THE ROLE OF CUSTOMS SERVICES
AND
WORLD CUSTOMS ORGANIZATION (WCO)´S ENFORCEMENT PROGRAME
TO COMBAT
NUCLEAR AND OTHER RADIOACTIVE MATERIALS SMUGGLING

(Prepared by Ercan Saka, WCO Compliance and Enforcement Sub-Directorate)
1. INTRODUCTION (ABSTRACT):

The World Customs Organization (established as the Customs Co-operation Council in 1952) is an independent inter-governmental body with world-wide membership (150) whose enforcement mission could be summarized as “to assist its Members in strengthening their enforcement measures through training and technical programmes designed to combat Customs offences” which also include nuclear and other radioactive materials smuggling.

One of the best strategies for an effective fight against illicit trafficking in nuclear and other radioactive materials is to stop their illegal movement at the national border before entering or leaving the country. From this point, Customs services are unique governmental cross-border control agencies, which are mostly located at national cross-border checking points. In addition to this local advantage, Customs expertise and authority in checking documents, goods, vehicle and passengers deserve special mentioning.

It should also be noted that Customs services have great experience on how to combat and respond to transnational crime and criminals. On the other hand, in order to maximize on their experience, they should be furnished with sufficient authority for investigation, detection equipment and supported through relevant training programmes.

In line with the request made by Member States, the WCO Secretariat has recently developed an enforcement programme on combating nuclear and other radioactive materials smuggling. This programme is based on awareness raising, development of training materials, designing training programmes, promoting exchange of information and improving co-operation at all levels. The WCO Database, the WCO Regional Intelligence Liaison (RILO) project and WCO bilateral and multilateral co-operative initiatives are three key tools which enable Customs administrations to develop accurate, timely and rapid exchange of information and intelligence.

Within the concept of international co-operation, the WCO signed Memorandum of Understanding (MOU) with the International Atomic Energy Agency (IAEA) on 13 May 1998 and the Secretariat of the Basel Convention (SBC) on 17 November 1997 for further
joint initiatives. Both international organizations are now conducting several joint technical meetings, training programmes and producing safety publications for law enforcement agencies.

2. INTRODUCTION:

2.1. WORLD CUSTOMS ORGANIZATION (WCO):

The World Customs Organization (established as the Customs Co-operation Council (1) in 1952) is an independent, inter-governmental body with worldwide membership, which has reached to 150 Customs Services.

The WCO's mission is to enhance the effectiveness and efficiency of Customs administrations in the areas of compliance with trade regulations, protection of society and revenue collection, thereby contributing to the economic and social well-being of nations.

(1) In June 1994, the Council adopted the working name “World Customs Organization (WCO)” for the Customs Co-operation Council, to reflect more clearly the nature of the Organization and its international functions. The Convention establishing the Organization was not amended, so the official name is still “Customs Co-operation Council”.

In order to fulfil this mission, the WCO:

- Establishes, maintains, supports and promotes international instruments for the harmonization and uniform application of simplified and effective Customs systems and procedures governing the movement of commodities, people and conveyances across Customs frontiers;

- Reinforces Members’ efforts to secure compliance with their legislation, in particular by endeavouring to maximize the level and effectiveness of Members’ co-operation with each other and with international agencies in order to combat Customs and other transborder offences;
• Assists Members in their efforts to meet the challenges of the modern business environment and adapt to changing circumstances, by promoting communication and co-operation among members and with other international organizations, and by fostering human resource development, improvements in the management and working methods of Customs administrations and the sharing of best practices.

On the basis of an analysis of input from Members, the WCO Enforcement priority has been identified as “Implementation of a comprehensive programme to help members combat Commercial Fraud”, which includes the WCO Enforcement Programme on Actions to Combat nuclear and other radioactive materials smuggling.

2.2. INTERNATIONAL CONCERNS

There is no doubt that the use of nuclear and other radioactive materials are essential to meet countries’ social, economic and medical goals in many ways. However, when they are not properly handled and managed, these products represent considerable risk to people and the environment. As it is known, the health and environmental consequences of exposure to harmful products have caused concern for many years.

The potential risk is immense when these materials have been subject to any form of illicit trafficking or smuggling. Even relatively small amounts of radioactive material may cause serious damage to health if people remain in their vicinity or try to manipulate the material without necessary safety and security measures.

Many international and regional organizations such as IAEA, WCO, ICPO/INTERPOL, EC, and some international summits have a heightened concern about nuclear proliferation, the continuing possibility of an illegal black market, nuclear terrorism and safety measures in place for facilities where the radioactive materials are used or stored.

These initiatives at the international level have always included an invitation in which Member States have been requested to review the existing preventive measures in place and to
reinforce them accordingly with a view to stopping illicit trafficking in nuclear and other radioactive materials.

Preventing the illegal acquisition of nuclear material such as plutonium and highly enriched Uranium has been a top priority and national security concern of some WCO Member countries since the 1990s, due to the increasing number of attempts to buy and sell nuclear materials throughout the world, particularly in Europe.

In conformity with the ongoing international initiatives, there has been respectively a slight decrease in the number of radioactive material seizures in the past two years. It is also noted that some of these attempts have been proven to be nothing more than profit-motivated scams involving bogus materials.

However, these positive remarks should never be interpreted as an indicator or signal that the illicit movement of nuclear and other radioactive materials has completely stopped or that there is certainly no illegal market for these materials. The reduction in seizures could be due to either the concrete measure taken by various governments or the employment of very sophisticated smuggling methods by criminal groups.

In recent years, the international community also became increasingly aware of an unwanted component in scrap material: radioactive sources. It seems that the threat of radioactive sources in recycled scrap material will continue for the foreseeable future, thus, posing special awareness problems for exporting, importing countries as well as transit countries.

In sum, the international community has added a new but very sensitive item to its agenda since 1989 while it was trying to solve the existing issues related to the safety and security of nuclear and radioactive materials and their waste.

The International community has committed itself to deal with this new phenomenon and is in favour of stopping illegal trafficking in nuclear and radioactive materials at national borders before they leave or enter the country. For this purpose, being in the front line at national borders, Customs is expected to take an active part in the implementation of all-preventive measures or plans drawn up by national institutions. This approach requires governments to pay attention to
legal, technical and administrative capabilities of Customs and other law enforcement agencies taking part in controlling international flow of people, vehicle and goods.

2.3. THE POTENTIAL THREAT TO CUSTOMS OFFICERS

Nuclear and other radioactive substances are classified as Class 7 under the United Nations classification system for Dangerous Goods and require special procedure and measures in every phase of their management from mining to disposal. They are clearly differing from other dangerous goods by their property to emit radiation. Consequently they pose a hazard to people and property in line with shielding, distance and time conditions.

This hazard is greater under accident conditions involving package rupture and the same hazard occurs when a package is opened inadvertently or by inexperienced persons. The specific hazards are overexposure of persons due to irradiation and radioactive contamination by direct contact with the material. This contact could be any form of skin contact, ingestion, inhalation or a combination thereof.

Overexposure usually goes unnoticed some time because radiation can not be detected by sensory perception, and the deleterious effects do not usually manifest themselves immediately. Even relatively small amounts of radioactive material can cause serious damage to health if people stay at short distance or try to manipulate them without protective equipment.

Given these properties, nuclear and other radioactive substances are still fear in people (including Customs officers). However, Customs officers are legally required and responsible for physically checking and monitoring of international flow of passengers, vehicles and goods. It means that Customs officers are one of the groups of people who are under potential risk of irradiation and radioactive contamination due to their normal task of physical checking and possibility of finding unauthorized consignments and improperly packed nuclear and other radioactive material in illicit trafficking during their normal monitoring and checking process.

It is clear that this risk will be higher for Customs officers when there is insufficient awareness, basic knowledge, proper detection equipment, safety measures and well-established response to the discovery of illicit trafficking in radioactive materials.
Due to the nature of these materials, the WCO Secretariat always recommends its Members to co-operate closely with their national nuclear regulatory body when it is necessary to make physical examination or if there is suspicion or detection of illicit trafficking in nuclear and radioactive materials.

2.4. THE ROLE OF CUSTOMS SERVICES

Historically and practically, Customs have been seen as a revenue-generating agency through the collection of Customs duties. However, Customs services all around the world are now undertaking two additional tasks: (i) facilitation of international trade and (ii) protection of society. These additional tasks are non-fiscal functions and require Customs services to strike a balance between facilitation and effective control mechanism that is managed through the application of risk assessment techniques.

Customs administrations, as a governmental cross-border control agency, have always been carried out a key role in preventing and detecting illicit transboundary movement of goods before they leave or enter the country. This role falls into the category of “protection of society” and it ranges from combating drugs smuggling to prevention of illicit trafficking in nuclear and other radioactive materials.

Customs services have also been one of the crucial agents in designing and implementing any national strategy for combating smuggling activities due to its legal, administrative and technical advantages which can be grouped in eight major categories.

2.4.1. Location of Customs offices:

Customs services are mostly located at national border check points such as airports, seaports etc. This physical position enables Customs to stop illicit transboundary movement of radioactive materials before leaving or entering the national territory.
2.4.2. Capability of monitoring international trade:

Customs administrations have all relevant documents and data on national foreign trade in terms of value, quantity, passengers, exporter, importer, and means of transportation, goods and trends in foreign trade. This huge volume of information places them a point where they can support the related law enforcement and administrative agencies and can produce target, operational or strategic intelligence for their own needs.

2.4.3. Authority for physical checking:

Customs services have the legal power for the physical checking and searching of goods, vehicle and passengers entering or leaving the country. This is the minimum power for Customs services. Only physical checks and monitoring can result in the discovery of smuggled goods including illicit trafficking in nuclear and other radioactive materials.

2.4.4. Seizure and preliminary investigation power:

Almost all Customs services are legally authorized to detect and seize illicit trafficking in goods and conduct at least the preliminary investigation for smuggling or attempts to smuggle goods. Through this function, they have gained enormous experience and knowledge on investigation techniques as well as establishing internal and external contact points’ network in collection of information and intelligence.

2.4.5. Experience of dealing with crime and criminals:

As a natural result of being one of the governmental control agencies at the frontiers with the task of protection of society, Customs services encounter all kind of cross-border offences. This provides them with a great experience on crime and criminals such as frequently smuggled goods, nationalities mostly involved routes taken, concealment methods employed etc.
2.4.6. World-wide exchange of information and intelligence network:

Through the WCO's guidance, most Customs administrations around the world are now able to exchange of information and intelligence worldwide on Customs offences including radioactive material smuggling. This is usually made through the electronic network created in term of Regional Intelligence Liaison Offices (RILO) project, which now includes more than 100 participating States.

In addition to the bilateral agreements and the Memorandum of Understanding (MOU) applications, most of Customs administrations are contracting parties to one of the WCO legal instruments which creates a legal or administrative base for international exchange of information and intelligence on Customs offences.

2.4.7. Awareness and training:

Customs services are continuously being informed on the potential smuggling of radioactive materials and its risk to them, society and the environment. Within this concept, most Customs administrations are either holding their own awareness, training programmes and employing necessary detection equipment or participating or conducting regional seminars or courses.

2.4.8. Employment of risk assessment techniques:

Customs services are advised and encouraged to use targeting and selectivity approach through risk assessment techniques which enables them to assess the probability that goods being processed through Customs control have not been legally entered or declared. This modern enforcement techniques helps Customs services to identify potential or suspected persons, vehicle or goods in advance for further examination. This technique is not only facilitating the international flow of goods but also enabling Customs services to maximize the optimal use of limited resources to detect any kind of fraud including nuclear and other radioactive material smuggling.
2.4.9 Close co-operation with business:

The WCO Secretariat also encourages its Members through its special programme, called ACTION/DEFIS, to sign a MOU with the commercial companies aiming to help protect society from damaging effects of the various forms of illegal trafficking throughout the world.

It lays down the conditions and rules for the co-operation which has been established by providing for communication networks, the development of mutual knowledge by exchanging information, and for awareness campaigns or training programmes etc.

A list of international associations who have concluded a memorandum of understanding with the WCO Secretariat is shown at annex 1.

3. THE WCO INITIATIVE: ENFORCEMENT PROGRAMME ON ACTION TO COMBAT NUCLEAR AND OTHER RADIOACTIVE MATERIALS SMUGGLING:

Since 1993, the World Customs Organization has invested significant time and energy by launching a special programme to assist its Members throughout the world with the development of a comprehensive action plan to combat nuclear and other radioactive material smuggling.

The objective of this programme is to assist Member administrations to enhance their enforcement capabilities for preventing, detecting and responding to illicit trafficking in nuclear and other radioactive materials. This programme is basically intended to provide the necessary awareness background for initiatives to ensure nuclear and other radioactive materials are securely monitored and controlled so that illicit trafficking of them is inhibited, and that there are process and procedure in place to detect and respond to any attempted illicit trafficking.

In order to attain this overall objective, the WCO action plan is aimed developing the following means.

- Heightening of Awareness
- Development of Training Materials
- Designing of Training Programmes
- Exchange of Information and Development of a Database
- International Co-operation.
3.1. AWARENESS ACTIVITIES

The WCO awareness-raising activities could be summarized as follows.

- Two seminars on Dangerous and Toxic Products and Nuclear Materials,
- A Working Group on the Identification of Nuclear Materials and Dangerous Goods
- Adoption of a WCO Recommendation concerning Action Against Illicit Cross-Border Movement of Nuclear and Hazardous Material (including their waste)
- Conducting a survey on Members’ experience, resources and needs.
- Issuing of a progress report on WCO Awareness and Training Programme on Nuclear and Hazardous Material (June 1996),
- Three IAEA/WCO Technical Committee Meetings,
- Attending national, regional and international meetings,

3.2. TRAINING MATERIAL

At the request of its Members, the WCO has developed a very comprehensive Customs Enforcement Training Module on nuclear and other radioactive material smuggling and on hazardous material. These training modules provide guidelines for Customs trainers to develop their own national training programmes.

The module on nuclear and other radioactive material was prepared in close co-operation with the IAEA and certain Member countries made special contributions. In particular, it has been possible to combine the IAEA’s experience and knowledge with those of the Customs enforcement experts who met at the first and second expert group meetings held in Brussels in 1995 and 1996.

It should be noted that the WCO has received a wide range of training materials in forms of books, leaflets and brochures from certain Members. The Secretariat also continues its efforts to contact all relevant international and specialized institutions with a view to collecting and then distributing useful training materials to WCO Members.
3.3. TRAINING PROGRAMMES

In line with the request made by our Members, the WCO Secretariat has been given priority to design training programmes for Customs at regional level in order to improve their enforcement structures and measures taken at national level.

The first priority is given to the Eastern and Central Europe region and the training course for the Customs services of that region was “train-the-trainer” course held in Vienna, Austria from 2 to 6 June 1997. This programme was supported by Austria, Japan, IAEA, and attended by ALBANIA, AUSTRIA, BELARUS, BULGARIA, CROATIA, CYPRUS, CZECH REPUBLIC, ESTONIA, HUNGARY, LATVIA, LITHUANIA, POLAND, ROMANIA, SLOVAKIA, SLOVENIA and TURKEY.

Given the success of the first training course, the second awareness-training course designed by the IAEA, ICPO/INTERPOL and the WCO, in a multi-agency format with police and customs officers of Eastern and Central European countries. It was held on 28 September-2 October 1998 and attended by ALBANIA, AUSTRIA, BELARUS, BULGARIA, CROATIA, CYPRUS, CZECH REPUBLIC, ESTONIA, GREECE, HUNGARY, LATVIA, LITHUANIA, MALTA, MOLDOVA, POLAND, ROMANIA, RUSSIAN FEDERATION, SLOVAKIA, SLOVENIA, THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA, TURKEY AND UKRAINE.

3.4. EXCHANGE OF INFORMATION AND DEVELOPMENT OF A DATABASE

Timely, comprehensive and rapid exchange of information and intelligence is the principal element of effective global preventive efforts concerning illicit transboundary movement of nuclear materials.

With a view to assisting its Members, the WCO Secretariat has proceeded in two directions:

(i) Co-operation at national level: Customs services are continuously encouraged to improve co-operation with the national law enforcement agencies, nuclear competent authorities and relevant business.
(ii) Development of a database: the WCO Secretariat has developed a separate database for
nuclear and radioactive material smuggling at the WCO HQ with the support of Members
and international organizations concerned. As of December 98, the total number of
confirmed smuggling cases is around 300.

The basic aim of this database is to enable Customs services to make their own information
analysis and produce strategic, operational and tactical intelligence for their own needs, such as
regional and international trends, modus operandi employed by smugglers, routes commonly
used, etc.

Within this concept, the regular exchange of seizure data between the IAEA and the WCO
deserves special mention.

3.5. INTERNATIONAL CO-OPERATION

One of the pillars of the WCO programme is to co-operate with the international
organizations concerned to ensure the broadest communication channels for timely and accurate
exchange of information, close co-operation and finally harmonization of actions to be taken at
the international level in this arena. The IAEA, ICPO/INTERPOL, EUROPOL, EC, and the UN
specialized bodies are particularly covered. However, please let me highlight the co-operation
between the WCO and the International Atomic Energy Agency (IAEA) and the SBC, which
deserves specific mention due to the progress, made by the relevant meetings.

This close co-operation was reached a point where a Memorandum of Understanding
(MOU) between these international organizations aiming at establishing an administrative base
for effective co-operation and developing joint projects with a view to enhancing international
efforts to combat illicit trafficking in nuclear and other radioactive materials. (WCO-SBC MOU
signed on 17 November 1997; WCO-IAEA MOU signed on 13 May 1998).
4. RESULT

It is widely accepted that Customs Services around the world have a role to play in preventing and detecting nuclear and other radioactive materials in illicit trafficking, due to their location at national borders as a governmental cross-border control agency.

This role can be maximized through raising awareness, employment of risk assessment techniques and the deployment of detection equipment and through Customs becoming an integral part of the national preventive strategy or action plan.

It is therefore very important to invite Member countries to consider exploring and using Customs services in combating nuclear and other material smuggling.

To prevent and detect the illegal movement of nuclear and other radioactive materials in illicit trafficking at the national borders before they enter or leave the country is always interpreted not only as protection of a country’s own citizens but also protection of global society.

However, the following questions are left open for further consideration;

- The illicit trafficking of nuclear and other radioactive material needs to be clearly identified as a crime with proper penalties
- Employment of detection equipment
- The need for awareness and training
- The necessity of timely, accurate exchange of information and intelligence
- Co-operation with relevant bodies including trade/industry
- Issue of contaminated scrap material

As one of the participants of this workshop, the WCO hope this event will help all parties concerned to;

- assess the dimension of the problem we face,
- understand the technical difficulties we encounter,
- promote co-operation among the parties concerned,
- improve the exchange of information and intelligence we seek.
**Annex I**

**LIST OF INTERNATIONAL ASSOCIATIONS WHO HAVE CONCLUDED A MEMORANDUM OF UNDERSTANDING WITH THE WCO**

(as at 28.4.1999)

<table>
<thead>
<tr>
<th>Association</th>
<th>Abbreviation</th>
<th>Date</th>
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<tr>
<td>The International Chamber of Shipping</td>
<td>ICS</td>
<td>December 1985</td>
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<td>The International Air Transport Association</td>
<td>IATA</td>
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<td>The International Association of Ports and Harbors</td>
<td>IAPH</td>
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<td>The International Federation of Freight Forwarders Associations</td>
<td>FIATA</td>
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<td>The International Express Carrier Conference</td>
<td>IECC</td>
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<td>The International Federation of the Phonographic Industry</td>
<td>IFPI</td>
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<td>The International Road Transport Union</td>
<td>IRU</td>
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<td>The Airports Council International</td>
<td>ACI</td>
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<td>The Baltic and International Maritime Council</td>
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<td>The International Federation of Customs Brokers Associations</td>
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<td>The Federation of National Associations of Ship Brokers and Agents</td>
<td>FONASBA</td>
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<td>The International Council of Chemical Industry Associations</td>
<td>ICCA</td>
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<td>The Universal Postal Union</td>
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<td>The International Chamber of Commerce Commercial Crime Services</td>
<td>ICC CCS</td>
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<td>The International Banking Security Association</td>
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<td>The International Federation of International Movers</td>
<td>FIDI</td>
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<td>Secretariat for the Convention on international trade in endangered species of wild fauna and flora CITES</td>
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<td>The United Nations International Drug Control Programme</td>
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<td>Inter-American Development Bank/Banque interaméricaine de développement</td>
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