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## CUSTOMS MODERNIZATION HANDBOOK

# ESTABLISHING RISK MANAGEMENT/ CARGO SELECTIVITY CAPABILITY



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# Customs Modernization Handbook: Establishing Risk Management/ Cargo Selectivity Capability

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# Executive Summary

*Little detailed practical guidance is available to assist the customs administration that desires to apply these concepts to a criteria-driven cargo selectivity system, even though much has been written about risk management and its applicability to many aspects of customs work.*

Automated entry-processing systems provide Customs administrations with the ability to develop and utilize cargo examination criteria that will result in different levels of Customs attention being applied to individual customs declarations, based on an analysis of the risk associated with each declaration. However, these systems are generally developed by information technology (IT) professionals who have little or no actual Customs operational experience and, therefore, have very limited ability to assist in establishing and training a specialized analytical team capable of managing cargo selectivity within the Customs administration.

The purpose of this handbook is to provide a generic plan of action for creating a specialized staff called a **Cargo Selectivity Management Team** (CMST) that will manage a Customs administration's cargo selectivity processes. This team provides the ability within Customs to effectively identify, analyze, prioritize, and design responses to the risks associated with cargo shipments.

Today's Customs administrations are faced with the difficult challenges of simplifying merchandise processing procedures and reducing unnecessary delays in order to promote trade while reducing the level of non-compliance in order to increase revenues, protect national interests, and ensure supply chain security. Meeting these challenges is further complicated by the fact that increases in international trade are rarely accompanied by increases in Customs resources. Managers faced with these challenges must inevitably move from the traditional resource-intensive approach of processing cargo to a selective approach that focuses Customs' attention on those transactions that represent the highest risk to Customs and the nation.

"Cargo selectivity" is a risk-based approach to targeting merchandise most likely to be non-compliant and directing available resources to that merchandise. It provides for different treatments at varying levels of intensity based on specific risk indicators, allowing low-risk shipments to be released without any intervention other than an automated vetting process, but ensuring that high-risk shipments are handled in a manner that is most likely to achieve results. Cargo selectivity is made possible by automated declaration processing systems that have the capability to select shipments based on specific criteria and to direct those shipments for a variety of types and levels of treatment. While automated declaration processing systems require competent Information and Communications Technology experts, they also require knowledgeable, experienced Customs officers to manage the operational content.

This operational content is made up of all of the data necessary for the processing of Customs transactions including (but not limited to):

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- Data related to traders, manufacturers, warehouses, financial institutions, and rates of exchange;
  - Tariff data related to duties, excises and other taxes, quotas, and preferential trade agreements;
  - Descriptive data identifying Customs offices, modes of transport, and types of Customs transaction; and
  - Examination criteria based on combinations of any of the data elements associated with each transaction.

The methodology described in this handbook also suggests promoting trader compliance. For a cargo selectivity program to be fully effective, a two-pronged approach is recommended. First, Customs must actively encourage traders to comply with its laws and requirements. Second, Customs must improve its capability to identify those traders that do not. Even though its primary goal should be to improve compliance levels, Customs must always maintain an effective enforcement capability, demonstrating its ability to identify and deal appropriately with willful or repetitively negligent non-compliance. Although it can be assumed that every Customs administration deals with traders that willfully violate Customs requirements, it can also be assumed that there are those traders that would prefer to conduct business in a reliable and honest manner. These traders want transparency and predictability in order to move their shipments quickly and efficiently and at reasonable cost.

Additionally, it can be assumed that there are those traders that may not now be operating at an acceptable level of compliance but, given the proper attention, direction, and motivation would do so. Customs should both encourage and reward compliance. Highly compliant traders can be offered such preferential treatments as allowing direct delivery to their premises and allowing consolidated or account-based declarations. Traders that have strived for but not yet reached the appropriate compliance level can be identified and assisted through an informed compliance program in which Customs officers actually assist the trader to improve its processes. Encouraging and measuring compliance is consistent with cargo selectivity and can be managed by the Cargo Selectivity Management Team.

An effective risk-management-based cargo selectivity system does not happen overnight. It begins with a firm personal commitment from senior management. It requires a rigorous program of training for mid-level managers and employees. It calls for establishing or strengthening partnerships with other government agencies and with the trading community. Moving from a traditional environment to an automated environment involves far more than the purchase of equipment and technology. It requires leadership, effective communications, and the willingness to change at all levels within the organization. Old habits are hard to break. Traditional methods of doing business are often ingrained in senior officers and managers.



Changing the manner in which Customs does business, such as implementing an effective cargo selectivity system and establishing a Cargo Selectivity Management Team will require effective program management; an investment in staffing, equipment, office space, and training; and an assessment of the Customs administration's goals and priorities, its strengths and weaknesses, and its relationships with other government agencies. Success will require a high level of professionalism and integrity among its officers and staff; the willingness of its field officers and managers to adopt new or improved policies, practices, and procedures; and a high level of understanding, cooperation, and support from the trading community.

This handbook presents a general course of action. There is no question that the unique complexities of any single Customs administration will make it necessary to vary from this generic plan. But the necessity for variance should be minimal. The recommended course of action is set forth in twenty specific steps covering every aspect of the implementation process. This course of action is intended to enable a Customs administration to establish, organize, staff, and equip a cargo selectivity analysis unit without further assistance from outside sources. Training that unit will, however, require specialized assistance.





# Establishing Risk Management/ Cargo Selectivity Capability

## Purpose

*The main purpose of this handbook is to provide a generic plan of action for creating a specialized staff that will manage a Customs administration's cargo selectivity processes.*

For the purposes of this handbook, we will call that staff the "Cargo Selectivity Management Team" or "CSMT". The CSMT works with the administration's Information and Communications Technology department as well as operational departments within the Headquarters and the field.

## Cargo Selectivity

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Meeting these challenges is further complicated by the fact that increases in international trade are rarely accompanied by increases in Customs resources. Managers faced with these challenges must inevitably move from the traditional resource-intensive approach of processing cargo to a selective approach that focuses its attention on the Customs transactions that represent the highest risk.

"Cargo Selectivity" is a risk-based approach to targeting merchandise most likely to be non-compliant and directing available resources to that merchandise. It provides different treatments at varying levels of intensity based on specific risk indicators, allowing low-risk shipments to be released without any intervention other than an automated vetting process, but ensuring that higher risk shipments are processed in the manner that is most likely to achieve results. Cargo Selectivity is made possible by automated declaration processing systems that have the capability to cause certain shipments to be selected on the basis of specific criteria and to direct those shipments for a variety of types and levels of treatment.

While automated declaration processing systems require competent Information and Communications Technology experts, they also require knowledgeable, experienced Customs officers to manage the operational content. This operational content includes all of the data necessary for the processing of Customs transactions:

- Data related to traders, manufacturers, warehouses, financial institutions, and rates of exchange;
- Tariff data, including duties, excises and other taxes, quotas, and preferential trade agreements;
- Descriptive data identifying Customs offices, modes of transport, and types of Customs transaction; and
- Examination criteria based on combinations of any of the data elements associated with each transaction.



## The Selective vs. the Traditional Approach

The traditional approach to processing cargo can be characterized by the following:

- Because there are not enough resources to examine every shipment thoroughly, examinations are generally cursory and unreliable.
- Even when the examination results in the discovery of a discrepancy, the results are not properly reported or recorded.
- There is little or no analysis of the results of examinations or of past violations, so patterns are not always recognized or dealt with effectively.
- There is a false sense of comfort based on the belief that all shipments are examined and few discrepancies are discovered.
- All traders are considered to be potential violators and there is little effective communication with them.
- Multiple checks require multiple stops in the examination process and the intervention of an unnecessarily large number of officers.
- The more opportunities for individual officers to delay the process or otherwise intervene, the more likely the expectation and possibility of a gratuity in order to expedite the processing or overlook technicalities.

The Cargo selectivity system can overcome each of these deficiencies. Although fewer examinations are conducted, they are conducted in a thorough manner designed to increase the discovery of instances of non-compliance. Voluntary compliance is encouraged and rewarded. Targeting and simplified procedures reduce the level of discretion of individual officers and the opportunities for gratuities. Unnecessary delays are eliminated and transportation costs are reduced.

## The Importance of Trader Compliance

*If we ask: "Why examine cargo?", the answer that often first comes to mind is "to find violations of customs laws and requirements." Selectivity suggests a different approach: Customs' goal in processing cargo should be to ensure compliance with the Customs and other laws related to imports and exports.*

The different perspective is important. If Customs officers perceive that their primary responsibility is to find discrepancies, they tend to assume that every trader is a potential violator. Officers then may concentrate on proving it or, worse, they may view the perceived dishonesty of traders as a fertile source of supplementary personal income for themselves. With this perspective, Customs tends to overlook an entire range of activities that can significantly enhance both productivity and compliance.

If Customs' perspective is that its primary interest is to improve compliance, additional options focusing on compliance become available. For a cargo selectivity program



to be fully effective, a two-pronged approach is called for. First, Customs must actively encourage traders to comply with its laws and requirements. Second, Customs must improve its capability to identify those traders that do not. Even though its primary goal should be to improve compliance levels, Customs must always maintain an effective enforcement capability, demonstrating its ability to identify and deal appropriately with willful or repetitively negligent non-compliance. Moreover, even those transactions deemed to be low-risk occasionally must be subjected to some level of reliability verification.

There is little doubt that there are traders in every country that are violating Customs requirements without detection. They know how to conceal goods so that they will not be discovered by cursory examinations. They know when shifts change and officers are not totally focused on the job at hand. They know those officers who can be enticed, through gratuities, to overlook requirements and those who are simply not motivated. They know how to undervalue goods or otherwise avoid their legal responsibilities. They know almost as much about Customs operations as the local managers.

On the other hand, there are those traders that would prefer to conduct business in a reliable and honest manner. These traders want transparency and predictability in order to move their shipments quickly and efficiently and at reasonable cost. Then there are those traders that may not now be operating at an acceptable level of compliance, but would do so given the proper attention, guidance, and motivation. Customs should both encourage and reward compliance. Highly compliant traders can be offered such preferential treatments as allowing direct delivery to their premises and allowing consolidated or account-based declarations. Well-intended traders that have not quite reached acceptable levels of compliance can be identified and assisted through an informed compliance program in which Customs officers actually help the traders to improve their processes.

This handbook suggests that each Cargo Selectivity Management Team include at least one officer to be designated as a compliance specialist. That officer's function is to identify both those traders that are already performing at a highly compliant level and those that can be helped to do so. Help may be provided through programs such as:

- An "approved trader" program in which those traders that commit in writing to meeting certain voluntary requirements will be rewarded with simplified processes;
- An "informed compliance" program, where Customs identifies and assists traders that tend to make repetitive minor errors due to a lack of knowledge or experience; and
- A compliance measurement program.





## Managing Risk

*Risk management is a widely used discipline for dealing with the possibility that some future event will cause harm. It provides a systematic approach to recognizing and confronting threats faced by an organization in fulfilling its mission.*

Although the risk management process can be applied to the selection of passengers, private and commercial vehicles, and vessels and rail equipment, the focus of the Cargo Selectivity Management Team is on cargo selectivity targeting merchandise most likely to be non-compliant and directing available Customs resources to scrutinize that merchandise. For every Customs law, there is a corresponding risk that traders may break that law, intentionally or otherwise. Risk management identifies and quantifies these risks in order to develop the appropriate type and level of preventive and control procedures. Risk management results in improved enforcement and improved facilitation. When there is little likelihood that non-compliance will be detected, there may be little incentive on the part of some traders to comply. Those traders that might otherwise be inclined to comply may find themselves in the untenable position that if they were to do so, they would be at a competitive disadvantage to other traders that are not so inclined.

Risk management increases the probability of detecting violations by non-compliant traders, while allowing compliant traders to move their goods through Customs controls with fewer physical examinations. Fewer examinations mean reduced delays and reduced costs to the trader. The promise of expedited clearance of shipments can be a strong motivation for traders to comply with Customs' requirements.

In our introductory discussions of cargo selectivity and risk management, we have repeatedly used the word "risk" without pausing to define it as it relates to Customs. Generally speaking, "risk" is defined as the possibility of loss or injury, or the likelihood of an occurrence that will impact negatively upon objectives. For Customs, "risk" is the degree of exposure to the chance of non-compliance that would result in loss or injury to trade, industry, or the public. The notion of risk can vary widely, which is why the first goal of any organization undertaking the risk management approach must be to assess the specific risks it faces. What is considered a risk by one Customs administration may legitimately not be considered a risk by another. Customs must identify and rank risks based on national concerns and priorities. Only then can the process of effectively directing available resources to counter these threats begin. Risk is generally characterized by the following:

- It is partially unknown (if there were 100 percent certainty of the compliance or non-compliance of every shipment, Customs' job would be easy).
- It changes with time – as trade laws, importers, and industries change.
- It is possible to anticipate.
- It is manageable.



Risk management is a logical and systematic method of identifying, analyzing, evaluating, treating, and monitoring risks. The risk management process provides the following benefits:

- Better use of existing resources,
- Better achievement of organizational objectives,
- Expedited flow of low-risk shipments,
- Lower costs to traders due to fewer physical examinations,
- Increased detections and improved compliance,
- Improved quality of Customs' controls,
- Improved management processes, and
- Improved public and business risk profile.

### **The Implementation Process**

*An effective risk management-based cargo selectivity system does not happen overnight. It begins with a firm personal commitment from senior management and requires a rigorous program of training for mid-level managers and employees.*

It calls for establishing or strengthening partnerships with other government agencies and with the trading community. Moving from a traditional environment to an automated environment involves far more than the purchase of equipment and technology. It requires leadership, effective communications, and the willingness to change at all levels within the organization. Old habits are hard to break. Traditional methods of doing business are often ingrained in senior officers and managers. Establishing a Cargo Selectivity Management Team will require:

- Effective program management;
- An investment in staffing, equipment, office space, and training;
- An assessment of the Customs administration's goals and priorities;
- An unflinching assessment of the Customs administration's strengths and weaknesses;
- An assessment of the Customs administration's relationships with other government agencies;
- An assessment of the level of professionalism and integrity of officers in the field;
- An assessment of the willingness of field officers and managers to adopt new or improved policies, practices, and procedures; and
- The understanding, cooperation, and support of the trading community.

## **Recommended Course of Action: Steps to Implementation**

The main purpose of this handbook is to suggest a general course of action. There is no question that the unique circumstances of any single Customs administration will make it necessary to vary from this generic plan, but the necessity for variance should be minimal. The recommended course of action is as follows:

<b>STEP 1</b>	<b>Establish program management responsibilities.</b>
<b>STEP 2</b>	<b>Evaluate the operational environment in which the CSMT will function.</b>
<b>STEP 3</b>	<b>Write an action plan.</b>
<b>STEP 4</b>	<b>Determine the nature of the CSMT and write a functional statement.</b>
<b>STEP 5</b>	<b>Write position descriptions.</b>
<b>STEP 6</b>	<b>Write a policy statement addressing cargo selectivity and compliance and an accompanying press release.</b>
<b>STEP 7</b>	<b>Write a policy statement on the CSMT's access to internal Customs information and cooperation of other Customs units.</b>
<b>STEP 8</b>	<b>Write a policy statement authorizing the CSMT to engage in external communications.</b>
<b>STEP 9</b>	<b>Write a policy statement describing physical examination requirements, including mandatory reporting of results.</b>
<b>STEP 10</b>	<b>Write a policy statement on the authority and responsibility of the Customs office responsible for post release audit of traders' records.</b>
<b>STEP 11</b>	<b>Write a policy statement establishing or explaining an informed compliance program.</b>
<b>STEP 12</b>	<b>Communicate and coordinate changes internally and externally.</b>
<b>STEP 13</b>	<b>Allocate office space, equipment, and access to records systems.</b>
<b>STEP 14</b>	<b>Recruit highly qualified personnel.</b>
<b>STEP 15</b>	<b>Train Risk Analysts.</b>
<b>STEP 16</b>	<b>Identify and prioritize risks.</b>
<b>STEP 17</b>	<b>Conduct training in the field.</b>
<b>STEP 18</b>	<b>Activate cargo selectivity.</b>
<b>STEP 19</b>	<b>Ensure that the CSMT's decision-making process is adequately insulated from improper outside influences.</b>
<b>STEP 20</b>	<b>Monitor the process.</b>



## STEP 1

### Establish Program Management Responsibilities

Once the Director of Customs has made the decision to implement risk management and cargo selectivity, it is suggested that he or she assign responsibility as follows:

- Appoint a Risk Management Coordinator. The Risk Management Coordinator should be a respected high-level manager who reports personally to the Director. His or her function will be to (1) lead the implementation of risk management and cargo selectivity processes, (2) promote the concept to officers at all levels and to the trade, and (3) after implementation, ensure the ongoing effectiveness of the risk management and cargo selectivity processes.
- Form a Risk Management Committee consisting of managers from key Customs offices representing field operations, investigations, post-clearance audit/revision, intelligence, valuation, tariff matters, and information technology. This committee's first responsibility will be to design and manage the implementation phase of cargo selectivity and risk management. Also, it will have the ongoing function of overseeing the risk management and cargo selectivity processes, assuring the integrity of those processes, monitoring the productivity of the CSMT, and ensuring that the processes are supported throughout Customs. The Risk Management Committee should conduct working meetings at least every month.

## STEP 2

### Evaluate the operational environment in which the CSMT will function

The first task of the Risk Management Committee will be to conduct a formal evaluation of the operational environment in which the cargo selectivity and the CSMT will function. Risk management is based on and is inextricably tied to the defined priorities of Customs. The evaluation must ensure that the specified priorities of the Customs administration are current, valid, and understood by employees at all levels. The evaluation must examine strengths and weaknesses in the current operations of Customs. Cargo selectivity involves more than simply designating which shipments to examine and which to release. It requires:

- Trained, effective enforcement and specialist components within the Customs administration;
- Effective working relationships between the CSMT and these other sub-organizations within Customs;
- Effective working relationships with other government agencies, particularly those who regulate or have a legitimate interest in international trade, border operations, and law enforcement;

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- Effective working relationships with neighboring Customs administrations and with international organizations; and
  - Effective working relationships with importers, exporters, and others involved in international trade with an eye toward encouraging and rewarding compliance.

Most Customs administrations will already have some or all of the necessary key components in place; however, it is crucial that the following areas be identified and evaluated, and any weaknesses corrected:

- Preventive, investigative, post-clearance audit, and intelligence capabilities;
- Technical competence of Customs specialists in valuation and tariff matters;
- Trade priority issues, primary focus industries, and high-volume traders;
- Workload and staffing;
- Current level and quality of communications and cooperation;
- Current level of training, motivation, morale, and integrity; and
- Opportunities to develop and/or strengthen partnerships.

The completed written evaluation should identify both strengths and weaknesses and it should make recommendations to correct those weaknesses. In conducting the evaluation, the Risk Management Committee should:

- Interview Customs personnel at all levels;
- Seek out the opinions of the trading community;
- Review existing records, reports, statistics, and recommendations made in earlier studies; and
- Circulate a draft to all field offices and Headquarters departments, inviting comments and suggestions.

The written evaluation with its recommendations should be prepared in such a manner that on approval by the Director it will serve as the basis for an action plan.

### STEP 3

### Write an action plan

The next activity for the Risk Management Committee (RMC) is to develop an action plan. The recommendations set forth in the above evaluation constitute the beginning of the action plan. The RMC must now assign responsibility for accomplishing each recommendation to the appropriate persons and establish expected completion dates. Much of the responsibility will be assigned to RMC members themselves – they are,



after all, the managers of the key sub-organizations within Customs. The remainder of the action plan will consist of the series of steps outlined in this handbook, tailored as necessary to reflect the needs and complexities of the specific Customs administration. Responsibility for these steps must also be assigned to specific individuals and monitored by the RMC. Responsibility may be assigned to managers that are not RMC members, such as the manager of the Human Resources Department, or the manager of the Procurement Department, or the manager of the department responsible for providing office space. The Chair of the RMC should make these determinations and ensure that the responsibilities are being carried out in a timely manner.

#### STEP 4

#### Determine the nature of the CSMT and write a functional statement

The creation of any new unit within Customs generally requires compliance with certain governmental requirements. Although these requirements will vary from country to country, there are three questions that will need to be answered during this step regarding the new organization:

- Where in the organizational structure should the Cargo Selectivity Management Team be situated?
- Should the CSMT be centralized or decentralized?
- What are the duties and responsibilities of the CSMT?

The first question is: "*Where in the organizational structure should the Cargo Selectivity Management Team be situated?*" The team performs an operational function. Even though it makes use of information and communications technology resources, it is not inherently an IT function and should not be made a responsibility of the IT Section. As the team primarily performs an analytical function, there is also a tendency to think that the duties should simply be assigned to an already existing intelligence analysis unit. This too should be avoided. Customs intelligence units generally focus on smuggling and criminal activity. The end results of their analyses are intelligence reports that provide actionable information to enforcement units within Customs. The CSMT focuses on commercial activities, and the end results of their analyses are selectivity criteria that determine the type of treatment each declaration will receive. There will be cause for the intelligence unit and the CSMT to work together, but their duties should not be combined into a single unit. There are two competing trains of thought on the most effective organizational placement of the Cargo Selectivity Management Team. The first is that it is essentially a cargo-processing function and, therefore, should be established in the commercial or technical side of the Customs organization so that it can communicate more effectively with the Valuation Staff, the Tariff Matters Staff, and even the Legal Staff. The second is that it is essentially an enforcement function and should be established in the enforcement side of Customs, so that it can communicate more



effectively with the Preventive Staff, the Audit or Revision Staff, the Intelligence Analysts, and the Investigators. Neither answer is inherently right or wrong. This is ultimately a decision for the Risk Management Committee and the Director of Customs. The key concern is not where in the table of organization the team is placed, but the level of management support the team will receive and the ability of the team to communicate freely with all elements of Customs, no matter where they are organizationally placed.

The second question is: "*Should the Cargo Selectivity Management Team be centralized or decentralized?*" Countries with a small number of cargo examination locations may rightly feel that a centralized team is the best approach. Countries with a large number of cargo examination locations and/or regional office components may supplement the centralized staff with analysts or coordinators in each regional office or at the larger examination facilities. These officers can be an important link between the central CSMT and the examining officers. Cargo selectivity requires that examining officers have a clear understanding of the purpose of the examinations generated by the CSMT, that they conduct thorough examinations, and that they report the results of those examinations back to the CSMT. It also requires that the CSMT analysts have a clear understanding of the practicality and feasibility of the examinations requested. This includes ensuring that examination criteria do not generate more examinations than can be effectively conducted at a given facility (the maximum number of examinations that can be conducted depends on staffing and facilities and can be determined for each examination facility). In fact, one component of every risk profile leading to an examination criterion must be an impact analysis.

The third question is: "*What are the duties and responsibilities of the Cargo Selectivity Management Team?*" These duties should be defined in writing as a formal functional statement in whatever format the Customs administration uses. The functional statements of other sub-organizations within Customs should be revised to reflect their interactive role in the risk management process and with the Cargo Selectivity Management Team. Functional statements should be kept as simple and concise as possible. The following is an example of a functional statement for a Cargo Selectivity Management Team:

*The Cargo Selectivity Management Team (CSMT) reports to the Head (Chief, Supervisor) of the \_\_\_\_\_ Department and operates under the oversight of and within policies and guidelines established by the Risk Management Committee. The CSMT is responsible for gathering, analyzing, and evaluating a wide variety of information related to commercial transactions, importers, exporters, manufacturers, transportation companies, brokers, and others involved in the international trade process. The purpose of this activity is to establish risk profiles that will enable Customs to identify those transactions most likely to be non-compliant and direct available resources to situations presenting the highest risks. The CSMT serves as the nerve center for commercial processing by gathering information from a wide variety of sources, both internal and external to Customs. The CSMT conducts in-depth analysis/evaluation using a variety of automated analysis and trade-based*



*research tools on importation trends, common traits, profiles, past violations, etc. to develop examination criteria. The CSMT, in collaboration with other Headquarters elements, is responsible for establishing and managing a compliance measurement program designed to measure and encourage trader compliance. The CSMT consists of the Chief, (number) Risk Analysts, (number) Compliance Specialist(s), and (number) Information Technology Specialist(s) in the Headquarters and (number) of regional CSMT analysts/ coordinators assigned to field locations.*

## STEP 5

### Write Position Descriptions

The next step is to write position descriptions for each specialty within the Cargo Selectivity Analysis Team. This includes the Manager, the Risk Analysts, the Information and Communications Technology Specialist, and the Compliance Specialists. The following is a sample position description for the **Chief of the CSMT**:

*The Chief of the Cargo Selectivity Management Team plans, organizes, and coordinates the activities of the analytical, information/communications technology specialist(s), and compliance specialist(s) assigned to the CSMT and coordinates their activities with those of the investigations, intelligence, post-clearance audit, and other departments in the Customs administration, as well as with field offices. He or she directs risk analysis activities that lead to the development of targeting criteria for the selectivity module of the automated declaration processing system and to the identification of those traders that have historically high levels of compliance. He or she ensures that the full range of data available in the automated system and in other Customs records is analyzed in order to develop threat assessments, trends, and targeting strategies.*

*The Chief participates in the preparation of training and standard operating procedures for upgrading the skills and knowledge of personnel in the unit and for training field personnel and traders/brokers. He or she communicates regularly with key field managers on selectivity issues, examination instructions, levels of exams, and results. The Chief of the Cargo Selectivity Management Team is guided by the following in the planning, managing, and oversight of cargo selectivity: (1) Data and information must be collected from all available pertinent sources including the automated system's database, the intelligence unit, the investigations unit, the post-clearance audit unit, and field offices; (2) Data must be methodically analyzed and assessed in terms of risk; (3) The risk assessment becomes the basis for prescribed action that includes examination criteria being placed in the automated entry processing system's selectivity module and identifying targets for the Post-Clearance Audit Unit; (4) Results of examinations and audits are monitored and these results used to validate criteria on an ongoing basis.*



The following is a sample position description for a **Risk Analyst**:

*The Risk Analyst performs in-depth analyses and evaluations of customs data, using a variety of automated analysis and research tools. Analyses focus on importation trends, common traits, profiles, and past violations in order to develop examination criteria for the Selectivity Module of the Customs administration's automated system. The Risk Analyst develops and maintains contacts within various program offices in order to gather all available information related to commercial transactions or commercial operators. He or she analyzes and evaluates this information and develops strategic and tactical responses to various risks to Customs. The Risk Analyst analyzes information gathered from internal and external sources and information contained in automated databases in order to develop and enter risk based selectivity criteria and to determine the appropriate treatment for various types and levels of risks. The Risk Analyst is responsible for ensuring appropriate criteria are created and kept current, for ensuring that examination criteria are consistent with workload and resources, and for continually monitoring results. The Risk Analyst develops criteria based on his or her own initiative as well as on requests from other Customs officers or units. All requests from other units must be fully considered and evaluated; however, it is the responsibility of the Risk Analyst to determine whether the request is valid, and if so, how to best address the concerns raised in the request. The Risk Analyst applies his or her knowledge of Customs law and regulations, valuation, and tariff nomenclature. The Risk Analyst also relies on his or her prior experience to ensure that examination instructions are clear, concise, and capable of being followed.*

Each Cargo Selectivity Management Team should have a dedicated **Information and Communications Technology (ICT) Specialist** who would have the following responsibilities:

*The Information and Communications Technology Specialist ensures that the Cargo Selectivity Management Team has the necessary access to the Customs administration's automated declaration processing system to permit them to conduct required data analysis and develop valid examination criteria. The ICT Specialist ensures that the IT equipment supporting the Cargo Selectivity Management Team is in good working order and that appropriate security safeguards are in place. The ICT Specialist develops specialized data analysis programs for use by the Cargo Selectivity Management Team analysts. The ICT Specialist trains analysts how to develop specialized reports from the data in the automated declaration processing system. The ICT Specialist trains new analysts in the use of the selectivity module. The ICT Specialist coordinates on a daily basis with the Customs administration's Information and Communications Technology department. The ICT Specialist may also perform the duties of a Risk Analyst.*



An additional specialty that can be an important part of the Cargo Selectivity Analysis Team is the **Compliance Specialist**.

*The Compliance Specialist is responsible for developing and managing a compliance measurement system. He or she is responsible for identifying low-risk, highly compliant traders eligible for defined expedited or simplified procedures and for identifying situations where a compliance intervention can improve the performance of high- and medium-volume traders that have not achieved the desired level of compliance but are both willing and capable of doing so. The Compliance Specialist is responsible for developing, recommending to management, and upon approval implementing and monitoring an "approved trader" program in which Customs will recognize as eligible to participate in simplified procedures those traders willing to enter into formal memoranda of understanding with Customs, agree to satisfy specified customs security concerns, and ensure a high degree of compliance. The Compliance Specialist works closely with the Risk Analysts of the Cargo Selectivity Management Team; those staffs responsible for tariff, valuation, and penalty matters; and field managers.*

#### STEP 6

#### Write a policy statement addressing cargo selectivity and compliance and an accompanying press release

Implementing cargo selectivity and establishing a Cargo Selectivity Management Team will change existing policies, procedures, and working relationships. Customs officers at all levels as well as traders and brokers must understand the reasons for this change, the nature of the change, and the impact the change will have on their work. This will require careful thought by the Risk Management Committee and the issuance of a number of directives from the Director of Customs clearly establishing policy and procedural expectations in writing. The first of these should advise Customs and the trading community of the establishment of the Risk Management Committee and the Cargo Selectivity Management Team. It should explain their functions and their relationships to other Customs units and provide contact information. A press release and meetings with the trade should accompany this directive.

#### STEP 7

#### Write a policy statement on the CSMT's access to internal Customs information and cooperation of other Customs units

A Cargo Selectivity Management Team develops criteria by collecting and analyzing relevant information from many sources regarding importers, exporters, manufacturers, high-risk commodities, and countries of origin. The quality of the criteria depends on the quality of the analysis and, of course, the quality of the analysis can only be as good as the quality (and quantity) of information to which the team has access. The



often-encountered tendency of some units in Customs to not share information with other units must be addressed. The CSMT is responsible for gathering information from a variety of sources as it develops risk profiles related to commercial merchandise and Customs transactions. It must have access to relevant information regarding commercial traders, including records of examination results, penalty and seizure reports, intelligence reports when related to individuals or companies engaged in international trade, results of investigations of such individuals and companies, and post-clearance audit reports. CSMT analysts must develop good working relationships and communicate on a regular basis with Customs officers in other departments who have access to information that bears on the reliability of importers, exporters, and transporters. These contacts should include:

- Field operations (preventive officers assigned to airports, seaports, land border crossings, and inland inspection stations);
- Regional office staff;
- Investigators;
- Intelligence Analysts;
- Revision or Post-clearance Audit Officers;
- Specialists responsible for tariff matters and special regimes; and
- Legal or other specialists responsible for processing all Customs violations, including administrative penalty, seizure, or criminal prosecution.

*The directive must clearly state that communications and information sharing must be open, without unnecessary reservation, and timely. It must educate managers and officers throughout Customs as to the importance of providing relevant information to the Cargo Selectivity Management Team. It cannot be assumed that pertinent information will be freely or willingly shared without clear written direction and leadership from the Director.*

#### STEP 8

#### Write a policy statement authorizing the CSMT to engage in external communications

In addition to developing working relationships and information sharing with other Customs sub-organizations, Cargo Selectivity Management Team analysts need to be able to gain access to other government departments and international sources in order to research potential high-risk companies and/or individuals. These contacts will enable the analysts to ensure that they can query other government departments as to their knowledge regarding any subject of an ongoing Customs risk analysis action. Analysts should develop contacts with:

- 
- A photograph showing several shipping containers stacked on a dock. The containers are of various colors, including red, blue, and white. They are arranged in a somewhat haphazard manner, with some containers leaning against each other. The background shows more shipping containers and what appears to be a body of water.
- Border Police/Border Guards;
  - Police intelligence unit;
  - Other border inspection agencies;
  - Other government departments and public institutions, such as Ministries of Agriculture, Trade, and Transport;
  - Foreign Customs administrations;
  - International organizations such as the World Customs Organization; and
  - Foreign law enforcement agencies.

Establishing these sources of information may require Memoranda of Understanding (MOU) with the various law enforcement organizations. Such MOUs should be negotiated at the Director level. The purpose of these contacts is not to establish a massive ongoing exchange of information; rather, it is to facilitate the ability of the CSMT analyst to query the other organizations with respect to specific companies or individuals associated with an ongoing analysis. Of course, reciprocity will be expected. Customs also must be willing to share information to the extent allowed by national legislation.

The CSMT analysts also can benefit from effective contact and communications with members of the trade community. It is the function of the team to ascertain risk levels as related to goods, companies, and individuals. That means identifying not only those that present a high risk but also those that present a low risk. By identifying and properly dealing with traders that have demonstrated an acceptable level of compliance with Customs requirements, the teams can reduce the number of importers about which little is known and make it easier to identify non-compliant, high-risk traders. If we compare this to the proverbial needle in the haystack, it will always be difficult to find the needle, but we can make it considerably easier by reducing the size of the haystack. Some private sector trade contacts may at times be willing to provide information regarding illegal trade practices used by a competitor in order to obtain market advantage. Business contacts can enhance the analysts' overall understanding of business practices and the intricacies of the international supply chain. Useful contacts include:

- Importers and exporters,
- Brokers or clearing agents,
- Freight forwarders,
- Transportation companies,
- Trade organizations, and
- The general public.



## STEP 9

### Write a policy statement describing physical examination requirements, including mandatory reporting of results

Customs must develop and publish detailed standards and requirements for cargo examinations. All physical examinations must be conducted in a thorough and systematic manner, and the results (whether positive or negative) must be reported to the Cargo Selectivity Management Team. The examination standards and reporting requirements should be published in the form of a clearly stated policy directive.

Throughout this handbook, the focus on selective examinations has been that the selection of merchandise to be examined should be based on risk profiles. Criteria-based examinations must, however, be complemented by random compliance examinations based on statistical sampling. As with the criteria-based examinations, random compliance examinations must be thorough, systematic, and accurately reported. It is important also to retain an element of surprise by carrying out these random checks. Random examinations provide a cost-effective means of identifying unknown risks and monitoring or estimating their significance. They also help to ensure that no shipment or trader is exempt from effective Customs controls and verification. Even "approved traders" should be verified periodically with random compliance examinations.

Different types of risk require different types and levels of examination or treatment. Many commercial violations, such as valuation issues, cannot readily be discovered through actual physical examinations. Customs treatments are generally broken into five types:

- The first type is the **Selectivity Review** performed by the automated selectivity module that compares data elements in the declaration against the system criteria. This type of examination is completely transparent to the uniformed officer.
- The second type is a **Document Review**, wherein the automated system requires the officer to verify that certain documents are included as part of the declaration (e.g., an agricultural certificate for produce).
- The third type is an actual **Physical Examination**. Enforcement priorities and limited resources dictate that a labor-intensive 100-percent examination is the choice of last resort. Depending upon the risk profile, different levels of examination are performed:
  - For commercial issues such as marking, quantity verification, intellectual property rights, and classification issues, only a few representative, random, widely-selected samples from within the shipment need to be examined.
  - For targeted examinations concerning narcotics or other prohibited merchandise that might be concealed within declared merchandise, a 100-percent examination of the cargo is called for, and a detailed, methodical examination of the conveyance also must be conducted to ensure that the prohibited merchandise is not concealed in the vehicle instead of the merchandise.



- Examination criteria will designate the level of physical examination required.

- The fourth type is a **Random Compliance Examination**. The purpose of random examinations is to verify continued compliance on the part of all importers, no matter how low-risk they may have been judged. It is important that random examinations be conducted in a thorough manner and that the results be reported. In the early stages of the implementation of cargo selectivity, the rate of random examinations may have to be set at a higher rate until the CSMT has populated the selectivity module with effective examination criteria. Once the risk-based examination criteria begin showing results, the random examination rate should be lowered.

The new policy will be the subject of intensive training later in the implementation process.

#### STEP 10

#### **Write a policy statement on the authority and responsibility of the Customs office responsible for post release audit of traders' records**

A key element of a cargo selectivity system is the capability to identify certain declarations for further review after release from Customs custody. This review, typically called a post-clearance audit, is conducted at the importer's, exporter's, and/or broker's offices and consists of a thorough review of all of the documents related to the declaration and merchandise in question. These include many documents that are not required to be included in the declaration package presented to Customs but are a part of the commercial transaction. Documents that can be found in the office files are generally associated with the order, purchase, payment, and delivery of the goods; insurance; and transportation. Customs' authority to conduct post-clearance record reviews (or audits) should be the subject of a written directive. The directive should establish the post-clearance audit procedure, setting forth the responsibility of the trader to maintain records and to grant Customs officers access to the files for the purpose of validating information that was presented in the Customs declaration and on which financial and other obligations (e.g., duty, excise, licenses, and quotas) were based.

#### STEP 11

#### **Write a policy statement establishing or explaining an informed compliance program**

Earlier in this handbook, it was suggested that Customs' purpose in examining cargo should be to ensure compliance with the Customs laws and other laws related to the importation and exportation of goods. Whose responsibility is compliance? Certainly it is the responsibility of the trader, but as has been suggested throughout this handbook, it is also the responsibility of the Customs administration to make every effort to help importers comply with Customs and related laws and requirements. The Risk Management Committee must establish a compliance policy and implement it through



the publication of a formal written directive. This directive should establish a program to encourage compliance by offering certain reasonable benefits to those traders that have historically demonstrated consistently high levels of compliance and to those who are willing to improve their internal processes to meet certain standards established by Customs. Customs is first and foremost a law enforcement service; however, it must balance its traditional role of enforcement and ensuring supply chain security with its responsibility for moving compliant shipments across its borders efficiently. Compliant trader initiatives can be designed to facilitate the flow of trade for those with a proven compliance record. These do not restrict the authority or ability of Customs to initiate examinations for the presence of narcotics or other prohibited items, and Customs will continue to conduct random verification examinations, even of those traders operating under low-risk importer initiatives. New policies and procedures can be developed to shift resources away from traders designated as low-risk and focus those resources to address importers posing a high non-compliance risk. As a result of these new policies and procedures, Customs will be able to more efficiently deploy its finite resources toward enforcement and regulatory responsibilities. The CSMT is responsible for identifying low-risk as well as high-risk traders.

It is entirely reasonable for Customs to enter into agreements with importers who have demonstrated an acceptable level of compliance and indicated a willingness to take additional steps to satisfy Customs concerns. It is up to each Customs administration to determine what it expects from low-risk importers and what low-risk importers can expect from Customs. Among the many possibilities are:

- Compliant traders can be asked to voluntarily improve security in accordance with Customs guidelines in order to participate in approved trader programs;
- Compliant traders can be asked to conduct background checks of employees in order to participate in approved trader programs;
- Compliant traders can establish or improve quality controls and record keeping procedures in accordance with Customs guidelines in order to participate in approved trader programs;
- Compliant traders accepted into approved trader programs can be allowed to have shipments directly delivered to their premises;
- Compliant traders accepted into approved trader programs can be allowed deferred duty payment timelines; and
- Compliant traders accepted into approved trader programs can be allowed to file consolidated entries covering all importations over an agreed-upon time period, such as weekly or monthly.

It is strongly recommended that the Cargo Selectivity Management Team be assigned responsibility for compliance programs through the presence of a designated Compliance Specialist. All designated low-risk (or "approved") traders should be systematically



reevaluated at least annually to determine if they continue to qualify as low risk. The Compliance Specialist also can conduct training, on-site evaluations and interventions to assist those traders that do not have a proven historical record, but are capable and desirous of establishing one.

## STEP 12

### Communicate and coordinate changes internally and externally

Change is best implemented by ensuring that all who will be affected by it understand the reason for the change, the benefits they will derive from the change, and the impact the change will have on their work. This includes not only Customs officers and employees but also those in the trading community importers, exporters, transportation companies, brokers, and others. It includes government counterparts in the other border control agencies as well as trade regulatory agencies. Communications regarding the change from traditional procedures to cargo selectivity should begin early and continue throughout the implementation process and beyond. It is not enough for Customs to want to modernize and simplify its procedures and to adapt the risk management philosophy as the basis for its treatment of commercial transactions. It is crucial that Customs gain the understanding and support of the trade and other government agencies in this change. The Risk Management Committee must provide the impetus for these communications, which initially should take the form of face-to-face meetings.

To achieve the full benefits of risk management techniques (better compliance and greater facilitation), good communication, consultation, and cooperation between the trade and Customs administrations is vital. Customs administrations must view legitimate traders as partners in this process. If Customs has already established an environment in which there is a good rapport with the trade, the adoption of risk management and cargo selectivity will only enhance that relationship. If not, this is an excellent opportunity to establish that rapport. There is a growing realization in many Customs administrations that major change can be achieved only with the active participation of legitimate business operators. The "partnership approach" provides for greater efficiency and more effective controls based on knowledge of commercial operations. A major consequence of an effective cargo selectivity system is that (except for random checks) only high-risk transactions will be selected for examination. From a business perspective this results in quicker, smoother clearance of legitimate trade through simplified procedures. It is clearly in the interest of businesses to work with Customs to achieve the reduced costs and predictability that accompany reduced examinations. It is likewise clearly in Customs' interest to work with the trade to encourage them to take whatever steps are necessary to improve their level of compliance with Customs requirements.

The collaboration between Customs and the trade has the advantage of improving Customs' knowledge of trading practices. Greater familiarity with the conditions of



international trade means more effective risk management. The assistance of legitimate traders in the risk management process provides many benefits to both the Customs administration and the trade, such as:

- Customs realizes a higher level of compliance;
- Customs realizes a valuable source of information;
- Traders with a good record of cooperation receive less Customs intervention; and
- Trade cooperation provides valuable assistance to a Customs administration in drug interdiction and in the control of trade in endangered species, hazardous waste, and other dangerous goods.

The World Customs Organization encourages Customs administrations to enter into formal agreements with private companies engaged in international trade and transport and provides model agreements that can be adapted by any Customs administration that desires to do so.

Customs Administrations should remember, in communicating proposed changes, to take into account the needs and interests of the other parties and to be able to demonstrate that there truly is some benefit to them in the change. Customs also should remember that the other parties might have something to say that has not been thought of but which will help in the implementation of change. Customs should remember that it takes time to develop trust and good working relationships. It is time worth spending. Customs should not be discouraged if members of the trading community are initially hesitant to offer differing points of view. They may feel that disagreement will be construed as criticism and could result in some form of retribution. Although it is not possible to communicate with every importer, exporter, or other person involved in international trade, it can be quite effective to establish ongoing relationships with such representative organizations as broker committees, transportation associations, or public/private trade facilitation committees. Many Customs administrations now maintain formal consultative committees with traders, carriers, agents, banks, port and airport operators, and their respective organizations. The role of such committees typically includes the discussion of projected changes in control requirements, identification of difficulties experienced by traders in complying with actual or proposed procedures, and arrival at mutually acceptable solutions. If such committees do not exist, they should be established.

#### STEP 13

#### Allocate office space, equipment, and access to records systems.

The Cargo Selectivity Management Team must be provided with adequate office space, furniture, and equipment. Office space in many Customs Headquarters is at a premium; however, the efficiency and effectiveness of a CSMT is directly dependent on its



having enough space to accomplish the work. Each member of the team will require a full-size desk. The team's work will often require that its members analyze not only large amounts of computerized data, but also large amounts of paper records, in the form of customs declaration packages, penalty and seizure reports, and automated system printouts. The team will require one or two worktables at which they can spread out this paperwork. Locking filing cabinets are necessary for the analysts to securely store risk profiles, analyses in process, and related materials. Each team member will require a fully functional current-model desktop computer with word processing and database management software, email, access to the Internet, and access to the automated declaration processing system. Each member will require access to a telephone, and the team will require a dedicated fax machine, shredder, and printer.

The CSMT staff must have access to the Customs administration's automated declaration processing system, as well as to other Customs records (e.g., seizures, penalties, intelligence reports, post-audit reports, and broker and importer/exporter compliance audit reports), which will be vital to the furtherance of their research into transactions and traders that could represent a high risk. Access to these records is necessary for:

- Collecting and centralizing historical data on trade;
- Establishing cargo compliance and discrepancy rates that help to identify trade risk areas and to assess the effectiveness of cargo exam targeting; and
- Generating trend analyses that provide an overall picture of compliance rates for different categories of travel and trade (e.g., commodities, importers, manufacturers/shippers, and countries).

#### STEP 14

#### Recruit highly qualified personnel

All too often, Customs managers consider the duties of their Cargo Selectivity Management Team to be of a clerical nature and, therefore, staff the team with low-graded/inexperienced personnel, and even with personnel that have not demonstrated motivation and productivity in other positions. There is no better way to ensure that the CSMT and the cargo selectivity process will fail. These teams are the operational nerve centers for cargo selectivity and must be considered and treated as high-priority offices to be staffed with highly qualified personnel that consider the CSMT as a desirable assignment. The staff should consist of officers that:

- Have a minimum of 2 to 3 years of operational experience, either at a centralized examination station; at a cargo-oriented border station, airport, or seaport; or in an investigative or valuation unit;

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- Are familiar with principles of valuation and with tariff nomenclature;
  - Have demonstrated good analytical skills as well as a mastery of cargo-processing practices and procedures and requirements;
  - Have good writing skills;
  - Have good computer skills;
  - Are expert in the use of database management and spreadsheet programs or have the knowledge and aptitude that will enable them to become expert through readily available training; and
  - Are thoroughly familiar with the Customs administration's automated declaration processing system.

The size and composition of the CSMT will vary from country to country depending on the national requirements and the degree of centralization, but should always be staffed by officers with a variety of backgrounds (e.g., officers with field experience, auditors, investigators, information and communications technology specialists, and intelligence analysts). These officers should return periodically to their respective local offices to update themselves on any recent developments that may not have been brought to the attention of Headquarters.

Assignment opportunities should be announced throughout the entire Customs administration, and the selection process should be transparent and based on:

- Demonstrated skills,
- Demonstrated ethical behavior,
- Variety and depth of technical knowledge,
- Computer skills, and
- Exemplary performance in current and previous positions.

Initial assignment to a Cargo Selectivity Management Team should be for a minimum of 2 years (unless an individual analyst fails to perform productively). After the initial 24-month assignment, no more than 25 percent of the CSMT staff should be rotated out of the office each quarter.

#### STEP 15

#### Train risk analysts

As Cargo Selectivity Management Team members will develop examination criteria through analysis of information in the automated declaration processing system's database, the team will require training in the following areas:

- The operation and administration of ASYCUDA and MODSEL or other declaration processing systems and selectivity modules used by Customs,

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- Information analysis techniques, and
  - Database management and spreadsheet software.

The analysts must be capable of designing custom reports to retrieve data from the declaration processing system. These reports include, but are not limited to:

- Listings of importers ranked by value of importations, by cumulative amounts of duties and taxes paid, and by number of entry declarations;
- Listings of commodities imported ranked by total amounts of collections;
- Listings of commodities ranked from highest to lowest taxation rates;
- Listings of commodities ranked by past misclassifications;
- Listings of past transactions by importers, exporters, brokers, and others; and
- Compliance measurements.

#### STEP 16

#### Identify and prioritize risks

The following is a PARTIAL list of typical Customs responsibilities. No doubt, each Custom administration considers many of these responsibilities to be important, but which are more important than others? This list is presented alphabetically and is not intended in any way to suggest an appropriate ranking.

- Anti-dumping and countervailing duties,
- Anti-terrorism,
- Classification,
- Country of origin verification,
- Currency controls,
- Embargoes and sanctions enforcement,
- Intellectual property rights enforcement,
- Narcotics control,
- Public health and safety,
- Quota enforcement,
- Revenue collection,
- Trade agreements compliance,
- Trade statistics,

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- Transit rules compliance,
  - Transshipment rules compliance,
  - Valuation, and
  - Weapons control (both conventional and weapons of mass destruction).

It is the responsibility of the Risk Management Committee to provide the Cargo Selectivity Management Team, and indeed the entire Customs administration, with a concise statement of its priorities. If collection of revenue is a priority, how much revenue must be involved? Is it better for the CSMT to analyze, evaluate, and develop risk profiles on small importers that routinely bring suitcases of either undervalued or undeclared goods across the border, or to develop risk profiles on the wide-scale smuggling of cigarettes, which carry high duties and excise rates and are being smuggled in large quantities? Which is more important? It should not be left to the CSMT to decide. Their responsibility is to ensure that their efforts are directed toward the highest priority risks facing Customs, not to arbitrarily decide which risk is more important than another. Priorities must be defined at the management level and be well publicized throughout Customs.

#### STEP 17

#### Conduct training in the field

The Risk Management Committee must organize training sessions for both field Customs officers and the trading community. These sessions, of course, will be conducted separately. The Customs training will concentrate on the new features of cargo selectivity, examination techniques, and reporting requirements. The training for the members of the trade should explain the procedural changes that will affect them and encourage them to adapt and improve their internal procedures accordingly. The trade must ensure that benefits of new Customs efficiencies are accompanied by efficiencies on their part, such as advance filing of declarations and improved accuracy of declarations. This training should discuss the purpose and function of the CSMT and outline informed compliance and approved trader programs that will be implemented in the future. This meeting should encourage open communications between the trade and Customs and conclude with an agreement to conduct future Customs-trade meetings on a mutually acceptable schedule (e.g., first Tuesday of every month).

#### STEP 18

#### Activate cargo selectivity

Once the analysts of the Cargo Selectivity Management Team have received the necessary training, they are ready to begin the risk management process. It is not the purpose of this handbook to provide guidance or instruction on the process itself. This is



a subject that will require specialized training. As it is a Customs enforcement process, it is not deemed appropriate to openly publish detailed analytical process instructions.

Generally, however, the process can be summarized as including the following steps:

- Identifying risks,
- Analyzing risks,
- Evaluating risks,
- Treating risks, and
- Monitoring and reviewing results.

It is recommended that once the team has been formed and trained, a subject matter expert be identified to work with the team to assist them in developing their initial risk profiles and related criteria. At that point, it is appropriate to activate the cargo selectivity system. Obviously, there will be a learning curve, and it would be a mistake to think that the initial risk profiles will result in immediate and dramatic success. As the analysts gain experience and additional data based on improved examinations, their examination criteria will soon reach the desired level.

#### STEP 19

#### Ensure that the CSMT's decision-making process is adequately insulated from improper outside influences

Implementation of an automated cargo selectivity system will offer the added benefit of reducing opportunities for unethical activity on the part of both traders and officers in the field. Automated selectivity systems should have the capability to assign examinations to specific officers and to monitor whether the work of those officers is consistent with demonstrated norms. That is, if the average Customs officer can conduct four thorough examinations a day, how can one officer conduct eight or ten examinations a day and still comply with Customs procedures and expectations? If the average Customs officer finds seven to ten discrepancies for every one hundred examinations, why is another Customs officer finding only one or two, or worse, none? If the average Customs officer is following examination instructions and conducting thorough examinations when directed, why is another Customs officer routinely overriding examination instructions by examining green channel declarations or releasing red channel declarations without examination? Are these discrepancies training issues or are they potential indicators of unethical activity on the part of an officer? In addition to the importance of ensuring ethical activity by field officers, it is equally important to ensure that the CSMT analysts are protected from unethical influences. This is primarily accomplished through the Risk Management Committee's continuing oversight of the work conducted by the CSMT, including fully documented risk profiles, productivity reviews, and criteria modifications or deletions.

**STEP 20****Monitor the process**

The Cargo Selectivity Management Team must continually evaluate criteria in the automated declaration processing system. As examination reports arrive at the CSMT office, they must be promptly analyzed and tabulated. A continuous series of negative inspections against a given criteria would be cause to eliminate that criteria, reduce the examination percentage, or require another type of treatment such as document review. A continuous series of examinations or document reviews that reveal discrepancies requires further action, ranging from initiating informed compliance assistance, to generation of penalties, to referral to the Post-Clearance Audit Section and/or Investigations Section. The reviews and resulting actions taken must be documented in the risk profile document. The Risk Management Committee, in its oversight role, should review each active or recently inactivated risk profile and examination criteria. This can best be accomplished by monthly meetings in which the CSMT analysts formally brief the committee members of their activities and results for the preceding month.

Evaluation of the effectiveness of risk management must be ongoing and must be formalized. The success rate is the key criterion for evaluating the effectiveness of the risk profiles. Fewer well-researched and well-defined criteria that achieve results are more desirable than a large number of criteria that generate examinations but do not produce results. Criteria must be regularly evaluated to measure, assess, and evaluate the effectiveness of the overall Customs control program.

Evaluations must be documented and result in corrective actions when there is a demonstrated lack of results. Measurements include:

- Reliable reporting of examination results,
- Compliance measurement activities,
- Feedback from the business community, and
- Results analysis and data comparisons.

**Training**

*The analytical process utilized by Cargo Selectivity Management Teams is beyond the scope of this handbook. The purpose here is limited to providing a generic, but specific, plan of action that can be adopted (and adapted as necessary) by a Customs administration that is determined to implement a cargo selectivity process based on risk management concepts.*

Specialized training will be necessary for the CSMT staff. This might include training in both computer (or information technology) skills and analytical skills. It is likely that the computer skills training can be provided by the Customs Information and Communications Technology Section. The analytical skills training, however, most likely will require technical assistance from an outside source.

# Conclusion

*Cargo selectivity is the key to coping effectively with ever-increasing demands placed on Customs administrations. Implementation requires expertise, infrastructure, financial resources, and capacity building.*

Unfortunately, the emphasis on automation can cause Customs managers to focus on the information and communications technology aspects of the effort and give less attention to the necessary operational and organizational changes – simplification and rationalization of procedures and the implementation of risk management. Just as automation of ineffective procedures is counter-productive, so is implementation of cargo selectivity without developing the necessary analytical capacity on the operational side of Customs. This handbook has aimed to make that clear and to help ensure that all of the steps necessary to successfully apply risk management to cargo processing are taken.





# List of Appendices

***The sample directives, forms, and press release included in this appendix are intended solely to provide the basis for a cargo examination policy directive. It is not intended that they be copied verbatim. Customs administrations wishing to publish similar documents should feel free to adapt these samples to meet their specific situations and requirements. The following samples are provided.***

Appendix 1: Cargo Examination Policy

Appendix 2: Risk Management Policy Statement

Appendix 3: Press Release Announcing Risk Management

Appendix 4: Internal Information Sharing and Cooperation

Appendix 5: External Information Sharing

Appendix 6: Trade Compliance Program

Appendix 7: Post-Clearance Audit Program

## **APPENDIX 1**

### **Sample Policy Directive on Cargo Examinations**

#### **PURPOSE**

To establish new cargo examination policy and procedure

#### **POLICY**

It is Customs policy to:

- Encourage voluntary and informed compliance with Customs and related laws;
- Facilitate the movement of legitimate cargo with minimal Customs intervention; and
- Simultaneously, strengthen our abilities to detect and respond to attempts to circumvent Customs laws and requirements.

In support of this policy, examination of all cargo will no longer be conducted as a matter of routine. When examinations are determined to be appropriate based either on risk profiles or on random selection, they will be conducted in a thorough and professional manner. Results of all examinations will be reported to the Cargo Selectivity Management Unit for ongoing analysis and updating of examination criteria.

#### **BACKGROUND**

Adoption or risk management as an operational philosophy has become essential since it provides quantifiable improvements in effectiveness and efficiency of Customs as a whole. Risk management allows us to identify those transactions that present the highest level of risk and focus our resources on those transactions. A Cargo Selectivity Management Unit has been established to utilize risk analysis and risk management techniques to expedite low-risk cargo shipments, with minimal Customs intervention, and to ensure that high-risk cargo shipments receive appropriate scrutiny by Customs officers in the field.

#### **RESPONSIBILITIES**

The Cargo Selectivity Management Unit is responsible for developing risk profiles based on in-depth analysis of commercial transactions and establishing cargo examination criteria and instructions within the automated system.

Chiefs of Customs offices are responsible for ensuring that officers under their supervision follow the procedures established in this directive.

Shift supervisors are responsible for approving requests to override examination instructions provided by the cargo selectivity management system. Overriding examination instructions means conducting a different type of examination than designated by the automated system.

Officers are responsible for following the procedures established in this directive, for conducting thorough examinations in accordance with instructions provided to them and for reporting the results of all cargo examinations in a timely and complete manner.

Officers are expected to comply with the designation provided by the selectivity module. An officer may request permission to override examination instructions if he or she has valid reason to suspect that the particular shipment may be fraudulently declared or that smuggled goods may be concealed within the shipment. In this event, the reason for overriding the instructions and the approving supervisor's or shift leader's signature shall be entered on the attached reporting form.

### **TYPES OF EXAMINATIONS**

Different types of risk require different types and levels of examination. Many commercial violations, such as valuation issues, cannot readily be discovered through actual physical examinations. Customs examinations are generally broken into types:

- **Selectivity Review.** This review, which is performed by the automated selectivity module, compares data elements in the declaration against the system criteria. This type of examination is completely transparent to the uniformed officer and eliminates the requirement that all declarations be subjected to a routine document review (or face vetting).
- **Detailed Document Review.** Based on the selectivity review against specific criteria, the automated system may require the officer to verify that certain documents are included as part of the declaration (e.g., an agricultural certificate for produce). The system will provide specific instructions for the documents to be reviewed. The system will also randomly designate a percentage of declarations for document review. These random document reviews will include a complete face vetting of the declaration and supporting documentation.
- **Physical Examination.** Enforcement priorities and limited resources dictate that a labor-intensive 100 percent examination is the choice of last resort. Depending upon the risk profile, different levels of examination are performed.
- **Random Compliance Examination.** The purpose of random examinations is to verify continued compliance on the part of all importers, no matter how low-risk they may have been judged to be. It is important that random examinations be conducted in a thorough manner and that the results are reported.
- **Post-Clearance Audit.** Post-clearance audit allows designated declarations to be referred to a special team for audit of the trader's or broker's records to be conducted after the merchandise has been released from Customs custody without detailed document review or physical examination.

## CARGO EXAMINATION STANDARDS

Physical cargo examinations will be conducted only at approved inland inspection stations or other approved locations that have the facilities and equipment to unload conveyances and make cargo available for examination.

- Whenever a container or trailer is to be partially unloaded for examination, Customs personnel will specifically designate the pattern of unloading. For example, Customs will decide whether unloading will be by tunneling with full-height or half-height removal, and whether removal should be from the right, center, or left of the container or trailer. Customs personnel (rather than cargo agents, dispatchers, drivers, laborers, or other non-Customs personnel) will designate the specific packages to be removed.
- Access to the examination site should be as limited as possible, with truck drivers and dispatchers being kept from viewing the actual examination whenever possible.
- The examination of hazardous materials must always be conducted only at facilities that are equipped for the specialized handling of those materials. This may require that the Customs officers accompany the commercial conveyance to a commercial location such as a factory, plant, or refinery. Particular care should be taken not to develop a habit of always passing all hazardous materials without examination, merely because of the danger or difficulty involved. Doing so will provide an easy route for contraband importation.
- A commercial compliance examination will be performed when there is no suspicion of narcotics, weapons, or other prohibited items, but when the possibility of a commercial violation exists. The intensity of examination necessary to detect trade violations will be determined by the officer, based upon his or her personal knowledge and training. A commercial compliance examination requires that the cargo be physically examined. Representative boxes or crates shall be opened as necessary. Examination criteria developed by the Cargo Selectivity Management Unit will include instructions to the examining officer.
- An enforcement examination, for the purpose of detecting large loads of concealed narcotics or other prohibited items, will be performed whenever there is evidence or suspicion that narcotics or other contraband may be present, or at random when resources permit. The cargo that has been unloaded will be examined, as will any pallets, containers, or other shipping devices. The use of certain high- or low-technology tools in the examination of additional cartons or other packing containers may eliminate the need for opening them. The decision to open the cartons or containers will rest with the individual officer(s), unless specifically covered under local policies.

- A 100-percent examination will be performed whenever a combination of indicators points to the likelihood that a significant amount of narcotics or other contraband is present. It is expected that relatively few 100-percent examinations will be conducted. A 100-percent examination includes unloading and examining all the cargo and the conveyance itself. All unaccounted-for spaces will be probed, drilled, or otherwise inspected.

#### **RECORD KEEPING**

Chiefs will ensure that all examinations are recorded on the attached Cargo Inspection Report form. Copies of this form will be forwarded at the end of every week to the Cargo Selectivity Management Unit. Note that officers may also use this form as a means of transmitting intelligence to the Cargo Selectivity Management Team.

#### **DISTRIBUTION**

- All Customs Managers, Officers, and Employees
- Customs Brokers and Other Interested Parties

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Signature of Director

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Date

## SAMPLE CARGO EXAMINATION REPORT

<b>SAMPLE CARGO EXAMINATION REPORT</b>	
Declaration Number:	Customs Office:
Importer Name: Importer Number: Broker:	Inspecting Officer (print):

**Reason for examination:** Why was this shipment targeted?

- designated by automated system for physical examination based on specific criteria  
 designated by automated system for random examination  
    (attach copy of automated system examination instruction printout)  
 other (state reason for examination and obtain Supervisor's signature below:

**Override of selectivity instructions approved by:** \_\_\_\_\_

(Supervisor's or shift leader's signature)

## **DISCREPANCIES**

Was a discrepancy found? Y / N	If "yes", fill in shaded area of this report.
Describe the discrepancy <i>in detail</i> :	
Was a Penalty Recommended? Y / N	Was Merchandise Seized? Y / N If Yes, give case or seizure number:

**CARRIER DATA**

Carrier Name:	Driver Name:
Carrier Address:	Driver DOB: Driver Nationality: Driver Passport # (or other ID):

Note any additional information with intelligence value (can be “none found”):

Officer's Signature:	ID #:	Date:
Supervisor's Signature:	ID #:	Date:

**PLEASE PRINT LEGIBLY**

## **INSTRUCTIONS**

All fields outside of the thick-bordered, shaded area are mandatory. If a discrepancy is detected, then all fields within the thick-bordered, shaded area are also mandatory. Various boxes contain a "Yes" or "No" question; simply circle the appropriate answer. For persons' names, do not use nicknames; use full legal names as printed on their identification documents.

### **Reason for Examination**

If designated for examination by the automated system, attach a copy of the examination instructions. If "Other" is marked, the reasons for the exam **must** be written down. To ensure national priorities are pursued, written approval from the supervisor or shift leader must be obtained prior to performing the physical examination. Proper completion of this field will also allow the Cargo Selectivity Management Team to perform further research and modify their selectivity criteria.

### **Describe the Discrepancy in Detail**

"Detail" is the key word here. The members of the CSMT who will read this report will have only the information you write. If you examine a shipment of 5,000 kilograms of frozen chicken parts, and discover 6,000 kilograms, write out these details, not just a comment such as "commodity overage." For penalties to be issued and seizures to be upheld, details are required. **Do not let your hard work be wasted due to weak report writing!**

### **Carrier Data**

If a discrepancy is detected, it is also necessary to collect data on the carrier and operator for more analysis by the CSMT. In these cases, you must write down the official name of the carrier and its official address. If the carrier is a private person, use his or her name and address. Write down complete information on the operator. This will allow the CSMT to analyze data over time to determine if the driver is culpable for multiple violations.

### **Prior to Releasing the Shipment**

This form must be presented to the Supervisor or Shift Leader for review prior to the release of the shipment. That person will review the form for clarity and to ensure that all mandatory fields are completed. Any forms reaching the CSMT that lack information will be returned to the originating officer for correction. In addition to the information that must be entered onto the form, you may also attach photocopies of documents containing additional data if you so desire. This form also may be used to forward intelligence of any type to the CSMT, even if no physical examination was conducted. For example, if a review of the declaration documents revealed that the importer declared the value at a much lower amount than previously, this information should be forwarded to the CSMT on this form.

### **Distribution**

The completed original report shall be forwarded to the CSMT. The local office should retain a photocopy.

## **APPENDIX 2**

### **Sample Policy Statement on Risk Management**

#### **PURPOSE**

To advise Customs and the trading community of the establishment of the Risk Management Committee and the Cargo Selectivity Management Team.

#### **POLICY**

It is Customs policy to:

- Encourage voluntary and informed compliance with Customs and related laws;
- Facilitate the movement of legitimate cargo with minimal Customs intervention; and
- Simultaneously, strengthen our abilities to detect and respond to attempts to circumvent Customs laws and requirements.

In support of this policy, Customs has adopted risk management as our key operational philosophy. Risk management will allow Customs to undertake targeted selections rather than routine examinations of all cargo. This will result in fewer delays in the clearance of goods, thus strengthening the national economy and improving the economic condition of our citizens.

#### **BACKGROUND**

As workloads increase, it is unreasonable to expect Customs resources such as staffing and facilities to increase at corresponding levels. Customs must turn to methods that utilize available resources more effectively. Modern Customs administrations provide facilitation while maintaining control over the international movement of goods and persons by managing risk. Risk is managed for the purpose of matching Customs resources to Customs priorities. Risk management is an operational philosophy that allows Customs to identify those transactions that present the highest level of risk and to focus our resources on those transactions. It is also a trade facilitation measure that allows compliant traders to move their goods through Customs controls more rapidly, with fewer examinations.

#### **RESPONSIBILITIES**

**Risk Management Committee.** A Risk Management Committee has been established to guide the risk management process, to monitor and evaluate its effectiveness and to ensure that the process is fully integrated into all Customs operations. This committee is chaired by the (insert title of high-level individual, such as Deputy Director of Customs or Assistant Director General). The chairperson's function is to coordinate and oversee the implementation of the risk management processes and to promote the concept to officers at all levels and to the trading community. The Risk Management Committee is made up of managers from key operational areas within Customs and is charged with the following specific responsibilities:

- Managing and overseeing the risk management process,
- Determining operating procedures,
- Implementing an effective cargo selectivity system,
- Conducting Risk Management Workshops, and
- Developing, implementing, and managing an Informed Compliance Program. (*This is the subject of a separate directive.*)

**Cargo Selectivity Management Team.** A Cargo Selectivity Management Team has been established to identify and analyze risks and to use risk management techniques to: (1) expedite low-risk cargo shipments with minimal Customs intervention and (2) to ensure that high-risk cargo shipments receive appropriate scrutiny by Customs officers in the field. This team consists of experienced officers who have served in the field, are familiar with Customs operations, legal requirements, and tariff and valuation matters and who are trained in risk management and analytical skills and techniques. The cargo selectivity management team is charged with the following specific responsibilities:

- Analyzing information resident in the Customs automated system database and other Customs historical records related to previous imports and exports, such as declarations, violations, and penalties, in order to develop risk profiles and examination criteria;
- Interacting with all departments in Customs, including officers in the field, and with other government departments that regulate or have an interest in international trade;
- Monitoring the effectiveness of the cargo selectivity system; and
- Communicating with the trading community, through public and private meetings, for the purpose of encouraging compliance with Customs and related laws.

**Trading Community.** This degree of change can be achieved only with the active participation of legitimate business (e.g., importers, exporters, transportation companies, and brokers). Customs encourages a public-private partnership approach that will provide for greater efficiency and more effective controls based on knowledge of commercial operations.

#### **CONTACT INFORMATION**

- The Risk Management Committee can be contacted at: \_\_\_\_\_
- The Cargo Selectivity Management Team can be contacted at: \_\_\_\_\_

#### **DISTRIBUTION**

- All Customs Managers, Officers, and Employees
- Customs Brokers and Other Interested Parties

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Signature of Director

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Date

## **APPENDIX 3**

### **Sample Press Release Customs Modernization Efforts to Include Increased Reliance on Risk Management**

*(Date, City)* The Director of Customs, *(insert name)*, today announced that he has established two new working groups for the purpose of implementing new risk management procedures designed to focus Customs resources on those transactions that present the highest level of risk.

According to *(name of interviewed official)*, as a key element of the effort to modernize procedures, Customs will encourage voluntary, informed compliance by importers and exporters in order to facilitate the movement of legitimate cargo and persons with minimal Customs intervention. At the same time, Customs will strengthen its abilities to detect and respond to attempts to circumvent Customs laws and requirements.

Risk management is a proven technique supported by the World Customs Organization. It replaces routine examination of all cargo and persons with targeted selections, allowing for a speedier clearance of compliant entries. This results in a strengthening of the national economy and improvement of the economic condition of the country's citizens.

The two new working groups are the Risk Management Committee and the Cargo Selectivity Management Team. The Risk Management Committee will guide the risk management process, monitor and evaluate its effectiveness, and ensure that the process is fully integrated into all Customs operations. The Cargo Selectivity Management Team that has been established will utilize analytical techniques to identify high-risk cargo shipments for thorough scrutiny by Customs officers in the field.

Director *(name)* stated that Customs will hold a series of trade meetings to introduce the new policy and to fully explain the risk management process. He stressed that this degree of change can be achieved only with the active participation of legitimate importers, exporters, transportation companies, and brokers and that Customs will encourage a public-private sector partnership approach.

## **APPENDIX 4**

### **Sample Policy Directive on Internal Information Sharing and Cooperation**

#### **PURPOSE**

To establish a clear policy regarding communications and information sharing among the Headquarters departments and sections and with officers at the field level.

#### **POLICY**

In order for Customs to effectively accomplish its mission, communications and information sharing among Customs departments and managers must be proactive, timely, and without unnecessary reservation. Customs managers and officers in all departments must recognize that the work of their department is interdependent with the work of all other departments and that in order for the Customs administration to be effective, its various departments must communicate effectively.

#### **BACKGROUND**

Customs has recently established a Cargo Selectivity Management Team. This team's role is to provide service to all Customs work areas by providing timely, accurate, and relevant advice on current risk profiles related to all cargo-related transactions. The team develops criteria by collecting and analyzing relevant information from many sources regarding importers, exporters, manufacturers, high-risk commodities, countries of origin, etc. The quality of the criteria depends on the quality of the analysis and, of course, the quality of the analysis can be only as good as the quality of information to which the team has access.

There is a tendency of some departments in any large organization to not share information with other departments. This is detrimental to the success of any organization and cannot be permitted or tolerated. It is a key function of all Headquarters departments to provide officers in the field with the information necessary to accomplish their work in an effective and productive manner. While the focus of this directive is to ensure cooperation with the Cargo Selectivity Management Team, the principle of proactive and open communications should be considered as applicable to all departments and sections.

#### **RESPONSIBILITIES**

- **Cargo Selectivity Management Team.** The Cargo Selectivity Management Team is responsible for gathering information from a variety of sources as it develops risk profiles related to commercial merchandise and Customs transactions. It generally will be provided unrestricted access to relevant information regarding commercial traders including records of examination results, penalty and seizure reports, intelligence reports when related to individuals or companies engaged in international trade, results

of investigations of such individuals and companies, as well as findings of post-clearance audits.

■ **Department and Section Heads.** Department and section heads are responsible for ensuring that information related to suspect traders or Customs transactions is provided to the Cargo Selectivity Management Team. Although all officers should recognize that they work within a total system where the need to know dictates that some sensitive information is critical to ongoing enforcement operations and cannot be widely distributed, such restrictions must be considered on a case-by-case basis. When certain information is deemed by the department that holds it to be too sensitive to be provided to the Cargo Selectivity Management Team, the Head of that Section will, without fail, promptly refer the matter to the (*insert management official responsible for making the decision*) for a determination as to whether the information is relevant and the extent to which it may be shared without compromising the security of an ongoing case.

■ **Customs Officers in All Departments.** Analysts must develop good working relationships and communicate on a regular basis with those Customs officers in other departments who have access to information that bears on the reliability of importers, exporters, and transporters. This includes:

- Field operations (preventive officers assigned to airports, seaports, land border crossings, and inland inspection stations);
- Regional office staff;
- Investigators;
- Intelligence analysts;
- Revision or post-clearance audit officers;
- Specialists responsible for tariff matters and special regimes; and
- Legal or other specialists responsible for processing Customs violations, whether administrative penalty, seizure, or criminal prosecution.

These officers are equally responsible for maintaining a close working relationship and communicating effectively with not only the Cargo Selectivity Management Team, but with each other.

■ **All Officers and Employees.** Every Customs officer and employee can contribute to improving compliance levels by observing and reporting incidents and situations he or she sees daily that might indicate attempts to defraud Customs. Matters of immediate interest include duty evasion, prohibited and restricted goods, issues of valuation, issues of classification and origin, and prohibited and restricted goods.

## **CONSEQUENCES**

The importance of effective communications in support of accomplishing the Customs mission cannot be overstated. Compliance with this policy is mandatory. Failure to comply with this policy may result in serious consequences not only regarding the effectiveness of the organization but also to the individuals involved.

## **DISTRIBUTION**

- All Customs Managers, Officers, and Employees
- Customs Brokers and Other Interested Parties

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Signature of Director

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Date

## **APPENDIX 5**

### **Sample Policy Directive on External Information Sharing**

#### **PURPOSE**

To establish Customs policy regarding the sharing of information related to suspected or actual Customs violations with other governmental departments, with foreign Customs administrations and law enforcement organizations, and with trade organizations.

#### **POLICY**

Often, the missions and interests of Customs and external organizations focus on similar areas of concern. In order for Customs to effectively accomplish its mission, communications and information sharing between Customs and other national and international organizations should be established and maintained.

#### **BACKGROUND**

Customs has recently established a Cargo Selectivity Management Team. This team's role is to provide service to all Customs work areas by providing timely, accurate, and relevant advice on current risk profiles related to all cargo-related transactions. The team develops criteria by collecting and analyzing relevant information from many sources regarding importers, exporters, manufacturers, high-risk commodities, and countries of origin. The quality of the criteria depends on the quality of the analysis and, of course, the quality of the analysis can be only as good as the quality of information to which the team has access.

In addition to developing working relationships and information sharing with other Customs sub-organizations, Cargo Selectivity Management Team analysts need to be able to query other government departments and international sources in order to research potential high-risk companies and/or individuals. These contacts will enable the analysts to ensure that they can query other government departments to gain their knowledge regarding any subject of an ongoing Customs risk analysis.

#### **RESPONSIBILITIES**

- Cargo Selectivity Analysts are responsible for developing contacts with:
  - Border Police/Border Guards;
  - Police intelligence units;
  - Other border inspection agencies;
  - Other government departments and public institutions (e.g., Ministries of Agriculture, Trade, and Transport);
  - Foreign Customs Administrations;

- International organizations such as the World Customs Organization;
- Foreign law enforcement agencies.

There is no requirement for a massive ongoing exchange of information. The purpose of these contacts is to allow the CSMT analyst to query the other organization with respect to specific companies or individuals associated with an ongoing analysis. Of course, reciprocity will be expected and Customs must also be willing to share information to the extent allowed by national legislation. Establishing these sources of information may require Memoranda of Understanding (MOU) with the various law enforcement organizations. Such MOUs should be negotiated at the Director level.

- The Risk Management Committee is responsible for coordinating requests for MOUs and for ensuring that interagency communications and information sharing are consistent with Customs requirements.
- Analysts are also responsible for establishing and maintaining effective communications with members of the trade community. Business contacts can enhance the analysts' overall understanding of business practices and the intricacies of the international supply chain. Useful contacts include importers and exporters, brokers or clearing agents, freight forwarders, transportation companies, trade organizations, and the general public.

#### **DISTRIBUTION**

- Department Heads
- Risk Management Committee and Cargo Selectivity Management Team
- Internal Distribution Only

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Signature of Director

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Date

## **APPENDIX 6**

### **Sample Directive on Trade Compliance Program**

*This directive will require careful thought and adaptation by any Customs administration that desires to implement a Trade Compliance Program. Throughout the document, notes in italics indicate specific decisions required by the Customs administration and the need for insertion of written material specific to that administration. Its intent is to provide interested Customs administrations with a basis from which to tailor a compliance program to meet their needs and the needs of the trading community.*

#### **PURPOSE**

To establish a trade compliance and measurement program.

#### **POLICY**

It is Customs policy to:

- Encourage voluntary and informed compliance with Customs and related laws;
- Facilitate the movement of legitimate cargo with minimal Customs intervention; and
- Simultaneously, strengthen our abilities to detect and respond to attempts to circumvent Customs laws and requirements.

In support of this policy, Customs will assist traders in raising their compliance levels and will recognize, through approved trader programs, those traders that have demonstrated a high level of compliance and willingness to enter into partnership agreements with Customs.

#### **BACKGROUND**

Customs' primary purpose in examining cargo is to ensure compliance. It is the responsibility of the trader to comply with Customs and related laws, but it is also, Customs' responsibility to encourage traders to comply and to provide necessary assistance. Modern Customs administrations are increasingly instituting programs of informed compliance, wherein their officers assist traders and industries to understand and apply the trade rules and to improve their internal company procedures in compliance with import and export requirements. Improved compliance can be achieved only with the active participation of legitimate business (e.g., importers, exporters, transportation companies, and brokers). Experience in other countries has clearly demonstrated that a partnership approach can provide for greater efficiency. As part of our emphasis on modernizing procedures, Customs has implemented a cargo selectivity system based on dynamic risk management procedures. A formal compliance program is consistent with our risk management philosophy. From a Customs perspective, the combination of risk management and voluntary compliance is expected to result in more effective controls based on knowledge

of commercial operations. From a business perspective, this will result in quicker, more streamlined clearance of legitimate trade through simplified procedures.

## **COMPLIANCE PROGRAM**

*The following is a list of suggestions for inclusion in a compliance program. Some are easier to accomplish than others. For that reason, they are ranked in the suggested order of implementation. In drafting a compliance program document for your Customs administration, make the choices that are appropriate for you and that you are comfortable with. Also, do not hesitate to phase in your implementation over time. It is not necessary that you do everything at once. Start with the simple elements. Build experience and when you are ready, move on to the more difficult elements. It is more important that you devote sufficient management attention and staff work to implementing two or three of the following ideas well, than that you attempt to do everything at once.*

### **Informed Compliance**

*Customs must ensure that its procedures and requirements are transparent and that the trading community has access to them and understands them. This can be accomplished in a variety of ways publishing clear procedures and instructions for the trading community, affording the trading community the opportunity to comment on new procedures before they are implemented, holding seminars and regular meetings with the trading community, and posting new information as well as existing requirements on the Internet. This section should describe the efforts that your Customs administration has already taken or intends to take to help your trading community better understand your requirements and expectations.*

- **Compliance Intervention.** Customs will monitor errors made by importers, exporters, brokers, and transport companies. When it is evident that errors are repetitive and do not appear to be intentional, Customs will request an appointment with the company or individuals in question to discuss the problems and arrive at a mutual solution for correcting the repetitive errors.
- **Broker Compliance Program.** Customs acknowledges the importance of the broker community in our commercial activities. Brokers provide a vital service as intermediaries between the Government and the importing and exporting community, and have played a significant role in the success of our automation efforts and other commercial initiatives. Because of the brokers' integral role in the conduct of Customs business, a high standard of broker performance is critical to the accomplishment of the Customs mission. Accordingly, the fundamental goal of the oversight of broker performance is to promote compliance, particularly through counseling and education, and to maintain a high standard of professionalism in the brokers' conduct of Customs business.

*Suggested possibilities would include documenting the performance of individual brokers as well as problems common to a large number of brokers. Individual problems would be dealt with through a compliance intervention. Widespread problems could be addressed through the publication of new instructions or handbooks or by holding seminars or training sessions. If Customs does not require brokers to pass a competency test in order to be licensed, it should be considered.*

### **Approved Trader Agreement**

Traders may apply to participate in the Approved Trader Program. Customs will review each application and inspect the applicant's record keeping procedures and security level. Customs will enter into a written agreement with those traders that demonstrate an acceptable level of compliance.

*It is up to each Customs administration to determine what it expects from low-risk importers and what low-risk importers can expect from Customs. This directive needs to list those expectations. Among the many possibilities are:*

- *Compliant traders can be asked to voluntarily improve security in accordance with Customs guidelines in order to participate in "approved trader" programs;*
- *Compliant traders can be asked conduct background checks of employees in order to participate in "approved trader" programs;*
- *Compliant traders can establish or improve quality controls and record keeping procedures in accordance with Customs guidelines in order to participate in "approved trader" programs;*
- *Compliant traders accepted into "approved trader" programs can be allowed to have shipments directly delivered to their premises;*
- *Compliant traders accepted into "approved trader" programs can be allowed deferred duty payment timelines; and*
- *Compliant traders accepted into "approved trader" programs can be allowed to file consolidated entries covering all importations over an agreed-upon time period, such as weekly or monthly.*

*Compliant trader initiatives can be designed to facilitate the flow of trade for those with proven compliance records. These initiatives do not restrict the authority or ability of Customs to initiate examinations for the presence of narcotics or other prohibited items, and Customs will continue to conduct random verification examinations even of those traders operating under low-risk importer initiatives. New policies and procedures can be developed to shift resources away from traders designated as low risk and to focus those resources on addressing importers posing a high non-compliance risk. As a result of these new policies and procedures, Customs will be able to more efficiently deploy its finite resources toward enforcement and regulatory responsibilities.*

*(Requirements and benefits should be stated in an attachment to this document. A sample agreement can be found on the WCO webpage.)*

■ **Compliance Measurement.** Compliance measurement, which is used in conjunction with risk assessment, profiling, and other targeting procedures, is a technique in which statistically valid random sampling techniques are employed to determine the degree to which traders, carriers, and imported goods conform to (or comply with) Customs rules and procedures. The compliance measurement program provides Customs with a basis to assess its own performance for revenue protection and enforcement of laws, improve its efficiency and effectiveness, and develop strategies to improve compliance. Compliance measurement will include:

- Documentary issues – proper tariff classification by traders, proper valuation by traders, country of origin;
- Procedural issues – importation and exportation (from the goods declaration through revenue collection), transit operations, warehousing, free trade zones, processing;
- Revenue issues – timely and accurate revenue payments, proper posting of securities;
- Transport issues – accurate reporting of the quantity of goods, accurate description of goods on manifests and transit documents, accuracy of container quantities and identification numbers, transporter compliance.

Customs will determine the acceptable level of compliance. For example, a compliance rate of 95 percent of the transactions or entities reviewed in a given area may be the acceptable level for an administration. This is called the level of tolerance. Levels of tolerance and compliance rates will be published subsequent to each targeted measurement. These findings will form the basis for defining necessary improvements to both Customs and trader procedures.

■ **Account Management.** Customs' goals focus on improving compliance and reducing discrepancies while addressing national trade priorities and issues. The Account Management Program plays a vital role in achieving those goals by creating a partnership with selected companies that have a statistically high level of import or export activity, or companies that may represent a higher level of risk for non-compliance. Account management is the Customs process of viewing a company and its trade performance in the aggregate rather than by individual transactions. Account management is designed to increase Customs efficiency, uniformity, and customer service. It does so in part by providing a primary point of contact within Customs for the account and by establishing and supporting smooth working relationships among the many Customs disciplines that interact with the account.

## **RESPONSIBILITIES**

- The Risk Management Committee is responsible for designing, implementing, and overseeing the Trade Compliance Program.
- The Cargo Selectivity Management Unit is responsible for managing the compliance programs through a designated compliance specialist.
- The Post-Clearance Audit Unit is responsible for conducting necessary document reviews and on-site compliance reviews in support of the Trade Compliance Program.
- Customs Office Chiefs are responsible for conducting seminars, working sessions, periodic trade meetings, and compliance interventions.

## **DISTRIBUTION**

- All Customs Managers, Officers, and Employees
- Customs Brokers and Other Interested Parties

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Signature of Director

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Date

## **APPENDIX 7**

### **Sample Directive on Customs Audit Program**

#### **PURPOSE**

To establish policy and guidelines regarding Customs audits of traders' and brokers' records.

#### **POLICY**

It is Customs policy to:

- Encourage voluntary and informed compliance with Customs and related laws;
- Facilitate the movement of legitimate cargo with minimal Customs intervention; and
- Simultaneously, strengthen our abilities to detect and respond to attempts to circumvent Customs laws and requirements.

In support of this policy, every effort will be made to expedite the movement of legitimate commercial cargo. Examination of all cargo is no longer being conducted as a matter of routine. Customs is increasingly relying on auditing traders' records after the cargo has been released as one of several possible alternatives to physical examinations.

#### **BACKGROUND**

Post-clearance audit is the process of verifying that a business is in compliance with Customs legislation through the examination of the books and records of that business. This process is conducted at the importers', exporters', and/or brokers' offices and consists of thorough reviews of all of the documents related to the declarations and merchandise in question. Post-clearance audit is a valuable control asset because it allows for the facilitation of the movement of goods while enabling Customs to continue to verify the accuracy of the import declaration.

Compliance audit is the process in which statistically valid random sampling techniques are used to determine the degree to which traders, carriers, and imported goods conform to Customs rules and procedures. Compliance measurement audits, which target classes of importations rather than individual transactions, provide a Customs administration with a basis to assess its own performance for revenue protection and enforcement of laws, and to improve its efficiency and effectiveness.

#### **CUSTOMS AUTHORITY**

*Customs legislation must give Customs officers the authority to examine the commercial records of all persons or companies involved in international trade. It must also establish specific requirements and time frames for such persons or companies to maintain records. Finally, it must provide monetary penalties for non-compliance. The applicable sections of your Customs Act should be summarized here. That summary should include both the legal citation and a brief explanation of the requirements.*

## **BENEFITS OF ON-SITE AUDITS**

An on-site review or audit of a particular transaction or series of transactions provides benefits that would not be gained by simply asking the company to provide Customs with information or documents. Should any unforeseen issues or questions arise, it is easier to review additional or back-up documentation at the company. On-site visits give Customs officers the opportunity to assist importers by educating or advising them regarding valuation for import purposes. When an auditor visits a company, it will result in Customs gaining a better understanding regarding the company's overall ability and interest in complying with Customs requirements.

## **THE AUDIT PROCESS**

The audit process generally consists of the following activities: selection of traders for audit, a pre-audit survey, the opening conference, a tour of the premises, the actual audit, an exit conference, the final report, and corrective actions resulting from the audit.

### **SELECTION OF TRADERS FOR AUDIT**

Traders may be selected for audit based on questions regarding a specific declaration, concerns regarding certain types of transactions made by one or more importers, industry-wide concerns, and a random selection process. Once Customs has selected the traders, notification will normally be provided to the company in writing. The letter of advice will state Customs' authority to conduct the audit and the anticipated date for the audit to commence. In some instances, unannounced audits will also be conducted.

### **PRE-AUDIT SURVEY**

Quality preparation is essential in order to minimize the amount of time spent at an importer's premises. The key objectives in audit preparation are to gain an understanding of the business to be audited, identify the main areas of risk, and develop a plan to address those risk areas during the course of the audit. If the company to be audited is quite large, the auditor may wish to conduct a pre-audit survey. This is done by sending the company to be audited a written request for information with specific questions that are relevant to the planned audit. Questions may vary depending on the size, nature, and complexity of the company and records to be audited. The attachment provides a suggested list of concerns that may be included in the pre-audit survey.

### **OPENING CONFERENCE**

The objectives of this meeting are to gain a general knowledge of the importer's business operations and corporate structure in order to ensure that all imported goods and related companies that import goods will be covered in the audit, find out more about the importer in order to perform an effective and efficient audit, and address any concerns the company may have. The audit team will brief the company personnel on the purpose of the audit, the anticipated length of time the audit will take, and the sort of materials the auditors will be examining.

## **TOUR OF PREMISES**

The purpose of the physical walk-through is for the auditor to become familiar with the mechanics of the trader's operations. The walk-through should tour the following areas: plant production, purchasing, receiving, accounting, and shipping. The audit team will also review the documentary control systems the trader uses to control the ordering, shipping, receipting, payment, production, and disposal of goods

## **PERFORM AUDIT**

Customs auditors will review those documents and records they deem necessary. These include, but are not limited to, purchase orders, invoicing, receipts, stock records, goods inward/outward, payment accounts, and company financial records. The trader will be requested to provide an employee to assist the audit team.

## **EXIT CONFERENCE**

At the conclusion of the audit, the audit team will hold a closing conference with the manager(s) of the company. The audit team will explain the objectives, scope, and methodology used during the audit; explain any problem areas identified; and attempt to reach agreement on factual matters. There may be a disagreement on the conclusions. Any unresolved issues also will be discussed, and the company will be given the opportunity to refute findings by providing additional information.

## **REPORT OF AUDIT**

A timely written report communicating the results of the audit should be prepared citing the compliance or lack of compliance with Customs laws and regulations.

## **CORRECTIVE ACTIONS**

When discrepancies are discovered during the course of an audit, depending on their severity, a variety of corrective actions are possible. A compliance intervention where Customs specialists will assist the trader in correcting procedural deficiencies will be utilized when the discrepancies are clearly unintentional and the trader expresses a commitment to correct its procedures. When this is not the case, an administrative penalty or even criminal investigation may be required. In every case, however, unpaid duties and taxes will be collected.

## **DISTRIBUTION**

- All Customs Managers, Officers, and Employees
- Customs Brokers and Other Interested Parties

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Signature of Director

---

Date

## **PRE-AUDIT SURVEY**

A pre-audit survey should take the form of a company background questionnaire. The survey questionnaire should be developed specifically for the company being audited and may request the following information, if believed relevant to the audit:

### **Corporate organization and structure**

- Company's full name;
- Organizational structure (*this helps to determine which people to contact for what information*);
- Names and titles of officials;
- Information on parent, sister, subsidiary, joint-venture or other related companies;
- Names and addresses of any related foreign companies; and
- General information about the company – description of the business, its operations, number of employees, location of facilities, products, divisions and customers.

### **Order management**

- Identification of who does the ordering;
- Description of how the orders are decided;
- Analysis of orders' contents;
- Numbering of order;
- Agreed delivery condition; and
- Storage of orders.

### **Other Customs-related activities**

- Name(s) and importer identification number(s) under which the company imports;
- Identification of the departments involved in customs activities;
- Identification of any agent's bond under which the company imports;
- Identification of clearing agents used by the importer;
- Identification of names and addresses of foreign suppliers;
- Importer's description of how imported goods are disposed of (e.g., resale and manufacturing); and
- Identification and explanation of situations under which the company exports goods.

### **Record keeping and other business systems**

- Identify the source records and information used to prepare Customs' information.
- Identify the people responsible for keeping these records.
- Explain how records are created, maintained, and where they are located.
- Identify what methods of payment are used for foreign purchases.
- Identify procedures used to ensure that assistance, commissions, royalties, license fees, freight, and other dutiable costs are reported to Customs.
- Identify procedures used to ensure that non-dutiable costs, such as international freight, and insurance, are accurate and supported by documentation.
- Obtain a flowchart description of the company's activities, documents, and financial accountability used for purchase of foreign goods and receipt of foreign goods.
- Produce a record of goods in inventory.
- Explain how records of payments made to foreign sellers are kept.
- Identify methods of distribution to customers.
- Explain the source and accounting of Customs' value information.
- Explain the source and accounting of commodity information.
- Explain the accounting of costs associated with commodities.
- Explain the sourcing and supply of related party transactions.

### **Identify and/or clarify**

- The method of appraisal used to value imported merchandise;
- How transaction value is used for importations from related companies, and parties;
- Situations in which foreign-related suppliers sell the same goods to other companies in the country;
- How and where the company takes possession of imported goods;
- Loans payable to or receivable from foreign suppliers;
- Procedures for foreign currency changes;
- Transportation procedures and responsibility for international and domestic transport of the goods from the point of manufacture to the final destination in the importing country;

- Payments to foreign suppliers for expenses other than goods, such as management fees, advertising, and tooling;
- Procedures for the declaration of selling commissions paid to foreign selling agents;
- Situations in which the importer provides assistance (e.g., tools, moulds, fabrics) to the foreign supplier and how they are recorded;
- Situations in which the importer makes indirect payment to foreign suppliers;
- Who is responsible for paying the quota, visa and licenses;
- How packing costs are calculated and declared to customs; and
- How prices for imported goods from major supplier are determined.



Along with the rapid growth in international trade comes the increasingly difficult job of maintaining a proper balance between control and trade facilitation in the border clearance of imports and exports. For a developing country to be able to participate fully in the global marketplace, its customs administration must be able to apply both effective and efficient control by implementing risk management and cargo selectivity techniques in order to simultaneously fulfill the responsibility to collect revenue, implement trade policy, and protect the public welfare while at the same time offering trade facilitation to legitimate traders, travelers, and carriers. This handbook provides a generic plan for establishing a Cargo Selectivity Management Team to design appropriate responses to risks associated with cargo shipments.



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