IAN AXFORD
(NEW ZEALAND)
FELLOWSHIPS
in
PUBLIC POLICY

Trade Recovery: Laying the Groundwork for Establishment of a New Zealand-United States Joint Action Plan for Application in the Event of a Serious Trade Disruption

Prepared by
Louritha Green

With funding from the sponsors of the
Ian Axford (New Zealand) Fellowships in Public Policy

August 2010

Established by the
New Zealand government in 1995
to facilitate public policy dialogue
between New Zealand and
the United States of America

Level 8, 120 Featherston Street
PO Box 3465
Wellington 6140
New Zealand

Telephone +64 4 472 2065
Facsimile +64 4 499 5364
E-mail info@fulbright.org.nz
www.fulbright.org.nz

© Louritha Green 2010
Published by Fulbright New Zealand, August 2010

The opinions and views expressed in this paper are the personal views of the author and do not represent in whole or part the opinions of Fulbright New Zealand or any New Zealand government agency.

ISBN 978-1-877502-18-7 (print)
ISBN 978-1-877502-19-4 (PDF)

Ian Axford (New Zealand) Fellowships in Public Policy

Established by the New Zealand Government in 1995 to reinforce links between New Zealand and the US, Ian Axford (New Zealand) Fellowships in Public Policy provide the opportunity for outstanding mid-career professionals from the United States of America to gain firsthand knowledge of public policy in New Zealand, including economic, social and political reforms and management of the government sector.

The Ian Axford (New Zealand) Fellowships in Public Policy were named in honour of Sir Ian Axford, an eminent New Zealand astrophysicist and space scientist who was patron of the fellowship programme until his death in March 2010.

Educated in New Zealand and England, Sir Ian held Professorships at Cornell University and the University of California, and was Vice-Chancellor of Victoria University of Wellington for three years. For many years, Sir Ian was director of the Max Planck Institute for Aeronomy in Germany, where he was involved in the planning of several space missions, including those of the Voyager planetary explorers, the Giotto space probe and the Ulysses galaxy explorer.

Sir Ian was recognised as one of the great thinkers and communicators in the world of space science, and was a highly respected and influential administrator. A recipient of numerous science awards, he was knighted and named New Zealander of the Year in 1995.

Ian Axford (New Zealand) Fellowships in Public Policy have three goals:

- To reinforce United States/New Zealand links by enabling fellows of high intellectual ability and leadership potential to gain experience and build contacts internationally.
- To increase fellows' ability to bring about changes and improvements in their fields of expertise by the cross-fertilisation of ideas and experience.
- To build a network of policy experts on both sides of the Pacific that will facilitate international policy exchange and collaboration beyond the fellowship experience.

Fellows are based at a host institution and carefully partnered with a leading specialist who will act as a mentor. In addition, fellows spend a substantial part of their time in contact with relevant organisations outside their host institutions, to gain practical experience in their fields.

The fellowships are awarded to professionals active in the business, public or non-profit sectors. A binational selection committee looks for fellows who show potential as leaders and opinion formers in their chosen fields. Fellows are selected also for their ability to put the experience and professional expertise gained from their fellowship into effective use.

We acknowledge and thank the following government and corporate sponsors that support the Ian Axford (New Zealand) Fellowships in Public Policy programme:

- Department of Building and Housing
- Department of Corrections
- Department of Internal Affairs
- Department of Labour
- Department of the Prime Minister and Cabinet
- Mighty River Power
- Ministry for Culture and Heritage
- Ministry for the Environment
- MAF
- Ministry of Defence
- Ministry of Economic Development
- Ministry of Education
- Ministry of Fisheries
- Ministry of Foreign Affairs and Trade
- Ministry of Health
- Ministry of Justice
- Ministry of Research, Science and Technology
- Ministry of Social Development
- New Zealand Customs Service
- New Zealand Police
- State Services Commission
- Te Puni Kōkiri (Ministry of Māori Development)
- The Treasury

ACKNOWLEDGEMENTS

This project would not have been possible without the generosity, patience, and insights provided by so many people.

Fulbright New Zealand with special thanks to:

Mele Wendt, Executive Director
Martin Boswell, Former Programme and Advising Team Leader
Andy Mitchell, Communications Advisor
Val Leach, Administrator
Keri Vanka, Programme Manager
The Fulbright New Zealand Board of Directors

US Customs and Border Protection with special thanks to:

Allen Gina
Charles E. Stallworth II
Monica K. Temoney
Brendan C. O'Hearn
The staff of CBP's Office of International Affairs Strategic Operations Division
The Port of Baltimore
The National Targeting Center

The New Zealand Customs Service with special thanks to:

Martyn Dunne, Comptroller and Chief Executive
John Secker, Deputy Comptroller, Policy People and Resources
Jean Martin, Group Manager for Organisation Development and Human Resources
Denise Hing, Group Manager for Policy
Dave Haigh, Manager, Multilateral & Regional Cooperation
Diana Hawker, Policy Analyst, Multilateral Organisations
The Port of Auckland
The Port of Napier
Port Chalmers
Port Otago Ltd
The Port of Tauranga

Trade recovery experts:

Sean K. Moon, Senior Policy Advisor, US Department of Homeland Security
Robert T. Moore III, Office of Intelligence and Operations Coordination
Edward Haberman, Management and Program Analyst, US Customs and Border Protection

Recommenders (in addition to Comptroller Dunne and Mr. Moon):

Ian C. Saunders
Bylle J. Patterson

Reviewers:

Dr Donald R. Kelly
Dr Andrew Ladley
Shelly Biswell, Editor

Rose Northcott, Editor

The United States Diplomatic Mission to New Zealand, with special thanks to:

His Excellency David Huebner, United States Ambassador to New Zealand and Samoa
Randy Berry, US Consul General
Michael J. Layne, First Secretary (Economic)
Mark L. Wenig, Counselor for Public Affairs

For keeping me on the straight and narrow:

Roger Smith
Sharon P. Goodson
Karin Knedler
Mike Lewin
Germana Nicklin
William J. Washington II and Family
John Wech
Mike Wotherspoon

Finally, to the late Sir Ian Axford, my friends not listed above, and my family, much thanks.

Louritha Green
Wellington, August 2010

EXECUTIVE SUMMARY

Although most people are aware of what a country's customs administration does generally, the role that the agency plays in protecting the public is not fully understood. Some customs administrations are solely revenue collectors. Others, like those of New Zealand and the United States, collect revenue and hold responsibility for non-revenue functions, including preventing the entry of unsafe food, stopping terrorists from crossing the border, and impeding unlawful importation of weapons and other dangerous goods. In addition, not only do customs administrations carry out discrete customs functions, they can also act on behalf of other agencies at the border. Many countries, including the US and New Zealand, have laws in which the responsibility for creating a particular policy lies with a non-customs agency, but the enforcement of that policy falls to customs.

Without its customs administration, a country is vulnerable to threats of both an economic and security nature. By way of example, New Zealand protects its economy by enforcing strict export controls on agricultural goods to ensure the country sends a safe, high-quality product out to foreign markets. New Zealand Customs works with the agency in charge of biosecurity, the Ministry of Agriculture and Forestry (MAF), to ensure this objective is met. Both the New Zealand Customs Service and US Customs and Border Protection (CBP) work with other agencies to enforce export control laws such that goods that could be used for both legitimate and nefarious purposes do not enter or leave the country unless proper checks are done to ensure that those goods will be used for legitimate purposes.

New Zealand and the United States have recognised the importance of increasing the ability prevent harm to their countries. By using a combination of well trained personnel, highly developed technology, and international partnerships based on trust, both countries have developed strong risk-management systems that provide a high level of protection against threats. At some point, however, no matter how well a country has designed and taken preventative measures, an incident could occur that tests the capabilities of even the best systems. The incident could be due to a man-made or natural disaster, the effects of which could be long lasting or short lived. One of those effects could be the disruption of the flow of goods to and/or from the border. This situation can be dangerous because it could lead to a population's core needs not being met after an event (e.g. delays in delivery of food and relief supplies). It can also have exponential negative impacts on a country's economy.

Given the global nature of supply chain systems, a number of countries within the international community have been wrestling with finding an effective response to an incident. One response is the development of a post-event plan that complements existing risk-management structures. The plan is often referred to as "trade recovery protocols" or a "trade recovery mechanism."[1]

Trade recovery specifically addresses the activities related to coordinating and facilitating the movement of goods and people across the border after a disruption in trade has occurred. Managing trade recovery requires an accurate understanding of (1)

[1] As the term is used here, "protocol" is a pre-planned communication and coordination mechanism. The terms "trade recovery protocols" and "trade recovery mechanism" will be utilised interchangeably in the document.

what is causing the disruption (2) a clear and current assessment of a country's transportation system's capacity to handle the effects of the incident (3) the ability to identify what goods are most needed to respond to the incident (4) communication with those responsible for the movement of goods, people, and conveyances and (5) facilitating the actual movement. Because the movements require crossing borders, customs administrations may hold responsibility for some or all trade recovery functions.

This project is meant to lay the foundation for the development of trade recovery protocols between the United States and New Zealand, with particular focus on the roles of their customs administrations. The questions that the project sought to answer were whether both countries have the resources for creating trade recovery protocols and, if so, what would be the steps for establishing such protocols.

The research on this issue yielded the following findings.

1. New Zealand Customs and CBP have the resources to develop joint trade recovery protocols. This conclusion is based on:
    - similarities in risk-management systems
    - existence of already-established communications systems
    - the strong bilateral relationship shared between the countries
    - both countries' high level of engagement on the trade recovery issue within the international community
    - existence of New Zealand Customs continuity plans that contain elements that would be useful in developing a trade recovery mechanism
    - existence of well-developed US protocols that could serve as a good starting point for a bilateral trade protocol relationship with New Zealand.
2. The most important part of any trade recovery plan is the existence of an efficient, effective communications mechanism that includes all relevant stakeholders in the public and private sectors.

Recommended Next Steps

1. The New Zealand Customs Service and CBP should begin discussions on how to set up the physical infrastructure for a communications mechanism for use in a trade recovery situation.
2. The protocols should be evaluated via table top exercises in both the US and New Zealand. These exercises should have private sector participation.
3. The lessons learned from the exercises should be used to craft the governing document for the mechanism.
4. The two parties should formally agree on the protocols.

Taking these steps would not only create US-New Zealand trade recovery protocols, but would also provide each country with a tool that could help them establish trade recovery relationships with other international partners. Additionally, the newly-

developed protocols could assist the rest of the international community in refining its approach to the issue such that a basic international standard could be created.

TABLE OF CONTENTS

ACKNOWLEDGEMENTS ..... **iii**

EXECUTIVE SUMMARY ..... **v**

INTRODUCTION **1**

1 OVERVIEWS OF THE NEW ZEALAND CUSTOMS SERVICE AND US CUSTOMS AND BORDER PROTECTION **3**

New Zealand Customs Service Overview 3

New Zealand's Approach to Interagency Collaboration at the Border 3

Organisational Structure of New Zealand Customs 5

Policy People and Resources: The Non-Operational Arm of New Zealand Customs 7

Organisation Development and Human Resources 7

Information Services 8

Legal and Advisory Services 8

Operations 10

US Customs and Border Protection (CBP) Overview 12

Structure 13

Office of Field Operations 14

Office of Intelligence and Operations Coordination 15

Office of International Affairs 15

2 RISK-MANAGEMENT STRUCTURES OF NEW ZEALAND AND THE UNITED STATES **19**

New Zealand Customs Risk-Management Approach 19

Advance Information Requirements 19

Use of Automated Systems: the National Targeting Centre and CusMod 19

Non-Invasive Inspection Technology (NII) 20

Domestic and National Agency Collaboration: the National Maritime Coordination Centre (NMCC) 21

Industry Partnerships: New Zealand Customs Secure Export Scheme (SES) 21

International Partnerships 22

CBP Risk-Management Approach 22

Advance Information Requirements 23

24-Hour Rule 23
Importer Security Filing 24
Utilising Advance Cargo Information 24
National Targeting Center—Cargo (NTC-C) 24
Automated Targeting System 25
Non-Intrusive Inspection/Radiation Detection Technology 26
Industry Partnerships: Customs-Trade Partnership Against Terrorism 26
International Partnerships 27
Container Security Initiative 27
Secure Freight Initiative 27
Customs Mutual Assistance Agreements 28
3 TRADE RECOVERY: A COMPLEMENT TO RISK MANAGEMENT 29
The Approach of International Organisations to Trade Recovery 29
Asia Pacific Economic Cooperation (the APEC Trade Recovery Programme Guidelines) 29
Testing the Trade Recovery Programme Guidelines 29
Conclusions of the Report 30
Analysis of the APEC Trade Recovery Programme Guidelines 30
WCO Trade Recovery Guidelines 31
Trade Recovery Policy in the US 32
The Basic Phases of a Recovery Process 33
Responsibility for Trade Recovery Activities 34
US Coast Guard 36
CBP 36
State, Local, and Tribal Government Responsibilities 36
Private Sector Responsibilities 36
Prioritisation of Goods and Conveyances 37
Goods and People 37
Conveyances 37
Communications with Foreign Trading Partners 38
Bilateral Trade Recovery Communications Mechanisms 38

Protocols Process 39

Step 1: Initiation of Protocols 40

Step 2: Collaboration on the Initial Assessment of the Incident 40

Step 3: Development of Mitigation Strategies and Plans 41

Step 4: Implementation of Mitigation Strategies and Plans 41

Step 5: Management of Mitigation Strategies and Plans 41

Step 6: Protocol Deactivation 41

4 NEW ZEALAND AND THE US'S APPROACH TO CONTINGENCY PLANNING AND TRADE RECOVERY 43

New Zealand's Contingency Plans and Their Relationship to Trade Recovery 43

Trade and Marine Pandemic Contingency Plan 43

Port Chalmers and the Port Otago Facility 43

Port Response 44

United States-Canada Approach to Trade Recovery 45

The Joint CBP/CBSA Business Resumption Communications and Coordination Protocols ... 45

Just In Case... 46

CONCLUSION 47

BIBLIOGRAPHY 49

INTRODUCTION

New Zealand and the United States have been at the forefront of efforts to create a stronger and more secure international supply chain. The techniques developed and used by each country, as well as the strong partnership between them, continue to prevent harmful goods from entering and exiting their respective borders. In addition, both countries have assisted others in the international community by providing them with a better understanding of risk and how to reduce it, while still encouraging the free flow of global trade.

However, the question remains as to what happens when, despite all efforts at prevention, a significant event[2] which drastically impairs the movement of trade occurs. The concept of trade recovery specifically addresses the activities related to coordinating and facilitating the movement of goods across a country's or Economy's[3] borders.

Trade recovery may also involve efforts to maintain or enhance cargo movement at non-impacted ports, assist the private sector in identifying and implementing mitigation plans, and establish processing priorities consistent with actual government and private sector capabilities.

Managing trade recovery requires an accurate understanding of what is causing the disruption and a clear and current assessment of the transportation system's capacity to handle the effects of the incident. It also requires defining what goods are most needed to respond to the disaster (national priority goods); communicating with those responsible for the movement of goods, people, and craft;[4] and facilitating the actual movement.

This project looks to serve as the foundation for the development of a trade recovery mechanism between the United States and New Zealand. The project consists of four parts:

Part 1: A basic description of both the structures of New Zealand Customs and CBP.

Part 2: Analysis of CBP and New Zealand Customs' methods of identifying and mitigating the risk of dangerous cargo entering or leaving their countries.

Part 3: Analysis of the current state of trade recovery efforts in the international community (e.g. the World Customs Organization and Asia Pacific Economic Cooperation).

Part 4: Examination of the contingency plans of New Zealand

[2] In this report, the terms "event" and "incident" and "disaster" are used interchangeably to describe an episode that causes a significant trade disruption.

[3] "Economy" is a term of art used within the Asia Pacific Economic Cooperation to identify some of its members that might not be fully sovereign, or whose sovereignty is an unresolved subject in the international community. For the purposes of this report, the term "country" will be used unless the text specifically discusses matters within APEC.

[4] According to Section 2 of New Zealand's Customs and Excise Act of 1996, "craft includes any aircraft, ship, boat, or other machine or vessel, used or capable of being used for the carriage or transportation of persons or goods, or both, by air or water or over or under water".

Customs and the trade recovery approach of the United States.

In addition to the primary objective of the project, a possible secondary benefit could be the development a process that each country may use to establish trade recovery relationships with other international partners. Another benefit is that the project could provide some guidance on trade recovery matters to international organisations such as the World Customs Organization and the Asia Pacific Economic Cooperation as they continue to build upon their trade recovery efforts.

1 OVERVIEWS OF THE NEW ZEALAND CUSTOMS SERVICE AND US CUSTOMS AND BORDER PROTECTION

New Zealand Customs Service[5] Overview

Begun January 1840 as the New Zealand Customs Department, the New Zealand Customs Service is the country's oldest government department.[6] New Zealand Customs ensures legitimate trade and travel to protect its people from risks posed by transiting goods or people.

To carry out this responsibility, New Zealand Customs employs over 1200 staff who are based in 14 domestic locations[7] and five overseas posts.[8] About 70 per cent of these personnel are frontline New Zealand Customs officers supported by specialists who provide systems support to enable those frontline staff to work efficiently.[9] New Zealand Customs collaborates with the country's other border agencies to ensure that all laws at the border are enforced.[10] More than 20 state services agencies deliver border services and/or have activities at the border.

New Zealand's Approach to Interagency Collaboration at the Border

New Zealand Customs, the Department of Labour (DoL) and Ministry of Agriculture and Forestry (MAF) are the three main agencies with border management responsibilities. Customs manages New Zealand's border by accounting for and screening all people, goods and craft entering or leaving New Zealand for risk. DoL performs the part of New Zealand's immigration function that determines who can travel to, enter and stay in New Zealand, and under what conditions.[11] MAF manages the biosecurity risks posed by people, goods, and craft crossing the border.

In response to the terrorist attacks of 2001, the US decided to form the Department of Homeland Security and consolidate the functions of several existing agencies. In contrast, the New Zealand government had already been examining the issue of

---

[5] The Māori name for New Zealand Customs is "Te Mana Ārai o Aotearoa," which is roughly translated to "the agency that protects and screens our borders". Interview with Iti Paenga, Principal Advisor, Māori Responsiveness for the New Zealand Customs Service

[6] The first New Zealand Collector of Customs was George Cooper. The term "comptroller" to describe the position was first used in 1910. New Zealand Customs Service Non-Operational Induction Programme, History and Role of New Zealand Customs, Tab 1, p.12

[7] Those ports are: Auckland, Bluff, Dunedin, Fiordland-Milford Sound, Gisborne, Lyttelton, Napier, Nelson, New Plymouth, Opua, Picton, Port Chalmers, Tauranga, Timaru, Wellington and Whangarei. Retrieved 19 April 2010 from: http://www.customs.govt.nz/Visiting+craft/Ports+of+entry/default.htm. See also New Zealand Customs Service Non-Operational Induction Programme, 2009.

[8] Those locations are Australia, Belgium, the People's Republic of China, Thailand and the United States.

[9] New Zealand Statement of Intent: 2009-2012 p.12

[10] The closest relationships between New Zealand Customs are the following: (1) Ministry of Agriculture and Forestry (MAF) which acts to prevent risks associated with unwanted organisms, pests and diseases from entering New Zealand; (2) New Zealand Immigration Service which determines if non-New Zealanders may travel to, enter and stay in New Zealand and under what conditions; (3) Ministry of Foreign Affairs and Trade (MFAT); and (4) Ministry of Transport (MoT).

[11] Ibid. p.8

agency consolidation since the 1980s.[12] Beginning in 1989, New Zealand began considering how to make its border operations more efficient. One suggestion was to combine the precursors to the three core border agencies.[13]

Three reports were prepared to analyse the issue: the Hensley Report in 1989, the Officials' Review in 1991, and the Carter Report of 1999. The most supportive of consolidation of border functions was the Hensley report which recommended creation of a new border agency to carry out (1) most of New Zealand Customs' activities (2) the biological protection and quarantine activities of what was then the Ministry of Agriculture and Fisheries (3) the biological security functions of what was then the Ministry of Forestry (4) the human health border activities of the Ministry of Health (MoH) and (5) the aviation security functions of the Ministry of Transport (MoT).

In 1991, an Officials' Committee investigated whether a single border agency would prove efficient and effective enough to justify its creation. Part of that investigation included a review of the Hensley report findings. The Committee concluded that the Hensley report recommendation to merge border control functions into a single agency would not result in efficiency gains and could pose a threat to biological security. Instead, it recommended merging agriculture and forestry biosecurity functions into MAF's Quality Management Unit. The Committee also found that better agency efficiencies could be achieved through more formalised inter-agency department agreements.[14]

In 1999, a team led by Sir Ron Carter investigated the feasibility of merging border management functions within a single agency. The main recommendations were to develop a government vision for border management and establish a new department comprising the MAF's Quarantine Service and the New Zealand Customs Service.[15] The recommendations were not taken on. No border agency was created, and the development of a border vision and strategy ceased in 2003.

In 2006, the New Zealand government revisited the issue and decided that no merger would occur. New Zealand elected to maintain the separation based on each agency having specific mandates and different accountability streams. In order to avoid the unintended consequences that flow from differing government priorities, the Ministers needed to have advice provided by the separate border agencies.[16] The decision to keep separate agencies was also based on the finding that managing border sector resources required a clear understanding of which agency would be responsible for what and comprehension of issues common to more than one agency. To address this issue, the chief executives of New Zealand Customs, DoL, MAF and MoT formed a Border Sector Governance Group (BSGG) in 2007. Since its creation, membership in the BSGG has been expanded and now includes the New Zealand Food Safety Authority and the Department of Internal Affairs.

---

[12] See *Review of Previous Work Undertaken to Examine Border Control Issues and the Idea of a Single New Zealand Border Agency*, Office of the Minister of State Services, Government of New Zealand.
[13] Ibid.
[14] Ibid. p.13
[15] Ibid.
[16] Ibid. p.10

The BSGG's vision is to deliver excellent border management outcomes for New Zealand by thinking and acting as one. The group's objective is to create an integrated and responsive border management system that best serves New Zealand's interests by facilitating trade and travel while managing risk. The expected outcomes of the group are:

- **Protection –** New Zealand is protected from people, goods and organisms that pose a risk to the country's interests
- **Facilitation –** New Zealand's economic and social interests are enhanced by facilitating the flow of legitimate trade and travel across the border
- **Partnership & Responsibility –** Everybody understands and undertakes their roles for the effective management of the border.[17]

Organisational Structure of New Zealand Customs

The New Zealand Prime Minister appoints a Minister Responsible for Customs that oversees the Government's ownership interest in customs matters.[18] That interest encompasses the strategy, service, capability, integrity, and financial responsibility of the agency.[19] It falls to the New Zealand Customs Comptroller, who also serves as chief executive officer of the agency, to carry out the minister's mandate and continue to meet the objectives for which New Zealand Customs has been traditionally responsible.[20] Two deputy comptrollers (a deputy comptroller of operations and a deputy comptroller of policy people and resources) form the second management tier of the agency. Figure 1 shows the structure of New Zealand Customs' upper management.

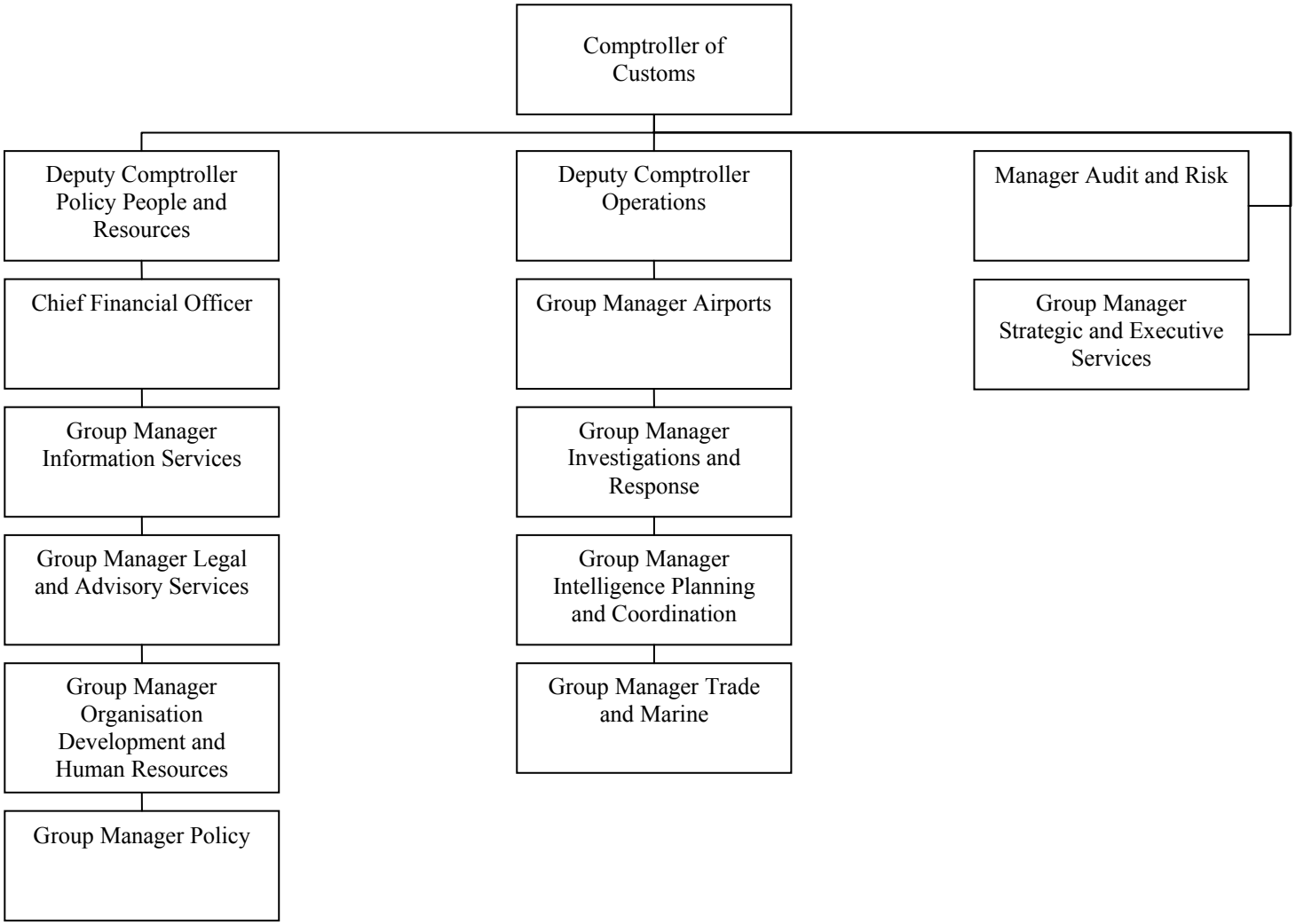
[17] *Border Sector Governance Group — Working together to secure our borders and strengthen our economy*, New Zealand Customs Service, 2010

[18] As of this writing, the Honourable Maurice Williamson was the minister under whose purview customs matters fell. New Zealand Customs Service Statement of Intent 2009-2012, p.3

[19] Unlike the United States in which CBP sits within a department (the Department of Homeland Security) that is a permanent part of the President's Cabinet, responsibility for New Zealand Customs matters can shift from a minister inside the Prime Minister's Cabinet to a minister that sits outside of the Cabinet. At the time of this writing, New Zealand Customs' Responsible Minister sits outside of Cabinet.

[20] A strategic and executive services group inside the Comptroller's Office provides direct operational and policy support to the comptroller and also liaises with the Office of the Minister Responsible for Customs.

FIGURE 1: NEW ZEALAND COMPTROLLER AND CHIEF EXECUTIVE OF CUSTOMS



Policy People and Resources: The Non-Operational Arm of New Zealand Customs

The policy people and resources (PPR) section is the non-operational portion of New Zealand Customs. The policy group's objective is to "provide high quality policy development and advice and related services to the Minister, to Government, and to senior management of the Customs".[21] The policy group's portfolio spans a number of policy areas including:

- border and revenue
- law enforcement
- international relations.

The border and revenue division (B&R) ensures that New Zealand Customs collects revenue for the Crown. Additionally, B&R conducts reviews of the Customs and Excise Act of 1996 and its underlying regulations. This process allows the culling of legislation that no longer applies or is overly burdensome to either New Zealand Customs or the trade community. It also allows New Zealand Customs to make recommendations as to what changes in the regulations and laws would be necessary to improve the agency's revenue collection abilities.

The law enforcement policy division holds responsibility for one of New Zealand Customs' top three priorities: disrupting the transport of illicit drugs destined for New Zealand, particularly methamphetamine and its precursor chemicals.[22] This section also has control over the export of merchandise classified as strategic goods (e.g. dual use goods that have both legitimate and potentially nefarious uses). Furthermore, the section addresses matters related to certification of exports and works with MAF to ensure that New Zealand exports are certified as safe. Finally, importation of offensive weapons, such as certain types of knives and guns, falls under the purview of the law enforcement policy division.

The international relations division has two primary responsibilities: (1) to increase international collaboration to ensure market access and reduced border compliance costs for New Zealand traders[23] and (2) to support New Zealand's Free Trade Agreement negotiations. This division's work has helped make New Zealand one of the most dedicated and high-profile countries in building collaborative partnerships between and among its regional partners, be it through binding or non-binding instruments or capacity building initiatives.

Organisation Development and Human Resources

The organisation development and human resources group creates policies and programmes that increase the knowledge base of all New Zealand Customs personnel.

---

[21] Overview of the Customs Policy Group: Presentation and Induction Course, 15 October 2008 (updated 2010)

[22] Methamphetamine can be synthesised from a myriad of common precursors such as ephedra, ephedrine and pseudo-ephedrine, commonly found in over-the-counter cold remedies. Nice, M. (2007), *Using an Outcome-based framework to analyse drug policies upon Methamphetamine Markets: a Comparison of New Zealand and the United States* (Oregon)

[23] Internal New Zealand Customs Memorandum, 28 September 2009/10, Appendix 3

Rather than creating discrete training courses for single subjects, the group crafts training courses that are interrelated. This method has been used to create a plan for progress that allows entry level personnel to look clearly see what they must do to continue to progress in their careers. The group also provides refresher courses for all levels of management.

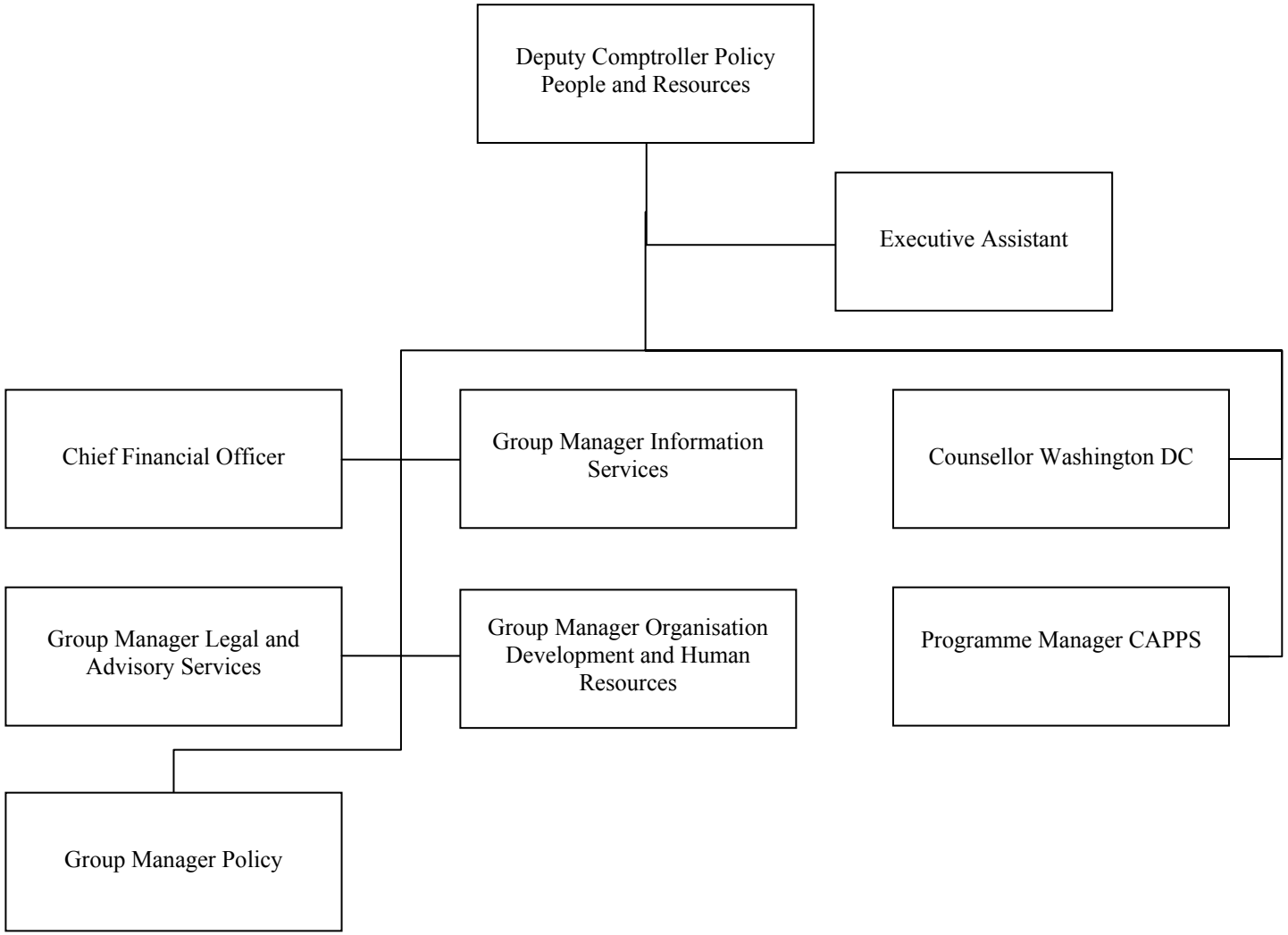
Information Services

The information services group's primary role is to ensure that technology policies are operationally feasible. This role is particularly important because New Zealand Customs has a strong focus on upgrading technology such that that meets both customs and the trade and security needs. For example, New Zealand's plans to launch a joint border management system/single window (JBMS) to provide traders with the ability to meet government information filing requirements in a fast, efficient fashion through reduced duplication of submissions. It is the information service group's responsibility to identify proper technical specifications and assist in preparing proposals to the Cabinet in order to obtain funding for projects that allow the agency to meet its information technology obligations.

Legal and Advisory Services

This group's primary responsibility is to ensure that New Zealand Customs actions are consistent with customs' responsibilities under law. It also drafts and reviews proposed legislative changes.

FIGURE 2: NEW ZEALAND CUSTOMS SERVICE DEPUTY COMPTROLLER POLICY PEOPLE AND RESOURCES

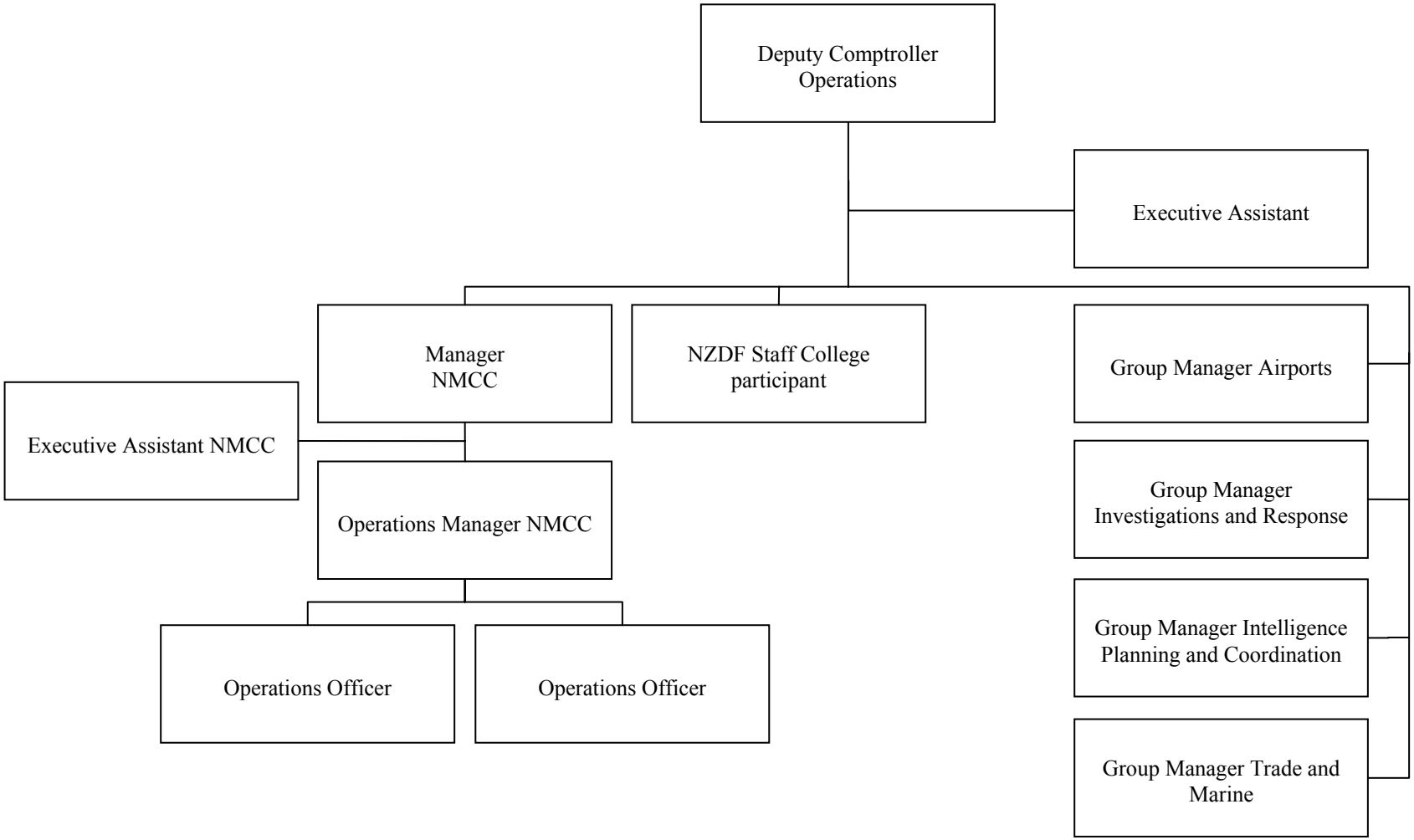


In order for successful and practical policies to be developed, PPR works cooperatively with other New Zealand Customs managers, government agencies, overseas governments, and other stakeholders to recommend actions to senior management and ministers that contribute New Zealand's strategic priorities.

Operations

Operations is composed of four groups: (1) intelligence planning and coordination (2) airports (3) trade and marine and (4) investigation and response. The National Maritime Coordination Centre (NMCC), which serves as an intergovernmental intelligence hub, is also located within operations. In a trade recovery situation, New Zealand Customs operations would have the bulk of responsibility for responding to an event and getting trade moving. Further discussion of operations will be had in the "Risk Management" section of this document. Figure 3 depicts the structure of the deputy comptroller's office.

FIGURE 3: NEW ZEALAND CUSTOMS SERVICE DEPUTY COMPTROLLER OF OPERATIONS



Management and NMCC

US Customs and Border Protection (CBP) Overview

US Customs and Border Protection (CBP) began operations on 1 March 2003 as part of the US Department of Homeland Security (DHS).[24] CBP replaced the United States Customs Service (USCS), which was, before its replacement, the oldest law enforcement agency in the United States.[25]

When the functions of USCS subsequently merged with other border enforcement agencies to become US Customs and Border Protection, the organisation's priority mission became detecting, deterring, and preventing terrorists and their weapons from entering the United States, while continuing to facilitate legitimate trade and travel. CBP is one of the department's 22 agencies.[26]

Employing over 260 000 personnel, DHS is the third-largest Cabinet-level department within the US Executive Branch, following the Department of Defense and Department of Veterans Affairs. DHS's primary mission is to protect the United States from terrorist attacks and respond to disasters. The impetus for its creation was an attempt to centralise the border agencies to prevent a repeat of 9/11.

CBP protects over 11 000 kilometres (7 000 miles) of land borders and the some of the areas along the Florida and California coastlines. Furthermore, CBP enforces (in collaboration with the United States Coast Guard (USCG) 152 887 kilometres (95 000 miles) of the US maritime border.[27] In addition, CBP enforces over 400 laws for 40 different government agencies and has broad authority over border activities.[28] Enforcing these laws on behalf of other agencies represents a collaborative effort to protect the health and safety of country's people, flora and fauna.

[24] Homeland Security Act (HSA) of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002) (as codified in 6 USC § 211)

[25] USCS operated from 1789 to 2003 as an agency within the United States Department of Treasury.

[26] Initially, the United States did not plan to create a Cabinet-level department dedicated to homeland security issues. Instead, the United States created an Office of Homeland Security that was part of the White House. The office would "oversee and coordinate a comprehensive national strategy to safeguard the country against terrorism and respond to any future attacks". *Brief Documentary History of the Department of Homeland Security: 2001-2008* (2009)

[27] CBP: Protecting Our Borders, Retrieved 8 July 2010 from: http://www.cbp.gov/xp/cgov/about/mission/cbp.xml

[28] The primary source of CBP legal authority is the Tariff Act of 1930. CBP officers are the only law enforcement personnel allowed to search people, cargo and conveyances that cross US borders without probable cause or a search warrant. See 19 USC 482 and United States v. Flores-Montano, 541 US 149, 152-53 (2004). This concept has also been referred to as the "border search exception".

FIGURE 4: MARITIME AREA OF THE UNITED STATES

Structure

Rather than adjusting the roles of pre-existing agencies to address post-9/11 heightened security needs, the US opted to create a new agency that integrated several border functions to implement the "one face at the border" concept. Thus, in addition to the traditional revenue and law enforcement authorities executed by USCS, CBP also inherited some immigration functions and agricultural inspection responsibilities from the Department of Justice's Immigration and Naturalization Service (INS) and Department of Agriculture, respectively.[29] The legislation that created CBP also integrated another office located within INS called the United States Border Patrol (Office of Border Patrol) into its organisational structure. Placing the United States Border Patrol under the purview of CBP ensured that CBP protected not only all 327 ports of entry (POEs) but also the borders between them.[30]

The President of the United States, with the advice and consent of the Senate, appoints the Commissioner of CBP. The commissioner carries out the agency's responsibilities and reports directly to the Secretary of the Department of Homeland Security.[31] A deputy commissioner and 13 assistant commissioners support the commissioner in ensuring CBP's mission is met. In a trade recovery event, the two offices within CBP that would bear the most responsibility for trade recovery

[29] CBP now conducts the former INS's inspection function and the Department of Agriculture's entry inspections.

[30] A port of entry is any designated place at which a CBP officer is authorised to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws. 19 C.F.R. § 101.1

[31] The commissioner's office has five support offices: Office of Chief Counsel, Office of Diversity and Civil Rights, Office of Policy and Planning, Office of Trade Relations and Secure Border Initiative.

management would be the Office of Field Operations and the Office of Intelligence and Operations Coordination. Additionally, the Office of International Affairs plays a significant role in pre-event planning by formalising trade recovery relationships with other customs administrations.[32]

Office of Field Operations

The Office of Field Operations (OFO) oversees more than 21 000 CBP officers and 2 394 agriculture specialists.[33] CBP operates 20 Field Offices that provide centralised management oversight and operational assistance to US POEs and 15 pre-clearance offices in Canada, Ireland, Aruba, the Bahamas and Bermuda.[34]

Situated according to geographic region, OFO offices are the means by which CBP headquarters distributes key policies and procedures to CBP officers and staff around the country. Each field office supervises a set number of service or area ports, which are larger. A "service port" is a CBP location that has a full range of cargo processing functions, including inspections, entry, collections and verification.[35] These full-service ports have staff subdivisions designated to assist smaller ports of entry that

---

[32] The other CBP offices are as follows:
Office of Air and Marine – The mission of the Office of Air and Marine is to protect the US by using an integrated and coordinated air and marine force to detect and prevent acts of terrorism arising from unlawful movement of people, illegal drugs and other contraband moving toward or crossing the US borders.
Office of Border Patrol – Headed by a chief, the Office of Border Patrol is the primary federal law enforcement organization responsible for preventing the entry of persons attempting illegal entry into the US and interdicting terrorists and terrorist weapons at areas of the border that are in between official CBP ports of entry.
Office of Congressional Affairs – The Office of Congressional Affairs is responsible for advising CBP managers on legislative and congressional matters, assessing the political climate's effect on CBP and providing members of Congress with an understanding of the legislative authority the agency needs to carry out CBP's mission.
Office of Administration – The Office of Administration is headed by an assistant commissioner who is the chief financial officer (CFO) and the chief administrative officer (CAO) for CBP.
Office of Human Resources Management – The Office of Human Resources Management is responsible for providing human resources support within CBP. This role includes recruiting new employees and ensuring that present employees are aware of the benefits available to them.
Office of Information and Technology – The Office of Information Technology is responsible for implementation and support of information technology; research and development functions; automation and development of technological strategies for meeting mission-related needs.
Office of Internal Affairs – The Office of Internal Affairs has authority over all aspects of CBP's internal security. This responsibility includes conducting background checks on potential and current employees and protecting the integrity of the organisation.
Office of International Trade – The Office of International Trade consolidates the trade policy, programme development and compliance measurement functions of CBP into one office. The office provides uniformity and clarity for the development of CBP's national strategy to facilitate legitimate trade.
Office of Public Affairs – The Office of Public Affairs communicates CBP's mission and operations both within CBP and internationally.
Office of Training and Development – The Office of Training and Development is responsible for centralised leadership and direction of CBP training programmes.
[33] US Customs and Border Protection Snapshot: A summary of Facts and Figures, Retrieved 5 March 2010 from: http://www.cbp.gov/linkhandler/cgov/about/accomplish/facts_figures.ctt/facts_figures.pdf
[34] Preclearance allows US-bound air passengers to get advance approval to enter the United States from established locations in airports outside the country.
[35] 19 C.F.R. § 101.1

handle less traffic.

Office of Intelligence and Operations Coordination

The Office of Intelligence and Operations Coordination (OIOC) coordinates CBP's response to significant incidents, whether natural or man-made. OIOC directs CBP's intelligence strategies, including planning, collection, processing, analysis, production and the dissemination of multiple sources of intelligence. The Incident Management and Operations Coordination Division (IMOC), Automation and Targeting Division, and Director of the Commissioner's Situation Room (SITROOM) are all housed within OIOC.

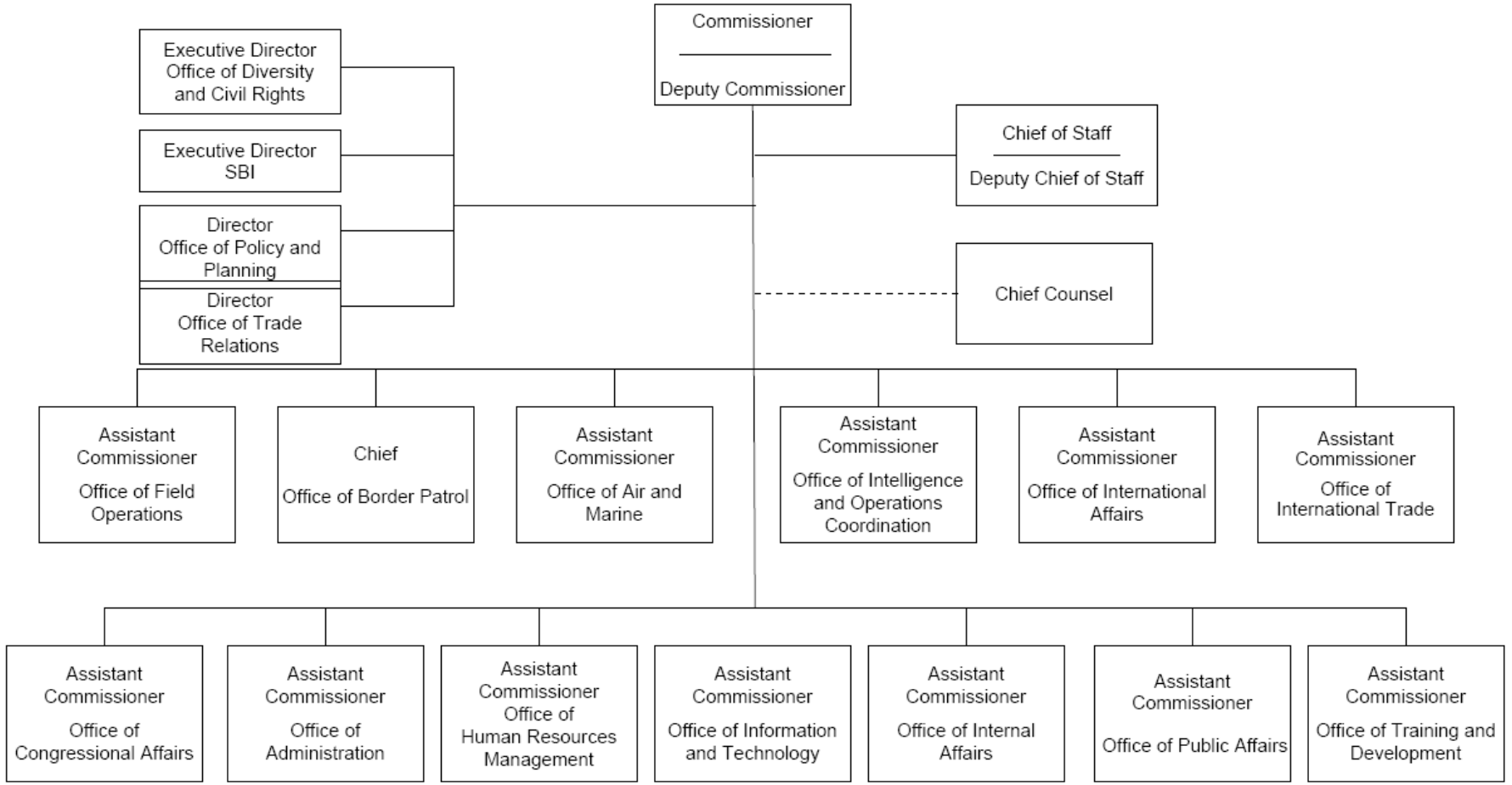
By centralising its intelligence function, CBP receives and shares timely, relevant information and actionable intelligence with the trade community, other governments, CBP Field Operations personnel and high-level decision-makers.

Office of International Affairs

INA negotiates instruments – be they non-binding or binding – that foster cooperation between customs administrations. Furthermore, INA designs, coordinates, and conducts training for both CBP personnel and their foreign counterparts.[36] Many countries seek the expertise of INA; the office works with several interagency partners to fund and conduct training programs. The US Department of State's Bureau of International Narcotics and Law Enforcement Affairs (INL) has provided funding for international narcotics interdiction and crime control training. The Office of Export Control and Cooperation within the State Department's Bureau of International Security and Nonproliferation funds export control/non-proliferation training and technical assistance programmes.

[36] These services are provided by the office's Division of Training and Development.

FIGURE 5: US CUSTOMS AND BORDER PROTECTION



CBP's creation resulted in acquisition of new resources and the reallocation of others. USCS employed less than 25 000 personnel. At the time of this writing, CBP has over 57 000 employees.[37]

[37] *On a Typical Day, US Customs and Border Protection*. Retrieved 25 February 2010 from: http://www.cbp.gov/xp/cgov/about/accomplish/fy09_typical_day.xml

2 RISK-MANAGEMENT STRUCTURES OF NEW ZEALAND AND THE UNITED STATES

New Zealand Customs Risk-Management Approach

New Zealand's risk-management approach focuses on information gathering before export. The country's risk-management strategy contains the following components: receiving of advance information, processing that information through the use of automated systems and non-invasive inspection equipment, collaborating with international partners and creating industry partnerships. In an example of international collaboration, CBP and New Zealand Customs worked together to develop New Zealand Customs' risk-management rules that helped the latter refine its targeting methods.

Advance Information Requirements

New Zealand Customs has both import and export advance information requirements. Compliance with these requirements enables the agency to identify and assess the existence and nature of risk posed by cargo bound for the country. Vessels and craft must provide advance notice of arrival and all cargo documentation to New Zealand Customs at least 48 hours before arrival of the craft or vessel in the country's territorial waters.[38] Cargo cannot be imported without the lodgement of entry documentation. If the goods are arriving by sea, then the information must be provided five days or less before the date of importation. If arriving by air, then filing must be one day or less from the date of import.[39] On the export side, the process is significantly simpler: clearance must be made not less than 1 hour before loading cargo.

Use of Automated Systems: the National Targeting Centre and CusMod

New Zealand Customs' National Targeting Centre (NTC) is located in Auckland. The centre's primary responsibility is to discern the probability of a risk identified by New Zealand Customs' intelligence planning and coordination group. The centre also has experts from MAF on staff to assist with biosecurity matters. In an example of US-New Zealand cooperation, both customs administrations communicate directly through their respective NTCs, both of which are open 24 hours, seven days a week.

The NTC uses New Zealand Customs' current intelligence-driven risk-management computer system, CusMod, to process intelligence.[40] CusMod receives and processes information about passengers, goods and craft in advance. Early receipt of this information helps facilitate legitimate trade and travel. It also gives the agency sufficient information to determine if further enforcement actions should be taken if intelligence indicates that merchandise or persons are high risk. CusMod supports the agency in enforcing a variety of border-related legislation and policies on behalf of other agencies. This includes ensuring that goods entering and leaving New Zealand comply with health and safety standards. Finally, New Zealand Customs uses

[38] New Zealand Customs Service GM POL 121: Inward Cargo Report For Cargo Vessels Policy, Section 3.1.5
[39] New Zealand Customs Service GM POL 05: Entry of Imported Goods Policy, Section 4.5.2.
[40] CusMod became operational in 1996.

CusMod to assist DoL with its immigration processing.

CusMod has served the agency well; however, New Zealand Customs is concerned that the system's age will start to result in a decline in the ability to keep pace with today's rapidity of trade and travel. In order to address this issue, New Zealand Customs looks to replace CusMod with JBMS. If implemented, JBMS would also replace another New Zealand border computer system, Quantum, which is operated by MAF. MAF uses Quantum to process import applications, record inspection data, and retrieve archived information to support enforcement activities. The system does not, however, have risk profiling and targeting capability. As such, MAF depends on CusMod to screen import entries for biosecurity permit requirements and provide alerts for high-risk biosecurity goods.[41]

New Zealand Customs and MAF expect that implementation of JBMS will achieve the following goals:

- enable international trade standards to be implemented
- streamline and simplify border clearance processes for industry, thus reducing transaction costs through the use of a trade single window (the single window concept focuses on allowing traders to electronically file all information required for the clearance of goods and craft through a single government channel)
- improve border protection and biosecurity by increasing agencies' abilities to refine their risk-management capabilities.

Replacing CusMod and Quantum with a single shared system would likely result in cost savings because the new system would avoid operations, maintenance and replacement costs for two separate systems.

Non-Invasive Inspection Technology (NII)

Because of the sheer volume of containers coming in and out of New Zealand ports, New Zealand Customs cannot search everything. Thus, the agency has taken a more practical approach and uses NII technology for screening containers. NII allows officers to detect possible anomalies between the contents of a particular container and the description of the container's contents without physically searching the container. For instance, New Zealand Customs can look for discrepancies in images and readings provided by NII, such as different densities of the container's contents. Density differences can indicate that something harmful has been placed inside the container. With this information, the agency might decide to physically search the container or request more information about its contents.

Two examples of New Zealand Customs NII technology are container inspection units and fixed site cargo inspection units. The container inspection unit is a mobile unit that allows for quick and easy inspection. It processes up to 25 containers an hour, and can be fully operational in 30 minutes.[42] As for the fixed site cargo

[42] New and Enhanced Cargo Inspection Capability: Enhanced Border Security through Use of Mobile Non-invasive inspection technologies, (2004) p.6. Information also collected from interviews with staff at the Port of Auckland, 15-16 April 2010.

inspection unit, it must be stationary when scanning containers. Its parts, however, can be disassembled, transported, and then reassembled. Both machines are safe for operators and individuals operating the conveyance that is being scanned.

Domestic and National Agency Collaboration: the National Maritime Coordination Centre (NMCC)

In addition to New Zealand Customs, several other New Zealand government agencies conduct maritime surveillance and patrol activities. To help these agencies better manage their maritime law enforcement resources (e.g. sea and air patrol vessels), New Zealand established the NMCC as a pilot programme in 2002. The NMCC was deemed a success, and it was made permanent part of New Zealand's government in 2006. The primary responsibilities of the centre are:

- to contribute to maritime domain awareness (MDA) in relation to risks in the marine environment that could impact on the sovereignty, security, safety, economy, environment or foreign policy interests of New Zealand
- to support the effective and efficient use of New Zealand's maritime patrol and surveillance assets
- to support and facilitate the effective use and accessibility of maritime-related information from multiple sources that supports the core business of government agencies.[43]

Access to the NMCC is available to the entire government and the centre is operationally independent. However, it sits within the organisational structure of New Zealand Customs.[44]

Industry Partnerships: New Zealand Customs Secure Export Scheme (SES)[45]

The private sector plays a key role in assisting customs administrations with risk management while simultaneously protecting its business interests. If members of the private sector can show that their cargo is secure from the time it is loaded into a container until it reaches its final destination, it could be searched less than containers that cannot display this level of security. Such partnerships also benefit customs administrations because they can focus resources on examining containers that cannot show a high level of security. To create an environment for realisation of these benefits, New Zealand Customs developed SES in 2002.

The application process for SES is rigorous. In order to begin the joining process, a company contacts New Zealand Customs and lets the agency know of its interest. Alternatively, New Zealand Customs can recruit potential members by approaching a company based on its financial stability and volume of product (e.g. whether they

[43] National Maritime Coordination Centre Governance Framework, NMCC Working Group 2006

[44] The NMCC works closely with a number of agencies to coordinate tasking and information, including the following: the Department of Conservation, New Zealand Customs, the New Zealand Defence Force, the New Zealand Police, Maritime New Zealand, the Ministry of Fisheries, and MFAT. National Maritime Coordination Centre Governance Framework, NMCC Working Group 2006

[45] This information was collected from interviews with staff at the Port of Auckland, 15-16 April 2010.

have enough product for full container load loads).[46]

Once a company is selected, New Zealand Customs assesses the overall financial stability of the company (e.g. whether the company pays its debts). Customs then develops an export intelligence report to ensure that the company has strong corporate integrity. The company is also subject to a site validation by New Zealand Customs. If the validation supports the application and information provided through the security check, the company is approved for the programme.

International Partnerships

New Zealand Customs has a strong international presence both regionally and worldwide. As for its regional engagement, New Zealand Customs works with MFAT to provide assistance to the country's neighbours. One source of assistance is the Pacific Security Fund (PSF). The Pacific Division of MFAT administers the PSF, a multi-million dollar inter-agency fund. Government agencies use the funds to advance or protect New Zealand's security interests by reducing risks from threats arising in, or operating through, the Pacific islands. The agencies that receive the funds traditionally utilise them for short-term activities (e.g. pilot initiatives). The funds help New Zealand agencies provide capacity building in the form of advice and technical support (e.g. provision of equipment to customs administrations) to governments in the region. Examples of New Zealand Customs' assistance efforts include:

- capacity building for border security in the Cook Islands and Niue
- training in risk management for Pacific customs administrations to enable them to meet international standards and enforce UN Security Council Resolutions
- production of reference documents and species identification sheets to assist border agencies to counter smuggling of rare and endangered wildlife, often linked with organised crime.[47]

Capacity building provides the benefit of making the region a less desirable place for the importation or transhipment of dangerous cargo.

With all of these tools, New Zealand Customs has created a strong risk-management system that allows the agency to focus its resources on high-risk cargo. The system also facilitates trade by quickly processing cargo from trusted traders that prove they have strong security procedures.

CBP Risk-Management Approach

About 11 million containers are processed in the US. Because of this large volume, it would be impractical to search every container to determine which cargo poses a

[46] Full container loads are desirable because they have continuity of product in the same container, and therefore are under the same seal. Mixed container loads can result in more risk because more companies are involved and might not have the same supply chain security levels as others.

[47] Annual Report 30 June 2009 – Pacific Security Fund – Ministry of Foreign Affairs and Trade, Retrieved from: http://www.mfat.govt.nz/Media-and-publications/Publications/Annual-report/0-Pacific-Security-Fund.php

threat to the country. Such an approach would significantly impair trade flow and result in a misallocation of CBP's resources. As such, CBP manually searches less than three per cent of these containers and screens the rest.

CBP has developed a risk-informed enforcement approach to detect possible pandemics, contraband and other large scale public safety threats. Its approach relies on:

1. receiving advance information on people, cargo, and conveyances coming to the US
2. using automated targeting systems and advanced inspection technologies to identify high-risk shipments, conveyances and individuals travelling to the US
3. working with the international community to enhance CBP's enforcement capabilities
4. establishing partnerships with the private sector such as the Customs-Trade Partnership Against Terrorism (C-TPAT).

This multi-layered approach gives CBP the ability to accurately target suspect shipments without hindering the movement of commerce through US ports.

Advance Information Requirements

CBP relies on two primary sources of advance information collection requirements to assess risk: the 24-Hour Rule and Importer Security Filing Rule.

24-Hour Rule

US laws and regulations require that the carrier of cargo provide information about that cargo to CBP before the cargo is either brought into the US or sent from a foreign country by any mode of commercial transportation (sea, air, rail or truck). Although reporting times differ by mode, this requirement is referred to as the "24-Hour Rule".[48] Receipt of this information well before cargo arrives allows CBP to identify high-risk shipments, decide what to examine more closely and what can be rapidly released. This ability results in a more efficient distribution of resources. The reporting time frames are depicted below.

Reporting Deadlines for Compliance with the 24-Hour Rule by Mode	
Mode of Transportation	**Reporting Deadline**
Vessel	24 hours before loading of cargo[49]
Air	4 hours after wheels up[50]
Rail	2 hours before arrival[51]
Truck	30 minutes to 1 hour[52]

[48] The full name of the rule is "Required Advance Electronic Presentation of Cargo Information; Final Rule". 68 Fed. Reg. 68140, 5 December 2003
[49] 19 C.F.R. § 4.7(b)(2). The USCG screen vessels and crew under the auspices of the US's 96 Hour Advance Notice of Arrival (ANOA) rule. See 33 C.F.R. §§ 160.206, 212(a)(3)
[50] 19 C.F.R. § 122.48a(b)(2)
[51] 19 C.F.R. § 123.91(a)
[52] 19 C.F.R. § 123.92(e)

Importer Security Filing

In November 2008, the US implemented another advance information requirement entitled the Importer Security Filing Rule,[53] colloquially known as "10+2". CBP implemented the rule to comply with its transportation security laws and to reduce the risk of the importation of terrorist weapons.[54] The rule requires that vessel carriers transporting cargo to the US transmit certain information to CBP about the cargo being transported before loading cargo into containers at foreign ports of entry. [55]

Utilising Advance Cargo Information

Like New Zealand Customs, CBP receives cargo information through automated systems. The agency then analyses it to determine whether the cargo should be categorised as high or low risk.

National Targeting Center—Cargo (NTC-C)

To bring together and analyse this advance information, CBP built the National Targeting Center-Cargo (NTC-C). The NTC-C operates similarly to New Zealand Customs' NTC. It uses classified, unclassified and open-source information to identify high-risk imports and coordinate examinations with CBP's field staff. To assist CBP and foreign staff working on the Container Security Initiative and Secure Freight Initiative, the NTC-C attends to target requests for inspections and provides additional information to the US's trading partners. The NTC-C also provides intelligence that assists CBP field staff in targeting shipments that might violate the US's export control laws before the cargo leaves the country. The NTC-C operates 24 hours per day, seven days per week.

Not only does NTC-C evaluate traditional risk information about cargo, it also investigates possible links between suspicious passengers and cargo. The NTC-C collaborates with CBP's National Targeting Center-Passenger (NTC-P) to obtain the information and determine if there is such a link and whether that nexus should be further investigated.

The NTC-C exemplifies the benefits of working with other US government agencies and foreign partners. NTC-C personnel work side by side with experts from the US Food and Drug Administration, Department of Agriculture, United States Drug Enforcement Agency, and US Immigration and Customs Enforcement. On an international level, the NTC-C has strengthened communication and collaboration with the customs heads of intelligence from Australia, Canada, New Zealand and the United Kingdom by exchanging real-time tactical intelligence and participating in cargo targeting operations.

---

[53] 73 Fed. Reg. 71730, 25 November 2008

[54] Section 203 of the Security and Accountability for Every (SAFE) Port Act of 2006 and Section 343(a) of the Trade Act of 2002, as amended by the Maritime Transportation Security Act of 2002. The ISF rule became effective on 26 January 2009.

[55] The importer must provide the following information: seller, buyer, importer of record, consignee numbers, manufacturer (or supplier), ship to party, country of origin, commodity number from the Harmonized Tariff Schedule of the United States, container stuffing location and the consolidator (stuffer). The carrier must provide two pieces of information (the "+2" of 10+2) the vessel stow plan and container status message.

The NTC-C assists CBP's international partners in developing systems to manage anti-terrorism and security threats by hosting foreign customs officials under the International Fellowship Program. This partnership allows for the sharing of information and best practices which can maximise the security and facilitation of the international trade supply chain. The programme is intended to teach the participants targeting techniques so that the participants take the knowledge back to their home countries and share it with their customs administrations.

Automated Targeting System

CBP receives advance cargo information and evaluates it using its automated targeting system (ATS). ATS contains national targeting factors that determine threshold targeting for national security risks for all modes of transport. Should the cargo's level of risk reach the ATS threshold, CBP would likely conduct a closer examination.

ATS targeting concepts are based on major risk factors, such as geographic routing and addresses, violation history, transportation of high-risk commodities, and intelligence information. Put in simple terms, targeters can use the answers to these questions to help determine risk:

- **What kind of cargo is it?** Some types of cargo are considered high-risk unless they are shipped to known legitimate importers. Examples of potentially threatening cargo include conventional weapons, ammonium nitrate, chemicals and chemical precursors, biological materials and nuclear, radiological or dual-use items that do not have the required certifications.
- **What is the history of the importer?** CBP could consider its familiarity with an importer or the importer's membership in a trusted trader programme as a factor that reduces the cargos risk score. Importers that have not previously traded in the US are likely to be considered higher risk than a trusted trader.
- **How is the cargo travelling to the US, and where is it supposed to go once it arrives?** The route a shipment takes, as well as activities along that route, can indicate a level of risk. Specific factors to consider include the points of origin, ports of loading, and conveyance routes that go through countries of heightened risk.
- **Does the trader comply with the law?** A trader's violation history is based on matches of names and addresses to law enforcement databases. These matches are tiered based on the severity of the violations.[56]

Even with all this information, sometimes the best tool in CBP's cache is the experience of the CBP officers. Some high-risk goods are found simply based on the officer's sense that something is amiss.

[56] Risk-Based, Layered Approach to Supply Chain Security: Fiscal Year 2010 Report to Congress, 13 April 2010, p.5

Non-Intrusive Inspection/Radiation Detection Technology

CBP also employs NII technology, and although the term "non-intrusive" is used rather than the New Zealand Customs term "non-invasive", the concept is the same. Currently, 97 per cent of commercial trucks and 93 per cent of personally-owned vehicles arriving through northern border ports, 100 per cent of vehicles arriving through southern border ports, and 98 per cent of arriving sea containers are scanned by CBP's NII radiation detection technologies. In addition, CBP officers use handheld radiation identification devices to scan 100 per cent of private aircraft arriving in the US from foreign destinations.[57]

As of April 2010, CBP had 232 large-scale NII systems deployed at US POEs. The mix of technology includes 24 truck X-ray systems and over 120 Vehicle and Cargo Inspection Systems (VACIS).[58] VACIS systems use gamma ray scanning technology to produce images of the contents of cargo containers, closed moving vehicles, cargo on pallets and other cargo types.[59] NII systems, in many cases, give CBP the capability to perform thorough examinations of cargo without having to resort to the costly, time-consuming process of unloading and searching cargo manually or conducting intrusive examination of conveyances by methods such as drilling or dismantling.

Industry Partnerships: Customs-Trade Partnership Against Terrorism

The Customs-Trade Partnership Against Terrorism (C-TPAT) is an integral part of CBP's risk-management strategy. The C-TPAT programme uses a "trust but verify" approach with the trade community. Applicants submit basic information about their companies and CBP conducts a security check to determine if the applicant meets the programme's minimum security criteria and passes the security check, then it is certified into the programme.

C-TPAT has some of the same characteristics of New Zealand Customs' SES programme in that C-TPAT is used as a tool to separate higher risk cargo from that which is lower risk. Just as in the case of SES, lower-risk cargo is less likely to be searched.[60] The key difference, however, between SES and C-TPAT is that SES is a programme whose members are exporters, while C-TPAT members are importers.

As of this writing, membership in C-TPAT consisted of 9 509 partners. The distribution of C-TPAT members is depicted in the chart below:

---

[57] Testimony of Todd Owen, Acting Deputy Assistant Commissioner, US Customs and Border Protection: Department of Homeland Security Before the Science and Technology Committee, Subcommittee on Investigations and Oversight, 25 June 2009

[58] Risk-Based, Layered Approach to Supply Chain Security: Fiscal Year 2010 Report to Congress, 13 April 2010, p.10

[59] SAIC VACIS Systems: Nonintrusive Inspection of Cargo and Vehicles, p. 2. Retrieved 19 July 2010 from: http://www.counterdurg.com/images/infoguide12_05

[60] C-TPAT membership does not translate into immunity from search. Rather, it is a factor in determining whether a particular importer's cargo should be searched.

Member Type	Number of Members	Percentage
Importers	4,330	46%
Carriers	2,583	27%
Brokers	821	9%
Maritime Port Operators	56	1%
Consolidators/Third Party Operators	784	8%
Foreign Manufacturers	935	10%

C-TPAT has been working with several foreign customs administrations to align with their industry partnership programmes, which effectively allows CBP and other like-minded countries to create global cargo security standards. As a result, CBP has signed Mutual Recognition Arrangements with New Zealand, Canada, Jordan, Japan and the Republic of Korea. Under these arrangements, the parties recognise the validations of each other's programmes, thus cutting down the constant need for continual validations of each country's companies.

International Partnerships

CBP has engaged in a number of international initiatives designed to increase its risk-management abilities and those of its international partners. These initiatives include the Container Security Initiative (CSI), Secure Freight Initiative (SFI), international training programmes, and international agreements and arrangements.

Container Security Initiative

In order to further increase cargo security, CBP has partnered with other countries through CSI. This programme allows CBP (working with host government customs administrations) to examine high-risk maritime containerised cargo at foreign seaports, before cargo is loaded on board vessels destined for the United States.[61] As of this writing there were 58 foreign ports participating in CSI, accounting for 85 per cent of container traffic bound for the United States. The Port of Auckland is one of those ports.

For containers that are destined for the US, CBP officers stationed at foreign CSI ports review 100 per cent of the cargo manifests[62] originating and/or transiting those foreign ports. In locations where the tremendous volume of manifests prevents the CSI team at the port from performing 100 per cent review, or during port shutdowns, CSI targeters at the NTC-C provide additional support to ensure that a 100 per cent review is accomplished.

Secure Freight Initiative

SFI is a joint effort between the DHS and the Department of Energy (DOE) to strengthen global supply chain security by piloting and evaluating the effectiveness of scanning of 100 per cent of US-bound maritime cargo using radiation detection and

[61] Retrieved from: http://www.dhs.gov/files/programs/gc_1165872287564.shtm.

[62] Manifests contain a description of cargo and other cargo information. If the cargo description does not match the contents of the container, then CBP will likely further investigate the matter.

imaging equipment before the cargo is allowed to depart the United States. SFI operations started in four ports: Qasim, Pakistan; Southampton, United Kingdom; Puerto Cortes, Honduras; and Busan, Korea. The port in Southampton has since ceased SFI operations.

Customs Mutual Assistance Agreements

In the context of burgeoning trade, a truly global supply chain system and finite government resources, customs administrations increasingly depend on cooperation and mutual assistance as a way to augment national efforts to enforce customs controls.

The primary instrument that CBP negotiates to receive and provide this assistance is the Customs Mutual Assistance Agreement (CMAA). CMAAs provide a legal framework for information sharing and cooperation in investigations between customs administrations. The agreements serve as an effective means for enhancing the enforcement of national customs laws, particularly in relation to commercial fraud and narcotics trafficking. They benefit the US by providing a structure for mutual assistance to prevent, investigate, and repress offences against the customs laws of either country.[63] In another example of US-New Zealand Cooperation, New Zealand and the United States signed their CMAA in 1996.

[63] Because the mutual assistance agreements entail that the United States undertake international obligations, foreign policy, permission to negotiate must come from the Department of State. The United States has concluded 64 agreements to date.

3 TRADE RECOVERY: A COMPLEMENT TO RISK MANAGEMENT

Despite the high level of success of each country's risk-management system, no procedure is perfect. Risk management cannot prevent earthquakes or hurricanes, and it will not necessarily be able to prevent every man-made incident. Thus, countries need plans to respond to an incident and the resulting impact on movement of trade. Trade recovery could be that response.

The Approach of International Organisations to Trade Recovery

Two international organisations have made trade recovery a priority on their respective agendas: the Asia Pacific Economic Cooperation (APEC) and the World Customs Organization (WCO).

Asia Pacific Economic Cooperation (the APEC Trade Recovery Programme Guidelines)

In 2006, APEC recognised the need to have a plan to recuperate from an incident that disrupts trade. In 2007, 10 APEC Economies developed the initial version of the APEC Trade Recovery Programme (TRP) Guidelines.[64] APEC based the guidelines on existing international frameworks and arrangements such as those from the WCO and the International Maritime Organization (IMO).[65] The guidelines stated that those instruments advocate a risk-based, total supply chain security approach inclusive of all stakeholders. One of the key focuses of the guidelines was the building of trusted relationships between Economies to facilitate information sharing.

Testing the Trade Recovery Programme Guidelines

From May 2008 to January 2009, seven of the original 10 Economies participated in developing the APEC TRP. The group held 4 planning group meetings that led to a two-day table top exercise (TTX) in February 2009. The scenario was that of an improvised radiological dispersal device (a so-called "dirty bomb") exploding in the Port of Long Beach, California. The TTX helped refine the proposed exercise and informed further testing of the TRP guidelines during a subsequent 10-day exercise that was conducted in two phases. Phase 1 covered the activation of the TRP and the first five days following an event which severely disrupted trade and resulted in cargo backlogs that required collaboration amongst partners to restore cargo flows. Phase 2 played through the actions taken by respective players once cargo flows had reached a level of stability.[66]

---

[64] The participating Economies were Australia, Brunei, China, Indonesia, Japan, Korea, New Zealand, Singapore, the United States and Viet Nam. *APEC Trade Recovery Programme Pilot Exercise Report – Second Senior Officials' Meeting Plenary Session*, Singapore, 19 July 2009 (2009/SOM2/018)

[65] The International Maritime Organization (IMO) is a specialized agency of the United Nations, which is responsible for creating measures to improve the safety and security of international shipping and to prevent marine pollution from ships. In 1948, an international conference in Geneva adopted a convention formally establishing the IMO. Within the IMO, there are several legally binding agreements; CBP is concerned mainly with the International Convention for the Safety of Life at Sea (SOLAS), the International Ship and Port Facility Security Code (ISPS Code) and the Convention on Facilitation of International Maritime Traffic (FAL Convention).

[66] *Trade Recovery Exercise Report,* p.2.

Conclusions of the Report[67]

Moving forward, the TPE participating Economies made the following recommendations at SOM II:

1. That APEC Economies be encouraged to develop and/or broaden their respective AEO programmes in alignment with the WCO SAFE Framework of Standards at a pace that is cognisant of their domestic constraints and challenges.

   The SAFE Framework is a strategy that secures and facilitates international trade. According to the SAFE Framework, its objectives are to:

   - establish standards that provide supply chain security and facilitation at a global level to promote certainty and predictability
   - enable integrated supply chain management for all modes of transport
   - enhance the role, functions and capabilities of customs administrations to meet the challenges and opportunities of the 21st Century
   - strengthen cooperation between customs administrations to improve their capability to detect high-risk consignments
   - strengthen customs/business cooperation
   - promote the seamless movement of goods through secure international trade supply chains. [68]

2. That APEC Economies be encouraged to explore establishing trusted relationships based on the WCO SAFE Framework and IMO concepts which the APEC TRP Guidelines incorporates, as early as practicable. This would help Economies to improve risk assessment and mitigation, and thereby expedite clearance and movement of cargo along the supply chain, as well as deter possible attacks on the global supply chain.
3. That APEC Economies that are ready to embark on a trade recovery programme be encouraged to develop Economy-to-Economy as well as public-private sector communications mechanisms with relevant partners to operationalise the APEC TRP.
4. That APEC Economies recognise the importance of organising capacity building initiatives such as training programmes, symposiums and workshops on best practices in relation to the APEC TRP. [69]

Analysis of the APEC Trade Recovery Programme Guidelines

With regard to the APEC TRP Guidelines, some points bear consideration:

- This first attempt at drafting trade recovery guidelines had a strong focus on a company's status in trusted trader programmes as a strong determinant of when and what cargo should move. As the programme progressed, however,

[67] Ibid. pp.5-8
[68] WCO SAFE Framework Section 1.2 "Objectives and principles of the SAFE Framework"
[69] Ibid.

more factors emerged that would be important to cargo prioritisation in a trade recovery situation. In addition to trusted trader status, the emergency needs of a country and the challenges of expediting movement of trusted trader cargo also had to be considered.

- Not all Economies would have trusted trader programmes in place at the time a trade disruption event occurs, but the Economies would still need to respond to the event. A communications mechanism that is able to stand alone from trusted trader programmes is necessary in order to facilitate trade.
- Finally, the importance of communications mechanisms was made abundantly clear during the course of the TRP exercises when the creation of an exercise-only mechanism was required simply to execute the exercise. Without such mechanisms, determinations about cargo movement could not be made and requests for assistance could not be addressed. In sum, it is important that Economies be able to know who to call when there is a disruption, and what information will need to be exchanged. Despite these limitations, the APEC TRP was invaluable in that it drew attention to the issue of trade recovery.

WCO Trade Recovery Guidelines

In 2009, the membership approved the WCO Trade Recovery Guidelines. The WCO Trade Recovery Guidelines are best practices from which customs administrations could draw when developing their respective trade recovery plans. The Guidelines are based on the principles of the WCO SAFE Framework, and are now an annex to the Framework.

The first component of the guidelines stress is that it is important that governments have a plan of action. The plan should include a logical sequence of steps taken prior to and following a disruption and leads to the resumption of full pre-event operations. This plan of action should be holistic in nature, focusing on the roles and responsibilities of government and non-government stakeholders.

The second component of the guidelines recommends that customs administrations have an effective and efficient basis to assess cargo risk. Effective risk assessment leads to redistribution of resources to areas where they can be most efficiently used. These decisions cannot be made in isolation. Customs must work with all other stakeholders (e.g. private sector, foreign governments, domestic agencies and other federal agencies) to have a full understanding of the situation and its challenges.

The final component of the guidelines recognises the necessity of information exchange between customs administrations and the private sector to achieve successful trade recovery. According to the guidelines:

> Communication is the main mechanism in demonstrating transparency and building trust among Customs administrations, between Customs administrations and other government agencies, and between Customs administrations and Businesses. Well-established communications channels among the relevant stakeholders will enable effective co-ordination in the aftermath of an incident, and facilitate the swift recovery of trade.[70]

[70] WCO Trade Recovery Guidelines Section 4.3.

Although defined as its own component, communication is the thread woven through the entire trade recovery process. It touches each stakeholder involved in a trade recovery situation. Recognising this, the WCO Trade Recovery Guidelines expressly recommend that customs administrations establish communications protocols that include points of contact with other customs administrations and relevant stakeholders.

Trade Recovery Policy in the US

In its simplest form, managing trade recovery requires an accurate understanding of the conditions constraining the supply chain, the current capabilities of the transportation system, identifying priority goods and people (preferably via partnership between public and private sector stakeholders), communicating priorities with those responsible for movement, and facilitating the actual movement.

Note that the main objective here is to communicate priorities. In developing its protocols, the US has chosen not to design them to make operational mission assignments, operational decisions, business decisions or establish local or regional priorities. These activities are the responsibility of those individuals with the operational authority to coordinate actions at the local and regional levels as appropriate.

The US trade recovery protocols focus on providing discussions and prioritisation at the national level. The primary objectives of the protocols are to:

- provide a forum for joint intergovernmental dialogues and joint government/private sector dialogues to identify and act on important issues to expedite trade recovery and the resumption or continuity of commerce
- assist senior-level decision-makers by providing a process to collect and disseminate information to understand the status of the national transportation system and to facilitate joint decision-making
- assist senior-level decision-makers by providing recommendations for national-level priorities for recovery of the transportation system and resumption/continuity of trade. The priorities may include people, cargo or vessel priorities, or strategic actions necessary to facilitate rapid recovery.

These objectives reflect the impracticality of attempting to create protocols that dictate the actions of all levels of governments. The national government, however, will convey any identified national priorities to the state and local authorities so that they can factor those priorities into their operational decision-making processes.

When speaking of a “disruption in trade”, the bottom line is that the incident has caused a disruption in the transportation system. The United States took a holistic view in to developing its protocols because governments cannot simply focus on the area that the incident directly impacts. Rather, there will be ripple effects that the protocols must also address. For example, if an incident limits a port’s ability to operate, other ports might have to take on cargo that was to arrive at the initially

affected area.[71] In order to prepare for this kind of challenge, the US has identified five critical success factors for efficient management of a disruption of the transportation system:

1. identification of transportation system capacities and constraints
2. communication of capacities and constraints to stakeholders
3. collaboration on mitigation plans between public and private stakeholders
4. alignment of resources
5. unity of effort to relieve system constraints and increase transportation system capacities.

Response management systems in the United States rest upon the foundation of state and local governments being first on scene. Under the precepts of the US National Response Framework, Federal government support is provided when state and local resources are overwhelmed, or when an incident spans multiple jurisdictions.

The Basic Phases of a Recovery Process

Although there will be some differences based on the type of event and location, governments and the private sector will have to go through several phases to achieve recovery:

- response
- stabilisation
- intermediate recovery activities
- long-term recovery
- trade recovery.

Response activities are taken to successfully respond to a continuing active threat, such that the actions mitigate the event's damaging effects as much as practicable. Ensuring basic human needs are met, maintaining the infrastructure necessary to move goods and people fit into the category of response activities.[72]

As response activities conclude and the threat is contained, stabilisation begins. Stabilisation is the process that achieves the management and containment of the event's immediate impact on community systems. Stabilisation includes such activities as providing essential health and safety services, ensuring that transportation routes remain clear, and removing debris. Stabilisation activities also create an environment where recovery activities can begin. In sum, stabilisation is about taking care of people, making sure there is a path upon which assistance can arrive, and providing space where the actual trade recovery activities can take place. The various elements of a community system will stabilise on different time frames, leading to a situation in which response, stabilisation, and restoration activities can occur

[71] Incidents requiring coordinated trade recovery may or may not involve a Presidential declaration of an emergency or a declaration of a major disaster.
[72] Department of Homeland Security Strategy to Enhance International Supply Chain Security, July 2007, p.31

concurrently.[73]

Intermediate recovery activities involve taking actions that return people, critical infrastructure and essential government or commercial services back to a functional state. Such activities are often characterised by temporary actions that provide a bridge to permanent measures. Examples of these actions include providing interim shelter and planning for long-term housing solutions, returning displaced persons to their community or developing impact assessments of key resources.

Long-term recovery follows intermediate recovery and may continue for months to years. A long-term recovery plan establishes the process of rebuilding damaged or destroyed social, economic, natural and built environments in a community to specified conditions.

Trade recovery specifically addresses the activities related to coordinating and facilitating the movement of goods and people across the border. The effort may involve taking actions that redirect port traffic from the affected ports to non-impacted ports (e.g. a US west coast disruption may cause trade to divert to ports located in Hawai'i or Alaska).[74]

Recovery could also include governments assisting the private sector in identifying and implementing mitigation plans, and determining cargo processing priorities consistent with actual capabilities. Trade recovery activities may be conducted in parallel with response and stabilisation efforts and continue through the intermediate and long-term recovery phases.

Implementing trade recovery requires that decision-makers take steps to restore trade that are commensurate with the impact of the incident. This approach should provide the optimal mix of security and trade facilitation. For instance, it is CBP policy to try to localise the event to the maximum extent possible and not to close all of its ports in response to an incident.

Responsibility for Trade Recovery Activities

The United States trade recovery protocols are well developed for both land and maritime incidents. Administration of the protocols is primarily the responsibility of CBP and the USCG. The protocols are currently undergoing a revision based on three years of experience. They involve a pre-planned communications system that contains pre-identified contacts within the government and both the carrier and trade segments of the private sector.

Communication systems allow for exchanges of information that help resolve issues such as prioritisation of goods, cargo diversion, and movement of goods across the border, and represent the most critical component of trade recovery.

The jurisdictional responsibilities for cargo security can change depending on where the cargo is located along the supply chain. For instance, both the USCG and CBP

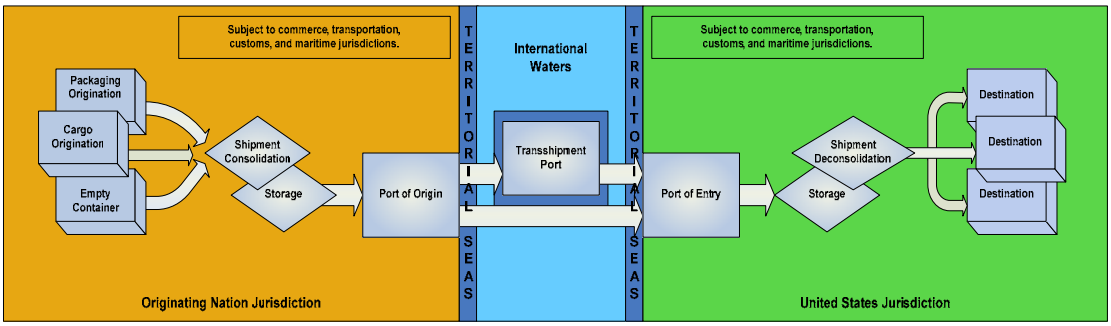
[73] Ibid. p.32
[74] 31st APEC Transportation Working Group Meeting (TPT-WG31) Presentation, Lima, Peru, 25 August 2008

have specific jurisdictions within one port, and every government has different laws, policies and procedures. As an example, following a fictitious container shipment from a foreign area to the United States, the container could:

1. be subject to the originating country's commerce and transportation laws and regulations as its contents are manufactured, containerised and transported to a port
2. move into jurisdiction of that country's customs administration
3. move from customs jurisdiction to that of the governments' maritime administration
4. depart the nation's maritime jurisdiction and enter international waters, where it would be subject to multiple international agreements and where the vessel could conceivably be under the control of a second nation serving as the vessel's Flag State
5. come under the jurisdiction of the US via the USCG
6. arrive in the customs waters or at a port and transfer into the jurisdiction of the customs administration
7. be released by customs for further transport and become subject to the jurisdiction of the a country's transportation authority or, in the alternative, upon release by CBP, the cargo would become subject to state and local jurisdictions.

The end-to-end supply chain jurisdictions are shown graphically in Figure 6.[75]

FIGURE 6: POSSIBLE INTERNATIONAL JURISDICTIONS IMPACTING SUPPLY CHAINS



Due to the complexities of the supply chain, and the differences in jurisdictional assignments made by trade partners, it is US Government policy to negotiate necessary agreements or arrangements bilaterally, country by country, or, where appropriate, to work with international organisations.

From a strictly US perspective, below are descriptions of the primary functional responsibilities of United States entities with responsibilities involving cargo, trade, customs and security, including restoration activities in the event of a transportation disruption.

[75] Department of Homeland Security Strategy to Enhance International Supply Chain Security, July 2007, p.31

US Coast Guard

The USCG is one of the five armed forces of the US and the only military organisation within DHS. The USCG protects the maritime economy and the environment, defends the US maritime borders and conducts rescue activities. As lead entity for managing maritime incidents, the USCG can redirect vessels, obtain relief from legal requirements in an effort to re-route cargo, and facilitate the development of national priority recommendations to the President of the United States.[76]

CBP

CBP is the lead agency managing land border incidents and the supporting agency to the USCG in the event of a maritime incident. In this role, the agency helps the private sector determine where cargo should be diverted. CBP also coordinates with the governments of Canada, Mexico and Panama to make arrangements for the diversion of US-bound cargo.

In addition to these measures, CBP uses its traditional risk-management tools to identify further risks and respond to the incident. The agency would still inspect and search incoming vessels, conduct seizures and review manifests for discrepancies. CBP would continue to review cargo information and inspect cargo containers in advance of loading in foreign ports via CSI and SFI. Finally, CBP could redistribute its resources to support other agencies or meet urgent needs to additional cargo screening in non-impacted ports when cargo diversions occur.[77]

State, Local, and Tribal Government Responsibilities

Although cross-border movement of goods and people is a function of the US government, close consultation with state, local, and tribal authorities will be required to ensure synchronization of activities, especially in areas not directly impacted by a disruption, but are subject to secondary effects such as increased intermodal traffic resulting from trade diversions.

In the impacted area, state, local, and tribal governments have the primary responsibility for incident management and recovery efforts immediately after an incident. These governments would be actively involved in identifying cargo priorities specific to their jurisdictions, all the while taking into account national priority goods as designated at the Federal level.

Private Sector Responsibilities

It is anticipated that members of the private sector will implement business continuity plans/recovery operation plans on their own accord based on incident information provided by the US government. Information that may influence the decision to implement contingency plans and divert or redirect cargo and/or the conveyances includes:

[76] Department of Homeland Security National Strategy for Maritime Security: The Maritime Infrastructure Recovery Plan, April 2006, pp.10-11
[77] Ibid.

- national priorities
- military requirements
- transportation system restrictions
- expected duration of those restrictions
- any regulatory waivers enacted to address the incident.

As a component of their business, private sector entities have responsibility for planning, operations and advisory aspects relating to recovery of cargo movement and restoration of passenger and trade flows. All private sector recovery operations plans should include (1) a plan for evacuation (2) adequate communications capabilities and (3) a plan for business continuity.

Prioritisation of Goods and Conveyances

In a trade recovery situation, priorities for what gets in and out must be set. This prioritisation provides a level of organisation in chaotic circumstances. Two types of trade recovery priorities can be set: (1) goods and people and (2) conveyances.

Goods and People

In this category, goods and people can be prioritised in the following order:

1. those required to support response and recovery operations
2. those identified as national priorities
3. those participants in trusted trader and trusted traveller programmes (e.g. C-TPAT, SES, SmartGate[78] and Global Entry[79])
4. everything and everybody else.

In the US, the President or the President's designee would set out what goods would fall into priorities 1 and 2.

Conveyances

For conveyances, prioritisation could be based on many different factors, such as:

- vessels with a history of compliance with laws, policies and procedures

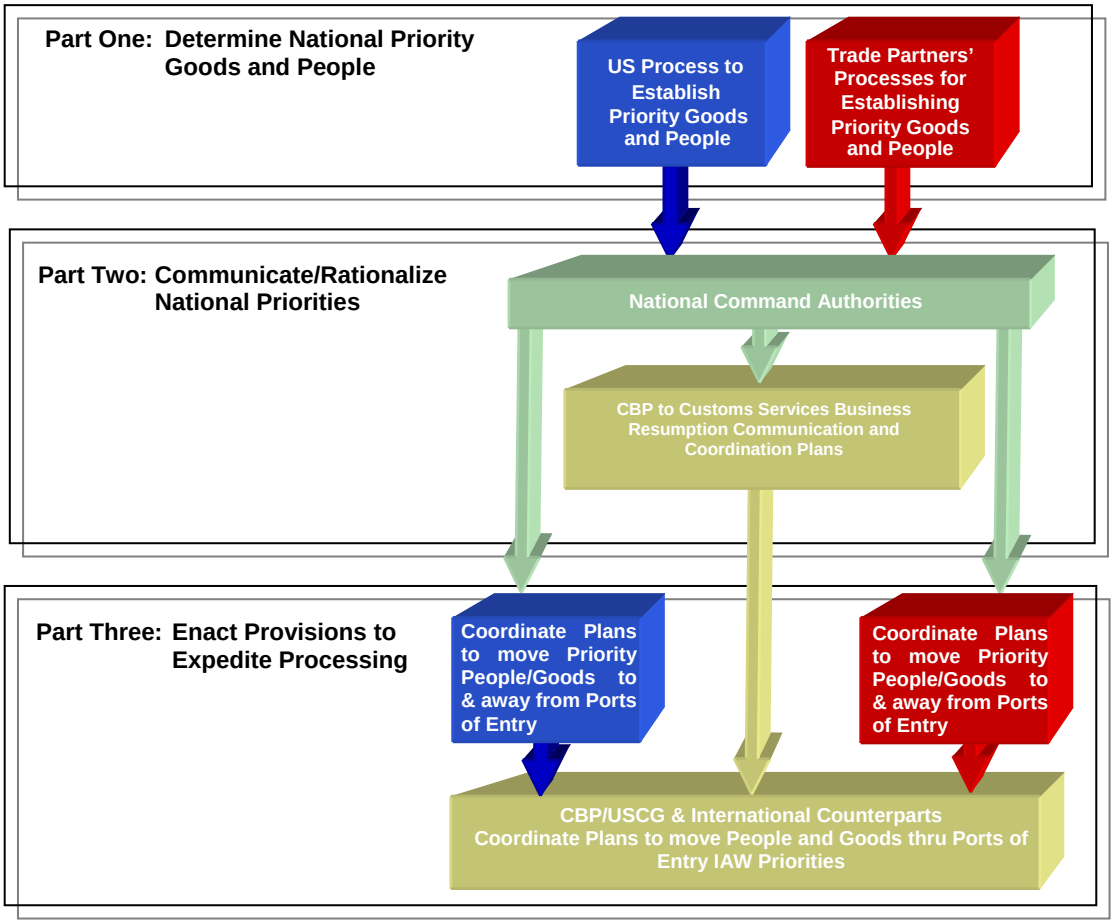
[78] SmartGate gives New Zealand and Australian citizens arriving into New Zealand international airports the option to self-process through passport control. It uses the electronic information found in electronic passports (ePassports) and facial recognition technology to perform the customs and immigration checks that are usually conducted by a customs officer. Retrieved 23 July 2010 from: http://www.customs.govt.nz/Border+sector/Trans-Tasman+travel/Q+and+As/Smartgate.htm

[79] Global Entry is a programme managed by CBP which allows pre-approved, low-risk travellers expedited clearance upon arrival into the US. Participants enter the US using automated kiosks at designated US international airports. The programme requires that participants have a machine-readable passport or permanent resident card, submit their fingerprints for biometric verification and make a customs declaration at one of the kiosks. Rather than speak with a customs officer, the traveller is issued a transaction receipt and directed to baggage claim. Global Entry Program Overview, Retrieved 23 July 2010 from: http://www.cbp.gov/xp/cgov/travel/trusted_traveler/golbal_entry/global_entry_discription.xml

- cargo aircraft with sound security programmes participating in known shipper programmes
- aircraft with no identified crew or passenger security concerns.

The figure below shows an example of a national prioritisation system.

FIGURE 7: CORE ELEMENTS OF TRADE RECOVERY[80]



Communications with Foreign Trading Partners

Incidents may require consultation with foreign trading partners to address bilateral priorities or temporarily control the flow of non-priority cargo. These trading partners must convey their national good priorities and cargo movement needs. Two procedures would be used, as appropriate, for such communications: DOS facilitated dialogues and pre-developed bilateral trade recovery communications mechanisms. For the purposes of this paper, the focus will be on the latter.

Bilateral Trade Recovery Communications Mechanisms

As put forward in the WCO Trade Recovery Guidelines, bilateral communications

[80] Movement of Goods and People Across the Border During and Following an Emergency, Joint presentation by Stuart MacPherson, Canada Border Services Agency and Robert T. Moore III, United States Customs and Border Protection, 20 October 2009

mechanisms should be established between customs administrations and individual trading partners. In these instances, CBP would provide for a facilitated dialogue with an individual country's entity (or entities) responsible for trade recovery operations.

Such mechanisms can include:

- activation procedures, with activation triggers where possible
- the identification of specific essential elements of information (EEI) necessary to manage trade recovery scenarios in keeping with bilateral information sharing and security arrangements
- contact information for both parties
- agreements as to contact methodologies
- procedures to maintain and validate contact information
- procedures to exercise the mechanism.

Discussions between trading partners would be done using the applicable communications mechanism (most likely via teleconference) at mutual agreed-upon times. Appropriate DOS personnel, including the embassy staffs, would be involved in this process. Once international partners establish the initial trade recovery dialogues, they should continue until the transportation system has either returned to normal operations or a new, permanent or long-term level of operations has been established.

Protocols Process

When the trade recovery protocols are activated, CBP and the USCG would determine the status of the transportation system and communicate this status through the use of CBP's business resumption web portal to the trade community. Trade support groups are provided with a more detailed electronic communication which is followed up with a conference call where the communication is reviewed to ensure that it is understood by all participants. Once this group has situational awareness, CBP will ask them to provide any mitigation plans that they may have.

As demonstrated by the activation procedures, the most critical system in managing trade recovery is the establishment of communications mechanisms, both between the public and private sectors, amongst government agencies and Departments, and internationally. There are six steps to the trade recovery protocol process:

1. initiation of protocols
2. collaboration on the initial assessment of the incident
3. development of mitigation strategies and plans
4. implementation of mitigation strategies and plans
5. management of mitigation strategies and plans
6. protocol deactivation.

Step 1: Initiation of Protocols

Before activating the protocols, the appropriate authorities from both countries would consult and agree to the initiation. At such time as it is agreed to activate them, the operations centres of both countries would be responsible for:

- providing the communications capabilities required for implementation of the protocols
- collecting and sharing relevant information related to the incident that is applicable to joint trade recovery matters. This includes providing essential elements of information (EEI) as well as information on each country's respective agencies' actions that could affect trade flows or commercial operations.

EEIs are templates designed to facilitate collecting and disseminating consistent information regarding the status of the transportation system following a significant disruption in incident areas and specified non-incident areas. Furthermore, they show the level of availability of resources. For instance, in the following example of an EEI below, the abbreviation "F/A" means that a resource is fully available for use, while "P/A" indicates a partially available asset, and "N/A" means that the resource is not available.

FIGURE 8: ESSENTIAL ELEMENTS OF INFORMATION

PORT AREA STATUS REPORT: ESSENTIAL ELEMENTS OF INFORMATION					
Part 1:	**Identify the Sources of Data for the EEI**				
	Harbour Police	Port Authority			
	USA Corps of Engineers	Tug Boat Operators			
Part 2:	**Check the appropriate column of the applicable item to the port area, indicating whether the item is fully available (F/A), partially available (P/A) or not available (N/A). If there is an explanation, it should be provided in the explanation column. Use numbers to identify how many terminals and facilities are operational.**				
	Asset	*F/A*	*P/A*	*N/A*	*Explanation*
	Waterway Availability		x		
	Highway Availability	x			
	Highway Bridge Status	x			
	Railroad Availability		x		Debris
	Airport Availability	x			
	Container Terminals Operating	4			

EEIs like this provide a quick snapshot from which stakeholders can benefit when implementing their mitigation strategies.

Step 2: Collaboration on the Initial Assessment of the Incident

Once a determination is made to initiate protocols, the partners activate their respective internal maritime trade recovery processes if they have not already done so. The parties will then convene a conference call to collaborate on their respective governments' assessment of the situation including, but not limited to, additional

security requirements, EEIs, any constraints and/or limitations that may have been imposed on the system, and any national priorities for the movement or goods and/or people that may have been established.

Step 3: Development of Mitigation Strategies and Plans

Both the public and private sectors have existing internal processes they employ for developing strategies and plans to mitigate the effect of a disruptive event on the maritime transportation system.. The parties would continue to use their existing internal maritime trade recovery processes even after a determination has been made that an event in one country or both countries could or does significantly disrupt the flow of trade and/or passengers between them. The countries would also provide representatives to participate in each other's trade recovery processes.

Step 4: Implementation of Mitigation Strategies and Plans

Both countries will consult on their collective ability to support the maritime aspects of their internal mitigation plans. In those instances where mitigation plans can be fully supported, each country will indicate whether if doing so requires redeploying resources. If it does, the party or parties needing to realign resources will attempt to harmonise the time frame for doing so with the other parties and will alter the overall mitigation plan as necessary.

In instances where one or more parties cannot support all or part of the mitigation plans, the parties will work collaboratively to identify the constraints and amend mitigation plans to take those constraints into account.

Step 5: Management of Mitigation Strategies and Plans

The partners will continuously convey new information from EEIs to their Communication Centres, as well as provide information from other sources to monitor and adjust the status of the overall capability to handle passengers and cargo. Continuous monitoring, updating and sharing of situational awareness information ensures that national-level senior government leaders have the most current information to best facilitate and collectively manage the MTS's recovery.

Step 6: Protocol Deactivation

Deactivation will be coordinated between participants as the need for trade recovery incident management recedes.

4 NEW ZEALAND AND THE US'S APPROACH TO CONTINGENCY PLANNING AND TRADE RECOVERY

New Zealand's Contingency Plans and Their Relationship to Trade Recovery

Although New Zealand does not have a trade recovery programme, it does have contingency plans that contain elements that could be useful in designing its own protocols. New Zealand Customs has a plan for managing pandemics, port accidents, and power failures.[81]

Trade and Marine Pandemic Contingency Plan

New Zealand Customs' trade and marine group manages the agency's responsibilities in relation to the arrival and departure of marine craft, passengers, crew and cargo. The group ensures that traders are legitimate and comply with New Zealand's public policy and the country's obligations under international agreements. The group is made up of four operational business units: (1) northern ports (2) trade assurance (3) client services and (4) central and southern ports.[82]

The trade and marine group's pandemic contingency plan could be relevant to a trade recovery situation. First, it has a decision-making structure in place. The group has an incident management team makes the decision as to when to shut down activities when absence of staff reaches such a critical level that it threatens continuity of business operations. Second, in the event of a breakdown of communications systems, a method of mitigating the effects includes having a clear communication plan. With regard to cargo management, part of the contingency plan focuses on how to manage cargo processing. In this instance, New Zealand Customs would shift to manual profiling and screening of people and cargo. In addition, customs would establish temporary customs controlled areas (CCAs) to increase port storage capacity.[83]

Port Chalmers and the Port Otago Facility

Another entity that has some contingency plans for a disaster is the Port Otago facility at Port Chalmers. [84] Port Chalmers is located in Dunedin on the east coast of New Zealand's South Island. It is primarily an export port for meat and dairy products.[85] It also handles a small amount of container maintenance, and truck and rail cargo. These

[81] New Zealand Customs Service Trade and Marine Pandemic Continuity Plan, 30 June 2009

[82] Trade and marine offices are located in the Bay of Islands, Whangarei, Auckland, Hamilton, Tauranga, New Plymouth, Gisborne, Napier, Wellington, Nelson, Christchurch, Timaru, Dunedin and Invercargill.

[83] The Customs and Excise Act of 1996, Section 10 (b)-(e). According to this section, a customs controlled area is an area that is required to be licensed for the (1) deposit, keeping or securing of imported or excisable goods, without payment of duty on the goods, pending the export of those goods (2) the temporary holding of imported goods for the purposes of the examination of those goods (3) the disembarkation, embarkation or processing of persons arriving in or departing from New Zealand or (4) the processing of craft arriving in or departing from New Zealand or the loading or unloading of goods onto or from such craft.

[84] Information from this part of the report was collected from a port visit to Port Otago and Port Chalmers in Dunedin on 15 July 2010.

[85] The port is wholly owned by the area's regional council, to which the port pays dividends.

operations run for 16 hours per day. Vessel operations run 24 hours a day, seven days a week.

In an interview conducted on 15 June 2010, Port Otago management personnel provided an outline of what actions they would take in the event of a port disruption. The feeling was that the most likely cause of a port disruption would be an IT failure. In the event of a failure of external communications (e.g. if national phone service providers are out of service), the port has a backup system where communications could be routed to an electronic mailbox separate from the external communications grid. Another specific IT issue is the failure of the Electronic Commerce Network,[86] which is the customs network through which electronic cargo information reports are filed. If the IT issues could not be resolved, then the end result could be that exporters would have to carry their documentation to the port by hand for clearance.

Another situation that the port's management discussed was the effect of bomb threats. A threat alone could cause so much disruption that it actually leads to a port shutdown that could last for two days due to the bomb squad being located seven hours away.

The final example of a realistic disruption facing the port is the effect of natural disasters such as earthquakes and landslides. Even if the port itself sustained little or no damage, traffic in and out could be hindered if the one road that leads to the port suffers heavy damage.

Port Response

To respond to an incident, personnel might be shifted from normal cargo processing operations to a security response.

The response process was described as follows:

1. The container terminal would be shut.
2. The port would let the shippers know how much capacity they have and their ability to accommodate any cargo brought in.
3. Shippers would dictate where they send their cargo.
4. If the conditions reach a certain level of danger, then the New Zealand Government would assume control of the port.

Port Otago has had experience with taking on port volumes from other areas. A port in Lyttelton, located north of Port Otago near Christchurch, closed for four weeks after a crane that moves containers from a vessel to the port terminal toppled over. Skilled labour from the affected port was shifted down to Port Otago to assist with the volume increases. This move was made possible by the existence of agreements among port operators regarding staffing matters.

Keeping track of the location of cargo already in the terminal would be a challenge as

[86] The Electronic Commerce Network is a company contracted by New Zealand Customs to manage its online declarations website. Retrieved 19 July 2010 from: www.customs.govt.nz/importers/Commercial+importers/Clearance+via+internet.htm

well. Normally employees can determine a container's location in the terminal via computer. If staff find themselves in a position where they no longer have this electronic monitoring ability, staff would map the location of the containers in the terminal by hand.

The port interview showed the response to a disruption in this situation is similar to that of the US in the event of an incident. In interviews with staff at the Port of Napier, the same process was delineated.[87]

United States-Canada Approach to Trade Recovery

Even though they have a shared border, prior to 2007 CBP and the Canada Border Services Agency (CBSA) did not share a joint plan that would assist in resuming for trade should there be a disruptive event at that border. Rather, each country had its own individual contingency plans to respond to incidents that occurred on either side of the border. [88]

In an effort to coordinate the individual response plans of the two agencies, the Security and Prosperity Partnership (SPP) Initiative 9.2.7 called upon CBP and CBSA to develop business resumption protocols[89] at land border ports of entry in the event of an unexpected disaster and/or increased alert levels.[90] In July 2007, the two countries put forward their business resumption procedures in the Joint CBP/CBSA Business Resumption Coordination Protocols (BR CCP).[91]

The Joint CBP/CBSA Business Resumption Communications and Coordination Protocols

Just as in the case of the US approach to trade recovery and the WCO Trade Recovery Guidelines, the overarching purpose of the CBP/CBSA protocols is to establish communications mechanisms that can help all stakeholders respond to an event. The specifics of the US-Canada communications mechanism are contained in the BR CCP. The BR CCP is highly detailed and places trade recovery theory into practice. The protocols designate points of contact and delineate the responsibilities of each. This designation runs from the highest levels of customs headquarters to the field office level. Unless otherwise designated, the commissioner of CBP and vice-president of CBSA Operations jointly decide whether to activate the protocols. Operational discussions ensure that the decisions that are agreed upon by high-level decision-makers get carried forward. These discussions are conducted between customs headquarters personnel from Ottawa, Ontario and Washington, DC.

In addition to establishing POCs, the protocols have procedures in place for the management of information related to the event. CBP's Situation Room and the CBSA Emergency Operations Centre coordinate all of their respective customs

[87] Interviews were held with New Zealand Customs officials in Napier on 22-23 July 2010.
[88] Security & Prosperity Partnership (SPP) 9.2.7 Business Resumption: CBP/CBSA July 2006 Tabletop Exercise After-Action Report 21 September 2006, p.2
[89] While trade recovery focuses on moving people and goods across the border, the term "business resumption" encompasses moving people and goods to, across, and away from the border. The procedures used in business resumption can be used for trade recovery as well.
[90] Ibid.
[91] Joint CBP/CBSA Business Resumption Communications and Coordination Protocols, July 2007.

administration's actions and communications.[92] That coordination role includes keeping the private sector informed as to the status of trade recovery operations. The key pieces of information that should be provided are the names of the affected POEs and the description, time and location of the incident. EEIs would be incorporated in this instance as well.

Just In Case...

In drawing up the BR CCPs, the US and Canada recognised the likelihood of challenges to implementing the protocols. Section 8 of the BR CCPs highlights three particular concerns:

- impairment of the field offices due to an incident
- restriction of ability to deploy mobile or transportable communications equipment into the impacted area
- unavailability of capacity when most needed.

Because these factors might hinder the implementation of the bilateral protocols, the BR CCPs require that both countries have their own contingency plans in place to as back up systems.

[92] Ibid. Section 7.2

CONCLUSION

Today's trade recovery efforts are nascent; however, the international community will continue to build upon these efforts. The guidelines that APEC and the WCO have created can only go so far in their applicability to individual countries. It is therefore up to governments to create their own protocols and incorporate the relevant parts of international trade recovery guidelines.

In the case of New Zealand and CBP's readiness to pursue a bilateral trade recovery relationship, this research yielded the following findings:

1. New Zealand Customs and CBP have the resources to develop joint trade recovery protocols. This conclusion is based on the following:
    - similarities in risk-management systems
    - existence of already-established communications systems
    - the strong bilateral relationship shared between the countries
    - both countries' high level of engagement on the trade recovery issue within the international community
    - existence of New Zealand Customs continuity plans that contain elements that would be useful in developing a trade recovery mechanism
    - existence of well-developed US protocols that could serve as a good starting point for a bilateral trade protocol relationship with New Zealand.

2. The most important part of any trade recovery plan is the existence of an efficient, effective communications mechanism that includes all relevant stakeholders in the public and private sectors.

Recommended Next Steps

5. The New Zealand Customs Service and CBP should begin discussions on how to set up the physical infrastructure for a communications mechanism for use in a trade recovery situation.
6. The protocols should be evaluated via table top exercises in both the US and New Zealand. These exercises should have private sector participation.
7. The lessons learned from the exercises should be used to craft the governing document for the mechanism.
8. The two parties should formally agree on the protocols.

Taking these steps would not only create US-New Zealand trade recovery protocols, but would also provide each country with a tool that could help them establish trade recovery relationships with other international partners. Additionally, the newly-developed protocols could assist the rest of the international community in refining its approach to the issue such that a basic international standard could be created.

BIBLIOGRAPHY

Agreement Between the Government of New Zealand and the Government of the United States of America Regarding Mutual Assistance Between Their Customs Services (1996), Washington, DC: New Zealand Customs Service and the United States Customs Service

Agreement Between the Government of the United States of America and Government of New Zealand on Science and Technology Cooperation Contributing to Domestic and External Security Capabilities (2010), Washington, DC: Government of New Zealand & Government of the United States of America

Annual Report 30 June 2009 – Pacific Security Fund – Ministry of Foreign Affairs and Trade, Retrieved from: http://www.mfat.govt.nz/Media-and-publications/Publications/Annual-report/0-Pacific-Security-Fund.php

APEC Trade Recovery Programme (2008), Singapore: Asia Pacific Economic Cooperation

Asia Pacific Economic Cooperation Second Senior Officials' Meeting Plenary Session, Singapore 19 July 2009 (2009/SOM2/018)

Border Sector Governance Group – Working together to secure our borders and strengthen our economy (2010), Wellington: New Zealand

Border Sector Governance Group Border Sector Strategy (2008-2013) 2008, Wellington: New Zealand Government

Brief Documentary History of the US Department of Homeland Security: 2001-2008 (2009)

Business Enterprise & Assurance: Cargo Counter Terrorism Strategy Project Final Report (2003), Wellington: New Zealand Customs Service

CBP Organization Chart (2010), Washington, DC: US Customs and Border Protection

CBP-Protecting Our Borders (n.d.), Retrieved on 8 July 2010 from: http://www.cbp.gov/xp/cgov/about/mission/cbp.xml

Comptroller of Customs Organisation Chart (2010), Wellington: New Zealand Customs Service

Customs Fact Sheet Number 34: Secure Export Scheme (2006), Wellington: New Zealand Customs Service

Customs Fact Sheet Number 34: Secure Export Scheme (2006), Wellington: New Zealand Customs Service

Customs Fact Sheet Number 34A: Secure Export Scheme Security Plan (2006),

Wellington: New Zealand Customs Service

Customs Fact Sheet Number 34B: Secure Export Scheme Process Map (2006), Wellington: New Zealand Customs Service

Customs Fact Sheet Number 34C: Secure Export Scheme Site Plan (2006), Wellington: New Zealand Customs Service

Customs Fact Sheet Number 6: Export Clearance Requirements (2008), Wellington: New Zealand Customs Service

Customs Fact Sheet Number 6A: Completing an Electronic Export Entry (2007), Wellington: New Zealand Customs Service

Customs Fact Sheet Number 6B: Completing an Electronic Cargo Information Report (2008), Wellington: New Zealand Customs Service

Deputy Comptroller Operations Organisation Chart (2010), Wellington: New Zealand Customs Service

Executive Summary of the APEC Trade Recovery Programme Pilot Exercise Report (2009), Singapore: APEC Trade Recovery Working Group

GM POL 03: Entry of Imported Goods Policy (2004), New Zealand Customs Service. Retrieved 12 July 2010 from: http://thelongroom/Opertations/Trade+and+Marine/Policy+Procedures+Working Information/

GM POL 05: Entry of Imported Goods Policy (2002), New Zealand Customs Service. Retrieved 12 July 2010 from: http://thelongroom/Opertations/Trade+and+Marine/Policy+Procedures+Working Information/

GM POL 22: Entry of Imported Goods Policy (2004), New Zealand Customs Service. Retrieved 12 July 2010 from: http://:thelongroom/Operations/Trade+and+Marine/Policy+Procedures+Working Information/

GM PRO 16: Significant Event Reporting (2004), Auckland: New Zealand Customs Service

Homeland Security Act (HSA) of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002) (as codified in 6 USC. § 211)

IL POL 01: CusMod Alert Operational Policy (2007), Wellington: New Zealand Customs Service

Joint Business Resumption Tabletop Exercise: After Action Report & Improvement Plan (2009), Washington, DC: Aduana Mexico and US Customs and Border Protection

Joint MXC/CBP Business Resumption Communication and Coordination (2008), Washington, DC: Aduana Mexico and US Customs and Border Protection

Ladley, A. and N. White (2006), *Conceptualising the Border,* Institute of Policy Studies, Victoria University of Wellington

Leaders@Customs: Shaping the Future, Making a Difference (n.d.), Wellington: New Zealand Customs Service

MacPherson, S. and R. Moore III, (2009), *Movement of Goods and People Across the Border During and Following an Emergency*: *EMCG Meeting*

Maritime Operational Threat Response for the National Strategy for Maritime Security (2006), Washington: US Department of Homeland Security

Moon, S.K., Protocols for Maritime Transportation System Recovery (2008), Lima: US Department of Homeland Security

MOTR Protocols, (2006), Washington: US Department of Homeland Security

National Maritime Coordination Centre Governance Framework (2006), Wellington: NMCC Working Group

New and Enhanced Cargo Inspection Capability: Enhanced Border Security Through Use of Mobile Non-invasive Inspection Technologies (n.d.), Wellington: New Zealand Customs Service

New Zealand Customs and Excise Act of 1996

New Zealand Customs Service Statement of Intent (2009-2012) (n.d.), Wellington: New Zealand Customs Service

New Zealand Customs Service Statement of Intent (2009-2014) (n.d.), Wellington: New Zealand Customs Service

Nice, M. (2007), *Using an Outcome-Based Framework to Analyse Drug Policies upon Methamphetamine Markets: A Comparison of New Zealand and the United States*; Wellington: Fulbright New Zealand.

On a Typical Day, US Customs and Border Protection (n.d.), Retrieved 25 February 2010 from: http://www.cbp.gov/xp/cgov/about/accomplish/fy09_typical_day.xml

OPS PRO 004, Secure Export Scheme (n.d.), Wellington: New Zealand Customs Service

Organisation Chart: Deputy Comptroller – Policy People & Resources (2010), Wellington: New Zealand Customs Service

Overview of the Customs Policy Group: Presentation and Induction Course, 15 October 2008

Pacific Sphere Government-to-Government Exercise After Action Report (2007),

Washington, DC: Canada Border Services Agency, US Customs and Border Protection

Pacific Venture Government-to-Trade Exercise After Action Report (2007), Washington, DC: Canada Border Services Agency, US Customs and Border Protection

Pandemic Diseases Border Control Plan for Port of Tauranga as at 14 July 2009 (2009), Tauranga: New Zealand Customs Service

Required Advance Electronic Presentation of Cargo Information (2003), Washington: DC: National Archives and Records Administration Federal Register

Review of Previous Work Undertaken to Examine Border Control Issues and the Idea of a Single New Zealand Border Agency, Office of the Minister of State Services, Government of New Zealand (2006) (Internal Memorandum), Wellington: New Zealand Customs Service

Risk-Based, Layered Approach to Supply Chain Security: Fiscal Year 2010 Report to Congress (2010), Washington, DC: US Customs and Border Protection

SAIC VACIS Systems: Nonintrusive Inspection of Cargo and Vehicles (2005), Retrieved 19 July 2010 from: www.counterdurg.com/images/infoguide12_05.pdf

Secure Borders, Safe Travel, Legal Trade: US Customs and Border Protection Fiscal Year 2009-2014 Strategic Plan (2009), Washington, DC: US Customs and Border Protection

Secure Export Scheme: Helping You Do Business (n.d.), Wellington: New Zealand Customs Service

Securing the Global Supply Chain: Customs-Trade Partnership Against Terrorism, (n.d.), Washington: US Customs and Border Protection

Security & Prosperity Partnership (SPP) 9.2.7/Business Resumption: CBP/CBSA July 2006 Table Top Exercise After Action Report (2006), Washington: Canada Border Services Agency, US Customs and Border Protection

Security and Accountability for Every (SAFE) Port Act of 2006, Pub. L. 109-347, 120 Stat. 1884 (Oct. 3, 2006)

Strategy to Enhance International Supply Chain Security (2007), Washington, DC: US Department of Homeland Security

Supply Chain Security: Feasibility and Cost-Benefit Analysis Would Assist DHS and Congress in Assessing and Implementing the Requirement to Scan 100 Percent of US Bound Containers (2009), Washington, DC: Governmental Accountability Office

Testimony of Todd Owen, Acting Deputy Assistant Commissioner, US Customs and Border Protection: US Department of Homeland Security Before the Science and

Technology Committee, Subcommittee on Investigations and Oversight (2009), Washington: US Customs and Border Protection

The Federal Response to Hurricane Katrina: Lessons Learned (2006), Washington, DC: The Executive Office of the President of the United States

The Tenth Annual Trade Symposium, 8-10 December 2009, *United States Customs and Border Protection*, Washington, DC

Title 19 of the United States Code of Federal Regulations

Trade Act of 2002, Chapter 19 of the United States Code, section 2071, note

Trade and Marine Pandemic Continuity Plan (MD) (2009), Auckland: New Zealand Customs Service

United States Federal Register, Volume 68 (2003)

United States v. Flores-Montano, 541 US 149, 152-53 (2004)

US Customs and Border Protection Snapshot: A summary of Facts and Figures (2010), Retrieved 5 March 2010 from: http://www.cbp.gov/linkhandler/cgov/about/accomplish/facts_figures.ctt/facts_figures.pdf

US Department of Homeland Security National Strategy for Maritime Security: The Maritime Infrastructure Recovery Plan (2006), Washington: US Department of Homeland Security

US Department of Homeland Security Organizational Chart (2007), Washington, DC: US Department of Homeland Security

US Department of Homeland Security Privacy Impact Assessment for the Exodus Accountability Referral System (EARS) (2010), Washington, DC: US Department of Homeland Security

US Department of Homeland Security Strategy to Enhance International Supply Chain Security (2007), Washington: US Department of Homeland Security

WCO Trade Recovery Guidelines (2009), Brussels: World Customs Organization Safe Working Group

World Customs Organization Policy Commission Report SP0296E1a (2009), Brussels: World Customs Organization Safe Working Group

World Customs Organization SAFE Framework of Standards (2007), Brussels: World Customs Organization

Y2K Goods Clearance (n.d.), Auckland: New Zealand Customs Service