crime and Other Relative Issues and International Terrorism' chaired by the Chief Cabinet Secretary.
- 7 Japan Customs is coordinating this project by the order of the Prime Minister's Office.
- 8 Available at <http://www.wcoomd.org/>.
- 9 Please refer to the speech by Mr Andrei Belyaninov, Head of the Federal Customs Service, Russian Federation, at the WCO Council Session in June 2007.

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