

**Conceptualising the Border
and Customs
in the 21st Century
- or How to Outfox the Future**

Paper prepared for the World Customs Organisation

EXECUTIVE SUMMARY

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May 2007



Amidst all the uncertainty about the future, one trend is universally accepted as likely to continue: the exponential acceleration of the pace of change. Customs administrations have historically tended to be very *rule-driven, top-down* organisations, not always associated with organisational agility. But the argument in this paper is that Customs administrations (and the governments that direct them) will desperately need agility across this century in the core business of ‘border management’.

This executive summary concisely presents our key arguments. To keep the length reasonable we have excluded all of our source references, these are included in the full report where each element of our argument is made in a more detailed fashion. We hope that you will use this executive summary as a guide to our argument, while accessing the full report to gain a deeper understanding.

Borders and their Management

Understanding the future of Customs must begin with conceptualising the border and political authority. Political authority and the border are inseparably linked: a border is a way in which a state defines itself in a legal and geographical sense against others. In terms of the relationship between states and borders the key points are extremely simple:

- States that try to manage their borders alone will need extraordinary resources to be able to do so. But if such states do not have massive border control resources, they will almost certainly fail in border protection.
- Even the wealthiest states secure their borders through mutual cooperation with neighbouring states, either bilaterally or multilaterally.
- All border management relies substantially on a high degree of consent and cooperation from those who might otherwise seek to cross the border, as well as between agencies at the border and those in other states.
- Problems are shared, and therefore problem-solving needs to also be shared. Responses must be coordinated.

Customs administration at the start of the 21st century is best understood in terms of managing border zones and flows. Border management does not necessarily take place along the physical border but in channelled ‘border zones’ such as seaports and airports and specific land border crossing points. Management of flow is the key concept.

The basic underlying necessity is for every Customs administration to be able to identify what, and who is flowing.

The scale and speed of movement make border crossing more than one physical step across a single line. Goods and people flow fast, en masse, and often cross several borders between origin and final destination. Effective border management thus requires understanding of where flows start, move to, channel, and end. It also requires understanding the importance of that flow to a country’s wider social and economic well-being. Those wider considerations require the flow to be encouraged, and to be enabled to pass through the border with as little interruption or difficulty as possible.

21st Century Influences on Customs Administrations

We suggest six factors will be of particular relevance to the environment that Customs administrations will confront in the decades ahead. Obviously, these are inter-related:

- The future of the state (and hence its 'borders')
- Problems that are 'both within and beyond the border'
- 'Flow'
- The rise and rise of multi-national corporations
- Population pressures
- The pace of technological change

Each of these factors is expanded on in the full report.

Impact on Customs Administrations

How will the major global trends and events in the future impact upon Customs administrations and their competing but also complementary dual functions of protection and facilitation? Macro predictions about global trade, climate change, demographics and regionalism indicate that while global interconnectedness is intensifying, national governments will continue to play a central decision-making role in that process. This means that Customs administrations will be increasingly important for managing the impact of these changes at the border. Their roles will still involve both facilitating the flow of goods and people and protecting their government's interests and its citizens.

Balancing these functions is not about to become easier however. Customs administrations face an increasingly complex operating environment.

Customs administrations must develop a doctrine of 'high assurance, light touch'

The response to this challenge by many modern Customs administrations has been to develop a doctrine of 'high assurance, light touch'. This means moving along the continuum away from 'physical intrusion' toward greater 'risk management'. In other words, using information ('intelligence') to better facilitate legitimate passage.

This approach has several consequences that highlight a significant shift in the way in which border control activity will need to adapt, including:

- Greater powers (and *training* to use them) for information gathering and analysis.
- Information-gathering being done at earlier stages of the process of travel or movement, to enable risk to be assessed in advance of the actual crossing of the border by the person or goods.
- An increasing amount of inter-agency collaboration, given the range of risks being monitored and the fact that the exercise of border control powers deep within the country of origin or destination may well dovetail with the responsibilities and powers of agencies that act solely within that jurisdiction.

Impact on the facilitation role: trade liberalisation does not mean an end to a substantial Customs role

Regionalism, ongoing growth in trade, trade liberalisation pressures, and increasing travel means that Customs will be under greater pressure to facilitate than ever before.

Pressures to liberalise trade will continue at the multilateral, regional and bilateral levels. This will continue to challenge the traditional mercantilist roots of Customs and push for a shift in tax revenue sources: a delicate and difficult path. However, such a shift does not indicate Customs administrations are coming to a natural end. On the contrary, even when trade tariffs are removed, Customs administrations will have a substantial regulatory role as well as a role in administering value-added tax. By monitoring and recording flow data, Customs also play an important role in providing trade statistics for sound national economic policymaking, and will have an increased role in the foreseeable future for implementing the system of rules of origin. Facilitation then, involves much more than helping legitimate commercial traffic flow efficiently across the border.

Those who best manage trade flows, benefit the most: those who don't face diminishing relevance

Countries able to create a Customs environment conducive to trade flows will be best placed to benefit from them. In this regard, it is possible to sidestep the political question of tariffs and liberalising trade, and go to the heart of Customs reform programmes. The jury may still be out with regards to the concrete results that each government can expect of Customs reform, but the inverse situation of a static Customs administration should be of major concern. From the perspective of its facilitation function, Customs administrations that are not well placed will face decreasing efficiency and effectiveness as trade flows continue to rise alongside increasing complexities in the trading environment.

Cooperation and trust with other agencies (domestic and international) is needed

The increases in flows of trade and stakeholders in Customs processes, coupled with the complexity of supply chains, the growing number of regional and bilateral trading agreements, and the uncertainty of successful closure of the WTO Doha Round, underline the absolute importance of cooperation. Without cooperative working relationships with all stakeholders, Customs will simply fail to fulfil both their dual function areas of facilitation and protection. If that happens, outsourcing of substantial functions will almost certainly follow, leading to a diminishing role.

Preferential Trading Agreements (PTAs) highlight the necessity of more open, cooperative working relationships. The main impact of PTAs on Customs administrations is to complicate work in respect of origin administration. PTAs place a heavy burden on Customs administrations in small and least developed countries that have fewer resources for monitoring agreements and assessing rules of origin. These countries also face another barrier: the challenge of building up their Customs administrations to have the capacity and capability to understand, monitor and apply different preferential tariff rates and rules of origin from agreements their governments have signed; and to facilitate trade flows in accordance with them.

The success of administering a PTA will depend to a great extent on cooperation and establishment of trusting working relations between Customs and other border agencies, and among Customs administrations in the member countries to the PTA. Without effective cooperation, facilitation will be weakened with time lost in addressing concerns such as authenticity and ensuring compliance with rules of origin. Considering that lack of trust is an issue in 2007, and given the growing challenges confronting governments in the future, the process of building mutual trust between agencies and governments must be seriously pursued now.

A key way to move forward is using common standards and procedures

In practice, cooperation in border management means establishing and implementing common standards and simplifying systems and procedures to enable mutual recognition, sharing of data and to reduce complexity. 'Harmonising' the Customs environment has been the primary goal of the WCO, but many others have been involved in the process and must continue to do so.

There are many Customs tools currently available for simplifying procedures and systems but they do not replace the need for increased and sustained cooperation at domestic and international levels. This is in part because the tools available must be adjusted, if not substantially revised, to keep pace with technological and other change. Cooperation must also be pursued in order to build the trust necessary to ensure the available tools are used appropriately and effectively. Current experience already shows us that when trust and cooperation is lacking, systems simply do not work adequately. No matter how well designed systems and guides are, without adequate consultation and participation in design, there will be opposition to the 'imposition' of new external systems.

Technology will help

Technological advances, encouraged by trade liberalisation, and often led by Multi National Corporations (MNCs), will directly impact on Customs in the decades to come. While some technological advances make the job of border management more difficult, many can help strengthen border management.

In the past, the application of technology by Customs administrations has had mixed results, with much higher success among high-income countries. The situation has been improving due to the commercial availability of Customs-specific computer systems, and the international donor community that has stepped up support to strengthen Customs administrations. Progress in the coming decades faces the need to overcome the lag in the technological infrastructure and support available in many developing countries, which also lags behind the technology-intensive business practices of many international traders. Effective use of the potential of technology will depend upon the capabilities and skills of Customs staff and upon integration within a wider modernisation programme.

But keeping up with technology is half the trouble

Technology is advancing more rapidly than bureaucracies' abilities (Customs for sure) to use them. There is a lag caused by the need to develop policy, standards, and methods of working together with other agencies domestically, and introducing new technologies in a way that maintains the support and compliance of the large majority of users.

Working more closely with industry will help: but it is not a panacea

With the growing economic importance and political influence of industry, public-private partnerships have evolved from the original focus on outsourcing and contractual relationships. Indeed, these partnerships will grow in importance in the decades to come. Customs partnerships with industry are often considered only in relation to trade facilitation; however, this misses the important fact that industry shares security concerns, and has an interest in Customs administrations being effective as well as efficient in both dual functions.

Due to globalised supply chains, industry and MNCs in particular, are major stakeholders in border management and have a direct interest in secure and efficient trade flows. MNCs have also been proactive in reaching out to governments and Customs administrations with the aim of improving communication and building partnerships on a more cooperative and broader basis.

However, public-private partnerships will not provide a panacea for the capacity challenges facing Customs administrations around the world, and they will not be without challenges. While there is common interest in the better facilitation and security of trade, the priorities and interests of MNCs are not identical to governments'.

The trends mean that Customs' protection role will increase in importance

The protective function of Customs administrations will have greater importance in the decades to come as threats caused by global interconnectedness intensify. Weapons proliferation and terrorism are threats to the state itself, but growing transnational crime threatens both the integrity of governments and the safety of the public. Customs administrations have a pivotal role in protecting health, cultural heritage and wildlife amongst other national interests. For many countries, Customs will continue to play a vital role in the securing of fiscal space and security of government through the collection of customs duties.

Customs and other government agencies will need to find answers to many questions, such as how will the state fulfill its protective responsibilities? Threats include those to Intellectual Property Rights, the importation of objectionable material, and information to support terrorist activities. How will the state derive revenue from cross-border e-commercial traffic? How will commercial, regulatory and criminal laws be enforced in cyberspace? Customs could well play a key role in gathering data, monitoring it and managing the flow. If these complex issues are to be resolved by Customs administrations, then there will need to be collaboration spanning many agencies.

Challenges also relate to the broadening, diversification and sophistication of organised criminal activities. Organised crime groups usually have a home base in weak states, and a direct interest in weak Customs and border management, and poor governance. The lack of accurate data and the current low level of international cooperation means that Customs administrations will almost certainly still be faced with this serious problem later in the 21st century.

It is clear though that those who don't modernise will face negative consequences

The cost of failing to protect the border (and thus national interest) is fairly well accepted. There is some global research indicating the benefits of modernising, and the negative costs of failing to do so (decreasing export potential of domestic markets and increasing security vulnerability). The need for more thorough, quantitative research here is noted in the paper.

Delays to flow cost a government just as they do the private sector

The World Bank/IFC found that on average, each additional day that a product is delayed prior to being shipped reduces trade by at least 1%. There is a greater effect on time-sensitive agricultural goods, so that delay of a day reduces a country's relative exports of such products by 7% on average. Improving trade facilitation can thus have relatively large effects on exports.

Customs can significantly contribute to a countries' economic growth by reducing the time necessary to fulfil all the Customs, administrative, and port requirements, and the time taken from factory/farm to loading on the ship.

Making choices – ability to adapt is the key to longevity

As one of the oldest government institutions in many states, Customs has a long solid past rooted in a tradition of collecting revenue and has had little need to change. But the global environment is no longer so stable, and the cultural and structural nature of Customs administrations is under increasing challenge.

As part of government structures, Customs administrations are bureaucratic by nature, some of this quality is important because it means that there is stability, consistency and a rule-based structure. And at the international level, standardisation and a degree of bureaucratic certainty are crucial. But bureaucracies also need to establish and maintain the ability to think outside the square, to be transparent and identify changing conditions before the impact is felt: those that do not risk a short life span. More ingenuity, agility and intuitive action are essential for Customs administrations to succeed in the future. The ability to adapt will be the key to success.

Many developing countries at least, may argue that they simply do not have the resources nor the support of their governments to adapt as quickly as this paper suggests will be necessary. But understanding the issues, and making the arguments, is the first key step. The main challenges and choices facing Customs are:

- Moving on the spectrum towards standardisation and simplification of processes and procedures;
- Modernising with limited resources;

Moving on the spectrum

This is the most important challenge and is at the heart of making both facilitation and protection more effective and efficient. Establishing and supporting internationally common standards and procedures at the national level is the basis for mutual

recognition, sharing of data, reduction in delays to flow etc. As all Customs agencies will know, there is a wide spectrum of “commonality” – from informal cooperation, to adoption of international standards and processes, to Customs Unions. Progressing along this spectrum needs resources, judgment and cooperation. Not moving at all along the spectrum towards standardisation will further complicate the trading environment, increase delays, and add costs to the respective governments.

Modernising with limited resources: critical choices have to be made

Customs constitutes each country’s primary infrastructure for border management. Building and maintaining the infrastructure that is Customs is probably more important than building and maintaining other national infrastructure such as roads. To do so requires financial resources but to gain these the first requirement is political support.

Each Customs administration must take the lead in building political influence and showing the unique value and role of a competent Customs administration. They must also offset the costs through better cooperation and coordination, and obtaining higher levels of voluntary compliance.

Choices that Customs administrations need to face up to and deal with include:

A. Balancing resources and powers against risk:

The level of risk at the border should always be matched by available powers and resources to deal effectively with that risk. The danger is where states face high levels of risk but inadequate resources to cope. This is the reality facing many small and isolated states, and those with less developed economies. In such circumstances, these Customs administrations need to cooperate and coordinate closely – with neighbouring states, the private sector and other key stakeholders - in order to protect the country from threats.

B. Understanding and increasing the level of voluntary compliance and stakeholder consent:

Governing, at all levels, is most efficiently and sustainably achieved when there are high levels of consent. When there is little support for a system, compliance drops and the need for widespread force and coercion rises. High levels of voluntary compliance enable the most efficient use of resources.

There is substantial current analysis about Customs administrations in the 21st century and what shape they should form. The analysis has mostly been led by international financial institutions and high-income countries with Customs administrations that have already proceeded quite far down the path to a modern, integrated border management system. There is a problem in applying these experiences to the rest of the world because the contexts are so different.

Customs administrations around the world have a remarkable variety of organisational structures, and also different alignments with government agencies. There is no evidence that one particular kind of organisational structure is suitable as a model for *all* Customs administrations. There is, however, evidence that delays caused by Customs processes economically hurt the home country, especially a developing country reliant on fresh agricultural exports.

C. Based on this fact, another way of planning is to determine *what sort of delays in the management of 'flow' are acceptable to a country*, and with what possible increase in risk, or loss of protection, should 'speed' be more important than protection.

What must be avoided at all cost is where there are high delays (goods rotting in warehouses, waiting to be cleared) irrespective of the risk level involved and the desired level of protection required. In other words, Customs neither distinguishing between categories of risk, nor facilitating 'flow'. The best-case scenario is where the border management systems are able to achieve consistently high protection, with minimal increases in delays.

While different priorities and constraints faced by different governments are a reality to be factored into change processes, the need to adapt must be heeded because the costs of failure are so high.

Two questions must be asked regularly over the coming years as Customs administrations press forward with modernisation and adapt to the changing environment: 'Are the tools we are using suitable for the issues we are facing at this particular moment?' and, 'are the techniques being used suitable to the context of this particular country?' Customs must be alert to change, and nimble in response.

Looking ahead

Amongst the tools available that provide a guide as to what future Customs administrations should look like, the Revised Kyoto Convention (RKC) is the most comprehensive. By drawing on the RKC, it is possible to plot out the characteristics of a 'typical' Customs administration of the 20th century, and compare it to one of the 21st century. The table below indicates the fundamental shifts involved. It is critical to remember that the characteristics of Customs in the 21st century are not static. The need to adapt is perhaps the only constant.

Mapping Customs Administrations Characteristics in the 20th and 21st centuries

A. Customs in the 20 th century	B. Customs in the 21 st century
Controlling goods at borders	Overseeing management of international supply chains and flows of both goods and people
Brawn and muscle-based. Reliant on coercion	Knowledge and risk management is the norm. Focused on consent and voluntary compliance
Responsive to information received at the border	Proactive: information is received and processed well in advance of arrival at the border
Transaction based approach	Systems based approach
100% checking of goods crossing the border	Risk-analysis based and targeted searches
Manual, paper trail and opaque system	High degree of automation and transparency
At high risk of corruption. Low staff morale, limited career opportunities	High level of integrity established and at low risk of corruption. High staff morale and training

Applies own (manual) system independently of other border agencies	Develops a single (electronic) system in cooperation with other border agencies. 'Single Window' system
Development of Customs controls independently of other countries	Applying common controls with international quality standards with high mutual recognition
Control of trade and questioning and inspection of traders	Facilitation of trade is the focus. Public-private partnership with traders is proactively built upon alliances that build trust
A technical, subordinate administration with little influence over policy	A highly integrated border management approach with strong political support commensurate with the importance of customs to border management
Procedure-bound: lacking flexibility and responsiveness to stakeholders	Generates flexibility to respond to priorities and demands from stakeholders
'Hedgehog', reliant on stability	'Fox'-oriented leadership (though key aspects of the hedgehog must be retained e.g. common standards, systems, procedures)

Laying the groundwork

Laying the basic groundwork for modernisation requires identifying the key universally relevant principles, setting out steps and determining the benefits expected to flow from each step. The basic principles for change are:

- Obtaining and maintaining political will
- Integrity
- Simplification and standardisation
- Cooperation
- Integrated border management
- Working with stakeholders

The greatest risk for a Customs administration is that it is politically marginalised. There is an irony here, because the lack of political recognition of the importance of Customs, inevitably leads to increased threats to the authority and stability of the state. Customs administrations each need to take on responsibility for changing this situation: by raising the visibility of their work, their role in protecting national sovereignty, and its unusual combination of breadth and depth of experience in border management. Due to its core competence in controlling the movement of goods, Customs is best placed to play the central role in coordinating implementation of policies related to international trade of goods, and consumer and society protection at the border.

Obtaining and maintaining political support (and voluntary compliance and public support) will depend on the integrity of each Customs administration. Investing in human resources and taking a firm stand against corruption is critical.

Simplification, standardisation and cooperation lay the foundation for integrated border management (IBM). IBM can be pursued along two paths: 1) domestic integration between government agencies within one country or customs union and 2) international

integration between neighbouring countries. Both require interagency cooperation, parallel processing, and coordination at ports, harbours, and land border entry points.

There are a large number of domestic and international stakeholders with a direct interest in the effectiveness of border management, and they have a wide range of concerns. Their variety indicates the importance and the challenge of establishing seamless border management at the national level, and Customs' unique position in achieving that.

Final word

Our argument has been that in the 21st century *borders* will still be crucial, and that the idea of the 'borderless' world is fictional. Therefore Customs will also still be crucial – so that governments can manage the flow that makes up border management.

To cope effectively with looming complex challenges, Customs administrations in all countries will need to focus their modus operandi around cooperating inter-jurisdictionally - both domestically and internationally, and they will need to transform their systems and cultures to become sharp, agile administrations effective at both facilitating flows of trade and people, and protecting against threats.