KINGDOM OF CAMBODIA

NATION RELIGION KING

ROYAL GOVERNMENT OF CAMBODIA

NO. 21

SUB-DECREE

ON

THE FACILITATION OF TRADE THROUGH RISK MANAGEMENT

- Referring to the Constitution of the Kingdom of Cambodia;
- Referring to the Royal Decree No. 0704/001, dated 13 July 2004, promulgating the application of the Additional Constitutional Law, aimed at normal conduct of national institutions;
- Referring to the Royal Decree No. 0704/124, dated 15 July 2004, on the Appointment of the Royal Government of the Kingdom of Cambodia;
- Referring to the Royal Decree No. 02/NS/94 dated 20 July 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Referring to the Decision No.12/2004 dated March 22, 2004, on the Establishment of a Special Inter-Ministerial Task Force on Trade Facilitation and Investment Climate;
- Referring to the Decision No.44 SSR dated July 26, 2004, on the Establishment of the Steering Committee on Private Development;
- Referring to the Decision No.46 SSR dated August 11, 2004, on the Establishment of Sub-Steering Committees on Private Development;
- Referring to the Decision No.32 SSR dated August 26, 2005, on the Amendment of the Title of the Steering Committee on Private Sector Development and on addition of members of the Sub-Steering Committee on Small and Medium Enterprises;
- Referring to the Announcement of the Royal Government No. 90 dated 6 December 2005;
- Referring to the decision of the open meeting of the Steering Committee on Trade Facilitation on Risk Management Strategy held on 27 February 2006;
- Based on work necessities.

IT IS HEREBY DECIDED

CHAPTER1

HIGH-LEVEL INTERAGENCY COORDINATION GROUP

ARTICLE 1.-

An Inter-Agency Coordination Group is hereby established to increase the effectiveness of management of export and import operations through the application of risk management. This Inter-Agency Coordination Group has the following charter:

1. To ensure that an effective risk based balance between regulatory intervention and trade facilitation is achieved among the Ministries and agencies involved in management of export and import operations;

2. To identify agency roles and responsibilities, to ensure agencies maintain high levels of cooperation and that there is no duplication of activity;

3. To coordinate strategic plans and activities relating to management of export and import operations, including agreement on common objectives;

4. To review procedures for clearing and inspecting internationally traded goods and, as necessary, develop effective procedures for implementation in conjunction with the introduction of electronic clearance arrangements;

5. To develop and monitor implementation of administrative guidelines for the inspection and clearance of imports and exports;

6. To publicise agency roles and responsibilities to provide the international trading community with a clear understanding of processes related to export and import operations ; and

7. To monitor the effectiveness of procedures for clearing and inspecting internationally traded goods through the use of risk management and initiating corrective action where required.

ARTICLE 2.-

The Inter-Agency Coordination Group shall be chaired by the Delegate of the Royal Government of Cambodia, Responsible as Director of the Customs and Excise Department, and membership includes:

- Representatives of the Customs and Excise Department (CED),

- Representatives of the Cambodian Import Export Inspection and Fraud Repression Department (CamControl),

- Representatives of other relevant institution of the Ministry of Commerce (MOC),

- Representatives of the Ministry of Health (MOH),

- Representatives of the Ministry of Agriculture Forestry and Fisheries (MAFF),

- Representatives of the Ministry of Industry, Mines and Energy (MIME),

- Representatives of the Special Economic Zone Committee ,and

- Any other relevant government agency specified by Anu-Kret

This Inter-Agency Coordination Group shall report to the Sub-Steering Committee for Trade Facilitation and have the right to use the CED's stamp.

ARTICLE 3.-

For the purposes of this Anu-Kret, members of the Inter-Agency Coordination Group are referred to as "specialized agency representative(s)".

CHAPTER 2

ADMINISTRATIVE PROCEDURES

ARTICLE 4.-

Cargo and declaration information is to be submitted to CED. Prior to the introduction of electronic data submission, traders are required to submit only one copy of the Customs Declaration and of the supporting documents.

Following the availability of electronic data submission, traders providing data electronically, will not be required to submit hard copy data.

ARTICLE 5.-

The Customs and Excise Department is a single leading agency with responsibility for inspecting goods at the international border checkpoints and if there is a need for more than one agency to inspect in accordance to risk identified, this inspection must be carried out as a single, joint agency examination under the coordination of the Customs and Excise Department.

ARTICLE 6.-

Based on risk profiles and administrative guidelines that are developed under the direction of the Inter-Agency Coordination Group, CED will:

1. clear a consignment;

2. undertake specific action (e.g. further documentary checks, scanning or physical inspection) where it is within their mandate and competency to do so; or

3. refer details of the consignment to other specialized agencies for their consideration of the need for additional information, for CED to undertake inspection on their behalf or for other specific action.

ARTICLE 7.-

CamControl, MOC, MOH, MAFF, and MIME have overall policy responsibility for particular commodities or products, as determined from time to time by the Royal Government of Cambodia. For these products, the specialized agencies are generally responsible for ensuring compliance with international obligations, ensuring compliance with national laws and regulations governing the control of these products, and managing risks to the achievement of these objectives. These agencies will establish clear risk based selectivity criteria for these particular commodities.

ARTICLE 8.-

Where it has been determined that goods are:

- Prohibited or restricted goods;
- Goods determined to be high risk;
- Goods subject to other agency requirements

These goods are required to be inspected prior to clearance and release. The requirements of all agencies are satisfied through a single inspection and there must be no duplication of the inspection process.

ARTICLE 9.-

In all cases, any decision to conduct a physical inspection of consignments shall be based on identified risk and conducted as a single inspection. CED shall prepare this inspection report.

CHAPTER3

INTER-AGENCY AGREEMENTS

ARTICLE 10.-

Inter-agency agreements are to be introduced between CED and other specialised agencies, including CamControl, MOC, MOH, MAFF and MIME, which detail their respective roles and responsibilities.

ARTICLE 11.-

The inter-agency agreements must address the circumstances under which CED should refer details of the consignment to specialized agency representatives and the way in which such referrals are to be made.

ARTICLE 12.-

The inter-agency agreements will identify the specific products and commodities for which specialized agency representatives have been given policy responsibility by the RGC through reference to their tariff classification at the eight digit level of the Customs Tariff of Cambodia published by the Ministry of Economy and Finance.

ARTICLE 13.-

The inter-agency agreements must ensure that any decision to examine consignments is based on identified risk, in accordance with this Anu-Kret.

ARTICLE 14.-

Where specialized agency representatives who have export and import operations management responsibilities require particular expertise not available within CED and Camcontrol, experts from the relevant agency shall be made available on a request by CED.

CHAPTER4

RISK-BASED OPERATING PROCEDURES

ARTICLE 15.-

All relevant agencies are to develop and adopt risk based operating procedures relating to the import, export, transport and storage of goods in accordance with the following principles:

1. Only those consignments that have been identified as presenting a high risk should be selected for examination. The examination should not proceed beyond that which is necessary to confirm or refute the initial assessment.

2. In relation to trade documentation:

    - Documentation requirements should be the minimum necessary for authorities to carry out their responsibilities;
    - Documents should only be required to be lodged once; and
    - Traders should be able to lodge clearance documentation at the point of import, export or clearance.

3. Examination of import or export documentation should precede any physical inspection of cargo. This may confirm or refute concerns about potential risks.

4. Pre-arrival screening and clearance should be implemented where traders have the ability to provide relevant documentation prior to the arrival of goods.

5. Post clearance audit shall be utilised wherever possible.

6. Cargo maybe inspected away from the border Control Point where appropriate.

ARTICLE 16.-

To support the effective management of risk, all specialized agencies are to be provided with access to import and export statistics collected by CED and relating to the import and export of goods for which they have responsibility.

CHAPTER5

IMPLEMENTATION, MONITORING AND EVALUATION ARRANGEMENTS

ARTICLE 17.-

All specialized agency representatives will:

1. Undertake assessments of the management status of export and import operations and develop action plans that address potential areas of cooperation and coordination between relevant agencies;
2. Develop, implement and publicise interagency guidelines and support these through formal interagency agreements;
3. Revise their operational procedures to ensure that all clearances are based on the principles of risk management, thereby reducing the number of inspections conducted, and
4. Consult with the private sector in relation to these initiatives.

ARTICLE 18.-

The Sub-Steering Committee for Trade Facilitation, under the Steering Committee for Private Sector Development, shall be responsible for monitoring and evaluating the implementation of this Anu-Kret.

CHAPTER6

FINAL PROVISIONS

ARTICLE 19.-

Future regulations in respect to inspections and clearances of goods for import and export must be consistent with the Policy and Strategy to Facilitate Trade through Risk Management.

ARTICLE 20.-

Guidelines for implementation of risk management in Royal Government of Cambodia ministries and agencies involved in importation and exportation formalities are included in Attachment.

ARTICLE 21.-

Any regulations that contradict this Anu-Kret shall be annulled.

ARTICLE 22.-

The Minister of the Office of the Council of Ministers, Minister of Ministry of Economy and Finance, Minister of Ministry of Commerce, ministers, secretaries of state of relevant ministries and agencies, provincial/municipal governors and the Steering Committee for Private Sector Development shall be responsible for implementing this Anu-Kret according to their respective responsibilities.

Phnom Penh, 01 March 2006

Prime Minister

Signature & Stamp

Hun Sen

Cc:

- Ministry of Royal Palace
- Senate General Secretariat
- Parliament Assembly General Secretariat
- Prime Minister Cabinet
- As article 22
- Archive

Attachment

to the Sub-Decree No. 21 dated 01 March 2006

Guidelines for Implementation of Risk Management in Royal Government of Cambodia ministries and agencies involved with importation and exportation formalities

The purpose of these guidelines is to assist Royal Government of Cambodia ministries and agencies to implement risk management programs that will significantly improve trade facilitation security and control of import & export operations at international border checkpoints.

The Royal Government of Cambodia has taken a significant step sets down a priority the implementation of a risk management strategy and the single window mechanism for processing import and export cargo. In this identification all ministries and agencies shall implement a risk management strategy based on international best practice and stated that, in future, "any decision to inspect consignments must be based on identified risk according to administrative guidelines."

The identification also directs that the Customs & Excise Department is to be a single leading agency with responsibility for inspecting goods at the international border checkpoints and if there is a need for more than one agency to inspect goods, based on valid risk assessment criteria, then the examination is to be carried out as a "single, joint agency examination under the coordination of the Customs and Excise Department."

Background

Risk management is a logical and systematic method of identifying, analyzing and managing risks. In the international border control context it is the systematic application of management procedures and practices to provide agencies with the necessary information to address movements or consignments which present a risk.

There are a number internationally recognized risk management standards used in various industries such as insurance and engineering. The legal basis for application of risk management in a customs environment is set down in Chapter 6 of the General Annex[1] of the Revised Kyoto Convention. The risk management model described in the Convention is based on the Australian/New Zealand Standard (AS/NZS 4360:1995) which was adopted by the World Customs Organization.

The Royal Government of Cambodia has committed government ministries and agencies to implementing international best practice in the area of risk management and as such it is intended that all government ministries will adopt this standard[2]. This will provide a level of national consistency that is one of the keys to successful implementation of this initiative.

[1] Extracts at Appendix 2
[2] Australian/New Zealand Standard (AS/NZS 4360:2004)

In the Cambodian context, implementing risk management means that all ministries and agencies will need to develop a change management strategy that incorporates an education and awareness training package for all staff. The importance of high-level political support and corporate commitment cannot be over-stressed.

All future inspections will be undertaken only once, irrespective of the number of agencies with an interest in the goods. The new operating environment introduces the concept of policy agencies being able to specify what service is required at the international border check point, how it will be delivered and the form of reporting that should accompany the examination. The policy ministries or agencies are the "service receivers" and agencies such as Customs & Excise and Camcontrol are the 'service providers'.

Implementing Risk Management

Most border agencies are reluctant to move to a processing environment that involves release of goods without examination. However, as trade increases and Regional Trade Agreement (RTAs) multiply, there are no immediate alternatives to risk management if government is to maintain security at the border and improve cargo clearance procedures and regional trading initiatives.

Border agencies must come to terms with operating in this new environment. The selection of goods, means of transport, or documents for examination, must be based on risk profiles that have target specific transactions. Such selectively based procedures can also permit a random selection based on statistical sampling or an officer's input based on experience or intuition. A transaction can be targeted on the basis of any number of risk profiles.

The selection of persons and companies for audit can also be based on risk profiles. Audits can be conducted for compliance verification purposes in the areas of tariff valuation, origin of goods, tariff classification, duty relief, and remission programs, etc., but other areas should be targeted as necessary. Depending on the profile of the company or person being audited the audit may be conducted on a continuous, cyclical or occasional basis. Once an agency has adopted a risk management philosophy, it will become an integral part of selectivity, profiling and targeting for assessing risk.

Selectivity criteria for dutiable goods may include the history of the importer, exporter, carrier, agent, etc., the origin and routing of the goods, and prohibitions, restrictions or particular issues that impact on risk.

Risk indicators are specified selectivity criteria such as specific commodity code, country of origin, country of consignment, licensing indicator, value, trader, level of compliance, type or means of transport, purpose of the stay in the customs territory, financial consequences and financial situation of the trader and person.

Risk profiling is the means by which border agencies put risk management into practice. It replaces regimes that demand 100% examination of all goods with systematic and scientifically based examination of documents and goods, thus maximizing the use of border agency resources and providing maximum facilitation of trade.

The risk profile can include a description of the risk area, an assessment of the risk, the counter-measures to be taken, an action date, the results and an evaluation of the effectiveness of the action taken. This information is the outcome of Cambodia's policy and operational ministries and agencies moving to a risk-based approach to international trade facilitation and border control.

Once established, the profiles along with other information will provide a basis for targeting potentially high risk movements of consignments and means of transport.

The private sector, including importers, exporters, express couriers and customs brokers are an important ingredient to the success of a risk based approach to cargo clearance arrangements.

Providing information on documentary and clearance requirements to the private sector is a key factor in implementing a sound risk based system. "Informed compliance" is the term used internationally when referring to the role played by clients of the border agencies. The border agencies should expect importers, exporters, express couriers and brokers to be compliant with the law relating to the import and export of goods providing this information is in the public domain and updated on a needs basis.

The Guidelines

Guideline 1: Implementation of Risk Management

Ministries and agencies will implement risk management regimes within their own organisation and in accordance with the Australian/New Zealand Standard (AS/NZS 4360:2004) which was adopted by World Customs Organization. The establishment of risk management units will provide in-house experts to conduct awareness training for staff and expertise to develop operational risk management plans.

Guideline 2: Development and communication of Profiles and Targets of Risk Management

Each agency will develop a detailed risk management plan (Guideline1) to identify high risk goods or means of transport crossing the international border. The risk assessment process will include developing and implementing domestic surveillance and compliance programs.

Guideline 3: Role of the single leading agency with responsibility for inspecting goods at the international border checkpoint.

CED is a single leading agency with responsibility for inspecting goods at the international border checkpoint and if there is a need for more than one agency to inspect in accordance to risk identified, this inspection must be carried out as a single, joint-agency examination under coordination of the Customs and excise department.

Guideline 4: Inter-Agency Agreements (IAA)

Inter-agency agreement is established in order to formalize the arrangements between operational and policy agencies. This document sets down the key objectives of each ministry and agency and designates the services required at the international border and the services to be provided by the border agencies.

Guideline 5: List of Prohibited and Restricted Goods

Each ministry and agency with policy responsibility for prohibited and restricted goods will develop a master list for submission to the Customs and Excise Department. The list will specify the action to be taken by border agencies when goods are imported or exported.

The Customs and Excise Department will classify the goods according to the Harmonized System (HS) based Cambodian Tariff.

The master list of classified goods will be communicated to all international border checkpoints and included in the risk management module of ASYCUDA.

The policy agency will continually monitor the master list and as required, communicate additions or deletions to the Customs and Excise Department.

Guideline 6: Monitoring and Reporting

CED and Camcontrol will jointly collate information on the number of declarations lodged and subsequent physical inspections undertaken. The information will be placed into a database and a report prepared and sent to the Prime Minister and Ministers with representatives on the Inter-Agency Coordination Group every month. The report must include detail of progress against examination reduction targets that are set by RGC not to be over 50% of imports and exports by the end of 2006 and 25% by the end of 2007.

Explanation of the Guidelines

Guideline 1:

Ministries and agencies will implement risk management regimes within their own organisation and in accordance with the Australian/New Zealand Standard (AS/NZS 4360:2004) which was adopted by the World Customs Organization. The establishment of risk management units will provide in-house experts to conduct awareness training for staff and expertise to develop operational risk management plans.

(1) All agencies will complete and continually review its strategic risk management plan[3]. This document sets down strategic risks identified by all agencies with operational and policy responsibility for goods crossing the international border.

(2) The Strategic Risk Management Plan should be copied and circulated to all work areas within a ministry or agency.

(3) Each agency or department will establish a Risk Management Unit (RMU) responsible for developing and coordinating risk management plans and risk management training.

[3] Strategic Risk Management Plans were completed in December 2005.

(4) The RMU will assist work areas to prepare operational risk management plans. The plans will identify high risk goods together with recommended risk treatments. This information will be communicated to CED in an agreed format.

(5) When specific tactical information impacting on imports or exports is passed to a policy agency, this information should be communicated to the CED with instructions detailing any action required at the international border check point. CED will provide a report to the originating agency detailing the result of any inspection or action undertaken.

Guideline 2:

Each agency will develop a detailed risk management plan (Guideline1) to identify high risk goods or means of transport crossing the international border. The risk assessment process will include developing and implementing domestic surveillance and compliance programs.

(1) Each agency will develop operational risk management plans.

(2) Agencies will develop domestic surveillance plans and compliance programs[4].

(3) Both the risk management plans and the domestic surveillance program will produce information regarding goods that may have contravened import regulations.

(4) When analysed, this information will be sent to CED in the form of a value identification or information report for inclusion in a consolidated border check list[5].

Guideline 3:

The Prime Minister's SCD 90 calls for inspections to be based on identified risks. CED is to coordinate inspections to ensure there is no duplication.

(1) Importers and exporters must only be required to submit one set of documents. These documents must be submitted to CED.

(2) Based on risk profiles and these administrative guidelines CED will:

- clear a consignment;
- undertake specific action (e.g. further documentary checks, scanning or physical inspection) where it is within their mandate and competency to do so; or
- refer details of the consignment to the representatives of other specialized agencies for their consideration of the need for additional information, for CED to undertake inspection on their behalf or for other specific action. If the representative of the specialized agencies does not respond to the CED in 8 hours after the details of the consignments information sent, CED can independently inspect the consignments.

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[4] Appendix 2 contains a more detailed explanation of compliance measurement process.

[5] Includes Restricted and Prohibited Goods.

- CED will record details of the examination for inclusion in the joint monthly report to RGC (see Guideline 6).

(3) CED will undertake the normal registration, checking and duty collection as well as checking the nominated goods in the declaration against Consolidated Restricted and Prohibited Goods list.

(4) CED and Camcontrol should collocate officers to undertake the screening process to identify high risk goods which fall into either of the two following categories:

a. Goods designated as high risk through agency assessments

b. Specific consignments assessed as high risk by individual agencies

(5) No physical inspection will be undertaken until the documentation has been jointly assessed by CED and Camcontrol. Each agency must agree and sign off on the decision to release cargo without inspection.

(6) If a trader requests an examination be conducted away from the border check point, CED will coordinate the examination, subject to an assessment of the risk which will include any risk in moving the goods away from the border and the availability of agency staff.

(7) Consideration should be given to developing detailed Standard Operating Procedures (SOPs) for all activities performed at international border check points or processing centers.

Guideline 4:

To formalize the arrangements between operational and policy agencies an inter-agency agreement has been developed. This document sets down the key objectives of each ministry and agency and designates the services required at the international border and the services to be provided by the border agencies.

(1) Each agency has identified its key objectives in its Strategic Risk Management Plan. These objectives are reflected in the Inter-Agency Agreement.

(2) Each Inter-Agency Agreement will nominate a ‘service provider’ and ‘service recipient’.

(3) The agreement specifies what “services” will be provided at the international border by border agencies and what “services” are expected by policy and technical ministries.

(4) The agreement should be signed by the most senior officials or representatives.

(5) In the first six months of operation, the agreement should be regularly reviewed by the High-Level Inter-Agency Coordination Group in order to address any implementation issues relating to levels of service delivery.

Guideline 5:

Each ministry and agency with policy responsibility for prohibited and restricted goods will develop a master list for submission to the Customs and Excise Department. The list will specify the action to be taken by border agencies when goods are imported or exported.

The Customs and Excise Department will classify the goods according to the Harmonized System (HS) based Cambodian Tariff.

The master list of classified goods will be communicated to all international border checkpoints and included in the risk management module of ASYCUDA.

The policy agency will continually monitor the master list and as required, communicate additions and/or deletions to the Customs and Excise Department.

(1) CED classification experts will classify all prohibited and restricted goods according to the Harmonized System (HS) based Cambodian Tariff.

(2) Information from all agencies will be consolidated by CED and communicated to all international border checkpoints and processing centers.

(3) A copy of the consolidated information will be passed to all ministries and agencies. The information will be made available to the general public by publishing on a government website or in a printed format .

(4) Each agency will provide specific instructions as to what action is required if the goods on the list are encountered at the international border.

(5) Where an agency "specialist" (e.g. Vetinarian, Doctor of Medicine, Electrical Engineer) is required to do any specific examination and this not present within CED, such expertise will be made available upon request.

(6) CED will be the single point of contact for all agencies for communicating information related to high risk goods. This may take the form of nominating a facsimile number, a telephone number and/or a 24 hour mobile number to communicate requests for action at the border. CED in Phnom Penh will consolidate the contact information and circulate to all CED/Camcontrol senior staff at international border checkpoints and processing centers. Similarly, all agencies tasking CED must provide contact details to enable appropriate operational contact.

Guideline 6:

CED and Camcontrol will jointly collate information on the number of declarations lodged and subsequent physical inspections undertaken. The information will be placed into a database and a report prepared and sent to the Prime Minister and Ministers with representatives on the Inter-Agency Coordination Group every month. The report must include detail of progress against examination reduction targets set by RGC.

(1) CED and Camcontrol will jointly develop a national reporting system for import and export data management. The information to be collected must include the following:

  i. Number of declarations lodged (including PSI)

ii. No. of declarations selected for physical examination (including PSI)

(2) CED and Camcontrol will use the above information to develop a monthly report for the Prime Minister and Ministers with representatives on the Inter-Agency Coordination Group.

(3) The first report will act a baseline for establishing the number of physical examinations currently undertaken at international border check points by all agencies. Subsequent reports will indicate the result of the performance of agencies against the RGC inspection targets.

APPENDIX 1[6]

The Australian/New Zealand Standard provides a generic guide for managing risk. This Standard may be applied to a very wide range of activities, decisions or operations of any public, private or community enterprise, group or individual. In the Cambodian context, agencies such as Camcontrol, MAFF, MIME and MOH can adopt this standard and fully meet all the requirements of the RGC.

The Standard specifies the elements of the risk management process, but it is not the purpose of this Standard to enforce uniformity of risk management systems. It is generic and independent of any specific industry or economic sector. The design and implementation of the risk management system will be influenced by the varying needs of an organization, its particular objectives, its products and services, and the processes and specific practices employed.

This Standard should be applied at all stages in the life of an activity, function, project, product or asset. The maximum benefit is usually obtained by applying the risk management process from the beginning. Often a number of discrete studies are carried out at different times, and from strategic and operational perspectives. The process described here applies to the management of both potential gains and potential losses.

Key Elements

The key elements of the risk management process, as shown below and include the following:

(a) Communicate and consult - Communicate and consult with internal and external stakeholders as appropriate at each stage of the risk management process and concerning the process as a whole.

(b) Establish the context - Establish the external, internal and risk management context in which the rest of the process will take place. Criteria against which risk will be evaluated should be established and the structure of the analysis defined.

(c) Identify risks - Identify where, when, why and how events could prevent, degrade, delay or enhance the achievement of the objectives.

(d) Analyse risks - Identify and evaluate existing controls. Determine consequences and likelihood and hence the level of risk. This analysis should consider the range of potential consequences and how these could occur.

(e) Evaluate risks - Compare estimated levels of risk against the pre-established criteria and consider the balance between potential benefits and adverse outcomes. This enables decisions to be made about the extent and nature of treatments required and about priorities.

(f) Treat risks - Develop and implement specific cost-effective strategies and action plans for increasing potential benefits and reducing potential costs.

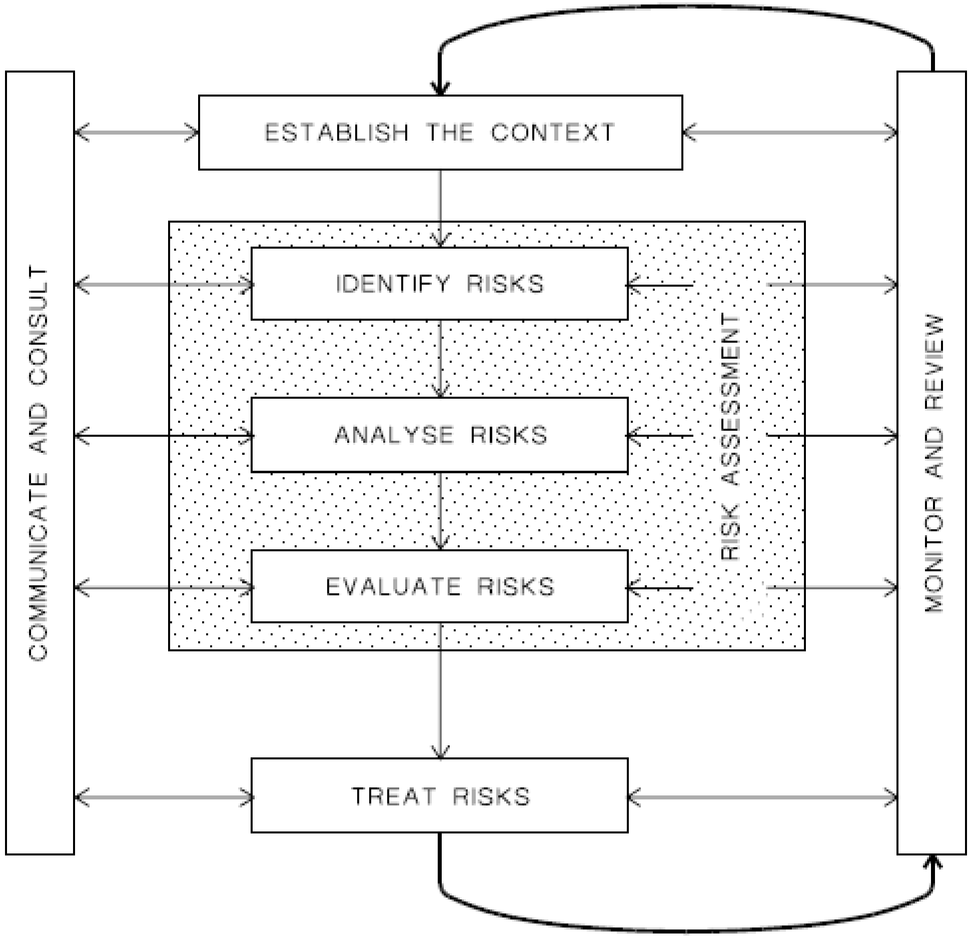
(g) Monitor and review - It is necessary to monitor the effectiveness of all steps of the risk management process. This is important for continuous improvement. Risks and the effectiveness of treatment measures need to be monitored to ensure changing circumstances do not alter priorities.

[6] Australian/New Zealand Standard (AS/NZS 4360:2004)

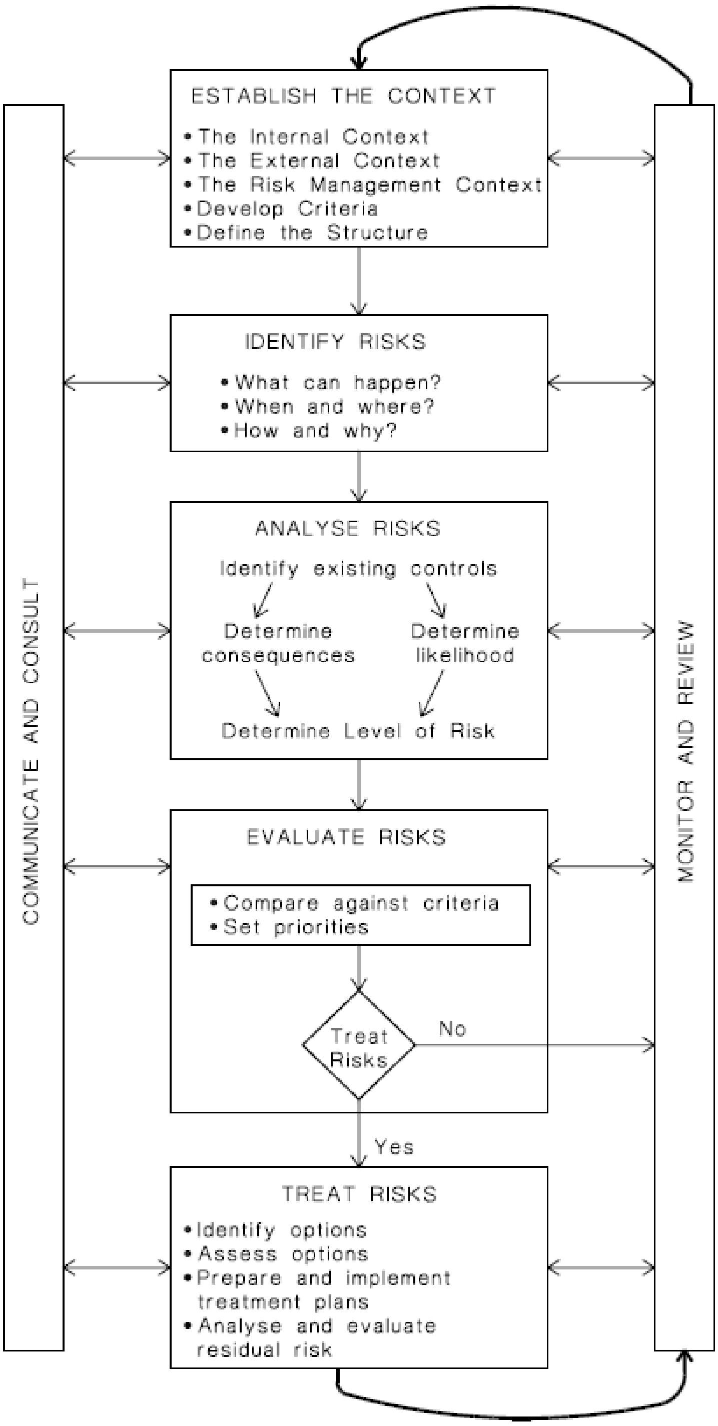
Risk management can be applied at many levels in an organization. It can be applied at a strategic level and at tactical and operational levels. It may be applied to specific projects, to assist with specific decisions or to manage specific recognized risk areas.

For each stage of the process records should be kept to enable decisions to be understood as part of a process of continual improvement.

Risk Management Process - Overview



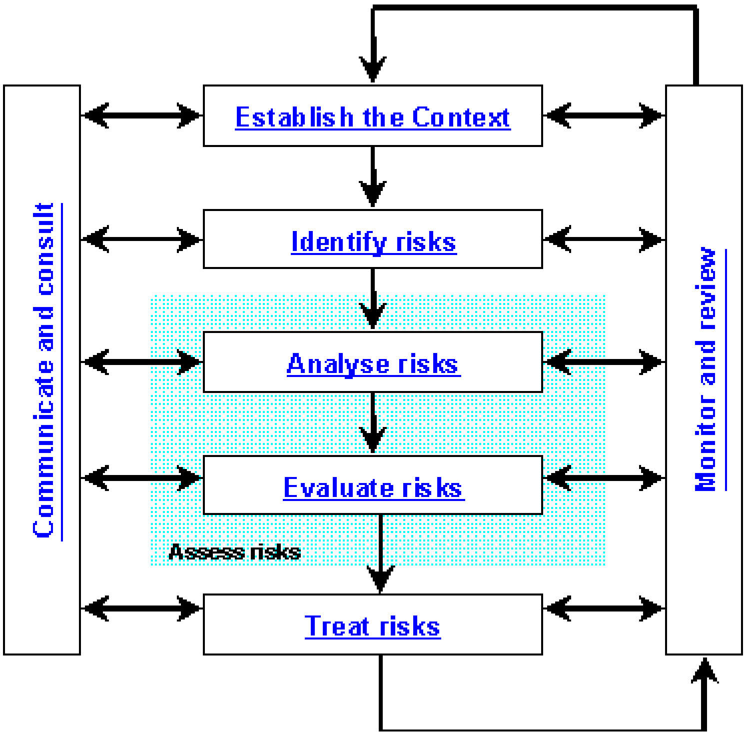
Risk Management Process – In Detail



APPENDIX 2[7]

The risk management process

The risk management process comprises the establishment of the risk management context, risk identification, risk analysis, risk assessment, addressing the risks and monitoring and reviewing the process through compliance measurement.



(a) Establish the context

This step establishes the strategic and organizational context in which risk management will take place. Risk areas have to be identified and criteria against which risk will be assessed established and the structure of the analysis defined.

Risk management within Customs can be strategic, operational or tactical. It should be remembered that the risk management process can apply across all of these levels.

Strategic risk management - By studying comprehensive information, Customs administrations can identify areas of risk, sift out those of minor importance, and intervene only where experienced and practical judgment indicates it is necessary.

Risk areas in the Customs context can include social issues (exclusion of drugs, pornography etc), import/export prohibitions and restrictions (e.g. CITES), public health, environment, commercial policy measures (e.g. IPR, GSP), quotas, and duty and tax issues.

Operational risk management - is the determination of the level of control necessary to deal effectively with the assessed risk. An example of this is determining the audit controls applied to an

[7] WCO Revised Kyoto Convention, General Annex Guidelines, Chapter 6 – Customs Control.

importer or how to deploy limited staff and equipment effectively. Using this approach the Customs moves from being a "gatekeeper" checking every movement, to checking only selected movements which demonstrate the greatest risk.

Tactical risk management - is used by officers at their workplace in dealing with immediate situations. Using set procedures combined with intelligence, experience and skill, they decide which movements require greater controls.

(b) Identify risks

Identify what, why and how risks can arise as the basis for further analysis. This step requires an in depth description of the current control process, to include:

- participants/clients/stakeholders;
- strengths and weaknesses;
- where, when, how is the risk likely to be incurred and by whom;
- what are the threats and their impact in case of circumvention;
- why do opportunities arise for circumvention.

(c) Analyse risks

Determine controls and analyse risks in terms of likelihood and consequence. The analysis should consider:

- how likely is an event to happen; and
- what are the potential consequences and their magnitude.

Combine these elements to produce an estimated level of risk. Customs should apply compliance measurement to support this function.

If the estimated levels are low, then risks may fall into an acceptable category and action may not be needed.

(d) Assess and prioritise risks

Compare estimated levels of risk against the pre-established criteria. Rank the risks to identify management priorities. There are different types of ranking systems. The assessment into HIGH, MEDIUM, and LOW is widespread. In complex environments a more detailed system may be needed, such as a range from 1 to 100. The latter also requires the determination of high and low risks but allows for more precision.

Risks must be continually monitored for any change in their nature, level or significance.

(e) Address risks

Accept and monitor low-priority risks. For other risks, develop and implement a specific management plan which includes consideration of resources (human, financial and technical).

(f) Monitor and review - Compliance measurement

Monitor and review the performance, effectiveness and efficiency of the risk management system and changes which might affect it.

To remain effective any system of risk management has to test the assessment of previously identified risks and be flexible enough to reflect newly identified risks. Evaluation of the effectiveness of risk management should be undertaken regularly at all stages. The success rate is an important criterion for evaluating the effectiveness of the risk profiles. Evaluation and review should be carried out by Customs through a regular compliance measurement process. It can also be carried out through external government audits by statutory audit authorities, such as the Comptroller or Auditor General. Although the scope and methodologies of these reviews differ, their objective is to identify weaknesses in the control program and to make recommendations for improvement.

Risk indicators are emerging all the time. Customs should keep them up to date by accessing various information sources such as the WCO Enforcement Bulletin, international databases on trader information (e.g. Dun & Bradstreet, Lloyd's Shipping register), etc.

Risk profiles should be reviewed at regular intervals to ensure that they are always up to date, and to rid the system of information that is no longer relevant. It is important also to retain unannounced random inspections because the companies that have established good relationship with Customs will be aware of profiling methods or sometimes the profiles themselves. These random checks can also provide a cost effective means of identifying other types of risk and of monitoring or estimating their significance, or any changes in the risk pattern.

Review and evaluation within the risk management process should be incorporated into a regular review procedure to measure, assess and evaluate the effectiveness of the overall Customs control program and should take into account the findings of external government audits.

Staff at all levels should be involved in these regular reviews. Feedback from staff is essential so that constant validation can take place and the necessary updating can be applied.

(g) Documentation

There should be a risk register which gives the rationale behind selecting the risks, and records the assumptions on which assessments have been made, to establish an audit trail that ensures important information is not lost.

- Quota	- kind of goods	- textiles under quota	textiles under quota AND/OR
- GSP	- country of origin	- specific country of origin	specific country of origin AND/OR
- CITES	- transport route	- unusual transport route	unusual transport route AND/OR
- Trader	- principal	- specific principal	specific principal
- etc.	- etc.	- etc.	

Compliance Measurement Areas

Using the risk management program, Customs should identify the priority areas to focus their resources. One approach is to consider that in some countries or economic unions, as much as 10% of the traders account for over 80% of the imports and exports. By focusing on the top 5-10% of these highest volume manufacturers, importers, exporters and commodities, Customs can ensure that those which have the most significant impact on the national economy are being reviewed most effectively.

The areas may include:

Documentary issues:

- Proper tariff classification by traders,
- Proper valuation by traders,
- Country of origin.

Procedural issues:

- Importation and exportation (from the goods declaration through revenue collection),
- Transit operations,
- Warehousing, Free Trade Zones, Processing.

Revenue issues:

- Timely and accurate revenue payments,
- Proper posting of securities.

Transport issues:

- Accurate reporting of the quantity of goods,
- Accurate description of goods on the manifest and/or transport document,
- Accuracy of container quantities and identification numbers,
- Transporter compliance.

Specific concerns:

- Compliance by tariff identification numbers ,
- Public health and safety issues,
- Intellectual property rights and copyright issues,
- Compliance with trade agreements,
- Proper country of origin marking on goods,
- High revenue commodities,
- Selected traders.

The Measurement Process

Customs gathers data from a variety of sources, both internal and external, and through both manual and automated means. With the data (import and export records), the tools (statistical analysis) and the methodology (systematic analysis of large traders or commodities), Customs can make reasonable, informed conclusions about the compliance rates of many entities. These rates can be determined for each step of a transaction process, e.g. for imports, from the manifest to the goods declaration to the collection of duty and taxes. The automated systems that Customs uses to evaluate high risk shipments can support the compliance review requirements for a scientific approach to accurate data collection, analysis and projections, although compliance rates can also be effectively measured without automation.

Customs should determine a designated universe of transactions and, using a statistically valid sampling methodology, select the specific transactions or entities from this universe for review or verification. Depending upon the results, the universe may be modified in many ways.

Customs must also determine the level of compliance which is acceptable. For example, a compliance rate of 95% of the transactions or entities reviewed in a given area may be the acceptable level for an administration. This can also be called the level of tolerance.

Some of the transaction processes for compliance verifications would be:

- Goods declaration compliance;

- Trader compliance;
- Transit compliance;
- Free zone or warehouse compliance;
- Manifest and transport document compliance;
- Transporter Compliance.

Below are a few factors that should be considered during a verification review for a selected example of these processes.

Goods Declaration Compliance

a) Is there evidence of documentation to support an accurate goods declaration?

b) Do the quantities declared match what is contained in the consignment?

c) Does the declared country of origin match the country of origin marking on the goods?

d) Does the declared description of the goods match the actual goods?

Thus, a typical Compliance Measurement review relating to Intellectual Property Rights for a selected commodity, at a tolerance level of 95%, might progress as follows:

a) Conduct a statistically valid random sampling of goods declarations for the selected HS number.

b) If the resulting compliance rate is less than 95%, conduct another measurement of the same HS number but stratified by selected countries of origin.

c) For countries of origin found to have a compliance rate of less than 95 %, conduct a measurement for each of the major importers.

d) For importers found to have a compliance rate of less than 95 %, Customs should seek to:

   - Inform the importer (“informed compliance”),
   - Establish profiles/targets for the identified areas of non-compliance,
   - Conduct subsequent measurements to ensure that the importer has corrected the problem,
   - Conduct more reviews and/or examinations, and
   - Issues fines or penalties, if appropriate, in cases of continued noncompliance.

Use of Compliance Measurement Results within the Control Program

As stated earlier, compliance measurement is part of an effective Customs control program.

The use of statistically valid compliance measurement procedures can be used in various ways:

- Define any revenue gap

- Prevent widespread commercial fraud
- Assess performance by major key industries
- Assess performance by major importers and exporters
- Increase commercial compliance
- Accurately measure international trade

The results of these measurements can help direct resources effectively. In determining compliance rates for individual importers, those found to have high compliance rates may have their goods examined less frequently, while those having low compliance rates might have their goods examined more frequently.

The findings of compliance reviews for commodities, traders and industries provide information to update the existing selectivity criteria used to target high-risk transactions as well as the overall effectiveness of an administration’s risk management program. In addition, they contribute significantly toward determining trends and issues relating to specific industry sectors. The result should be that focused, up-to-the-minute analytical information is available to assist Customs officers in their daily activities.