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## **CERTAIN INTERNATIONAL ASPECTS OF CUSTOMS MODERNIZATION PROCESS<sup>57</sup>**

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### **ABSTRACT**

Customs administrations are core governmental institutions directly involved in international trade relations. The rapid growth of international trade in value and especially in volume terms, on the one, and the social safety and security challenges particularly after the 9/11 terrorist attacks, on the other hand, impose a process of redefining the role and the way of managing and processing of everyday activities in Customs. The main functions of the Customs administrations as revenue collection, trade protection, law compliance and control of goods, have been amended with trade facilitation and ensuring social security and safety. Customs modernization as a part of trade facilitation agenda represents a process that put in place a well functioning customs administration that provides traders with transparent, predictable, and speedy clearance of goods. This paper aims to analyse certain international efforts which have been made in Customs modernization process such as legal improvements, risk management and simplified procedures, with emphasizing the results in trading across borders.

**KEY WORDS:** Customs modernization, risk management, simplified customs procedures, authorized economic operator

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<sup>57</sup> review scientific paper

## **INTRODUCTION**

Customs modernization as a comprehensive streamlining of processes, formalities, procedures and documents handled by Customs, is consisted of several interdependent activities related with establishment and implementation of improved law regulations; risk management; simplified customs procedures and post-clearance audit; paperless environment and e-customs; improved human resource management and Customs-to-Customs and Customs-to-Business cooperation. Special improvements are related to establishment of simplified customs procedures and greater inclusion of trade operators in customs issues, such as the concept of authorized economic operator. Additionally, the risk management concept is applied in overall Customs operations. These reforms could be established not only by law improvements, but either by permanent usage of modern information and communication technology. Customs reforms are followed by implementation of improved human resources management that helps in optimal deployment of human resources, as well as in fighting against corruption activities.

Along with the introduction and conclusion sections, this paper is consisted of four parts. The first part is dedicated to improvements in national and conventional customs regulations, with special emphasis of international conventions that set standards in Customs. The second part is related to risk management process, and the third one is dedicated to simplified customs procedures. Perception of certain customs modernization effects are presented in the forth part.

### **IMPROVEMENTS IN NATIONAL AND CONVENTIONAL CUSTOMS REGULATIONS**

The processes of imposition and implementation of improved national law regulations that would be harmonized with related conventions and other documents enacted by different international institutions and integrations are one of the most important activities in Customs modernization. In Table 1 the most important international conventions that set standards for the most critical customs functions are presented.

Despite of the other international organization, two of them are highly involved in the process of Customs modernization: the World Customs Organization (WCO) and the World Trade Organization (WTO).

The most important international conventions that set standards in Customs are established by the WCO, such as:

- The Revised Kyoto Convention (International Convention on the Simplification and Harmonization of Customs Procedures) provides the framework for processing goods in international trade;
- The International Convention on the Harmonized Commodity Description and Coding System (referred to as the Harmonized System or HS), provides the nomenclature and coding system for classification of all tradeables. It entered into force 01, January, 1988 and up to 07 May 2012, 141 contracting parties have formally acceded to the Convention, although there are numerous parties that have not acceded to it, but they apply HS into their Customs Tariff Schedules. Actually, there are 65 non-contracting parties which apply HS, out of which 55 are countries or territories and 10 are organizations.
- The Convention on Temporary Admission, referred to as Istanbul Convention, entered into force on 27 November 1993, and as of end of June 2011, 61 country world-wide have acceded to this convention.

**Table 1: International Customs Conventions**

Convention	Date of enter into force	Number of CP/M*	Position as of date
Convention on establishing Customs Cooperation Council <sup>a</sup> - WCO	04.11.1952	177	30.06.2011
International Convention on the Simplification and Harmonization of Customs Procedures, referred to as Revised Kyoto convention <sup>b</sup>	03.02.2006	76	30.06.2011
The Convention on Temporary Admission, referred to as Istanbul Convention <sup>c</sup>	27.11.1993	61	30.06.2011
International Convention on the Harmonization of Frontier Controls of Goods, referred to as Harmonization Convention <sup>d</sup>	21.10.1982	69	08.05.2012
International Convention on the Harmonized Commodity Description and Coding System, referred to as Harmonized system <sup>e</sup>	01.01.1988	141	07.05.2012
WTO accession <sup>f</sup>	01.01.1995	155	10.05.2012

Source:

a - [http://www.wcoomd.org/files/1.%20Public%20files/PDFandDocuments/About%20Us/legal\\_instru/SG0178E1v2.pdf](http://www.wcoomd.org/files/1.%20Public%20files/PDFandDocuments/About%20Us/legal_instru/SG0178E1v2.pdf)b - [http://www.wcoomd.org/files/1.%20Public%20files/PDFandDocuments/About%20Us/legal\\_instru/PG0200E1.pdf](http://www.wcoomd.org/files/1.%20Public%20files/PDFandDocuments/About%20Us/legal_instru/PG0200E1.pdf)c - [http://www.wcoomd.org/files/1.%20Public%20files/PDFandDocuments/About%20Us/legal\\_instru/PG0202E1.pdf](http://www.wcoomd.org/files/1.%20Public%20files/PDFandDocuments/About%20Us/legal_instru/PG0202E1.pdf)d - [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&midsg\\_no=XI-A-17&chapter=11&lang=en#1](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&midsg_no=XI-A-17&chapter=11&lang=en#1)e - [http://www.wcoomd.org/files/1.%20Public%20files/PDFandDocuments/HarmonizedSystem/HS%20Overview/Situation\\_HS20120507EN.pdf](http://www.wcoomd.org/files/1.%20Public%20files/PDFandDocuments/HarmonizedSystem/HS%20Overview/Situation_HS20120507EN.pdf)f - [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/org6\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm)

g - Dates of signature without reservation or of deposit of instruments of ratification or accession

Note: \* Contracting parties, members

The WTO is established in 1995, and as a successor of the General agreement on Trade and Tariff – GATT, it provides a forum for trade negotiations directed towards liberalization of international trade and ensuring unique rules for all, thus contributing to economic growth and development (WTO, 2009). The WTO also provides a legal and institutional framework for the implementation and monitoring of its agreements, as well as for settling disputes arising from their interpretation and application. The current body of trade agreements comprising the WTO consists of 16 different multilateral agreements (to which all WTO members are parties) and two different plurilateral agreements (to which only some WTO members are parties), out of which there are several agreements that are highly related to Customs matters, such as:

- The Agreement on Article VII of GATT 1994, known as the Agreement on Customs Valuation (ACV), provides the framework for determining the customs value of internationally traded goods.
- The Agreement on Rules of Origin develops a system for standardization of the rules of origin of goods in international trade.

The International Convention on the Harmonization of Frontier Controls of Goods, referred to as Harmonization Convention entered into force on 21 October 1982 and up to 08 May 2012, 69 countries acceded to it. The Convention is developed under the auspices of the United Nations Economic Commission for Europe (UNECE) and it provides the framework for standardization and harmonization of customs control procedures at customs border-crossings.

The process of legal improvements in the national Customs systems, lays down on implementation of related international conventions in their laws and other regulations. Even though, the national economic and political conditions should be respected.

The EU, as a powerful trade block, is very active in almost all international efforts for trade facilitation, as well as Customs modernization. It is a signor of almost all international conventions in this sphere. Although, the European customs union was established in 1968, the Member-states have not harmonized their Customs regulations until 1994, when the first Community Customs Code entered into force. Along with the Customs code, the Regulation on implementing provisions was imposed, too. After long process of their improvements, followed by numerous amendments, the new Modernized Customs Code was imposed in 2008. The European commission on 20.02.2012 sent the Proposal for a Regulation of the Parliament and the Council laying down the Union Customs Code. The proposal comes out, mainly, from necessity for further modernisation of customs legislation and procedures and the use of IT systems for customs clearance and procedures

in view of facilitating the way of doing business with customs and ensuring safe and secure trade of goods in the European Union, as well as from the requirements of the Treaty of Lisbon. All these improvements resulted from the customs modernization efforts. The EU's Customs legal regulations are very important for the countries – candidates for membership, such as the Republic of Macedonia, because according to the EU's *Acquis Communautaire*, they have to harmonize their legal systems with the EU one.

### **CUSTOMS RISK MANAGEMENT**

Impossibility to control all transactions, vehicles, vessels, goods and passengers, leads to application of selectivity approach that means that modern customs control systems should be based on risk management as a tool for achieving balance between facilitation and regulation.

The main characteristic of the customs risk management (CRM) approach as the systematic identification and implementation of all measures necessary to limit exposure to risk, is determination which persons, goods, and means of transport should be examined and to what extent. The high-risk persons, goods and means of transport are subject of high-level controls and interventions; despite of low-risk ones that receive high-level trade facilitation. Risks facing customs include the potentials for non-compliance with customs law such as licensing requirements, valuation provisions, rules of origin, duty exemptions regimes, trade restrictions, and security regulations, as well as the potential failure to facilitate international trade.

CRM consists of several procedures that Customs administrations should put through: risks identification; risk assessment that is consisted of risk analyses and risk evaluation; risk treatment; monitoring and reviewing, and communication and consultation within national Customs administrations, C2C (Customs to Customs) and C2B (Customs to Business).

The process of establishment of customs risk management starts with defining of the risk management context, which is treated on strategic, operational and tactical level:

- Strategic risk management identifies areas of risk, sifts out those of minor importance, and intervenes only where experienced and practical judgment indicates it is necessary;
- Operational risk management determines the level of control necessary to deal effectively with the assessed risk, and
- Tactical risk management is used by officers at their workplace in dealing with immediate situations to decide which movements require greater controls.



The risk management process is very complex and dynamic, and its activities are highly interdependent and mixed, as well. Also, it is a process under continually monitoring and controls which as a feedback, reveals necessities for permanent improvement and development.

Identifying risk areas, for example: customs frauds and threats on social safety and security, along with the information from different sources (IT system for processing declaration; internal detailed records from different related units within Customs Administration; information from external governmental institutions; international customs cooperation) is a basis for identifying risks. Each identified risk should be analysed in terms of probability of risk occurrence and consequences of the risk occurrence. This activity is called risk analyses. Furthermore, risk evaluation as process of determination whether identified and analysed risk is acceptable follows. The operational process follows with risk treatment as an activity for determination of different risk profiles and risk indicators, as kind of goods; traders; tariff lines; prices; currencies; values, country of origin; country of destination, etc.

Risk management is not a static process, but it is a dynamic one and it is a subject of updating and improvements. The process is under monitoring and reviewing. Data obtained in this phase are used as feedback information for further developments of the CRM process. Next, the CA in continuation builds up effective systems for communication and consultation among involved internal units, C2C and C2B relations. The effectiveness of this system depends on developing and implementation of clean channels within management information systems as the determinant for accurate, relevant and quick information flows.

Risk-based inspections are the norm in OECD high-income economies. They are also becoming increasingly common else-where (WB, 2012). Today 97 economies use risk-based inspections. Among these economies, 49 have introduced or improved a risk-based system since 2006, 31 of them low- or lower-middle-income economies.

### **SIMPLIFIED CUSTOMS PROCEDURES**

Simplified customs procedures are one of the most important trade facilitation measures in the Customs modernization process that were implemented by the Revised Kyoto Convention. In general, there are simplified Customs procedures related to Customs declaration and specific simplified transit procedures. The highest level of simplification in Customs is the concept of authorised economic operator (AEO).

Simplified procedures related to customs declaration include several exemptions of the regular lodgement of a Customs declaration:

- Lodgements of incomplete Customs declaration. The Customs legal regulation limit the requested information and documents that should be presented in the declaration, except the data related to customs debt determination the compilation of statistics and the application of Customs law;
- Lodgements of a commercial or an administrative document, instead of customs declaration, and
- Local clearance: Placing the goods in Customs procedure only with their registration in the bookkeeping records of the authorized economic operator. Goods may go directly to or from the premises of economic operators, provided that they are entered into the records of the company.

The lodgement and acceptance of incomplete or provisional customs declaration, as well as commercial or administrative document either bookkeeping records, must contain at least the data indispensable for Customs goods' identification, that is data necessary to customs debt determination and application of customs regulations. This facilitation measure could be granted to an economic operator, who shall submit a written request to the Customs. Along with the data on the type of the requested procedure, a written request shall prove that all legal provisions related to requested customs simplified procedure are fulfilled. Only low risk trade operators who meet all legal requirements will be authorized by Customs.

Despite of the kind of the simplified customs procedure applied, the authorized trade operator is obliged to submit a supplementary declaration that may be of a general, periodic or summary nature.

The simplified Customs transit procedures as authorized consignor and authorized consignee are special facilitation measures. An authorized consignor is a regular, large-scale consignor of goods who may be authorized by Customs authorities to issue and authenticate transit documents without having to present them to Customs at the time of export/dispatch. An authorized consignee is a trader who may be authorized by state authorities to move goods which arrive under the transit procedure to his own premises without first presenting them to Customs at the destination.

**Table 2: Established AEO programs by regions**

<b>Region</b>	<b>Countries</b>
<b>Asia-Pacific</b>	6 (China, Japan, Korea, New Zealand, Malaysia, Singapore)
<b>Americas</b>	5 (Argentina, Canada (3 programs and a pilot), Costa Rica, Guatemala, USA)
<b>Europe</b>	3 (EU 27, Norway, Switzerland)
<b>Middle East</b>	1 (Jordan)

Authorised economic operator (AEO) is “a party involved in the international movement of goods in whatever function that has been approved by or on behalf of a national Customs administration as complying with WCO or equivalent supply chain security standards. AEOs include manufacturers, importers, exporters, brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses and distributors” (WCO, 2011).

Since 2001 there have been a number of initiatives taken by the WCO member administrations to enhance the security and facilitation of the supply chain. These developments have received a common benchmarking instrument, developed by the WCO, i.e. the SAFE Framework which is signed by 164 countries, out of which 41 (14 + 27) countries (due to the EU-27 uniform programme) have established and 9 countries plan to establish AEO programmes in the near future. According to the EU’s AEO program, three types of authorizations could be issued: a Customs Simplifications AEO certificate, a Security and Safety AEO certificate and a Customs Simplifications and Security and Safety AEO certificate. Thus, implementation of AEO program and achievement of mutual recognition have become an important priority for many WCO Members.

#### **EFFECTIVENESS PERCEPTION OF CUSTOMS MODERNIZATION**

Perception indexes as one of the most popular measures of performance measurement in Customs are aggregation of subjective survey responses submitted by stakeholders on the quality of service delivered by Customs or other governmental agencies published by international organizations, such as the World Bank. The World Bank Doing Business reports publish perception indexes in several areas, including *Trading across borders* set of indicators comprised by measures of documents, time and costs to export and import by regions and by economy. In the 2007-2012 period, 166 trade facilitation reforms are performed in 106 economies

grouped in 7 regions. The reforms, mainly introduced electronic data interchange systems for submitting and processing documents. The most frequently used IT software package for declarations' processing and implementation of Customs control channels using risk management is known as ASYCUDA (Automated System for Customs Data). This software package is largely used in the world that ensured high performances for Customs administrations, as well as for business community and other stakeholders. The benefits on trading across borders from implementation of ASYCUDA could be seen in the Table 3.

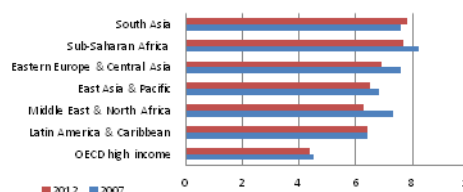
**Table 3. Before and after implementation of ASYCUDA - the Philippine Bureau of Customs case**

	<b>Before computerization</b>	<b>After computerization</b>
<b>Required signatures</b>	79	5
<b>Cargo release time</b>	6–8 days	4 to 6 hours for green lane 48 hours for yellow and red lanes
<b>Shipments examined</b>	All	15% physical examination (red) 15% document examination (yellow) 70% no examination (green)
<b>Supporting documents</b>	Payment orders	Payments are made to required official receipts, banks and electronically and proof of bank transmitted to Bureau of payments Customs by computer
<b>Place of examination</b>	Anywhere in the port	Designated examination areas
<b>Accountable forms</b>	Many forms	Single Administrative required Document (SAD)
<b>Inward manifest</b>	13	3 copies in electronic documents submitted format to Bureau

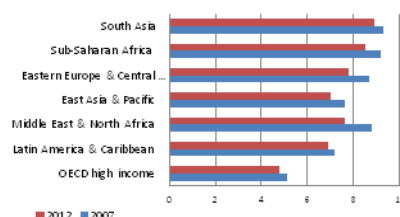
Source: Maniego Buenaventura. (1999). The Role of Information Technology in Customs Modernization. in Schiavo-Campo Salvatore (editor). (1999). Simplification of Customs Procedures: Reducing Transaction Costs for Efficiency, Integrity, and Trade Facilitation. Asian Development Bank. p.69

Additionally, strong impact on faster and easier trading across borders during the 2007-2012 period, had the legal reforms done in all regions, which resulted in decrease of a number of documents to export and import, as well as reducing time to export and import in all region (Fig.1-4). The only exemption is South Asia region, where the number of documents to export increased from 7.6 in 2007 to 7.8 in 2012.

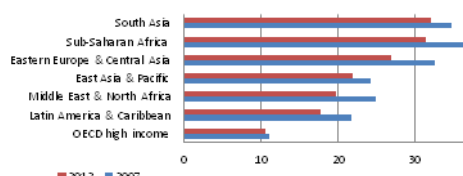
**Fig. 1: Documents to export (No)**  
Global average 2012=6.5



**Fig. 2: Documents to import (No)**  
Global average 2012=7,2



**Fig. 3: Time to export (days)**  
Global average 2012 =22.5



**Fig. 4: Time to import (days)**  
Global average 2012 =25.1



Source: World Bank, Doing Business 2012

According to the Doing Business data, average customs clearance costs for exports in economies where documentation requirements are easily accessible are assessed on 138 US\$ per container, and are 25.3% lower than the same costs in economies where documentation requirements are not easily accessible (212 US\$ per container) (WB, 2012).

Generally, Customs modernization has produced positive impact on trading across borders, especially through reduced number of documents and reduced delays to traders in export and import, as well as through better resource deployment by application of risk based management.

## CONCLUSIONS

Customs modernization as a part of trade facilitation agenda represents a process that put in place a well functioning customs administration that provides traders with transparent, predictable, and speedy clearance of goods. This process has produced positive impact on trading across borders, especially through reduced number of documents and reduced delays to traders in export and import, as well as through better resource deployment by application of risk based management. Additionally, this process helps in improvement of the environment in which markets, private enterprises and

civil society function. There are positive trends toward greater facilitation of legal trade, as well as reduction of time delays on import and export. Overall activities implied to greater Customs efficiency, although there are necessities for wider implementation of AEO's concept.

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