

## **ICT and Efficient Information Management**

### **1. Exchange of information**

Transit goods cross multiple borders and pass multiple Customs and border controls before they reach their destination. Each transit operation is accompanied by the submission of data on the goods, destination and transit guarantee to the Customs offices of departure and Customs offices en route. With the aim of both securing and facilitating the transit operations, Customs administrations should establish effective information sharing among Customs offices and other related agencies en route, including railways. This will help to monitor the transit movement, and ascertain whether the goods have been correctly declared for transit and whether the transit procedure has been correctly completed at each stage of the transit route up to the final destination. An effective exchange of information helps gather intelligence, and allows all border agencies involved to take appropriate decisions concerning the applicable control measures. Effective exchange of information reduces the unnecessary administrative burden on both Customs administrations and economic operators.

Information exchange is a first step towards the general cooperation and coordination of controlling measures emphasized by the TFA, the RKC and the VPoA. As mentioned above, bilateral, regional, or international agreements may be focused primarily on the exchange of information, or may be broader in scope, comprising exchange of information as just one part of the agreement. In any event, an agreement to exchange information should consider the following guidelines.

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### ***Relevant international agreements and standards on Exchange of information***

#### WTO TFA, Article 11

16. Members shall endeavour to cooperate and coordinate with one another with a view to enhancing freedom of transit. Such cooperation and coordination may include, but is not limited to, an understanding on:
- (a) charges;
  - (b) formalities and legal requirements; and
  - (c) the practical operation of transit regimes.

#### WTO TFA, Article 12

- 12.1 Nothing in this Article shall prevent a Member from entering into or maintaining a bilateral, plurilateral, or regional agreement for sharing or exchange of Customs information and data, including on a secure and rapid basis such as on an automatic basis or in advance of the arrival of the consignment.
- 12.2 Nothing in this Article shall be construed as altering or affecting a Member's rights or obligations under such bilateral, plurilateral, or regional agreements, or as governing the exchange of Customs information and data under such other agreements.

#### **RKC Specific Annex E, Chapter 1, Recommended Practice 26**

Contracting Parties should give careful consideration to the possibility of acceding to international instruments relating to Customs transit. When they are not in a position to accede to such international instruments they should, when drawing up bilateral or multilateral agreements with a view to setting up an international Customs transit procedure, take account therein of Standards and Recommended Practices in the present Chapter.

#### **VPoA**

Paragraph 26. LLDCs and transit countries:

- (c) To enhance coordination and cooperation of national agencies responsible for border and Customs controls and procedures between them and with the respective agencies in transit countries. In this regard, transit countries are encouraged to share information with landlocked developing countries regarding any change in regulations and procedures governing transit policies as early as possible before their entry into force, in order to enable traders and other interested parties to become acquainted with them;
- (d) To collaborate on exchanging trade and transport data with a view to conducting cross-border transactions faster and more efficiently.

## **TIR Convention**

Annex 1 of the TIR Convention describes the TIR Carnet, an international Customs document which constitutes the administrative backbone of the TIR system and allows Customs to exchange information with regard to the goods transported as well as the controls they carry out.

### **2. Types of information exchanged**

The most important consideration is that governments ensure that all relevant information about the transit goods is shared between the Customs office of departure, Customs offices en route and the Customs office of destination. The availability of data at the Customs

offices involved significantly improves the efficiency of risk management systems, helps to focus on high-risk consignments, and prevents impediments to trade flows. A number of different messages are exchanged in communications between the Customs offices, and their structure and content must be agreed by the relevant authorities involved.

Each input or amendment of information should be recorded along with other details relevant to this action, the date and time, and the name of the person performing the action. The type of information exchanged along the transit route varies depending on the origin of this information, i.e. the office of departure sends the initial information from the transit declaration, information about the transit operator, and the possible prescribed itinerary or time limit, to other offices en route, including the office of destination; the office of transit notifies the office of departure about the arrival of goods, control results if controls were carried out, and other useful information; the office of destination informs the office of departure and the offices of transit about the arrival of goods and relevant documents, and their examination if necessary. When the transit operation is complete, information about the discharge of the guarantee is to be sent by the office of destination to the operator. All parties involved in exchanging information must bear responsibility for the accuracy, timeliness, and correctness of the information provided.

### ***Relevant international agreements and standards on types of information to be exchanged***

#### **WTO TFA, Article 4**

4.1 The requesting Member shall provide the requested Member with a written request, through paper or electronic means in a mutually agreed official language of the WTO or other mutually agreed language, including:

- (a) the matter at issue including, where appropriate and available, the number identifying the export declaration corresponding to the import declaration in question;
- (b) the purpose for which the requesting Member is seeking the information or documents, along with the names and contact details of the persons to whom the request relates, if known;

- (c) where required by the requested Member, confirmation of the verification where appropriate;
  - (d) the specific information or documents requested;
  - (e) the identity of the originating office making the request;
  - (f) reference to provisions of the requesting Member's domestic law and legal system that govern the collection, protection, use, disclosure, retention, and disposal of confidential information and personal data.
- 4.2 If the requesting Member is not in a position to comply with any of the subparagraphs of paragraph 4.1, it shall specify this in the request.

## **WTO TFA, Article 6**

6.1. Subject to the provisions of this Article, the requested Member shall promptly:

- (a) respond in writing, through paper or electronic means;
- (b) provide the specific information as set out in the import or export declaration, or the declaration, to the extent it is available, along with a description of the level of protection and confidentiality required of the requesting Member;
- (c) if requested, provide the specific information as set out in the following documents, or the documents, submitted in support of the import or export declaration, to the extent it is available: commercial invoice, packing list, certificate of origin and bill of lading, in the form in which these were filed, whether paper or electronic, along with a description of the level of protection and confidentiality required of the requesting Member;
- (d) confirm that the documents provided are true copies;
- (e) provide the information or otherwise respond to the request, to the extent possible, within 90 days from the date of the request.

6.2 The requested Member may require, under its domestic law and legal system, an assurance prior to the provision of information that the specific information will not be used as evidence in criminal investigations, judicial proceedings, or in non- Customs proceedings without the specific written permission of the requested Member. If the requesting Member is not in a position to comply with this requirement, it should specify this to the requested Member.

## **WTO TFA, Article 7**

7.1 A requested Member may postpone or refuse part or all of a request to provide information, and shall inform the requesting Member of the reasons for doing so, where:

- (a) it would be contrary to the public interest as reflected in the domestic law and legal system of the requested Member;

- (b) its domestic law and legal system prevents the release of the information. In such a case it shall provide the requesting Member with a copy of the relevant, specific reference;
- (c) the provision of the information would impede law enforcement or otherwise interfere with an on-going administrative or judicial investigation, prosecution or proceeding;
- (d) the consent of the importer or exporter is required by its domestic law and legal system that govern the collection, protection, use, disclosure, retention, and disposal of confidential information or personal data and that consent is not given; or
- (e) the request for information is received after the expiration of the legal requirement of the requested Member for the retention of documents.

### **WTO TFA, Article 11**

11.1 In the event of any breach of the conditions of use or disclosure of information exchanged under this Article, the requesting Member that received the information shall promptly communicate the details of such unauthorized use or disclosure to the requested Member that provided the information and:

- (a) take necessary measures to remedy the breach;
- (b) take necessary measures to prevent any future breach; and
- (c) notify the requested Member of the measures taken under subparagraphs (a) and (b).

11.2 The requested Member may suspend its obligations to the requesting Member under this Article until the measures set out in paragraph 11.1 have been taken.

### **3. Compliance with international standards**

To enable efficient exchange of information between the stakeholders involved in transit operations, all parties should agree on a set of data to be used in the exchange of information. To facilitate and secure the transit procedure, it is important that Customs administrations are able to receive and understand the information shared by other Customs administrations. The development of unique national or regional standards will hinder the expansion of the global Customs network that could emerge if all stakeholders adhere to internationally accepted standards. The WCO recommends the use of the WCO Data Model to ensure maximum interoperability between all stakeholders in a platform-independent manner. The WCO Data Model contains standardized data specifications such as data semantics, format representation, a list of codes, data structure, and message syntax to guide harmonized implementation of information exchanges. The WCO Data Model also includes the Transit Derived Information Package (DIP) containing the maximum dataset that is commonly used in transit procedures. The use of the DIP as a reference when building the commonly agreed transit dataset eliminates the need to re-invent every data element from scratch. The Data Model Toolbox is available on: <http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/tools/data-model.aspx>

The WCO has also developed a feasibility study on Globally Networked Customs (GNC), which concludes that GNC could provide a systematic approach to the exchange of information based on protocols, standards and guidelines. Under the GNC concept WCO Members are developing Utility Blocks (UBs) which represent a specific part of the Customs business process, explained in simple yet comprehensive terms that everyone can understand. The UBs describe strategic aims for policy-makers, business processes for managers, legal issues for lawyers, functional approaches for operational officers, and technical specifications for IT staff. Governments may choose suitable UBs according to their own interests. In order to reap the benefits of GNC, each block must be implemented in the same way by all partners. However, there is flexibility within each block – for example, in the list of data elements to be exchanged.

### ***Relevant international agreements and standards on Compliance with international standards***

#### **WTO TFA, Article 10**

- 3.1. Members are encouraged to use relevant international standards or parts thereof as a basis for their import, export or transit formalities and procedures, except as otherwise provided for in this Agreement.
- 3.2. Members are encouraged to take part, within the limits of their resources, in the preparation and periodic review of relevant international standards by appropriate international organizations.
- 3.3. The Committee shall develop procedures for the sharing by Members of relevant information, and best practices, on the implementation of international standards, as appropriate. The Committee may also invite relevant international organizations to discuss their work on international standards. As appropriate, the Committee may identify specific standards that are of particular value to Members.

#### **RKC General Annex Chapter 3, Standard 3.11.**

The contents of the Goods declaration shall be prescribed by the Customs. The paper format of the Goods declaration shall conform to the UN-layout key. For automated Customs clearance processes, the format of the electronically lodged Goods declaration shall be based on international standards for electronic information exchange as prescribed in the Customs Co-operation Council Recommendations on information technology.

#### **RKC General Annex Chapter 7 Standard 7.2.**

When introducing computer applications, the Customs shall use relevant internationally accepted standards.

## **4. ICT infrastructure**

It is commonly accepted that duplication and overlapping of data requirements significantly hinders transit procedures and leads to an increase in trade costs. Moreover, the complexity of transit procedures increases the possibility of transit fraud and associated problems. The most obvious victim of fraud within transit operations is the government that loses the revenue from the Customs duties. A robust ICT infrastructure, and automation of processes, is necessary to address these issues. The technologies available nowadays include real-time monitoring systems, servers capable of hosting the information exchange and/or data exchange interface, cloud computing, mobile technologies, advanced analytics, and information management. All help increase the productivity of Customs administrations and other border agencies, cut processing time for transit operations, reduce trade costs, improve revenue collection, and stimulate economic growth.

The main idea behind the automation of processes and setting up ICT infrastructure is to achieve uniformity, transparency and predictability of the Customs formalities, which impact positively on both Customs revenue collection and the Customs security function, and lead to the reduction of time and costs for both Customs itself and the private sector. When setting up ICT infrastructure, governments should consider its ability to save and relaunch processes interrupted by power outages, weak Internet connections and other emergency situations. Once ICT infrastructure has been set up, Customs administrations should also set up a help desk to support private-sector operators, and allocate staff for maintenance of the ICT infrastructure.

### ***Relevant international agreements and standards on ICT infrastructure***

#### **VPoA**

#### **Paragraph 37.**

Calls on landlocked developing countries and transit developing countries to work together to modernize transit and transport facilities and Customs and other border facilities by fully utilizing the capabilities of information and communications technologies.

#### **RKC General Annex Chapter 7 Standard 7.1**

The Customs shall apply information technology to support Customs operations, where it is cost-effective and efficient for the Customs and for the trade. The Customs shall specify the conditions for its application.

### **5. Data protection**

Specific provisions apply where Customs administrations use information technologies to exchange information. The authorities are required to establish and maintain adequate security arrangements for the effective, secure, and reliable operation of the transit system. The information exchanged along the transit route contains sensitive information that should be protected from unauthorized access. Data protection mechanisms for user registration, identification, identity verification, authentication and authorization processes should be applied when creating the documents, and in

the channels used to transmit the information, as well as for data storage. The relevant mechanisms should guarantee the maximum possible protection of the user's identity, and responsiveness to any abuse of this, smuggling of data, Customs fraud, cyber-attack, etc. Reliable and secure data protection mechanisms will help to create an environment of trust among the parties using this data and improve the exchange of information.

Data protection mechanisms should be properly configured to ensure the quality of the data submitted for processing, and should be able to recognize errors and mismatches of required data. The issues of data back-up and retention should be addressed when setting up a robust ICT infrastructure for information exchange. Relevant laws respecting data privacy and confidentiality should be applied and, where these do not yet exist, such laws should be developed in line with the best existing international practice. For example, the ISO/IEC 27001 international standard on Information Security Management aims to ensure the effective management of data security. Governments should seriously consider data protection issues, and ensure appropriate training of staff using and maintaining ICT infrastructure for transit control.

### ***Relevant international agreements/standards on Data protection***

#### **WTO TFA, Article 12**

- 5.1 The requesting Member shall, subject to paragraph 5.2: (a) hold all information or documents provided by the requested Member strictly in confidence and grant at least the same level of such protection and confidentiality as that provided under the domestic law and legal system of the requested Member as described by it under subparagraphs 6.1(b) or (c);
  - (b) provide information or documents only to the Customs authorities dealing with the matter at issue and use the information or documents solely for the purpose stated in the request unless the requested Member agrees otherwise in writing;
  - (c) not disclose the information or documents without the specific written permission of the requested Member;
  - (d) not use any unverified information or documents from the requested Member as the deciding factor towards alleviating the doubt in any given circumstance;
  - (e) respect any case-specific conditions set out by the requested Member regarding retention and disposal of confidential information or documents and personal data; and
  - (f) upon request, inform the requested Member of any decisions and actions taken on the matter as a result of the information or documents provided.
- 5.1 A requesting Member may be unable under its domestic law and legal system to comply with any of the subparagraphs of paragraph 5.1. If so, the requesting Member shall specify this in the request.