

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.

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

**Abstract**

Customs-business partnership is a relationship between the customs and business community to maximize the long-term interests by cooperative means. It seeks to reduce trade transaction costs at the interface between customs and business and is an agenda item within many customs related activities. These include WCO SAFE Framework, supply chain security initiatives, as well as many customs modernisation programs. Although China has introduced AEO concept into its national legislation in order to implement a new model of enterprise-based customs control and simplify the customs procedures, the implementation is fraught with challenges and difficulties. These can be associated with the traditional idea of law enforcement, conflicting interests and lack of knowledge. In order to construct a modern and client-oriented customs system, we must realize that only through partnerships can the twin goals of customs control in the collection of government revenue and the supply chain security as well as trade facilitation be adequately achieved. Such mutuality has to be borne in mind when envisioning the future relationship between customs and the business community.

**Key words:** customs, business partnership, obstacle solution

### **Introduction**

The increasing threat of international terrorism and organized cross-border crimes require the enhancement of existing border controls and effective national and international cooperation between customs, other law enforcement agencies and business community. With the advent of economic globalization, Customs administrations and border control authorities of different countries are all faced with the same dilemma-increasing volumes of passengers and cargoes, but no corresponding increase in resources. Moreover, the great expectations for speedy clearance times from traders and travelers have put tremendous pressure on Customs around the world. Meanwhile, governments and society are also expecting these same

authorities to be rigorous in applying the law so as to protect the interests and security of their country.

In recent years, the traders have witnessed a myriad of inspections and controls applied at the border, such as customs inspections, veterinary inspections, phytosanitary inspections and immigration inspections, etc. If these inspections are not properly managed, the result is slow clearance times, delays to travelers, and increased costs to the traders and ultimately to the end consumer. One manner of addressing this problem is to construct a strategic partnership between customs and the business sector so as to effectively combat against illicit trade and to facilitate the legitimate trade.

Customs-business partnership forms a substantial part of modernisation programme in China as well as in many other customs territories. This includes the United State's security initiatives C-TPAT (Customs-Trade Partnership against Terrorism) Program, the European Union's AEO (Authorized Economic Operator) Programme stipulated in EU's Modernised Customs Code, the Association of Southeast Asian Nations' (ASEAN) commitment to interoperable single window systems, etc.

### **Problem statement**

The purpose of this article is to achieve the partnership between the customs and business community through the ability of customs administrations to reduce the regulatory impost on the international trading community, whilst achieving and maintaining appropriate levels of control.

### **Research results**

#### **I. Concept and the main elements of customs-business partnership**

There is no uniform definition of the term "customs-business partnership". To a large degree, customs-business partnership can be viewed as an extension of the efforts of each party to cooperate with each other in pursuing the shared objectives. Many customs administrations have adopted this partnership-based approach,

developing co-operative relationships with the private sector by signing instruments of cooperation and setting up platforms for collaboration, with the aim of expediting and simplifying trade and making it more secure. The benefits of partnership are manifold, and all are linked to the advantages of an environment where good will reigns.

The customs-business partnership contains three distinct but interacting elements-information, consultation and cooperation. It is a basic customs prerogative to demand information from the traders. For centuries there were no similar obligations for customs to inform the traders. Now the Revised Kyoto Convention and many national regulations enjoin regular diffusion of accurate customs information to the traders. Open dialogue involving the customs officers, stakeholders and interested parties helps ensure that customs rules and regulatory proposals keep pace with the reality of rapid change. This dialogue helps to achieve the regulatory efficiency customs need to foster best administrative and legislative practice tailored to meet the needs of the business sector. According to the WCO SAFE Framework, a customs-to-business partnership program should allow for the flexibility and customization of security plans based on the AEO's business model. The Customs administration should be receptive to the concerns of the AEO and its authorized representatives and determine, in consultation with them, a formalized method of communication that ensures that issues are properly received, addressed and resolved. The vital step from consultation to cooperation rests on the confidence and trust between the customs and business community.

## **II. China's obligation on customs-business partnership under the WCO Instruments**

Even though customs interacts constantly with business, the shape of the relations between these two international trade protagonists varies from state to state, depending on the economic situation, national culture, political imperatives and operational resources and requirements, etc. The WCO is an active body with an

interest in the field of construction of customs-business partnership within the customs world. The WCO has drafted numerous instruments and recommendations that contain the construction of customs-business partnership principles. One of the noteworthy examples includes the Kyoto Convention which first came into force in 1974, followed by the Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures adopted in 2006. Moreover, relatively recent instrument that makes direct reference to the construction of customs-business partnership principles is the Framework of Standards to Secure and Facilitate Global Trade (hereinafter referred to as the WCO SAFE Framework) adopted in 2005.

The Revised Kyoto Convention states in its general principles that “Customs shall institute and maintain formal consultative relationships with the trade to increase co-operation and facilitate participation in establishing the most effective methods of working commensurate with national provisions and international agreements.” But the Revised Kyoto Convention has not made the concrete standards on how to institute and maintain these formal consultative relationships. Moreover, the Revised Kyoto Convention has not mentioned the terminology of “partnership”. However, the WCO SAFE Framework goes little further. It sets forth the principles and the standards and presents them for adoption as a minimal threshold of what must be done by WCO Members. One of the objectives and principles of the Framework is to strengthen customs-business cooperation. Nowadays, customs throughout the world have recognized that it is an unacceptable and an unnecessary burden to inspect every shipment. In fact, doing so would only bring the global trade to a halt. Consequently, modernised Customs administrations use automated systems to risk manage for a variety of issues. The Framework creates, amongst other things, the conditions for securing international trade, but also facilitates and promotes international trade. This encourages and makes it easier for buyers and sellers to move goods between countries. The Framework has also developed one set of international Customs standards that do not duplicate or contradict other intergovernmental requirements. The so-called customs-to-business pillar constitutes

an important part of the Framework. One of the standards of customs-to-business pillar is called “partnership”. 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. The main focus of this pillar is the creation of an international system for identifying private businesses that offer a high degree of security guarantees in respect of their role in the supply chain. These business partners should receive tangible benefits in such partnerships in the form of expedited processing and other measures.

### **III. Objective of Customs-Business Partnership in China**

Although customs plays an important role in ensuring trade facilitation and in enhancing a business-friendly environment, much of this work can only be effectively implemented through a partnership with the business community. The “second-step strategic plan (2004-2010) of modern customs system” (Revised in 2006) in China stated: “compliance and facilitation is a necessity for Chinese customs to improve the level of law enforcement. Market economy is the legal economy as well as the credit economy, so we must act vigorously to regulate the import and export activities of the enterprises, to guide them to obey the laws and regulations with good faith, to safeguard the legitimate rights and interests of the enterprises and to provide maximum convenience to them while punishing the offenders pursuant to the laws and regulations so as to create a healthy and orderly environment of import and export.”

As a member of WCO, China has obligations to fulfill the commitments made in the intention statement for the WCO SAFE Framework. The Chinese government envisions to establish a close relationship with the business community for the mutual benefit of customs control, revenue collection and commercial activities. The long term objectives of Chinese customs are to establish a close relationship of trust and cooperation between customs and the business community, and to mutually reinforce

and integrate customs and business activities both for the better functioning of customs as well as for the benefit of trade and commerce.

#### **IV. Obstacles of Customs-Business Partnership in China**

China has revised the legislation “the Customs Measures of the People's Republic of China for Classified Administration of Enterprises” (CCAEC), which incorporated the concept and standard of AEO system on guaranteeing security and convenience of international supply chain, came into force on April 1st, 2008. Although China has introduced AEO concept into its national legislation in order to implement a new model of enterprise-based customs control and simplify the customs procedures, the implementation is fraught with challenges and difficulties. These can be associated with the traditional idea of law enforcement, conflicting interests and lack of knowledge.

##### **1. The traditional idea of law enforcement**

In the traditional customs control, the Chinese customs officer, acting as a “gatekeeper”, lacks the idea of service. They believe the relationship between Customs and the business community is a kind of management and managed. Legislative base provides for a “one size fits all” approach to compliance management. Onus for achieving regulatory compliance is placed solely on the trading community. The procedures are inflexible and the appeal mechanisms are simply ineffective. Although great changes have taken place from perspective of the idea of law enforcement in recent years, we still face many challenges in the field of establishing the client-oriented surveillance for the import, transit, and export of goods.

##### **2. Conflicting interests**

There are many examples of conflicting interest which hamper successful implementation of customs-business partnership initiatives. Customs, on the one hand need to enforce the law, on the other hand, they may find that is not optimally defined to suit the operational needs of business stakeholders. Conflicting interests in the

form and shape of the trade environment can arise through overlaps between different government departments' activities. For example, the avalanche of recent supply chain security controls can be described as 'security spaghetti' (Grainger 2007a) where different government bodies enforce similar procedures with similar control objectives. In this case, it will not only increase the costs but also cause the undue delay as well.

### 3. Lack of knowledge

Customs-business partnership is interdisciplinary in nature, bringing together the management disciplines (such as strategy, supply chain management, information technology, operations and logistics), the legal fields (the laws of trade, customs, contract and agency, amongst others) and the political and economic sciences (for example, economics, public administration, international relations and political economy). Few organizations or institutes have yet attempted to bring these many different fields together and apply themselves to researching and evaluating the customs-business partnership. However, the practicalities of fostering customs-business partnership and overcoming conflicting interests have been barely researched. Customs-business partnership focuses on the operational interface between government and business. Thus, a bottom-up approach, whereby solutions to operational frustrations are sought, is just as much merited as the top-down approach. Evaluation of operational frustrations and potential for customs-business partnership requires a great deal of skill, rarely found in one place. Policy makers as well as project managers have few organizations to turn to. This deficit can add significantly to what are already formidable obstacles to customs-business partnership.

## **V. Possible Solutions related to Customs-Business Partnership in China**

### 1. Change the idea of law enforcement

Changes in internal and external environment of the Customs of the People's Republic of China have significantly influenced its strategic and tactical activities. Therefore, there is a need to prepare a new strategy for activities of the Customs of



the People's Republic of China. Thus, the "second-step strategic plan (2004-2010) of modern customs system" (Revised in 2006) was prepared in accordance with the documents of the World Customs Organization and taking into account some national documents. It stated: "compliance and facilitation is a necessity for Chinese customs to improve the level of law enforcement." In order to achieve this goal, China has put more effort in changing the idea of law enforcement. One of the noteworthy examples is that China has revised the legislation "the Customs Measures of the People's Republic of China for Classified Administration of Enterprises" (CCAEE), which incorporated the concept and standard of AEO system.

Customs clearance of goods, so-called cargo processing, is one of the core responsibilities of the Customs Administration of the People's Republic of China. Its services in this field must be client-oriented, but the costs involved in offering these services must also be kept as low as possible, without neglecting customs security. As a result of the introduction of customs-business partnership into the Customs field, the Chinese Customs enjoys the following positive features:

- E-Customs is started to be applied widely in Chinese Customs System;
- Direct network between customhouses has been established;
- Most of Customs clearance procedures have been automated;
- Development of risk management software has been operated;
- It is possible to declare goods through on and off line;
- The time required for Customs clearance is reduced by 8-10 times;
- Number of evasion from duties and taxes had decreased sharply;
- Revenue collection has been increasing;
- Single window service is started to be applied widely;
- Non-intrusive inspection has been used widely.

## 2. Implement AEO programme

What does AEO exactly mean? It is a short form for Authorized Economic Operator (hereinafter referred to as AEO). AEO is a party involved in the international movement of goods in whatever function that has been approved by or

on behalf of a national Customs administration as complying with WCO or equivalent supply chain security standards. Authorized Economic Operators include inter alia manufacturers, importers, exporters, brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses, distributors. Authorized Economic Operators (AEOs) will reap benefits, such as faster processing of goods by Customs, e.g. through reduced examination rates. This, in turn, translates into savings in time and costs.

China has already transformed the recommendation of AEO in SAFE to Chinese national regulation, including requirements, facilitating measures and authentication procedures. This regulation also makes clear the contents and requirements of trade security and verification audits. Its name, as the above mentioned, is “the Customs Measures of the People's Republic of China for Classified Administration of Enterprises” (hereinafter referred to as CCAE). CCAE has already clarified the requests of establishing partnership between customs and trade systematically. It specified “customs and companies ought to enhance cooperation, regular information exchange and business contacts”, and proposed that cooperative partnership should be established to provide a legitimate foundation for the future development.

The CCAE has transformed AEO authentication into “verification audits”. The audit department of Chinese customs is now carrying out the research and practice of “verification audits” in some areas. In order to establish AEO system successfully, Chinese customs is now developing a computer system to evaluate enterprises and trying to put it into use to promote trade facilitation and guarantee trade security. In addition, CCAE has expanded the applicable range of classified administration of enterprises. Besides the classes A, B, C, and D, class AA is added as the new top class. Class AA companies are the AEO of Chinese Customs, which must go through the verification of inner control mechanism and trade security checking. Class AA regulation complies with the standard of AEO.

According to the principle of “coherence, criterion and integration”, the CCAE incorporated and merged the regulations of the “List of Companies in Breach”

regarding import and/or export companies and customs clearance facilitative measures for large-scale, high-tech Companies. Through this, the facilitating measures of customs clearance are integrated and the law enforcement is unified and regulated.

The CCAE is the key content for establishing a customs credit management system and is a significant part of the development of a state credit system, too. The measure specified the requirements of class AA and classes A companies, which stated that companies must have no bad records with relevant administrative institutions. The General Administration of Customs is in the process of discussing and announcing “the law-abidance Evaluation System of a Company” .Depending on this system and by summarizing the demand list for the customs credit and external department credit information, all information relating to a company shall be drawn up.

In order to encourage the companies to be law-abiding and self-disciplined, the General Administration of Customs of the People’s Republic of China has formulated corresponding management measures with regard to the different classified administration of companies. Among them, class AA and class A companies shall be subject to relevant facilitative customs clearance measures, class B companies shall be subject to common management measures and class C and D companies shall be subject to strict control and supervision measures.”

In the examination and approval of class AA companies by the customs authority, verification audits are very important for both customs and companies. It is a new measure set for Class AA. It is a measure of using means of audit with contents of testing a company’s integrity, compliance and substance to the company’s implementing customs management requirements, operation management and trade security, and drawing a conclusion whether the company has successfully passed the audit and complied with customs, business operation and trade security management. Besides, the consignee of imported goods and the consignor of exported goods (including declaration agencies) who are applicable for class AA administration should also meet the following requirements:

- Has been applicable for class an administration measures for over one year;
- the import and export value should be more than 30 million US Dollars (or 10

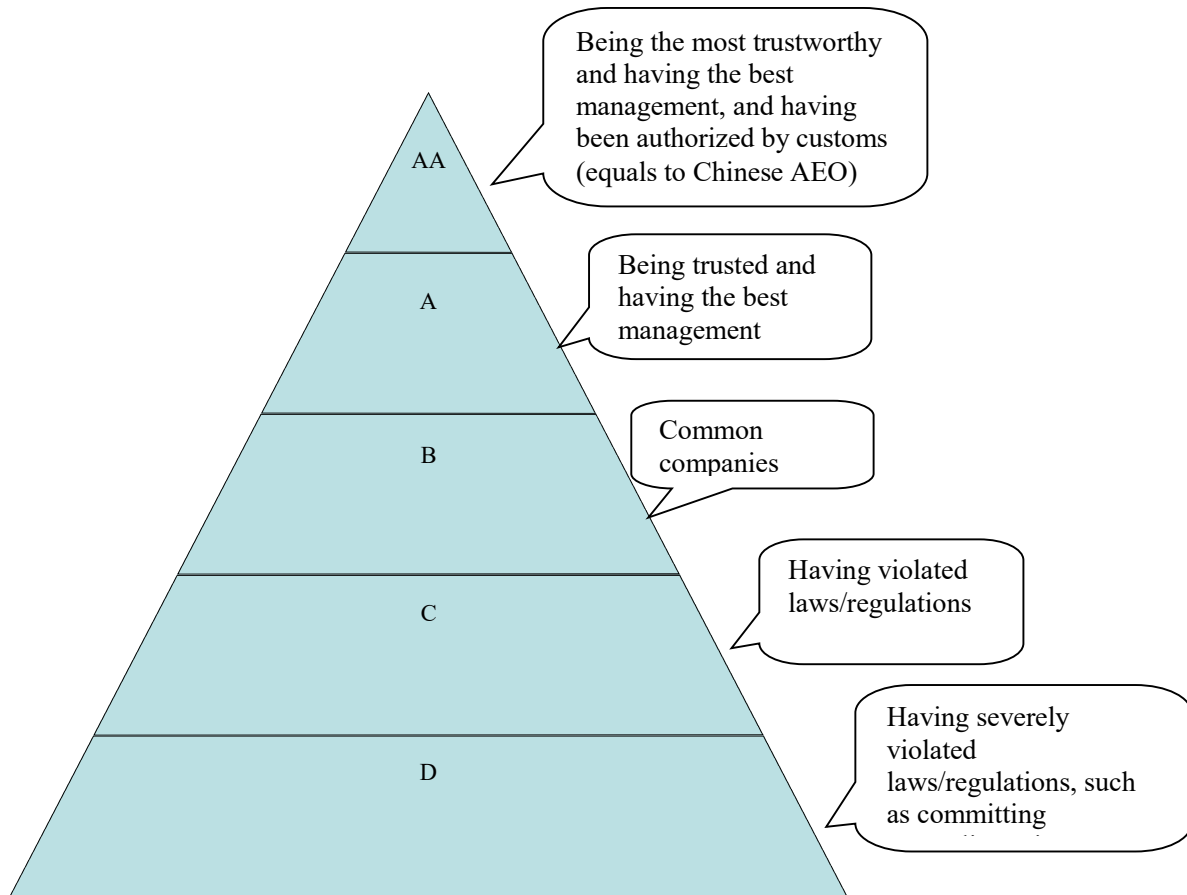


Figure 1.

- Has been applicable for class an administration measures for over one year;
- the import and export value should be more than 30 million US Dollars (or 10 million US Dollars for central and western regions) in the previous year;
- The number of customs declaration formalities performed and reports filed in the previous financial year should come up to total 20,000 transactions (mid-west should be 5,000 transactions) or more;
- Meeting the requirements for customs administration, enterprise business management and trading security upon the verification audits of the Customs;
- Each year should submit a written “Business Operations and Management Report” and an audit report for the previous financial year issued by an accountancy

firm; every six month submits an “Import and Export Business Report” in the form of a list.

### **Conclusions from the research**

Customs-business partnership is receiving unprecedented attention and has become a feature in WCO SAFE Framework ,supply chain security and customs modernisation programs. It seeks to find improvements within the customs and trade environment in reducing transaction costs between customs and the business circle. Both customs and business circle stand to gain from partnership’s cooperation, standardisation and modernisation objectives. However, the international trade environment is complex. Trade operations can involve a variety range of types of business stakeholders. Similarly, Customs is not the only governmental body with an interest in trade related controls. Many other government agencies have a stake in the control of national borders and the movement of goods, too.

Achievement of the partnership between the customs and business community is heavily dependent upon the ability of customs administrations to reduce the regulatory impost on the international trading community, whilst achieving and maintaining appropriate levels of control. Recognizing the different needs and expectations of customs and the business community, the WCO encourages its members to implement a partnership approach between customs and industry by introducing a risk-managed style of regulatory compliance. Such an approach is an effective way in which customs may regulate highly compliant members of the international trading community, provided the theory is properly translated into operational reality.

As a member of WCO, China has obligations to fulfill the commitments made under WCO instruments. The Chinese government envisions to establish a close relationship with the business community for the mutual benefit of customs control, revenue collection and commercial activities. One of noteworthy examples is that China has already introduced AEO concept into its national legislation in order to implement a new model of enterprise-based customs control and simplify the customs

procedures, but the implementation is fraught with challenges and difficulties. Considering the complexity of environment related to customs and trade communities, many different, often conflicting interests are at work. Policy executives tasked with evaluating scope for partnership and implementing partnership programme require a wide range of experience and skills. These are seldom found within one single research. In order to construct a modern and client-oriented customs system, business must play an important role to ensure continued compliance as well as cooperation through the provision of relevant information for customs control. Only through such partnerships can the twin goals of customs control in the collection of government revenue and trade facilitation be adequately achieved. Such mutuality has to be bear in mind when envisioning the future relationship between customs and the business community.

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