

Customs-private sector partnership: not just wishful thinking

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Abstract

This paper identifies the importance of effective cooperation and regular, systematic consultation between customs authorities and the private sector to ensure that trust is built and maintained in those relationships. The challenges presented to achieve the opportunities that would result, and how they have been addressed in Brazil, are outlined and include step-by-step guidance that has resulted in Brazil's increased participation in world trade by accepting that cross-border logistics can be made more efficient. That experience suggests that the Brazilian model, and similar initiatives, could become instrumental in building a new paradigm of partnership that engages all stakeholders to develop the international supply chain.

Introduction

'It is not the strongest of the species that survives, nor the most intelligent that survives. It is the one that is most adaptable to change.'

Author unknown; sometimes erroneously attributed to Charles Darwin

In this article we will seek to show that there is a growing awareness of the importance for government authorities – Customs – to work with the private sector through regular and systematic consultation at both the strategic and technical levels. We will also look at why such cooperation seems to present a major challenge, even though making it work enables trust to be built in the Customs-private sector relationship, and this can lead to productive changes. Finally, we will describe an ongoing practical example of such an exercise in Brazil.

It is our conviction that substantial advantages can accrue to countries that seek to have all the stakeholders involved in international trade working together to make their trade and logistics processes more efficient and competitive.

Recommendations that customs authorities work with traders, or the private sector, have existed since the Revised Kyoto Convention of 1999 determined that signatory countries should set up formal consultative relationships with the private sector. At that time the major emphasis was on compliance, and there were examples of countries like Sweden that established an interactive working relationship with the private sector to develop a program – called Stairway – to make the country more competitive. The goal was to increase compliance by engaging with companies rather than merely controlling cargo.

This was perhaps one of the first examples of a customs authority that perceived its role in increasing the country's competitiveness, and knew that to fulfil this role it needed to work in close partnership with the foreign trade community.

Following the September 11, 2001 attacks on New York's World Trade Centre, some customs authorities in the developing world increased their concern and responsibilities in the area of security. This was instrumental in encouraging the World Customs Organization (WCO) to create a program to help its members address the issue of security in a structured manner.

This gave rise to the WCO's SAFE Framework of Standards (2012), in which one of the two pillars is that Customs should work with the private sector to implement the framework. Within this proposed relationship the emphasis is on security, as opposed to merely strict compliance, and the Framework implies that implementation will be selective and based on a trade-off: you (business) help us (government) provide security and we will facilitate your trade. However, this approach does not maximise a convergence of objectives between the private sector and the government.

The WTO Agreement on Trade Facilitation

More recently, on 7 December 2013, an internationally binding Agreement on Trade Facilitation was approved and signed at the World Trade Organization (WTO) Ministerial Conference in Bali. This agreement requires that member countries engage with traders and the private sector in three ways:

- ... provide opportunities and an appropriate time period to traders and other interested parties to comment on the proposed introduction or amendment of laws and regulations of general application related to the movement, release and clearance of goods, including goods in transit (WTO 2013, p. 3).
- ... provide for regular consultations between border agencies and traders or other stakeholders within its territory (WTO 2013, p. 4).
- ... establish and/or maintain a national committee on trade facilitation or designate an existing mechanism to facilitate both domestic coordination and implementation of provisions of this agreement (WTO 2013, p. 20).

Working together to implement the WTO trade facilitation agreement

As indicated by the various items mentioned above, the matter of Customs and the private sector working together is a recurring one and represents a growing consensus within the international community. Yet it seems difficult to implement in practice. Why should this be so?

In this relationship, it is usual for both sides to focus on their immediate respective tasks – traders on moving goods, and governmental authorities on generating revenue and implementing security and controls (health, environment, industrial policy, statistics, etc.). The two sides do not create a working relationship to develop a higher common agenda, for example, how to make the country more competitive. Trade facilitation is seen as something that benefits traders and for which Customs would have to give up something, while controls are seen as a demand (usually judged as unjustified) rather than as a safeguard mechanism with benefits for society.

It does not help that the two sides – government authorities and the private sector – are so different, and frequently have very different views of what is best for the country that they both live and work in.

Government agencies are charged by the societies that they serve with providing processes that ensure revenue, security and protection from illicit activities, together with defence of health, the environment and the nation's historic and cultural assets. One of the main areas where this is necessary is the flow of goods, services and people across the nation's borders.

Private sector companies have the challenge of moving goods and services across borders to satisfy their clients' needs in a manner that makes them competitive with companies producing the same goods and services in other countries. Thus the overall competitiveness of companies is indicative of the

competitiveness of a country's economy. However, this capability can no longer be exclusively the concern of the private sector.

Reducing the cost of international trade transactions has become a priority for governments intent on facilitating the effective integration of firms in regional and global production networks. Along with improving availability and access to trade-related infrastructure, cutting red tape and streamlining trade processes have become essential both to maintain competitiveness and enable smaller players to also benefit (UNESCAP 2013).

The challenge is how to maximise competitiveness while complying with the mandate of society for effective control. And the opportunity to do this is directly proportional to the ability of all stakeholders to work together on the challenge.

As the principal player in border control, Customs can play a major role in bringing stakeholders together to jointly find mechanisms that maximise their desired outcomes.

Government action in the area of trade facilitation comprises various elements such as simplification of the regulatory framework, procedures and formalities; modern operations and information and communication technologies (ICT); human resource training; agency cooperation; cross-border cooperation; and private-public dialogue. A key element of successful trade facilitation reforms is public-private dialogue. Trade facilitation involves many different organizations which are interconnected and linked by formal or informal relationships. Consequently, solving the problems related to trade facilitation requires collective action. A trade facilitation strategy would, therefore, ideally build on a framework that allows for participation and communication between the different organizations (UNCTAD 2010).

Government is not a monolithic organisation and neither is the private sector. A government is composed of various ministries, departments and agencies that are charged with different mandates and are led or managed by individuals with different world views, ideologies and priorities. And specifically with regard to trade, the private sector comprises companies that produce and consume products as well as companies that provide different services along the supply chain, all with their own (mostly legitimate) agenda. There are also associations that seek to promote their sector or to further the agenda of a specific industry. These private sector agendas are not necessarily convergent, given that the interests of service providers and users may differ significantly.

Historically, the private sector has sought to influence public policy by listing its grievances and writing papers to justify its positions, then delivering these to their interlocutor in the public sector. This mechanism is ineffective because it does not provide a platform for creating one of the essential factors for change: trust among the parties.

The challenge therefore lies in getting the various stakeholders with their different demands, requirements, mandates, interests and world views (public interest commitment versus private interest gain) to work together on a common solution capable of generating improvements that benefit the country as a whole, making it more competitive while increasing the efficiency of the control process.

How can this be achieved? Before describing one example of how it is being done in Brazil, it is important to emphasise that the common effort must be systemic in approach. The best instrument to help with this approach is value chain analysis, where one of the major tools is business process mapping:

Value chain analysis plays a key role in understanding the need and scope for systemic competitiveness. The analysis and identification of core competences will lead the firm to outsource those functions where it has no distinctive competences. Mapping the flow of inputs – goods and services – in the production chain allows each firm to determine who else's behaviour plays an important role in its success. Then, in those cases where the firm does not internalise much or most of the value chain in its own operations, its own efforts to upgrade and achieve efficiency will be to little effect. The

same challenge is true for national or regional economic management – upgrading the performance of individual firms in a region may have little impact if they are imbedded in a sea of inefficiency (Kaplinsky & Morris 2002, pp. 11-12).

Brazil: practical experience in partnership

In Brazil, the initiative that is the subject of this paper began in the private sector. It grew out of an awareness of the impact of time on the competitiveness of Brazil's manufacturing companies. A 1999 study by the Competitiveness Committee of the American Chamber of Commerce in São Paulo identified lead time as a major competitive disadvantage for Brazil, and concluded that there were enormous opportunities to increase Brazil's participation in world trade if cross-border logistics could be made more efficient.

The study pointed out that the greatest opportunities for improving the lead time for Brazilian production lay in border-related processes, and served as the inspiration for creating a private sector initiative to work with government on modernising Brazil's customs processes. In May 2004 the Alliance to Modernize Brazil's Foreign Trade, better known as Procomex, was officially inaugurated as an informal movement bringing together more than 50 business associations that endorsed the vision, with the presence of senior officials from Customs and the Ministry of Development, Industry and Trade. By providing a mechanism for the private sector to listen to Customs and for Customs to carry on a dialogue with the private sector, often using specific themed events, Procomex started the two sides down a lengthy road of confidence building.

It soon became clear that this would be a long-term process and that a more formal institutional structure was needed to ensure that the work would enjoy continuity. To this end the Procomex Institute was set up in 2005 as the operational arm of the alliance. Companies were asked to join to provide business-specific knowledge and financial support. Governance of the institute was split equally between representatives of participating companies and associations.

Looking back, in August 2006, Mr Michael Canon, who was president of DHL Brazil and a major sponsor of the Alliance, recalled:

‘In 1999 when I was on the Global Competitiveness Committee of the American Chamber of Commerce in São Paulo we had as our focus the impact of lead time on Brazil's global competitiveness. The question we investigated was the following: “Does the absolute length of time to accomplish each step in the supply chain and the variability in those times impact Brazil's global competitiveness and its possible use as a base for global supply chain production?”’

‘We found that the impact on Brazil's competitiveness was enormous. At that time the total negative impact was over US\$30 billion a year in a country that had US\$51 billion a year in exports.

‘That study led to our work in Customs reform. Why? **Because of the 99 problem areas identified, nine of the top 10 involved Customs clearance.** It took so long to move forward because we did not have multinational corporate interest, we did not have the resources, and we did not have an ally at the top of Customs like we do today.’

In 2006 a survey of the participating associations and their corporate membership was conducted to identify major problems and opportunities for improvement, and to draw up recommendations for modernising export/import procedures. A process to review and prioritise suggestions was organised at the end of 2006, working together with senior customs officials. This led to a formal memorandum of understanding being signed with the Brazilian Internal Revenue Service, to which Customs reports. Based on the priorities so identified, five different working groups comprising the private sector and customs officials were set up. These reported monthly on their progress to a meeting between Customs and members of the alliance.

This process suffered a setback in mid-2007, following a major change in the leadership of both Internal Revenue Service and Customs. The new leadership was against dialogue or working with the private sector. It was only at the end of 2010 when a new secretary took over the Internal Revenue Service that the Procomex Institute was once again able to work with Customs. In the intervening years the institute pressed ahead as and where possible, working with other government agencies and the National Confederation of Industry (CNI).

Progress to date

Beginning in 2011, with Customs now being run by new leadership, the Procomex Institute was once again able to work in partnership with the government and organised an effort to map business processes. The goal was to draw up an easy-to-visualise iconic description of existing problems in import and export procedures, and to identify opportunities for improvement. This involves a multi-step process:

- First, meetings are held with all the private sector stakeholders in the logistic chain. All their input is brought together simultaneously to design a process map of how current procedures work.
- Second, these same stakeholders are encouraged to think outside the box and design an innovative map of how the procedures would ideally work.
- Third, these two maps – “as is” and “to be” – are presented to Customs and other government authorities.
- Fourth, government designates a team of high level and knowledgeable customs specialists.
- Fifth, this team works together with the private sector to design a new “to be” map.
- Sixth, the customs team works with private sector representatives to define an implementation plan – how to move from the processes described in the “as is” map to the ones described in the jointly designed “to be” map. This plan outlines the necessary changes to systems, norms, legislation and procedures that will be detailed in the operational manual.
- Seventh, joint meetings are held every three months to monitor implementation efforts.
- Eighth, once the implementation process begins the consultative process continues, aiming to clarify language and address issues that may arise as the norms are written and the procedures described.

At the time of writing, in January 2014, all the steps described above have been implemented for temporary admissions (TA). Estimates are that TA approval procedures will fall from an average 38 days to less than 10 days. Steps one through six have been finalised for land, air and sea export procedures, and step seven began in November 2013. Steps one and two have been accomplished for land, air and sea imports and, in November 2013, the results were presented to Customs and five other governmental agencies (step three).

The above process was developed in 114 day-long meetings held between April 2011 and December 2013. A total of 502 professionals from 180 different companies and 36 business associations took part, as did representatives from seven government agencies. Groups averaged 25 participants per meeting. The output was 49 detailed business process maps, distributed as follows:

- Three maps for temporary admissions: “as is”, “to be” and joint “to be”.
- Fifteen maps for exports, including maritime (regular cargo, roll-on roll-off, commodities), land and air cargo (Customs).
- Nine maps for agricultural products (animal origin, grains, and containerised foods) – these were prepared jointly with senior officials from the Agricultural Sanitation Agency.
- Two maps for exports for the army.
- Twelve maps for imports – maritime (regular cargo and commodities), air and land.
- Six detailed business process maps for customs transit for air, maritime and land cargo.

- Two maps for drawback.
- A table listing all forms, documents and systems and the required data for maritime, air and land exports.

There have also been three major implementation reports, dealing with:

- Temporary admissions
- Export processes
- Import processes (in production).

One great advantage for Customs is that they have gained a much clearer description of processes as they take place in day-to-day operations, described graphically by leading professionals involved at each step of the logistics chain. Customs leadership has stated that customs controls will become more efficient as they move closer to the reality of the business processes and the way that companies control their business operations. This partnership gives Customs the knowledge of how the private sector manages its business processes.

In addition to identifying the best and easiest opportunities for change – and there has been significant “low-hanging fruit” – the business process maps are serving as a major input for development of Brazil’s new Single Window. Process times will be significantly decreased and Brazilian products will become more competitive.

For the private sector this alliance provides a structured manner to positively influence public policies that will affect their business.

Individuals participating and working in the process mapping meetings say they benefit from a very intense learning experience. While all are very knowledgeable and competent in some parts of the process, no one knows the whole process in detail. The lively discussion of the sequencing and interdependence of activities provides new insights even for very seasoned and knowledgeable professionals.

The bottom line is a win-win partnership for both the public and private sectors.

Some of the lessons learned

The Brazilian experience is still very new in terms of institutional development. We face a long learning curve but some lessons have been learned:

- The mission needs to be clearly seen as the platform for the relationship: in the Brazilian case, the mission is making the country more competitive through the modernisation of customs processes.
- The model requires the involvement of:
 - government officials with strong political leadership and willingness to lead change and engage with the private sector
 - a broad representation of associations (these provide political representation and legitimacy)
 - companies that represent all elements in the value chain: producers, purchasers and all agents that provide services to make goods flow along the supply chain.
- There needs to be a small permanent structure to provide logistics support and give continuity to the effort.
- Governance must be totally transparent.
- A methodology is essential. Procomex used Kaisen, furnished by professionals from Embraer, the airplane manufacturer.
- The alliance must not defend any sector or corporate interest or try to solve any company-specific issues or problems.
- Trust is built slowly as individuals learn to respect the value of the relationships so it takes time and effort. This does not come automatically; it must be built through actions and not just with words.

- Many companies are reluctant to commit financial resources for projects that do not bring an immediate return, and fewer still are willing to stick it out through difficult times, for example, when those opposed to change appear to have the upper hand.
- There is always going to be resistance to change. This needs to be managed skilfully by leadership in both the government organisations and the private sector.

Conclusions

The Brazilian partnership between the government/Customs and the private sector is essential and is generating excellent results in a huge, emerging economy. However, it must be improved to meet the new challenges of the fast-changing international trade environment. Cooperation must go deeper, becoming more frequent, better structured and systematic.

Brazil's experience represents one way of developing effective cooperation; something similar could probably be employed in other countries. Our experience suggests that this model and similar initiatives could become instrumental in helping build a new paradigm of partnership that engages all stakeholders to develop the international supply chain. The question for each country is: how to make this happen?

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Note

1 The pioneering work described in this article would not have been possible without the commitment and dedication over the years of well over a hundred public officials and private-sector executives. In particular, the Procomex Alliance would like to thank and recognise the leadership, from the public sector, of Carlos Alberto Freitas Barreto and Jorge Antônio Deher Rachid, current and former secretaries of the Internal Revenue Service; Clecy Maria Busato Lionço, former assistant secretary of the Internal Revenue Service; Ernani Argolo Checcucci Filho, undersecretary for Customs and International Relations; José Carlos de Araújo, general coordinator of Customs Administration; Ronaldo Lázaro Medina and Dario da Silva Brayner Filho, former general coordinators of Customs Administration; and Marco Aurélio Mucci Mattos, general supervisor of the Customs Manuals Project (AFRFB Coana/Suari/RFB). Key leaders from the private sector have included Michael Canon, former president of DHL Express Brazil; the late Eduardo Cruz, former president of the Brazilian Dry-Ports Association; Paulo Protásio, former vice-president of the Brazilian Exporters Association; Gerson Foratto, director of Deicmar; Carlos Eduardo Abijaodi, director for industrial development at the National Confederation of Industry; and Claudenir Pelegrina, Alessandra Monteiro and Julio Cunha, all from Embraer.

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