

Customs Enforcement and Cooperation with Other Administrations

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Enforcement is a critical element of all customs administrations. The effectiveness of an administration's enforcement and compliance efforts impacts the economic and social well-being of a country and contributes to its competitiveness in the world economy. Therefore, administrations need to assign top priority to the design, development, and implementation of enforcement and compliance strategies, policies, and programs.

This chapter provides advice on how customs administrations can strengthen their enforcement/antismuggling programs. It looks at the environment in which customs enforcement operates, including a discussion of current and emerging challenges and risks. It sets out a number of basic principles underlying effective customs enforcement and compliance programs and then provides a roadmap for their implementation and operation.

More specifically, this chapter (1) offers guidance on how to define and implement antifraud and antismuggling strategies based on assessments of current and emerging threats and of existing capacities and performance; (2) addresses the role of risk management from an enforcement perspective, including intelligence gathering and analysis; (3) outlines how important fraud investigations and preventive (interdiction) services are; and (4) emphasizes the critical need for cooperation and information exchange between customs and other border control agencies and with law enforcement agencies both domestic and international. The exchange of information and cooperation with tax administrations is particularly important from a revenue collection perspective.

CHALLENGES: THE NEW ENVIRONMENT

Increasing volumes of international trade and regional trade agreements, as well as continued dependence of governments on revenue collected at the borders, place heavy demands on customs administrations to make cross-border trade easier and still address cases of noncompliance. (See also Chapter 1 on challenges customs administrations face and Chapter 4 on trade facilitation for more detail.)

Customs administrations face an ever-increasing and complex world of illegal cross-border activities. They are expected to have in place effective strategies to

combat these growing threats. The Secretary General of the WCO states in his Foreword to the WCO 2018 Illicit Trade Report: “Illicit trafficking of different commodities continues to affect global peace and security, destabilizing economies and threatening the health and safety of populations. Disrupting illicit trade flows is a very complex, multi-stakeholder process, involving many law enforcement and other government agencies” (WCO 2019).

To meet these often-competing priorities, customs administrations must devise ways to detect and suppress illegal activities, while at the same time providing efficient clearance of legitimate goods and fostering voluntary compliance. This chapter offers advice to achieve these objectives and to address some of the threats and risks.

ELEVEN PRINCIPLES OF CUSTOMS ENFORCEMENT AND COMPLIANCE

The underlying principles of successful customs enforcement and compliance strategies have been developed based on experiences in a number of administrations that have undertaken modernization and reform of their enforcement programs and these reflect what is considered good practice as set out in international standards.¹

These principles must be compatible with and support the corporate objectives, priorities, and policies of the administration and, more broadly, with those of government. They provide guidance for the development of a customs enforcement strategy and its various programs and initiatives and provide a framework against which future potential initiatives and programs can be assessed. The 11 principles are outlined as such:

1. Voluntary compliance and effective enforcement are complementary
2. An organizational culture of risk management
3. Customs legislation—adequate enforcement powers and authorities
4. Interagency cooperation and coordination
5. Cooperation with tax administrations
6. An effective penalty regime
7. Transparent, quick, and objective appeal mechanisms
8. Professional and motivated customs enforcement officers
9. Effective use of modern ICT and contraband detection technologies
10. Recognition that enforcement is everybody’s business
11. International standards and best practice in customs enforcement

¹ Such countries include Cambodia, Laos, Myanmar, and The Bahamas, which have developed enforcement strategies as part of their modernization efforts. A compilation of widely respected international standards and tools can be consulted under the WCO website: <http://www.wcoomd.org/en/topics/enforcement-and-compliance/instruments-and-tools.aspx>.

Voluntary Compliance and Effective Enforcement Are Complementary

Modern customs administrations place top priority on increasing voluntary compliance and on detecting and treating noncompliance through risk-based verification and enforcement. A high level of voluntary compliance is critical to a successful enforcement strategy as it enables the administration to focus its verification and enforcement efforts and resources on areas of identified high (or unknown) risk. A fundamental principle of voluntary compliance is that most people will comply with the law if they understand it, it is perceived as reasonable and fairly administered, it has an intrinsic value to society, and there are meaningful consequences for noncompliance. With current mounting pressures on customs resources, increasing voluntary compliance is critical to an effective compliance and enforcement strategy.

“Effective customs enforcement relies on a high degree of voluntary compliance.”

Voluntary compliance reduces the need for costly, time-consuming, and troublesome interventions by customs and other agencies and tends to be a lasting inclination. On the other hand, enforced compliance likely requires ongoing interventions or the threat of enforcement in order to be sustained. The strategies and approaches to achieving voluntary compliance with regard to post-clearance audits (PCAs) are referenced in Chapter 4 and discussed in detail in Chapter 5. Box 6.1 presents a brief summary of methodologies utilized by customs administrations to increase voluntary compliance.

Box 6.1. Methodologies for Increasing Voluntary Compliance

- Adopting a risk-based approach to customs processing—identifying legitimate, low risk trade and focusing verification activities on high or unknown risks
- Ongoing assessment of the efficiency of the risk-based selection system by systematic feedback from (1) operations (from the physical and/or documentary inspections) and (2) traders, who are key for enhancing the risk management system and further promoting compliance
- Providing information, assistance, and support to help clients understand and comply voluntarily with requirements and obligations (industry outreach)
- Streamlining and simplifying customs processes and procedures to make compliance easier and faster (reducing redundant procedures, strengthening interagency coordination, and implementing modern ICT systems)
- Reducing interventions at the time of clearance by placing greater reliance on pre-arrival processing and postrelease verification
- Strengthening interagency cooperation and coordination among government agencies that have border control responsibilities (coordinated border management) and others that are not forward deployed as well (that is, responsible for licensing of export controlled goods, CITES products, cultural goods, military goods, and so on) to make compliance easier and strengthen synergies in sharing information and undertaking joint or mutually supported control activities
- Establishing service-related performance goals and indicators throughout the administration
- Implementing provisions of the WTO Trade Facilitation Agreement

Source: Authors.

An Organizational Culture of Risk Management

An organizational culture of risk management means that the organization has accepted the importance of and applies the practices of risk management in all decision-making. This includes high-level strategic decisions regarding programs, resource allocation, and new investments as well as operational and tactical decisions on day-to-day matters, such as staff and resource allocation, verification priorities and targets, and enforcement activities. Chapter 5 addresses in more depth the development and application of integrated risk management, including institutional and compliance risks.

“Effective enforcement requires the commitment to risk management principles and techniques by all levels of the organization.”

The development of such an organizational culture requires commitment from all levels of the organization (particularly senior management) to the principles and application of risk management techniques to all facets of customs operations, including internal management and controls. Longstanding practices that result in commitment of resources to activities irrespective of the actual risks involved need to be abandoned.

Furthermore, customs need to develop a data analytics culture also to better understand the data, business processes, and information system's limitations. The latter are critical to understand the compliance environment.

This change in culture necessitates refocusing on the identification of low-risk actors in the import/export chain, the implementation of facilitated systems for them, and freeing up resources to focus on medium- to high-risk sectors/transactions.²

This difficult change process will include internal communication and training systems to ensure buy-in by staff. Public relations and client service ensure customs clientele fully understand the risk-based approaches to achieving compliance, the advantages and benefits of voluntary compliance, and the disadvantages and costs of noncompliance. Where an electronic single window for trade is being implemented, the risk management approach may be expanded to include other government agencies (OGAs) involved in the regulation and control of international trade.³

² The Zambia Revenue Authority has in place a good example of a corporate risk management policy. Based on this policy, the Customs Division has implemented a risk-based compliance strategy that facilitates legitimate, low-risk trade; focuses control efforts on high or unknown risks; facilitates voluntary compliance by recognizing and rewarding highly compliant (low-risk) clients; enforces compliance through risk-based actions to deter, detect, and sanction noncompliance; and places greater reliance on pre-arrival processing and post-clearance verification.

³ Mainly veterinary, phytosanitary, conformity, and standard checks could also be risk based.

Customs Legislation—Adequate Enforcement Powers and Authorities

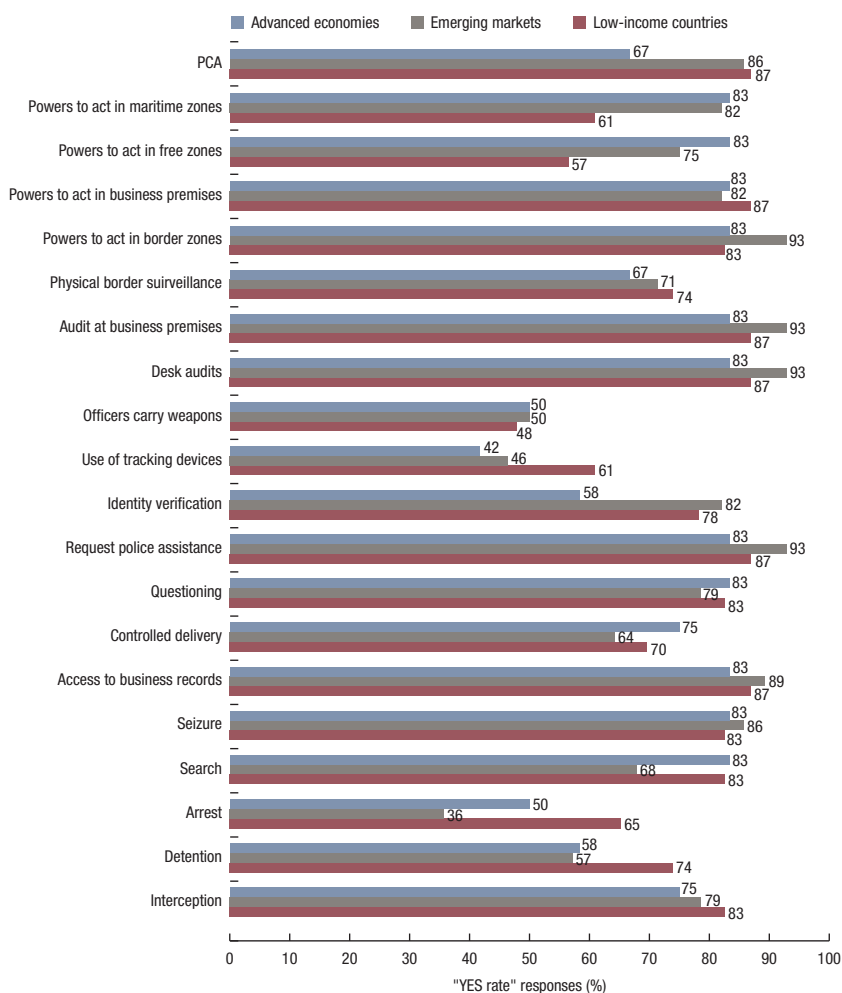
Customs' governing legislation must establish the powers and authorities officers need to be effective in carrying out their law enforcement roles, including those needed to carry out their day-to-day duties (power to stop and question people; require presentation of goods; examine goods, conveyances and documentation; board conveyances; seize or detain goods and conveyances; detain, investigate, search, and arrest persons suspected of illegal activities; and disclose respective networks). Ideally, customs legislative power should correspond to but be independent from police legislative power. Customs investigation service should work under or in close cooperation with the prosecutor's office.

“Customs officers must have the legal powers and authorities needed to carry out their responsibilities.”

Experience has shown that customs administrations that lack essential legislative powers face major difficulties carrying out their enforcement roles and are susceptible to legal challenges.

Customs officers assigned to specialized enforcement functions, including antimuggling teams, fraud investigation, intelligence operations, and so on, often work in conjunction with other law enforcement officials and require additional authorities. These include the power to carry out patrols in the customs territory including on private property, to enter and search premises, to carry firearms for self-defense, to share information with other agencies, to demand the presentation of books and records (including electronic records), and to detain such material as part of an investigation, to name a few.

In some jurisdictions, customs administrations have extended criminal investigative mandates that require exceptional powers, such as observation of the movement of goods and people; search of people, premises, and residences; wire-tapping; and the use of covert agents and participating in covert activities. Such powers should come with reinforced measures and guarantees protecting citizens against any possible misuse of powers. This may require a longer period of preparation before exercising such powers to ensure adequate training of officers and supply of equipment. Figure 6.1 is a summary of the ISOCA survey (2019–2020) of customs enforcement powers. As can be seen, most administrations possess essential legislative power required to support enforcement operations.

Figure 6.1. Enforcement Powers of Customs Administrations

Source: International Survey on Customs Administration (ISOCA) co-managed by the IMF and the WCO, 2019–2020.

Note: PCA = post-clearance audit.

InterAgency Cooperation and Coordination

Customs administrations must pursue all opportunities to work cooperatively with other enforcement agencies. These include police, military, immigration, and other agencies involved in cross-border trade and travel (including foreign agencies contacted through a partner customs administration).

“The success of customs enforcement depends on effective working relationships with partner agencies—both domestic and foreign.”

Enforcement agencies work together to take advantage of specialist expertise, broaden the legal basis for enforcement actions, and ensure the sharing and use of information and intelligence to maximize their effectiveness in fighting criminal activities. Effective cooperation requires clear delineation of roles and responsibilities between the partner organizations to avoid overlaps, loopholes, and uncertainties.

Many customs administrations have established memoranda of understandings (MOUs) with other enforcement agencies to provide a policy framework and operational modalities for working arrangements with the relevant agencies.⁴ This includes mechanisms for consultation, cooperation, and exchange of information including real-time electronic exchange; joint contribution and participation in activities to further enhance the usefulness of information; and promotion of cooperation and coordination of border enforcement operations,⁵ particularly joint forces operations (JFOs) and task forces. Within the framework of MOUs, customs and other agencies develop specific operational agreements to implement joint forces operations, to provide for the exchange of information, and so on. This interagency cooperation has become even more important as countries address security and terrorism threats. All agencies need to be fully engaged and support these efforts.

International Cooperation

International cooperation and information sharing between customs administrations, other law enforcement organizations, and the business community are essential for effective enforcement and control given the expansion of international trade and the continuing risks to the safety, security, and competitiveness of all countries. The most widely applied instrument for customs cooperation at bilateral level is the WCO's Model Bilateral Agreement on Mutual Assistance in Customs Matters (2004). As an international instrument, there is the WCO's International Convention on Mutual Administrative Assistance in Customs Matters (known also as the Johannesburg Convention, Brussels—June 27, 2003, but not in force yet). According to this instrument, the contracting parties to the Johannesburg Convention commit to “provide each other with administrative assistance under the terms set out in this Convention, for the proper application of Customs law, for the prevention, investigation and combating of Customs offenses and to ensure the security of the international trade supply chain.”⁶ Other relevant instruments include the following:

- International Convention on mutual administrative assistance for the prevention, investigation and repression of Customs offenses (Nairobi Convention)—entered into force in May 1980

⁴ Chapter 3 covers certain aspects of cooperation with other government agencies under coordinated border management, and Chapter 4 deals with coordinated interagency inspection.

⁵ For a guideline on how to set up important cooperation agreements and/or joint interagency units with the police, refer to the WCO/INTERPOL Customs/Police Cooperation Handbook (CPC) at https://cites.org/sites/default/files/eng/prog/enforcement/CustomsPoliceCoopHandbook_EN_LR.pdf.

⁶ This convention had 10 contracting parties in June 2020 but had not entered into force yet. See also <http://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/johannesburg/internconvmutualadmineng2003.pdf?la=en>.

- Regional mutual assistance agreements
- Bilateral mutual assistance agreements (both government level and customs-to-customs)
- WCO recommendations, guidelines, and compendiums on mutual administrative assistance

Increasing consideration is given to land borders to provide a single border post facility at selected or all border crossings where customs and other border agencies can work under the same roof, closer to each other, or together sharing at least a part of their work and responsibility.⁷ The objectives of such an arrangement are to save costs of building and running a border post, reduce processing time by providing a one-stop shop opportunity, and facilitate cooperation and sharing of information by the various border control agencies operating at the same border.

Deeper cooperation can result in joint or even unilateral controls where agencies of one country accept the results of controls performed by the agencies of the neighboring country. However, careful consideration should be given to the precise description of the border control arrangements, assessment of gains and limitations, and their exact wording in the highest possible level of bilateral agreement. Such arrangements provide certain immunities and protection to operations by the law enforcement agencies of the neighboring country in the territory of the host country within limits and under circumstances agreed by the parties sacrificing a part of national sovereignty by allowing the enforcement of the laws and regulations of and by the authorities of the neighboring country even against citizens of the host country and in the host country. However, most countries are very prudent in terms of presence of enforcement officials in the foreign territory and their jurisdiction.

Cooperation with Tax Administrations

One of customs' closest partners in fighting fraud is the tax administration. The tax and customs administrations interact with a large part of the population and should share the same database. Policies and rules for the use of and access to this information must be in place to ensure all legal requirements and rights of taxpayers are respected. Typically, all operators involved in international trade are potentially taxpayers. The lack of cooperation and/or coordination between the two administrations would be inevitably exploited by noncompliant traders/taxpayers. Following are several important topics on which the two administrations should work together. The list is not exhaustive.

- First, a shared registry is critical to manage compliance. Customs and tax administration benefit from using a single taxpayer identification number to record transactions in their systems. This allows data cross-matching for risk

⁷ Examples of joint border stations can be found in Europe, particularly among current EU members before the abolition of internal border checks in 1995. While this section deals with international cooperation among authorities of neighboring countries, Chapter 3 addresses coordinated border management among authorities of the same country.

management purposes on both sides, including comparing turnover to trade volume, detecting undeclared activities, identifying inconsistencies in quantities and values of transactions, and ultimately combating noncompliance, fraud, and smuggling.

- VAT and excise taxes on goods are necessarily managed by tax and customs administrations. As explained by Mann (2004), “The valuation and classification of goods at customs offices represent the key first step in the VAT chain that ultimately impacts total (import and domestic) VAT collections. If these steps are improperly carried out, it becomes difficult to establish an adequate invoicing system up to, and including, the retail level.”
- Customs valuation according to WTO standards and control of transfer pricing are other areas of common interest that should be addressed in a coordinated manner. For excise tax administration, it is critical to reconcile inputs (imported or purchased locally) and outputs to establish the taxable bases.
- Sharing information on exemptions and special regimes helps address possible abuse and inconsistencies on entitlement, scope and duration of these benefits.
- As exported goods are zero-rated for VAT purposes, the exporter is entitled to claim a refund of the full amount of VAT paid on inputs. This is an area where the potential for false refund claims represents a significant risk. Customs should provide assurance to the tax administration that the goods have been actually exported. To that end, customs should carry out physical and documentary verifications using risk assessment techniques to determine the shipments targeted to examine and the level of examinations necessary. The tax administration should provide input into the development of selection criteria for such examinations.
- Exchange of information on enforcement results is critical to update both administrations’ risk register. Sharing of information on offenders, cases, and general data on taxpayer compliance and risks is invaluable to both parties. Sharing the list of offenders may allow the detection of noncompliance on both sides. A fraud committed in a cross-border transaction is likely to have consequences on tax compliance. For example, underreporting of quantity and/or value at customs may reduce tax liabilities.⁸ Sharing a taxpayer’s / trader’s compliance track record is key for the selection of audit, inspection and investigation cases. Given the confidential nature of tax information, clear policies and procedures on the exchange and use of such information is essential and should be documented in formal legal agreements.

⁸ It is important to mention that this is not always the rule. In some instances, undervaluation of imports, which reduces duties and VAT collected at customs, would determine higher profits and/or better market positions upon the sale of the undervalued good. This may make the importer end up paying more taxes provided corporate income tax (CIT) control is effective though the overall revenue impact would likely be negative. Sometimes, foreign exchange restrictions make overvaluation of imports attractive as a way of getting additional foreign exchange out of the country. The point is that fraud mechanisms often change, and compliance control needs to be flexible.

- Cooperation can often improve the effectiveness of revenue collection and arrears management. Authorizing customs to detain import or export shipments on behalf of the tax department is a good practice. This very effective collection measure also serves as a general deterrent to other taxpayers. Conversely, the debt collection unit of the tax department has a comparative advantage to carry out complex customs-related duty or penalty collection enforcement, for example, following investigations or antismuggling cases.⁹

“A transparent and readily available appeals mechanism provides opportunities for challenges to customs decisions without fear of retribution.”

An Effective Penalty Regime to Support Enforcement

The penalty regime should reflect the seriousness of the contravention, take into account past compliance records, and in the most serious offenses provide for criminal prosecution. Although enacting this measure is up to legislative and policy makers, customs should persuade the government to support the necessary legislative change. Once a comprehensive penalty system is in place, it is important to use the whole spectrum of penalties, sanctions, and other measures in a balanced way to maximize their positive impacts and achieve their main objectives: to deter possible future offenders from committing fraud, recuperate lost revenue and educate offenders.

To support this principle, customs administrations require a graduated penalty system that aims to secure compliance through the application of penalties as part of a customs compliance model that ensures penalties are applied uniformly, consistently, and in an equitable manner for offenses of equivalent weight with the overall objective of molding client attitude toward self-regulation. Penalties should take into consideration the compliance history of the offender—a second and subsequent incidences of the same infraction will result in a progressively higher penalty. An example of a graduated penalty/sanctions regime is included in Appendix J.

The application of penalties by customs officers is an area that is particularly vulnerable to corrupt practices. Rules need to be very clear and the application of penalties nearly automatic—there should be minimal personal contact between customs officials and clients, if it is necessary.

Transparent, Quick, and Objective Appeal Mechanisms

A customs penalty and sanctions regime must include a readily accessible and transparent appeal mechanism to facilitate challenges of enforcement actions in a fair, timely, and objective manner with a clear legal basis. The appeal process should be publicized to ensure potential appellants are aware of their rights to

⁹ Other aspects of tax and customs cooperation including those establishing a revenue authority (RA) are discussed in Chapter 3, Appendix K.

appeal customs' decisions, understand the procedures to be followed, and believe they can rely on fair and objective decisions. Unfortunately, some customs administrations, particularly in fragile and conflict-affected states, tend to bypass formal appeal mechanisms and rely on less formal processes of settlement, leading to opportunities for corrupt or unprofessional settlement of cases. Such practices undermine the credibility of the customs administration's commitment to enforcement and transparency.

Typically, the appeal process begins with internal appeals heard by the customs administration. Should the appellant not be satisfied with the administration's decision, a further appeal to an independent, quasi-judicial external appeal body (such as a customs appeal committee) is available. A final level of appeal is to the courts. The appeal mechanism is also discussed in Chapter 4.

In the case of criminal prosecution actions launched by customs (which in most jurisdictions require approval by the state prosecutor), the rules and procedures related to criminal convictions determine the appeal mechanisms, usually involving appeals to a higher-level appeal court.

Systematic feedback to operations about appealed cases should be implemented in a way that customs operations understand better the main reasons of the appeals and then undertake corrective actions.

Professional and Motivated Customs Enforcement Officers

As with all areas of customs administration, successful enforcement operations depend on a workforce of well-trained, highly motivated, and professional customs officers with solid records of high performance and particularly high integrity. They must be adequately remunerated and trained to reduce the temptation to engage in irregular/corrupt practices. A well-constructed, active, and needs-based training program will ensure that staff acquire and maintain the necessary competencies for enforcement duties. This is achieved through a competency-based training needs assessment (TNA). The TNA should be carried out as part of the planning and implementation of the various initiatives in the administration's enforcement strategy.¹⁰

“Customs enforcement depends on well-trained, professional, and highly motivated enforcement staff.”

Often the design and delivery of specialized enforcement training require help from external specialists. Development partners are generally prepared to provide such support, as are international organizations such as the IMF, WCO, and World Bank Group.

Enforcement officers should remain in their specialist positions for relatively long periods of time as it can take several years to develop their skills and experience. All too often, an administration's staff rotation policies see these specialized officers moved frequently, which has a detrimental impact on their performance,

¹⁰ Chapter 2 highlights some of the challenges to customs enforcement raised by new trade patterns. Chapter 3 discusses competency-based training needs assessment.

their morale, and the efficiency of training. While it is difficult to set a minimum time in a position, experience has shown that officers assigned to specialized enforcement teams should spend a minimum of four to five years in their positions.

Effective Use of Modern ICT and Contraband Detection Technologies

In today's environment where criminals and those who would evade their obligations are becoming ever more sophisticated and use advanced ICT technologies, customs should have the necessary equipment and skills to obtain, secure and use computerized information, including in administrative investigations and criminal proceedings. Modern contraband detection technologies, including nonintrusive inspection devices such as scanner/X-rays, spectrometers, trace detection, and radiation detectors, as well as basic inspection tools, should be deployed to support contraband detection. Their deployment should be based on risk assessments to ensure optimal effectiveness.

“Modern information and communications technology systems and state-of-the-art contraband detection technology and equipment are critical for a risk-based approach to enforcement.”

Customs relies more and more on advanced ICT systems to aid efforts to detect noncompliance using risk-based approaches. Modern enforcement ICT systems include a case management system and an enforcement database that will compile and store information on past offenses and offenders. Also, an intelligence database that collects, stores, and analyzes intelligence information should support enforcement operations. Such databases should be used by a risk management system that assists customs to analyze data, assess risks/threats, and carry out risk-based operational targeting. The risk management system should interface with the automated customs clearance system to support targeting and selectivity processes.

These systems should be developed as an integrated customs management system allowing an effective and efficient use of scarce resources. Despite heavy investments in detection technologies (in particular, the very expensive scanners), administrations often see minimal results in terms of detections. For effective use, these technologies must be deployed as part of a broader enforcement strategy and plan and based on risk management principles and processes. Often administration of these expensive tools is weak with little or no targeting, incomplete reporting systems, and insufficient management oversight. Chapter 5 delves more deeply into risk management systems.

Recognition That Enforcement Is Everybody's Business

Operational staff have multiple responsibilities and constantly face pressures to facilitate and expedite trade and travelers, to provide professional and polite service to the public, and to meet internal administrative requirements. They are also

responsible to ensure that the proper revenue is collected, that other government agency requirements are met, and that correct data are submitted, and of course they must be vigilant to detect and deal with noncompliance and with illegal cross-border activities (smuggling, illegal immigration, customs fraud, contraband—drugs, firearms, and so on). In this regard, all officers play a critical role in customs enforcement. Customs management needs to clearly define officers' roles and responsibilities, ensure proper training is provided, and implement mechanisms to recognize effective performance and manage underperformance issues.

International Standards and Best Practice in Customs Enforcement

While enforcement programs and practices must respond to the conditions in each country, they also need to conform with international good practice and standards, in particular the various instruments issued by the WCO, including the International Convention on the Simplification and Harmonization of Customs Procedures (the Revised Kyoto Convention), the WCO's Risk Management Guide, Standard Risk Assessments, Customs Risk Management Compendium, Strategic Trade Control Enforcement Implementation Guide, and the Compendium of Customs Operational Practices for Enforcement and Seizures.

In many administrations in fragile and conflict-affected states, this adoption of international good practice requires extensive capacity development, often with the assistance of development partners through their various technical assistance programs.

ORGANIZATION OF CUSTOMS ENFORCEMENT

This section addresses key issues in establishing a customs enforcement organization. The discussion is based on experience and observation of enforcement organizations in both large and small administrations throughout the world. This complements the discussion in Chapter 3 that refers to the entire customs organization structure.

There is no single correct organizational model for customs enforcement. For instance, in developing an enforcement organization, a decision is needed with respect to how much operational activity, if any, will be retained at HQ. Larger administrations with many offices and complex operating environments generally have a decentralized structure with almost all operational enforcement functions delegated to the field and very little operational activity carried out at HQ. Smaller administrations generally retain more operational activities at HQ depending on factors such as geographical area covered and complexity of operations. As a general rule, enforcement operational activity

“There is no single organization structure for customs enforcement. However, a number of key organizational principles and practices apply to all administrations.”

should be assigned to operational areas with HQ retaining responsibility for overall policy and program development and direction, planning and program support, and guidance to operations.

Reorganizing the enforcement program in a formal way presents an opportunity to integrate risk management functions that are part of the overall enforcement program. For example, processes for identification of low-risk traders, based on the record of the various operators in the import/export chain, can be organizationally located with more traditional enforcement functions. In addition, development of facilitated systems such as trusted trader and/or AEO program green channel clearance integrate well with the process of identifying and acting on information related to higher-risk traders.

HQ level enforcement staff generally exercise *functional authority* over line operations in enforcement operations. Functional authority is indirect authority by means of development of policy and procedures, provision of advice, organization of department-wide initiatives, and monitoring results. Line operations exercise *direct or line authority* in the enforcement program. Line authority refers to direct responsibility and accountability for operations. Line managers are obligated to operate within the policy and procedural framework developed by the relevant functional authority and approved by customs senior management.

Headquarters Functional Organization of Customs Enforcement

In an effort to better examine customs enforcement organizational structures, we begin with a functional breakdown of enforcement starting with HQ. Key functions carried out at the HQ level include the following.

Executive Leadership

The enforcement program is a critical part of a customs administration and supports customs' key role of safety of society, border security, and the protection of economy of the country. Thus, the official in charge of enforcement should be at a very senior level, reporting directly to the head of the administration, equivalent to other deputy heads, and be a member of the administration's senior executive committee. This brings an enforcement lens to all program and policy decisions made by the executive committee and ensures they consider verification and enforcement implications. The enforcement executive leads the development of enforcement policies, programs, initiatives, and related resource allocation. Advice is provided to the head of the customs administration and frequently to senior officials of other government agencies, ministers, and other elected officials.

Policy and Program Development and Planning

The enforcement organization is responsible for developing clear and well-thought-out enforcement and compliance policies and programs and the strategic and operational plans to implement them. These policies and programs must

support the strategic objectives and plans of the administration as well as broader government strategies and priorities. This is a headquarters function, although input from operational areas is essential to ensure all practicalities and implementation realities are considered. In small administrations, this function can be carried out by a very small team of two or three experienced officers. Policies are needed covering antismuggling, port of entry goods inspection, seizure of goods and conveyances, intelligence and investigations, penalties and sanctions regimes, risk management, and so on.

Program Management/Coordination and Monitoring

The HQ enforcement organization is generally responsible for the overall management and coordination of the enforcement program operations throughout the country. This includes antismuggling operations. While generally not taking a hands-on role in operational matters, they will plan and coordinate implementation of national projects involving several regions as well as direct any involvement in international initiatives and projects. It is particularly important in the area of enforcement that the HQ organization works closely with the field offices in planning, monitoring, and evaluating results as well as providing expert advice and guidance to support field operations.

HQ monitors the enforcement operations through the use of operational performance management systems (OPMS)¹¹ that provide detailed reports on activities and results. This includes both the specialized enforcement operations as well as effectiveness of the verification efforts of checkpoint staff. Areas of weak performance can be addressed by HQ in cooperation with local management. The executive in charge of enforcement is expected to report to the head of the administration on the results achieved, challenges and emerging issues, and the effectiveness of all enforcement operations along with recommendations for changes.

Risk Management and Intelligence Program Development and Administration

A robust risk management program is needed to address all areas of risk. The enforcement organization generally takes the lead in developing the needed policies, systems, and procedures in risk management and operation of the risk management program. As is discussed in more detail in Appendix K, the enforcement organization plays a major role in the operation of a risk management committee (RMC) that oversees the development and application of risk management systems and processes (see Chapter 5 for governance roles and the RMC). Often, the head of enforcement takes on the role of “risk management champion” for the customs administration. However, this may be different depending on the context and particularities of each customs administration.

¹¹ Administrations have various different systems and entities carrying out these functions such as 24/7 operational centers, command centers, and so on.

The customs intelligence HQ unit develops and monitors policies, procedures, and supporting systems needed for an effective intelligence system. Customs intelligence consists of two major elements—strategic intelligence and analysis and intelligence operations. Generally, the HQ intelligence organization is responsible for strategic intelligence development. This entails risk assessments of emerging threats in areas such as contraband smuggling, potential areas of customs fraud and tax evasion, security threats (terrorism/weapons of mass destruction or WMD), intellectual property rights, trade agreement violations, and safety and health. These strategic assessments are provided to senior management for use in setting enforcement priorities, developing new programs and operations, assessing existing operations, and making resource deployment decisions.

Intelligence operations are carried out at both HQ and field levels. The HQ intelligence office generally takes the lead and is the primary contact point for intelligence sharing at the international level. The day-to-day development, analysis, and dissemination of tactical/operational intelligence are for the most part carried out by field intelligence officers. They develop local sources of information, liaise with local enforcement agency counterparts and neighboring customs administrations, and, most importantly, support local operational customs officers through provision of local lookouts and alerts. Customs operational staff are also valuable sources of intelligence information.

National Targeting Centers

Many customs administrations have established national risk management and targeting centers that apply a multilayer approach to daily risk management operations. In general, the centers aim to better manage and integrate information, develop a coordinated approach to risk management, coordinate intelligence and operations, and better manage border risks (Aniszewski 2011).¹² For the most part, these teams focus on contraband and security risks rather than on revenue matters.

The centers make use of advanced automated systems, strengthened pre-arrival cargo and declaration data reporting requirements (including advanced commercial supply chain data), and more sophisticated and integrated analytical techniques to target high-risk consignments and operations. With the introduction of electronic trade single windows, these units can have access to greater amounts of data from other regulatory agencies and increasingly can address a broader range of risks.

Common functions of centers, as reported in the WCO research paper (Aniszewski 2011), include management of selectivity and targeting criteria, managing risk analysis IT systems, provision of 24/7 tactical analysis and

¹² This research paper includes examples of NTCs in Canada, Finland, New Zealand, and the United States. It should be noted that emerging economies such as Brazil and Mexico also have NTCs in operation.

coordination, coordination of risk management information exchange, and providing a platform for stakeholder coordination and better coordinated border management.

The centers require direct access to all relevant data from all internal and external systems, including nonintrusive inspection technology equipment (including scanned images), all CCTV installations, and so on. The centers should be given authority to order risk-based controls and inspections (at land borders, in ports, at airports, and inland) and the collection of results from such activities.

In the past, most national targeting centers were limited to customs officials. However, in recent years, more and more centers include representatives from other agencies with a border control/law enforcement mandate, including regulatory agencies, police, border patrol, coast guard, and so on.

This interagency collaborative effort can produce much improved control and enforcement results by accessing far greater levels of information and intelligence that can be used to identify and target high-risk operations, individuals, and organizations.

Leading Interagency Risk Management

International initiatives such as the electronic trade single window and the trade facilitation initiatives called for by the WTO TFA have forced many countries to come to grips with the need to better coordinate and even integrate border control services. Chapter 4 provides more details on the TFA. The efficiency and effectiveness of import and export processing (or lack thereof) by other government agencies have major impacts on trade facilitation, logistics efficiency, and protecting society from harmful or dangerous goods. Streamlined and coordinated clearance systems and procedures based on risk management principles are essential to competitive and attractive environments for investment and international trade. Chapter 5 discusses the importance of strengthening core customs processes through integrated risk management. Often the other involved agencies have far less mature approaches to risk management than customs and tend to operate in isolation with limited coordination, cooperation, or information sharing. Common approaches to risk management are frequently lacking.

In many cases, customs has taken a lead role in the creation and operation of interagency risk management processes, often driven by the implementation of the electronic trade single-window platform. The first step in developing an interagency risk management strategy is issuance of a government policy on “facilitating trade through risk management” that commits (and requires) relevant government ministries and agencies to implement international best practice in the area of risk management, to establish interagency cooperation mechanisms, and to build closer partnerships with the trade community.

Ensuring all relevant agencies participate in implementing the policy statement requires creation of an interagency risk management governance structure. This includes a high-level multi-agency steering committee responsible for overall policy,

strategy, planning, and oversight of the process. At the operational level a risk management coordinating committee provides the forum for operational level bodies to coordinate and manage the ongoing processes. Each participating agency needs to establish its own risk management committee and processes to meet its own needs as well as to support the interagency efforts. This framework ensures that steps are taken to implement a truly integrated (interagency) risk management process. The customs administration typically plays a leading role in bringing about these changes and chairs the interagency structure once operational. Chapter 4 refers to the development of a TFA roadmap and a government-wide approach.

Interagency and International Liaison

Customs enforcement depends on effective cooperation, exchange of information, and coordination with other national agencies with a mandate to control the import and export of certain goods and of people as well as with foreign customs administrations. Establishing formal arrangements with domestic enforcement/regulatory agencies (police, other government organizations, drug control administrations, military and so on) is critical to effective border enforcement. As customs is generally the lead agency in border management, it is in a unique position to initiate formal agreements and arrangements (often through MOUs) setting out policies and means of joint operations and coordination, information exchange, and so on. These MOUs are negotiated and signed off at the headquarters level, sometimes at the ministerial level, and are binding on all parties.

This interagency cooperation requires that all the participating agencies commit to adopting the principles of risk management in identifying goods that require verification. An earlier section of this chapter deals with principal aspects of interagency cooperation.

Contraband Detection Technology Development and Management

It is well recognized that contraband detection technologies (for example, nonintrusive inspection technologies), when properly deployed and utilized based on risk assessments, can be very effective tools for detection of undeclared and illegal products. Customs administrations need to carefully consider the deployment of these technologies based on risk assessments and priorities. All too often these costly tools are not deployed or used effectively resulting in costs to both the administration and traders with little return. The enforcement organization at HQ is generally responsible for preparing plans and strategies for acquiring and deploying these technologies, putting in place sound management information systems, and monitoring results.

ICT Systems Development, Implementation, and Operation

Customs enforcement requires extensive information technology systems to support operations. These systems are the responsibility of the headquarters organization working in collaboration with the ICT department and other branches of

the administration. Of critical importance to customs enforcement is a functioning and effective IT-based risk management system. Other systems include an enforcement database (to record all enforcement actions), an intelligence system (to record and analyze intelligence information), a case management system (to facilitate better management of investigations cases and operational projects), and an operational performance reporting system (to gather and analyze performance data on enforcement operations).

Fraud Investigation

Many developed country customs administrations have an HQ investigations policy and program section with overall power and responsibility for the investigations units in the field (policy, procedures, technical advice and guidance, monitoring, and so on). The HQ investigations sections often include an operational section responsible for carrying out large scale, complex, and highly sensitive investigations and cases covering jurisdictions of several investigation offices that are beyond the scope of local offices, including cases involving national and international cooperation. These senior investigators also play an important role in technical training and development of field investigators.

Customs investigators identify cases of potential past customs fraud, carry out forensic investigations to establish the facts, and, in cases where improper activities are uncovered, assess revenue owing and penalties according to the nature and seriousness of the offenses. Potentially large amounts of revenue that may have been evaded in past transactions are identified as part of customs investigations. In cases of serious misrepresentation or fraud, investigators will initiate criminal prosecution processes.

An important and often overlooked practice is customs investigations collaboration with the court system/prosecutor's office. In many cases judges and prosecutors do not have the technical knowledge or the understanding of customs matters, so they need help that is provided through training or information sessions.

Antismuggling Teams

Many small to medium-sized administrations deploy operational antismuggling teams from HQ. These teams have a broad mandate to carry out operations at both the national and local levels to address major risks and to assist local teams with specific projects. These centralized teams also provide useful information on the risks and effectiveness of local operations and resource deployment. In larger, more advanced administrations such teams are almost exclusively deployed from operational field sections. To combine efforts and to optimize results in special crime areas, these teams often include other governmental agency officers (for example, joint drugs and anti-money laundering teams).

Post-clearance Audit

While PCA is not part of the enforcement organizational structure, it does contribute to the enforcement program. It is an essential element of a risk-based

verification process. Its role is to carry out audits of importers' books, records, and systems to verify past compliance with customs requirements. PCA entails two principal activities: desk audits (reviews carried out in the PCA office of a trader's transaction records) and site/field visits (audits carried out at the importer's premises involving a detailed audit of accounting records and systems as well as individual transactions). Audits generate additional revenue through reassessment of transactions and, in cases of suspected fraud, referrals to the investigations team for fraud investigations.

PCA supports the goal of expedited clearance of goods with less intervention by customs at the time of release while maintaining appropriate levels of compliance verification. To that end, PCA typically conducts pre-approval and periodic audits of participants in trusted trader programs (based on the WCO's AEO program developed as part of the WCO's Framework of Standards), whose results are included in the assessment of the AEO application, and on the provisions of the WTO TFA. Strictly speaking, these audits are not enforcement/verification focused. They are aimed at assisting applicants for AEO designation in meeting the stringent record-keeping and internal control systems required. They periodically audit the AEOs to ensure that they continue to meet the program requirements, to identify weaknesses in their systems, and to provide advice. Specific suggestions on implementation of an effective PCA program are contained in Chapter 5.

Field Operations

Most enforcement operations are carried out in the field where goods clearance takes place. However, field operations must work in close contact with HQ to ensure consistency of operations, compliance with legal and policy requirements and cooperation with other areas and agencies. The following paragraphs describe these field operations and summarize their mandates and roles. Specific advice on the establishment and operation of these operational enforcement units is contained in Appendix K.

Mobile Antismuggling Teams

Most customs administrations deploy mobile antismuggling teams whose activities are focused on both contraband interdiction and revenue evasion. These teams have proven very effective as their priority is on enforcement and antismuggling activities. Team members are selected based on their performance records and professionalism and generally receive specialized training. They work in tandem with operational line staff at ports of entry as well as with other law enforcement agencies. Depending on the scope of the customs administration's mandate they may participate in border patrol operations and inland interdiction of smuggled or otherwise clandestine goods. Such operations should be carefully planned and, where available, based on risk assessments, specific intelligence, or requests from operational areas or other agencies (in accordance with agreements) or on the basis of deterrence.

Joint Forces Operations

Typically, formal agreements are in place setting out the arrangements for customs mobile teams to work with other law enforcement agencies (task forces, ongoing joint operations including joint intelligence units). These MOUs set out the terms and conditions of these joint operations, including roles, responsibilities, authorities, management structures, reporting processes, and related administrative procedures. These agreements include specific joint forces operation (JFO) projects and the exchange of information.

Marine Patrols

The maritime environment presents customs with numerous challenges in its efforts to protect revenue and to detect smuggling and other illegal activities. To address these challenges, many customs administrations with marine borders set up marine patrol operations. A marine patrol capability requires appropriate equipment in terms of vessels and related technologies, properly trained staff to both operate the vessels and carry out the customs enforcement duties, and sufficient financial resources. Customs-governing legislation must include provisions that provide authority for such a program.

Before a marine unit is established, the administration should conduct a feasibility study. This will include an assessment of the marine threat (often carried out in consultation with other law enforcement agencies such as marine police, coast guard, and the military) as well as a financial cost/benefit analysis.

Field Intelligence Operations

The operation of the HQ intelligence function was outlined previously. Effective customs intelligence requires on-the-ground intelligence officers throughout the country. These field officers play a critical role in the collection, evaluation, and analysis of information and serve as the contact point between the intelligence organization and operating customs officers. In this regard, they provide intelligence to the line officers in terms of lookouts, risk assessments, and briefings of both a local and national nature. In addition to collecting intelligence from external sources, including other law enforcement agencies, informants, and confidential sources as well as open sources, a considerable amount of useful intelligence information can be obtained from customs officers. They can provide information based on their experience, observations, and knowledge of local risks obtained through their day-to-day work, which often can be used along with other intelligence sources to help identify general and specific risks. The intelligence officers provide regular reports to HQ that can be used to update risk assessments and to initiate specific actions such as investigations, antismuggling initiatives, audit priorities, and so on. Local intelligence officers are critical to maintaining this connection with field staff and local enforcement agencies.

DEVELOPING AN ENFORCEMENT STRATEGY

This section discusses the steps customs administrations take to develop or strengthen customs enforcement programs and operations and provides an example from one administration. The focus is on effective border controls (at customs entry points), antismuggling operations (including marine patrols and mobile teams), fraud investigation, customs intelligence and analysis, and post-clearance verification. We will examine how these programs are developed and the critical part played by risk management techniques and processes in their development and operation. The enforcement strategy is one element of the customs strategic and operational planning process. As such, it must be consistent with and support the strategic objectives and priorities of the administration typically defined for a period of three to five years and be integrated into the planning process.

“Customs administrations need an enforcement strategy to guide the development and operation of enforcement programs.”

The Challenge

While customs has many responsibilities in terms of trade facilitation and service provision, its key function, particularly in fragile and conflict-affected states, is to provide effective and efficient border controls and revenue collection. The challenge for customs is to apply these controls in a manner that minimizes impacts on legitimate traders and allows the smooth flow of cross-border trade while reducing the extent and impacts of illegal operations. These controls are not applied by customs in isolation. While generally the leading agency at the border, customs works in close cooperation with numerous other agencies with control mandates.

Customs controls have evolved over the years, moving from transactional controls applied at the time of entry of the goods to the use of pre-arrival risk assessments, analysis, and post-clearance verification to provide assurance of compliance. This approach has enabled customs to greatly speed up release times for the vast majority of traders and allowed customs to reassign staff away from routine processing activities to higher value-added functions, such as risk analysis and targeting, PCA, antismuggling, fraud investigations, and client services to support and facilitate voluntary compliance. All these aspects of customs control must work in harmony as part of a risk-based framework and be included in an administration's enforcement strategy.

Why an Enforcement Strategy Matters

Experience has shown that a well-thought-out enforcement strategy outlining the objectives, priorities, and action plans for the enforcement area is essential for developing or strengthening a customs enforcement organization and achieving improved results. The objective of the strategy should be to improve the efficiency and effectiveness of customs enforcement through developing professional

capacity, applying a risk-based approach, providing modern tools and equipment including IT systems, and strengthening operational effectiveness.

Scope and Priorities

Decisions are required on the scope and coverage of the strategy. Ideally it should cover all enforcement and compliance verification activities in the customs administration. This includes responsibilities for antismuggling, intelligence and analysis, interagency and international cooperation, and marine patrol as well as other compliance verification functions (risk management, PCA, customs investigations, contraband detection equipment, IT systems).

A great deal has been written about risk management theories and practices in the customs world.¹³ This discussion centers on how administrations have used the principles and practices of risk management to develop enforcement strategies to maximize the return on investment of customs resources by focusing control activities on the areas of highest risk. In order to do this, customs administrations need to carry out threat assessments to identify the nature, extent, and impacts of illegal activities.

The customs administration needs to respond to priorities and areas of focus of the administration and government as a whole. Some countries will want to focus on threats to security, safety, and health, whereas others will place greater priority on revenue-related threats such as goods smuggling, undervaluation, misclassification, and false origin declarations. In most cases a combination of these threats will need to be addressed. Customs must take these government priorities into consideration in developing the strategy.

Operational Considerations

An enforcement strategy is not developed solely to guide the enforcement operations and organization of the administration: it influences all aspects of the operations from pre-arrival processing, border controls applied by line staff, and postrelease verification. It also contributes to the development of trade facilitation initiatives designed to ensure that highly reliable traders are identified and recognized through expedited services with minimal customs intervention. An enforcement strategy works in tandem with and supports such facilitation initiatives. Thus, in developing an enforcement strategy, all areas of the administration should be involved. Once an executive decision is taken to develop an enforcement strategy, following the approach outlined in Box 6.2 will contribute to a successful outcome.

“A customs enforcement strategy is brought to life through development and implementation of a variety of operational programs and initiatives.”

¹³ See the WCO compilation of risk management papers.

Box 6.2. Steps to Develop an Enforcement Strategy

Step 1. Create a task force/working group led by a senior enforcement official to lead the development of the strategy. Members should come from all areas of the administration (operations, technical offices, like tariff, valuation, origin, and so on).

Step 2. Develop the enforcement strategy objectives, outcomes, and scope. An outline of the contents of the strategy should be prepared and approved by senior management at this point.

Step 3. Prepare a threat assessment to establish the perceived areas of risk to guide development of the strategy. Typically as part of this process administrations carry out an environmental scan that examines the external and internal environments within which the customs administration is operating and identifies strengths, weaknesses, challenges, and opportunities.

Internal factors include issues such as the following:

- Resource constraints
- Adequacy of customs legislation
- Effectiveness of systems and procedures (in particular ICT systems)
- The extent of a risk management culture throughout the organization
- Levels of competency and professionalism of staff

External factors include issues such as the following:

- Government expectations and priorities (for example, revenue collection, trade facilitation)
- Business demands for improvement in service delivery
- Regional and bilateral trade agreements
- International commitments (for example, the WTO Trade Facilitation Agreement) to facilitate trade
- New compliance challenges in preferential rules of origin and the related risk of fraud
- Supply chain security issues

The task force gathers information from a variety of sources about past illegal activities, analyzes and assesses customs enforcement and compliance data to identify results of enforcement efforts, identifies emerging trends, and assesses the impacts of smuggling and fraud. In addition to local information, international sources are drawn upon such as neighboring countries, the WCO Customs Enforcement Network (CEN) and Regional Intelligence Liaison Offices (RILO) operations pooling operational information from all cooperating customs administrations worldwide or on a regional basis respectively, the United Nations Office on Drugs and Crime (UNODC), and regional organizations such as the Association of Southeast Asian Nations (ASEAN), European Union, and so on.

Once this data has been compiled and analyzed the next step is to build on this information and to identify future trends and emerging risks. It is useful at this point to identify the specific commodities involved. If we use drug smuggling as an example, the analysis would look at all drug seizures (both at the border and internally); trends and patterns in domestic drug consumption; international reports and analyses on drug trafficking trends, patterns, routes, and results; and so on.

The preliminary analysis is then shared with a representative team from customs (and perhaps other cooperating agencies) at a series of workshops to test and validate the conclusions. The impacts of smuggling in terms of lost revenue and the entry of dangerous and illegal goods can also be determined or estimated at this time.

Step 4. Submit the threat assessment to senior management for approval. The threat assessment, including recommended priorities and suggested strategies, is then presented to customs senior management for review and approval. Direction on the overall priorities,

strategies and initiatives should be provided (for example, need to strengthen data sources and systems and analytical capabilities; more antismuggling teams to certain areas of the border to address emerging contraband smuggling risks; need for a risk management committee; and so on).

Step 5. Develop the strategy and action plan with resources. Following the guidance provided by senior management, the task force now refines the strategy and develops supporting action plans to address the identified threats, both existing and emerging. It will also include actions to strengthen human resources and the organization, undertake budget reallocations or realignment of resources, update automation support systems, and so on.

Step 6. Approval of the strategy by senior management and implementation. The final strategy with supporting action plans and goals is presented to senior management for review and final approval. Decisions will be made on matters such as recommended changes to the organization or realignment of responsibilities and resource allocations, specific enforcement initiatives and so on. The strategy also should include performance indicators—both quantitative and qualitative—that are critical to assess the success of the strategy in meeting its goals. The strategy is now ready for implementation.

Source: Authors.

Appendix L includes an outline of an enforcement strategy prepared by a developing country's customs administration. Appendix K provides specific advice and guidance on the creation and operation of a number of critical enforcement programs described earlier, including customs mobile antismuggling teams, customs investigations, customs intelligence, PCA, customs marine patrols, deployment of contraband detection technologies, and a penalty and sanctions regime.

MANAGING CUSTOMS ENFORCEMENT

Customs enforcement programs and operations require effective management oversight in order to assess the extent to which goals and objectives are achieved and the effectiveness of resource deployment and to ensure they are functioning in accordance with their terms of reference and legal authorities. To achieve this, customs management puts in place operational performance management systems (OPMS) that collect and report information on critical measures of the efficiency and effectiveness of enforcement. Much of the data required is available from the various automated systems that in some cases can be linked directly to the OPMS. In addition to regular reporting of achievements against operational plans and goals, the OPMS provides quantitative and qualitative data on results achieved within each of the program areas (antismuggling, investigations, intelligence, border enforcement, PCA, and use of detection technology). Box 6.3 displays a sample of operational enforcement performance indicators in use in a number of customs administrations and is presented for illustrative purposes. Higher numbers and percentages do not necessarily indicate the intended and right change in performance.

Box 6.3. Sample of Operational Performance Indicators

Physical cargo inspections (import and export)	<ul style="list-style-type: none"> • Number of inspections • Percentage of shipments inspected • Percentage resultant (hit rate) • Number of offenses detected • Revenue assessed (duty, tax, penalties) • Number of cases referred for investigation follow-up • Comments/observations on program
Cargo scanner activity	<ul style="list-style-type: none"> • Number of containers/shipments scanned • Percentage of containers/shipments scanned • Number and percentage of scans resultant • Revenue assessed (duty, tax, penalties) • Number and value of seizures (illicit drugs and so on) • Number of cases referred for investigations follow-up • Comments/observations on program
Antismuggling teams	<ul style="list-style-type: none"> • Number of enforcement actions (seizures, charges filed) • Revenue assessed (tax, duty, penalties) • Number and value of seizures (illicit drugs and so on) • Number of cases referred for prosecution • Comments/observations on program
Investigations	<ul style="list-style-type: none"> • Number of cases concluded (by type) • Revenue assessed (duty, tax, penalties) • Additional revenue actually collected • Number of cases referred for prosecution • Number of convictions • Number of appeals and their outcome • Joint investigations undertaken (by agency—for example, tax department) • Comments/observations on program
Intelligence	<ul style="list-style-type: none"> • Number of intelligence cases concluded • Number of intelligence alerts/bulletins issued, referrals made • Number of enforcement actions as a result of intelligence • Value of enforcement actions • Revenue (duty tax, penalties) • Contraband (number and value) • Comments/observations on program
International cooperation	<ul style="list-style-type: none"> • Number of international cases, by country
Post-clearance audit	<ul style="list-style-type: none"> • Desk audits: <ul style="list-style-type: none"> ◦ Number conducted ◦ Revenue assessed (duty, tax, penalties) • On-site audits: <ul style="list-style-type: none"> ◦ Audits completed with positive results / total number of audits conducted ◦ Revenue assessed (duty, tax, penalties) ◦ Number of cases referred to investigations ◦ Comments/observations on program

Source: Authors.

Further examples of key performance indicators for enforcement are provided in Appendix A to Chapter 3.

USE OF INNOVATIVE TECHNOLOGIES FOR INTELLIGENCE AND ENFORCEMENT

Some developed customs administrations are taking advantage of innovative technologies like blockchain, cloud computing, big data analysis, and artificial intelligence to pilot their use for customs purposes. As discussed in Chapter 7, these technologies represent a potential for customs to use in enhanced risk assessment, security of supply chain, data analysis and data capture, nonintrusive customs control, and so on.¹⁴

SUMMARY

This chapter presents some basic principles that underpin customs enforcement and provides practical advice and guidance on the development and implementation of a number of enforcement programs, initiatives, and potential organizational options. As the environment and challenges facing customs administrations continue to change, they must adapt and evolve to respond to these developments. This is a continuous process of renewal and growth. A sound legal basis, effective organization, and clear strategy that ensures that appropriate principles, policies, and programs are in place and risk-based deployment of resources are critical factors to a successful enforcement program.

The need for interagency and international cooperation and coordination has intensified, given the risks and threats nations face to security, safety, and economic well-being from international crime and terrorism. Successful implementation of specific enforcement initiatives and programs to address existing and anticipated risks and threats requires careful planning and development, adequate financial resources, and the assignment of sufficient numbers of qualified staff. Effective performance management systems are needed to ensure management is able to monitor performance results and make adjustments as required.

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¹⁴ For more information, refer to the WCO research papers at http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/research/research-paper-series/45_yotaro_okazaki_unveiling_the_potential_of_blockchain_for_customs.pdf.

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