POST-CLEARANCE AUDIT

Paper submitted by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu for the July 2012 World Trade Organization (WTO) Symposium on Trade Facilitation

Overview of the PCA system in Chinese Taipei

1. Definition of Post-Clearance Audit (PCA)

Post-clearance audit is an audit-based control conducted by Customs subsequent to the release of goods to ensure compliance with Customs and other related laws and regulations.

2. The history of establishing a PCA system

Against a background of rapidly increasing volumes of imports and exports, and the need to expedite customs clearance while ensuring the compliance of traders, an *ad hoc* task force was set up in 1998 by the Directorate General of Customs (DGOC) specifically to scrutinize declared customs values and tariff codes after the release of imported goods. Any false declarations found would result in the imposition of monetary penalties on the alleged importers in accordance with the Customs Anti-smuggling Act.

From 1986, our customs clearance system was based on the “Customs Valuation Code” of the Tokyo Round, and was brought into line in 2002 with the “Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994”. The need was perceived for a PCA system to be implemented, to enable us to better study the effectiveness of the system in practice and with a view to enhancing the efficiency of customs clearance and improving traders’ compliance levels. The decision to bring such a system into force was taken during the process of developing the plan for ”Reconstructing the Customs in 2000”.

In the course of intensive discussions on the details of a PCA system, the amendment to the Customs Act of granting Customs the authority to implement this system was approved and promulgated on 31 October, 2001. The “Enforcement Rules of the Customs Post Clearance Audit Procedure” and relevant directions were promulgated sequentially. The PCA system was then formally set up and came into operation from May, 2002.

3. The PCA framework

In May 2002, under the Department of Valuation of the DGOC, a Section was formed to handle and guide the operations of the PCA process. One month later, units were established in Customs Offices to conduct PCAs in the field.

3.1 Functions of PCA units in the DGOC

As a basis for further analysis, identify all possible risks that might arise, then, using intelligence, experience and skill, specify high-risk shipments as targets for the units of Customs Offices to conduct their PCAs.

Track and evaluate results of PCAs from the reports of auditors of the Customs Offices in the field.

Feed back to the ‘Customs Expert System’ on a monthly basis the findings of audit reports by the units of field Customs Offices to provide the basis for adjusting the mode of clearance or raising the examination rates of a specific party or parties under audit.

Design and coordinate ‘pre-job’ or ‘on-the-job’ training for new or experienced auditors with the Personnel Department of DGOC.

Maintain the ‘PCA management operating system’.

3.2 Functions of PCA units at Customs Offices in the field

Identify targets for auditing from incorrect classification, valuations, country of origin, duty drawback cases, smuggling reports, etc.

Conduct PCAs on cases handed over (from the DGOC’s PCA unit), on entrusted cases (from other agencies), on referred cases (from another Customs Office).

Conduct follow-up reviews on non-compliant parties under audit.

Look after and disseminate regulations concerning record keeping and other relevant customs procedures or trade facilitation measures already taken by Customs in the course of the PCA process.

Organize and host periodical meetings (twice a year) for auditors to exchange views and share experiences on conducting PCAs.

Send copies of PCA reports on a monthly basis to the DGOC for analysis and reference in the subsequent selection of cases on which field Customs Offices are to conduct PCAs.

In cases where it is discovered that the party under audit has disappeared or moved somewhere else without giving prior notice, the officer must notify the DGOC for further risk control.

Should the results of a PCA reveal not only customs duty evasion, but also evasion of internal taxes, the relevant other competent agencies should be informed.

4. Qualifications required for an auditor

Customs officers familiar with tariff codes, valuations or with previous relevant training are on the priority list for selection as PCA auditors. Due to the current trend towards early retirement, demand is sometimes difficult to meet, and newly-assigned auditors are still not familiar with core customs operations. Consequently, the passing down of experience by proficient auditors and periodic sessions of training or sharing of experience are indispensable elements in the process.

5. Allocation of manpower in the PCA system

5.1 When the PCA system came into operation in 2002 there were 42 auditors, including the DGOC unit and the field Customs Offices units. The total number of auditors rose to 66 in 2003.

5.2 Currently, there are 40 auditors working for the field Customs Offices PCA units, partly due to the fact that newly-developed customs operations require the involvement of greater numbers of staff, and staff replenishment can not keep up with the rate of manpower loss from early retirement.

6. Training provided to customs officers

In cooperation with the Training Institute of the Ministry of Finance (MOFTI), training course for non-auditors or beginners are held once-a-year. The forty-hour course covers PCA-relevant regulations, auditing principles and methodology, technical skills in accounting, and case studies on the undervaluation of imported goods and the overvaluation of exported goods, etc.

7. Relevant regulations governing the PCA process

7.1 Obligation to notify the party under audit

Written notification shall be given to the party to be audited within six months from the date of release of the imports or exports. The notification shall inform the party of the reasons and legal grounds for conducting the PCA, the date and place of the audit, and the documents to be prepared for examination.

Should the party under audit evade, obstruct or refuse to provide the required information during the post-clearance verification period, the customs authority may impose a fine of between US$ 102 and US$ 1,020. Further fines may be imposed for repeated acts of refusal to provide the information required.

7.2 Timeframe for conducting a PCA

The Customs may proceed with the PCA within two years from the date of release of imported or exported goods. Any case in which duty is refundable or receivable shall be notified within three years from the release date.

7.3 Regulations governing on-site verification

The audit should be conducted on site by at least two customs officers and, where circumstances require, other related customs personnel should also be present during the audit.

The customs officers should present their own official IDs for identity verification purposes, and they should verify the identity of the person being interviewed as well.

The customs officers should prepare a ‘report of the interview’ and present it to the party under audit for their acknowledgment and signature.

Customs should issue a receipt for all documents, information or samples of imported/exported goods received from the party under audit. All such items should be returned to the party under audit within 14 days from the date of submission of all requirements, though in certain circumstances the period for return of these items may be extended for a specified length of time.

The customs officers are required to prepare an ‘audit report’ detailing the full audit results within 30 days from completion of the audit.

7.4 Powers that the Customs may exercise upon completion of a PCA

Require the party under audit to make additional duty payments or provide the party with a duty payment refund.

Where the party under audit is found to have violated provisions of the Customs Act, the Customs Anti-Smuggling Act, or other governing laws, the Customs will impose the relevant penalties or fines.

Where the party under audit is found to have violated governing laws of other authorities, this should be reported to the competent agencies for proper treatment by them.

Should the customs authority discover an act of serious tax evasion, it may work together with the tax and other related authorities to organize a task force to carry out a joint audit.

8. Regulations that must be followed by the customs officer

8.1 The customs authority should desist from leaking or disclosing any confidential information about the party under audit discovered during the PCA. Customs should also desist from any infringement of the legitimate rights and interests of the party under audit.

8.2 Where the party under audit is the spouse, ex-spouse or a particular relative of the customs officer, the officer must report this fact to superiors in order to avoid conflict of interest.

8.3 The customs officer must act at all times with impartiality, honesty and equality towards all the parties under audit, and must choose to conduct the audit in a way that involves the least risk of damage to the party under audit.

8.4 Disclosure to a third party of any private commercial information provided by the party under audit is strictly prohibited.

8.5 Any information collected from the customs information system, or from relevant databases and reports of post-clearance audits should be kept confidential.

8.6 The auditor should obey the official terms of integrity that apply for customs officers.

9. Web-based database system available to PCA units

Customs officers may make use of modern information technology systems such as the "Tariff Operation System" to identify objects for PCAs. The declared tariff codes of some imports can be found to be different from those with the same description of goods. The "Customs Information System" provides officers with the necessary information to address movements or consignments that present a risk, and the "Trade Statistics Management System" provides average declared values of import goods for the auditors' reference and verification purposes.

10. Administrative remedy available to the party under audit

If the party under audit disagrees with the decision of Customs on tariff classification, customs value, amount of duty to be made up on the imported goods, the party may, within thirty days following the date of receiving the duty memo, file a request with Customs for a review of the case.

11. The cost of information technology infrastructure for the PCA system

In some countries, the costs of creating and maintaining a strong and effective Information Technology (IT) infrastructure required for a successful post-release verification programme can be significant. However, our customs officers themselves design and maintain the IT system for post-clearance verification, thus avoiding the extra expense of outsourced programmes. The addition of already existing database systems in such areas as revenue collection, risk analysis and assessment, and trade statistics, constitutes all the IT infrastructure needed to implement the system of post-clearance audit.

12. Cost and outcome of implementing the PCA system

12.1 PCA implementation costs for fiscal year 2010-11

Number of auditors	40
Personnel expenses	US$ 2,610,900
Training expenses	US$ 11,000
Total expenses of implementing PCA	US$ 2,621,900

12.2 PCA implementation outcomes for fiscal year 2010-11

Audits completed	583
Discrepancies found in PCA cases	454
Estimated value of evaded duties and fines recovered	US$ 26,579,778
Classification of types of discrepancy found in PCA cases	
- Valuation	49.57%
- Tariff Classification	18.70%
- Origin	1.72%
- Description of goods and specification	1.20%
- Concealment in imported goods	0.17%
- Others	6.52%

Comparing PCA implementation costs with outcomes, the figures show that total revenue in the form of evaded duties and fines recovered as a direct result of PCAs is ten times the cost of human resources allocated to the PCA system in 2011.

13. Difficulties faced since the implementation of PCAs

Due to the possibility of collusion between the party under audit and its suppliers, the real transaction value is difficult to verify and determine, which represents a challenge for our authorities.

Since the statutory period for conducting the PCA is two years from the date of release of the case under audit, some importers could have already terminated their operations before the verification process is conducted by Customs, or could have moved to another place where they cannot be found.

The shortage of manpower, and of experienced auditors in particular, places constraints on the effectiveness that can be achieved by PCA implementation.

14. Measures taken to overcome difficulties

Parties under audit are provided with clear administrative instructions, emphasizing the importance of compliance and the possible penalties for illegal behaviour, so they may fulfil informed compliance in the future.

Once the field Customs Office PCA unit decides to conduct an audit on a certain case, the customs officer is encouraged to act quickly in order to limit the possibility of the party under audit taking steps to avoid post-clearance verification.

Should any discrepancy or illegal activity be found during the post-clearance verification, this is to be reported by the field Customs Office PCA unit to the DGOC so that appropriate action to prevent subsequent tax evasion may be taken. Where evasion of internal taxes is involved, the other relevant competent agencies are to be informed as well.

Enhanced training and passing down of auditing experience are important for newly-assigned auditors. In addition to the periodic experience-sharing meeting twice-a-year, each PCA unit of field Customs Office shall exchange reports of PCAs on a monthly basis or when necessary, so that useful information from other Customs Offices is acquired and the necessary action taken.

15. Conclusions

The implementation of a post-clearance audit system not only reduces such burdens as time that are commonly associated with customs clearance, but also establishes a user-friendly environment for those taxpayers with good compliance records and contributes to the cutting down of duty and tax evasion.

In implementing the system, the costs of IT infrastructure and personnel expenses will differ between countries. In our particular experience, taking the fiscal year 2010-11 as an example, with no additional expenditure required on IT infrastructure as mentioned, the total personnel and training cost was US$ 2,621,900, yet the estimated revenue from recovery of evaded duties and fines amounted to US$ 26,579,778, almost ten times the cost of human resources allocated to implementing the PCA system. Other valuable benefits worthy of mention, which can be at least partly attributed to PCA implementation, are a rise in the level of compliance, improved trade facilitation and increased economic competitiveness.

For us, therefore, it is worthwhile to continue with the process of post-clearance verification. We need to make further efforts to improve our database system and our ability to analyze and identify risks, as well as to find ways of accelerating the recruitment of experienced customs officers and the training of staff to the necessary levels.