



DUTY AND TAX RELIEF AND SUSPENSION SCHEMES

Improving Export Competitiveness

A LEARNING TOOLKIT

Duty and Tax Relief and Suspension Schemes for Improving Export Competitiveness

A Reference and Learning Toolkit

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In order to foster the development of a competitive export sector, many countries have established a variety of duty and tax relief schemes designed to ensure goods imported for further manufacturing or for prescribed purposes (such as for exhibition) and later export are not required to pay the duties and taxes that would otherwise be applicable if they had been imported for home consumption.

The rationale behind such duty and tax relief and suspension schemes is the fact that imported goods are often used in the production of exports. The imposition of tariffs on such imported goods acts as a tax on the relevant exports because it increases the costs of their production. This can impact on that country's competitiveness in world markets and so governments seek to reduce the cost impact on exporters by applying schemes that remove or suspend Customs duty and taxes on such "intermediate" imports.

This practice of not imposing duties or taxes on goods that are not intended for entry into the commerce of the country and indeed are not going to physically remain in the country is entirely consistent with WTO rules, provided that any amounts that are refunded don't exceed the duties or taxes that would normally be payable. Of course, if the refunded amounts did exceed the duty or tax payable it would be regarded as an export subsidy and prohibited under WTO rules.

This concept is explicitly recognized by the World Customs Organization (WCO) in Specific Annexes B, D, F and G of the Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures (the Revised Kyoto Convention). For

example, Chapter 2 of Specific Annex D states in relation to free zones:

"The establishment of free zones is part of an economic policy that encourages the flow of investment into a Customs territory for manufacturing and other commercial activities. The main purpose of free zones is to promote external trade and international commerce by granting relief from duties and taxes on goods imported to the territory..."

As will be discussed in more detail in the next Section, countries have adopted several provisions in their customs legislation to permit the import of goods for duty free storage, processing and re-export, and temporary admission.

Duty Relief and Exemptions

"Duty relief" is a customs process that allows certain goods to be imported without payment of customs duties provided that they are then re-exported. This relief from duties could be for a number of activities including:

- Temporary admission for re-exportation in the same state;
- Temporary admission for inward processing;
- Manufacturing under bond;
- Customs warehousing;
- Export processing zones; and
- Transit.

There is also a specific form of customs duty relief known as "drawback", where duties that were paid on importation of the goods are refunded once the

goods have been exported. These schemes for duty relief are also known as “duty suspension” schemes in some countries or “economic regimes” or “special customs regimes” in others. For example, under Articles 84-90 of the Customs Code of the European Union, the term “customs procedures with an economic impact” is used to describe the procedures for customs warehousing; inward processing; processing under customs control; temporary importation; and outward processing.

There are also customs “exemptions” which refers to customs processes that allow full or partial exemptions from duty for certain types of goods. Unlike duty relief schemes these exemptions are not related in any way to export and focus on goods that meet certain characteristics or end-use criteria. For example, there are exemptions provided for:

- Goods for display at exhibitions;
- Professional equipment, such as computers, television cameras, sports equipment and the like;
- Goods designated by the Vienna Convention for use by diplomatic missions or United Nations agencies;
- Goods carried by tourists and returning residents and household possessions of immigrants;
- Precursors for HIV-controlling drugs (in certain African countries);
- Goods imported for the purposes of foreign-financed aid or investment projects (usually as a condition of the funding arrangements);
- Goods for humanitarian aid; and
- Goods purchased for government use (in some cases).

The issue of customs exemptions is not within the scope of this Toolkit and is therefore not further discussed. However, it is important to make some observations about customs exemptions that are equally relevant to duty relief schemes. Customs exemptions can erode a country’s duty and tax base and their widespread use can result in abuse, fraud, and revenue leakage, particularly where there is broad discretion granted to particular Ministries or agencies to grant such exemptions. This is particularly the case in circumstances where Customs staff are not appropriately trained in audit and monitoring techniques and/or where legal and administra-

tive processes are inefficient, often resulting in high administrative costs.

Ideally, duty and tax exemptions should be kept to a minimum and include those required by international agreements and conventions or non-commercial exemptions such as those for travelers and returning residents. Even in this case the exemptions should be clearly established in legislation and contain transparent administrative procedures. This greatly reduces the burden on customs administrations and allows them to focus on core border management activities.

Issues Raised by Duty Relief Schemes

As mentioned above in relation to duty exemptions, there is much evidence to suggest that customs administrations find it difficult to administer duty relief schemes effectively and efficiently. Such difficulties can lead to abuse of the schemes by their participants and a consequential leakage of revenue to the Government. These unintended consequences actually undermine the rationale behind the initiation of the scheme in the first place because it leads to increases in an exporter’s cost of production and therefore reduces overall competitiveness. It also reduces the attraction of the country as a destination for foreign direct investment.

Difficulties in administration of duty relief schemes can be due to a range of factors including poor legislation; inefficient business processes and lack of skilled staff. These same factors are common to many aspects of customs reform and modernization and therefore similar strategies to mitigate the problems can be adopted. However, there are issues that are peculiar to duty relief schemes that need to be taken into account when such a scheme is considered for implementation. In particular, issues around the customs control regime that needs to be adopted, including the design of physical and documentary controls, must be carefully considered. For this reason, duty relief schemes are legitimately treated as a discrete customs process.

This Toolkit has been designed as a guide to policymakers in recognition of that fact and an outline of the approach followed in the Toolkit follows.

Using the Toolkit

The Toolkit is divided into explanatory sections and recommended practices. Each form of duty relief is discussed and explained, including relevant observations on the advantages and disadvantages of that particular approach to duty relief. Recommended practices for each approach to duty relief are then distilled

and summarized. Where relevant, specific standards set out in the Revised Kyoto Convention are cross-referenced within the recommended practices.

Finally, a “Conceptual Framework” for duty relief is set out as both a distillation and consolidation of the recommended practices from successful implementation of duty and tax relief schemes.

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Duty and Tax Relief – Approaches

Re-Exportation in the Same State

Temporary importation with either total or partial relief from import duty or taxes is often allowed for goods imported for a specific purpose, on the condition that they are then re-exported in the same state. In other words, the goods must not be further processed or even repaired (other than routine maintenance that is necessary to preserve them in the condition in which they were imported).

The principal categories of these types of goods include goods for exhibitions, conferences and similar events; the professional equipment of persons that are visiting the country to carry out specific tasks, such as media equipment for coverage of the Olympic Games; commercial samples; containers used in international transport and travelers' personal effects.

The most common approach for administering this type of duty relief is to require a simplified customs declaration to be lodged with Customs. As a minimum this simplified customs declaration must be sufficient to identify the goods so that Customs can assure themselves that the same goods imported are subsequently exported. It is also often the case that a "security" such as a bank guarantee is required of the importer to protect the revenue. A good example of a commonly used security in this regard is the "ATA Carnet" which is issued by the International Chamber of Commerce. The ATA Carnet relies on an international chain of guaranteeing associations that provide the security for any duties and taxes which may become payable on the temporarily admitted goods.

A reasonable time limit for re-export should be specified that reflects the circumstances of the temporary importation. At the time the goods are exported, the relevant declaration for export should cross-reference the initial import declaration so that the two documents can be reconciled. Once the particular goods have been exported the security should be immediately released.

Essentially the same procedure can be made available for goods that are being re-imported following export for specified purposes (Chapter 2 of Specific Annex B of the Revised Kyoto Convention refers).

There are several international conventions which deal with the ATA Carnet and the temporary importation of specific goods. In particular, the WCO's Customs Convention on Temporary Admission ("the Istanbul Convention") has been adopted by many countries who are also Contracting Parties to the Revised Kyoto Convention. The Istanbul Convention is a useful guide for policy-makers considering the introduction of temporary importation because it consolidates the various provisions on temporary admission and harmonizes procedures for specified goods.

Recommended Practices

Regard should be given to the Istanbul Convention when designing and implementing a scheme for temporary importation. In any case, the core components of an effective scheme for duty relief via temporary importation (or exportation) are as follows:

- Re-Exportation;
- Identification of the Goods;
- Security for Duties and Taxes, in particular, use of the ATA Carnet;
- Specification of a time limit for re-exportation that is consistent with the intended use of the goods and risk to revenue; and
- Specification of the use to which the goods may be put. This is important because, unlike a customs procedure such as warehousing where

the goods are under customs control, the temporary importation procedure allows the goods to circulate quite freely.

It is also important to refer to Specific Annex G of the Revised Kyoto Convention that deals with temporary admission. Specific Annex G contains a number of standards and recommended practices that are worth reproducing here as a guide to policy-makers.

Revised Kyoto Convention – Specific Annex G

Standard 2

National legislation shall enumerate the cases in which temporary admission may be granted.

Standard 3

Goods temporarily admitted shall be afforded total conditional relief from import duties and taxes, except for those cases where national legislation specifies that relief may be only partial.

Standard 4

Temporary admission shall not be limited to goods imported directly from abroad, but shall also be granted for goods already placed under another Customs procedure.^a

Recommended Practice 5

Temporary admission should be granted without regard to the country of origin of the goods, the country from which they arrived or their country of destination.

Standard 6

Temporarily admitted goods shall be allowed to undergo operations necessary for their preservation during their stay in the Customs Territory.

Standard 7

National legislation shall enumerate the cases in which prior authorization is required for temporary admission and specify the authorities empowered to grant such authorization. Such cases shall be as few as possible.

Recommended Practice 8

The Customs should require that the goods be produced at a particular Customs office only where this will facilitate the temporary admission.

Recommended Practice 9

The Customs should grant temporary admission without a written Goods declaration when there is no doubt about the subsequent re-exportation of the goods.

Recommended Practice 10

Contracting Parties should give careful consideration to the possibility of acceding to international instruments relating to temporary admission that will enable them to accept documents and guarantees issued by international organizations in lieu of national Customs documents and security.

Revised Kyoto Convention – Specific Annex G (continued)

Standard 11

Temporary admission of goods shall be subject to the condition that the Customs are satisfied that they will be able to identify the goods when the temporary admission is terminated.

Recommended Practice 12

For the purpose of identifying goods temporarily admitted, the Customs should take their own identification measures only where commercial means of identification are not sufficient.

Standard 13

The Customs shall fix the time-limit for temporary admission in each case.

Recommended Practice 14

At the request of the person concerned, and for reasons deemed valid by the Customs, the latter should extend the period initially fixed.

Recommended Practice 15

When the goods granted temporary admission cannot be re-exported as a result of a seizure other than a seizure made at the suit of private persons, the requirement of re-exportation should be suspended for the duration of the seizure.

Recommended Practice 16

On request, the Customs should authorize the transfer of the benefit of the temporary admission to any other person, provided that such other person: (a) satisfies the conditions laid down; and (b) accepts the obligations of the first beneficiary of the temporary admission.

Standard 17

Provision shall be made to permit temporarily admitted goods to be re-exported through a Customs office other than that through which they were imported.

Standard 18

Provision shall be made to permit temporarily admitted goods to be re-exported in one or more consignments.

Recommended Practice 19

Provision should be made for suspending or terminating temporary admission by placing the imported goods under another customs procedure, subject to compliance with the conditions and formalities applicable in each case.

Recommended Practice 20

If prohibitions or restrictions in force at the time of temporary admission are rescinded during the period of validity of the temporary admission document, the Customs should accept a request for termination by clearance for home use.

Recommended Practice 21

If security has been given in the form of a cash deposit, provision should be made for it to be repaid at the office of re-exportation, even if the goods were not imported through that office.

Recommended Practice 22

Temporary admission with total conditional relief from duties and taxes should be granted to the goods referred to in the following Annexes to the Istanbul Convention:

1. “Goods for display or use at exhibitions, fairs, meetings or similar events” referred to in Annex B.1
2. “Professional equipment” referred to in Annex B.2

Revised Kyoto Convention – Specific Annex G (continued)

3. “Containers, pallets, packings, samples and other goods imported in connection with a commercial operation” referred to in Annex B.3
4. “Goods imported for educational, scientific or cultural purposes” referred to in Annex B.5
5. “Travellers’ personal effects and goods imported for sports purposes” referred to in Annex B.6
6. “Tourist publicity material” referred to in Annex B.7
7. “Goods imported as frontier traffic” referred to in Annex B.8
8. “Goods imported for humanitarian purposes” referred to in Annex B.9
9. “Means of transport” referred to in Annex C
10. “Animals” referred to in Annex D.

Recommended Practice 23

Goods which are not included in Recommended Practice 22 and goods in Recommended Practice 22 which do not meet all the conditions for total conditional relief should be granted temporary admission with at least partial conditional relief from import duties and taxes.

^a For example, temporary admission might be granted for goods leaving a warehouse or a free zone to be shown in a public exhibition.

Inward Processing

Inward processing is used to import goods, particularly raw materials or part-manufactured goods for further processing within the importing country and subsequent re-export, without paying duty or taxes on the imported goods. The duty relief itself can be achieved by either exempting the inputs at the time of importation or via a refund of duties paid once the goods in which the inputs are incorporated are exported. The latter procedure is known as “draw-back” and will be dealt with separately below. Normally, legislation will provide for total conditional relief from import duties and taxes (for example, VAT levied on imported goods). However, in some cases import duties and taxes are charged on any waste that derives from the processing or manufacturing of the exported goods.

The essential condition for access to inward processing duty relief is that the imported goods must be intended for re-exportation within a specified period after having undergone manufacturing, processing or repair. The products that result from the manufacturing, processing or repair are called “compensating products” and need not be obtained solely from goods admitted for inward processing. In other words the compensating products may result from a

combination of the imported component and other locally sourced components.

The main advantage in using inward processing as the mechanism for duty and tax relief is that it provides industry with the benefit of being able to produce or process goods without the added cost of customs duty and taxes on goods that, at the end of the day, will be processed or entirely consumed or incorporated in the finished product.¹ The benefit to Government is that it has the potential to provide an economic boost by improving the international competitiveness of local industry.

The key point for policy-makers in relation to the implementation of an inward processing scheme, consistent with any duty relief scheme, is the importance of creating the right legal and administrative environment to manage the scheme effectively and efficiently. Customs should have legal and business processes that ensure that any claim for duty relief is legitimate and can be audited.

¹ It should be noted that the processing required by this customs procedure need not involve any major change in the value of the goods. For example, goods that undergo minor operations, such as packaging, packing or re-packing of goods, may be covered.

In reference to the two possible options for inward processing regimes; that is, an exemption system or a drawback system, most exporters prefer the exemption approach because they then don't have to pay the duties and taxes first and then wait for a refund. In other words there is a clear cash-flow advantage for exporters in the adoption of an exemption-based scheme. However, from the perspective of Government, an exemption-based scheme involves a greater risk to revenue because of the possibility of diversion of the imported goods into the domestic commerce of the country in question without the payment of duties and taxes. With drawback of course, the Gov-

ernment has received the revenue and so controls the refund process.

Ultimately, the decision as to what inward processing model to adopt is a question of balancing the interests of Government and business and many countries adopt both an exemption-based scheme and a drawback scheme.

The usual approach to an exemption-based scheme of inward processing is that a manufacturer who is regularly exporting a specified minimum percentage of their production can request access to the inward

Case Study - EU

In the EU, inward processing relief (IPR) offers relief from customs duties including Common Agricultural Policy, import VAT, and anti-dumping and countervailing duties. Excise duty is also suspended when goods are entered to IPR suspension. Customs duties are suspended when the imported goods are first entered into the IPR system in the EU. The conditions for IPR include:

- An intention to re-export the products produced from the goods entered into suspension;
- You cannot issue any documents showing the status of the goods as T2 or free circulation, nor any preference certificates unless specifically allowed under preference rules;
- You must send a return to your supervising office within 30 days of the end of your agreed processing period.

Any goods imported under IPR suspension which are subsequently diverted will be subject to payment of all charges suspended at import. They will also be subject to "compensatory interest" which is intended to prevent importers using the system to gain a financial benefit by deferring payment of customs duty.

Eligibility for IPR requires authorisation and certain customs procedure codes must then be used on the customs entry. If IPR goods are to be processed in more than one member state (either by one or more businesses), a single community authorisation is required. Authorisation holders are responsible for the duties applicable to all goods entered under the authorisation, whether or not they own them.

Once authorisation is granted the relevant conditions and requirements for its use include:

- **Throughput period** – the period required to process the goods being entered (the standard period is six months);

- **Compensating products** – the products resulting from the processing operations carried out under IPR;
- **Rate of yield** – how many IPR imports you require to produce your processed products; noting also that EC-wide rules set down standardised rates of yield for certain processing operations on agricultural goods [EC Regulation 2454/93];
- **Economic test** – designed to protect EC producers of goods in the agri-food sector;
- **Record-Keeping** – records relating to all goods entered into IPR must be kept for 4 years after the goods' export or disposal.

Goods that have been entered into IPR can be transferred between IPR authorisation holders, provided that any authorisation holder receiving the goods has the approval to do so.

The usual way of disposing of IPR goods and acquitting your obligation is to export them from the EC but there are alternatives that still maintain entitlement to duty relief under the procedure:

- Exporting directly outside the EC;
- Exporting outside the EC via another member state;
- Divert IPR goods to free circulation (with payment of duties and taxes);
- Transferring the goods to another suspensive customs procedure;
- Transferring the goods to another IPR authorisation holder; or
- Destruction under Customs supervision.

Source: http://europa.eu/pol/comm/index_en.htm

processing regime by application in advance of importation. As with other duty relief mechanisms, the manufacturer may have to lodge a security with Customs for the value of customs duties and taxes otherwise payable and will also have to maintain specified records that document what has been imported and details of the final product that they are incorporated in. There is also a technical calculation that needs to be undertaken where these types of schemes are implemented. That calculation is called the “rate of yield” and is a ratio of the imported materials used per unit of output agreed between the manufacturer and Customs and subsequently monitored. This ratio also needs to be updated whenever manufacturing processes or tariff rates change.

The audit or monitoring process undertaken by Customs is designed to verify the percentage of total production exported against that sold in the domestic market. In this way Customs determines the amount of duty relief for goods exported and the amount to be paid in respect of entry into the domestic market. An effective audit process requires a legal framework that supports it through provisions granting Customs officers clear powers to undertake such audits and enforcing document retention requirements on the manufacturers. It is also predicated on the existence of staff that are skilled in undertaking such audits.

Exemption-based schemes can be administratively complex and should be targeted at manufacturers that are regular exporters of a significant amount of their production. Drawback is a better option for occasional exporters and doesn't have the same administrative overhead as an exemption-based scheme. This is why many countries include both forms of duty relief in their customs regimes.

Recommended Practices

The key elements for an inward processing regime that is based on exemption from duties and taxes include:

- **Pre-Authorization** – Manufacturers seeking to access the scheme should be required to apply to Customs before they begin importation. This will allow Customs to check the manufacturing operation and satisfy themselves that the opera-

tion is appropriate for duty relief and that the manufacturer has the necessary documentation and systems to support ongoing audit of the process. If all of these pre-conditions are met the manufacturer effectively becomes registered to utilize the scheme.

- **Security** – Consistent with other duty relief schemes it is important for Customs to protect the revenue by requiring participating manufacturers, as necessary and appropriate, to lodge a security by way of bond, bank guarantee or similar surety. Of course not all participants will represent a revenue risk.
- **Rate of Yield** – As discussed above, the ratio of imported material used per unit of output must be determined and agreed between Customs and the manufacturer; and updated as relevant.
- **Importation** – Records of relevant customs declarations must be maintained for the purpose of reconciliation against both rates of yield and the exportation of the finished product. Some schemes allow both direct importation of inputs by the manufacturer and indirect importation. The latter refers to a situation where a manufacturer purchases their inputs from a different importer that is authorized under the scheme and takes over responsibilities for the duties and taxes otherwise payable. If this approach is allowed under the scheme it is important for the customs administration to be able to track the goods via the registration details of both parties.
- **Exportation** – the act of exportation of the finished product acquits the responsibilities of the participating manufacturer as will any other customs procedure that doesn't have a duty outcome such as warehousing or transferring the goods to another duty free process. This is also the trigger for reconciliation of the duty relief transaction by Customs.
- **Periodic Returns** – the best practice approach to account for transactions taking place under the scheme and control fraudulent transactions is to require a periodic return from the manufacturer that shows the total goods that have been imported (or purchased) and the total export (or other transfer) of the finished goods for the period in question. This approach is far more cost-effective and efficient than a transactional approach that matches individual export declarations with individual import declarations.

- **Document Retention** – the requirement for manufacturers to keep records should be clearly set out in legislation. The type of records would normally include details of raw materials imported; materials used in production; inventory; final goods produced; goods exported; evidence of contracts of sale; goods sold into the domestic market; details of waste and scrap and anything else relevant to the rate of yield and other key elements of the scheme.
- **Customs Control** – the principal risk in relation to duty relief schemes such as inward processing is the risk to revenue; in particular, the risk that the goods in question will be diverted from export into the domestic market. Therefore, customs administrations should have the necessary

compliance and enforcement powers to mitigate that risk including appropriate legislation and skilled staff as mentioned previously. A typical approach to support customs control is the creation of a dedicated and independent group of auditors within Customs to either administer the scheme directly or assist the administrative group in managing compliance.

In view of the complexity of such schemes it is also useful to automate the control system and thereby facilitate audits. In particular, the development of a database that manages the scheme's information allows for efficient profiling and targeting of potentially non-compliant transactions. This application could alert Customs if exports are not sufficient,

Case Study – China

Regulations Governing Customs Control on the Importation and Exportation of Goods for Inward Processing

The procedure covers all raw materials, materials, auxiliaries, spare parts, components, assemblies and other materials necessary for packing that are purchased by processing firms in foreign exchanges solely for processing products for subsequent exportation.

A processing firm must be authorised by the Ministry of Commerce to conduct inward processing transactions and once so authorised customs duties and VAT is exempted on the amount of imported materials actually used in the processing of products for export. The finished products are also exempted from export duties.

All imported materials and parts for inward processing must be placed under customs control as bonded goods.

A Registration Carnet of Inward Processing is issued by Customs when the relevant Certificate of Approval is issued by relevant Ministries or other competent authorities. Potential processing firms are required to submit copies of signed contracts or order cards to Customs for verification and imported materials are released against the contracts without an import licence. However, an export licence is required for the finished export products under export control.

Processing firms must keep detailed records regarding the importation, storage, disposal, withdrawal or transfer of imported materials and parts in special books, which must then be submitted by the firms to Customs for verification when each of the contracts is fulfilled. However, in the case of a long period of manufacture, a "Form of Inward Materials and Parts Used" must be submitted to Customs every six months.

Materials temporarily admitted must be used for the designated purpose and cannot be diverted to domestic consumption without prior permission. Finished products must be re-exported within one year from the time of importation of materials and parts although an extension may be granted by Customs. Transfer of relevant goods can occur on application to and approval by Customs.

Customs authorities may dispatch a customs officer to be stationed at the producer's premises to exercise customs control and any breach of the regulations or other customs laws may be prosecuted as a criminal offence.

Provisional Measures on the Administration of Shadow Margin Account Scheme Applied on a Pilot Basis to Imported Materials and Parts for Inward Processing 1995

Under the shadow margin account scheme imported materials and parts for inward processing imported by entities or enterprises engaged in processing trade can apply to designated banks to open shadow margin accounts for the imported materials and parts for inward processing based on the amounts recorded in the contracts and relevant documents verified and approved by Customs. Where all What is missing here? processed products have been exported within the specified time limit for processing, the banks shall cancel the shadow margin accounts upon verification and cancellation by Customs.

The scheme provides "security" for the revenue but does not apply to imported materials and parts for inward processing under bond where Customs supervisory personnel are stationed.

given the amount of inputs imported over a period of time and therefore raising suspicions about potential diversion into the domestic market.

Reference should also be made to Chapter 1 of Specific Annex F of the WCO's Revised Kyoto Convention (See Attachment 1).

Case Study – Fiji

Fiji's duty suspension scheme is managed by a private sector organisation—the Exporters Club—on behalf of Fiji Islands Revenue and Customs Authority (FIRCA). Members must be in the business of importing materials for transformation into products for export. The Exporters Club assesses the qualifications of applicants, recommends a list of materials to be imported and subsequently used in the production of exports, calculates advance credits and Entitlement Proportion (EP) ratios, and advises Customs when all requirements are met.

The exporter receives credits for every dollar of exports achieved under the system. It can use these credits to import approved materials duty free. The credit is based on the EP, that is, the proportion of imported goods required to produce one unit of the export product. As long as the company operates within its EP ratio, it can continue to import approved goods duty free. The EP is calculated when companies enter the scheme, using the company's import and export history and an audited set of accounts.

For the first export operation, companies can be provided with advance credits that would enable them to import for two months using the credits.

Specially developed software has been created for Customs as an attachment to the ASYCUDA system. The software enables the Exporters Club to manage the day-to-day operations of the program and Customs to audit arrangements with individual members. Members have access to their own data, but cannot access the details of other members.

The Exporters Club is a non-profit organisation owned by eight peak industry groups involved in promoting exports. A Board manages the Club, representing owners and Customs. The Club monitors the performance of each club member through a computerised system that calculates the amount of credits earned and automatically reduces these credits when products are imported. To cover the costs of operation, the Club charges an application and assessment fee, an annual subscription fee, and an activity fee.

Source: Customs Modernization Handbook 2005, World Bank, Chapter 10

Case Study – Passbook System (India, Bangladesh and Nepal)

The Passbook system operates using a ledger through which both the trader and Customs keep track of the quantity and value of materials imported and the processed goods exported. The ledger also keeps the trader's security account.

Using Nepal as an example: export manufacturers are relieved from the duty burden on materials imported for processing or transformation into products to be exported or sold in the local market for foreign currency. The system is available only for operations that add at least 20% of value to the imported goods. The rate of yield needs to be approved by the Technical Committee of the Department of Industry. The exportation or sale needs to happen within 12 months following importation.

On importation, the quantity, value, and duties and taxes suspended are recorded in the passbook. Security in the form of

a cash deposit is required to cover duties and taxes suspended, and credit for the deposit is given in the passbook. On proof of exportation of the processed goods, a deposit corresponding to the quantity of inputs incorporated in the exported goods is released. For regular importers and exporters, the released amount is not refunded but used as a deposit for subsequent imports of materials. Excess amounts of deposit not used within one month are refunded.

Failure to export within 12 months after importation of the materials results in payment of the duties and a 10% penalty. The Department of Customs specifies the customs offices through which the trader can import the materials and export the processed goods under the system. Any particular company can import only through one given customs office.

Source: Customs Modernization Handbook 2005, World Bank, Chapter 10

Drawback

As discussed above, drawback is a variation on inward processing but as opposed to exempting the inputs at the time of importation, drawback refunds duties paid once the goods in which the inputs are incorporated have been exported. In this sense the use of a drawback regime poses less risk to government because it has already received the revenue on importation but is less popular with industry for the same reasons; that is, they have to pay the money up front on importation.

In many countries drawback can only be claimed by the person who is actually undertaking the export, in other words, the direct exporter. But in some countries they also allow drawback to be claimed by an indirect exporter, that is, someone who sells to an exporter. Examples of the latter regime include Korea, Chile and Colombia. Furthermore, some countries also restrict the categories of goods that will qualify for drawback, usually as a means of encouraging the use of equivalent locally produced goods. An example is India which covers only those products included in an exhaustive list and permits refund only for the central government duties and not of the state taxes and duties levied on inputs.

As with the exemption-based approach to inward processing, drawback is based on calculating the amount of duty on imported inputs that have been incorporated in one unit of output (see the discussion above on rate of yield). In other words the amount of the refund should equal the product of the value of each imported input used in producing exports and the corresponding tariff rate. In this regard there are two methods that are used by Customs to determine the import duty content of exports: “fixed rates” and “individual rates”.

Under a fixed rate system, the refund will be calculated against each exported good contained in a schedule of input-output coefficients. Korea and Taiwan have this system and revise their drawback schedules every six months. It has advantages and disadvantages because while it is easy to apply and doesn't require analysis of a particular manufacturer's performance, the estimation and updating of what could be hundreds of coefficients is time-consuming and complex. Furthermore, it means

that drawback could be too low for some exporters and too high for others.

The individual rate system is based on the performance of the individual manufacturer as verified by a customs audit. The system has a self-assessment component with the manufacturer responsible for establishing rates of yield to claim drawback and then customs undertaking post-transaction audit of this fact. This system is more equitable and more commonly used than the fixed rate system because it relates specifically to the performance of individual manufacturers rather than being an average across industry.

As with the exemption-based approach the importance of audit or monitoring processes is significant and therefore requires a legal framework that supports it through provisions granting Customs officers clear powers to undertake such audits and enforcing document retention requirements on the manufacturers and also the availability of appropriately skilled staff.

Although the risk to revenue is less than that for an exemption-based scheme there are problem areas with drawback that have been experienced by a number of countries. In particular, refunds are often subject to long delays or not made at all because of poor customs administration. In some developing countries such refunds have to be made from specially approved annual budgets and if that budget is inadequate for the number of claims then refunds cannot be effected. The other common problem relates to poor customs control leading to abuses of the system and/or corruption.

Recommended Practices

- **Transparency and simplicity** – the drawback scheme should be easily understandable for manufacturers and easily administered by Customs. This improves the prospect for timely and accurate refunds. Some countries require the drawback claim to be supported by the export entry and invoice; the bill of lading, the landing certificate, proof of export proceeds; and import entries for which the duties were paid. This is far too much documentation, many of it is not relevant and it adds to the potential for delay in refunds.

- The export declaration should be taken as sufficient proof of exportation, and no other documents should be required in normal circumstances.
- Where drawback rates are set under a fixed rate system they should be set by an independent committee consisting of government and industry representatives.
- Refunds should be made as quickly as possible once customs verification of the export is completed and actual exportation has occurred. Customs controls should therefore be applied on a post-transaction basis through audits of the manufacturer's records.
- There should be several options for the payment of drawback. For example, a voucher system is used in Brazil as a form of credit for the next importation. This reduces the potential for corruption.
- It should be possible to claim drawback via a periodic return, consistent with the approach for exemption-based schemes.
- Staff skilled in audit should be trained or recruited as an independent and specialist group within Customs to undertake drawback verification processes.
- Appropriate legislation to support post-transaction audit and document retention should be put in place.

Reference should also be made to Chapter 3 of Specific Annex F of the WCO's Revised Kyoto Convention as appended in Attachment 1 of this Toolkit.

Manufacturing under Bond

This is another variation on the exemption-based schemes discussed above at 3.2 and is utilized by countries including the United States, Canada, India, Bangladesh, Nepal and Tanzania. These schemes generally require the manufacturer to operate within a specific bonded factory or warehouse that must be licensed by Customs and for which a financial security has been lodged to cover any duty or tax liabilities otherwise payable in relation to the imported raw materials.

The main advantage of a "manufacturing under bond" scheme is for businesses that assemble goods that consist entirely of imported dutiable inputs or at least have a high proportion of imported dutiable inputs. The main disadvantage of the "manufactur-

Case Study – Thailand

There are 2 types of drawback specified in Thailand's customs legislation:

- Drawback paid in respect of goods that are exported in the same state that they were imported when the duties and taxes were levied; and
- Drawback paid in respect of raw materials imported for the production of export goods (under Article 19bis of the Customs Act).

In the case of drawback for re-exportation, nine-tenths or the excess of one thousand baht of the import duty already paid, calculated according to each export entry, whichever is higher is repaid as drawback, subject to specific conditions.

In the case of Article 19b is drawback, the import duty, excise, municipal tax and other levies already paid on such imported materials in the form of cash or security, would be repaid as drawback after the goods produced from these materials have been exported. The time from the date of the importation of the

material must not be more than one year. Royal Thai Customs determines the amount of import duties and taxes repaid under the drawback procedure by using approved production formulas filed with Customs.

A claim for drawback must be made within six months from the date of exportation of the goods. In the case of drawback paid on raw materials imported for the production of export goods, Royal Thai Customs may extend the time limit if necessary.

The importer submits a letter of intent for drawback to the customs office at the port where the drawback is going to occur, together with two certified copies of: the VAT registration document; juristic person registration or commercial registration documents; a Certificate from the Ministry of Commerce indicating the purpose of authorized juristic person, and company's address; and a valid factory operation permit.

The approval of the letter of intent may be received within 3 working days together with an importer identification code.

Case Study – Bangladesh

Bangladesh has a “Special Bonded Warehouse Facility” to support the manufacture of ready-made-garments. There are some 3,400 such facilities located in Dhaka and the Chittagong port area. Each warehouse facility must be approved by Customs, with a financial bond lodged to cover potential duty and tax liabilities for the raw materials that are maintained in the facilities. A passport/ledger system is used to control the amount of imports and exports into and out of the warehouse.

Raw materials valued at up to 75% of the estimated value of the finished exports may be imported without the payment of import

duties and taxes. At the time of import the user must submit a “utilization declaration” (UD) that are issued by the Bangladesh Garments Manufacturing and Export Association, along with other import documents. The quantities imported are recorded in the user’s and Customs’ passbooks, which act as a stock record for materials going into the warehouse. After completion of the manufacture of finished products, the user presents all documents for export together with the UD, and the necessary export entry is made in the passbooks. It is the user’s responsibility to match the import accounts with the export accounts in the passbook.

ing under bond” approach is that such schemes incorporate a significant administrative overhead and are inefficient from a business perspective because there are annual licensing and bonding requirements on top of the fact that the raw materials remain locked up in the controlled premises subject to a joint Customs/business removal from the controlled premises into production. There would be no advantage in someone using such a scheme if most of their production was sold on the domestic market and in many cases the government will set a minimum percentage of production that must be exported for someone to access the scheme.

As with other exemption-based schemes there is evidence that developing countries experience difficulty in ensuring that all of the imported inputs are used in the production of export goods and aren’t diverted into the domestic market. For example, in Bangladesh a single case of fraud revealed that a participant in the scheme had falsified export documents and entries in the passbook (see case study below for an explanation of the process), leading to a loss of revenue of US\$3.2 million. Furthermore, in this type of scheme there is a significant reliance on physical controls over the movement of goods; for example, transport of the imported inputs from the port or

Case Study – Kenya

Kenya maintains a Manufacturing Under Bond (MUB) program that is designed to encourage manufacturing for export by exempting approved applicants from import duties and VAT on the raw materials and other inputs that they import and also providing a 100% investment allowance on plant, machinery, equipment and buildings.

If the goods that are produced from the raw materials and other inputs are not exported the scheme’s participant is subject to a surcharge of 2.5% and the imported inputs used in their production are subject to all other duties.

Under this scheme “manufacture” includes any process by which a commodity is finally produced. This includes assembling, packing, bottling, repacking, mixing, blending, grinding, cutting, bending, twisting, joining or any other similar activity. The remission is, however, not available for the importation of plant, machinery,

equipment, fuel and lubricants, or in respect of suspended or dumping duty.

The scheme can be utilized by both direct exporters (that is, manufacturers who import raw materials, manufacture, and then export the finished product) and indirect exporters (that is, a manufacturer/producer who imports goods for use in the production of goods for supply to another manufacturer for use in the production of goods for export).

Application for participation in the scheme must be supported by a bona fide export order or contract for specified export goods or a letter of credit; a detailed production plan; a list of imported goods including their description; and the tariff classification, quantity, value and amount of duty/VAT to be waived. Furthermore, the value of the imported goods must exceed one million Kenya Shillings.

airport to a bonded warehouse; joint control by Customs and the business over access to the warehouse; control over access to the materials and the finished goods; and supervision of the exportation or other means of disposal.

Where possible, procedures based on risk management and post-transaction audits should be utilized as discussed previously under “3.2 Inward Processing”.

Recommended Practices

- **Pre-Authorization** – Consistent with other forms of inward processing, manufacturers seeking to access the scheme should be required to apply to Customs before they begin importation. This will allow Customs to check the manufacturing operation and satisfy themselves that the operation is appropriate for duty relief and that the manufacturer has the necessary documentation and systems to support ongoing audit of the process. If all of these pre-conditions are met the manufacturer effectively becomes registered to utilize the scheme.
- **Security** – It is important for Customs to protect the revenue by requiring participating manufacturers, as necessary and appropriate, to lodge a security by way of bond, bank guarantee or similar surety. Of course not all participants will represent a revenue risk but this is a standard condition for access to a manufacturing under bond scheme.
- **Importation** – Records of relevant customs declarations must be maintained for the purpose of reconciliation against export of the finished product. Some schemes allow both direct importation of inputs by the manufacturer and indirect importation (for example, Kenya).
- **Exportation** – the act of exportation of the finished product acquits the responsibilities of the participating manufacturer as will any other customs procedure that doesn't have a duty outcome such as warehousing or transferring the goods to another duty free process. This is also the trigger for reconciliation of the duty relief transaction by Customs.
- **Periodic Returns** – the best practice approach to account for transactions taking place under the scheme and control fraudulent transactions is to require a periodic return from the manufac-

turer that shows the total goods that have been imported (or purchased) and the total export (or other transfer) of the finished goods for the period in question. This approach is far more cost-effective and efficient than a transactional approach that matches individual export declarations with individual import declarations.

- **Document Retention** – the requirement for manufacturers to keep records should be clearly set out in legislation. The type of records would normally include details of raw materials imported; materials used in production; inventory; final goods produced; goods exported; evidence of contracts of sale; goods sold into the domestic market; details of waste and scrap and anything else relevant to the rate of yield and other key elements of the scheme.
- **Customs Control** – Consistent with the principles contained in the Revised Kyoto Convention, customs control can and should balance protection of the revenue with the facilitation of trade. This is particularly the case for schemes such as this that are implemented to encourage exports. In essence, customs controls would include a security to protect revenue; prescribed accounts of production operations; accounts-based customs verification; and periodic unscheduled visits to the factory to ensure that accounts are correctly kept. Automation of these controls greatly improves their efficiency and effectiveness.

Reference should also be made to Chapter 1 of Specific Annex F of the WCO's Revised Kyoto Convention which is appended as Attachment 1 of this Toolkit.

Bonded Warehousing

These regimes allow imported goods into customs-approved and bonded warehouses without the payment of import duties or taxes for a limited period of time. That period of time is normally until the goods are either re-exported or are entered into home consumption at which time the duties and taxes become payable. The warehousing procedure therefore caters for situations where it isn't known at the time of importation how the imported goods will finally be disposed of as well as situations where the central purpose is duty relief.

Bonded warehousing regimes are usually the subject of quite detailed legislation that sets out the various requirements and conditions by which a bonded warehouse can be approved and licensed to operate. Such legislation will commonly require a prospective warehouse operator to submit a formal application to Customs that contains detailed drawings of the proposed building, its security features, location, proposed inventory control systems and so on. Customs will review that application and undertake an on-site visit to verify that the applicant has met all necessary requirements before a license is issued. For example, it is usual that areas of the warehouse that contain non-duty paid goods are secured via a double-lock system (one Customs lock and one lock held by the operator of the warehouse).

It is also standard practice to require the operator of the warehouse to post a security to cover the total duties and taxes deferred on the goods that are kept in the warehouse. However, consistent with principles of risk management the actual level of security required of a specific warehouse operator should reflect the risks and levels of compliance that exist. For example, a compliant operator should be rewarded for that compliance through reduction of the amount of security required in normal circumstances.

Goods remain under customs control from the time they enter the country until they enter the warehouse and then subsequently until they are finally acquitted via re-exportation or entry into home consumption with payment of duties and taxes. On importation goods intended for warehousing will normally be “entered for warehousing” on a customs declaration specifically intended for that procedure or on an import declaration that is coded for warehousing. The relevant duties and taxes will be calculated against that import declaration but payment is suspended until such time as an “ex-warehouse” declaration is lodged to remove the goods from the warehouse or an export declaration is submitted.

Historically, bonded warehousing schemes attracted “extensive physical controls over the movement of the container to the warehouse; the unstuffing and entry of the goods into the bond (performing a goods inspection where appropriate); maintaining the inventory balance of goods kept in the bond;

any authorized operations while in the bond (e.g. sorting, repacking or packaging, conditioning); and inspection of goods removed from bond. Depending on the size of the bond and level of activity, Customs officers may need to be permanently posted to these warehouses...”²

However, in recent times and consistent with customs best practice these physical controls have been superseded by documentary and accounts-based processes that emphasize risk management and post-transaction audit. This is a phenomenon that has occurred across the full range of duty relief schemes as discussed previously but many developing country administrations still maintain a high degree of physical control with all of the disadvantages in cost and efficiency that are embodied in that approach.

The advantages of bonded warehousing are in their ability to facilitate trade because the warehousing procedure allows an importer to delay payment of duties and taxes until the goods are actually cleared for home consumption or exported. This means that if conditions in the market deteriorate while the goods are in the warehouse they can be re-exported without payment of duties and taxes. This is an obvious advantage to the trader’s cash flow and bottom line. In addition, while the goods are in storage, there are a number of operations that can take place without affecting their duty status, including packing and repacking; sampling and other processes that contribute to their maintenance and/or marketability.

The disadvantages of a bonded warehousing regime are its potential to be costly in terms of administration. This is particularly the case if physical controls are maintained by the relevant customs administration. The efficient application of controls to prevent diversion and duty evasion is sometimes beyond the capacity of the customs administration because of lack of resources, lack of training or generally poor procedures. Unfortunately, there are many examples of criminals taking advantage of the transit of goods from port/airport to the warehouse to remove or sub-

² “Reforming the Regulatory Procedures for Import and Export: Guide for Practitioners” Chapter 5, The World Bank Group, June 2006

Case Study – Thailand

There are a variety of bonded warehouses that are provided for under Thailand's customs legislation including:

- Bonded Warehouse for Manufacturing;
- Bonded Warehouse for Vessel Repair and Construction;
- Bonded Warehouse of General Type;
- Bonded Warehouse of General Type for Goods Demonstration or Exhibition;
- Bonded Warehouse of General Type for Oil Storage;
- Bonded Warehouse for Duty Free Shops; and
- Bonded Warehouse for Free Trade.

Each type of bonded warehouse has specific criteria and conditions for their establishment and ongoing administration. For example, in relation to the bonded warehouse of general type business operators interested in establishing such a warehouse must be a state enterprise or government agency of juristic person status or a juristic person with a paid-up capital of not less than 60 million Baht. The applicant is also required to provide a suitable location of which the total area must be not less than 100,000 square metres and a minimum of 1,000 square metres for the establishment of the actual bonded warehouse. The licensee of the bonded warehouse must provide security by bond to Customs and deposit a 5 million Baht bank guarantee. The licensee is also required to pay an annual license fee of either 10,000 Baht or 4,000 Baht depending on the zone of the established bonded warehouse.

stitute those goods and avoid the payment of duties and taxes. In other cases the security requirements relating to the warehouse are not enforced with the result that goods move freely between the warehouse and retail outlets with consequential revenue leakage.

The effective and efficient administration of a bonded warehousing regime requires Customs to be able to assure itself that goods stored in such warehouses are secure and that there is little or no risk of their diversion into the domestic market without the payment of applicable duties and taxes.

Recommended Practices

The practices and procedures put in place for a bonded warehousing regime must successfully address the issue of Customs assurance that goods stored in such warehouses are secure and that there is little or no risk of their diversion into the domestic market without the payment of applicable duties and taxes. They should therefore include:

- Customs approval of the bonded warehouse including its physical aspects such as the neces-

Case Study – Korea

Korea has three kinds of bonded areas where goods can temporarily enter Korea for storage, manufacture, processing, sale, construction, or exhibit without going through customs clearance. The three types of bonded areas are:

Designated bonded areas (designated storage sites and customs inspection sites);

Licensed bonded areas (bonded warehouses, bonded exhibition sites, bonded construction sites, and bonded sales shops); and

Integrated bonded areas.

The period for which goods may be stored in a licensed bonded warehouse is one year and can be extended for another year.

Duties are only payable when goods are cleared through Customs.

Storage fees are quite high, and the availability of a bonded warehouse to maintain inventory is limited. The storage period does not apply to the storage of live animals or plants, perishable merchandise, or other commodities that may cause damage to other merchandise or to the warehouse. Integrated bonded areas have no time limit for storage. Hence storage, manufacturing, processing, building, sales and exhibition can be carried out comprehensively.

Applications must include the name of the bonded warehouse, location, structure, numbers and sizes of buildings, storage capacity and types of products to be stored. In addition, articles of incorporation and corporate registration must be submitted when applicable.

Case Study – Tanzania

An application for the licensing of premises as a Licensed Bonded Warehouse must be made to the Commissioner of the Tanzania Revenue Authority and be accompanied by a plan of the premises and its situation in relation to other premises and thoroughfares.

The operator of a Licensed Bonded Warehouse must execute a bond security secured by a licensed guarantor. A bond security of not less than TShs 300 million is payable by private warehouses and TShs 800 million by general warehouses to secure the duties and taxes on the goods kept at the warehouse.

Customs has a right of access to any part of a licensed bonded warehouse and may examine any goods or records relating to the goods held within the warehouse. Licensed warehouse operators are required to maintain control of the warehouse, the warehoused goods and any activity undertaken in the warehouse. The warehouse operator is also liable for the payment of any duties and taxes payable on any goods that cannot be accounted for.

It is a requirement that the records maintained by the warehouse operator provide a clear audit trail of all goods that arrive, are stored and/or exit the warehouse. No goods stored in the warehouse can be removed, altered, interfered with, displayed or

demonstrated in any way without prior authorisation from Customs and any license holder who contravenes any of those conditions can have their license revoked.

There are also specific conditions that have been published in relation to:

- The warehouse premises (its dimensions and quality);
- Warehouse identification;
- Security;
- Availability of customs facilities;
- Handling and examination equipment;
- Permitted goods and operations;
- Communications and computer connectivity;
- Accounting and record-keeping requirements;
- Compliance and understanding of warehouse requirements; and
- Tax clearance.

Source: www.fra.go.tz

sity for reasonable structural security and safe access;

- Double-locking of the warehouse (both the operator of the warehouse and Customs);
- Permanent or regular supervision of the warehouse by Customs. As more sophisticated security systems are utilized by Customs and warehouse operators (for example, CCTV) there is less need for a permanent Customs presence. Where such technology is utilized customs control can be exercised by having online access to the “feed” from the cameras in and around the warehouse;
- Unannounced spot checks and audits of inventory systems to ensure that no goods are missing or substituted;
- The requirement for the operator of the warehouse to keep up to date and accurate accounts of the stock held within the warehouse;
- The undertaking of a periodic inventory of the stock held within the warehouse. If possible a computer system should be utilized to maintain a balance of the inventory for each bonded ware-

house based on in- and ex-warehouse customs declarations. This can then be automatically reconciled against the warehouse operator’s records to identify “overtime” goods or shortfalls that may reveal diversion;

- The prima facie requirement for lodgment of a security, subject to it being waived or reduced if there is no particular risk to the revenue and customs control can otherwise be adequately exercised.

Reference should also be made to Chapter 1 of Specific Annex D of the WCO’s Revised Kyoto Convention is appended as Attachment 1 of this Toolkit.

Free Zones or Export Processing Zones

These duty relief regimes are a phenomenon of modern international trade and have been utilized by both developed and developing countries to promote exports, encourage foreign direct investment and improve the international competitiveness of the

economy in question. By some estimates, there are approximately 3,000 zones in 135 countries that account for over 68 million direct jobs and over \$500 billion of direct trade-related value added within zones.³ They bear a number of different names including Free Trade Zones, Duty Free Zones, Tax Free Zones, Free Export Zones, Special Economic Zones, Export Processing Zones and are increasingly either privately owned, developed and operated, or are the subject of public-private partnerships.

Their distinction from other forms of duty relief is the broader tax advantages that they offer qualified participants. These tax advantages may include exemption from domestic taxes such as company and income tax, as well as total or partial exemption from labor regulations, foreign exchange regulations and the like.

Despite the variety of this specific form of duty relief there is a common theme; they are all areas that are legally regarded as outside the Customs territory of the country in question and subject to an independent customs tariff and tax regime. Although they are treated in a legal sense as a separate Customs territory, the fact is that they are physically located within the country implementing the scheme and very much a part of that country's economy. There is a diversity of approach to these zones in the sense that sometimes they comprise an entire city;

other times they are all or part of a port or airport area; they might be developed as an industrial or technology park; or they can be an individual factory. Whatever forms the zone takes however; it is standard practice to have a secure perimeter around the zone that is under Customs control. In this sense such zones are treated as a separate country from a customs perspective.

Many such schemes contain a requirement that all of the output from the zone must be exported to a third country, but there are some schemes that allow sales into the local market; for example, Israel, Syria and the United States.

The experiences with such schemes have been mixed in terms of their actual advantages and disadvantages (see the conclusions taken from the Policy Research Working Paper by Dorsat Madani below) but from a customs perspective the issue revolves around the ease of customs control. The complexity of customs control often depends on the characteristics of the particular scheme in question including its geographical location and the capacity of Customs to monitor and enforce compliance. If there is weak customs control, goods that are imported or manu-

³ Figures derived from a database developed by the FIAS, World Economic Processing Zones Association (WEPZA) and the ILO in 2007.

Export Processing Zones – Are they Effective?

The cross-country evidence on economic zones makes it clear that:

1. They are not a first-best solution – overall improvement of the investment climate is first-best;
2. They are only one instrument among many for promoting export development and growth, and tend to have limited applicability and impact;
3. They work best when focused on export facilitation;
4. They work best in countries with developed infrastructure and financial markets where downward linkages can be developed to domestic economic activity;

5. They are distortionary trade instruments which introduce discretion into the policy environment, and as such they are vulnerable to abuse; and
6. Once privileges are provided through them, the lobby builds to maintain and expand those privileges.

International experience suggests that maximizing the benefits of zones depends on the degree to which they have been integrated with the host economy and the overall trade and investment reform agenda. When zones are specifically designed to pilot legal and regulatory reforms within a planned policy framework, they are more likely to succeed.

Conclusions drawn from "A Review of the Role and Impact of Export Processing Zones" by Dorsati Madani, Policy Research Working Paper 2238, The World Bank, November 1999

Types of Zones

Free Trade Zones – (also known as Commercial Free Zones) are small, fenced-in, duty-free areas, offering warehousing, storage and distribution facilities for trade, transshipment and re-export operations; for example, the Colon Free Zone in Panama.

Export Processing Zones – are industrial estates aimed primarily at overseas markets. Hybrid export processing zones are sub-divided into a general zone open to all industries and a separate export processing zone area reserved for export-oriented, export processing zone-registered enterprises. In most Asian countries, such as Thailand and the Philippines, export processing zone areas within hybrid zones are required to be fenced-in. In contrast, many Latin American countries – such as Costa Rica and Mexico – permit export processing zone-registered enterprises to be located in the same area as firms registered under other regimes. An example of a traditional export processing zone is Karachi EPZ in Pakistan while a good example of a hybrid export processing zone is Lat Krabang Industrial Estate in Thailand.

Enterprise Zones – are intended to revitalize distressed urban or rural areas through the provision of tax incentives and financial grants; for example, the Empowerment Zone in Chicago, USA.

Freeports – encompass much larger areas. They accommodate all types of activities, including tourism and retail sales, permit

on-site residence, and provide a broader set of incentives and benefits. An example is China and the Aqaba Special Economic Zone in Jordan (see also the separate case study).

Single Factory EPZ – these schemes provide incentives to individual enterprises regardless of location; the factories do not have to locate within a designated zone to receive incentives and privileges. They are similar to the bonded warehouse schemes discussed previously in this Toolkit but usually offer a broader set of benefits and more flexible controls. Examples include Mauritius, Mexico, Fiji and Madagascar.

Specialized Zones – these include Science/Technology Parks, Petrochemical Zones, Logistics Parks, and Airport-Based Zones. Examples of specialized zones in different countries include Singapore Science Park, Singapore (to promote high-tech and science-based industries); Laem Chabang Industrial Estate, Thailand (a petrochemical zone to promote energy industries); Labuan Offshore Financial Centre, Malaysia (to develop offshore financial services); Dubai Internet City, UAE (for the development of software and IT services); Kuala Lumpur Airport Free Zone, Malaysia (for air cargo and transshipment); Baru Island, Colombia (for integrated tourism development); and D1 Logistics Park, Czech Republic (for support logistics).

factured in the zone can enter the domestic market illegally. Furthermore, if a single factory (as opposed to a broader industrial area) is designated as a free zone (for example, in Egypt, Mauritius, Mexico, Senegal and the United States), customs ability to control movement into and out of the factory is much more difficult because it is geographically integrated with the domestic market.

As a general observation hybrid export processing zones are a preferred model in most Central and East European countries and many Latin American countries. Commercial Free Zones have been the standard approach among most Middle East and North African countries but not so much in Asia where zones are primarily designed to foster and emphasize manufacturing for export. The most significant development over the last ten years or so has been in relation to Freeports or “Special Economic Zones”. Previously, Freeports tended to be city-states such as Hong Kong, Macau, Singapore or islands such as

Labuan in Malaysia or Batam in Indonesia; primarily because of the relative ease of security. However, such zones are now being established within the countries themselves (particularly China); not least because of more modern customs control and the use of technology but also as a means of more closely integrating the zone with the economy and improving export diversity.

Recommended Practices

From a broader economic perspective the main impediments to a successful zone initiative seems to be:

- Poor location of the zone itself;
- An over-reliance on “tax holidays” and restrictive practices and requirements;
- Poorly designed infrastructure, inadequate maintenance and a lack of proper marketing;
- The existence of extensive subsidization of rent and/or other services;

Case Study – Jordan

The government of Jordan established the Aqaba Special Economic Zone at the Red Sea port of Aqaba in January 2001 to enhance economic capability in the Kingdom by attracting different economic activities and investments. The Zone began operations under the administration of the Aqaba Special Economic Zone Authority (ASEZA).

The Zone has clear borders of its own, and to that extent is a territory that has been separated from the national territory of

Jordan. ASEZA is empowered to make its own laws to apply within the zone, and is specifically granted authority relating to customs procedures. As a result, there are two separate customs authorities operating within the Zone: the National Jordanian Customs, which retains responsibility for administering customs law to the extent that it applies in the Zone, and the customs agency within the Zone, which is responsible for administering ASEZA's regulations.

Source: Extracted from "Customs Modernization Handbook" (2005), World Bank, Chapter 10 Box 10.6

- Inefficient and inappropriate procedures and controls;
- Inadequate administrative structures or too many entities involved in the administration of the zone; and
- Poor or non-existent coordination between business and government.

The recommended practices outlined below don't deal with the economic policy issues inherent in that list because that is beyond the scope of this Toolkit, but the last three of the items in that list are relevant to customs and can be dealt with via the adoption of best practice procedures as follows:

- As with warehousing the customs approach to free zones must ensure that there is little or no risk of unlawful diversion of the goods produced within the free zone into the domestic market without the payment of applicable duties and taxes. However, the practices and procedures adopted also reflect the fact that from a customs perspective the free zone is a separate Customs territory;
- Customs should only be present at the perimeter of the zone, not within the zone. This is because its main role is to control goods that are entering the zone from the Customs territory or from a third country and also to control goods that enter the Customs territory from the zone (either for home consumption or to another duty deferral regime). This role reflects the special nature of free zones as a separate jurisdiction;
- Customs should control the transit of goods to and from the free zone, consistent with their main role described above;
- Customs procedures should be simplified with the use of single forms, automated systems and surveillance technologies;
- If goods are entering the domestic market from the free zone, an import declaration must be submitted to Customs and any applicable duties and taxes paid as if the goods had directly entered from a third country;
- Where quantitative restrictions apply to how much of a factory's production is allowed into the domestic market, it will be Customs responsibility to monitor this and ensure that the limit is not exceeded. Ideally, if sales into the domestic market are permitted under the scheme, those sales should be limited to wholesale transactions because it would be almost impossible for Customs to monitor and control retail transactions;
- As a consequence of each of the previous responsibilities of Customs, they should be empowered to monitor all activities that are undertaken within the zone through account and document-based procedures. In other words Customs should have the power to audit the books, records and systems of operators within the zone to ensure that no illegal trade is occurring inside the zone;
- There have been examples of free trade zones being utilized by criminals to avoid arms export controls and this is exactly the type of situation that Customs should be detecting and enforcing against.

- Where the free zone is administered by a specific zone authority set up under legislation, that same legislation will often require operators within the zone to develop and maintain a full inventory of their goods entering, leaving and being stored within the zone. These reports should be made available to Customs for auditing purposes and where possible via online access.
- Operators within the free zone should be required to submit a simplified declaration to Customs for approval to move goods into or out of the zone. There are normally no duties or taxes payable on goods entering or leaving the zone provided that in the latter circumstance they are being exported to a third country. Of course, if the goods are being entered into the domestic

market, those duties and taxes become payable. In some cases administrative fees may be levied to finance the zone authority's operations and infrastructure.

The core definition of a free zone, as well as proposed guidelines and standards for them, are contained in Specific Annex D of the WCO's Revised Kyoto Convention. Specific Annex D provides standards and recommended practices for the treatment of imports to and exports from free zones including territorial limits (for example, "free zones" are defined as "outside the Customs territory" for the purposes of assessing duties and taxes); minimal documentation requirements; and issues that should be covered by national legislation.

Export Processing Zones – Improving Effectiveness

In cases where the decision has been taken to establish zones, some recommended characteristics are as follows:

Tax incentives within the zone should be limited to relief of customs duties and indirect taxes (VAT and excise). Goods that enter the zone from the domestic economy should be treated as exports (from the domestic economy), and hence can be zero-rated for VAT and entitled to customs duty drawback when appropriate. Goods can be exported from the zone to other countries without tax consequences. When goods enter the domestic economy from the zone, they should be treated as imports, and be subject to the applicable customs duties, VAT and excise. As FEZs are treated as being extra-territorial, the perimeters should be secured and under effective customs control.

Export processing zones may offer advantages over duty drawback or suspension mechanisms for exporters, including: (i) simplified administration; (ii) a small cash flow benefit, as duties are not paid when goods enter the zone only to be refunded later; (iii) more comprehensive relief, since the duty drawback and suspensions

only cover duties paid or payable by the exporter, since it is not possible to trade the input through multiple domestic transactions; (iv) exemption from customs duty on equipment used in the zone; and (v) infrastructure provision.

Provision of direct-tax incentives is very much a second-best option, and should be done in a manner that minimizes economic distortions and is in line with WTO agreements. To minimize distortions, direct tax incentives might be limited to those directly related to the amount of investment—for example, by including accelerated depreciation or tax credits as part of the standard tax code—and not take the form of tax holidays. Further, as mentioned above, any direct tax incentive might contravene WTO agreements, depending on its specific design and applicability. In general, it is preferable to have investment incentives explicitly included in the law, and available to all enterprises in equal terms—including those outside the zones. They should not be granted discretionally.

Source: Extract taken from "The debate on elimination of free enterprise zones in Ukraine", December 12, 2005, The World Bank (Mark Davis)

3

Concluding Remarks

An analysis of the duty relief schemes that have been successfully implemented in a number of countries and captured in the recommended practices set out in Chapter 3 of this Reference and Learning Toolkit reveal some themes that are common to all forms of duty and tax relief. These themes, which are also acknowledged in the standards and recommended practices contained in the relevant Annexes of the WCO's Revised Kyoto Convention are set out in the Table below.

The Table lists those practices and procedures that experience suggests are essential for the development and implementation of an effective and efficient

duty and tax relief scheme. The Table is divided into a list of practices and procedures that should be *generally* applied to any form of duty and tax relief and those that are *specific* to particular forms of duty and tax relief. The relevant Specific Annexes of the Revised Kyoto Convention should also be utilized as a “legal and operational” benchmark by policy-makers considering the implementation of such schemes.

When looked at as a consolidation of practices and procedures the Table represents a conceptual framework for duty and tax relief schemes and forms the basis of an effective development and implementation plan for such schemes.

4.2 Table of Recommended Practices

GENERAL

1. Customs administrations should apply the international standards and recommended practices for the administration of duty and tax relief as set out in the World Customs Organization's Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures.
2. For all duty and tax relief (or exemption) schemes; simple, clear and transparent rules should be established in primary and secondary legislation that is then publicly available to anyone interested in accessing the scheme or that has a responsibility in relation to the scheme. The legislation should set out the conditions, requirements, processes, and procedural steps relevant to the scheme in question including a clear statement of the monitoring and audit powers that Customs can exercise in relation to the scheme.
3. Customs should apply selective (risk-based) compliance checks through post-transaction account-based audits rather than physical controls wherever possible and appropriate. This approach to managing compliance should be complemented by enforcement mechanisms that are applied in a consistent manner to non-compliant or unlawful activity and which are at a level that is appropriate to the nature of that non-compliance or illegality. The effective use of both periodic reporting and information technology will contribute to customs control while facilitating trade.
4. The relevant legislation should require participants in the particular duty and tax relief scheme to retain sufficient records to enable Customs to re-create the relevant transactions for the purposes of audit and for the reconciliation of inward and outward transactions. The document retention obligation should set out both the specifics of the documents that are required to be retained by the scheme's participants and the period of time for which they must be retained. The document retention obligation should be capable of being satisfied if the documents are

4.2 Table of Recommended Practices (continued)

stored in electronic media as well as in paper-based format and best practice would provide Customs audit officers with online access to that documentation.

5. To acknowledge Customs obligation to protect the revenue, scheme participants should be required to lodge a security such as a bond or bank guarantee as necessary and appropriate. Participants that demonstrate a high level of compliance and/or don't represent a risk to the revenue should be able to lodge minimum security or perhaps not be required to lodge a security at all.
6. Skilled staff should be trained or recruited as an independent and specialist audit group within Customs to undertake monitoring and verification processes in relation to duty and tax relief schemes. This reduces the potential for corruption in the administration of the scheme.
7. Participants seeking to access the particular duty and tax relief scheme should be required to apply to Customs before they begin importation. This pre-authorization allows Customs to check the proposed manufacturing or processing operation and satisfy themselves that it is appropriate for duty relief and that the participant has the necessary documentation and systems to support ongoing audit of the process. If all of these pre-conditions are met the participant can be "registered" to access the scheme.
8. Maximize the use of automated systems to support and facilitate the control of duty and tax relief schemes. This might include the tracking of goods into and out of the duty free environment; inventory management; exchange of data between Customs and business; exchange of data between customs offices of entry and exit; and the control of quantities and values.
9. The socio-economic environment of the country in question and the capacity of its customs administration must be taken into account in examining different duty and tax relief options and the manner in which they might be tailored for that country. For example, a single factory zone located outside a geographically separated export processing zone area should not be established if Customs has no account-based audit capability. The same limitation will impact on bonded warehousing and inward processing generally.

SPECIFIC

1. For *temporary importation*, *inward processing* and *drawback* the specification of a time limit for re-exportation should be consistent with the intended use of the goods and the risk to revenue.
2. For *temporary importation*, *inward processing* and *drawback* the specification of the use to which the goods may be put is very important because, unlike customs procedures such as warehousing where the goods are under customs control, these types of schemes otherwise allow the goods to circulate quite freely in the market.
3. Any scheme for *temporary importation* should be based on the principles and processes outlined in the WCO's Istanbul Convention.
4. For *inward processing*, *drawback* and *manufacturing under bond* schemes it is important that Customs and the scheme's participant determine and agree a "rate of yield" under the scheme; that is, the ratio of imported material used per unit of output.
5. In relation to schemes for *drawback*, if the *drawback* rates are set under a fixed rate system they should be set by an independent committee consisting of government and industry representatives.
6. In *drawback* schemes refunds should be made as quickly as possible once customs verification of the export is completed and actual exportation has occurred.
7. For *bonded warehouses* Customs approval of the warehouse should include infrastructure requirements including its physical aspects such as the necessity for reasonable structural security and safe access and the requirement of double-locking (Customs and the operator).
8. There should be regular supervision of the *bonded warehouses* by Customs and where possible this should leverage sophisticated security systems such as CCTV. Where such technology is utilized customs control can be exercised by having online access to the "feed" from the cameras in and around the warehouse. The supervision of bonded warehouses should also include unannounced spot checks and audits of inventory systems to ensure that no goods are missing or substituted.
9. Under *free zones or related schemes* Customs should only be present at the perimeter of the zone, not within the zone. This is because its main role is to control goods that are entering the zone from the Customs territory or from a third country and also to control goods that enter the Customs territory from the zone (either for home consumption or to another duty deferral regime). This role reflects the special nature of free zones as a separate jurisdiction that is nevertheless physically located within the country.

4.2 Table of Recommended Practices *(continued)*

10. In a *free zone* scheme where quantitative restrictions apply to how much of a factory's production is allowed into the domestic market, it will be Customs responsibility to monitor this and ensure that the limit is not exceeded. Ideally, if sales

into the domestic market are permitted under the scheme, those sales should be limited to wholesale transactions because it would be almost impossible for Customs to monitor and control retail transactions.

Attachment 1 – Relevant Annexes of the Revised Kyoto Convention

Specific Annex B

Chapter 1 Clearance for home use

Definitions

For the purposes of this Chapter:

E1. / F2.

“**clearance for home use**” means the Customs procedure which provides that imported goods enter into free circulation in the Customs territory upon the payment of any import duties and taxes chargeable and the accomplishment of all the necessary Customs formalities;

E2. / F1.

“**goods in free circulation**” means goods which may be disposed of without Customs restriction.

Principle

1. Standard

Clearance for home use shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

Documentation

2. Recommended Practice

National legislation should provide that goods may be declared in an alternative manner to the standard

Goods declaration on the condition that it provides the necessary particulars relating to the goods to be cleared for home use.

Chapter 2 Re-importation in the same state

Definitions

For the purposes of this Chapter:

E1. / F3.

“**clearance for home use**” means the Customs procedure which provides that imported goods enter into free circulation in the Customs territory upon the payment of any import duties and taxes chargeable and the accomplishment of all the necessary Customs formalities;

E2. / F5.

“**compensating products**” means the products resulting from the manufacturing, processing or repair of the goods for which the use of the inward processing procedure is authorized;

E3. / F2.

“**goods exported with notification of intended return**” means goods specified by the declarant as intended for re-importation, in respect of which identification measures may be taken by the Customs to facilitate re-importation in the same state;

E4. / F1.

“**goods in free circulation**” means goods which may be disposed of without Customs restriction;

E5. / F4.

“**re-importation in the same state**” means the Customs procedure under which goods which were exported may be taken into home use free of import duties and taxes, provided they have not undergone any manufacturing, processing or repairs abroad and provided that any sums chargeable as a result of repayment or remission of or conditional relief from duties and taxes or of any subsidies or other amounts granted in connection with exportation must be paid. The goods that are eligible for re-importation in the same state can be goods that were in free circulation or were compensating products.

Principle

1. Standard

Re-importation in the same state shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

Field of application

2. Standard

Re-importation in the same state shall be allowed even if only a part of the exported goods is re-imported.

3. Standard

When circumstances so justify, re-importation in the same state shall be allowed even if the goods are re-imported by a person other than the person who exported them.

4. Standard

Re-importation in the same state shall not be refused on the grounds that the goods have been used or damaged or have deteriorated during their stay abroad.

5. Standard

Re-importation in the same state shall not be refused on the grounds that, during their stay abroad, the

goods have undergone operations necessary for their preservation or maintenance provided, however, that their value at the time of exportation has not been enhanced by such operations.

6. Standard

Re-importation in the same state shall not be limited to goods imported directly from abroad but shall also be granted for goods already placed under another Customs procedure.

7. Standard

Re-importation in the same state shall not be refused on the grounds that the goods were exported without notification of intended return.

Time limit for re-importation in the same state

8. Standard

Where time limits are fixed beyond which re-importation in the same state will not be granted, such limits shall be of sufficient duration to take account of the differing circumstances pertaining to each type of case.

Competent Customs offices

9. Standard

The Customs shall only require that goods re-imported in the same state be declared at the Customs office through which they were exported where this will facilitate the re-importation procedure.

Goods declaration

10. Standard

No written Goods declaration shall be required for the re-importation in the same state of packings, containers, pallets and means of transport for commercial use which are in use for the international transport of goods, subject to the satisfaction of the Customs that the packings, containers, pallets and means of transport for commercial use were in free circulation at the time of exportation.

Goods exported with notification of intended return

11. Standard

The Customs shall, at the request of the declarant,

allow goods to be exported with notification of intended return, and shall take any necessary steps to facilitate re-importation in the same state.

12. Standard

The Customs shall specify the requirements relating to the identification of goods exported with notification of intended return. In carrying this out, due account shall be taken of the nature of the goods and the importance of the interests involved.

13. Recommended Practice

Goods exported with notification of intended return should be granted conditional relief from any export duties and taxes applicable.

14. Standard

At the request of the person concerned, the Customs shall allow exportation with notification of intended return to be converted to outright exportation, subject to compliance with the relevant conditions and formalities.

15. Recommended Practice

Where the same goods are to be exported with notification of intended return and re-imported in the same state several times, the Customs should, at the request of the declarant, allow the declaration for exportation with notification of intended return that is lodged on the first exportation to cover the subsequent re-importations and exportations of the goods during a specified period.

Chapter 3 Relief from import duties and taxes

Definitions

For the purposes of this Chapter:

E1. / F2.

“**clearance for home use**” means the Customs procedure which provides that imported goods enter into free circulation in the Customs territory upon the payment of any import duties and taxes chargeable and the accomplishment of all the necessary Customs formalities;

E2. / F1.

“**relief from import duties and taxes**” means the clearance of goods for home use free of import duties and taxes, irrespective of their normal tariff classification or normal liability, provided that they are imported in specified circumstances and for specified purposes.

Principle

1. Standard

Relief from import duties and taxes in respect of goods declared for home use shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

Field of application

2. Standard

National legislation shall enumerate the cases in which relief from import duties and taxes is granted.

3. Standard

Relief from import duties and taxes shall not be limited to goods imported directly from abroad but shall also be granted for goods already placed under another Customs procedure.

4. Recommended Practice

Relief from import duties and taxes should be granted without regard to the country of origin of the goods or the country from which they arrived, except where an international instrument provides for reciprocity.

5. Standard

National legislation shall enumerate the cases in which prior authorization is required for relief from import duties and taxes and specify the authorities empowered to grant such authorization. Such cases shall be as few as possible.

6. Recommended Practice

Contracting Parties should consider granting relief from import duties and taxes for goods specified in international instruments under the conditions laid down therein, and also give careful consideration to the possibility of acceding to those international instruments.

7. Recommended Practice

Relief from import duties and taxes and from economic prohibitions and restrictions should be granted in respect of the following goods under the conditions specified, and provided that any other requirements set out in national legislation for such relief are complied with:

- a. therapeutic substances of human origin, blood grouping and tissue typing reagents, where they are consigned to institutions or laboratories approved by the competent authorities;
- b. samples of no commercial value which are regarded by the Customs to be of negligible value and which are to be used only for soliciting orders for goods of the kind they represent;
- c. removable articles other than industrial, commercial or agricultural plant or equipment, intended for the personal and professional use of a person or members of his family which are brought into the country with that person or separately for the purpose of removal of his residence to the country;
- d. effects inherited by a person who, at the time of the death of the deceased, has his principal residence in the country of importation and provided that such personal effects were for the personal use of the deceased;
- e. personal gifts, excluding alcohol, alcoholic beverages and tobacco goods, not exceeding a total value to be specified in national legislation on the basis of retail value;
- f. goods such as foodstuffs, medicaments, clothing and blankets sent as gifts to an approved charitable or philanthropic organization for distribution free of charge to needy persons by the organization or under its control;
- g. awards to persons resident in the country of importation subject to the production of any supporting documents required by the Customs;
- h. materials for the construction, upkeep or ornamentation of military cemeteries; coffins, funerary urns and ornamental funerary articles imported by organizations approved by the competent authorities;
- i. documents, forms, publications, reports and other articles of no commercial value specified in national legislation;
- j. religious objects used for worship; and
- k. products imported for testing, provided that the quantities imported do not exceed those strictly necessary for testing, and that the products are used up during testing or that remaining products are re-exported or rendered commercially valueless under Customs control.

Specific Annex D

Chapter 1 Customs warehouses

Definition

For the purpose of this Chapter:

E1. / F1.

“**Customs warehousing procedure**” means the Customs procedure under which imported goods are stored under Customs control in a designated place (a Customs warehouse) without payment of import duties and taxes.

Principle

1. Standard

The Customs warehousing procedure shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

Classes of Customs warehouses

2. Standard

National legislation shall provide for Customs warehouses open to any person having the right to dispose of the goods (public Customs warehouses).

3. Standard

National legislation shall provide for Customs warehouses to be used solely by specified persons (private Customs warehouses) when this is necessary to meet the special requirements of the trade.

Establishment, management and control

4. Standard

The Customs shall lay down the requirements for the establishment, suitability and management of the Customs warehouses and the arrangements for Customs control. The arrangements for storage of goods in Customs warehouses and for stock-keeping and accounting shall be subject to the approval of the Customs.

Admission of goods

5. Recommended Practice

Storage in public Customs warehouses should be allowed for all kinds of imported goods liable to import duties and taxes or to prohibitions or restrictions other than those imposed on grounds of:

- public morality or order, public security, public hygiene or health, or for veterinary or phytosanitary considerations; or
- the protection of patents, trademarks and copyrights,

irrespective of quantity, country of origin, country from which arrived or country of destination.

Goods which constitute a hazard, which are likely to affect other goods or which require special installations should be accepted only by Customs warehouses specially designed to receive them.

6. Standard

The Customs shall specify the kinds of goods which may be admitted to private Customs warehouses.

7. Recommended Practice

Admission to Customs warehouses should be allowed for goods which are entitled to repayment of import duties and taxes when exported, so that they may qualify for such repayment immediately, on condition that they are to be subsequently exported.

8. Recommended Practice

Admission to Customs warehouses, with a view to subsequent exportation or other authorized disposal, should be allowed for goods under the temporary admission procedure, the obligations under that procedure thereby being suspended or discharged.

9. Recommended Practice

Admission to Customs warehouses should be allowed for goods intended for exportation that are liable to or have borne internal duties or taxes, in order that they may qualify for exemption from or repayment of such internal duties and taxes, on condition that they are to be subsequently exported.

Authorized operations

10. Standard

Any person entitled to dispose of the warehoused goods shall be allowed, for reasons deemed valid by the Customs:

- a. to inspect them;
- b. to take samples, against payment of import duties and taxes wherever applicable;
- c. to carry out operations necessary for their preservation; and
- d. to carry out such other normal handling operations as are necessary to improve their packaging or marketable quality or to prepare them for shipment, such as breaking bulk, grouping of packages, sorting and grading, and repacking.

Duration of stay

11. Standard

The Customs shall fix the authorized maximum duration of storage in a Customs warehouse with due regard to the needs of the trade, and in the case of non-perishable goods it shall be not less than one year.

Transfer of ownership

12. Standard

The transfer of ownership of warehoused goods shall be allowed.

Deterioration of goods

13. Standard

Goods deteriorated or spoiled by accident or force majeure while under the Customs warehouse procedure shall be allowed to be declared for home use as if they had been imported in their deteriorated or spoiled state, provided that such deterioration or spoilage is duly established to the satisfaction of the Customs.

Removal of goods

14. Standard

Any person entitled to dispose of the goods shall be authorized to remove all or part of them from one

Customs warehouse to another or to place them under another Customs procedure, subject to compliance with the conditions and formalities applicable in each case.

15. Standard

National legislation shall specify the procedure to be followed where goods are not removed from the Customs warehouse within the period laid down.

Closure of a Customs warehouse

16. Standard

In the event of the closure of a Customs warehouse, the persons concerned shall be given sufficient time to remove their goods to another Customs warehouse or to place them under another Customs procedure, subject to compliance with the conditions and formalities applicable in each case.

Chapter 2 Free zones

Definition

For the purpose of this Chapter:

E1./ F1.

“**free zone**” means a part of the territory of a Contracting Party where any goods introduced are generally regarded, insofar as import duties and taxes are concerned, as being outside the Customs territory.

Principle

1. Standard

The Customs regulations applicable to free zones shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

Establishment and control

2. Standard

National legislation shall specify the requirements relating to the establishment of free zones, the kinds of goods admissible to such zones and the nature of

the operations to which goods may be subjected in them.

3. Standard

The Customs shall lay down the arrangements for Customs control including appropriate requirements as regards the suitability, construction and layout of free zones.

4. Standard

The Customs shall have the right to carry out checks at any time on the goods stored in a free zone.

Admission of goods

5. Standard

Admission to a free zone shall be authorized not only for goods imported directly from abroad but also for goods brought from the Customs territory of the Contracting Party concerned.

6. Recommended Practice

Admission to a free zone of goods brought from abroad should not be refused solely on the grounds that the goods are liable to prohibitions or restrictions other than those imposed on grounds of:

- public morality or order, public security, public hygiene or health, or for veterinary or phytosanitary considerations; or
- the protection of patents, trademarks and copyrights,

irrespective of country of origin, country from which arrived or country of destination.

Goods which constitute a hazard, which are likely to affect other goods or which require special installations should be admitted only to free zones specially designed to receive them.

7. Standard

Goods admissible to a free zone which are entitled to exemption from or repayment of import duties and taxes when exported shall qualify for such exemption or repayment immediately after they have been introduced into the free zone.

8. Standard

Goods admissible to a free zone which are entitled to exemption from or repayment of internal duties and taxes when exported shall qualify for such exemption or repayment after they have been introduced into the free zone.

9. Recommended Practice

No Goods declaration should be required by the Customs in respect of goods introduced into a free zone directly from abroad if the information is already available on the documents accompanying the goods.

Security

10. Recommended Practice

The Customs should not require security for the admission of goods to a free zone.

Authorized operations

11. Standard

Goods admitted to a free zone shall be allowed to undergo operations necessary for their preservation and usual forms of handling to improve their packaging or marketable quality or to prepare them for shipment, such as breaking bulk, grouping of packages, sorting and grading, and repacking.

12. Standard

Where the competent authorities allow processing or manufacturing operations in a free zone, they shall specify the processing or manufacturing operations to which goods may be subjected in general terms and/or in detail in a regulation applicable throughout the free zone or in the authority granted to the enterprise carrying out these operations.

Goods consumed within the free zone

13. Standard

National legislation shall enumerate the cases in which goods to be consumed inside the free zone may be admitted free of duties and taxes and shall lay down the requirements which must be met.

Duration of stay

14. Standard

Only in exceptional circumstances shall a time limit be imposed on the duration of the stay of goods in a free zone.

Transfer of ownership

15. Standard

The transfer of ownership of goods admitted to a free zone shall be allowed.

Removal of goods

16. Standard

Goods admitted to or produced in a free zone shall be permitted to be removed in part or in full to another free zone or placed under a Customs procedure, subject to compliance with the conditions and formalities applicable in each case.

17. Standard

The only declaration required for goods on removal from a free zone shall be the Goods declaration normally required for the Customs procedure to which those goods are assigned.

18. Recommended Practice

Where a document must be produced to the Customs in respect of goods which on removal from a free zone are sent directly abroad, the Customs

should not require more information than already available on the documents accompanying the goods.

Assessment of duties and taxes

19. Standard

National legislation shall specify the point in time to be taken into consideration for the purpose of determining the value and quantity of goods which may be taken into home use on removal from a free zone and the rates of the import duties and taxes or internal duties and taxes, as the case may be, applicable to them.

20. Standard

National legislation shall specify the rules applicable for determining the amount of the import duties and taxes or internal duties and taxes, as the case may be, chargeable on goods taken into home use after processing or manufacturing in a free zone.

Closure of a free zone

21. Standard

In the event of the closure of a free zone, the persons concerned shall be given sufficient time to remove their goods to another free zone or to place them under a Customs procedure, subject to compliance with the conditions and formalities applicable in each case.

Specific Annex F

Chapter 1 Inward processing

Definitions

For the purposes of this Chapter:

E1. / F3.

“**compensating products**” means the products resulting from the manufacturing, processing or repair of goods for which the use of the inward processing procedure is authorized;

E2. / F1.

“**equivalent goods**” means domestic or imported goods identical in description, quality and technical characteristics to those imported for inward processing which they replace;

E3. / F2.

“**inward processing**” means the Customs procedure under which certain goods can be brought into a Customs territory conditionally relieved from payment of import duties and taxes, on the basis that such goods are intended for manufacturing, processing or repair and subsequent exportation.

Principle

1. Standard

Inward processing shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

Field of application

2. Standard

Goods admitted for inward processing shall be afforded total conditional relief from import duties and taxes. However, import duties and taxes may be collected on any products, including waste, deriving from the processing or manufacturing of goods

admitted for inward processing that are not exported or treated in such a way as to render them commercially valueless.

3. Standard

Inward processing shall not be limited to goods imported directly from abroad, but shall also be granted for goods already placed under another Customs procedure.

4. Recommended Practice

Inward processing should not be refused solely on the grounds of the country of origin of the goods, the country from which arrived or the country of destination.

5. Standard

The right to import goods for inward processing shall not be limited to the owner of the imported goods.

6. Recommended Practice

When, in the execution of a contract entered into with a person established abroad, the goods to be used are supplied by that person, inward processing should not be refused on the grounds that goods identical in description, quality and technical characteristics are available in the Customs territory of importation.

7. Recommended Practice

The possibility of determining the presence of the imported goods in the compensating products should not be imposed as a necessary condition of inward processing when:

(a) the identity of the goods can be established:

- by submitting the details of the inputs and the process of manufacture of the compensating products; or
- during the processing operations by Customs control;

or

(b) the procedure is terminated by the exportation of products obtained from the treatment of goods identical in description, quality and technical characteristics to those admitted for inward processing.

Placing goods under inward processing

(a) Authorization for inward processing

8. Standard

National legislation shall specify the circumstances in which prior authorization is required for inward processing and the authorities empowered to grant such authorization.

9. Standard

The inward processing authorization shall specify the manner in which operations permitted under inward processing shall be carried out.

10. Recommended Practice

When an application for inward processing is made after the importation of the goods and meets the criteria for authorization, the authorization should be granted retrospectively.

11. Recommended Practice

Persons who carry out regular inward processing operations should, on request, be granted a general authorization covering such operations.

12. Standard

Where goods admitted for inward processing are to undergo manufacturing or processing, the competent authorities shall fix or agree to the rate of yield of the operation by reference to the actual conditions under which it is effected. The description, quality and quantity of the various compensating products shall be specified upon fixing or agreeing to that rate.

13. Recommended Practice

Where the inward processing operations:

- relate to goods whose characteristics remain reasonably constant;
- are customarily carried out under clearly defined technical conditions; and
- give compensating products of constant quality;

the competent authorities should lay down standard rates of yield applicable to the operations.

(b) Identification measures

14. Standard

The requirements relating to the identification of goods for inward processing shall be laid down by the Customs. In carrying this out, due account shall be taken of the nature of the goods, of the operation to be carried out and of the importance of the interests involved.

Stay of the goods in the Customs territory

15. Standard

The Customs shall fix the time limit for inward processing in each case.

16. Recommended Practice

At the request of the person concerned, and for reasons deemed valid by the Customs, the latter should extend the period initially fixed.

17. Recommended Practice

Provision should be made for continuing inward processing in the event of transfer of ownership of the imported goods and the compensating products to a third person, provided that that person assumes the obligations of the person granted the authorization.

18. Recommended Practice

The competent authorities should permit processing operations to be carried out by a person other than the person accorded the facilities for inward processing. Transfer of ownership of the goods admitted for inward processing should not be necessary, provided that the person accorded the inward processing facilities remains responsible to the Customs for compliance with the conditions set out in the authorization for the entire duration of the operations.

19. Standard

Provision shall be made to permit compensating products to be exported through a Customs office other than that through which the goods placed under inward processing were imported.

Termination of inward processing

(a) Exportation

20. Standard

Provision shall be made to permit inward processing procedures to be terminated by exportation of the compensating products in one or more consignments.

21. Standard

Upon request by the person concerned, the competent authorities shall authorize the re-exportation of the goods in the same state as imported, with termination of inward processing.

(b) Other methods of disposal

22. Recommended Practice

Provision should be made for suspending or terminating inward processing by placing the imported goods or the compensating products under another Customs procedure, subject to compliance with the conditions and formalities applicable in each case.

23. Recommended Practice

National legislation should provide that the amount of import duties and taxes applicable in the case where the compensating products are not exported shall not exceed the amount of import duties and taxes applicable to the imported goods admitted for inward processing.

24. Standard

Provision shall be made for terminating inward processing in respect of goods lost as a consequence of the nature of the goods, insofar as the compensating products are exported, provided that such loss is duly established to the satisfaction of the Customs.

25. Recommended Practice

The products obtained from the treatment of equivalent goods should be deemed to be compensating products for the purposes of this Chapter (setting-off with equivalent goods).

26. Recommended Practice

When setting-off with equivalent goods is allowed, the Customs should permit the exportation of com-

pensating products prior to the importation of goods for inward processing.

Chapter 2 Outward processing

Definitions

For the purposes of this Chapter:

E1. / F2.

“**compensating products**” means the products obtained abroad and resulting from the manufacturing, processing or repair of goods for which the use of the outward processing procedure is authorized;

E2. / F1.

“**outward processing**” means the Customs procedure under which goods which are in free circulation in a Customs territory may be temporarily exported for manufacturing, processing or repair abroad and then re-imported with total or partial exemption from import duties and taxes.

Principle

1. Standard

Outward processing shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

Field of application

2. Recommended Practice

Outward processing should not be refused solely on the grounds that the goods are to be manufactured, processed or repaired in a given country.

3. Standard

Temporary exportation of goods for outward processing shall not be restricted to the owner of the goods.

Placing goods under outward processing

(a) Formalities prior to temporary exportation of the goods

4. Standard

National legislation shall enumerate the cases in which prior authorization is required for outward processing and specify the authorities empowered to grant such authorization.

Such cases shall be as few as possible.

5. Recommended Practice

Persons who carry out regular outward processing operations should, on request, be granted a general authorization covering such operations.

6. Recommended Practice

The competent authorities should fix a rate of yield for an outward processing operation when they deem it necessary or when it will facilitate the operation. The description, quality and quantity of the various compensating products shall be specified upon fixing that rate.

(b) Identification measures

7. Standard

The requirements relating to the identification of goods for outward processing shall be laid down by the Customs. In carrying this out, due account shall be taken of the nature of the goods, of the operation to be carried out and of the importance of the interests involved.

Stay of the goods outside the Customs territory

8. Standard

The Customs shall fix the time limit for outward processing in each case.

9. Recommended Practice

At the request of the person concerned, and for reasons deemed valid by the Customs, the latter should extend the period initially fixed.

Importation of compensating products

10. Standard

Provision shall be made to permit compensating products to be imported through a Customs office other than that through which the goods were temporarily exported for outward processing.

11. Standard

Provision shall be made to permit compensating products to be imported in one or more consignments.

12. Standard

Upon request by the person concerned, the competent authorities shall allow goods temporarily exported for outward processing to be re-imported with exemption from import duties and taxes if they are returned in the same state.

This exemption shall not apply to import duties and taxes which have been repaid or remitted in connection with the temporary exportation of the goods for outward processing.

13. Standard

Unless national legislation requires the re-importation of goods temporarily exported for outward processing, provision shall be made for terminating the outward processing by declaring the goods for outright exportation subject to compliance with the conditions and formalities applicable in such case.

Duties and taxes applicable to compensating products

14. Standard

National legislation shall specify the extent of the exemption from import duties and taxes granted when compensating products are taken into home use, and the methods of calculation of that exemption.

15. Standard

The exemption from import duties and taxes provided for in respect of compensating products shall not apply to duties and taxes which have been repaid or remitted in connection with the temporary exportation of the goods for outward processing.

16. Recommended Practice

Where goods temporarily exported for outward processing have been repaired abroad free of charge, provision should be made for them to be re-imported with total exemption from import duties and taxes under the conditions laid down in national legislation.

17. Recommended Practice

The exemption from import duties and taxes should be granted if the compensating products were placed under another Customs procedure prior to being declared for home use.

18. Recommended Practice

The exemption from import duties and taxes should be granted if the ownership of the compensating products is transferred before they are taken into home use.

Chapter 3 Drawback

Definitions

For the purposes of this Chapter:

E1. / F1.

“**drawback**” means the amount of import duties and taxes repaid under the drawback procedure;

E2. / F3.

“**drawback procedure**” means the Customs procedure which, when goods are exported, provides for a repayment (total or partial) to be made in respect of the import duties and taxes charged on the goods, or on materials contained in them or consumed in their production;

E3. / F1.

“**equivalent goods**” means domestic or imported goods identical in description, quality and technical characteristics to those under the drawback procedure which they replace.

Principle**1. Standard**

The drawback procedure shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

Field of application**2. Standard**

National legislation shall enumerate the cases in which drawback may be claimed.

3. Recommended Practice

National legislation should include provision for the application of the drawback procedure in cases where the goods which have borne import duties and taxes have been replaced by equivalent goods used in the production of exported goods.

Conditions to be fulfilled**4. Standard**

The Customs shall not withhold payment of drawback solely because, at the time of importation of the goods for home use, the importer did not state his intention of claiming drawback at exportation. Similarly, exportation shall not be mandatory when such a statement has been made at importation.

Duration of stay of the goods in the Customs territory**5. Recommended Practice**

Where a time limit for the exportation of the goods is fixed beyond which they no longer qualify for drawback, this should, upon request, be extended if the reasons are deemed valid by the Customs.

6. Recommended Practice

Where a time limit is fixed beyond which claims for drawback will not be accepted; provision should be made for its extension for commercial or other reasons deemed valid by the Customs.

Payment of drawback**7. Standard**

Drawback shall be paid as soon as possible after the claim has been verified.

8. Recommended Practice

National legislation should provide for the use of electronic funds transfer for the payment of drawback.

9. Recommended Practice

Drawback should also be paid on deposit of the goods in a Customs warehouse or introduction of the goods into a free zone, on condition that they are subsequently to be exported.

10. Recommended Practice

The Customs should, if so requested, pay drawback periodically on goods exported during a specified period.

Chapter 4 Processing of goods for home use

Definition

For the purposes of this Chapter:

E1. / F1.

“**processing of goods for home use**” means the Customs procedure under which imported goods may be manufactured, processed or worked, before clearance for home use and under Customs control, to such an extent that the amount of the import duties and taxes applicable to the products thus obtained is lower than that which would be applicable to the imported goods.

Principles**1. Standard**

Processing of goods for home use shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

2. Standard

The granting of the procedure of processing of goods for home use shall be subject to the conditions that:

- the Customs are able to satisfy themselves that the products resulting from the processing of goods for home use have been obtained from the imported goods; and

- the original state of the goods cannot be economically recovered after the manufacturing, processing or working.

Field of application**3. Standard**

National legislation shall specify the categories of goods and operations allowed for processing of goods for home use.

4. Standard

Processing of goods for home use shall not be limited to goods imported directly from abroad, but shall also be granted for goods already placed under another Customs procedure.

5. Standard

The right to process goods for home use shall not be limited to the owner of the imported goods.

6. Recommended Practice

Persons who carry out regular processing of goods for home use should, on request, be granted a general authorization covering such operations.

Termination of processing of goods for home use**7. Standard**

Processing of goods for home use shall be terminated when the products resulting from the processing are cleared for home use.

8. Standard

Where justified by the circumstances and at the request of the person concerned, the Customs shall approve termination of the procedure when the products obtained from the manufacturing, processing or working are placed under another Customs procedure, subject to compliance with the conditions and formalities applicable in each case.

9. Standard

Any waste or scrap resulting from the processing of goods for home use shall be liable, if cleared for home use, to the import duties and taxes that would be applicable to such waste or scrap imported in that state.

Specific Annex G

Chapter 1 Temporary admission

Definition

For the purposes of this Chapter:

E1. / F1.

“**temporary admission**” means the Customs procedure under which certain goods can be brought into a Customs territory conditionally relieved totally or partially from payment of import duties and taxes; such goods must be imported for a specific purpose and must be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of them.

Principle

1. Standard

Temporary admission shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

Field of application

2. Standard

National legislation shall enumerate the cases in which temporary admission may be granted.

3. Standard

Goods temporarily admitted shall be afforded total conditional relief from import duties and taxes, except for those cases where national legislation specifies that relief may be only partial.

4. Standard

Temporary admission shall not be limited to goods imported directly from abroad, but shall also be granted for goods already placed under another Customs procedure.

5. Recommended Practice

Temporary admission should be granted without regard

to the country of origin of the goods, the country from which they arrived or their country of destination.

6. Standard

Temporarily admitted goods shall be allowed to undergo operations necessary for their preservation during their stay in the Customs territory.

Formalities prior to the granting of temporary admission

7. Standard

National legislation shall enumerate the cases in which prior authorization is required for temporary admission and specify the authorities empowered to grant such authorization. Such cases shall be as few as possible.

8. Recommended Practice

The Customs should require that the goods be produced at a particular Customs office only where this will facilitate the temporary admission.

9. Recommended Practice

The Customs should grant temporary admission without a written Goods declaration when there is no doubt about the subsequent re-exportation of the goods.

10. Recommended Practice

Contracting Parties should give careful consideration to the possibility of acceding to international instruments relating to temporary admission that will enable them to accept documents and guarantees issued by international organizations in lieu of national Customs documents and security.

Identification measures

11. Standard

Temporary admission of goods shall be subject to the condition that the Customs are satisfied that they will be able to identify the goods when the temporary admission is terminated.

12. Recommended Practice

For the purpose of identifying goods temporarily admitted, the Customs should take their own identification measures only where commercial means of identification are not sufficient.

Time limit for re-exportation

13. Standard

The Customs shall fix the time limit for temporary admission in each case.

14. Recommended Practice

At the request of the person concerned, and for reasons deemed valid by the Customs, the latter should extend the period initially fixed.

15. Recommended Practice

When the goods granted temporary admission cannot be re-exported as a result of a seizure other than a seizure made at the suit of private persons, the requirement of re-exportation should be suspended for the duration of the seizure.

Transfer of temporary admission

16. Recommended Practice

On request, the Customs should authorize the transfer of the benefit of the temporary admission to any other person, provided that such other person:

- a. satisfies the conditions laid down; and
- b. accepts the obligations of the first beneficiary of the temporary admission.

Termination of temporary admission

17. Standard

Provision shall be made to permit temporarily admitted goods to be re-exported through a Customs office other than that through which they were imported.

18. Standard

Provision shall be made to permit temporarily admitted goods to be re-exported in one or more consignments.

19. Recommended Practice

Provision should be made for suspending or terminating temporary admission by placing the imported goods under another Customs procedure, subject to compliance with the conditions and formalities applicable in each case.

20. Recommended Practice

If prohibitions or restrictions in force at the time of temporary admission are rescinded during the period

of validity of the temporary admission document, the Customs should accept a request for termination by clearance for home use.

21. Recommended Practice

If security has been given in the form of a cash deposit, provision should be made for it to be repaid at the office of re-exportation, even if the goods were not imported through that office.

Cases of temporary admission

(a) Total conditional relief from import duties and taxes

22. Recommended Practice

Temporary admission with total conditional relief from duties and taxes should be granted to the goods referred to in the following Annexes to the Convention on Temporary Admission (Istanbul Convention) of 26 June 1990:

1. "Goods for display or use at exhibitions, fairs, meetings or similar events" referred to in Annex B.1.
2. "Professional equipment" referred to in Annex B.2.
3. "Containers, pallets, packings, samples and other goods imported in connection with a commercial operation" referred to in Annex B.3.
4. "Goods imported for educational, scientific or cultural purposes" referred to in Annex B.5.
5. "Travellers' personal effects and goods imported for sports purposes" referred to in Annex B.6.
6. "Tourist publicity material" referred to in Annex B.7.
7. "Goods imported as frontier traffic" referred to in Annex B.8.
8. "Goods imported for humanitarian purposes" referred to in Annex B.9.
9. "Means of transport" referred to in Annex C.
10. "Animals" referred to in Annex D.

(b) Partial conditional relief from import duties and taxes

23. Recommended Practice

Goods which are not included in Recommended Practice 22 and goods in Recommended Practice 22 which do not meet all the conditions for total conditional relief should be granted temporary admission with at least partial conditional relief from import duties and taxes.

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