


CUSTOMS AND ENFORCEMENT

Kiev, Spring University, May 20-24, 2019

UNSCR 1540 REQUIREMENTS AND THE ROLE OF CUSTOMS

- ▶ Regarding “materials, equipment, and technology covered by the relevant multilateral treaties and arrangement...”
 - ▶ Paragraph 3.c
 - ▶ Establish effective border controls and law enforcement efforts to detect, deter, prevent and combat ... the illicit trafficking and brokering in such items...
 - ▶ Paragraph 3.d
 - ▶ Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items...

WHY ENFORCE STRATEGIC TRADE CONTROLS?

- ▶ Customs has the responsibility and unique authority for monitoring and controlling cross-border flows of goods, people, and conveyances and as such plays a critical role in protecting society from the risks associated with such trafficking.
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EVOLUTION OF CUSTOMS ROLE



LICENSING/PERMITTING/AUTHORIZING

- ▶ National trade controls are typically implemented through national laws and regulations (including lists of controlled goods and proscribed destinations) by various government bodies
 - ▶ One or more licensing, permitting, or authorizing bodies
 - ▶ Customs and other enforcement bodies
 - ▶ In a well-functioning system, traders apply for permits, proactively complying with requirements, and commerce proceeds
 - ▶ Customs detects and deters noncompliance
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HOW DO WE FIND THOSE SHIPMENTS OF CONCERN?



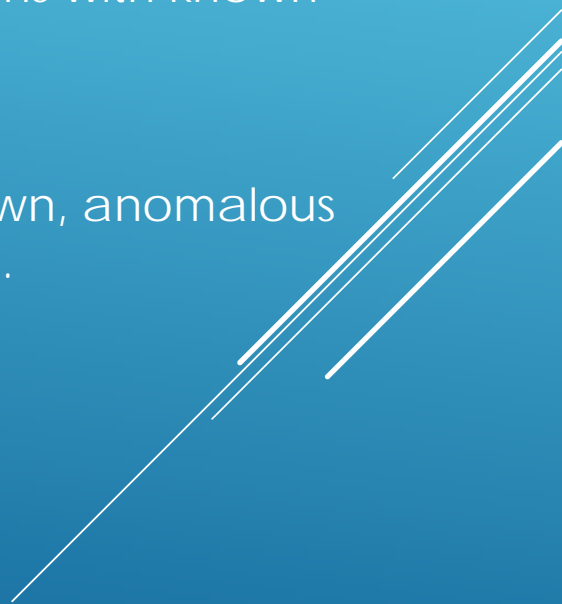
RISK ASSESSMENT

- ▶ Facilitate low-risk consignments and subject high-risk consignments to progressively greater control.
- ▶ Two kinds of fraud to consider in the risk analysis for STCE
 - ▶ Shipping goods subject to licensing without obtaining those licenses
 - ▶ Licensing fraud (counterfeiting a required license, altering a legitimate license, or obtaining a license based on false statements)
- ▶ Applying the principles of the WCO's Risk Management Compendium to STCE requires confronting the dual-use nature of most strategic goods.
 - ▶ Easy to find shipments of strategic goods, but challenging to find the small percentage of those shipments which may be illicit.
 - ▶ Profiles need to be based on the nature of the goods and the nature of the transaction.

PROFILING AND TARGETING

- ▶ Risk analysis leads to the development of risk profiles and selection criteria. Selectivity is a major challenge for strategic trade control. Effective profiles depend on internal and external information.
 - ▶ Internal information comes from seizures, investigations, and audits.
 - ▶ External information can come from the authorizing agency, other agencies, other countries, UN sanctions lists, etc.
- ▶ Also useful to develop “release profiles” for low-risk shipments.

POTENTIAL INDICATORS OF LOW-RISK SHIPMENTS

- ▶ Authorized Economic Operators conducting routine transactions with known trading partners
 - ▶ High-volume exporters with good records of compliance.
 - ▶ As the profiles of routine trade in strategic goods become known, anomalous transactions that deviate from those patterns can be targeted.
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VERIFICATION AND COMMODITY IDENTIFICATION

- ▶ When a shipment is targeted for verification, it may be subjected progressively to
 - ▶ Documentary checks (often conducted electronically)
 - ▶ Technical examination (generally not effective for dual-use commercial goods)
 - ▶ Physical examination
- ▶ Positive identification (determining what an item is) can be difficult, but negative identification (determining what it is NOT) is often easy and useful.
- ▶ It may be necessary to detain the shipment to definitively identify it.

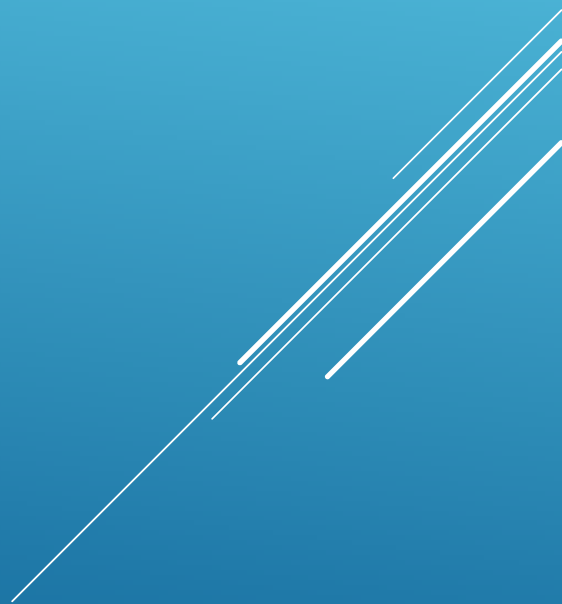
TECHNICAL “REACHBACK”

- ▶ The ability to obtain support from organizations that are not on the front line is critical to effective STCE due to the highly technical nature of strategic goods.
- ▶ Timeliness is also critical due to the time pressures on detained shipments. Useful to consider two different kinds of reachback:
 - ▶ Rapid determination during initial detention whether further delay/investigation is warranted (or if the shipment has already been authorized).
 - ▶ These are often conducted by specialists within Customs
 - ▶ Full item rating, which will take longer.
 - ▶ This is generally done by the authorizing agency.
- ▶ Coordination of reachback through a centralized communication hub is an effective strategy.
- ▶ Key data needed from front line:
 - ▶ Manufacturer, model number. Pictures can be very helpful.

OUTREACH AND AUDIT

- ▶ Promote compliance by the trade community
 - ▶ Outreach:
 - ▶ Educate and assist.
 - ▶ Reward compliance through facilitation.
 - ▶ Identify companies requiring outreach through risk assessment and targeting processes.
 - ▶ Promote active compliance and partnership.
 - ▶ Audit:
 - ▶ Verify compliance; detect noncompliance.
 - ▶ Compare company records to Customs declarations and export license applications.
 - ▶ Information obtained through audit can be an important input to risk assessment process.

AUDIT

- ▶ Initial fact finding often done by Customs
 - ▶ Check existence and validity of licenses/permits
 - ▶ Determine if shipment/commodity requires authorization
 - ▶ Check consistency of Customs documents with each other and with the consignment
 - ▶ Seller, buyer, consignees
 - ▶ Sales terms, payment terms, currency of sale
 - ▶ Quantities, descriptions, HS code, package weights
 - ▶ Routing information
 - ▶ Identify previous imports/exports
 - ▶ Interview suspects or witnesses
 - ▶ Obtain business records and communications
 - ▶ Request information from other Customs administrations
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STCE FUNCTIONAL PROCESS

