

The facilitation of trade in Cambodia: challenges and possible solutions

Sopagna Seng

Abstract

In an effort to facilitate trade, the Cambodian government has sought various opportunities to integrate itself into the world economy. Several trade facilitation measures have been implemented while attempting to comply with international best practice, such as following the provisions of the Revised Kyoto Convention. However, some areas have not been efficiently achieved due to the complexity of trade procedures that permit unrelated control agencies to operate jointly at the border. In this regard, the application of trade facilitation principles faces challenges. These challenges include the role of customs, import and export procedures, legal concerns and limitations of institutional coordination. A more appropriate approach is suggested that would ensure control and underpin the success of trade facilitation. This approach would see Customs acting as the sole border enforcement agency with responsibility and obligation to undertake a risk management approach at the border from both control and facilitation perspectives.

1. Introduction

In the last decade, changes in the global trading environment have resulted in a greater emphasis on security and government intervention in customs administration. The World Bank's *Global Economic Prospects 2004* (World Bank 2003) revealed that, for developing country exports, tariff barriers are seen to be much less of a hindrance than the cost of international transportation. However, complicated customs clearance procedures and the limited use of automation are often seen as common problems among the non-tariff barriers that add to the cost of trade. This has led to a significant emphasis on reforms in border and trade policies.

It is considered that customs reform and modernisation programs can add certainty and stability to the global economy and facilitate trade. However, it is imperative to balance customs control and facilitation. Achieving a balance between trade facilitation and regulatory control has become one of the most common topics in customs modernisation in several developing nations. In this regard, the Cambodian government has embarked on several major reform programs on the national level, known as the Rectangular Strategies¹ (Phases I & II). The main pillars include Public Service Reform, Military and Police Reform, Justice and Judiciary Reform, and Economic Reform. The Rectangular Strategy Phase III was launched in October 2013.

This paper discusses legislative concerns relating to the role of modern Customs, and considers approaches that may lead to improvement in the pursuit of operational changes to import and export trade procedures. It is hypothesised that customs control and facilitation may work collaboratively and effectively to facilitate trade and that Customs should be regarded as the sole border enforcement agency

with the responsibility and obligation to undertake risk management approaches at the border from both control and facilitation angles. The paper also examines some current challenges and potential solutions that have been regarded as international best practice in relation to the Revised Kyoto Convention² (2006).

2. Background

Under the framework of its membership of the World Trade Organization (WTO), Association of Southeast Asian Nations (ASEAN), Greater Mekong Subregion (GMS) and the World Customs Organization (WCO), the General Department of Customs and Excise of Cambodia (GDCE) has been contributing significantly to facilitating and simplifying trade procedures in Cambodia (GDCE 2009). In addition to its initiatives in customs reform in 2000 and with recommendations and support from development partners, GDCE launched its 'Work Program for Customs Reform 2003-2008'. Following the implementation of this major reform, GDCE developed a further five-year work program, the 'Strategy and Work Programs on Reform and Modernisation 2009-2013' (SWPRM), which is regarded as the fundamental strategic framework for Cambodian customs administration. Among its strategic objectives, trade facilitation has been incorporated in SWPRM 2009-2013.

It is noteworthy that, since 1999, the customs reform policy has aimed to shift from a control focus to a facilitative direction that focuses on customs procedures, reform and modernisation programs. These programs aim to expedite customs clearance and reduce costs (UNECE 2002, p. 65). However, even after the completion of SWPRM 2009-2013 and the implementation of the Cambodia Trade Facilitation and Competitiveness Project,³ a number of border control agencies still remain as obstacles to expediting the movement of legitimate goods, in addition to adding extra cost to international trade.

Reform in legislation is an essential step towards achieving trade facilitation. In this regard, as part of their reform programs, many developing nations took the step of adopting the principles of the Revised Kyoto Convention and successfully instituting a new, revised Customs Act (eds De Wulf & Sokol 2005), while others went further and deposited an instrument of accession to the Revised Kyoto Convention with the WCO, while awaiting ratification (WCO 2010).

Global Economic Prospects 2004 emphasised that 'the procedural and administrative burdens on traders are often aggravated by overlapping and duplicative informational requirements from several ministries, departments, or agencies' (World Bank 2004, p. 197). There is, however, a significant challenge for governments to implement effective and efficient trade facilitation measures for which the fundamental controls are administered by a single agency. Making this work demands coordination among many government bodies, and includes the reform of domestic regulatory procedures and institutional structures (World Bank 2004). This suggests that the role of border management agencies in the 21st century should focus more on enhancing economic growth and development through trade facilitation and border security. Widdowson (2006, p. 1) suggests that 'the success of the trade facilitation agenda is heavily reliant on the ability of customs administrations to achieve an appropriate balance between facilitation and regulatory control'.

The elements of trade facilitation that have been incorporated in the SWPRM have produced two significant outcomes to date: the Law on Customs 2007 (see Appendix 1), which is fundamentally based on the Revised Kyoto Convention, even though Cambodia is not a party to the Convention (WCO 2010), and an Automated System for Customs Data (ASYCUDA World).

Before the customs legislation of 2007 was adopted, there were at least eleven Cambodian government bodies and five major agencies that participated in the clearance of international consignments, the latter being Customs, Health, Agriculture, Industry and Camcontrol.⁴ Samnang⁵ (2008, p. 19) expressed his concerns that 'Cambodia's customs legislation permits many government agencies to be represented at the border checkpoints, with at least five present at all times. Overlapping controls on customs operations

performed by government agencies unrelated to Customs, especially Camcontrol, results in duplication, inefficient use of resources, [and] ineffective anti-smuggling efforts'. In fact, other agencies were operating at the border prior to the adoption of the Law on Customs.

The proposed role of Cambodian Customs in relation to facilitation of trade and customs procedures is discussed below, including a consideration of primary policy concerns and a discussion of what has been done and should be done in order to comply with the Revised Kyoto Convention's provisions that would allow Customs to apply and implement effective and efficient trade facilitation measures.

3. Concepts of trade facilitation

3.1 What is trade facilitation?

Interestingly, there is no consensus on the definition of trade facilitation. Grainger (2007) suggests that trade facilitation mainly reflects the simplification, harmonisation, standardisation and modernisation of trade practices with the aim of lowering transaction costs in international trade. Keen (2003) suggests that the concept of trade facilitation is about assisting individual governments, especially governments in developing nations that are susceptible to corruption and low compliance levels, to establish an effective customs administration.

Global Economic Prospects 2004 identifies other sources for definitions of trade facilitation:

OECD: 'Simplification and standardization of procedures and associated information flows required to move goods internationally from seller to buyer and to *pass payments* in the other direction.'

UNECE: A '*comprehensive and integrated approach* to reducing the complexity and cost of the trade transaction process, and ensuring that all these activities can take place in an efficient, *transparent, and predictable manner*, based on internationally accepted norms, standards, and best practices.'

APEC: 'Trade facilitation generally refers to the simplification, harmonization, *use of new technologies*, and other measures to address procedural and administrative impediments to trade' [emphases added] (World Bank 2003, p. 181).

Many countries are witnesses to the sluggish development in trade facilitation in which they are vulnerable to high costs and administrative difficulties at the border (World Bank 2011, p. 1). However, it seems no study has been done to estimate the cost of fully applying international trade facilitation measures. Nevertheless, trade facilitation has been regarded as the most widely used strategy that assists governments to reduce the costs of doing business and encourage trade for economic growth. To achieve sustainable economic growth while remaining competitive, several countries have reduced tariffs, initiated numerous regimes to attract foreign investment, and sought opportunities for greater regional integration as part of their trade facilitation programs.

3.2 Role of modern Customs

The Revised Kyoto Convention, known as 'the international blueprint for the management of Customs procedures', was primarily established by the WCO's Council to provide a balanced approach to trade facilitation and control. The Convention has been developed to minimise the level of customs intervention in cargo movements and to maximise the level of trade facilitation. In other words, it enables the contracting parties to attain a modern customs administration and to greatly support the facilitation of international trade and travel.

Not long ago, most developed countries successfully adopted the Revised Kyoto Convention or similar standards of international best practice to facilitate international trade and travel. As the Convention's provisions aim to provide greater certainty and uniformity in the way in which customs administrations

around the world carry out their work (Yasui 2010), numerous customs administrations that seek to reform and modernise have been aspiring to accede to the Convention.

The Convention plays a crucial function in that it enables governments to widen their market access and trade opportunities. It is regarded as a significant legal framework for customs operations to implement customs-related principles developed by the WTO, such as Articles V, VIII, and X of the GATT of 1994 (Mikuriya 2005, p. 54). In addition, the Convention's provisions encourage Member contracting parties to achieve a maximum level of facilitative international trade and travel while maintaining appropriate levels of regulatory control.

According to the WCO (1999), having successfully acceded to the Convention, customs administrations will most likely be able to:

- Remove inconsistency in customs procedures and practices that may contradict international trade and other international exchanges.
- Act in concert with both international trade and customs administrations' objectives in order to facilitate, simplify and harmonise customs procedures and practices.
- Deliver appropriate standards of customs control.
- Cope with major changes that may occur in the trading environment and in administrative approaches and techniques.
- Attain the core principles for simplification and harmonisation.
- Maintain efficient procedures by appropriate and effective application of control mechanisms.

According to Widdowson (2006b, p. 1), 'The Doha Ministerial Declaration and subsequent decisions of the General Council of the World Trade Organization (WTO) have sought to intensify international commitment to further expedite the movement, release and clearance of internationally traded goods'. Pointing to the fact that 'customs administrations around the world are responsible for implementing a broad range of government policies in areas as diverse as revenue collection, trade compliance and facilitation, community protection, cultural heritage, intellectual property, collection of statistics, and environmental protection' (Widdowson 2006a, p. 2), Widdowson proposed a modern compliance management style which contrasts how such roles have been traditionally performed (see Table 1). Risk management application underpins success and is regarded as an indispensable means of concurrently ensuring enforcement, security and trade facilitation. In this regard, risk management strategies should be developed based on the provisions of the Revised Kyoto Convention in order to achieve high levels of both control and facilitation.

Table 1: Compliance management styles

	Traditional Gatekeeper Style	↔	Risk Management Style
Legislative Framework	Legislative base provides for a “one size fits all” approach to compliance management	↔	Legislative base provides for flexibility and tailored solutions to enable relevant risk management and administrative strategies to be implemented
	Onus for achieving regulatory compliance is placed solely on the trading community	↔	Legislative base recognizes responsibilities for both government and the trading community in achieving regulatory compliance
	Sanctions for noncompliers	↔	Sanctions for noncompliers
Administrative Framework	“One size fits all” compliance strategy	↔	Strategy dependent on level of risk
	Control focus	↔	Balance between regulatory control and trade facilitation
	Enforcement focus	↔	Dual enforcement–client service focus
	Unilateral approach	↔	Consultative, cooperative approach
	Focus on assessing the veracity of transactions	↔	Focus on assessing the integrity of trader systems and procedures
	Inflexible procedures	↔	Administrative discretion
	Focus on real-time intervention and compliance assessment	↔	Increased focus on post-transaction compliance assessment
	Lack of or ineffective appeal mechanisms	↔	Effective appeal mechanisms
Risk Management Framework	Indiscriminate intervention or 100 percent check	↔	Focus on high-risk areas, with minimal intervention in low-risk areas
	Physical control focus	↔	Information management focus
	Focus on identifying noncompliance	↔	Focus on identifying both compliance and noncompliance
	Post-arrival import clearance	↔	Pre-arrival import clearance
	Physical control maintained pending revenue payment	↔	Breaks nexus between physical control and revenue liability
	No special benefits for recognized compliers	↔	Rewards for recognized compliers
Risk Management Enablers			
IT Framework	Legislative provisions provide the trading community with electronic as well as paper-based reporting, storage, and authentication options. Such provisions should enable regulators to rely on commercially generated data to the greatest extent possible. Appropriate communications and information technology infrastructure to provide for automated processing and clearance arrangements. Regulators should seek to achieve maximum integration with commercial systems. Consultative business process reengineering prior to automation.		

Source: Widdowson 2005, p. 95.

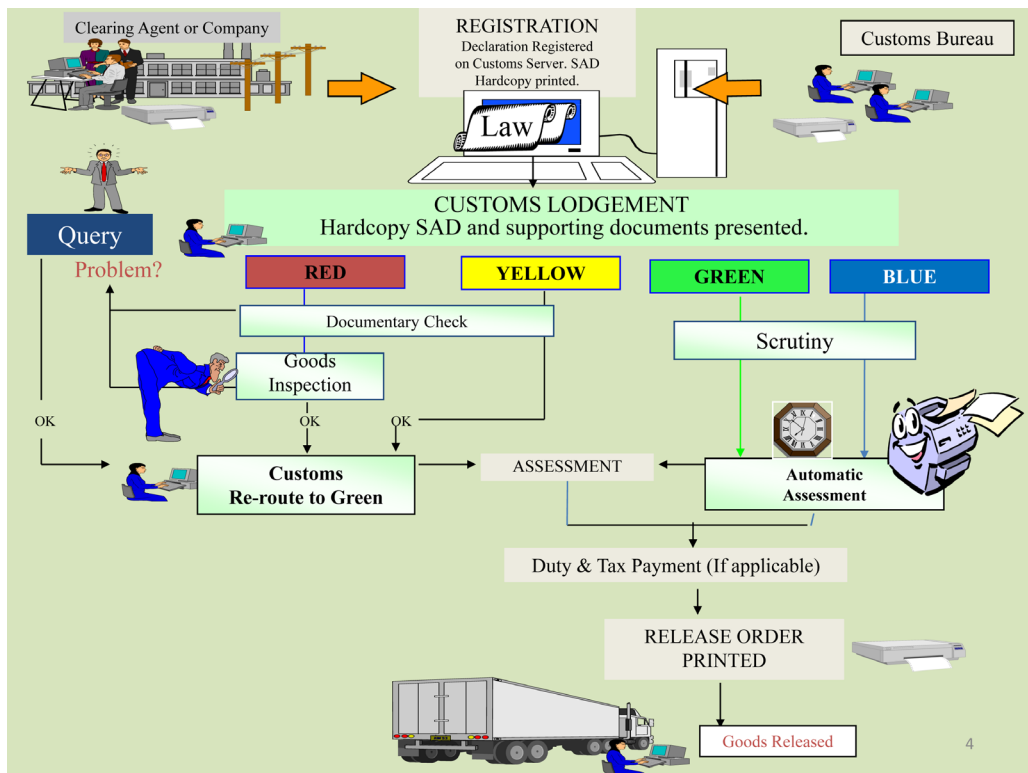
4. Trade facilitation in Cambodia

4.1 What has been done to improve import and export clearance?

Membership of the WTO has provided the impetus for the Cambodian government to implement a set of legal and regulatory reforms including the Customs Law, and to implement several trade facilitation measures (WTO 2011a). Since the Customs Reform of 2000, trade facilitation has been one of the strategic objectives developed by the GDCE in which it aims to provide prompt, reliable and professional service to legitimate business (GDCE 2011a).

With financial support from the World Bank, GDCE was able to introduce ASYCUDA World under a Trade Facilitation and Competitiveness Project (World Bank 2006). The pilot implementation was launched a year after the new Customs law was enacted in 2007. Currently, there are at least 22 customs checkpoints equipped with the ASYCUDA World system. As a result, some significant programs have been progressed including the implementation of a single administrative document (SAD) for electronic customs clearance within the ASYCUDA World system, a risk management strategy, and the streamlining and automation of customs procedures. Importantly, physical inspections are based on the level of risk (see Figure 1).

Figure 1: Process diagram of ASYCUDA risk-based procedures



Source: General Department of Customs and Excise of Cambodia 2011.

In 2004, the government established a Special Inter-Ministerial Task Force on Trade Facilitation and Investment Climate. As a result, a 12-point action plan was proposed to address the most urgent impediments to trade and to improve the investment climate and promote trade facilitation. This has resulted in a substantial change in legal and institutional mechanisms. In this regard, Dr Kun Nhem,

Deputy Director of GDCE, stressed the significance of establishing a Sub-Steering Committee, the Trade Facilitation Working Group (Kun Nhem n.d.). This has led to a number of legal documents being endorsed at the national level to enable Customs to fully exercise its responsibilities of better facilitating trade, streamlining trade procedures, and especially, reducing unnecessary intervention by other agencies. To support the reform process, the Project Steering Committee (PSC) on Customs Automation was established in 2006 and the Steering Committee on National Single Window was formed in 2008 to guide its development and implementation.

Significantly, among the various legal reforms, Sub-Decree No. 21 relates to trade facilitation through risk management while joint Ministerial Regulations, known as Service Level Arrangements, authorise coordination and cooperation between Customs and the Ministry of Commerce (Camcontrol), Agriculture, Forestry and Fishery (Quarantine), the Ministry of Industry, Mine and Energy (MIME), and the Ministry of Health (MoH). This provides an essential legal base that enables GDCE to lead and coordinate different government agencies to ensure a more efficient and effective enforcement of laws relating to trade and its facilitation. As an adjunct, Sub-Decree No. 209 focuses on the Management and Control of Prohibited and Restricted Goods among the various border agencies. Such reform was necessary due to the existence of ‘a duplication’ of control authorities at national borders, which is in contravention of the principles of the Revised Kyoto Convention.

Within the SWPRM 2009-2013,⁶ under trade facilitation measures, four core components have been emphasised: risk management; automation (Single Window); Customs-Private Sector Partnership Mechanism (CPPM); and the implementation of the transaction value method in line with WTO commitments.

However, with support from donor agencies and international assistance, only the 2007 revised customs legislation and automation (ASYCUDA) through risk management appear to be well advanced in terms of their implementation. Less significant progress has been made in single window and transaction value implementation. Also, following concerns raised in the WTO Trade Policy Review about ‘Cambodia’s failure to fully implement transaction values and its continued use of minimum customs values on certain imports’ (WTO 2011a, p. 29), the Ministry of Economy and Finance released a new regulation, No. 6616, on the implementation of transaction value based on WTO rules, which GDCE has since been implementing.

In a further effort to improve import and export mechanisms, the pre-shipment inspection mechanism was eliminated in 2011, and has resulted in a respectable reduction in the time and number of documents required for importing and exporting. Table 2 shows that nine different documents are required to export a standard container of goods, which takes 22 days and costs USD732, while importing the same container of goods requires 10 documents, takes 26 days and costs USD872. Clearly, however, more needs to be achieved, and in this context, a Time Release Study has been conducted with the support of the Asian Development Bank (ADB) and WCO to address the improvement of import and export cargo release.

To further facilitate economic development, and to attract more direct foreign investment as well as to promote export activities, 22 Special Economic Zones (SEZ) were established in 2011. This was in response to Cambodia’s commitments in its Protocol of Accession to the WTO Agreement. The SEZ mechanism provides that ‘goods produced in any such zones or areas under tax and tariff provisions that exempt imports and imported inputs from tariffs and certain taxes, would be subject to normal customs formalities when entering the rest of Cambodia, including the application of tariffs and taxes’ (WTO 2011a, p. 46).

In addition to the efforts of the WTO, the Cambodian government has extended its effort in intra-Customs cooperation with some ASEAN member countries. Since the 1997 economic recession, the governments of Cambodia, Laos, Myanmar and Vietnam (CLMV) have been actively seeking to contribute to trade facilitation in the region, as well as conforming to the terms of the Common Effective Preferential Tariff

(CEPT) scheme (Lao-Araya 2002). This scheme allows CLMV governments to enjoy a preferential tariff that has been lowered by the ASEAN member countries.

Within the requirements of the ASEAN Free Trade Area CEPT scheme, green lanes have been established at eight major customs checkpoints. In addition, importers and exporters are no longer required to obtain approvals from customs headquarters, as the goods clearance process has been decentralised. Similarly, valuation decisions may also be made at the customs provincial branch level. Risk management principles are also being applied to facilitate trade for those traders with high trade regulation compliance records. To further facilitate communication between the public and private sectors, a Public Relations Unit has been created and, importantly, the new customs legislation also provides appeal procedures and dispute settlement mechanisms (UNECE 2002, p. 65).

4.3 What obstacles remain?

A report released by the World Bank (2012) identifies Cambodia’s procedural requirements, and the associated time and costs of exporting and importing a standard shipment of goods. The report suggests that a ‘comparison of the economy’s indicators today with those in the previous year may show where substantial bottlenecks persist – and where they are diminishing’ (World Bank 2012, p. 10), and these can be identified in Table 3. Obviously, bottlenecks impede the movement, customs clearance and release of legitimate cargo. However, the results of the Time Release Study that was conducted with the support of the ADB and WCO, and which sought to address such bottlenecks, are not publicly available.

Table 2: Summary of procedures and documents for trading across borders in Cambodia

Indicator	Cambodia	East Asia & Pacific	OECD high income
Documents to export (number)	9	6	4
Time to export (days)	22	22	10
Cost to export (USD per container)	732	906	1,032
Documents to import (number)	10	7	5
Time to import (days)	26	23	11
Cost to import (USD per container)	872	954	1,085

Procedures to export	Time (days)	Cost (USD)
Documents preparation	14	220
Customs clearance and technical control	3	262
Ports and terminal handling	3	100
Inland transportation and handling	2	150
Totals	22	732

Procedures to import	Time (days)	Cost (USD)
Documents preparation	15	210
Customs clearance and technical control	3	265
Ports and terminal handling	5	217
Inland transportation and handling	3	180
Totals	26	872

Documents to export	Documents to import
1. Bill of lading	1. Bill of lading
2. Certificate of origin	2. Cargo release order
3. Commercial invoice	3. Certificate of origin
4. Customs export declaration	4. Commercial invoice
5. Export permit	5. Customs import declaration
6. Insurance certificate	6. Insurance certificate
7. Packing list	7. Import permit
8. Terminal handling receipts	8. Packing list
9. Inspection report (from Camcontrol)	9. Tax certificate
	10. Terminal handling receipts

Source: World Bank 2012.

Table 3: The ease of trading across borders in Cambodia over time

Indicator	DB 2006	DB 2007	DB 2008	DB 2009	DB 2010	DB 2011	DB 2012
Rank	124	127	120	120
Document to export (number)	7	10	10	10	10	9	9
Time to export (days)	43	37	37	22	22	22	22
Cost to export (USD per container)	736	722	722	732	732	732	732
Documents to import (number)	12	11	11	11	11	10	10
Time to import (days)	54	45	45	29	29	26	26
Cost to import (USD per container)	816	852	852	872	872	872	872

Source: World Bank 2012, p. 81.

As previously noted, laws and regulations concerning trade facilitation have been introduced in Cambodia to allow the government to implement a wide range of measures. Nevertheless, these trade facilitation measures have not been fully effective due to the ongoing operation of existing laws and regulations that allow a degree of duplication of agency activities at the border. Under Sub-Decree No. 59 (2008), for example, it is the duty and responsibility of Camcontrol to inspect imports and exports jointly with Customs (WTO 2011a, p. 55).

In this regard, customs control is a key component in facilitating the movement of legitimate trade and travel. According to the Revised Kyoto Convention, customs control depends upon the implementation of provisions from chapters 3, 7, 8 and 9 while chapter 6 deals exclusively with customs control. The content of chapter 6 covers the implementation of customs clearance, regulatory compliance, risk management and the use of risk analysis, application of information technology (IT), and Customs' relationship and cooperation with other agencies. In this respect, several measures have been implemented with strong cooperation among other border agencies on the national level in compliance with those provisions. However, the provisions of chapter 6 have yet to be completely complied with as other trade-related laws and regulations permit another control agency joint customs inspection at the border.

As mentioned above, Samnang (2008) expressed his concerns regarding Cambodia's customs legislation that allows overlapping controls on agency operations at the border, and which fails to achieve a coordinated approach to border management and accountability.

Widdowson (2012, p. 28) describes border clearance activities in Cambodia as being characterised by 'ineffective controls; overlap and duplication; routine checks; independent agency procedures with no

inter-agency coordination; and no evidence of a risk-based approach to compliance management’, adding that ‘The resultant costs, delays and regulatory complexity severely impeded trade and investment’. Even though inter-agency Service Level Agreements have been endorsed to enable a single agency to undertake certain activities on behalf of another agency, with Customs to be the leading border agency, the old trends seem to continue with the presence of Camcontrol at the border even after the adoption of the 2007 Law on Customs.

The presence of the overlapping border agency is still regarded as burdensome for traders as it complicates trade procedures and impedes Customs’ authority to fully exercise its legitimate role and obligations. The Chairperson made a noteworthy recommendation about customs reform in his closing remarks during the Trade Policy Review in November 2011. He expressed the concerns made by WTO Members that with the recognition of Cambodia’s efforts in the area of customs reform including enactment of the 2007 Customs law, it is fundamental that Camcontrol import requirements have to be more transparent (WTO 2011b).

Interestingly, in an effort to facilitate sanitary and phytosanitary control clearance, van der Meer and Ignacio (2011, p. 267) pointed out that:

Many SPS agencies perform their role in sequence with customs. In some countries – such as the People’s Republic of China – customs decides which goods need SPS clearance. After a customs declaration is filed, the applicant may be directed to the SPS agencies for further clearance before returning to customs. In contrast, in Cambodia a general inspection agency – Camcontrol – has, among its other duties, that of checking at the border for product identity and food safety in all incoming shipments. That results in more duplication of data and paperwork than is found in the People’s Republic of China.

To achieve an appropriate balance between facilitation and regulatory control, it is contended that customs administrations need to have the ability to exercise full border control authority. This may frequently demand coordination among many government bodies and include a readjustment of domestic regulatory procedures and institutional structures.

5. Suggested solutions

As previously noted, several measures have been undertaken to improve the movement of legitimate trade and travel in Cambodia. These measures include customs reform and modernisation, which resulted in substantial changes in the legal framework, cooperation among control agencies, a consultative approach and the use of automation through risk management. However, some areas remain obstacles and impede Customs’ ability to effectively facilitate trade.

To address such a significant challenge, it is suggested that the government should require border controls to be administered by a single agency (GDCE), which may involve merging GDCE with those agencies which currently have overlapping responsibilities. This would enable Customs, as the single border agency, to achieve the required balance between facilitation and regulatory control, and would require a greater degree of coordination between Customs and a number of government bodies.

To further ease trading across borders in response to the increase in trade volume in today’s globalised world, and in response to the key milestones of ASEAN Economic Community 2015 (free flow of goods, labour and capital), it is important for GDCE to continue its implementation of reform and modernisation programs and to conduct an evaluation of previous reforms. This should include a review of customs laws, regulations, administrative guidelines, and procedures, harmonised and simplified to reduce unnecessary duplication and red tape.⁷ The review should place emphasis on the need for risk-based inspections and the implementation of post clearance audit, additional automation and other initiatives aimed at improving the trading environment and increasing the international competitiveness

of business. For instance, GDCE could re-examine its participation in, and evaluation of, the Columbus Program and other capacity building programs provided by the WCO.

In doing so, McLinden's (2005, p. 78) advice should be followed, which suggests a review to improve performance in 10 core customs areas: (1) leadership and strategic planning; (2) organisational and institutional framework; (3) resources (human, financial, and physical); (4) external cooperation and partnership; (5) good governance; (6) customs systems and procedures; (7) the legal framework; (8) change management and continuous improvement; (9) information technology; (10) management information and statistics. This also recognises that human resources are one of the key contributors in a continuing reform and modernisation program.

It is also worthwhile noting that while Cambodia claims to have based its customs law on the Revised Kyoto Convention, it is yet to become a contracting party. This should be progressed. Several studies have shown the benefits of the Convention's provisions (Yasui 2010), and indicate, among other things, that customs revenue increases significantly following customs reform and modernisation programs based on the principles of the Convention. Having fully complied with the Convention's provisions, there is no doubt that Customs would have the capacity to become the sole border enforcement agency.

The effective use of risk management must also be intensified in order to respond to the increase in trade volume in today's globalised world. The risk management approach underpins the success of regulatory compliance management and contributes significantly to speedy clearance by focusing resources on high-risk consignments. Further, it reduces procedural delays and unnecessary controls and, importantly, opportunities for corrupt activity.

There is also a need to strengthen international cooperation. It is noteworthy that during the ASEAN-Japan Director General/Commissioners Meeting on Trade Facilitation held in Phnom Penh in April 2011, some key priorities for GDCE were identified. These included further modernisation based on the Revised Kyoto Convention, further use of risk management supported by the WCO and the European Committee for Standardization [Comité Européen de Normalisation] (CEN), establishment of an Authorised Economic Operator (AEO) program with a network of mutual recognition agreements; establishment of a national single window and ASEAN single window with international interoperability; and lastly, a time release study based on the revised WCO Time Release Study Guide (WCO 2011).

6. Concluding remarks

Trade facilitation in Cambodia has not been fully addressed, as some elements of its legislation serve to impede the implementation of international best practice. An obvious key concern is the presence of multiple agencies at the border, which introduces legal complexities, as well as costs and delays to traders, thereby preventing trade facilitation initiatives from being fully achieved.

It is important for policymakers to acknowledge that excessive border clearance procedures that are enforced by both Customs and other border agencies represent a significant hindrance to the international trading community. It is contended that Customs should act as the sole border enforcement agency with the responsibility and obligation of undertaking a risk management approach from both a control and facilitation perspective. A single agency approach, together with reduced documentary and other requirements will enable traders to achieve timely customs clearance, reduce costs and minimise disruption to their supply chain.

Although discussion on a capacity building program was not included in this paper, it is imperative to recognise its practicality in contributing to customs reform and modernisation. As noted by the WCO, customs reform and modernisation is synonymous with capacity building.

Appendix 1: The 2007 Law on Customs and Regulations

Law on Customs and Regulations

1. Law on Customs

2. Supporting Regulations:

(a) **Sub-Decree:** Anukret on Prohibited and Restricted Goods List

(b) **Ministerial Prakas:**

Prakas on Provision and Procedure of Customs Declaration

Prakas on Establishment and Functioning of Customs Brokers

Prakas on Customs Valuation of Imported Goods

Prakas on Customs Bonded Warehouse

Prakas on Customs Temporary Storage

Prakas on Refund of Customs Duties and Taxes

Prakas on Security

Prakas on Reporting, Movement, Storage & Transport of Exported Goods

Prakas on Importation of Goods under Temporary Admission

Prakas on Management of Documents, Books, Records, & other Information

Prakas on Determination of Exempt Goods

Prakas on Exempt Goods Control Procedures

Prakas on Management of Unclaimed Goods

Prakas on Temporary Export of Goods

Prakas on Customs Formalities outside Customs Offices

Prakas on Extension of Customs Zone

Prakas on Post Clearance Audit by Customs and Excise Department

Prakas on Customs Transit

Prakas on Special Customs Procedure in Special Economic Zone

Prakas on Procedures for the Management of Special Designed Goods

Prakas on Transportation Distribution and Possession of Imported Goods in
the Customs Territory

Prakas on use of Information Obtained by Customs Officers

Prakas on Settlement of Customs Offences

Prakas on Customs Tariff and Tariff Classification of Goods

Prakas on Reward Distribution

Prakas on Procedures on Payment of Duty and Taxes and other levies on
Imported and Exported Goods

Prakas on Reporting of Imported Goods

(c) **Guidelines:** Instruction No. 583, 30 June 2008, on the implementation of Initial Post Clearance Audit Manual in the Customs and Excise Department Instruction No. 790, 28 August 2008, and Procedures for Customs Transit

Source: WTO 2011a, p. 30.

References

- Asian Development Bank (ADB) n.d., *Cambodia – in the Greater Mekong Subregion*, ADB, Manila, The Philippines.
- Asian Development Bank (ADB) 2011, *Asian development outlook 2011*, ADB, Manila, The Philippines.
- Asia-Pacific Economic Cooperation (APEC) 1999, *Assessing APEC Trade Liberalization and Facilitation: 1999 Update*, Asia-Pacific Economic Cooperation Economic Committee, September, APEC, Singapore.
- Asia-Pacific Economic Cooperation (APEC) 2001, ‘Annex B: APEC principles on trade facilitation’, in Meeting of APEC Ministers Responsible for Trade (MRT), Shanghai, People’s Republic of China, 6-7 June.
- Buyonge, C & Kireeva, I 2008, ‘Trade facilitation in Africa: challenges and possible solutions’, *World Customs Journal*, vol. 2, no. 1, pp. 41-54.
- De Wulf, L & Sokol, JB (eds) 2005, *Customs modernization handbook*, World Bank, Washington, DC.
- General Department of Customs and Excise (GDCE) 2009, *Strategy and work programs on reform and modernization of the General Department of Cambodia Customs and Excise (2009-2013)*, JICA, Phnom Penh.
- General Department of Customs and Excise (GDCE) 2011a, *Customs reform 2000*, viewed 20 April 2012, www.customs.gov.kh/reforms2000.html.
- General Department of Customs and Excise (GDCE) 2011b, *Automated System for Customs Data (ASYCUDA)*, viewed 10 April 2012, www.customs.gov.kh/asycuda.html.
- Grainger, A 2008, ‘Customs and trade facilitation: from concepts to implementation’, *World Customs Journal*, vol. 2, no. 1, pp. 17-30.
- Kun Nhem, n.d., ‘Status and challenges of single window and paperless trade implementation in Cambodia’, viewed 17 April 2012, www.unescap.org/tid/projects/tfforum10_cam.pdf.
- McLinden, G 2005, ‘Integrity in Customs’, in Luc De Wulf & José B Sokol (eds), *Customs modernization handbook*, World Bank, Washington, DC, pp. 67-89.
- McLinden, G, Fanta, E, Widdowson, D & Doyle, T (eds) 2011, *Border management modernization*, World Bank, Washington, DC.
- Mekong Private Sector Development Facility 2005, ‘A summary of Cambodia’s WTO Agreement’, *Business Issues Bulletin*, no. 6, pp. 1-8, viewed 12 March 2012, [www.ifc.org/ifcext/mekongpsdf.nsf/AttachmentsByTitle/BIB-6-CAM-ENG/\\$FILE/BIB-6-CAM-ENG.pdf](http://www.ifc.org/ifcext/mekongpsdf.nsf/AttachmentsByTitle/BIB-6-CAM-ENG/$FILE/BIB-6-CAM-ENG.pdf).
- Mikuriya, K 2005, ‘Legal framework for customs operations and enforcement issues’, in Luc De Wulf & José B Sokol (eds), *Customs modernization handbook*, World Bank, Washington, DC, pp. 51-66.
- Organisation for Economic Co-operation and Development 2001, *Business benefits of trade facilitation*, TD/TC/WP(2001)21 FINAL, OECD, Paris.
- Phalla, C, Chhun, C, Kimhong, G, Seiha, H, Vutha, H, Sothorn, K, Sothy, K, Pirom, K, Virak, K, Pide, L, Tem, L, Neath, N, Chandarany, O, Nonglak, P, Kimchoeun, P, Dalis, P, Chan Hang, S, Bundeth, S, Sethea, S, Paradis, S, Vimealea, T & Kimsun, T 2011, *Annual development review 2010-11*, Cambodia Development Research Institute (CDRI), Phnom Penh, Cambodia.
- Royal Government of Cambodia 2007, *Law on Customs of the Kingdom of Cambodia*, (Cambodian Customs Law), viewed 12 January 2012, www.customs.gov.kh/LawOnCustoms/PreahReachKramEN.pdf.
- Samnang, C 2008, ‘Regional policy dialogue on trade facilitation policy gap analysis on Cross Border Transport Agreement (CBTA) in the Greater Mekong Subregion’, GMS Regional Policy Dialogue, Mekong Institute, Khon Kaen, Thailand.

- Sothirak, P, Wade, G & Hong, M (eds) 2012, *Cambodia: progress and challenges since 1991*, Institute of Southeast Asian Studies, Singapore.
- United Nations Economic Commission for Europe (UNECE) 2002, *Trade facilitation handbook for the Greater Mekong Subregion*, United Nations, New York.
- van der Meer, K & Ignacio, L 2011, 'Sanitary and phytosanitary measures and border management', in G McLinden, E Fanta, D Widdowson & T Doyle (eds), *Border management modernization*, World Bank, Washington, DC, pp. 263-77.
- Widdowson, D 2005, 'Managing risk in the customs context', in Luc De Wulf & José B Sokol (eds), *Customs modernization handbook*, World Bank, Washington, DC, pp. 91-99.
- Widdowson, D 2006a, 'Raising the Portcullis', presentation to the WCO *Conference on developing the relationship between WCO, universities and research establishments*, March 2006, Brussels.
- Widdowson, D 2006b, 'Border protection and trade facilitation: are the two compatible?', paper presented to the *Korea Research Society for Customs Conference on Globalization of Customs Administration & Border Protection*, May 2006, Seoul, Korea.
- Widdowson, D 2007, 'The changing role of customs: evolution or revolution?', *World Customs Journal*, vol. 1, no. 1, pp. 31-37.
- Widdowson, D 2012, 'Risk-based compliance management: making it work in border management agencies', viewed 27 March 2012, http://siteresources.worldbank.org/INTRANETTRADE/Resources/239054-1305664393028/Risk-Based_Compliance_Management.pdf.
- Wilson, JS, Mann, CL, Yuen Pau Woo, Assanie, N & Inbom Choi 2002, *Trade Facilitation: a development perspective in the Asia-Pacific Region*, APEC Secretariat, Singapore.
- World Bank 2003, *Global economic prospects: realizing the development promise of the Doha Agenda, 2004*, 'Reducing trading costs in a new era of security', ch. 5, World Bank, Washington, DC, viewed 28 April 2012, <http://siteresources.worldbank.org/INTRGEP2004/Resources/chapter5.pdf>.
- World Bank 2006, 'Implementation status and results Cambodia: Cambodia trade facilitation and competitiveness', Report no. ISR2774, Phnom Penh, Cambodia.
- World Bank 2009, *Doing Business 2010*, World Bank, Washington, DC.
- World Bank 2012, *Doing Business 2012: Economy profile: Cambodia: Doing business in a more transparent world*, World Bank, Washington, DC.
- World Bank 2013, *Doing Business 2013: Economy profile: Cambodia: Smarter regulations for small and medium-size enterprises*, World Bank, Washington, DC.
- World Customs Organization (WCO) 1983, *International Convention on the Harmonized Commodity Description and Coding System, (as amended)*, WCO, Brussels.
- World Customs Organization (WCO) 1999, *Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures*, General Annex, WCO, Brussels.
- World Customs Organization (WCO) 2010, Conventions sponsored or administered by the Customs Co-operation Council, viewed 30 March 2012, www.wcoomd.org/files/1.%20Public%20files/PDFandDocuments/About%20Us/legal_instru/SG0173E1b.pdf.
- World Customs Organization (WCO) 2011, 'Enhancement of ASEAN connectivity with the Asia Cargo Highway', viewed 27 April 2012, www.wcoomd.org/en/media/newsroom/2011/april/enhancement-of-asean-connectivity-with-the-asia-cargo-highway.aspx.
- World Trade Organization (WTO) 2011a, *Trade Policy Review: Cambodia*, viewed 30 March 2012, www.wto.org/english/tratop_e/tpr_e/tp353_e.htm.
- World Trade Organization (WTO) 2011b, 'Concluding remarks by the Chairperson', *Trade Policy Review – Cambodia, 1-3 November 2011*, viewed 30 March 2012, www.wto.org/english/tratop_e/tpr_e/tp353_crc_e.htm.

Yasui, T 2010, 'Benefits of the Revised Kyoto Convention', World Customs Organization (WCO), viewed 10 March 2012, [www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/~media/WCO/Public/Global/PDF/Topics/Facilitation/Instruments%20and%20Tools/Conventions/Kyoto%20Convention/BenefitsRKC.ashx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/~/media/WCO/Public/Global/PDF/Topics/Facilitation/Instruments%20and%20Tools/Conventions/Kyoto%20Convention/BenefitsRKC.ashx).

Notes

- 1 'Rectangular Strategy' is regarded as the master plan for economic development milestones proposed by the government of Cambodia in response to priority areas for development such as integrating Cambodia into the region and the world. See the latest illustration of Rectangular Strategy Diagram published by CDRI, – *Annual Development Review 2010-11*, p. 15.
- 2 The *International Convention on the Simplification and Harmonization of Customs procedures* (the Kyoto Convention) entered into force in 1974 and was revised and updated to ensure that it meets the current demands of governments and international trade. As a result, the Revised Kyoto Convention entered into force on 3 February 2006.
- 3 Cambodia Trade Facilitation and Competitiveness Project is a World Bank-funded project largely contributed to the Automated System for Customs Data (ASYCUDA) system.
- 4 Camcontrol (Cambodia Import Export Inspection and Fraud Repression Department in the Ministry of Commerce).
- 5 Mr Chea Samnang, at the time of publication, was a researcher at the Supreme National Economic Council (SNEC), Social Study and Analysis Division, Phnom Penh, Cambodia.
- 6 The document is entitled 'Strategy and Work Plan on Reform and Modernization of the General Department of Customs and Excise Department Strategic Objectives: 2009-2013'.
- 7 See McLinden 2005, pp. 67-89.

Sopagna Seng



Sopagna Seng joined Cambodian Customs in 2006. After receiving a Master of International Customs Law and Administration (MICLA) from the University of Canberra, he was promoted Deputy Chief of Customs Inspection Office. Sopagna has been involved in a variety of trade facilitation issues and other customs-related areas such as Border Security Programs, Anti-Money Laundering (AML) and Advance Rulings for Tariff Classification (AR-TC).

