



CROSS BORDER INITIATIVES FOR TRADE FACILITATION – AN OVERVIEW^{*}

^{*} Prepared by Anthony Bayley, Associate Consultant, Scott Wilson, UK. The views expressed in this paper are the views of the author and do not necessarily reflect the views or policies of the ADB, or its Boards of Directors or the governments they represent. ADB makes no representation concerning and does not guarantee the source, originality, accuracy, completeness or reliability of any statement; information, data, finding, interpretation, advice, opinion, or view presented.

CROSS BORDER INITIATIVES FOR TRADE FACILITATION – AN OVERVIEW

- 1) Trade Facilitation is a common term used in connection with the provision of Customs services, but is a relatively new concept in the East and Central Asian Region. The traditional role of Customs in the region has been the collection of duties and taxes and the prohibition of illegal goods in relation to import and export traffic – revenue collection and prohibition. Customs are essentially a service provider to the Government in that they collect revenue or prohibit goods on behalf of the Government, based on parameters usually set by other government departments.
- 2) Since the independence of the Central Asian Republics (CARs) and Azerbaijan and the adverse economic situation, the collection of Customs and Excise taxes has become even more critical to the regional economy. In some countries 30-50% of the national budget is accounted for by Customs-generated revenue.
- 3) It is recognised that this high percentage tends to be exaggerated by the difficulties in collection of alternate sources of revenue, such as personal and corporate tax. Countries such as Azerbaijan and Kazakhstan that have mineral exports and the Peoples Republic of China (PRC) with its diverse economy are less dependent on Customs Revenue. However, it is recognised that revenue collection is likely to remain the key function of Customs in the region in the short term, rather than trade facilitation.
- 4) Trade Facilitation within a Customs environment seeks to balance the needs of the Government in terms of revenue generation and prohibition with that of the trading community, both importers and exporters. The trading community requires a stable environment with minimal barriers to trade and conceptually under trade facilitation Customs becomes a service provider to this community, as well as to the Government.
- 5) All the Governments in the region are signatories to various international or bilateral agreements that specifically mention trade facilitation as a key requirement. However, in reality the situation is somewhat different in that despite perceptions by Customs that they are more facilitation-oriented, the trade and transport community still cite Customs as one of their primary barriers. User perception studies indicate that the trade facilitation environment has only marginally improved in the last decade despite signature of these agreements and external assistance from the international funding institutions to promote this function.
- 6) There are a number of reasons for this seeming contradiction in perceptions between Customs and users. These are historical, relational and operational.
- 7) All of the economies in the region were or have centralised economies. Despite the move towards more market-based economies, there is a residual emphasis on “control” that is an inherent feature of centralised economies. Many of the Customs still consider that theirs is a “control role” as “guardians or protectors of the countries trade”, rather than facilitators. This perception is further emphasised by the para-military profile of most of the Customs, despite their civil status.
- 8) The transformation of the economies appears to have created a mutual distrust between Customs and the transport and trading communities. Citing high levels of fraud and irregularities, Customs have retained “control” regimes that treat all users as potential criminals, guilty until proved innocent, with regimes such as 100% examination routines as an example.

9) Conversely, it is equally true that some members of the trading community have perceived the weaknesses within the system and exploited them for gain. Thus, they have lost the respect of the Customs who have had to instigate “catch all” routines to address the situation. Thus, there is a confrontational relationship between the two parties that is not conducive to effective trade facilitation.

10) This “control” philosophy combined with the lack of trust between the parties results in the implementation of complex procedures that ensure that importing and exporting are just as difficult as previously, despite modernisation of the legal framework, some compliance with international agreements and Conventions and substantial investment in people, facilities and equipment.

11) The emphasis on modernisation of the legal framework has principally focussed in making the Customs Code compliant with international agreements, particularly World Trade Organisation (WTO) and Revised Kyoto. The International Funding Institutions (IFIs) such as USAID have been especially active in this area. However, user’s views are that the problems are often not with this primary legislation, as represented by the Customs Code, but at the secondary legislation and instructions affecting the operational level. This leads to differing interpretations of the regulations by individual officers creating an environment that lacks transparency and results in governance problems.

12) Trade Facilitation in a Customs environment is principally about “informed compliance”. This means that the trading community have access to a clear set of “requirements” to which they have to comply. In turn, Customs have a responsibility to adhere to these “requirements” when dealing with the trader, thus they are “opposite sides of the same coin”. A key constraint in the region is that the legislation, especially the secondary legislation and work instructions, is complex and not transparent, such that the “requirements” are not clearly identifiable or stable. The more detailed regulatory requirements are often not accessible to external parties.

13) Countries in the Region have signed a multitude of bi-lateral and multilateral agreements. Many of these are essentially political agreements and are not considered to be binding. It is often more important to be identified as a signatory to an agreement or Convention than actually implementing the contents. Indeed, in many cases, Customs have no knowledge of some of these agreements even though they have specific implications or obligations on Customs. The wording in many of these agreements are sufficiently flexible as to require not require any signatory commitments – more of a “wish list”.

14) The recent investment in people, infrastructure and equipment, particularly Information and Communication Technology (ICT), have predominantly concentrated on retaining the existing routines and approaches, rather than simplification and trade facilitation. For example despite improved border posts it is no faster to cross international borders than in 1995. Despite heavy expenditure in ICT, there is still as much paperwork, and the computerised systems merely tends to duplicate the manual systems, in most places both manual and automated systems are in operation thus actually increasing the workload.

15) Corruption is a problem in any Customs organisation. The overall environment in the Region with a significant incidence of coercive payments to Government officials is significant and considered almost as an acceptable practice. This has a direct impact on the provision of Customs services. The incidence of corruption is considered to be relatively high, though it varies throughout the Region. The public perception of Customs in respect of corruption is generally very negative. This is

predominantly due to demands for unofficial payments at the public interface – coercive fraud. There is often some reticence at the official level to accept that the problem exists or to acknowledge the scale of the problem. Whilst this is predominantly a governance issue, the root causes of the corruption problem are complex. Whilst low pay is a prime factor, there are many other aspects such as poor recruitment, inadequate management, nepotism, inadequate disciplinary standards, lack of a career structure, complex procedures and legislation, direct officer/trader interface etc. that all combine to create a high risk environment in relation to corruption. Coercive and collusive fraud results in significant revenue leakage and deters trade and investment, as well as creating an adverse public image of the service that limits trade facilitation potential.

16) An additional problem in relation to coercive fraud is that it acts against the strategic interests of the Customs. For example, simpler border and transit procedures and wider implementation of ICT limits the opportunities for personal payments and therefore does not carry the support of the ordinary officer. Thus, the support for manual procedures to be retained even when automation is present. Automated processing makes collusive fraud more difficult and yet none of the ICT systems in the region has a full processing capability. Most are declaration databases with some add-on features.

17) The external agencies, particularly the IFIs, have attempted to promote the trade facilitation role in all of the countries over the last ten years. The EU Tacis TRACECA programme has had projects with Customs in the CARs and Azerbaijan focussed on trade facilitation since 1996, with the Asian Development Bank (ADB) and World Bank as more recent entrants. Organisations such as ESCAP, UNDP, SPECA etc. have all had conferences and programmes involving elements of trade facilitation. The results of these initiatives in terms of improvements in the trade facilitation environment in the region are at best considered to be comparatively modest to date relative to the investment. Indeed, there is a real danger of potential donor fatigue in relation to trade facilitation due to this lack of visible achievements.

18) In summary, despite the concerted efforts of Governments, Customs and the IFIs, little has changed in practice – the procedures remain almost as they were 10-15 years ago, negative images of Customs prevail, there is non-compliance with international agreements and trade is not encouraged by some of the organisations, such as Customs, who are in a position to do so. It is recognised that the philosophy of trade facilitation requires a major change in mentality from the current “control” mentality that prevails to a cooperative philosophy as a “service provider” and that such change is both difficult and complex to implement and thus requires time.

19) Whilst it is important to be aware of the historical record, it is equally essential to look forward to what can and is expected. Despite the limited tangible results, much has been achieved in putting the building blocks into place so as to enable such a change of approach to be implemented within the next few years.

20) These building blocks consist of the work achieved by Customs, with or without assistance from the IFIs. The primary Customs legislation – The Customs Codes – has been revised in most countries to be WTO and Revised Kyoto compliant. This process has also tended to bring the Codes within the Region closer to each other. There is consequently a more stable harmonised legislative environment that can later be extended to include the secondary legislation regulations and instructions so as to establish a more transparent regulatory base to which the trading community can comply.

21) There is on-going investment in infrastructure and human resources, through internal restructuring, training programmes and improvements in pay and promotion prospects. These are all aimed at developing the Customs into a more professional organisation and enhancing its role as a service provider, particularly to the Government, but hopefully in the medium term to the trading community as well.

22) One of the major developments is the introduction of more ICT. Whilst it is acknowledged that it has failed as yet to meet its potential from the user perception, it has generated more reliable trade data and management information. Its limited automated processing functionalities and data interchange capability with other Customs in the region remains a concern but the potential exists to build on the existing resources and those to be delivered in the next year through the ADB.

23) The formation of the Customs Coordination Committee and its associated Working Groups complements the regional approach on trade facilitation adopted by all the IFIs and is due recognition that this is regional problem that cannot be addressed by any single country in isolation. The landlocked nature of the region makes such a regional approach essential.

24) All of the issues being discussed at this conference – simplified harmonized border procedures, joint processing, transit systems, ICT – all represent different dimensions of trade facilitation. For their implementation to be effective, all of these systems must make conditions better for both Customs, in respect of efficiency and effectiveness, and for the trade and transport community to whom they have an increasing role under trade facilitation as a service provider.

23) This region remains one of the most difficult trading areas with high costs and risks. The result is the high costs of imports and difficulty in getting the limited exports to the main international markets at competitive prices. The external investment in the region, other than in relation to energy, remains too low, partially due to this limited export potential. The landlocked nature of the region will always result in higher international transport costs than for countries with ocean access, such as exists between Xinjiang and the eastern seaboard regions.

24) Effective trade facilitation in respect of Customs remains an elusive goal despite much effort and investment by all parties. Though some limited achievements have been realised but the visibility is low. However, the benefits both to Customs and the Region are such that these initiatives must continue so that the building blocks that have been put in place can be built on such that the trade facilitation in the region is enhanced within the next few years to the benefit of both Customs and the trading community.