

UDC 339.543:323.326(510)

ZHOU Yang

Master, Associate Professor
Shanghai Customs College, China

ZHANG Lili

Master, Lecturer
Shanghai Customs College, China

**ON BUILDING THE PARTNERSHIP BETWEEN THE CHINA CUSTOMS
AND THE BUSINESS COMMUNITY FROM THE PERSPECTIVE OF THE
FRAMEWORK OF STANDARDS TO SECURE AND FACILITATE GLOBAL
TRADE**

Abstract

The WCO has developed the Framework of Standards to Secure and Facilitate Global Trade (hereinafter referred to as “the Framework”). It defined the relationship between the Customs and the business community as partnerships. There are, however, some differences within the China Customs-to-business relationship. On fully understand the connotation of partnership, and with the help of the business associations, the China Customs should realize the changing of its role from the traditional “Customs controller” to the Customs service provider. The information controlled thus should get transparent and the target should thus be transferred from the big enterprises to the small and medium sized enterprises.

Key words: Framework of Standards, Customs, Business Community.

Introduction

With the development of the international trade, the single relationship of “control” and “be controlled” between the Customs and the business community can no longer suit the demand of the fast growing trade volumes.

On solving this problem, the Revised Kyoto Convention points out that, to improve the cooperation with the trade circles, the Customs shall establish and maintain a formal consultative relationship with the trade community to enhance cooperation and facilitate the trade sectors to participate in determining the most efficient working methods that in line with the domestic regulations and international agreements. But as to the question of how to build this formal consultative relationship, it only suggests the form of using the memo of understanding¹, without giving the specific plan. Since 2001, the terrorist attacks like 911 compelled the international community to pay great attention to the trade security. All sides had put forward different policies and measures concerning the trade security. With no doubt, it adds to the cost of trade. The question of how to balance the trade facilitation and trade security has been and will be a difficult issue for the international community for a long time. And at the meantime, it injects new connotation and energy to the Customs-Business relationship.

June, 2005, the World Customs Organization (WCO) had developed the Framework of Standards to Secure and Facilitate Global Trade (hereinafter referred to as “the Framework”) to simplify the Customs procedures and facilitate trade (on the prerequisite that the supply chain is secured) by using tools like data exchange, pre-declaration, risk management, etc. The Framework has defined the Customs-Business relationship as partnership in pillar 2 and the annex². The Framework also discusses in details the co-operation between the two and the content of the Framework of Standards.

As a responsible developing country, China had also signed the letter of intention for implementing the Framework.³ It fully revealed the willingness of a positive participation and a steady implementation of the framework. As to how to build the

¹ Translated version of the Kyoto Convention by China Customs Press, 2003, pp5-6.

² The definition of *cooperation between Customs and Business* in second pillar of The Framework as *Each Customs administration will establish a partnership with the private sector in order to involve it in ensuring the safety and security of the international trade supply chain.*

³ Chinese government has presented the statement of implementing the Framework on 105th/106th Annual Sessions of WCO Council on June 24,2005.

Customs-business partnership, China Customs is still on the way of exploration. The author would compare the current situation of the China Customs-business cooperation with the requirements of the framework and discuss the connotation of the word “partnership”, so as to think of a way to build this partnership between China Customs and the business community.

Research results

I. Compare the Current Situation in China with the Requirements of the Standard Clauses of the Framework

(I.) Content of the Framework

The Framework has regarded the Customs-Business partnership as its second pillar. And

1. Standard 1 – Partnership

Authorized Economic Operators (AEOs) involved in the international trade supply chain will engage in a self-assessment process measured against pre-determined security standards and best practices to ensure that their internal policies and procedures provide adequate safeguards against the compromise of their shipments and containers until they are released from Customs control at destination.

2. Standard 2 – Security

Authorized Economic Operators will incorporate pre-determined security best practices into their existing business practices.

3. Standard 3 – Authorization

The Customs administration, together with representatives from the trade community, will design validation processes or quality accreditation procedures that offer incentives to businesses through their status as Authorized Economic Operators.

4. Standard 4 – Technology

All parties will maintain cargo and container integrity by facilitating the use of modern technology.

5. Standard 5 – Communication

The Customs administration will regularly update Customs-Business partnership programmes to promote minimum security standards and supply chain security best practices.

6. Standard 6 – Facilitation

The Customs administration will work co-operatively with AEOs to maximize security and facilitation of the international trade supply chain originating in or moving through its Customs territory.

(II.) The Current Situation of China Customs-Business Co-operation

In recent years, especially after China's accession into the WTO, the Customs had a better understanding that the relationship between the Customs and the enterprises are not only the controller and the be controlled, but also the service provider and the be served. The relationship between the two should be defined as a co-operative partnership.⁴ The China Customs had adopted a series of measures to promote—especially with the Customs directly affiliated to the General Administration of Customs—the Customs-business co-operation mode with the local characters.

For instance, since March 9th, 2005, Shenzhen Customs had implemented the “client coordinator system”—the Customs appoints the client coordinator to provide the enterprises which applied for the system with tailored service and mill-based management. It is a Customs control system providing the enterprises with facilitation in clearance process.

According to the statistics provided by the Customs Management Office of Shenzhen Customs, after the implementation of the “client coordinator system”, the enterprises applied for the system had enjoyed a much quicker e-document checking service. And the time taken from applying for the declaration to the Customs feedback is shortened to less than 1 minute from the previous 50 minutes.

⁴ Zeng Qinglong, “Customs-Business : a new defenation of Co-operation parternship”, China Customs, Feb. 2003.

The time of checking the paper documents has been greatly shortened. The time of the release of the shipment in the sea port areas has been shortened from 3-4 hours to 4 minutes. In the old days, for enterprises in the processing trade, they needed to go through the formalities of contract filling, written off, and proforma declaration, etc., and should at least go to 3 offices, but now these offices had integrated as one. The approving time of the alternation to the content of the electronic account books of the processing trade had shortened to one day from the previous three days.⁵

For another example, from September 6th, 2006, Nanjing Customs had opened the commissioner hotline as a uniform channel to connect the import and export companies with various circles of the society. It mainly deals with business consulting, complaints, and letters and visits within the Customs regions; timely solving the problems emerged during the entry-exit process of the import and export companies; timely resolve the conflicts or the potential conflicts between the Customs and the enterprises; and try to create a harmonious atmosphere between the two.

Facts prove that commissioner hotline had directly replied to more than 60% of the business consulting issues which should be, and greatly released the pressure of the working site and the functional departments. The humanistic services positively solved the conflicts existed between Customs and enterprises and also prevented in the first place the administrative lawsuit and administrative Reconsideration cases.⁶

In order to further adapt to the development trend of the international Customs, enhance the Customs-business co-operation and promote trade facilitation, China Customs has formally adopted the Customs Enterprise Category Management Approach, which states the corporate governance category according to its credibility and law abiding levels. The five management categories are: AA, A, B, C, D.

According to the principle of facilitation for the law abiding passengers and goods, the Customs take different management measures toward different categories of

⁵ Jin Ying, Li Yizhang, Chen Yanqun, "The Parato Principal of Shenzhen Customs", China Customs, Nov. 2007.

⁶ Chen Yinjian, "The good service of commissioner hotline", China Customs, Dec. 2007.

enterprises. After using this approach, the enterprises and society had largely recognized the good effects of the principles and measures like: “facilitation for the law abiding passengers and goods, different management, dynamic adjustment, Customs-business co-operation, trade security, etc. these measures encouraged the enterprises to have good self-discipline and standardized management, so as to promote the healthy development of the enterprises and be a model unit.

(III.) Comparison

i. Similarities

In determining the relationship between the two, both sides have described the Customs-business relationship as “partnership”. And both adopted the ideal of facilitation for the law abiding enterprise; classified the law abiding ones and grant them with facilitation. In the post management, both sides have adopted the method of “dynamic management”, i.e., to view the co-operative relationship between Customs and the business community from a developing perspective.

ii. Differences

(i.) Difference in final purpose.

The final purpose for the implementation of standard clauses of pillar 2 of the Framework is the trade facilitation on the prerequisite of trade security, i.e. trade facilitation after security. Here “security” emphasized the comparative safety against the global trade security threats like terrorist attacks. In China, trade facilitation is first to trade security, i.e. to protect trade security on the prerequisite of trade facilitation.

(ii.) Difference in the status.

The Framework indicates the relationship between Customs and the business community is “partnership”, in China, it is the same. However, the Customs officers in China all take a positive attitude in providing Customs services while the enterprises take a passively-accepting-attitude.

(iii.) The identification of business community

The Framework identifies the business community as the “Authorized Economic Operators (AEO)” The identification standard is the supply chain. That is, all the operators involved in the supply chain can be included in this community. There is a close connection between these people. But in China, whether the people are in business community or not just largely depend on the activities, whether these activities are directly related to the import and export or not. The relationship between the involved people is weakened in the identifying process.

(iv.) Different coverage.

The standard clauses of pillar 2 of the Framework not only cover the two entities of Customs and the business, but also include the third organization behalped by the business association. In China, the co-operation is just between China Customs and the business community, normally without the participation of the third party.

(v.) The scope of the facilitation.

Although the Framework has not indicated the facilitation means, it points out that the facilitation should be maximized. In China, the facilitation is only in the clearance of commodities, not diversified.

II. Analysis of the Connotation of “Customs-Business Partnership”

Because of the restrictions of the Framework, the Customs-business partnership is the lowest standard the WCO members should achieve. It has not explained in detail the connotation of “partnership”. In fact, the international community has not reached the final agreement on this term. And to put it in another way, that is what the Framework is for.

(I)The focus of the connotation of “partnership”

From the regulations about the co-operation and communication of Customs and business community in Kyoto Convention, we note that though there is no definite wording about partnership, the underlying connotation is still about partnership, with the focus still on trade facilitation, while in the Framework, the focus of the connotation of partnership moves to trade security. The final purpose of trade

facilitation is trade security, with national security lying behind. Although both are about “partnership”, the focus of the connotation is quite different.

(II.) The main constituents of partnership

The main constituents of the partnership are Customs and the “Authorized Economic Operators (AEO)”. The connotation of AEO is getting bigger from the scope of the main constituents--from the original importer and exporter to the carrier, warehouse owner, brokers, etc. the extension of the concept is in the trend of including the organizations that are not purely business entities into the partnerships. From the size, AEOs are not only from the big enterprises but also from small and medium sized enterprises. From the nationalities, the current practices are mainly focused on the AEOs from inside the country, but still welcome the AEOs from abroad. On the long run, due to the close connection of the supply chain worldwide, AEOs in and abroad may all become the main constituents of the partnership

(III.) The goal of the partnership

The Framework believes that the goal of the partnership is to ensure the security of the international trade supply chain, so as to safeguard the enterprises which belong to the partnership to have its influence in the supply chain. The goal of the partnership is to realize the maximum benefits between the two—the win-win situation of the trade security and trade facilitation. The security of the supply chain is an important step to the win-win situation. The international trade supply chain is the best linking chain for Customs to extent its power. To AEO, the supply chain management is regarded as one of the key points that would create value and profits.

(IV.) The core of partnership

The Framework points out that the core of the partnership is the creation of an international system for identifying private businesses. This system should possess a series of qualification standards so as to identify the enterprises applying for the partnership. The other activities of the partnership are all started from this system. Due to the connection of the international supply chain, the system should be flexible,

developable and compatible, and develop to be the best uniform identifying system the Framework has required.

(V.) The link of the Partnership

To Customs and AEO, the link of the partnership is the exchange of the benefits of both sides. The Customs can extend its power into every sector of the supply chain with the participation of the AEOs, so as to greatly increase the level of trade security. And the AEOs not only benefit from the trade facilitations provided by the Customs but also would benefit directly from the safe trading environment.

(VI.) Implementing procedures of the Partnership

Firstly, drafting the security guidelines—the Customs and other organizations would work together to draft a guideline in accordance with the lowest security standard requirement. Secondly, self-assessing period—the AEO applying to join in the partnership would do the self-evaluation according to the security guideline. Thirdly, create an identifying system—Customs and other organization would work together to create an AEO qualification identifying system. And lastly, the benefiting stage—the Customs would grant the AEOs with the said benefits.

(VII.) The features of the Partnership

i. Voluntarily join in the partnership at the early stage.

This is for the enterprises applying for the partnership. The Framework points out with the binding force on the Customs side that all Customs should build partnership with enterprises. Meanwhile the AEOs can choose to join the partnership or not according to their own requirements. the application for the partnership is voluntary.

ii. The binding force of the post management.

Once the enterprises gained the name of AEO, the Customs should grant them with the said facilitations, or they would not only lose this partnership, but also would lose the public trust of the government bodies. AEOs should arrange their business activities according to the security guidelines, or the facilitations they enjoy would come to an end.

iii. Non-barrier operational process

Non-barrier operational process means the operation of the partnership could not be a new kind of an enclosed trade barrier. Theoretically, the partnership could have two effects; the AEO would earn more profits because its cost is decreased due to the facilitations provided by Customs. The other enterprises, however, are discriminated because of this differentiated treatment. In order to avoid this circumstance, the partnership should open to as many enterprises as possible and grant all of the enterprise with the whole benefits of the partnership.

iv. The dynamism of the partnership.

The growing international trade and the instant changing of the international market demand require the according change of the supply chain. To ensure a high level of supply chain security, the partnership between the Customs and the AEO should be regularly adjusted.

III. Countermeasures for China to build Customs-business partnership

China Customs should realize the changing of its role from the traditional “Customs controller” to Customs service provider. And with the help of the business associations, China Customs should build an equal partnership with the business community.

The management thought of China Customs are still the self-centered, and administration led. The controlling mode is still traditional--regard commodity as a unit, port fortify and put prevention in the first place. The management method is still in the extensive way; increase the institutions and the staff to suit the growing demand of the business. The level of information technology is still low and the net users are not wide enough.⁷The traditional role of Customs controllers is not in line with the partnership advocated by the Framework and also it is lagging behind the social needs for the transition of the functions of government organizations.

Currently, the development of the Chinese society requires the transition of government functions – to identify the government organizations as providers of the public goods. And at the meantime activate the third social party to join in the public

⁷ GAO Rongkun *System Innovation and Management Reform of the China Customs*, Economic Management Press, 2002, pp 31.

services. The China Customs, as a government organization should also be in this historical trend, changing its role from the entry-exit supervision and management organization to the providers of the Customs services. The services provided by China Customs in the previous years were in fact the transactions based on a framework of power and authority from superiors to the inferiors.

A series of facilitations provided by Customs to the business community could only be negatively and passively accepted because the business community had not actively participated in the process. The rights and interests of the business community are merely determined by the Customs. The Customs does not really care about whether the facilitations really benefit the community or not. The communication barriers between the two are not eliminated but increased. The conflicts and non-cooperation between the two can not be avoided. Customs as the service provider should communicate and discuss issues with the members from the business community within the Framework of equal partnership.

Considering that China has a large business community with a great many of members and within a wide region, it is not workable to put all the work on Customs. The third party thus should be the bridge connecting the two. Since the business association is an economic association putting the enterprises of the same trade as the main constituents on a voluntary basis⁸, the social status is comparatively independent and objective, thus it should be a good choice. The basic functions of the business associations are raising business plans, providing information, training the staff, providing consultation service, working as a media connecting government and the enterprises and providing services for promoting the sales for the products of the member enterprises, etc⁹. What should be noted is managing well the relationship between the Customs and business community is the prerequisite for trade associations to fully exert their functions.

⁸ QU Hongxiang, *Theories and Practices of the Development of Trade Associations* Economic and Science Press, 2003, pp 3.

⁹ QU Hongxiang, *Theories and Practices of the Development of Trade Associations* Economic and Science Press, 2003, pp 8-11.

Normally, the relationship between the government and the trade associations is partnership, not the superiors and inferiors, neither guiding nor being guided, leading nor being led. The government and the trade associations should establish the “authorize---co-operation” relationship. The development of the associations should be promoted by the government, and should also rely on the self-discipline, self-management of the associations together with the efficient allocation of resources¹⁰. The Customs, while using the trade associations, they should also abide by the principle of “authorize---co-operation”. As a result, Customs should work out a regulation promoting the development of the relationship between the Customs and business associations. It could not only be the legal basis for the interactions of the two, but also could be a safeguard system for the trade associations to extent their functions. This regulation could include the following:

1. Positively foster and support the trade associations to perform their functions. For instance, the Customs can send experts to participate in the training and consulting activities organized by the trade associations, and can also analyze the developing trend and work out the development strategy according to their needs.
2. Take specific measures to guide the trade associations to perform the functions. For instance, Customs can build regular consultation system. In one aspect, the policies and measures set by Customs can soon be reached to the enterprises with the help of the trade associations. In another, the trade associations can express the hope and requirements of the enterprises to the Customs, thus form a fixed mechanism for exchanging the ideas and opinions.
3. Customs can authorize the trade associations to undertake business affairs. For instance, Customs can authorize the trade associations to do some researches of the enterprise of the same trade on supply chain security, or on the trade statistics or working out the business standard and support the trade association by the means of purchasing the research proposals.

¹⁰ QU Hongxiang, *Theories and Practices of the Development of Trade Associations* Economic and Science Press, 2003, pp 38-39.

4. Organize the development forums of various kinds regularly or irregularly to enhance the communication among the trade associations.

(II.) China Customs should change the situation of controlling the information to share the transparency of information, thus starting a virtuous cycle by building an interactive partnership.

The partnership could only exist among the equal entities and with a happy working mode. It should possess some basic qualities. The partnership between Customs and the business community put special emphasis on sharing the information and direct communication. The trade dealers are those who would probably support the Customs reform. They are the first people to bear interests from the transparent and quick clearance procedures. And they are also the first people to complain about the low efficiency and expensive service. Let them join in the process of designing and implementing the Customs reforms, and know the whole process is of key importance. The trade associations have great political influence, not only could gain more budget but also could put pressure on other government organizations—urge them to cooperate their work with the post-reform work of the Customs. The private entities can also supervise the process of Customs reforms; put their focus on the target of trade facilitation. During the process of the reform, they can also provide the financial support, as they are the first to benefit. From the example of Philippines and Turkey, we learn that as a return to the private entities, we can ask for their opinion on the aspects related to their benefits while making the Customs reform plans¹¹

As a result, Customs when making plans and measures, should discuss with the business community, listen to their profit requirements, and work out the plan after listening to the interests of all sides. At the meantime, the measures adopted could meet mistakes due to the personal or objective factors. The Customs who grasp the information resources would know the implementation status and the environment change of the regulations through information feedbacks. The Customs change the situation of controlling the information to share the transparency of the information.

¹¹ The translated version of Luc De Wulf, José B.Sokol s'"Customs Modernization Handbook" by China Customs Press 2008 , pp36-37.

In another aspect, the business community can pass its suggestions on the Customs regulations through various channels to Customs. The problems existed in the regulations could be well solved after a new round of profit revealing, interests integration, and plan amendments. The Customs and the business community can thus start a virtuous cycle of an interactive partnership.

(III) The China Customs should adjust the key points of the partnership, and make a shift from the big enterprises to the small and medium sized enterprises (hereinafter shortened as SMEs).

Currently, SMEs either in the developed countries or in the developing countries play an important function that could not be replaced. SMEs could play a positive role in many areas. (1) In the aspect of career. They can absorb the fired workers of the big enterprises because of the downsizing of organizations. (2) In innovation-They have potential professional abilities. (3) During the restructuring period of the globalization process, their mechanism is comparatively more flexible. (4) In the economic growth-they have greater import and export potentials.¹²

For a long time, China had ignored the development of the SMEs, especially when it exists that the SMEs have weak impact on the international trade that Customs focus its work on the big enterprises or the high-tech enterprises. In another aspect, the SMEs in China are growing with great speed, and play a more and more important role in flourishing the economy, increasing employment, promoting innovation and creating new industries. They become a main force to promote the development of national economy and build a harmonious society. Their contributions are: (1) contributes more and more to the economic development. (2) Become the main channel for employment and play an import role in building a harmonious society. (3) Become a main force for technology innovation. (4) promote the economic restructuring and optimizing. (5) Play an important role in the opening up to the outside world.¹³ From the above, we can see that the SMEs have played an important

¹² Aanalysis and Evaluation of German SME Promoting Policies, By German Technology Cooperation Company, pp29-30.

¹³ http://zxqys.ndrc.gov.cn/zsqyjb/t20080131_189149.htm.

role in the Chinese economy. And the clause three of article four of the SME Promotion Law requires that: The department under the State Council in charge of work in respect of enterprises shall arrange for the implementation of the State policies and plans concerning the small and medium-sized enterprises, making all-round coordination and providing guidance and services in the work regarding such enterprises throughout the country. This indicates that it is the Customs obligations to further enhance its guidance and services to the SMEs. Besides the Customs facilitation enjoyed by the partners, Customs should provide the SMEs under the partnership the following extra facilitation: (1) properly reduces or exempts the service fee. (2) Properly simplify the clearance procedures. (3) Grant the SMEs with more transitional time. (4) Set a specialized office within the Customs to be in charge of the Customs affairs concerning the SMEs. (5) Regularly organizes the consultation meetings to popularize the knowledge about Customs issues to the SMEs. (6) Regularly organizes the development forum for the SMEs to enhance the communication between the SMEs and the Customs. (7) Positively cooperate with the other government organizations and departments to implement the measures which promote the development of the SMEs.

UDC 339.543:323.326(510)

Rainbow WU

WUMIN

Postgraduate, Lecturer

Department of Law

Shanghai Customs College

**CUSTOMS – BUSINESS PARTNERSHIP IN CHINA – CHALLENGES
AND POSSIBLE SOLUTIONS**

Abstract