

**Policy
statement**



Prepared by the ICC Committee on
Customs and Trade Regulations

ICC Customs Guidelines

Introduction

This 2012 edition of the ICC Customs Guidelines – produced within the framework of ICC Memorandum of Understanding with the World Customs Organization (WCO), presents a comprehensive set of practices that ICC considers should characterize all modern customs administrations. Their observance is of major value and importance for those engaged in trade and transport, particularly in developing economies.

They are accompanied and reinforced by a set of explanatory notes, expanding the bare text of each guideline and identifying its advantages to government, business and customs themselves.

The guidelines and explanatory notes draw on a wide range of WCO documents and ICC policy statements. Many guidelines, for example the use of risk-assessment techniques with pre-entry and post-audit procedures, are as favourable to better security and other border controls as to improved trade facilitation.

The guidelines make specific reference to the value of systematic customs/trade co-operation through memorandum of understanding programmes.

They have numerous uses. For example, they set out, in a convenient form, a summary list of key provisions that, cross-referenced to corresponding stipulations in WCO Conventions, can be readily expanded into a code of best customs practices.

Selected guidelines and explanatory notes have been assembled into toolkits for use in assessing customs practices in relation to such specific concerns as supply chain security and integrity.

They offer a unique basis for rapid, coarse-grid appraisals of customs quality as part of the more detailed trade facilitation enquiries which are now an essential element in many development bank and lending agency projects for physical infrastructure improvements, trade promotion or encouragement of inward foreign investment.

In this and other respects the guidelines and explanatory notes have a particularly useful outlet through the World Bank Global Facilitation partnership (GFP) where their use, alone or in conjunction with the GFP Trade and Transport Facilitation Toolkit, makes a practical contribution to the broadening current of ICC/World Bank co-operation, designed to bring world business into the most effective relationship with global development strategies.

They can serve as the basis for a regular review and classification of customs services and as a reliable index of their progress.

The guidelines also give ICC and other interested organizations a handy checklist to keep track of, and interrelate, the many customs modernization and reform activities now in hand in such regional economic groupings as the EU, APEC and NAFTA.

They can be used, along with the explanatory notes, in relevant WTO and OECD studies and discussions, to help chart the progress of the current trade facilitation drive to bring practical freedom for the international transaction into line with the policy objective of global trade and service liberalization.

The guidelines are revised periodically to reflect new trading, transport and administrative activities and requirements, particularly in the use of new advances in information and communication techniques.

The explanatory notes are also updated regularly to note any major developments in subjects dealt with in the guidelines, and to look ahead and identify likely, desirable customs innovation.

The opportunity of the present revision has been taken to add a new guideline that supports the use of national single window and two guidelines that encourage customs administrations to criminalize the disclosure of proprietary information and to enforce anti-bribery policies.

Certain other procedures or practices may not be feasible, at the moment, in some countries by reason of legal constraints or gaps in enabling legislation and capacity building. It is no part of ICC's intention to ask customs to question or anticipate national legislation but all the practices set out in the guidelines have been satisfactorily applied by a number of leading customs administrations and ICC advances such proposals in the expectation that any remaining legal obstacles will be progressively removed.

The pace of change already accelerated by e-commerce and other new technologies is receiving extra impetus from strong security concerns, and a number of innovative proposals are under discussion in the WCO and elsewhere. Some leading customs administrations are examining the possibility of entering into multilateral agreements with other customs administrations for mutual assistance and recognition to strengthen common security and other border controls, offer traders optional end-to-end processing of international transactions and give mutual effect to premium procedures for jointly authorized traders.

These activities cannot be put forward, at the moment, as characteristic of all modern customs services, but ICC is confident that they will fall under this head by the time of the next guideline review.

The guidelines in no way imply any reduction in the responsibilities of traders to comply fully with customs laws and regulations. Indeed, they are intended to encourage mutual confidence and co-operation between customs and commerce, so that both can fulfil their respective obligations without conflict and to the broad public benefit.

ICC wishes to dedicate this document to the late John Raven, a long-standing member of ICC who was instrumental to this work for more than 20 years and who was a passionate and tireless advocate of strengthening the customs-business partnership.

ICC Customs Guidelines

A modern, efficient and effective customs administration:

A. Strategic plan

1. Encourages participation of its business community in the development of a strategic plan, looking forward three to five years, which describes its overall strategy and key priorities, supported by an annual management plan containing more detailed targets, objectives and performance measures; publishes and informs the trading community accordingly;
2. Publishes an annual review, updating strategy and reporting progress;

B. Workforce and structure

3. Employs a highly professional workforce, which is recruited competitively, well-trained, adequately paid and screened for enforcement risks, with written, standardised job descriptions and objectives, supporting transparent career development and promotion policies;
4. Establishes an independent internal security unit, or is subject to an equivalent external body, to deal with issues of employee integrity. These arrangements should be known to the trade community, which should be given information enabling them to contact the appropriate security agency as and when necessary;

5. Ensures that all employees having contact with the public carry proper identification, which must be shown upon request;
6. Trains officers in customs conventions, laws and process and to investigate complex frauds, and recommend appropriate action;

C. Cargo processing (General)

7. Applies the Revised WCO Kyoto Convention including Transitional Standard 32.2 – Authorised Person – or some Authorised Economic Operator equivalent, and actively supports regular review of the Convention by the WCO Management Committee;
8. Applies the WCO Convention on Temporary Admission (Istanbul Convention) or the WCO ATA Convention and other related Conventions;

D. Cargo processing (Inwards)

9. Establishes immediate release control systems, based on advance submission of prescribed data and post entry audit, that enable the importer or agent to obtain the goods prior to the completion of administrative requirements and payment of duties taxes and fees, regardless of weight, size, type of operator or carrier or mode of transport;
10. Gives the declarant the option to enter data either manually or electronically and comply with essential control requirements at a place different from the location of the goods;
11. Applies a *deminimis* regime, reviewed annually to take account of inflation, whereby certain goods, including documents, private gift packages and trade samples, not exceeding a certain value or weight, are exempted from import duties and taxes and from formal declaration procedures;
12. Gives the importer the option to file entries personally or to use an agent;
13. Releases goods at carrier's point of arrival, without requiring their interim transfer to a government-operated or -designated warehouse;
14. Uses selectivity, based on automated compliance measurement and risk-assessment and profiling systems, to target suspect consignments and so minimise the incidence of physical examinations;
15. Operates a corporate surety bonding system, or other appropriate means, such as a duty- and tax-deferral system, to protect the revenue and ensure compliance with customs laws without unnecessarily delaying the release of goods;
16. Fixes, in the absence of any evidence of fraud, a reasonable limit on the time during which it can demand additional duties and/or the re-delivery of the goods;
17. Develops the use of non-intrusive examination techniques, such as X-ray;
18. Develops and applies performance standards, by for example, the WCO Time Release Study to check that its processing and release of goods are timely and meet reasonable business needs;

- 19. Replaces transaction-by-transaction treatment by account-based, post-entry procedures for importers with proven compliance histories and consistent import patterns (e.g., types of goods and origins);
- 20. Has inter-institutional agreement to perform certain control functions, at the time of import, for other official agencies and links these agencies to customs automated systems and databases for targeting and risk-assessment purposes;
- 21. Adapts its working hours to ascertained commercial needs and operational requirements, and operates any necessary overtime or other exceptional service systems on transparent cost bases negotiated with business clients;

E. Cargo processing (Outwards)

- 22. Ensures that pre-export or pre-loading controls are not applied in ways, or at times or places, that could significantly affect the efficiency of the export operation;
- 23. Accepts, as far as possible, a commercial document, e.g., invoice, weight note, containing the necessary particulars, as the export declaration, in place of an official form;

F. Cargo processing (Transit)

- 24. Applies appropriate international transit conventions, for example, those noted in Annex E.1 of the Kyoto Convention;
- 25. Co-operates closely with other customs administrations to assist effective control and facilitation of common transit traffic;
- 26. Operates computerised systems, providing early, reliable notice of discharge of declarants', carriers' and guarantors' transit obligations and effective means of identifying and preventing fraud;
- 27. Accepts that guarantees or deposits for the transit operation remove any need for supplementary undertakings or payments at points of entry;

G. Transparency of Administration and Regulation

- 28. Publishes all customs regulations and makes them available to the public through the most modern and practical media, while ensuring that existing and new regulations and legislation are simple in form, content and presentation;
- 29. Consults the trade community systematically, to obtain views on proposed new regulations and procedures, or amendments to existing requirements, and gives them timely notice of any changes;
- 30. Adopts a Memorandum of Understanding programme, to improve and promote co-operation with the trade community in the areas of trade compliance, security, and effective interdiction of customs fraud, drug trafficking, infringements of intellectual property rights and threats to endangered species;
- 31. Establishes an ombudsman, specialised in customs matters, as a medium for approaching the administration and a general information or office or section to deal with queries from the trading community;

H. Automation

32. When introducing computer applications, customs uses relevant internationally accepted standards adapting wherever possible widely used technologies;
33. Introduction of information technology is carried out in consultation with all relevant parties directly affected;
34. Provides automated systems for the payment of duties, taxes and other fees by electronic means;
35. Operates a nationwide automated system to provide electronic filing facilities for the trade community in respect of declaration data to be submitted at import and export and for bank and corporate sureties in respect of duty and tax guarantees and surety bonds;
36. Is able to transmit and receive data nationally and internationally, using appropriate international standards including especially, the WCO Data Model;
37. Makes tariff and related information data available worldwide to the trading community from an automated system;
38. Establishes and operates an automated enforcement information system, using risk-assessment and other modern control techniques;
39. Requires, as a matter of routine, in automated systems, only those data items which can be clearly linked to significant gains in customs operational efficiency;
40. Actively supports the use of national single window whether or not it is within the purview of the customs authorities:

I. Tariff classification and valuation

41. Applies the WCO Harmonised System Convention;
42. Applies the WTO Agreement on Customs Valuation;
43. Issues timely binding pre-entry classification and valuation rulings, on request, which will be honoured by officers, throughout the customs territory;
44. Identifies and makes available customs experts to advise the trade community on tariff classification and valuation matters;
45. Provides a sound, scientific basis for classification decisions through the use of laboratory analysis, equipment and technology;
46. Publishes tariff classification and valuation rulings, either in printed form or on electronic media, and makes them available to traders and other customs administrations;

J. Origin

47. Publishes current and proposed rulings related to origin determination for both preferential and non-preferential purposes; elicits and publishes public comments on proposed rules;

- 48. Publishes the policies and procedures that are to be applied to origin verifications carried out under free trade agreements;
- 49. Accepts preferential and non-preferential electronic certificates of origin issued by trusted third parties, such as chambers of commerce;

K. Disputes and sanctions

- 50. Accepts and applies the penalty regimes, related to administrative settlement, set out in Annex H.2 of the Kyoto Convention;
- 51. Favours the resolution of disputes with traders through conciliation and financial adjustment rather than recourse to courts;
- 52. Provides the means for the trade community to question or appeal decisions, by local officials, to a higher level, within customs, and, eventually, to a court of law, settling minor violations, normally, at the local level;
- 53. Provides a clear voluntary disclosure/compliance mechanism enabling traders to make post entry corrections to declarations without the risk of penalty, audit or loss of privileges;

L. International

- 54. Is a WCO member and participates in WCO and regional customs activities;
- 55. Takes into account and shares information with, and provides technical assistance to, other customs administrations for enforcement and facilitation purposes.

M. Corruption

- 56. Criminalizes the disclosure of proprietary trader information:
- 57. Publishes and enforces internal anti-bribery policies.

* * * * *

The International Chamber of Commerce (ICC)

ICC is the world business organization, a representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world.

The fundamental mission of ICC is to promote open international trade and investment and help business meet the challenges and opportunities of globalization. Its conviction that trade is a powerful force for peace and prosperity dates from the organization's origins early in the 20th century. The small group of far-sighted business leaders who founded ICC called themselves "the merchants of peace".

ICC has three main activities: rule setting, dispute resolution, and policy advocacy. Because its member companies and associations are themselves engaged in international business, ICC has unrivalled authority in making rules that govern the conduct of business across borders. Although these rules are voluntary, they are observed in countless thousands of transactions every day and have become part of the fabric of international trade.

ICC also provides essential services, foremost among them the ICC International Court of Arbitration, the world's leading arbitral institution. Another service is the World Chambers Federation, ICC's worldwide network of chambers of commerce, fostering interaction and exchange of chamber best practice. ICC also offers specialized training and seminars and is an industry-leading publisher of practical and educational reference tools for international business, banking and arbitration.

Business leaders and experts drawn from the ICC membership establish the business stance on broad issues of trade and investment policy as well as on vital technical and sectoral subjects. These include anti-corruption, banking, the digital economy, telecommunications, marketing ethics, environment and energy, competition policy and intellectual property, among others.

ICC works closely with the United Nations, the World Trade Organization and other intergovernmental forums, including the G20.

ICC was founded in 1919. Today it groups hundreds of thousands of member companies and associations from over 120 countries. National committees work with ICC members in their countries to address their concerns and convey to their governments the business views formulated by ICC.



International Chamber of Commerce

The world business organization

Policy and Business Practices

38 Cours Albert 1er, 75008 Paris, France

Tel +33 (0)1 49 53 28 28 Fax +33 (0)1 49 53 28 59

E-mail icc@iccwbo.org Website www.iccwbo.org