

THE SECOND ASEM PROCEDURES WORKING GROUP

BRUSSELS, 16-17 MARCH 1998

1. The second meeting of the ASEM Procedures Working Group was held on 16-17 March 1998 in Brussels to discuss simplification of Customs procedures. The Working Group continued the work of the first ASEM Procedures Working Group and explored the issues identified by the ASEM Customs Directors General and Commissioners Meeting in its statement issued in Shenzhen on 21 June 1996.

2. Though the course of the discussions, several themes emerged from the discussion concerning customs procedures:

- Technical assistance and training is crucial for simplification of Customs procedures for the developing partners.
- The facilitation of trade through simplification of Customs procedures should not be pursued at the expense of enforcement of Customs laws and regulations.
- The simplification of Customs procedures is being discussed in many different forums and the ASEM partners should pursue its goals in concert with the other organisations.
- Simplifications and harmonisation of Customs procedures are not always compatible goals.
- More sophisticated working methods should be adopted to facilitate simplification of Customs procedures.

3. In order to pursue the objective of Customs simplification, several working methods were discussed:

- The use of information technology to complement and enhance Customs procedures simplification.
- The introduction of risk assessment techniques
- Increased use of post-audit system
- Increased co-operation among the different Customs services

4. The Working Group decided to limit its discussions to Import/Export procedures. Other topics, such as Transit procedures, rules for electronic commerce, warehousing, are areas that need to be discussed in this type of forum at another time.

Background

5. Since the first General Agreement in Tariffs and Trade (GATT) 50 years ago, the volume of international trade has increased by a factor of 14. There has been a drastic decrease in Customs duties from an average of 50% in 1948 to just 4% today. It is estimated that the invisible barriers to trade, such as procedural delays, lack of transparency and inconsistency of the rules, etc., can cost a trader between 3-10% of the value of the transaction. Unlike Customs duties, these administrative costs do not benefit government revenues and are, in essence, lost resources. The private sector greatly anticipates a rules based system that is predictable with standard documentation. A Customs service, however, cannot forget its responsibility for protecting society. The goal is to facilitate trade through the simplification of Customs procedures, but yet maintain or even strengthen enforcement of the Customs laws and regulations through the introduction of more sophisticated working methods.

6. The agenda, adopted by consensus, consisted of the following elements: (1) a review of developments in international Customs co-operation since the last ASEM Procedures Working Group meeting, (2) a discussion of the state of affairs in other international organisations concerning harmonisation and simplification of Customs procedures, (3) a review of conclusions of the second meeting of the Head of Customs administrations ASEM in June 1997, (4) and the identification of other areas of co-operation in regards to simplification and harmonisation of Customs procedures.

Presentation of Reports

7. Thailand, as chair of the ASEM enforcement working group, presented a report on its last meeting. The meeting was held the 6-7 February 1998 in Brussels with the objective of increasing Customs enforcement and co-operation between ASEM countries. Topics discussed included contraband trafficking, money laundering, firearms, and intellectual property rights.

8. The European Commission presented a report on the progress of negotiations concerning Customs co-operation and mutual assistance (CCMA). The Working Group noted progress made. The Commission was given a mandate in 1993 to negotiate CCMA agreements with its main trading partners (the USA, Canada, Japan, Korea and Hong Kong) and this authority has been extended in 1997 to all other ASEM partners. The EU has a CCMA agreement with Korea, Canada and the United States, will begin negotiating an agreement with China and Hong Kong in June 1998, and is hoping to negotiate agreements with Japan and with the ASEAN countries. The goals of these agreements are to facilitate trade through the exchange of personnel, information and technical assistance and to fight fraud through mutual assistance.

9. Community competence versus EU member-state competence is difficult for the Asian partners to discern. Some Asian partners hoped to avoid a situation where separate CCMA agreements would have been negotiated with the Community and individual EU member-states. Further, there was interest on the Asian side for agreement of the type that Japan has with the United States. The Community only has the power to make formal agreements; the Commission is not a proper Customs administration and thus, does not have the power to negotiate Memoranda of Understanding (MOU). The EU member states can negotiate MOU and have been concluding

Customs agreements with third-party countries. Currently, the Netherlands has a bilateral CCMA program with the People's Republic of China.

10. Some Asian partners expressed great interest securing technical training and assistance from the European side. Areas of particular concern were fraud, post-audit systems, and risk assessment. The EU has direct exchanges of personnel from one member state to another member state through the Matthaeus programme. For example, the Netherlands and the United Kingdom assisted Sweden with its risk assessment program. This program could be used as a model for technical exchanges.

11. The idea of establishing contacts between Japan and the European Commission to centralise information about their projects was raised. Japan volunteered to collect and distribute information on the Asian side, while the European Commission will for the European side.

Simplification of Customs Procedures in Other international Organisations

12. The Working Group noted the work progressing concurrently in other international organisations (e.g. the G7, APEC, OECD, WTO and WCO) in the realm of simplification of Customs procedures. It is viewed as way to facilitate trade and therefore, is an issue examined by many international organisations. So many organisations are involved in the standardisation, harmonisation, add simplification of Customs procedures and there may be a duplication of efforts among these organisations.

13. The Working Group noted the status of the revision of the Kyoto Convention by the World Customs Organisation (WCO). Provisions of the Convention and its annexes are being examined by the WCO. There are 1500 reservations to these annexes. Out of the 150 WCO members there are only 61 contracting parties, but- these countries represent over 97% of total world trade. Out of the 31 annexes, 20 annexes have been accepted by the European Community and have entered into the Community Customs Code. The revised Kyoto Convention should be submitted to the WCO Council in June 1999.

14. The G7, under the UK presidency, is seeking to harmonise the data set for imports and exports. As Customs duties fall, other criteria (e.g., statistical information) grow more visible. A data set of less than 100 items has been agreed upon and the EDIFACT format has been accepted. The G7 does not have the institutional tools and permanent structures to manage this type of work in the long-term, but does offer the political impetus to give the process momentum. The UK was confident that the G7 will meet the Denver challenge in the report to the Birmingham Summit. After the Birmingham Summit, the G7 plans to look into other procedural Customs issues, such as warehousing and transit.

15. The Working Group also commented on the World Trade Organisation's (WTO) Geneva Trade Symposium on Trade Facilitation. The next WTO ministerial symposium will identify the business

community's views on obstacles to trade. The invisible barriers to trade, such as tedious documentation, procedural delays, lack of predictability and security, inconsistency of rules and lack of transparency can cost a company between 3-10% of the cost of the transaction. Unlike Customs duties, which raise government revenues, invisible administrative barriers bring no benefits. The private sector has high expectations for strong WTO intervention. Various trade organisations explained their work on trade facilitation in the Trade Symposium, and there appears to be a great amount of overlap between these organisations.

16. The Asian partners briefed the working group on developments in the Asia-Pacific Economic (APEC) forum's Subcommittee on Customs Procedures (SCCP). This committee has been active in creating the blueprint for APEC harmonisation increasing technical assistance activities among APEC members. Three new elements have been added to the APEC/SCCP common action plan. the identification of common data elements, the introduction of risk management techniques, and the creation of express clearance based on WCO guidelines. APEC has developed a tariff database with the tariff schedules for 18 members based on the national databases plus the tariff quota, summaries of the Customs legislation and list of contact points. Internet access to this database is free and the database is being regularly updated. By the end of 1998, Russia, Peru and Vietnam will upgrade their observer status to become full members. Last year, a 100-page compendium was developed on the rules of origin. and is also available on the Internet.

Discussion

17. The working group then reviewed the Trade Facilitation Action Plan (TFAP) principles and objectives. The first objective discussed was the alignment of tariff nomenclature to the revised 1996 version of the Harmonised System (HS). The needs of translation and correlation of the Asian partners were noted. The second objective was accession to the WTO Valuation Agreement. Not all Asian partners are members of WTO, and some WTO members have a transitional period to apply the valuation code. In the approved draft of the "Senior Officials Meeting on Trade and Investment," there was a section on Customs procedures that promotes simplification, harmonisation transparency, and predictability. As a way to promote transparency, it was discussed having a database similar to the APEC database with Tariff Schedule based on HS, tariff quotas, rules of origin and Customs legislation. The EU already possesses the Taric database, but it is not available to the public. Databases are expensive to maintain but are one of the best ways to make the system transparent (i.e., clarification of Customs law). Perhaps, the possibility of using the WCO as a good focal point for all the databases to avoid having several different sources. Unlike APEC, ASEM does not have a permanent secretariat making it extremely difficult for this group to implement a database.

18. The Working Group discussed the future role of a Customs service. The Customs service has the role of protecting a society through control of goods crossing international borders and collecting information and this role will continue even as procedures are simplified. As Customs procedures are simplified and harmonised, these effects could be nullified if the requirements of other organisations increase. This raises the questions of how to manage other government agencies' controls and what role Customs will play in the future. Customs is the focal point of controls for all other agencies and is charged with protecting society through inspection, control and examination.

19. The Working Group noted that simplification is not always compatible with harmonisation. Harmonisation implies agreement between the different Customs regimes and a particular regime may desire to simplify its Customs procedures further than its trading partners do. The business community on the other hand may prefer harmonisation to give it predictability in its trading transactions.

20. The working group recognised the challenges for national Customs administrations. Some developing countries rely on Customs duties as a major source of government revenue and fear that procedures simplification could lead to a reduction of revenue.

Plan of action

21. The Working Group discussed the need for guidelines for a partnership with the private sector and is actively seeking private sector contribution. To this end, the Working Group discussed the organisation of a seminar with the private sector in accordance with point 9 of the Vienna Declaration (June 1997). Having a seminar with the business community in late 1998 or early 1999 in the Philippines was proposed. The seminar should take place before the third meeting of this Working Group so that a report can be made. The main topics would be simplification and harmonisation of customs procedures and their contribution to the trade facilitation. Each Customs administration would invite a certain number of private sector representatives. The Philippines will ask the Asian Development Bank for financial support; however, the ADB is occupied with the Asian financial crisis. It was hoped that the possibility of continuation of such seminars should be considered based on the outcome of the 1st seminar in late 1998 or early 1999.

22. It was agreed that the European Commission, as the chair of the Procedures Working Group, will prepare a draft report of this meeting.

23. It was decided that the next meeting of the Working Group would be held earlier in 1999 in Asia. The ASEAN Heads of Customs are meeting in January/February 1999 and the possibility of holding the third meeting of the ASEM working group directly after the ASEAN meeting was discussed. The Working Group nominated two co-ordinators to distribute information: the European Union on the European Side and Korea on the Asian side.

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