



Asia-Pacific
Economic Cooperation



APEC CUSTOMS - BUSINESS DIALOGUE

**5th September 2006
Furama Resort, Da Nang, Viet Nam**

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APEC Project CTI 05/2005T

Produced for
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APEC Customs - Business Dialogue

5 September 2006, Furama Resort, Da Nang, Viet Nam

Programme

Theme: Improving a Secure and Favourable Business Environment through an Enhanced Partnership and Cooperation between Customs and Business Community

Monday 4 September 2006

13:00-18:00 Registration of participants (Venue: Furama Resort, Da Nang)

Tuesday 5 September 2006

Opening Ceremony

(Venue: Furama Resort, Da Nang)

08:00-09:15 Registration of participants

09:15-09:30 All Participants to be seated

09:30-09:40 Opening Speech
Mr. Kunio Mikuriya, Deputy Secretary General, World Customs Organization

09:40-09:50 Welcoming Remarks
Mr. Le Quoc An, APEC Business Advisory Council Member, Chairman of Board of Management, Viet Nam Textile Corporation

09:50-10:00 Welcoming Address
Dr. Vu Ngoc Anh, Deputy Director General of General Department of Viet Nam Customs, 2006 APEC SCCP Chair

10:00-10:15 Coffee Break

Session 1: International Trade Supply Chain Security and Trade Facilitation - Perspectives and Future Challenges for Customs and Business Community

(Venue: Furama Resort, Da Nang)

Moderator **Mr. Nick Small**, Director, Unisys Asia - Pacific

10:15-10:30 Global Efforts for Trade Security and Facilitation - Progress and Challenges

Mr. Kunio Mikuriya, Deputy Secretary General, World Customs Organization

- 10:30-10:45 ATA Carnet System: The Answer to Trade Facilitation and a Strengthened Customs-Private Sector Partnership
Mrs. Lee Ju Song, Director, International Chamber of Commerce Asia
- 10:45-11:00 Supply Chain Security in the Global Express Delivery Services Industry
Mr. Nguyen Duy Binh, Senior Manager, FedEx Express Indochina and Myanmar, Chief Representative, FedEx Express Viet Nam
- 11:00-11:15 Impact of the ASEAN Single Window in Trade Facilitation
Mr. Reynaldo S. Nicolas, Deputy Commissioner, The Philippines Bureau of Customs
- 11:15-11:30 The Benefits of Investing in Supply Chain Security: The IBM Experience
Mr. Andrew P. Jackson, Government Programs Executive, IBM Australia/New Zealand
- 11:30-11:45 **Ms. Dato Zaleha Hamzah**, Customs Adviser, Royal Malaysia Customs
- 11:45-12:00 Q and A and Discussion
- 12:00-14:00 Luncheon hosted by Viet Nam Customs
(Venue: Cafe Indochine Restaurant, Furama Resort, Da Nang)

Session 2: Enhanced Customs and Business Partnership for More Effective and Efficient Fight against Counterfeiting and Pirated Goods
(Venue: Furama Resort, Da Nang)

- Moderator** **Mr. Daniel Baldwin**, Assistant Commissioner, U.S. Customs and Border Protection
- 14:00-14:15 Enhanced Customs and Business Partnership for More Effective and Efficient Fight against Counterfeiting and Pirated Goods
Mr. Sivakant Tiwari, Chair of APEC Intellectual Property Experts Group
- 14:15-14:30 Global Efforts for Fighting Counterfeiting and IPR Piracy
Mr. Kunio Mikuriya, Deputy Secretary General, World Customs Organization
- 14:30-14:45 Innovation to Expand IPR Enforcement
Mr. Daniel Baldwin, Assistant Commissioner, U.S. Customs and Border Protection

- 14:45-15:00 Fighting against Counterfeiting and Pirated Goods: Papua New Guinea's Current Status and Experiences
Mr. David Wong, Director, Customs Brokers Association, Business Council of Papua New Guinea
- 15:00-15:15 Coffee Break
- 15:15-15:30 IPR Enforcement: Viet Nam Customs Current Experiences and Challenges
Mr. Nguyen Trong Hung, Deputy Director of Customs Supervision and Control Department, Viet Nam Customs
- 15:30-15:45 Enhanced Customs and Business Partnership for More Effective and Efficient Fight against Counterfeiting and Pirated Goods: Some Thoughts from the Business Sector
Mr. Andrew Hudson, Partner Hunt & Hunt Australia
- 15:45-16:00 Q and A and Discussion
- 16:00-16:10 Closing Remarks
Dr. Vu Ngoc Anh, Deputy Director General of General Department of Viet Nam Customs, 2006 APEC SCCP Chair

END OF DIALOGUE



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Economic Cooperation



Session 1

International Trade Supply Chain Security and Trade Facilitation Perspectives and Future Challenges for Customs and Business Community

**APEC Customs - Business Dialogue
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Moderator: Mr. Nick Small
Director
Unisys Asia - Pacific

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Global Efforts for Trade Security and Facilitation Progress and Challenges

**Mr. Kunio Mikuriya
Deputy Secretary General
World Customs Organization**

**APEC Customs - Business Dialogue
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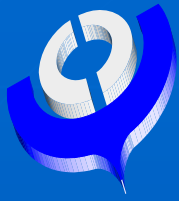
Session 1

Global Efforts for Trade Security and Facilitation – Progress and Challenges

**APEC Customs-Business Dialogue
(ACBD)**

5 September 2006, Da Nang, Viet Nam

**Kunio Mikuriya
Deputy Secretary General
World Customs Organization (WCO)**



Modern customs controls and risk management

- **Trade supply chain**
 - Physical movement of goods
 - Parallel movement of commercial data

- **Receive necessary information to perform risk assessment as early as possible in the global supply chain**
 - Time
 - Quality information
 - Good intelligence

- **Free and smooth flow of legitimate trade**
 - Compliant traders authorized for a simplified procedure



SAFE Framework of Standards

- **Four core elements**
 - Harmonize advance electronic cargo information
 - A consistent risk management approach
 - Outbound inspection of cargo by non-intrusive equipment
 - Partnership with business – Authorized Economic Operator

- **Supported by existing WCO instruments**
 - Revised Kyoto Convention
 - Customs Data Model
 - Revised Arusha Declaration on customs integrity etc.

- **Modernize customs and prepare for the 21st Century**



Authorized Economic Operator (AEO)

- **Approved by customs as complying with security standards**
 - **Share mutual responsibility in security**
- **Document adopted at Council in June 2006**
 - **A core or basic set of standards**
 - **Supplementary national requirements**
- **Tangible benefits**
 - **Faster clearance – reduced examination rates**
 - **Priority clearance – trade disruption or high threats**
- **Further review**
 - **Move towards mutual recognition**
 - **Implications on small and medium sized enterprises**



Revised Kyoto Convention

- **Blueprint for modern customs administrations**
 - Risk management, use of Information Technology etc.
 - Effective border control and facilitation for legitimate trade
- **Entry into force in February 2006**
 - Original 1973 Convention, revised in 1999
 - 50 Contracting parties (as of August 2006)
- **WTO proposals draw on and inspired by RKC**
 - WTO expected to provide political support for the implementation of RKC and other international standards on border procedures
 - Pro-business environment

World Bank Doing Business 2006

Trading across borders

-- Still room for improvement

	Export Documents	Export Signatures	Export Days	Import Documents	Import Signatures	Import Days
OECD	5	3	12	6	3	14
East Asia Pacific	6	7	25	10	8	27
Latin Am. Caribbean	7	7	30	10	11	37
Europe Central Asia	7	10	31	11	15	42
Mid. East North Af.	7	14	33	10	21	41
South Asia	8	12	33	12	24	46
Sub Sahara	8	18	48	12	29	60



Implementation of Framework - Real challenge

- **Phased approach in accordance with each administration's capacity and legislative authority**
 - **WCO regional structure to promote, monitor and report**
- **A holistic approach, built upon political will and integrity**
- **Involve other border agencies – integrated border management and control**
 - **Ministerial Conference on International Transport Security (January 2006 Tokyo)**
 - **Cooperation with International Maritime Organization and International Civil Aviation Organization**



Columbus program

- **WCO Capacity Building Directorate**
 - Assist members in ownership for modernization
 - Diagnostic missions in support of Framework

- **137 customs – intend to implement Framework**
 - More than 90 members for the 1st phase of Columbus program (18 months, 2006 – 2007 June) together with other donor countries
 - 2nd phase – action planning

- **Workshops for diagnostic experts**
- **SAFE seminars**

- **Partnering with trade**



Synergy with APEC initiatives

- **SAFE Framework of Standards**
 - APEC Framework for the Security and Facilitation of Global Trade
 - An excellent opportunity for APEC to develop regional best practices
- **APEC leadership, strengthened customs-business partnership based on trust**
- **Making progress towards a secure and favourable business environment**
- **For more information, please visit WCO website**
www.wcoomd.org



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ATA Carnet System: The Answer to Trade Facilitation and a Strengthened Customs-Private Sector Partnership

**Mrs. Lee Ju Song
Director
International Chamber of Commerce Asia**

**APEC Customs - Business Dialogue
5th September 2006
Furama Resort, Da Nang, Viet Nam**

Brief C.V. of:

NAME : Mrs Lee Ju Song
ICC Asia Director



ACADEMIC QUALIFICATIONS : Bachelor of Arts
Bachelor of Soc. Sc. (Hons)
The University of Singapore
(Economist by Training)

CONTACT DETAILS : 6 Raffles Quay #10-01
Singapore 048580

Tel: (65) 6224-1255

Fax: (65) 6224-2785

Email: ljs@iccasia.com.sg

OTHER MAJOR ACTIVITIES:

Chair of WCF (World Chambers Federation) Certificates of Origin Task Force.

Actively involved in:

- Promoting
 - Free Trade
 - Free Investment
 - Trade Facilitation: ATA Carnet System

- Conducting Training Workshops on:
 - Why Should You Join the ATA Carnet System;
 - The Implementation, Management and Administration of the ATA Carnet System;
 - How To Use the ATA Carnet System to Successfully Develop Your Exports, etc.

- Conducting Courses on Chamber Management, etc.

ASEAN CHAMBERS OF COMMERCE AND INDUSTRY (ACCI):

Former:

Chairperson, ASEAN Chambers of Commerce & Industry Task Force on ATA Carnet.

Council Member, ASEAN US Business Council (AUSBC).

Executive Director, Singapore Chapter.

ASEAN EU Business Council (AEBC).

ASEAN Canada Business Council (ACBC).

ASEAN New Zealand Business Council (ANZBC)

Secretary-General, ASEAN Section: AEBC and ANZBC.

5 SEPTEMBER 2006

VIETNAM

**INTERNATIONAL TRADE SUPPLY CHAIN SECURITY
AND TRADE FACILITATION:
CHALLENGES FOR CUSTOMS AND BUSINESS COMMUNITY**

ATA CARNET SYSTEM

**The Answer to Trade Facilitation and a Strengthened
Customs-Private Sector Partnership**



Challenges To Trade Facilitation

As the world gets smaller as a result of:

- Internationalisation
- Internet

There is an urgent need for **APEC** to speed up **integration** to make the **Region** an:

- **attractive**, and
- **viable**

business destination.

REGIONAL INTEGRATION: HOW

To achieve this, APEC Members must:

- **Increase their access to Global trade**
- **Speed up intra regional / international trade and economic co-operation**
- **Speed up the opening of new business opportunities**

To create a more conducive business environment through
TRADE FACILITATION.

CHALLENGES TO INTEGRATION

The **challenges** to this are
the **concerns** that the **Trade Supply Chain**
SECURITY and the **INTERESTS** of **Customs**
Administration
in particular,
will be **compromised**.

CONCERNS RELATING TO GREATER TRADE FACILITATION

- Customs will have **no control on movement** of goods.
- Customs will **lose control on imposition of Import Duties / Taxes.**
- Customs will have to **undertake more paperwork.**

**ANSWER TO THESE CHALLENGES
IS**

**A Customs-Private Sector Partnership Firmly
established since 1963**

That Provides

Efficient / Secured Trade Procedures

Promotes Trade

Without Compromising

On

Security and Customs Interests.

HOW DOES THIS PARTNERSHIP WORK

Under this Partnership:

Customs Provides Trade **Facilitation**
Through the **ATA Carnet System**, and

WCF, which is ICC's specialised division, **Administers** the System In Collaboration
with **WCO**,
Through a set of
Operational Procedures that
protects the **interests** of **Customs Administration**.

WCF: World Chambers Federation

ATA CARNET SYSTEM

Not Only Provides **Trade Facilitation** in a **Secured** Manner, it also:

- Gives **Customs Administration Greater Control** on Movement of Goods,
- **Reduces paperwork** for Customs Administration ,
- **Guarantees** Customs Administration **full payment of all Import Duties and Taxes** should Users of the System breach the Conditions of Proper Usage of Trade Facilitation provided by the System.

What is ATA








Abbreviation of the initial letters of the
French words for “Admission Temporaire”
English words for “Temporary Admission”

What is a Carnet

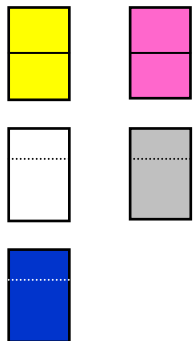
A **set of colour-coded Customs documents** accepted by Contracting Customs Authorities in lieu of their national Customs documents required for the temporary admission of goods **based** on an **international valid security chain of guaranteeing associations** appointed by the Contracting Customs and effectively administered by the WCF, which **guarantees full payment** of Customs **duties / taxes** should the goods **fail** to be **re-exported** and **re-imported** within the period as stipulated by the Customs.

HOW DO CARNETS WORK

- The Carnet is a document made up of the following Forms:

	<u>ATA</u>		<u>Bi-lateral</u>	
A set of		Green		Brown Front and Back Covers.
A set of		Yellow		Pink Exportation/Re-Importation Forms
A set of		White		Grey Importation/Re-Exportation Forms
A set of		Blue Transit Forms when necessary, for each Transit. (Not Applicable for Bi-lateral Carnet Operation.)		

- Each Set of the Yellow, Pink, White, Grey, Blue Forms consists of:



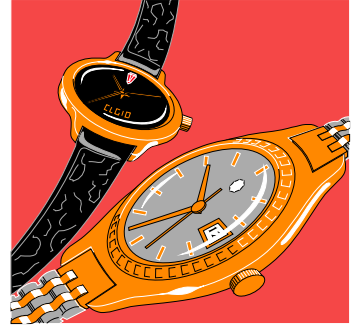
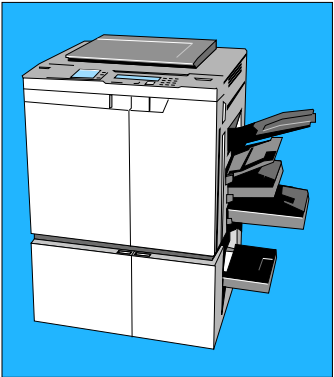
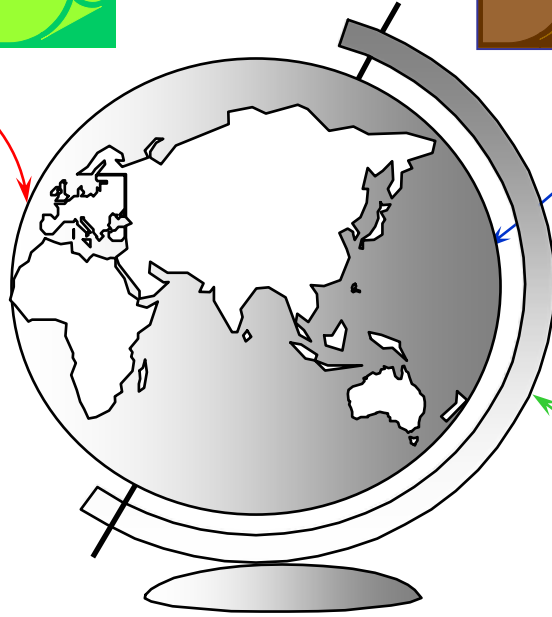
- Counterfoil which must be correctly verified by the Customs authorities. But this must be **retained** by the Carnet Holder within the Green/Brown Covers.
- Voucher which must also be correctly verified by the Customs but it will be **retained** by the Customs.



What Is A Carnet

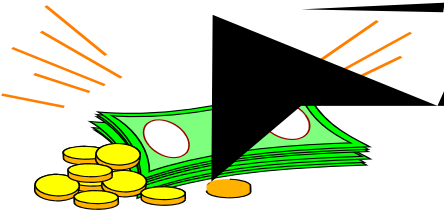
ATA

Bi-lateral



WCF Security Chain

Guarantees Full Payment



**WHY MUST YOU JOIN
THE ATA CARNET SYSTEM**

PROTECTION OF CUSTOMS INTERESTS

ITEMS EXCLUDED FROM THE SYSTEM

- Goods intended :
 - For Sale
 - For Consumption
 - To Be Given away

- Non-Identifiable Products : Unmounted Gems or Gemstones

- Alcoholic Beverages, Tobacco and Fuel

HOW TO JOIN THE ATA CARNET SYSTEM? STRAIGHTFORWARD PROCEDURES

To Internationalise Your Trade & Customs Practices

Government **Signs** the Istanbul Convention.

Appoint An Organisation as the NIGA (National Issuing and Guaranteeing Association)

To Issue Carnets and Act as Guarantor of Customs Duties/Taxes of Carnets issued under their Guarantee.

NIGA Must Be A Member of the **WCF-Managed Security Chain**.

HOW DOES THE SYSTEM WORK

THE **Chamber**, which is appointed as the **National Issuing and Guaranteeing Association**, is an authorised “**Customs Agent**” and **collects Import Duties / taxes in advance** on behalf of the Customs.

As such, before a Carnet is issued, the **User** is required to **lodge** with the Chamber an

- adequate
- safe
- valid **Security**

This Security will be **used to meet Customs Claims should the Goods fail to be Totally Re-exported** or the **Conditions of Proper Use have been Breached**.

ADVANTAGES & BENEFITS OF THE SYSTEM

Benefits To The :-

- 1) **CUSTOMS :**
 - Less Paperwork
 - Less Hassle
 - Improved Productivity
 - Reduces Admin. Time/Expenses
 - Assurance of Payment of All Customs Duties / Taxes
 - No Loss of Revenue

- 2) **BUSINESS COMMUNITIES :**

Help Businesses to Internationalise via:

- Less Paperwork
- Less Hassle
- Reduces Time / Customs Clearance Costs
- Reduces Risk
- Convenience

- 3) **APPOINTED ORGANISATIONS :**

- Better Serve their Members
- Help Increase Members' International Competitiveness
- Greater Trade Facilitation
- Additional Source of Income

ADVANTAGES & BENEFITS OF THE SYSTEM

Benefits To The:-

1) Customs:

Less Paperwork

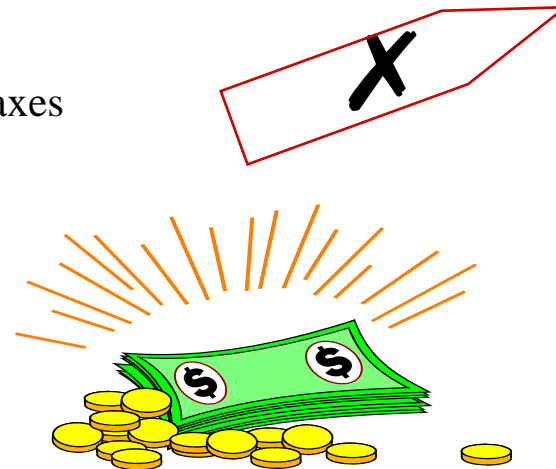
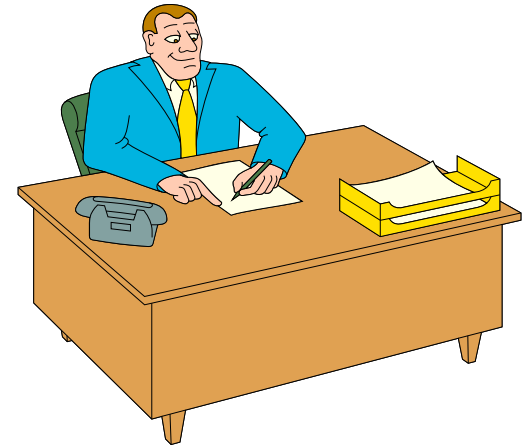
Less Hassle

Improved Productivity

Reduces Admin. Time/Expenses

Assurance of Payment of All Customs Duties/Taxes

No Loss of Revenue



ADVANTAGES & BENEFITS OF THE SYSTEM

Benefits To The:-

2) Business Communities - Help

Businesses To Internationalise via:-

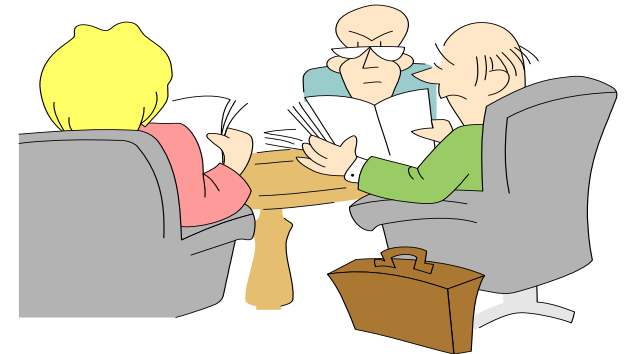
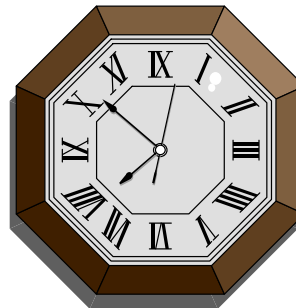
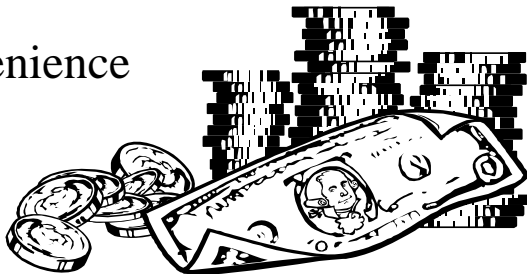
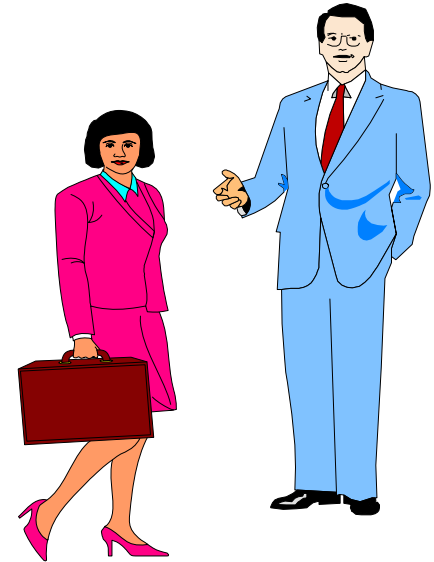
Less Paperwork

Less Hassle

Reduces Time/Customs Clearance Costs

Reduces Risk

Convenience



ADVANTAGES & BENEFITS OF THE SYSTEM

Benefits To The:-

3) Appointed Organisations:-

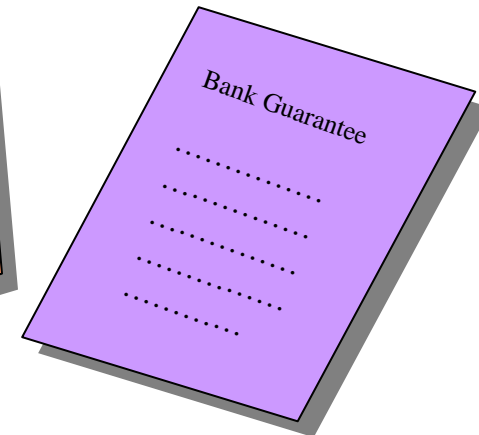
Better Serve Their Members

Help Increase Members' International Competitiveness

Greater Trade Facilitation

Additional Source of Revenue

Offers new Business Openings to the Financial Sector



Make Your Business Trips A Breeze With The CARNET



The Carnet is a service to travelling business/sales executives, overseas exhibitors and travelling professionals such as film crew, architects, artists, engineers, entertainers, photographers, etc.

The Carnet

- Cuts out the need for a Customs declaration at border points.
- Cuts out the need for a cash deposit or a guarantee in some form by the travelling executive bringing goods into the country of temporary importation.
- Permits commercial or professional travellers to make customs arrangements in advance for a country or countries they intend to visit.
- Permits them to make these arrangements in Singapore quickly and at a pre-determined cost.
- Also permits travellers the use of a single Carnet for goods which will pass through several customs authorities during the course of one trip.

The Carnet Systems

Another Benefit: One Contact Point

National

Customs

Individual Traders/Business

Carnet

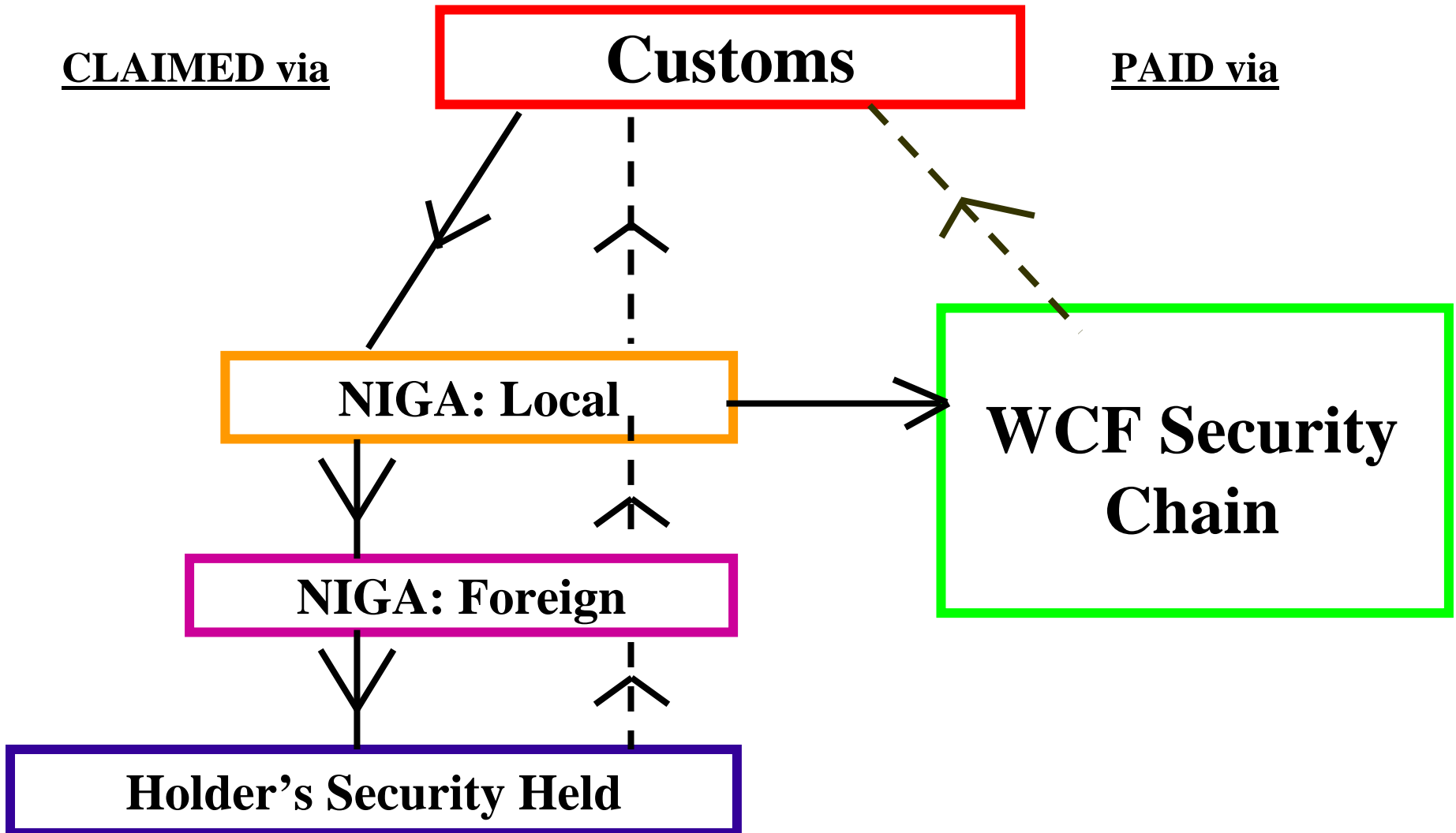
Customs

NIGA = VCCI

Individual Traders/Business

Claim Procedures

As a Result of this Partnership, Customs has a Simplified Claim Process



CLAIM PROCEDURES ALSO PROVIDE ONE CONTACT POINT

US Users

Thai Users

PRC Users

Japan Users

Singapore Users

Korea Users

Convenient = 1 Contact Point

Claim Directly Via Your
Appointed NIGA

IT IS ALSO SAFE AND

- **Meets the Challenges of Trade Facilitation.**
- **Helps Speed Up Integration** of your economy into the International Business Community.
- **Helps Create a More Attractive Business Environment.**
- **Enhances APEC as an attractive Regional Centre for:**
 - Investment / Trade
 - Culture
 - Sports
 - Exhibitions
 - Conventions

RISING NO. OF CARNETS ISSUED

Success of this Customs-Private Sector **Partnership** can be seen in the **Expansion** of the **System** from a modest

85,840 Carnets in 1970 Value = US\$380 million

To

151,012 Carnets in 2005 Value = US\$13.4 billion

The **Number** of Customs Admin. **joining** the System is also on the **rise**.

Pleased to welcome **Chile**, our 1st Latin American Country to the System on 01.10.05.

Pakistan will also be joining the System soon.

OTHER BENEFIT: WIDE COVERAGE

63 PARTICIPATING COUNTRIES IN WHICH THE ATA CARNET SYSTEM IS IN FORCE

Algeria	Hungary	New Zealand
Andorra	Iceland	Norway
Australia	India (for Exhibition Only)	Poland
Austria	Iran (wef 15.11.05)	Portugal
Belarus (wef 15.8.04)	Ireland	Romania
Belgium	Israel	Russia
Bulgaria	Italy	Senegal
Canada	Ivory Coast	Serbia (wef 1.11.04)
Chile (wef 1.10.05)	Japan	Singapore
China (for Exhibition Only)	Korea	Slovak Republic
Croatia	Latvia	Slovenia
Cyprus	Lebanon	South Africa
Czech Republic	Lithuania	Spain
Denmark	Luxembourg	Sri Lanka
Estonia	Macedonia	Sweden
Finland	Malaysia	Switzerland
France	Malta	Thailand
Germany	Mauritius	Tunisia
Gibraltar	Mongolia (wef 15.4.04)	Turkey
Greece	Morocco	United Kingdom
Hong Kong	Netherlands	United States of America

Bi-lateral Carnet Arrangements Between ICC/WCF Members & Taiwan

Our successful Partnership with Customs Administrations also **includes our Co-operation** with the **Chinese Taipei** Customs Administration in our Management of Bi-lateral Carnet Arrangements Between Chinese Taipei and our Members.

Several of our Members have also set up Bi-lateral Carnet Arrangement with Chinese Taipei:

Australia
Canada
El Salvador
EU 15
Hungary
Israel

Japan
Malaysia
New Zealand
Norway
Philippines

Singapore
South Africa
South Korea
Switzerland
U.S.

Countries which are in the process of setting up Bi-lateral Carnet Arrangements with Chinese Taipei include:

Indonesia

Thailand
India

Vietnam

CONCLUSION

ATA Carnet System Is A **Successful Customs-Private Sector Partnership.**

Count on the Good Offices of Our Customs Colleagues for a closer co-operation.

Common Objectives

- Helping Members To Develop Their Export Markets
- Speeding Up
 - Removal of NTB
 - Regional Integration
 - Internationalisation and Harmonisation of Customs Practices
- Strengthening Customs-Private Sector Co-operation.

**Closer
Co-operative Engagement**

PROSPECTS FOR STRENGTHENING CUSTOMS-PRIVATE SECTOR PARTNERSHIP

**Are Bright
Because**

- **System is well tested** and provides a **strong foundation** for closer co-operation.
- **Successful Operation** of the System has Provided **Trust** between the Customs-Private Sector
- We already have an **Excellent Working Rapport** with **WCO** and **Customs Colleagues** in **APEC**.

We are already working with **63 Customs** Administrations of which **7 APEC** Members Have Yet To Join the System:-

Brunei Darussalam
Indonesia
Mexico
Papua New Guinea
Peru
Philippines
Vietnam

ACTION PLAN: VIETNAM BLUEPRINT

Look forward to this **2006 ACBD** producing a

Vietnam BluePrint

with **target dates** for the **implementation** of the ATA Carnet System throughout APEC for the benefit of

- **Customs**
- **Business Community**

Through this successful Customs-Private Sector Partnership.

FOLLOW UP: IMPLEMENTATION COMMITTEE

To achieve this, a **Customs-Business Implementation Committee** should be set up to **focus** on achieving this through a **technical assistance** framework to support implementation.

Because of the excellent track record which **ICC** have in working with Customs in the area of trade facilitation, we are **well placed to strengthen this partnership.**

Working With Business For A Faster, Better Border

Will Be Pleased To

Conduct In-depth Technical Workshops and Seminars on

- **Why** Should You Join The System
- **How** To Join the System
- **How** To Implement and Manage the System
- **How** To Use the System To Successfully Develop An Export Market

[For More Information](#)

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Fax: (65) 6224-2785
Email: ljs@iccasia.com.sg



Asia-Pacific
Economic Cooperation



Supply Chain Security in the Global Express Delivery Services Industry

Mr. Nguyen Duy Binh
Senior Manager, FedEx Express Indochina and Myanmar
Chief Representative, FedEx Express Viet Nam

APEC Customs - Business Dialogue
5th September 2006
Furama Resort, Da Nang, Viet Nam

Supply Chain Security in the Global Express Delivery Services Industry

Binh D. Nguyen
Senior Country Manager
Indochina & Myanmar
Chief FedEx Representative



What is FedEx?

- World's Largest Express Delivery Company
- 6 million+ packages moved & 63 million electronic transmissions daily
- 677 aircraft serving 378 airports
- Operate in 220+ countries & territories
- Link 95% of world GDP within 72 hours

What makes Express Delivery Services Unique?

- Speed
- Reliability
- Door to door delivery
- Custodial control
- Track and trace technology
- Global reach



Why do Firms Need FedEx?

- Rapid, reliable delivery reduces need for large inventories and warehouse costs
- Key role in after-sales service with replacement parts
- Express delivery of samples where design is of paramount importance – toys, garments, footwear
- Small and medium size enterprises (SMEs) leverage global air express economies of scale to compete with large companies



Express Delivery is Vital to a Modern Economy

If there was no express industry*

- 32% of small and medium size enterprises (SMEs) would lose orders
- 16% of UK firms would have to relocate overseas
- 84% of new economy firms would be badly affected

If the EDS market were fully opened**

- 44% of companies would increase investment
- 41% of companies would add more employees

Liberalized Markets Promote Economic Growth

Further development and liberalization in the EDS industry could result in percentage gains for exports per year from 2004 – 2008:

Singapore:	0.386% - 0.562%
MY, TH & PH:	2.895% - 4.215%
VN & IN	3.86% - 5.62%

Source: Economic Strategy Institute: 2004



FedEx is Committed to Security

- CTPAT, PIP, & other gov't/industry security programs
- MOU with CBP on radiation detection technology at overseas locations
- Own police force at Memphis SuperHub
- Computer 'hotline' to DHS
- DHS access to FedEx databases
- Business Roundtable Security Task Force Chairman

The FedEx Business Model Promotes Strong Security



Speed =

Less time for tampering

Custodial Control =

No unknown handlers

Door-to-Door/Track & Trace =

Information on where the package has been and who has handled it.

Vietnam Customs E-Manifest System

- More time for intelligent analysis
- Reduced data entry and reduction in manpower
- Coupled savings with authorized economic operator
- Increased control with improved risk assessment and profiling

E-Manifesting Core Elements

- De minimis threshold
- Declaration process improvement
- Flexible working hours
- E-manifest for pre-arrival clearance



Security Moving Forward

- True Partnership Between Government & Industry

Vietnam Customs E-Manifest System

- Risk/threat based security measures that take into account industry needs

All-cargo aircraft have a different threat profile
Packages, unlike passengers, can be profiled
Costs/Different Needs of different industries

- Consider all parts of the supply chain

Ill-conceived security measures have a disproportionate impact on SMEs



Asia-Pacific
Economic Cooperation



Impact of the ASEAN Single Window in Trade Facilitation

**Mr. Reynaldo S. Nicolas
Deputy Commissioner
The Philippines Bureau of Customs**

**APEC Customs - Business Dialogue
5th September 2006
Furama Resort, Da Nang, Viet Nam**



IMPACT OF THE ASEAN SINGLE WINDOW IN TRADE FACILITATION

ATTY. REYNALDO S. NICOLAS
Deputy Commissioner
Assessment and Operations Coordinating Group
Bureau of Customs, Philippines

APEC Customs-Business Dialogue
Da Nang, Vietnam, September 05, 2006



PRESENTATION OUTLINE

- Background on the Inter-Agency Task Force
- Role of ASEAN-EU Program for Regional Integration Support (APRIS)
- Definition of ASEAN Single Window (ASW) & National Single Window (NSW)
- ASW Models & Concepts
- Synchronization & Standardization Initiatives
- Pilot Project – Philippines & Thailand
- Proposed Action Plan
- Proposed Steering Committee
- Conclusion





TERMS OF REFERENCE OF THE INTER-AGENCY TASK FORCE

- ASEAN Heads of State agreed to establish the ASW to expedite cargo clearance – 9th ASEAN Summit – Bali, Indonesia, Oct 2003
- ASEAN Economic Ministers (AEM) Meeting agreed to establish an ASEAN Inter-Agency Task Force to design an appropriate model for the ASW-Yogyakarta, Indonesia, 19-20 Jan 2004



MEMBERS OF INTER-AGENCY TASK FORCE ON THE ASW

- Customs Authorities – 10 ASEAN Members
- Ministry of International Trade – Main Ministry
- Other Government Agencies (OGAs) involved in cargo clearance processing such as permit/license processing, cargo inspection, etc
- ASEAN Secretariat
- ASEAN-EU Programme for Regional Integration Support (APRIS)



MEETINGS ON THE ASW

1. 04-06 Aug 2004 – Manila, Philippines
2. 21-23 Oct 2004 – Hanoi, Vietnam
3. 29-31 Mar 2005 – Manila, Philippines
4. 17-19 May 2005 – Vientiane, Lao PDR
5. 02-04 Aug 2005 – Manila, Philippines
6. 11-13 Oct 2005 – Manila, Philippines
7. 23-27 Jan 2006 – Manila, Philippines
8. 21-22 Mar 2006 – Bangkok, Thailand



ASEAN-EU PROGRAMME FOR REGIONAL INTEGRATION SUPPORT (APRIS)

- 3-year technical assistance programme
- Co-financed by the European Commission, EuropeAid, and the ASEAN Secretariat
- The APRIS Programme Management Unit is at the ASEAN Secretariat, Jakarta.
- The main objectives of APRIS are to:
 - Support regional policy approaches in areas of common ASEAN interest
 - Contribute to strengthening ASEAN strategic planning, policy development and monitoring Vision 2020
 - Assist in streamlining ASEAN coordination mechanisms
 - Strengthen EU-ASEAN relations



DEFINITION: ASEAN SINGLE WINDOW

The ASEAN Single Window (ASW) is the environment where National Single Windows of Member Countries operate and integrate.

(from Agreement to Establish and Implement the ASW, AEM, 09 Dec 2005)



DEFINITION: NATIONAL SINGLE WINDOW

- Single submission of data and information;
- Single and synchronous processing of data and information;
- Single decision-making for Customs release and clearance.

(from Agreement to Establish and Implement the ASW, AEM, 09 Dec 2005)



DEFINITION OF NSW

Single

Submission

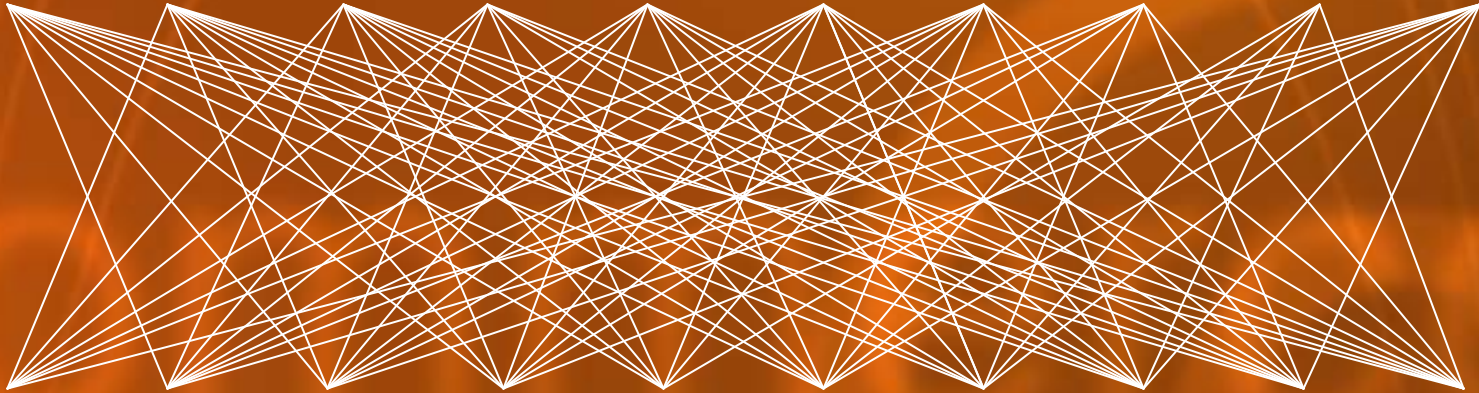
Synchronous Processing

Decision-Making



ONE-TO-MANY OR ONE SINGLE WINDOW

BRU CAM IND LAO MAL MYA PHI SIN THA VIE

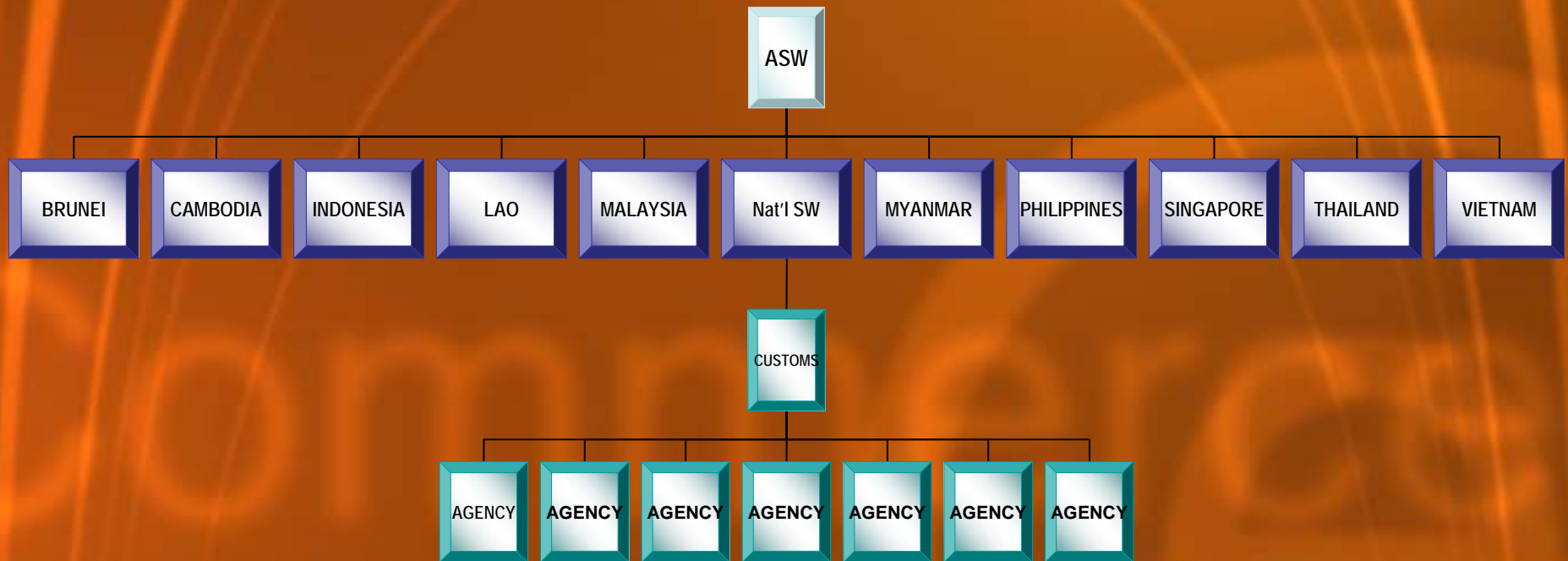


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ASEAN SINGLE WINDOW CONCEPT

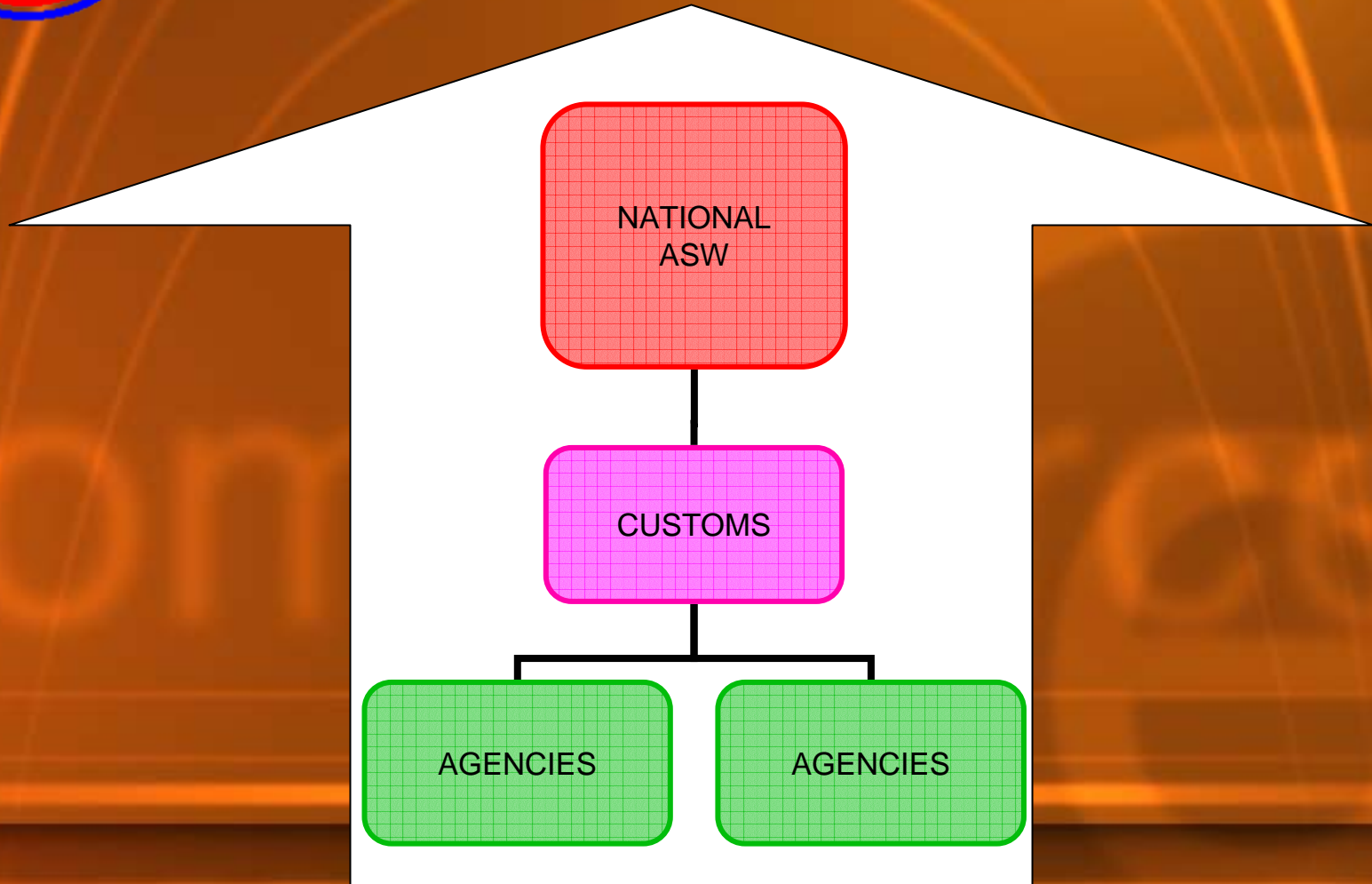
(Bottom-to-Top Strategy/Integration of National Single Windows)





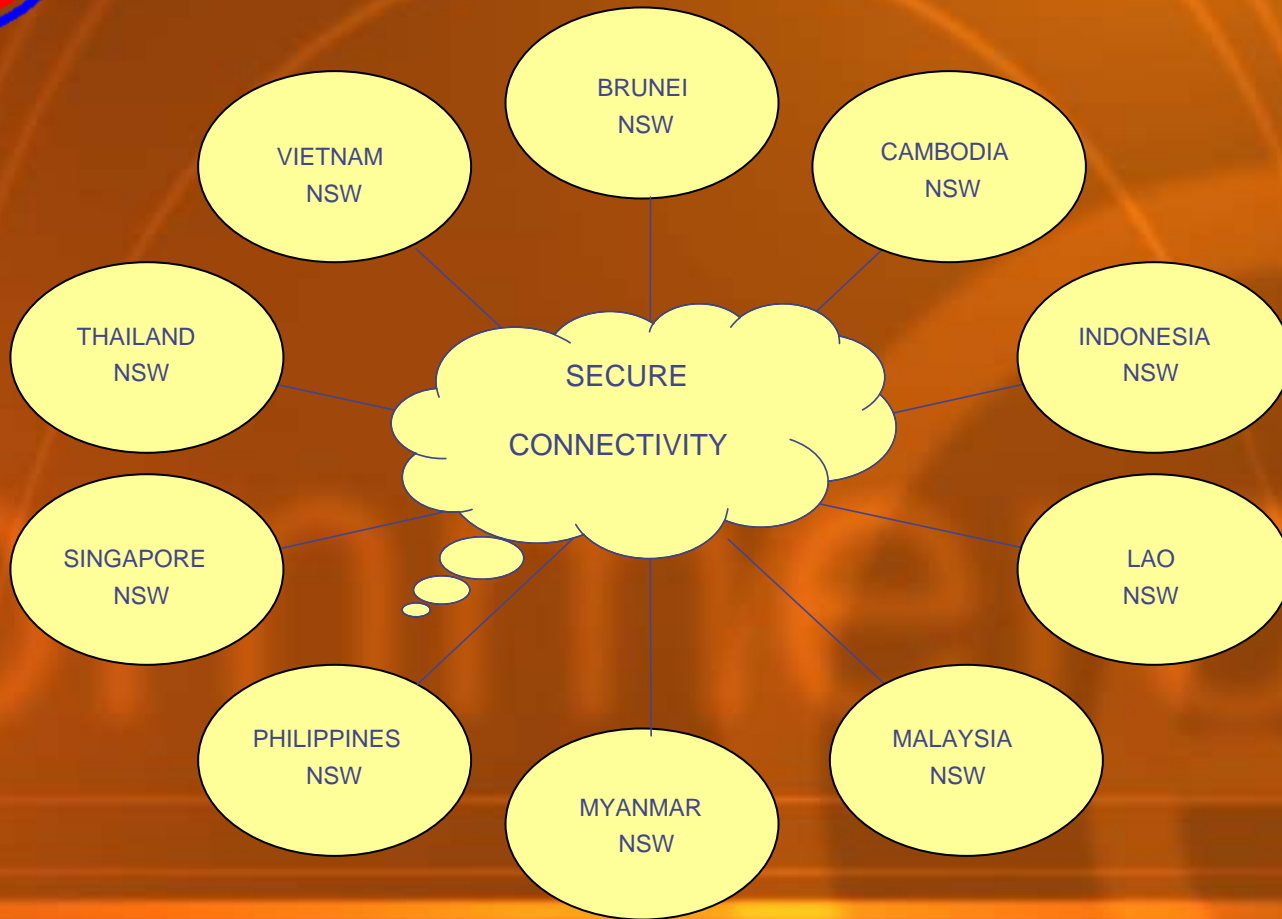
ASEAN SINGLE WINDOW CONCEPT

(Bottom-to-Top Strategy/Integration of National Single Windows)



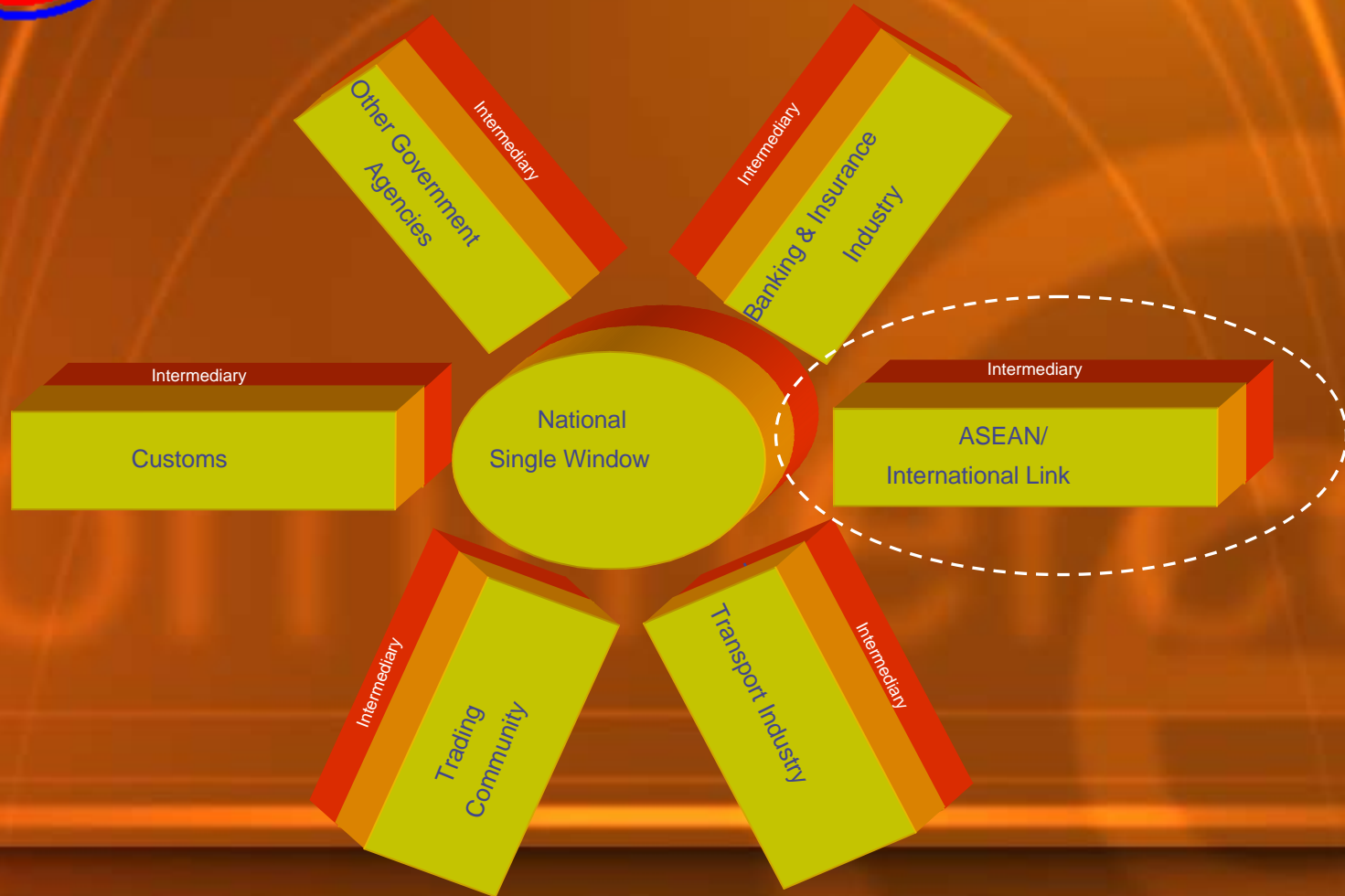


ASEAN SINGLE WINDOW CONCEPTUAL APPROACH





ASW = 10 National Single Window





SYNCHRONIZATION & STANDARDIZATION

- **Agreement**
- **Protocol**
- **Technical Guide**
- **Technical Document**
- **ASW Customs Declaration Form**



ASW AGREEMENT

*Agreement to Establish and
Implement
the ASEAN Single Window*

signed by the ASEAN Economic Ministers
(AEM), 09 December 2005,
Kuala Lumpur, Malaysia



ASW AGREEMENT: OBLIGATION OF MEMBER COUNTRIES

Operationalize their National Single Window before:

□ 2008

- Brunei Darussalam
- Indonesia
- Malaysia
- Philippines
- Thailand
- Singapore

□ 2012

- Cambodia
- Lao PDR
- Myanmar
- Vietnam



VISION OF THE ASW

Accelerate ASEAN Economic
integration by 2020



PROTOCOL

The objectives of the Protocol are:

- To provide a legal and technical framework to establish and implement the ASW and NSWs
- To strengthen the coordination and partnership among Member Countries and those relevant to the international supply chain
- To encourage participation of economic operators to the implementation of the ASW and NSWs; and
- To provide technical, functional and operational guidance for Member Countries as set forth in the ASW Agreement, taking into consideration the ASW Technical Guide.



TECHNICAL GUIDE

The Technical Guide of ASW and NSWs Implementation is the compilation of relevant internationally accepted standards, procedures, documents, glossary, technical details and formalities to be adopted as deemed appropriate by Member Countries, subject to regular reviews and updates in line with new technology and development as deemed necessary by Member Countries.



ASW TECHNICAL DOCUMENTATION

SECTION III: Architecture of the ASEAN Single Window

“ Para 16. The following are models and methodologies to be referred to:

- MODELS & METHODOLOGIES**
- (a) The ASEAN Cargo Clearance Model (adopted in June 2005);
 - (b) The ASEAN Customs Declaration Document (adopted in November 2005);

- WCO
- (c) The WCO Data Model, the WCO Data Set, the United Nations

- UNTDED

- UMM

- (d) The UN/CEFACT Modeling Methodology (UML) and the UN/CEFACT Modeling Language (UML) for process analysis and functional determination;

- UML

- UN & Other International Conventions

- (e) Other conventions in trade facilitation and topics of relevance to Customs by the United Nations and international organizations. ”



PROTOCOL:

Article 8 - APPLICATION OF I.C.T.

- “The NSWs shall make use of the appropriate technology with open architecture based on international standards and technical advancements in areas of information and communication technology and data processing.
- The implementation of the NSWs shall make use of international standards of data processing and management, such as the United Nations Electronic Data Interchange for Administration, Commerce and Transport (UN/EDIFACT), Extensible Mark-up Language (XML), American National Standard Institution X.12 (ANSI X12), RosettaNet or others relevant to the implementation of the NSWs.
- The secure infrastructure of the NSWs shall follow international standards and best practices with features such as confidentiality, data integrity, authenticity and nonrepudiation.”

APPLICATION OF ICT

- Appropriate Technologies

- Open Architecture

- International Standards

- UN/EDIFACT

- XML

- ANSI x 12

- Secure Infrastructure



COMPARATIVE MATRIX OF ASEAN INFORMATION PARAMETERS FOR CARGO RELEASE AND CLEARANCE

ASEAN INFORMATION PARAMETERS	MAPPING TO WCO DATA SET (Version 1.1)	MAPPING TO WCO DATA SET (Version 2.0)	MAPPING TO BRUNEI	MAPPING TO CAMBODIA
Type of declaration and customs procedures and regimes				
Identification of customs office (of departure, of destination, of clearance)	<p style="text-align: center; font-size: 2em; font-weight: bold;">320 Parameters Mapped for 10 Countries</p>			
Reference number of Customs Declaration				
Number of forms of the declaration and its respective uses				
Date of physical importation or exportation				



ASEAN CUSTOMS DECLARATION FORM

The format of the Document is based on the internationally adapted Single Administrative Document (SAD). For Customs Administrations using the manual processing of customs clearance, the Document should be uniform while for those using the computerized processing of customs clearance the uniformity is in the information parameters

(14th DG Meeting, Cebu, Philippines, Nov 2005)

ASEAN CUSTOMS DECLARATION DOCUMENT

6 Date of presenting the goods declaration to the Customs :

1 DECLARATION

Place and date:

Type:

Customs Procedures

Stamp:

4 Forms

10 Transaction reference

1

8 Exporter/Consignor

Copy for the country of dispatch/export

9 Importer/Consignee

ASEAN CUSTOMS DECLARATION DOCUMENT:

- 48 Data Parameters
- Implement June 2006

5 Date PEX/PIM

24 Total packages

3 Customs Reference number

11 Identification of Declarant (reference number)

42 Country and/or Region of exportation (reference number)

13 Reference number common access

46 Country of origin

45 Country of destination

28 Identification and nationality of means of transport

47 Name of declarant

29 Identification and nationality of means of transport crossing the border

48 Payment currency

49 Exchange rate

50 Nature of transaction

31 Mode of transport

35 Cargo Manifest (Reference Number) and PEX/PIM (reference number)

23 Transport document (Drawal Bill, Airways Bill)

1

51 Transfer during Customs Transit

26 Location of goods

Type:

No.:

34 Container identifier, marks and number of packages, number and type of packages and description of goods

57 Item No.

38 Commodity code and description (AHTN)

46 Country origin Code

36 Gross mass (kg)

a)

b)

17 Customs value basis

39 Supplementary quantity

53 Quota/Licenses

15 Other information covering the liability of goods to specific requirements

18 Added amount

19 Deducted amount

Code

16 Previous customs procedures

20 Duty/tax treatment applied



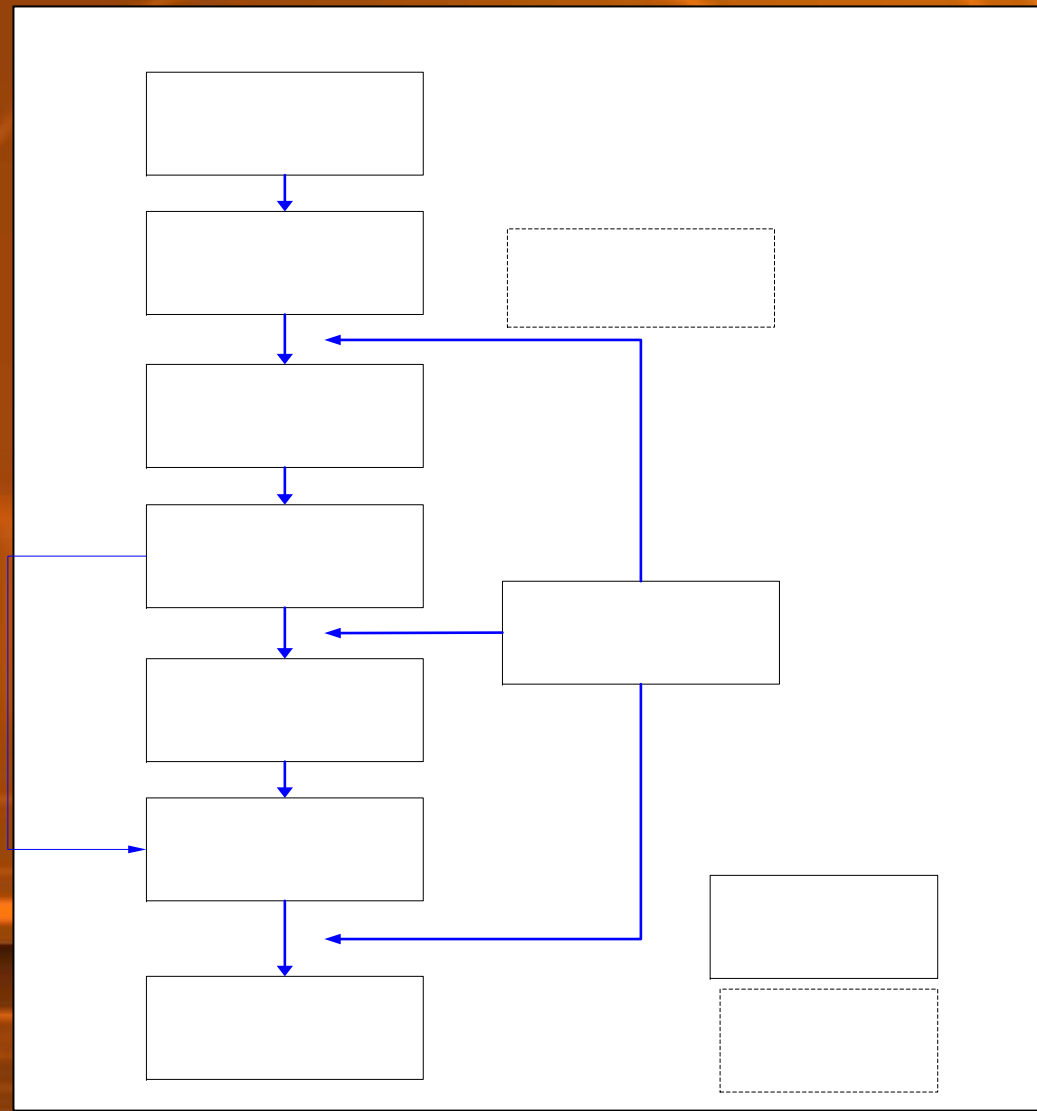
ASEAN CARGO PROCESSING MODEL

- Import (Air)
- Import (Sea)
- Export
- Transit
- Transshipment
- Bonded Movement Of Goods
- Warehouses
- Temporary Admission



ASEAN CARGO PROCESSING MODELS

Import - Sea (1 of 8)





PHILIPPINE-THAILAND PILOT PROJECT

- Signed Letter of Commitment in November 2005
- APRIS-supported
- 2 Bilateral Technical Meetings in Manila and Bangkok
- Identified pilot systems
 - Country of Origin Document
 - Export Document
- Technical Tests – final phase ended last August 30, 2006



CAPACITY BUILDING

- APRIS-Supported
- Regional Workshops
 - Manila – March 2006
 - Bangkok – May 2006
 - Manila – July 2006
 - Hanoi – August 2006
- Tour of Single Window Systems
- National Workshops



PROPOSED ACTION PLAN FOR THE STEERING COMMITTEE

- Forms Part of the Protocol
- Plan for the ASW
- Plan for the NSW
- Timeline until 2008 for ASEAN 6
- Timeline until 2012 for ASEAN 12
- Timeline until 2012 for ASW

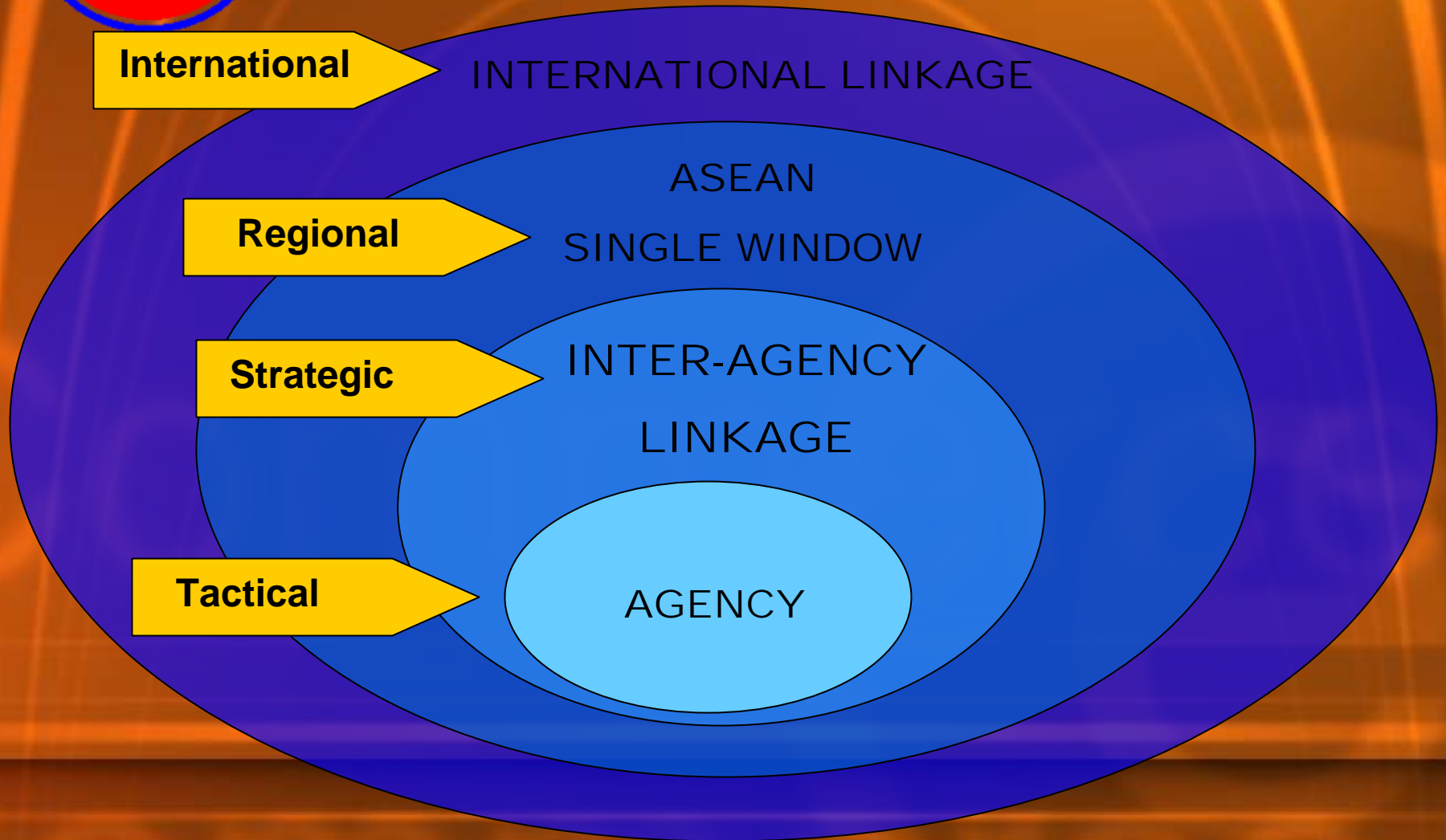


PROPOSED ASW STEERING COMMITTEE

- Objective: coordinate, establish mechanism, synchronize implementation of the ASW before 2012
- Members: Senior officials of Line Ministries
- Endorsed - 14th ASEAN DG's of Customs, Cebu, Philippines 9-11 Nov 2005



TOTAL-APPROACH ASW STRATEGY





TRADE FACILITATION: The Proverbial Elephant



Time

Cost

Systems

Infrastructure

Harmonization

Simplification



WHAT IS THIS MAN DOING?

- A – Sending SMS to wife.
- B - Listening to a ringtone.
- C - Wondering why his line was cut.
- D - None of the above.



WHAT IS THIS MAN DOING?

D. None of the above.

This man is transacting
business with the
ASW – Filing Paying,
Tracking, Releasing,
etc -

Under a coconut tree
anywhere in the
ASEAN.



THANK YOU
AND
GOOD MORNING!

reynaldo.nicolas@customs.gov.ph
www.customs.gov.ph



Asia-Pacific
Economic Cooperation



The Benefits of Investing in Supply Chain Security: The IBM Experience

**Mr. Andrew P. Jackson
Government Programs Executive
IBM Australia/New Zealand**

**APEC Customs - Business Dialogue
5th September 2006
Furama Resort, Da Nang, Viet Nam**



BIO

Andrew Peter Jackson
Government Programs Executive
IBM Australia Ltd

Andrew was educated at the University of Canberra where he received a Bachelor of Arts in Communications in 1990.

Andrew was employed as a Graduate Administrative Assistant in the Australian Customs Service in January 1991 and later went on to work in a number of areas including Inland Revenue and Trade Measures.

In 1993 Andrew won a full-time scholarship to study economics at the University of Canberra and was subsequently awarded a Post Graduate Diploma in Economics. In 1994 Andrew moved to the Department of Communications, Information Technology and the Arts where he worked on various telecommunications competition and consumer issues.

In 1996 Andrew took a year off work to undertake an extensive trip around the world including South East Asia, the Middle East, Europe and North America. During 1997 and 1998 Andrew worked in the Federal Department of Finance on government asset sales and the Department of Communications, Information Technology and the Arts on postal industry issues.

In 1999 he was appointed to the Office of the Minister for Communications, Information Technology and the Arts, The Hon Senator Richard Alston working on Telecommunications and Postal Industry issues. In 2002 Andrew was appointed Executive Director of Science Industry Australia a lobbying body for the scientific industry in Australia and later in the year decided to return to work as an Adviser to Minister Alston on IT Industry issues.

In January 2004 Andrew joined IBM Australia as a Government Programs Executive where his primary role is to influence the regulatory environment to the advantage of IBM as a business entity and a corporate citizen. This involves developing and maintaining strong external relationships with key government decisions makers (eg Ministers and Parliamentarians) and senior portfolio officials across Federal and State Governments in Australia in order to directly influence policy and regulatory outcomes.

Andrew is also part of the GP Worldwide Market Access Team. As part of this team he has specific responsibility for customs and supply chain policy issues in the Asia Pacific region. In this role to date Andrew has had extensive dealings with numerous customs and border related agencies across the region. He has also engaged in high level dialogues in key AP economic forums such as ASEAN and APEC and was recently appointed Chairman of the US-ASEAN Business Council's Customs Working Group.



APEC Customs-Business Dialogue 2006

The Benefits of Investing in Supply Chain Security: The IBM Experience

Andrew Jackson
Government Programs Executive
IBM Australia

September 5, 2006 Da Nang – Vietnam

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Global Import Compliance and Supply Chain Security

Mission

Assure global Import Compliance and Supply Chain Security in 160+ countries

■ Responsibilities

- Identify and interpret regulations
- Establish policies
- Assess internal compliance
- Educate import network
- Develop government relationships

■ Daily Scope

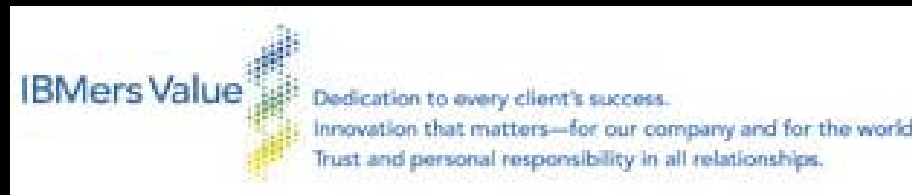
- 2500 Customs Declarations
- \$68M in value
- 5.5M pounds shipped

IBM's Objective

Drive Industry Leadership in shaping the future of Supply Chain Security and Trade Facilitation

Goals

- Implement a more secure supply chain that yields greater trade efficiencies
- Create Industry/Government Partnerships in the development of security and trade initiatives
- Achieve Global Commonality of Supply Chain Security Criteria, Customs Declarations Data and Processes
- Promote voluntary industry participation that provides collateral benefits



IBM Actions to Improve Supply Chain Security

Internal Security Actions

Supply Chain Security education and training for import compliance and security personnel

Updated Asset Protection corporate standards

Risk Assessment database for security monitoring and analysis of IBM facilities

Empty trailer / container / conveyance inspection

High level security seals on 'stuffed' trailers / containers / conveyances

Electronic door sensors on trailers transporting product between U.S. and Canada

Global supply chain readiness assessment

Supply Chain Security language in supplier contracts

Onsite security inspections of high risk suppliers

Early Adoption of Government Anti-Terrorism Trade Programs



Partners in Protection (PIP)
Canada



Business Anti Smuggling Coalition
(BASC)
Mexico

Customs Relationship Management

- Establish relationships with 20 Customs organizations that are considered most critical to IBM's asset based supply chain
 - Create partnerships
 - Discuss support needed for common standards
 - Expedite implementation of programs
- Championed a proposal for APEC economies to lead Implementation of World Customs Organization (WCO) Safe Framework
 - Harmonized advance electronic cargo information
 - Consistent risk management approach to addressing terrorism and security
 - Outbound inspection request by receiving nations
 - Custom benefits for industry participation

Country	Meeting Date
*United States	On going
*Mexico	4/24/2004
EC HQ	3/7/2005
Germany	3/8/2005
UK	3/10/2005
Ireland	3/11/2005
*Australia	3/17/2005
*Canada	3/29/2005
*Japan	5/24/2005
*Taiwan	5/27/2005
*Singapore	6/15/2005
*Malaysia	6/16/2005
*Thailand	6/17/2005
*China	10/20/2005
Brazil	3/7/2006
France	3/28/2006
Hungary	9/2006
India	4Q2006
*Korea	TBD
*Russia	TBD
*APEC Member Economies	

Observations from meetings with country Customs

- Importance of supply chain security balanced with trade facilitation is recognized
- Work underway on assessing WCO/APEC Framework or pursuing complementary initiatives
- WCO/APEC Framework adopted – Now the hard work begins
 - Mutual recognition viewed as critical to success
- Technology enhancements viewed as key to ensuring common end-to-end supply chain security
- Return on Investment and impact assessment is required for broad implementation

Encourage Industry Participation Through Research, Conferences and Trade Publications

Research

http://www.ibm.com/services/us/index.wss/bus_serv_library/bcs/a1005268/lib_5

Report on Enhancing Supply Chain Security with Michigan State University

Report on Supply Chain Security Return on Investment (ROI) research with MIT

Quantitative supply chain security ROI research study with Stanford University

Conferences

IBM Supply Chain Security supplier conferences April 2004 and June 2005

New York Times

Financial Times

Journal of Commerce

WCO Magazine

Logistics Quarterly

Cargo Security Int'l

Publications

Post 9/11 Government and Industry *Renewed Focus on Supply Chain Security, Recognition of the Opportunities*



on Supply Chain Security
evolving from asset
protection to concern for
terrorism and disruption

for Security to provide a
Framework for Increased
Supply Chain Efficiency, Visibility
and Resiliency

Supply Chain Security – Collateral Benefits

Companies may receive numerous collateral benefits from SCS investments, including:

Efficiency

- Reduced inspections
- Increased automated handling
- Less process deviation
- Shorter transit time

Visibility

- Improved asset visibility
- More timely shipping information
- Reduced inaccurate shipping data

Resiliency

- Shorter problem resolution time
- Quicker response to a problem
- Reduced time to identify a problem

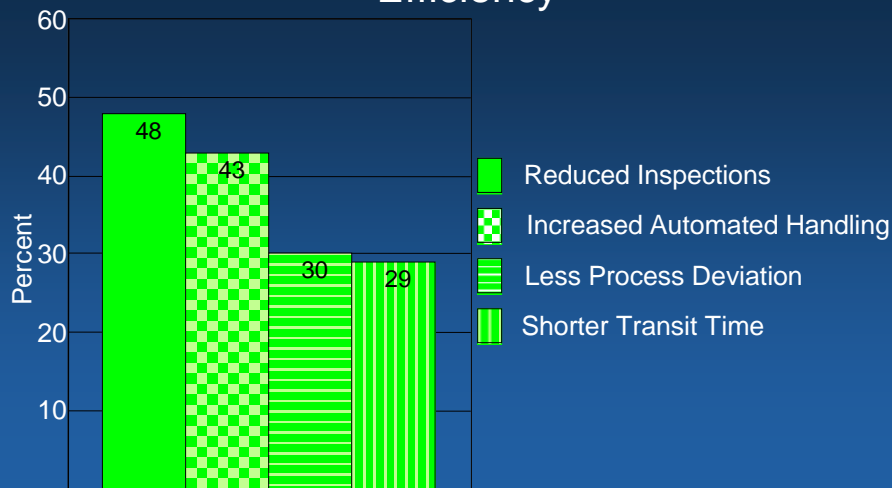
Inventory Management & Customer Relations

- Reduced theft/loss/pilferage
- Decreased tampering
- Less Customer attrition
- Reduced excess inventory

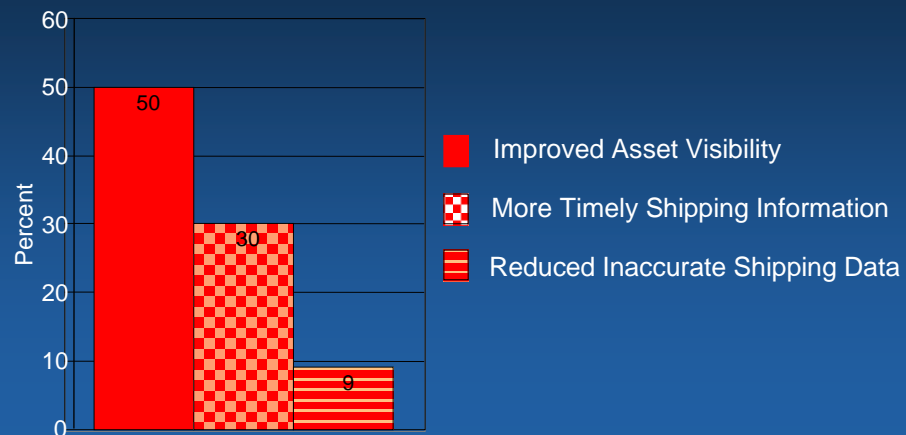
Source: Investing in Supply Chain Security: Collateral Benefits - Massachusetts Institute of Technology (MIT) White Paper, May 2005

Average Percent Improvement Reported by Manufacturers from SCS Investments

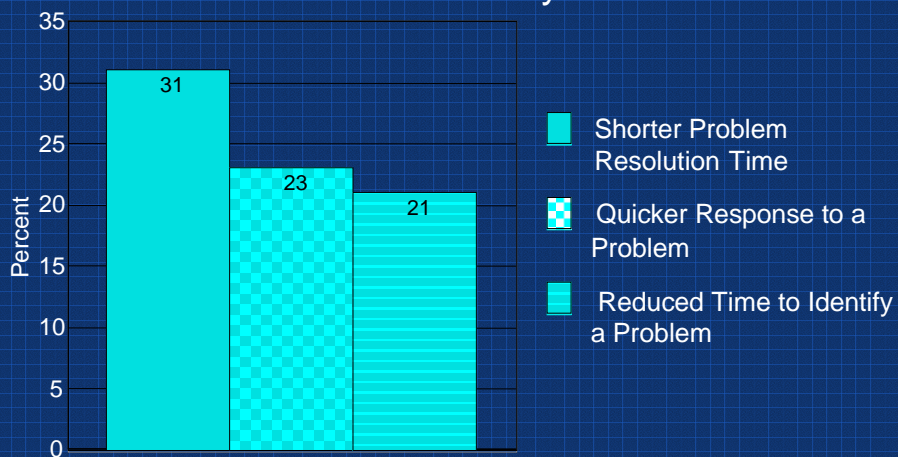
Efficiency



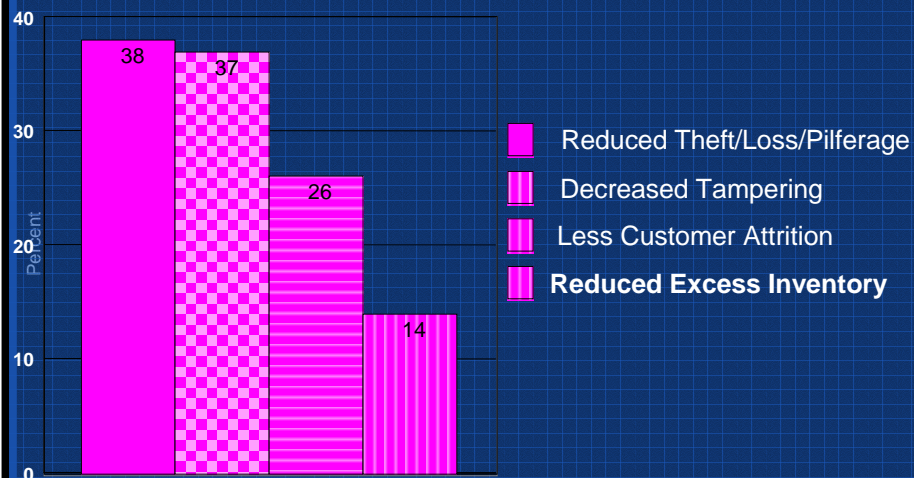
Visibility



Resiliency



Inventory Management & Customer Relations



Source: *Innovators in Supply Chain Security: Better Security Drives Business Value – Stanford University White Paper, June 2006*

A Chain is Only as Strong as its Weakest Link

Stakeholder Security Linked with its Predecessor and Successor



- ❖ *Security has to be applied across the entire value chain, across borders, and integrate an ongoing awareness in every single point of interaction with the goods.*

Recommendations - Industry

This is your supply chain ...

- Promote benefits of investing in supply chain security
 - ROI/Collateral benefits
 - Efficiency and productivity

- Pursue common standards and processes
 - Streamline processes
 - Keep cost down

- Be industry leaders
 - Be outspoken
 - Be a part of the process
 - Be an influencer

Recommendations - Countries

- Accelerate implementation of common WCO/APEC Framework
- Establish Government – Industry consultation groups to drive Authorized Economic Operator (AEO) aspects of framework
- Begin pilot programs with trusted industry partners and major trading countries



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Asia-Pacific
Economic Cooperation



Supply Chain Security and Trade Facilitation Malaysia's Experience

**Ms. Dato Zaleha Hamzah
Customs Adviser
Royal Malaysia Customs**

**APEC Customs - Business Dialogue
5th September 2006
Furama Resort, Da Nang, Viet Nam**

Dato' Zaleha Hamzah
Customs Adviser
Royal Malaysia Customs

Dato' Zaleha Hamzah has served Royal Customs Malaysia (RCM) in various capacities since 1.11.1971 until her retirement beginning 1.1.2005. Her last position prior to her retirement was Deputy Director-General Customs(Operations). In terms of work exposure she has been attached to the various important units in RCM including import/export, internal taxes., personnel, training and enforcement.

Throughout her service she has been instrumental in efforts to modernize RCM amongst which are:

- [a] developing its first 5 year strategic plan beginning 1991,
- [b] developing its human resource management program,
- [c] developing its risk assessment program,
- [d] improving its intelligence and investigation capabilities,
- [e] simplifying various work procedures.

On the international front, she has played a lead role for RCM in bilateral meetings and developing the model MOU. She has successfully chaired meetings organized by ASEAN,ASEM or WCO and was the leader for the Customs group in Malaysia's first Free Trade negotiation.

Since 15.1.2005 she has been reappointed to serve the Government as Advisor to RCM where her scope of services refers to the undertaking of a comprehensive review of the indirect taxation system of Malaysia for it to be more modern, equitable and efficient.

APEC Customs –Business Dialogue

Supply Chain Security and Trade Facilitation Malaysia's Experience

By

**Dato' Zaleha Hamzah
5 September 2006**

INTRODUCTION

State of certainty or safety

Not a new phenomenon

Various forms or manner

**Balancing act between supply chain security
and facilitation of legitimate trade**

The globe is getting smaller and smaller to the extent that a sovereign state has become no more than a metaphorical village. This has been made possible by the rapid progress in transport and transportation and in the information and communication technologies. The economic activity of any part of the world has come to be within the reach of every body. The world economy has become internationalized and global interdependence has become a normal feature of the global economy.

Tomorrow Malaysia will be growing its rice in China and rearing its sheep in Australia. National economies are thus becoming the individual components of an entity which we might well call “mondial economy”. No national economy can seriously consider leaving the close network of mutual dependencies without endangering the prosperity of its citizens.

**Director General of Customs
Malaysia -Dato' Mohd Nor bin
Abdul Hamid,
21 May 1990.**


- **We now live in a new economy by shrinking computers and expanding communications.**
- **This new economy has 3 distinguishing characteristics. It is (i) global, (ii) favors intangible things- ideas, information and relationships and (iii) intensely interlinked.**
- **Communication is the economy.**

Kevin Kelly – New Rules For the New Economy’,1998.

TRADE FACILITATION

- **In general terms, refers to the capacity of goods to be moved expeditiously across national borders.**
- **In relation to Customs, refers to the simplification, harmonization and automation of trade procedures – in particular the import, export and transit procedures applied by customs and other agencies to control the cross-border movement of goods.**

Challenges To Customs

1. *Globalization*  *more diverse:*

- **Products**
- **Design and production methods**
- **Stakeholders**
- **Criminals and terrorists [increased security threats?]**
- **Transportation modes**

2. *Increased interconnectivity and interdependency of countries*

Challenges to Customs

- 3. Faster and more simple processes for traders and travellers (Paperless environment)**
- 4. Transaction to audit-based**

ROLE OF CUSTOMS

1. What do citizens expect from Customs
- protection of society (border protection)

2. What does business expect from Customs
- trade facilitation [but at no cost to security]

- a change from the traditional function of revenue collection

MEASURES TAKEN

- **Strategic Development Program**
- **A Holistic Approach encompassing Integrity, Core Business, Technology and People.**
[align to WCO Framework of Standards]

INTEGRITY

- 1. Code of ethics for employees**
- 2. Main criteria in appointments and promotion**
- 3. Consistent monitoring of behavioral pattern**
- 4. Continuous programs on instilling positive values.**
- 5. Reward and punishment**
- 6. Conducive working environment.**

CORE BUSINESS

1. Laws and Regulations

- investigative powers**
- obligation on the importer/trader**
 - correct declaration**
 - to provide information**
- advanced information?**

2. Professionalism of officers

CORE BUSINESS - FACILITATION

- 1. Direct release/pre-clearance/ selective examination**
- 2. Facilitate movement of dutiable goods via bond except for high risk goods which require bank guarantee.**
- 3. EFT**
- 4. “Golden Client”**
- 5. Customs ruling**
- 6. Licensed warehouse**

CONTROL MEASURES

- 1. Risk management**
- 2. Post auditing**
- 3. Random examination**
- 4. Intelligence**
- 5. Legal penalties**

TECHNOLOGY

- **Computerization of work processes**
- **Detection/tracking equipment**
- **Scanning machine**
- **Integrated communication system**

PEOPLE/PARTNERS

- 1. Inter-agency**
- 2. Customs and Business**
- 3. Bilateral and Multilateral**
- 4. ‘Reaching Out Programs’**
- 5. Customs Literate society**
- 6. Professionalism of clients**

CONCLUSION

- 1. Supply chain security is something complex. It involves the movement of goods, people, documents and money. It is further made complex by international jurisdiction, data elements, legislature, financing and the need for various authorities to cooperate with each other, businesses to cooperate with themselves and for authorities to work together with business.**

2. Authorities and the business sector need to work together given the pervasiveness of today's trade, the vulnerability of the supply chain to any kind of attack and the responsibility of the authorities to ensure a safe and seamless flow of trade and movement of people.

- 3. Enhanced security should not lead to increased bureaucracy, higher cost of doing business, inefficient service.**

- 4. Customs Malaysia is committed to further facilitate trade through effective security measures and will continue to cooperate and communicate on this matter.**

THANK YOU FOR YOUR KIND ATTENTION



Asia-Pacific
Economic Cooperation



Session 2

Enhanced Customs and Business Partnership for More Effective and Efficient Fight against Counterfeiting and Pirated Goods

**APEC Customs - Business Dialogue
5th September 2006
Furama Resort, Da Nang, Viet Nam**



Asia-Pacific
Economic Cooperation



Moderator: Mr. Daniel Baldwin
Assistant Commissioner
U.S. Customs and Border Protection

APEC Customs - Business Dialogue
5th September 2006
Furama Resort, Da Nang, Viet Nam



Asia-Pacific
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**Enhanced
Customs and Business Partnership
for
More Effective and Efficient Fight
against
Counterfeiting and Pirated Goods**

**Mr. Sivakant Tiwari
Chair of APEC Intellectual Property Experts Group**

**APEC Customs - Business Dialogue
5th September 2006
Furama Resort, Da Nang, Viet Nam**

Mr Tiwari, is the Principal Senior State Counsel of the International Affairs Division in the Attorney-General's Chambers, Singapore.

He first served (on secondment from the Legal Service) in the Ministry of Defence and was the Head of its Legal Department. He then became the Head of the Civil Division in the Attorney-General's Chambers from 1987 - Jun 1995. He then took over as the Principal Senior State Counsel of the International Affairs Division.

Mr Tiwari led the evidence in major Inquiries in Singapore: Spyros Inquiry (1978), Cable Car Inquiry (1984), Hotel New World Inquiry (1988) - the last two being Presidential Commissions of Inquiries. He has also appeared in various cases in the High Court of Singapore, including high profile ISA detainee cases. He has led many bilateral and multilateral negotiations on behalf of Singapore, including that involving the Singapore-Johore Boundary Agreement and the Singapore-Malaysia dispute over Pedra Branca.. He was part of the Singapore Team in the Singapore-Malaysia Reclamation Case before the ITLOS.

He was the Legal Adviser to the Singapore delegation to the Uruguay Round negotiations and the US-Singapore Free Trade negotiations and has represented Singapore in the negotiations for the WTO Agreement on the Trade-Related Aspects of Intellectual Property Rights and at many ASEAN negotiations and meetings. He was a member of the Singapore delegation for the UNCLOS negotiations and assisted in drafting the ASEAN Free Trade Area Agreement and the ASEAN Enhanced Dispute Settlement Mechanism

In the area of intellectual property, Mr Tiwari was Chairman of the ASEAN Working Group on Intellectual Property for 6 years (2000-2006) and is leader of the Singapore delegation to that Group. He is currently the Chairman of the APEC Intellectual Property Experts Group. He was leader of the Singapore delegation to the WIPO Conference on the WIPO Copyrights Treaty and the WIPO Performances and Phonograms Treaty; chaired the 2nd Special Session on the Report of the Second WIPO Internet Domain Name Process and has led Singapore Delegations to WIPO.

One of the areas under Mr Tiwari's purview is the provision of advice on air law. In this connection, he has been the legal adviser for various air services consultations. He also headed Singapore's delegation to the International Conference on Air Law (Montreal, May 1999) which worked on and adopted the landmark Montreal Convention, 1999.

Mr Tiwari has presented papers and participated at numerous workshops and international conferences on the Law of the Sea, trade, intellectual

property rights, civil aviation etc.



APEC Customs - Business Dialogue, 2006

Da Nang City, Sep 5, 2006

Enhanced Customs and Business Partnership
for More Effective and Efficient Fight against
Counterfeiting and Pirated Goods

S Tiwari

APEC IPEG Chair

**Principal Senior State Counsel, International Affairs Division
Attorney-General's Chambers, Singapore**



Overview

- Counterfeit and Pirated Goods – What are they?
- The Counterfeiting and Piracy Problem
 - Everybody Facing it
- How Customs Authorities Can Assist Businesses
- What can Businesses do to enhance the Customs-Business Partnership for a more effective and efficient fight?



Counterfeit and Pirated Goods – What are they?

- “counterfeit trademark goods” – goods bearing trademark identical to a validly registered one or which cannot be distinguished from such a trademark;
- “pirated copyright goods” – copies made without consent of right holder
-TRIPS Agreement

The Counterfeiting and Piracy Problem

- Everybody Facing it



- Approximately 7-10 % of world trade is in goods which infringe IPR
- Even New York is affected
 - Headline from Press Release dated 22 Nov 2004 released by NYC Comptroller William C Thompson Jnr:
“ New York City is home to \$23 billion counterfeiting trade”

The Counterfeiting and Piracy Problem - Everybody Facing it

Comptroller - Press Releases Page | 01 Lr

PRW-fi -065

November 22, 2004

Press Office

21 2-669-3747

THOMPSON: COUNTERFEITING COSTS NYC MORE THAN \$1 BILLION ANNUALLY

**New York City is home to \$23 billion counterfeiting trade
Comptroller offers recommendations to address problem**

[View Report](#)

**New York City Comptroller William C. Thompson, Jr. today
released a report estimating that**

**New York City is home to a \$23 billion annual illegal
counterfeiting industry, causing the City to
lose more than \$1 billion in tax revenues each year.**



Best Way to Deal With It

- Best way to deal with counterfeit and piracy:
 - deal with them at source;
Catch them where they produce the goods



How Customs Authorities Can Assist Businesses –Border Measures

- **Border Measures** (under WTO TRIPS Agreement) – using the resources of Customs to seize goods at the border provides a back-up method to fight this illegal trade
- Applies generally to trademark and copyrighted materials



How Does Border Enforcement Work?

- When right-holder has reason to believe that pirated or counterfeit goods are being imported he can lodge application with Custom authorities to suspend release of the infringing goods into free circulation
- Application must give prima facie evidence of the infringement and sufficient information to identify goods concerned



How Does Border Enforcement Work?

- Also needs to provide security - to protect defendant and Customs authorities and prevent mechanism being abused to harass legitimate trade
- Customs authorities will notify the importer and the applicant if goods are suspended



How Does Border Enforcement Work? (Continued)

- If no proceedings to determine merits of case initiated by applicant within 10 or 20 days of notification by Customs of suspension of the goods, the goods will be released
- If no wrongdoing found, the applicant may be liable to compensate owner of the goods for any injury caused



Ex-officio Action

- Countries may empower Customs authorities to act on their own to suspend release of goods where they have prima facie evidence that an IP right is being infringed
- For this purpose information may be sought from right-holders



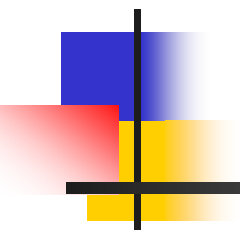
Ex-officio Action

- Importer and right-holder will be notified of a suspension of goods and if an importer lodges an appeal against the suspension, the same process as that applicable to a suspension through an application will apply.



What can Businesses do?

- To enhance the Customs-Business Partnership for a more effective and efficient fight businesses can help :
 - Through sharing of intelligence with Customs authorities on movement of counterfeit and pirated goods;
 - Doing so in a timely fashion;
 - Assisting in identification of counterfeit and pirated items;
 - Utilising existing remedies against infringers



THE END



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Global Efforts for Fighting Counterfeiting and IPR Piracy

**Mr. Kunio Mikuriya
Deputy Secretary General
World Customs Organization**

**APEC Customs - Business Dialogue
5th September 2006
Furama Resort, Da Nang, Viet Nam**

Session 2
**Global Efforts for Fighting counterfeiting and
IPR piracy**

**APEC Customs-Business Dialogue
(ACBD)**

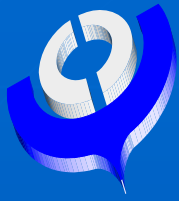
5 September 2006, Da Nang, Viet Nam

Kunio Mikuriya
Deputy Secretary General
World Customs Organization (WCO)



Counterfeiting – recent trend

- **Increased trade volume in counterfeit market**
 - 70% of total seizure carried out at borders
- **Use of mass produced commodities**
 - From luxurious goods to daily consumer goods
- **Complex Modus Operandi**
 - Various routing to conceal origin
 - Free trade zones
 - Internet
- **Linkage with organized crime**
 - Higher profit with lower risk, compared to traditional smuggling



IPR - Customs efforts

- **Establish and improve legal framework**
 - WTO TRIPS Agreement
 - WCO model legislation, developed in close cooperation with business
 - Necessary empowerment of customs officers
 - Cooperation with right holders & other competent authorities

- **Intelligence-based risk analysis**
 - WCO Framework of Standards – Insight on movement of goods from origin to arrival
 - WCO Customs Enforcement Network / Regional Intelligence Liaison Office – “Global IPR report 2004”



Communication strategy

- **Policy makers**
 - Revenue loss (company, national)
 - Economic development (external & internal investment)
 - Consumer protection, creativeness
- **Consumers**
 - Health and safety, organized crime
 - Sports events-related awareness raising
- **Business**
 - CEO level involvement – IPR Task Force/ Strategic Group
- **G8 statements**
 - WIPO, WTO, WCO, Interpol
- **OECD study**
 - Economic & social effects of counterfeiting



Capacity building in customs

- **WCO IPR Diagnostic Framework – Action Plan (Malaysia)**
 - Organizational structure, legal framework, procedures
 - Cooperation and communication, IT, Intelligence
 - Human resource development, Inspection/exam. technique

- **Training**
 - WCO E-learning module

- **Integrity**

- **Support of private sector**



Way forward

- **Continued awareness raising**
 - Political support for legislation, resources
 - Public awareness – favorable environment for enforcement

- **Further development of international standards**
 - IPR guidelines (Free Trade Zones, transshipment, export control, disposal of seized goods, cooperation etc.)
 - Development of IPR Appendix to Framework of Standards

- **Capacity building & training**

- **Joint efforts for long battles and challenges ahead**
 - Partnership with business
 - Synergy with APEC initiatives



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Innovation to Expand IPR Enforcement

**Mr. Daniel Baldwin
Assistant Commissioner
U.S. Customs and Border Protection**

**APEC Customs - Business Dialogue
5th September 2006
Furama Resort, Da Nang, Viet Nam**

Daniel Baldwin
Assistant Commissioner, Office of Strategic Trade
U.S. Customs and Border Protection



In April 2004, U.S. Customs and Border Protection (CBP) Commissioner Robert Bonner designated Daniel Baldwin to serve as the Assistant Commissioner, Office of Strategic Trade (OST), U. S. Customs and Border Protection. This Office provides CBP with a national strategic perspective on trade issues, supports partnerships with the trade community and domestic industry, manages a regulatory audit program, and designs strategies to enable CBP to address significant trade risks. Mr. Baldwin's approach to addressing trade risks is based on applying innovative approaches coupled with a focus on measurable results. As Assistant Commissioner, Mr. Baldwin oversees the programs and operations implemented by 9 Regulatory Audit Field Offices and 5 Strategic Trade Centers.

Prior to assuming his duties as Assistant Commissioner, Mr. Baldwin was Director of the Trade Management Division in OST Headquarters, with responsibility for developing the CBP National Trade Strategy, organized around Priority Trade Issues (PTIs). These were developed using a consistent risk-based analytical approach, with a clear emphasis on integrating and balancing the goals of trade facilitation and trade compliance. Previously, Mr. Baldwin served as International Trade Manager with the Strategic Trade Center in Chicago, where he focused on risk-based issues related to imports of steel mill products.

Mr. Baldwin received a Bachelor of Arts degree from the University of Toledo (history and philosophy) and a Master of Arts degree from Wayne State University (history).

Innovation to Expand IPR Enforcement

APEC Customs Business Dialogue

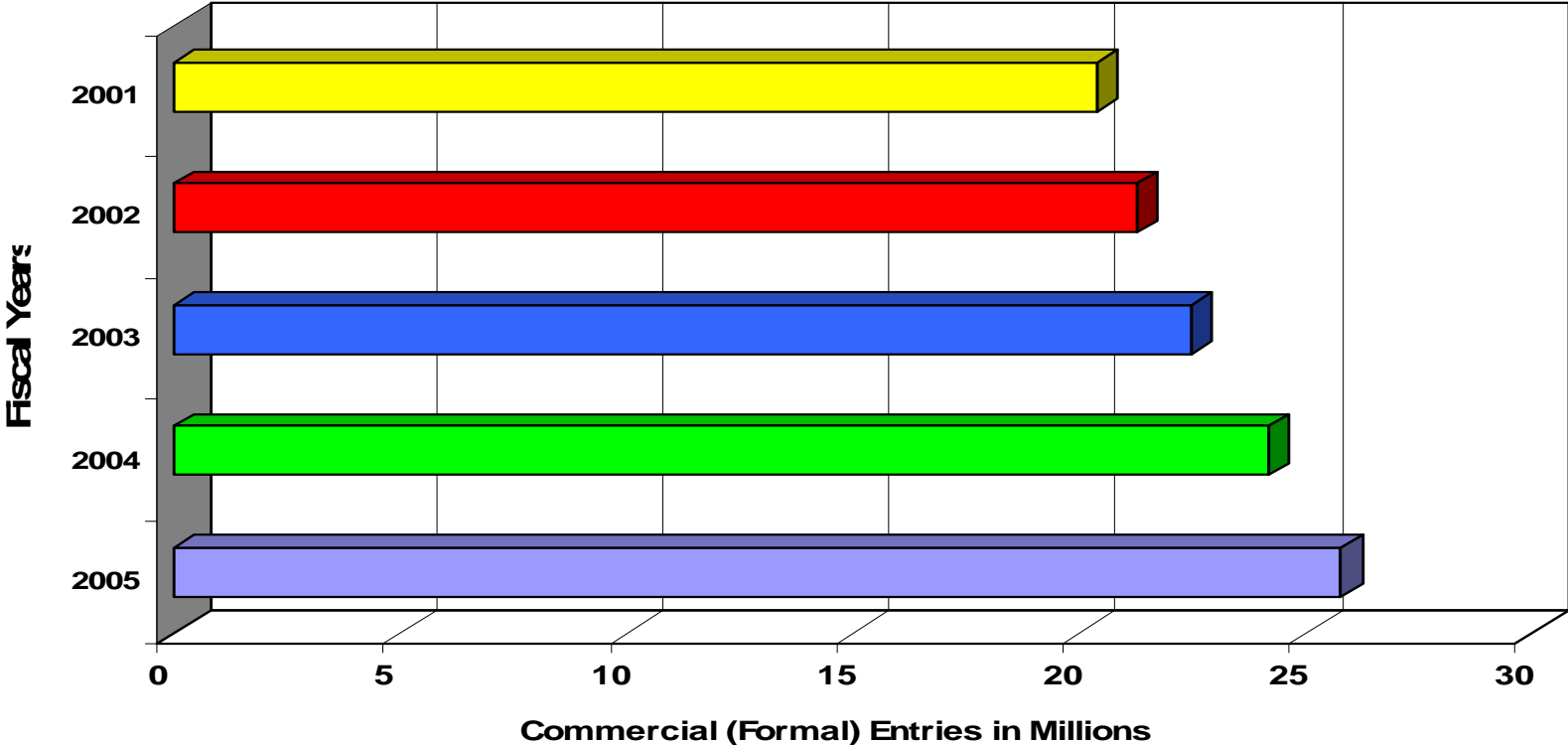
September 2006



U.S. Customs and
Border Protection

U.S. Import Volume

Number of shipments increases annually



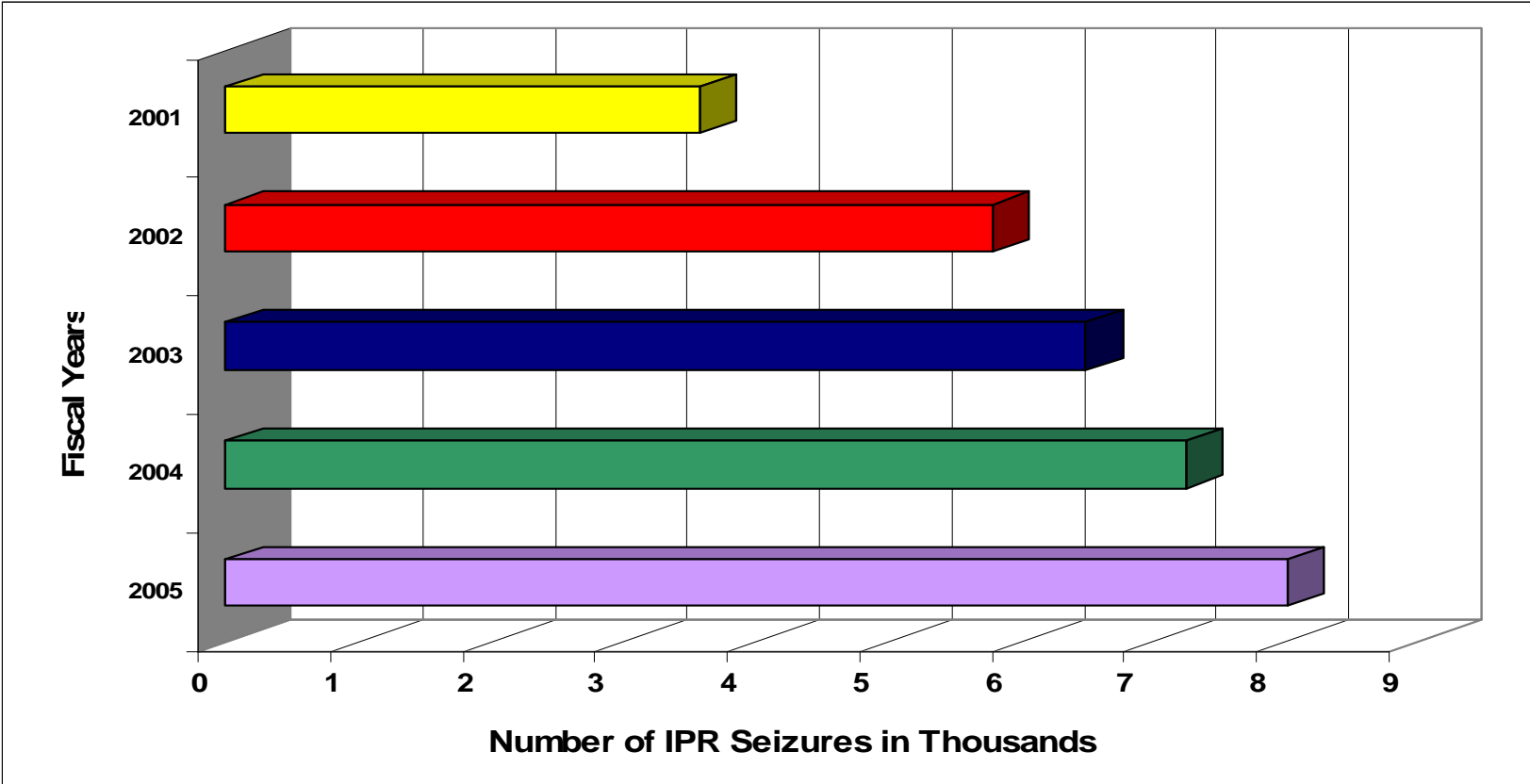
U.S. Customs and Border Protection

Disclaimer

The information contained on this page does not constitute the official trade statistics of the United States. The statistics, and the projections based upon those statistics, are not intended to be used for economic analysis, and are provided for the purpose of establishing CBP priorities and workload.

Customs IPR Seizures

U.S. border enforcement agency IPR seizures rise annually



U.S. Customs and Border Protection

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Stopping IPR Theft

New strategies and tools to fight counterfeiting and piracy

STOP!

The U.S. Government's
coordinated, interagency

Strategy Targeting
Organized Piracy

- Cooperative effort with industry to help secure and protect their rights
- Engagement with trading partners to promote better IPR protection globally
- Pursuit of criminals trafficking in fake goods
- Innovative IPR border enforcement initiatives to stem the flow of fakes at the border



U.S. Customs and
Border Protection

IPR Risk Model

Improving risk analysis to enhance targeting and interdiction

IPR risk model

Innovative computer-based statistical model that calculates risk scores indicating the relative IPR infringement risk of imports

- Complements traditional methods of targeting
- Based primarily on Customs historical entry and IPR infringement data, but infuses other U.S. government agency assessments of IPR risks
- Risk factors form a “model” of the characteristics of IPR infringing imports



U.S. Customs and
Border Protection

Post-Entry Verification “IPR Audits”

Identifying Business Practices Linked to IPR Theft

Internal Controls Review

Evaluation of business systems to determine if there are weaknesses that lead to IPR violations

- Risk-based selection of companies
- Determine adequacy of company’s internal controls to prevent importation of IPR infringing goods
- Work with company to establish internal control system to prevent future violations



Post-Entry Verification “IPR Audits”

Depriving counterfeiters and pirates of illicit profits

Business Records Review

Examination of financial, accounting and other records to identify and quantify IPR violations

- Review of records kept in the normal course of business and of products at company’s premises
- Penalties for IPR violations identified during audit
- Expansion of IPR enforcement beyond examination of goods at the border



U.S. Customs and
Border Protection

IPR Enforcement Actions

Targeting, seizures, audits and fines in Fiscal Year 2005

- Commercial targeting
 - 13,870 reviews, up 23% compared to Fiscal Year (FY) 2004
 - 7,793 exams, up 21%
 - IPR Risk Model preliminary reporting for three test ports July 24 – August 5, 2006
 - 534 reviews, 56 exams closed
- IPR Seizures
 - 8,022 seizures, an increase of 10.5% over FY 2004
 - Domestic value over \$93 million
- IPR Audits (FY 2005 through July 2006)
 - 17 completed covering \$252 million in merchandise at high risk for IPR infringement
 - Over 75% of importers had inadequate or no IPR internal controls
 - \$4.6 million in penalties assessed for IPR infringements
- 1526(f) fines for counterfeit trademarks
 - 341 fines with assessed amount totaling \$423 million issued





U.S. Customs and Border Protection



U.S. Customs and
Border Protection



Asia-Pacific
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IPR Enforcement: Viet Nam Customs Current Experiences and Challenges

**Mr. Nguyen Trong Hung
Deputy Director
Customs Supervision and Control Department
Viet Nam Customs**

**APEC Customs - Business Dialogue
5th September 2006
Furama Resort, Da Nang, Viet Nam**



Asia-Pacific
Economic Cooperation



Fighting against Counterfeiting and Pirated Goods: Papua New Guinea's Current Status and Experiences

**Mr. David Wong
Director
Customs Brokers Association
Business Council of Papua New Guinea**

**APEC Customs - Business Dialogue
5th September 2006
Furama Resort, Da Nang, Viet Nam**

ENHANCED CUSTOMS AND BUSINESS PARTNERSHIP FOR MORE EFFECTIVE AND
EFFICIENT FIGHT AGAINST COUNTERFEITING AND PIRATED GOODS

Presentation
By
Mr. David Wong
PNG Customs Brokers Association
And
Business Council of PNG

First and foremost, I wish to extend my appreciation, and that of the two agencies that I am representing here today (PNG Customs Brokers Association and the Business Council of PNG) for providing 'us' with the opportunity to deliver a brief overview on the current status of PNG's fight against counterfeiting and pirated goods.

The present status in PNG is alarming.

Currently, the business houses in Papua New Guinea are attempting to understand how to combat the illegal importation of counterfeit products into PNG. This action by illegal traders is new to PNG and is developing into a major hurdle for the PNG Government Agencies and legitimate trading houses.

The importation of illegal traders is currently being addressed by individual companies, with limited support from the appropriate Government Agencies, as they (the Agencies) are faced with limited resources and knowledge as to how to 'tackle' this ever growing concern.

The Business Council of Papua New Guinea, has recognised the need for a consultative process with the appropriate agencies, and subsequently extended an invitation to various Government Agencies in an attempt to establish a dialogue process to deal with the increase in the number counterfeit products entering PNG, and in addition, to review the current labelling and packaging laws and the various legislations.

The relevant Government Agencies attended a very frank and open round table discussion, to address the issues on the importation of counterfeit products and copy rights and how the existing government legislation can assist to combat this problem that is affecting manufacturing or agency / distributors business, and of course ultimately the consumer. The current process is not user friendly, nor is it fully understood by the Government Agencies.

The current Acts that have been examined by the Business Council of PNG, which may assist the Government Agencies to address these rapidly growing issues, are as follows:

Government Legislation:

- Food Sanitation Act
- Packaging Act

- Intellectual Property Act
- Trade Mark Act
- ICC Act 2002, and
- Customs (Prohibited Imports) (2006 Budget provisions Amendment) Regulation 2005.

It was revealed during the roundtable discussion, that there does exist a number of internal hurdles from within the various Government Agencies that need to be urgently reviewed.

I shall now very briefly outline these issues that were highlighted during the course of the meeting:

- o The duplication of the roles within the Government Agencies and their responsibilities to impose current legislation
- o The current legislation does not provide any screening process for new companies being registered through the Company Registrar, nor does it reject or highlight the individuals that are registering a number of companies. It was recognised that a screening process should include bankruptcy and criminal rejection should be adopted, but how, was the major outcome of the discussion, as the agency lacks resources and funding for the implementation of new procedures and staff training.
- o It was agreed that the Business Council of PNG would seek clarification through the Company Registrar's office under which criteria at present, can cease individuals from forming a new company or holding the directorship of a company.
- o It was also recommended and supported by all present that The Company Act needs to be reviewed. A copy is to be provided by the Agency. Whilst an arm of the Company Registrar's office on Intellectual Property Rights does have a lead role in the enforcement of Intellectual Property, it is the responsibility of the owners of the 'trademark' to seek retribution through the various agencies. It was suggested that this should be a coordinated approach through the Internal Revenue Commission and the appropriate bodies.

The Business Council of PNG, as a result of these discussions agreed to deliver an informative presentation at a forthcoming Consumer Protection Agency workshop in October and address these issues 'head on' on behalf of the private sector.

In addition, the Business Council of PNG agreed on the following actions, however for these to take place, it will combine cooperation, resources and the uplift of existing knowledge of employees within the affected agencies.

These recommendations included:

- To establish a "one" coordinated body, who has the proper and the correct access to all agencies and the various legislation.
- To explore the possibility of the de-registration of Companies and removal of work permit status.
- The group to include the expertise and service of the Trans National Crimes Unit.
- The BCPNG to deliver a 'Private Sector Paper" at the October Consumer Protection Workshop.
- A Consultative process to continue which would include the following agencies: BCPNG, Internal Revenue Commission; Attorney General; NISIT; ICC, IPA/IPO; NAQIA; Trans National Crime Unit and the Public Prosecutor. All Government Agencies are to provide the following:
 - a. Each Agencies responsibility
 - b. A copy of the Legislation that is applicable
 - c. Contact details of representative, and
 - d. Brief from each Agency on counterfeiting products/labelling and packaging laws that are relevant under their respective departments..

This will assist the BCPNG in formulating an "Orgnaization Chart" for easy reference by the Private Sector. In addition, it will provide the foundation for the establishment of a 'road map' for future reference.

The Business Council of PNG also agreed to raise this matter with the National Working Group on Removing Impediments to Business and Investment for their endorsement. The Business Council of PNG is the co-chair of the Working Group along with the Chief Secretary of the Prime Minister's Department.

It was also suggested that the Business Council of PNG seek external funding to engage the service of a Volunteer with the appropriate experience, to work on a 6 - 8 week project with the various Government Agencies.

Whilst all these discussions are taking place, there is some protection for copy right in PNG, under the Trade Mark Act (CH.385), as long as the Trade Mark is registered with the Register Trade Mark office in PNG..

Companies have used this act to protect the brands they represent in Papua New Guinea, i.e. NIKE.

Other companies have altered the designs on their packaging, thus making it difficult for offending organisations to counterfeit their products i.e. Colgate Palmolive and British American Tobacco (PNG) Ltd such as the Benson and Hedges Brand Name.

The main concern is the effect the importation of counterfeit pharmaceutical goods will have on the general health and well-being of the grass roots of PNG. Regrettably the average 'man on the street' is unable to read or comprehend the difference between a brand name and an illegally imported product. They only see the cost of the product as being the critical issue. The importation of counterfeit pharmaceutical goods into PNG is increasing and needs to be urgently addressed by the agencies and a strong awareness campaign established to inform the grass roots of PNG of the choice that they are making when they purchase a cheaper/unknown brand.

Companies are opting to advertise (at a cost) advising the general public, the counterfeits and the difference between the genuine product and the copies.

To also combat the counterfeit and pirated goods issue, the Papua New Guinea Customs should be able to request the high risk countries that are producing counterfeit and pirated goods, to legally enforce companies to have their containers screened before exported.

Funding should also be made available and accessible to developing countries to obtain large scale X-ray and gamma-ray machine and radiation detection devices, to allow free flow of international goods in the supply chain.

The Business Council of PNG and the PNG Customs Brokers Association appreciates the opportunity to present to you today, an overview of the current status within Papua New Guinea. As you can see we are desperately seeking assistance from parties with expertise to combat this growing problem in PNG.

Thank you for your time.

David Wong
Papua New Guinea - Private Sector Delegate

BIOGRAPHY

Name of speaker: Mr. Nguyen Trong Hung

Position: Deputy Director – Customs Control and Supervision
Department – General Department of Viet Nam Customs

Qualification: Master of Economics

Working experience:

1972-1978: Serving in the Army

1978-1983: Studying at Ha Noi Foreign Trade University

1983-1995: Working at the Customs Department of Ha Noi City

1995-1998: Head of Inward Processing Division – Customs Control and
Supervision Department

1998-2001: Head of Customs Technique and Procedures Division –
Customs Control and Supervision Department

2001-present: Deputy Director of Customs Control and Supervision
Department

***VIETNAM CUSTOMS'
ENFORCEMENT OF
INTELLECTUAL
PROPERTY RIGHTS***

***MR. NGUYEN TRONG HUNG
DEPUTY DIRECTOR***

***CUSTOMS SUPERVISION AND CONTROL DEPARTMENT
THE GENERAL DEPARTMENT OF VIETNAM CUSTOMS***



VIETNAM NATIONAL LEGISLATION
AND INTERNATIONAL CONVENTIONS
FOR IPR WHICH VIETNAM CUSTOMS
HAS TO ENFORCE



I. VIETNAM NATIONAL LEGISLATION AND INTERNATIONAL CONVENTIONS FOR IPR WHICH VIETNAM CUSTOMS HAS TO ENFORCE

1. Customs Law (Articles 57, 58. 59);
2. Law on IP (Articles 199, 200, 214-219);
3. Decree No. 154/2005/NĐ-CP dated 15/12/2005
(Articles from 48 to 55) on customs procedures,
inspection and supervision
4. Government Decrees guiding implementation of
Law on IP.

II . RELATED INTERNATIONAL CONVENTIONS AND COMMITMENTS ON IPR

1. The Agreement between the Government of SR.Viet Nam and the Government of the United States of America relating to copyright
2. The Agreement between SR. Viet Nam and the Federal Government of Switzerland on intellectual property right protection and cooperation in the area of IPR.
3. The Viet Nam — US Bilateral Trade Agreement (Chapter II on IPR)



II. INTERNATIONAL CONVENTION AND COMMITMENTS ...(CONTINUED)

4. The Bern Convention for the protection of Literary and Artistic works that came into force in Viet Nam on 26 October 2004
5. The Geneve Convention for protecting gramophone record producers from illegal copy that came into force in Viet Nam on 6 July 2005
6. The Brussels Convention Relating to the Distribution of Program-Carrying Signals Transmitted by Satellite that came into force on 12 January 2006
7. The Paris Convention for the Protection of Industrial Property, the World Customs Organization's Model Law,...



VIETNAM CUSTOMS'
MEASURES TO ENFORCE
IPR PROTECTION



I- MEASURES TO CONTROL IMPORTS AND EXPORTS RELATING TO IPR

Measures to control imports and exports relating to IPR include the Article 216, IPR Law and the Article 57 (The Revised Customs Law 2005): :

- a) Suspension of customs procedures to goods that is suspicious of IPR violation;
- b) Inspection, supervision to detect goods that has signs of IPR violation.
- c) The IPR holders has rights to make a long — term or a case by case basis proposals to request Customs authorities to suspend customs procedures to the goods that is suspicious of IPR violation.



II – PROCEDURES FOR TEMPORARY SUSPENSION

1- Procedures to request temporary postponement of customs procedures for a particular shipment:

a- Application submitted to Customs.

b- Certificate of IPR ownership.

c- Primary evidences.

d- Guarantee of payment (or a deposit of 20% of the shipment's value)



II – PROCEDURES FOR TEMPORARY SUSPENSION (*continued*)

2- Duration for Customs procedures postponement of certain shipment:

- Duration of postponement : 10 days.*
- Extension: 10 days (application, additional deposit)*

3- Treatment:

- No findings or evidences from the shipment: clearance.*
- Violation found: treated as provided for in legislation in force.*
- No violation found: applicant shall bear all related costs.*



III- EXAMINATION, CONTROL AS REQUESTED BY RIGHT HOLDERS (continued)

1- Procedures for Customs examination and control to identify IPR violations as requested by long-term application of the right holders:

a- Long-term application;

b- Proving the legitimate ownership;

c- Providing sufficient information to Customs for identification.



IV . JURISDICTION FOR APPLICATION RECEPTION

- a) Customs Unit receives application if the scope of request for applying control measures is under the scope of management of Customs Unit;
- b) Customs Department receives application if the scope of request for applying control measures is under the scope of management of Customs Department;
- c) General Department of Vietnam Customs receives application if the scope of request for applying control measures is under geographical areas of two or more Customs Departments.

V . APPLICATION PROCESSING

Within 30 days from the day of reception of long-term application, or 24 working hours from the time of reception of Application of request of temporary postponement, Customs process the application as follows:

- Notification of reception of application, check information submitted in application and supporting documents; or:
- Notification of shortcoming of application to applicant for correction. Correction must be completed within 30 days and 3 days to long term application and application of request of temporary postponement, respectively.



CHART OF STEPS OF TEMPORARY POSTPONEMENT OF CUSTOMS PROCEDURES

(In case of certain application of request)

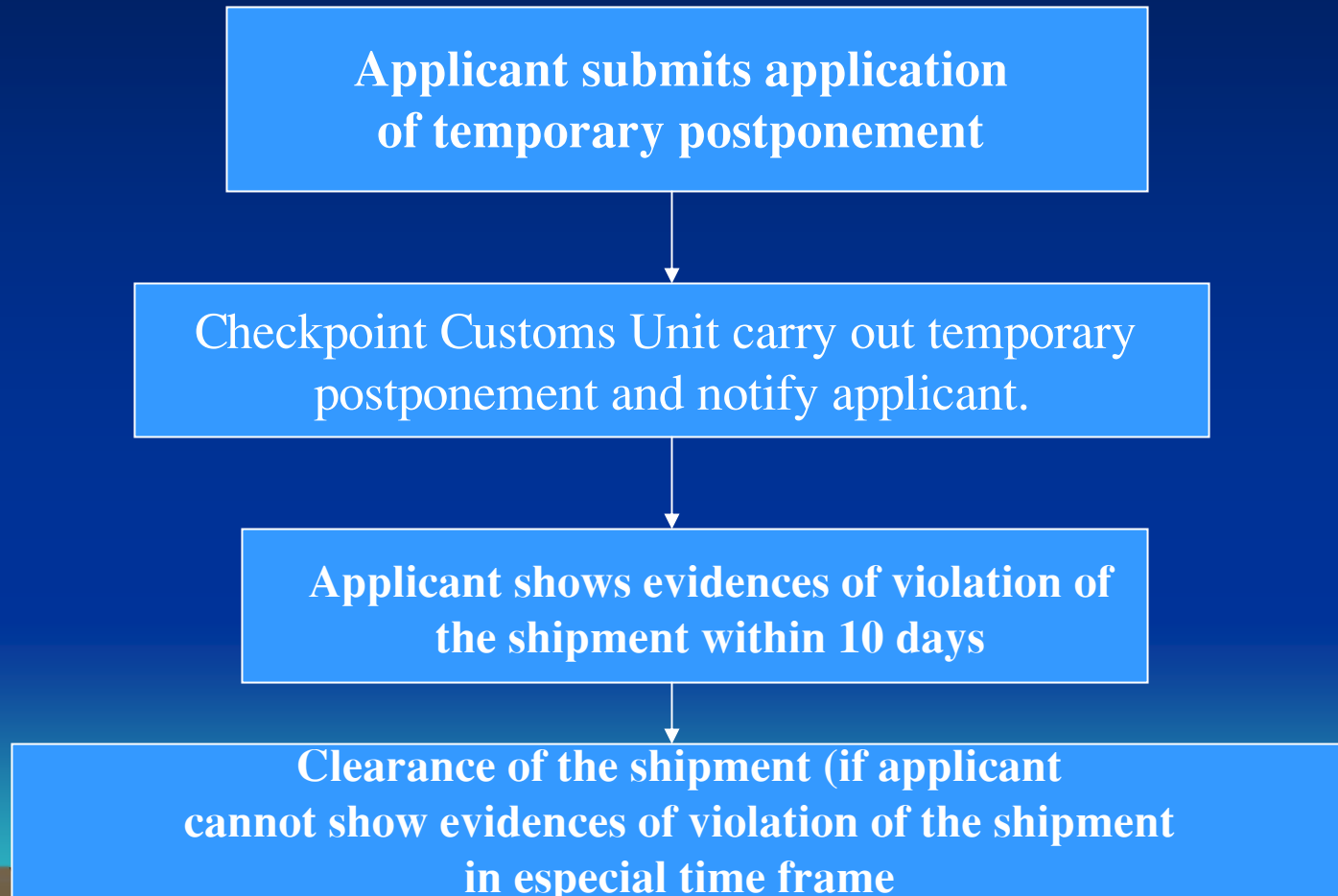
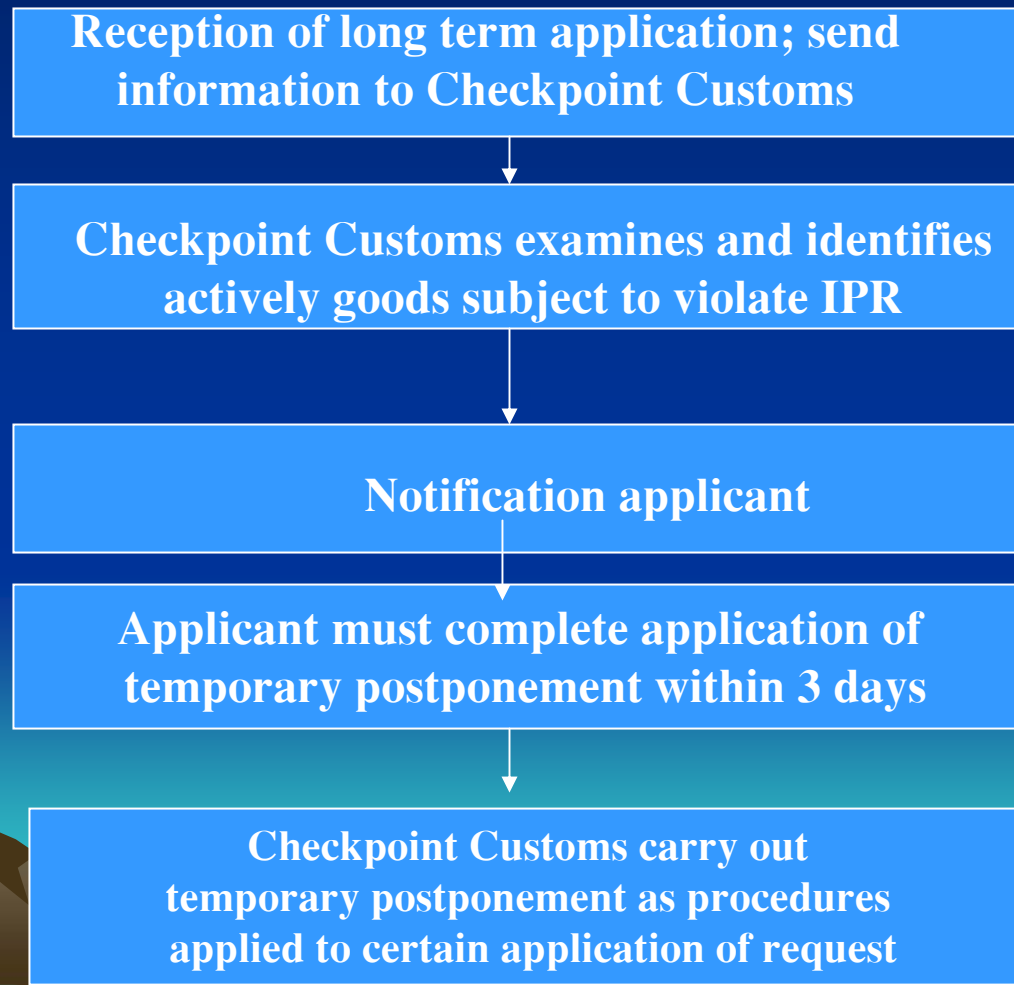
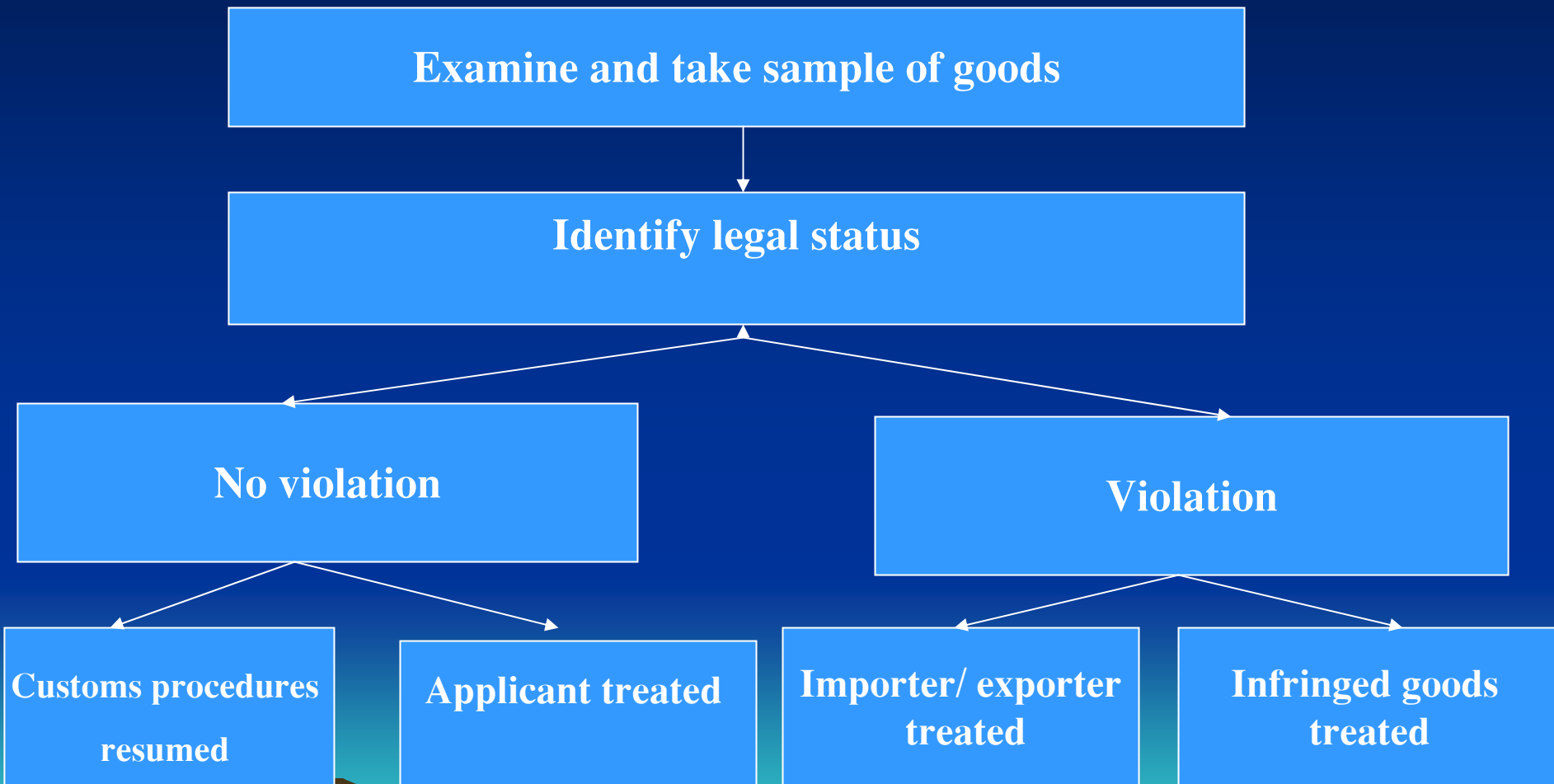


CHART OF STEPS FOR EXAMINATION, IDENTIFICATION AND TEMPORARY POSTPONEMENT OF CUSTOMS PROCEDURES (In case of long term application)



MODEL OF PROCESSING GOODS SUBJECT TO TEMPORARY POSTPONEMENT AND RELATED PARTIES



VI – EXAMINATION AND CONTROL OF CUSTOMS TO IDENTIFY IPR INFRINGEMENT (continued)

Customs actively identify IPR violations:

- *Notify immediately right holders / representatives of violation;*
- *The right holders/ representatives do not request for temporary postponement within 3 days and Customs does not decide to take the case in accordance with administrative penalties procedures applied to importer/ exporter, Customs proceeds clearance of goods.*

VII – PREVENTIVE AND GUARANTY MEASURES FOR ADMINISTRATIVE PENALTIES

LEGAL BASIS

- Ordinance for Administrative Penalties dated 2 July 2002
- Decree No. 134/2003/NĐ-CP dated 14 November 2003 by the Government promulgating detailed guidances for implementation of some articles of Ordinance for Administrative Penalties.
- Decree No. 138/2004/NĐ-CP dated 16 June 2004 by the Government promulgating Administrative Penalties in Customs field.



Jurisdiction of Customs relating to administrative violations on IP

(Article 2000, Law on IP)

- a) Competent agencies applying administrative measures are: inspection, public security, market management, Customs, People's Committee at all levels.
- b) Only Customs has rights to apply border control measures on imported/ exported goods related to IPR.



VII – PREVENTIVE AND GUARANTY MEASURES FOR ADMINISTRATIVE PENALTIES

- 1) Temporary detention of violated persons;*
- 2) Temporary detention of goods, violated items and vehicles;*
- 3) Search violated persons;*
- 4) Search vehicles, items and place for concealment of goods, IPR violated items....;*



Kinds of IPR administrative penalties conducted by Customs (*Article 214 Law on IP*)

1. Official penalties:

- Warning
- Pecuniary penalty (at least by one time but not exceed to 5 times value of infringed goods)

2. Additional penalties: seizure of infringing goods.



Measures for surmounting consequences

(paragraph 3, Article 214, Law on IP)

- a) Compulsory destruction; or put into non-commercial purpose consumption;
- b) Compulsory re-exportation of counterfeit after removal of infringing signs;
- c) Remove from customs territory the infringing goods in transit.



Measures for surmounting consequences

(paragraph 3, Article 214, Law on IP)

- a) Compulsory destruction; or put into non-commercial purpose consumption;
- b) Compulsory re-exportation of counterfeit after removal of infringed signs;
- c) Mandatorily bring infringed goods in transit out territory.



VIET NAM CUSTOMS' EXPERIENCE ON THE
ENFORCEMENT OF INTELLECTUAL
PROPERTY RIGHTS PROTECTION
AT BORDERS



IMPROVEMENT OF THE LEGISLATION SYSTEM ON IPR

- Directly involve in the establishment of Customs Law with provisions on the enforcement of IPR protection of exports and imports in accordance with standards stated in the TRIPS Agreement;
- Involve in the drafting the section of IPR Protection Enforcement of Customs Authority in IPR Law in accordance with international standards on IPR;
- Promulgate inter-agency circulars on the protection of IPR of exports and import (eg: joint circulars issued by Ministry of Finance and Ministry of Culture and Information, joint circulars issued by Ministry of Finance and Ministry of Science and Technology)
- Establish the horizontal system of customs officers who concurrently take the responsibility of IPR protection work from the headquarter to customs checkpoints (according to official document No. 2275/TCHQ-TCCB dated 14/6/2006);



EQUIPIPING AND ENHANCING KNOWLEDGE ON IPR OF CUSTOMS THROUGH TRAININGS AND PARTNERSHIP WITH IPR HOLDERS

- Include IPR issues into the compulsory training programme in training and refreshment courses for customs officers of all levels;
- Organize training course on IPR for local customs officers;
- Establishing action plan for IPR protection in local Customs offices in accordance with the jointly action plan No. 168/CTH§/VHTT-KH-CN-NN-PTNT-TC-TM-CA on cooperation on the prevention of infringement of IPR in the period of 2006-2010 among agencies including Ministry of Culture and Information, Ministry of Science and Technology, Ministry of Industry, Ministry of Agriculture and Rural Development, Ministry of Finance, Ministry of Trade and Ministry of Police



EQUIPPING AND ENHANCING KNOWLEDGE ON IPR OF CUSTOMS THROUGH TRAININGS AND PARTNERSHIP WITH IPR HOLDERS (CONT.)

- Organize training courses for frontline customs officers to recognize the features of counterfeits, fake geographical indicators, IPR infringed goods counterfeits;
- Cooperate with international organizations (EU Patent and Trademark Agency, Japan Customs...)
- Cooperate with organizations, companies , representative offices working in the field of IPR (Inven co, Pham and Lien danh, Invenstip...)
- Sign memorandum of understanding, agreement on IPR protection with Unilever Company to protect their products...

ACHIEVEMENTS

- Some IPR infringement cases has been detected such as: a transit consignment of JET cigarette with lion symbol in Dang Nang Customs sub department Section II of Da Nang Customs Department; an imported consignment of motorcycle parts which infringed the trademark of HONDA in Coc Nam Customs checkpoint of Lang Son Customs Department, an infringement of trademark of OSRAM light bulb, infringing trade mark of W and WILSON: WILSON sporting equipment (Chicago, United States)...



RESULT (cont.)

Besides, Customs checkpoints of city/provincial Customs department through the examination and control of export and import at frontline borders have also detected many infringements on geographical indicators, industrial design and contraband music compact discs.



MAIN CHALLENGES IN THE
ENFORCEMENT OF IPR PROTECTION
OF VIETNAM CUSTOMS



Challenges to Viet Nam Customs in the enforcement of IPR protection

1. Lack of IPR database system to update information, international practices of border control;
2. Diversity of goods make it difficult to distinguish between genuine and counterfeit goods, activities of smuggling and trading of fake goods is increasingly becoming complex while Customs is under the pressure of modernizing customs procedures to expedite customs clearance of goods;
3. The moving forward to customs control based on risk management techniques for better management and facilitation of legitimate trade also pose a great challenge to Viet Nam Customs in the enforcement of IPR protection.



Challenges to Viet Nam Customs in the enforcement of IPR protection (cont.)

4. IPR holders are still not active in the cooperation with customs in terms of providing information on prevention of IPR infringed goods (record information);
5. Many frontline customs officers still lack knowledge on IPR. Knowledge, experience of customs officer in general is still limited;
6. The cooperation between customs and other relevant government agencies on IPR Protection still face difficulties that remain to be addressed;
7. Cooperation, information exchange and experience sharing between Viet Nam Customs and other Customs Administrations and international organizations is still limited.





Asia-Pacific
Economic Cooperation



**Enhanced
Customs and Business Partnership
for
More Effective and Efficient Fight
against
Counterfeiting and Pirated Goods:
Some Thoughts from the Business Sector**

**Mr. Andrew Hudson
Partner Hunt & Hunt Australia**

**APEC Customs - Business Dialogue
5th September 2006
Furama Resort, Da Nang, Viet Nam**



Hunt & Hunt
LAWYERS



Asia-Pacific
Economic Cooperation



APEC Customs – Business Dialogue (ACBD) for 2006

*Enhanced Customs and Business Partnership for more effective and efficient
fight against Counterfeiting and Pirated Goods*

Presentation by Andrew Hudson

“Some thoughts from the Business Sector”

Andrew Hudson
5 September 2006



Hunt & Hunt
LAWYERS



Hunt & Hunt profile

- A full service commercial law firm, with over 70 years experience in providing legal and advisory services in the corporate, financial services and property sectors
- Across our legal network we have over 100 partners
- With offices in almost every Australian State and Territory capital city, we offer clients depth and breadth of resources.
- Specialised expertise in the Asia Pacific region, with offices in Shanghai and Auckland
- We provide clients with a global reach, being the sole Australian member firm of Interlaw, a network of over 65 law firms in more than 75 countries



Hunt & Hunt profile

- Established practitioners in Customs, Trade and Transport to include:
 - Customs
 - Automotive
 - Commercial
 - International Trade – Free Trade
 - Marine and Aviation Insurance
 - Litigation
 - Property



Background of Hunt & Hunt cont...

- Andrew Hudson
 - Past Chair , Customs and International Transactions Committee of the Law Council of Australia
 - Chair of the International Law Section of the Law Institute of Victoria
 - Section Executive – International Law Section of the Law Council of Australia
 - Convenor – Interlaw Customs, Trade and Transport Team
 - CBFCA Victorian Committee of Management
 - Website - www.hunthunt.com.au
 - Customs, Trade and Transport Team
 - Free Trade Advisory Service
 - Register for Updates



Today's General Proposition

- Intellectual property is **GOOD**
- Counterfeiting and piracy are **BAD**
- How can Business and Customs work together to support this proposition?



Some Australian Context

- Provisions in
 - Copyright Act 1968
 - Trade Marks Act 1995
 - Olympic Insignia Protection Act 1987
- Scheme to protect intellectual property
- Owner (or authorised) user of a trade mark, copyright or Olympic insignia may protect IP through border measures allowing Customs to seize imported infringing goods



Some Australian Context cont ...

- Lodge a Notice of Objection
 - identifies IP rights and the works to which it attaches
 - provide form of security (cheque, cash or guarantee) to cover costs of seizure and disposal
- Customs seizes Goods
 - held for 10 working days
 - objector commences legal action; or
 - objector consents to release; or
 - importer voluntarily forfeits goods



Some Australian Context cont...

- If objector does not commence proceedings
 - Customs release; or
 - Importer forfeits goods.
- Legal Actions
 - Fines
 - Imprisonment
- At conclusion of legal action, court makes an order about goods which could include forfeiture to Commonwealth



Some Australian Context cont...

- Reflects Section 4 of WTO Agreement on Trade-Related aspects of Intellectual Property Rights
- APEC has also responded with the Anti-Counterfeiting and Piracy Initiative
- Excellent work across a region with many risks



Recent Experiences

- WCO Release on 18 August 2006 on review for period from 1 January to 31 December 2004
- Top 5 items counterfeited or pirated
 - fine leather goods
 - cigarettes
 - games and toys
 - CD's and DVD's
 - Textile products
- April 2006 Australian Customs seized 30,000 bottles of counterfeit perfume worth A\$2 million if genuine



Recent Experiences cont...

- August 2006 Australian Customs seized counterfeit designer brands
 - 1,000 pairs of jeans
 - handbags, wallets, watches, perfumes
 - 5,200 articles
 - 17 manufacturers
- Regular raids to seize pirate DVD's, CD's and clothing at markets
- Unrepentant importer of pirate DVD's and CD's jailed
- Cigarettes largely dealt with as a duty evasion issue



What do I see in practice?

- Have acted for both rights holders and importers
- Generally, only the “big” rights holders who are protecting themselves. A problem in itself.
- Many smaller importers are unwilling to use methods
 - process too hard
 - costs (security deposit)
 - lack of intelligence of risk areas
 - knowledge as to infringement
 - need for rights holders to prosecute
 - time to make decision to prosecute



What do I see in practice?

- Customs authorities working hard but with limited resources and co-operation
- All submissions on Australian FTA negotiations put a premium on IP protection, especially at the border



Thoughts to assist Right Holders

- Realise that constrained by the WTO Agreement
- However, perhaps consider improvements through the APEC Initiative and the WCO Framework and Standards
- APEC establish a register of problem areas
 - share information
- Rights over goods being transhipped
- Focus more on export control
 - Rights holder able to have rights at source of export to register rights
 - Customs in port of export provide more information through reform of Export Documentation
 - Customs in port of export provide source of export once infringement established
 - Notices of potential breach



Thoughts to Assist Right Holders cont...

- Review of Import Declaration
 - Include field where confirm that hold rights to use any copyright on trade mark
 - Create additional penalty for incorrect claim
- Better circulation of notices of objection to retailers or users of potential infringing goods
 - Websites consolidating information from various authorities
 - Work through other levels of Government who have authority over potential purchasers



Thoughts to Assist Right Holders

- Profile and targeting of goods where could be infringement
 - Based on place of origin and past experience

Alter the AEO scheme to provide additional benefits to those with IP rights

- Contact persons in Customs authorities
- News on infringing imports/exports and seizures
- Mutual registration through a variety of countries
- Concessions on level of securities



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ANY QUESTIONS?