WORLD CUSTOMS ORGANIZATION

WCO GUIDELINES FOR POST-CLEARANCE AUDIT(PCA)

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I. INTRODUCTION

The traditional public image of the Customs official is often portrayed as the uniformed man or woman at a frontier post or airport. The physical presence of Customs at the gateway to a country means that checks can be conducted in real time before a decision is made to release a consignment of goods. It can also act as a deterrent to would-be fraudsters.

Border controls still have a part to play in a modern Customs service; however, excessive and time-consuming checks at the point of clearance can be counter-productive. Modern international commerce works to tight deadlines and national economic benefits can be derived as the result of the smooth and timely clearance of goods. Furthermore, the majority of international trade involves large corporations with global networks and complex business systems and supply chains. The limited documentation required to be produced at the time of importation does not provide the whole picture and context of a commercial transaction, which is necessary to properly determine, inter alia, the correct customs value, classification and entitlement to preferential origin. It becomes unfeasible therefore for Customs to make conclusive decisions regarding duty liability in the narrow time frame available. Neither is it appropriate to delay clearance of goods whilst resolving such enquiries, unless fraud is suspected. Many Administrations, therefore, now concentrate their controls on the post-importation environment, whilst retaining selective and targeted checks at the frontier.

By application of a post-clearance, risk-based approach, Customs are able to target their resources more effectively and work in partnership with the business community to improve compliance levels and facilitate trade. The Post Clearance Audit (PCA) process can be defined as the structured examination of a business' relevant commercial systems, sales contracts, financial and non-financial records, physical stock and other assets as a means to measure and improve compliance.

A dynamic risk management programme is indispensable for PCA. Further information on this topic is available in the WCO's Risk Management Compendium.

Stepping stones towards an effective PCA system

The transition from border-focused controls to PCA as the prime basis for Customs controls typically evolves over several years as new processes and procedures are developed and new skills learnt. However, PCA implementation is not a standalone process; it needs to be imbedded in a wider facilitation context, allowing simplified clearance procedures at the borders, warehousing procedures and other Customs regimes, e.g. regimes which build on a regularly functioning relationship between the Customs Administration and the auditee. Customs controls are normally migrated in stages from the border to the post-importation environment. Some administrations introduced, as a first step, post-importation transaction-based controls before adopting compliance-based PCA. Such an approach may be considered by those Administrations embarking on the transition to PCA. See section 1.4 for more information.

These Guidelines are presented in two volumes; Volume 1 is primarily targeted at management level to assist with development and administration of a PCA programme (this volume is freely available). Volume 2 focuses on the operational aspects of PCA, with practical guidance and check-lists for auditing officials (restricted to Customs administrations). Further information on the technical Customs topics commonly the subject of a Customs audit (e.g. customs valuation, classification and origin) are available in other guidance material produced by the WCO (see Annex X).

II. VOLUME 1

1. BACKGROUND TO POST CLEARANCE AUDIT (PCA)

1.1. What are the objectives of PCA?

The key objectives of PCA can be summarized as follows:

- To gain assurance that customs declarations have been completed in compliance with Customs requirements via examination of a trader's systems, accounting records and premises;
- To verify that the amount of revenue legally due has been identified and paid ;
- To facilitate international trade movements of the compliant trade sector;
- To ensure goods liable to specific import/export controls are properly declared, including prohibitions and restrictions, licenses, quota, CITES, etc.;
- To ensure conditions relating to specific approvals and authorizations are being observed, e.g. pre-authenticated transit documents, preferential origin/movement certificates, licenses, quota arrangements, customs and excise warehouses and other simplified procedure arrangements.

Note: PCA should not be confused with internal audit which is a mechanism to verify and review checks already conducted by Customs at the point of clearance. Such checks may be useful for management purposes and are an important part of an integrity programme but are quite distinct from the concept of PCA.

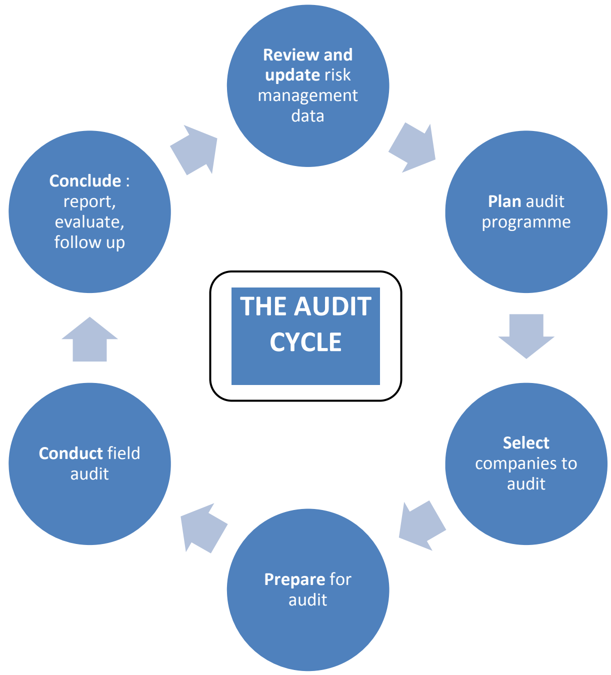
1.2. Benefits derived from PCA

PCA provides the following benefits:

- Compliant trade is facilitated at the point of Customs clearance as border controls can be reduced;
- Risk levels can be more easily assessed and reviewed; a premises visit provides the opportunity to identify risks and weaknesses in traders' systems;
- Customs Administrations' resources are more effectively deployed;
- Customs can promote the concept of voluntary compliance and self-assessment;
- Suspected fraudulent activities may be identified and referred to enforcement unit for appropriate action;
- Provides a platform for evaluating continued entitlement to Authorized Economic Operator status, where applicable.

1.4. Overview of the PCA process

The following chart outlines a recommended cycle for planning a systems-based audit programme:



Types of audit

- What is systems-based audit?

This methodology is commonly referred to as a "top-down" approach. The audit starts with an evaluation of the high-level company structure and its business objectives, usually involving a dialogue with a senior company representative. This is followed by an assessment of the company's systems and accounting records. Poor systems and weak audit trails often indicate low levels of compliance. An examination of individual transactions then follows as the next stage to test the systems and determine the level of compliance. Finally, the audit should be reported, action taken to collect or refund underpaid/overpaid revenue, and risk profiles updated accordingly.

- Post-importation transaction checking

As mentioned in the introduction, Administrations who have newly implemented post-importation controls, may first consider introducing checks on individual transactions. This can work in two ways : 1) Referrals from the port/border post when an officer has doubts concerning a particular declaration at the time of clearance. If it is deemed that significant duty may be at stake, an enquiry is then referred to the appropriate Customs office to further examine, normally in consultation with the importer and possible involving a premises visit. The goods in question will be released. Appropriate security for duty can be taken if necessary, pending investigation.

2) A targeting team scrutinizes individual Customs declarations after clearance and select those where doubts arise regarding their accuracy. These entries are then verified as above, normally in consultation with the importer and action taken as appropriate. In each case, it is highly recommended that risk-based selection criteria are used to determine which Customs entries will be verified.

At a later stage, the Administration can consider developing a post-import systems-based audit approach.

- Desk audit

A desk audit does not normally involve a visit to the trader's premises. It is normally conducted as a supplementary form of audit where resources limit the number of full audits which can be conducted. As the name suggests, this audit can be conducted from the Customs office and focuses on examination of documents, intelligence etc. In some cases, additional documentation may be requested by telephone to assist in the process.

2. LEGAL AND OPERATIONAL FRAMEWORK FOR PCA

2.1. Legal framework and essential powers[1]

To facilitate PCA, it is necessary to implement legislation which provides Customs with the legal basis to conduct an audit and also sets out the rights and obligations of the auditee. Each Customs Administration will develop laws and regulations based on national requirements or, in cases where a Customs Union exists, at a regional level.

Customs laws and regulations should provide the following :

- Definition of PCA coverage (persons/company subject to PCA);
- Authority and powers of Customs officials/auditors conducting PCA ;
- Obligations and rights of auditees;
- Penalty scheme;
- Right of appeal.

- PCA scope and coverage

The scope and coverage of PCA - namely, which persons may be subject to an audit - should be clearly defined in Customs laws and regulations. Potentially, all businesses involved in the import and/or export of goods or in the receipt, storage, manufacture and delivery of goods subject to Customs controls may be audited.

[1] Examples of legal provisions explained in this chapter can be found in Annex XX.

This may include:

- Importers;
- Declarants;
- Consignees of the imported goods;
- Owners of the imported goods;
- Subsequent acquirers of the imported goods;
- Customs clearing agents of the imported goods;
- Storage agents of the imported goods;
- Transporters of the imported goods;
- Other persons/companies directly or indirectly involved in the transaction of the imported goods.

- Authority and Powers of Customs officers

Customs laws and regulations should provide officers conducting PCA with the authority to conduct an audit at the premises of the auditee. Necessary powers include :

- Right to access auditee's premises;
- Right to examine business records, business systems and commercial data relevant to customs declarations;
- Right to inspect auditee's premises;
- Right to uplift and retain documents and business records;
- Right to inspect and take samples of goods.

- Obligations and rights of auditees

Customs laws and regulations should set out the rights and obligations of persons/companies involved in international trade. Provisions should include:

- Requirement to maintain specified documentation and records. The duration for retaining such records should be no less than the maximum period after importation when Customs may legally demand underpaid duty and make refunds for overpaid duty;
- Requirement to make such records available in a timely manner;
- Right to appeal [2];
- Right to an explanation from Customs concerning determination of customs value[3];
- Right to expect confidential treatment of business documentation;
- Right to clearance of goods at the frontier with provision of security[4];

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[2] Revised Kyoto Convention, Chapter 10 and WTO Valuation Agreement, Article 11
[3] WTO Valuation Agreement, Article 16
[4] WTO Valuation Agreement, Article 13

[When the scope of auditees is expanded to persons other than declarants and importers, it will come into question whether a legal obligation for keeping records can be imposed on all persons/companies designated complementary auditees. The problem is whether it is reasonable to impose legal obligation for keeping business records on persons/companies other than those who has close relation to import transactions and Customs clearances such as the importer, a Customs clearing agent, a transporter, etc. under the Customs laws and regulations. Other national legislations regarding the business activities, such as income tax law, may stipulate their obligation.]

The adequacy of powers available to Customs administrations under national law needs to be kept under review and powers should be modified where necessary to respond to new national and international commitments.

Other non-Customs legislation may be of relevance and interest to Customs in the course of conducting PCA. For example:

- Regulation of business entities and their activities, such as commercial law, company law, income tax law, etc.
- Import/export licensing requirements
- Foreign currency control, etc.
- Obligations deriving from binding (Chapter VII UN Charta) UN Security Council Resolutions (e.g. embargos, export controls).

2.2. Organizational structure

PCA has an interface with many other areas within the Customs department, including risk management and intelligence, enforcement, debt collection and legal support. The organizational and management structure should therefore reflect this and facilitate close working and effective communication between these areas.

Normally, a PCA programme will be driven by a central policy team responsible for managing the audit programme. Depending on the demographics of a particular country, an Administration will set up one or more operational PCA units. The need for Customs staff to be able to visit a trader's premises means that Customs offices need to be located accordingly. For example, a small island economy may have just one main business centre and require just one PCA office. A large country, on the other hand, may have many centres, separated by long distances and time zones.

A number of administrations have set up dedicated teams responsible for the control of large businesses. In this model, a number of officers will be appointed to the large business team with unique responsibility for ensuring the continued compliance of those businesses. It can also be useful to develop trade sector specialists; e.g. car industry, textiles, chemicals etc. within a large business team.

The actual organizational structure and allocation of responsibilities will vary between Administrations.

3. STRATEGIC PLANNING FOR PCA

3.1. General

Once a PCA structure and system is in place, the next step is to develop an audit plan; this will determine how many audits will be conducted, and who will be audited, over a specified period, normally one year.

The development of an audit programme should also be linked to the overarching strategy for conducting pre-arrival controls and controls at the time of clearance. This ensures a unified strategy to the complete Customs control cycle.

3.2. Targeting: selection for audit

This work is normally carried out by a dedicated risk analysis/targeting team. The selection should be based on risk assessment and take into account the human resources available to conduct audits. The team will then present or propose a plan to the PCA team who will be responsible for carrying out the audits. The frequency for auditing a particular business entity will vary depending on the perceived risk. It is important that the results from an audit are fed back to the risk analysis/targeting team so that the risk rating of the business in question can be adjusted accordingly. This information will also help to determine the need for follow-up/repeat audits. Special exercises may be conducted in particular areas (e.g. trade sectors or countries of origin) for a limited period where high levels of irregularities are anticipated. This can be an effective use of resources and help to improve compliance.

3.3. Promoting improved compliance via self-assessment

PCA provides an opportunity for Customs to encourage commercial operators to comply with Customs requirements through self-assessment and provide advice accordingly. Customs Administrations should actively promote the benefits of compliance to the business community and provide information and advice via telephone enquiry lines, internet or other publicity.

Some Administrations offer advance rulings in the areas of classification, customs valuation and preferential origin as a further means to provide greater certainty to the importer, prior to the arrival of his goods. See Annexes XXX for further information.

In the course of an audit, auditors should provide auditees with recommendations that encourage auditees to establish, maintain, and improve their internal controls and systems. This can be effective in a number of areas such as the reliability of financial accounting and compliance with applicable laws and regulations. Internal controls can also detect and prevent frauds, negligence, or operational errors which may have affected Customs declarations. When auditors judge that the auditee's internal controls are well designed and performing effectively, this should be reflected in the risk rating of the business.

Where internal control is sufficient to fulfil the conditions set by Customs, such person/company may be considered eligible for a facilitated Customs procedures as stipulated in the Transitional Standard 3.32 of the Revised Kyoto Convention/RKC (June 1999).

Importers and brokers can also be given the opportunity to voluntarily request amendment of a Customs declaration without penalty when errors have been identified, even after clearance of the declaration.

When PCA is newly introduced, Customs may prepare a publicity or education program to disseminate necessary information to make importers aware of the objectives of PCA, raise awareness and improve the level of cooperation. Initially, there may be some resistance as some commercial operators may not understand the benefits to them of PCA and be unfamiliar with the idea of visits from Customs officers.

In order to improve compliance level of Customs declarations through self-assessment, it is effective to inform declarants, including brokers and importers, about typical and frequent errors found on Customs declarations, and assist them to avoid such errors in future. It is also important to encourage a mutual responsibility between importers and their brokers to ensure declarations are accurate; the importer should provide all necessary information to his broker and, likewise, the broker should actively challenge the information provided by an importer if he considers it to be inaccurate or incomplete.

3.4. Resource management

The redirection of controls from the border towards the post-importation environment poses significant resource implications for a Customs Administration. The increase in PCA activities should coincide with a commensurate decrease in border controls; hence, it is logical to consider reducing the number of staff in ports and border posts and to increase staff in PCA teams. New offices may also need to be set up. This raises a number of considerations, including retraining of officials, human and financial resource issues and upgraded I.T. infrastructure.

- Training needs/ professional skills

A combination of skills, knowledge and experience is required to carry out PCA effectively. With the increased use of electronic record-keeping and the complexity and diversity of global trade, the need for higher standards of training becomes more and more important. Customs administrations should be committed to providing auditors with the levels of training necessary to equip them to perform their duties. Training departments have an important part to play in ensuring that officers acquire the necessary skills to conduct an audit.

All auditors need a range of general skills relevant to the task of auditing. These skills include :

- Accounting techniques and principles, based on Generally Accepted Accounting Principles (GAAP);
- Knowledge of auditing standards and procedures;
- Familiarity with Customs laws and regulations;
- General knowledge of Customs procedures (valuation, classification codes, origin, etc.);:
- Knowledge of computer-based accounting systems
- Commercial awareness and knowledge of business strategies in international trade

It is also recommended that certain staff working in audit have specialist skills for particular technical areas, such as:

- Customs Valuation, Origin, Classification.
- I.T.-based accounting
- Knowledge of multi-national corporation accounting, including transfer pricing
- Specialist trade sector knowledge

Customs recruitment and training policy should address the above needs. In some cases, external support may be necessary to provide the specialist skills. With regard to knowledge of transfer pricing, assistance may be sought from direct tax officials.

Ethical Standards for auditors

Auditors must maintain high professional standards when conducting PCA.

(a) Integrity

The WCO has developed a Model Code of Ethics and Conduct that sets out the minimum required attitude and behaviour expected of all Customs officers. The Code of Conduct should be respected in the context of conducting PCA.

(b) Confidentiality

Auditors must maintain adequate levels of confidentiality when accessing and examining auditees' records. Auditors should not disclose any business information they have acquired during the performance of their duties. Likewise, they should not disclose Customs confidential information outside of their Administrations.

(c) Due care and diligence

Auditors should take due care of the auditee's property and respect company health and safety policies and requirements (e.g. wearing of safety helmets).

(d) Equity/Impartiality

Auditors are required to maintain fair and just judgment over similar cases and not to treat them arbitrarily. They should not misuse their authority over the auditee.

3.5 Limitations of PCA

It is recognized that PCA is the most effective means of ensuring compliance with Customs requirements. Particularly in such areas as customs valuation, effective verification requires access to the importer's records and accounting system which is not possible at the time of clearance. Customs Administrations should therefore continually strive to implement PCA to the greatest extent possible. However, many countries have significant levels of informal trade, characterised by poor or non-existent accounting systems, cash-based trading and lack of permanent premises. In such cases, PCA is not the most practical tool; there may be problems locating the trader and, once located, there is often a lack of a structured accounting system and supporting books and records etc. Therefore, border controls are the only realistic opportunity to conduct controls, which should be targeted via risk management techniques. Notwithstanding this, Customs should continue to encourage greater compliance and ensure that those operating in the informal sector are given opportunity and incentive to formalize their procedures in line with Customs requirements.

4. RISK MANAGEMENT

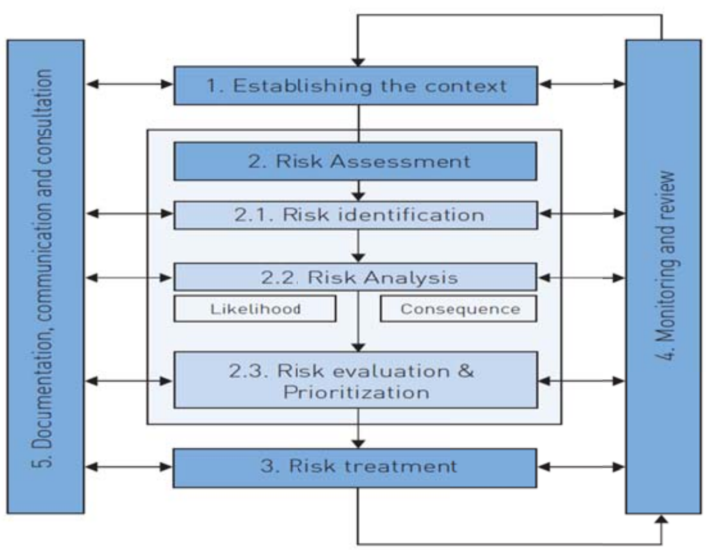
The WCO Risk Management Compendium defines risk management as “coordinated activities undertaken by Administrations to direct and control risk”. When adopted as a management philosophy, it enables Customs to carry out its key responsibilities effectively and organize and deploy its resources in a manner which improves overall performance and facilitates trade.

A risk-based approach is often driven by necessity as Customs administrations are often required to deliver better results with the same or fewer resources.

4.1. Outline of the risk management process

The risk management process comprises:
#
1. Establishing the context
2. Risk Assessment
    2.1. Risk identification
    2.2. Risk analysis
    2.3. Risk evaluation and prioritization
3. Risk treatment
4. Recording, communication and consultation
5. Monitoring and review

The following outlines the process to be followed in managing risk, both for a high-level examination of risk in regard to PCA planning at a national level, or lower-level operational activities like the selection of auditees to a monthly audit plan.



Establishing the risk management context involves establishing the goals, objectives, strategies, scope and parameters of the activity, or part of the organisation to which the risk management process is being applied.

This step is also about establishing the risk criteria, i.e., criteria against which risk will be measured. Examples of risk criteria are revenue leakage, customs' image and delivery of government policy intent. These will form a fundamental basis for decisions made in the later steps of the cycle.

These criteria should be used to determine acceptable and unacceptable levels of risk (i.e., what level of revenue leakage is acceptable, what negative effects on customs' image can be tolerated, what level of movement away from government policy intent is acceptable).

Risk Management within the PCA context can be: (a) Strategic; (b) Tactical; and (c) Operational. Risk management process can apply across all of these levels.

(a) Strategic risk management

Strategic risk assessment is based upon Customs being able to identify the overall risk posed by an entire sector or a group of importers. In identifying this industrial sector, Customs administration will be able to target all or selected companies within an industry sector as high risk.

An industry sector may be classified as high risk for various reasons, such as:

- The strategic importance of the industry to the national interest;
- The international trade agreements which govern the industry;
- Public health and safety considerations;
- Intellectual property rights;
- Economic impact of the imports;

Studies on specific commercial sectors

A general study of the commercial sector or import involved will help the officer deal with the specific information in context. The use of specific sector studies is a reliable source for collecting information in the field. For example, sector studies may be on specific program areas such as:

- Valuation;
- Textile transshipment;
- Intellectual Property Rights, etc.;

The sector would be targeted in advance according to criteria such as:

- Estimates of the value of the commodity;
- Sensitivity of nationals or industry to illegal activity, etc.

Once the sector is chosen, information must be defined and collected on the various components, at both macroeconomic (sector size, production, consumption, etc.) and microeconomic levels (the number of firms involved, their technological capacity, structure, the type of fraud to which they are exposed, etc.). Record in a database.

(b) Tactical risk management

This is the process of identifying groups of high risk transactions by particular importers. Consideration when identifying these groups of high risk transactions include:

- Importer's volume of imports;
- Total value of imported goods;
- Types of goods imported;
- Prior importer or compliance problem;
- First time importer/exporter.

(c) Operational risk management

Factors to consider when identifying high risk transactions include:

- Who the importer is
- What commodity is involved
- Prior discrepancies or violations involving the commodity
- High value importation
- Country of origin
- Whether any special regulations or programs apply to this type of import (such as quotas)
- Value declared for the commodity is outside the previously established high-low range.

Other factors which could increase the level of risk in any of the above mentioned types of risk assessment are:

- Referral information from other Customs units;
- Potential of revenue recovery;
- Risk of revenue loss;
- Government program priorities or specific intelligence.

Risk Identification

The following elements can assist in identifying risk:

- performance of an industry against legislative/administrative requirements;
- performance of individual auditees;
- elements of individual auditees' operations (e.g., internal control, separation of duties/tasks, results of external reviews if appropriate.).

Risk Analysis

The WCO Risk Management Compendium defines risk analysis as the systematic use of available information to determine how often defined risks may occur and the magnitude of their likely consequences.

Likelihood and consequence can be determined using a rating scale (e.g. high, medium and low or 1- 6 etc.). These two measures (likelihood and consequence) together determine the overall level of risk, once again rated as high, medium or low.

Addressing Risk

Customs shall accept and monitor low-priority risks in the risk analysis matrix. As for the other risks, a specific management plan should be established. The plan includes consideration of resources (human, financial and technical).

(5) Monitoring and reviewing risk

Monitoring and review are integral steps in the process of managing risk. This is necessary to:

- Determine if previously identified risks are still current;
- Identify new risks;
- Re-evaluate risk levels assigned previously in the light of updated information;
- Evaluate the effectiveness of compliance activity undertaken.[5]

4.2 Establishment of risk intelligence systems[6]

Intelligence can be defined as a product, derived from the collection and processing of relevant information, which acts as a basis for evaluating risk and informing decision-making when developing and planning an audit programme.

Each Customs administration should establish its own intelligence network and systems, tailored to its own needs, based on perceived risks. This network is likely to include both local intelligence units based in ports and airports and a central intelligence unit that is able to collect and collate information and disseminate it throughout the entire service. As well as receiving information, intelligence officers should pro-actively seek it out.

Risk and Intelligence

A risk and intelligence team may serve the whole Customs department. The team's role will normally include the following:

[5] WCO Customs Risk Management Compendium
[6] WCO Customs Risk Management Compendium and GIIS

- Identify, manage and cultivate information sources;
- Contribute to the identification and measurement of risk;
- Communicate with operational colleagues enabling them to take effective and appropriate action in a timely manner;
- Review intelligence data by obtaining feedback and reviewing targets accordingly.

5. LIAISON WITH OTHER CUSTOMS UNITS AND TAX DEPARTMENTS

As previously mentioned, PCA is not a stand-alone system but one function of the Customs organization optimally linked to the other relevant functions.

Suspected fraud

Where a potential Customs offence is discovered during the course of the audit, the audit team should withdraw from the audit without alerting the auditee and communicate and co-ordinate with the appropriate enforcement unit who will decide whether to start a formal investigation.

Legal advice

If during the course of the audit, issues arise which require further legal interpretation, the auditor may seek advice from the Customs' legal department. Auditees also may seek reconsideration of the specific rulings provided by Customs as they are applied to specific transactions. In the event that disputes regarding the audit findings cannot be resolved by a dialogue with the importer, the option should be available for requesting a formal review of the decision in question and the right of appeal in accordance with the procedures provided in national legislation.

Other Customs units

It is recommended that communication channels are established with Customs clearance units and other control, risk and enforcement units to share knowledge and information on a particular commercial operator.

Liaison with Tax and VAT departments

Benefits can be had by exchanging knowledge and information with departments responsible for VAT, excise and direct taxes, to the extent that national legislation allows.