

## **Technical note on the WTO Trade Facilitation Agreement**

### **Article 7.5: Post-clearance audit**

This document is an extract from  
*"Getting down to business: Making the Most of the WTO Trade Facilitation Agreement"*,  
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## Post-clearance audit: Article 7.5

The documentation required for importation may not provide the complete picture and context of a commercial transaction to customs officials.

To achieve the twin objectives of collecting legitimate revenue and releasing goods without delay, customs (and other agencies) now concentrate their controls after importation. With the application of a post-clearance, risk-based approach, customs are able to target their resources more effectively and work in partnership with the business community to improve compliance levels and facilitate trade.<sup>6</sup>

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*Members must adopt post-clearance audits to ensure compliance with customs and other related laws and regulations.*

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### The measure

#### ARTICLE 7 RELEASE AND CLEARANCE OF GOODS

##### 5 Post-Clearance Audit

5.1 With a view to expediting the release of goods, each Member shall adopt or maintain post-clearance audits to ensure compliance with customs and other related laws and regulations.

5.2 Each Member shall select a person or a consignment for post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each Member shall conduct post-clearance audits in a transparent manner. Where the person is involved in the audit process and conclusive results have been achieved, the Member shall, without delay, notify the person whose record is audited of the results, the person's rights and obligations, and the reasons for the results.

5.3 The information obtained in post-clearance audit may be used in further administrative or judicial proceedings.

5.4 Members shall, wherever practicable, use the result of post-clearance audit in applying risk management.

### Understanding the measure

#### What is covered?

##### Scope

The overall intent is to allow for quicker clearance of goods and save time and costs to businesses while ensuring that due compliance is achieved through an audit mechanism that can be more effectively conducted after the release of goods.

A post-clearance audit (PCA) is a critical control methodology that can be used for all customs activities, e.g. temporary importation, inward processing, duty free zones, etc. A PCA can be conducted on a case by case basis focusing on targeted operators or set out in an annual audit programme.

PCA can take place at the premises of the trader and may take into account individual transactions or cover imports and/or exports undertaken over a certain period of time.

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<sup>6</sup> WCO Guidelines for Post-Clearance Audit. <http://www.wcoomd.org/~media/wco/public/global/pdf/topics/enforcement-and-compliance/tools-and-instruments/pca-guidelines-volume-1.pdf?db=web>

### *Core obligation*

Members have the obligation to adopt or maintain a risk-based PCA to ensure compliance with customs and other related laws and regulations. Consignments, companies or persons must be selected for a PCA in a transparent manner.

After completion of the audit, the results and the reasons of such results shall be communicated to the audited person without delay. Members are permitted to use the information in further administrative or judicial proceedings.

When deemed practicable, Members shall also use the findings, results and lessons of the audit to further improve the risk management system.

### *What is not covered?*

The measure does not prescribe the modalities or methods for undertaking the audit. Members have discretion to choose selection criteria for the PCA and risk management system.

### **Benefits and opportunities for stakeholders**

Traders can promptly receive their goods when the goods arrive in the country. As a direct consequence of the expedited clearance process, storage and warehouse fees, together with insurance costs for goods under storage, will be reduced.

PCA will allow WTO Members to improve border control mechanisms and risk assessment systems. It will also allow customs officials to detect tax evasion, fraud or false declarations and take appropriate actions.

A successful implementation of PCA will remove bottlenecks at entry points by reducing clearance delays. This will improve government revenues by enabling a higher number of trade transactions and lead to a more productive use of government agencies' resources. The measure may also reduce the burden of building and maintaining expensive public infrastructure (warehouses, storage) while improving customs control and compliance.

### **Implementation**

#### *Implementation checklist*

The following checklist may be used to estimate the level of compliance with the measure:

- There is a legislation which authorizes and requires customs to conduct PCA.
- The criterion used to select person/consignment for post-clearance audits are risk-based.
- Audits are conducted in a transparent manner.
- A mechanism is in place which allows sharing of audit results, its basis and the respective rights and obligations of the persons/consignments subjected to audit.
- Procedures are established to ensure that audit results are incorporated in overall risk management.

### Preparing a national implementation plan

The following template may be used as a basis for a national implementation plan for this measure:

<b>Implementation sequence</b>	<b>Actions suggested</b>
	<b>Preparatory phase</b>
	Determine whether a national legal and administrative mechanism exists to implement PCA.
	If one or various mechanisms exist, determine its characteristics and scope of action and align with the measure's objectives.
	Ensure that a working risk-based system exists or is set up for identification of consignments or persons for PCA.
	Ensure other customs procedures have been/are being modernized in parallel. For example, automation, pre-arrival clearances, risk-based systems and separation of duty payment from clearance are some of the prerequisites for the functioning of a modern PCA.
	<b>Set-up phase</b>
	If necessary, adopt a legal framework to implement the measure.
	Analyse and change existing workflows and business processes to enable a risk-based PCA mechanism.
	According to the scope of action and responsibilities of the mechanism, assign appropriate financial and human resources. Where possible, adopt ICT-enabled systems to manage records.
	Train staff on PCA systems. This expertise may not exist within the customs authorities and will need to be built.
	Undertake publicity to inform all traders and stakeholders about the benefits and requirements of the new system.
	<b>Management and follow-up phase</b>
Monitor and evaluate the measure's compliance.	
	Periodically review and implement modifications to the mechanism, where applicable.
<b>Average time for implementation</b>	Two years.
<b>Leading implementation agency</b>	Customs is the leading implementation agency.

### Key challenges

The PCA system is often part of a comprehensive customs modernization package which includes automation, pre-arrival clearances, risk-based management systems and separation of duty payment from clearance of goods. Inability to implement a comprehensive package can create substantial challenges. The government staff may not have capacity and skills needed for financial and forensic audits of documents. Audits need to be completed within a reasonable period of time.

### Key factors for success

Setting up systems which enable customs authorities to conduct PCA as part of a comprehensive package of customs modernization will be a critical factor for success. Training of customs authorities to conduct detailed audits in the most time efficient manner is necessary. Appropriate funding should be secured to build requisite systems and train staff.