THE ORGANIZATION AND GOVERNANCE OF KEY BUSINESS FUNCTIONS is receiving unprecedented attention by publicly traded companies. The customs function is no exception. Yet, because the customs function has both financial and operational impact, it has historically proven difficult to benchmark. Even among the most established global traders, there are a wide range of approaches to organizing and governing the process of importing goods.

An extensive variety of diverse customized processes and procedures are employed by global organizations, yet it is our experience that few companies with substantial import operations believe their operations are following “best practices” in all areas. Filings may be timely and accurate allowing a quick and predictable release of goods, but there is little involvement in new product design or sourcing decisions. Trade preference agreements are effectively utilized in some parts of the world, but are ignored in others. Import and export efficiencies are aligned, but there is little coordination to mitigate risks associated with antidumping duties or safeguards.

In this environment, it is difficult to identify commonalities in approach, trends, and rationale without the analytical input of key executives responsible for the import function. Ernst & Young’s global Customs and International Trade Practice invited a select group of these key executives to participate in an in-depth examination of the current practices and emerging trends in the organization and governance of the global import function. Each invited company is an established global trader, recognized as a leader in its respective industry. Each participating executive is a decision maker with significant responsibility for their company’s import function. Following an interactive structured discussion format, the participants gave their views on the structure, organization, risk management, and strategic planning aspects of the corporate import function, particularly in light of the current emphasis on corporate governance highlighted by the Sarbanes-Oxley Act.

This report summarizes the findings of an intensive two-day workshop on the best practices in corporate organization and governance of the import function. We hope you will find the report beneficial.

William M. Methenitis,
National Director
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Introduction

The Symposium
The Ernst & Young Global Customs Best Practices Symposium was held in New Orleans, Louisiana in May 2004. Representatives from 16 companies gathered to review and assess approaches to the corporate customs function. Each participating company has global operations, and relies on the import function as a key business operation.

Format
The Symposium followed a workshop format. In advance of the Symposium, participants were asked to complete a short questionnaire. Senior members of the Ernst & Young Customs and International Trade Practice facilitated discussion around predetermined topics.

This report summarizes the discussion and highlights selected statements made by participants during the discussion; quotes, however, are not attributed to any individual. Opinions expressed are those of the individual participants and are not necessarily those of the organizations they represent.

Names and contact information of the Ernst & Young participants are listed at the end of this report.

The Participants
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Archer Daniels Midland Company
Baker Hughes Incorporated
Cisco Systems, Inc.
Cooper Industries, Ltd.
Corning Incorporated
Exxon Mobil Corporation
Halliburton Company
International Paper Company
Limited Brands, Inc.
Marathon Ashland Petroleum LLC
Microsoft Corporation
Nissan North America, Inc.
Nokia Inc.
Reebok International Ltd.
Rohm and Haas Company

* Ms. Jacuzzi is an E&Y Senior Manager who assists International Paper Company on a full-time basis. She was asked to represent the company's interests at the Symposium.
Structure and Composition of a Best-in-Class Global Customs Organization

WITH THE GOAL of defining the structural attributes of a best-in-class organization, the following topics were addressed:

- Purpose and mandate of the customs function;
- Location of function within the company;
- Global, regional, or national structure;
- Centralized or decentralized customs function;
- Experience and skills of the function’s personnel;
- Existence and role of the Corporate Customs Committee, and
- Performance measures.

Purpose and Mandate of the Customs Function

One of the questions in the advance questionnaire asked participants to assess five different objectives for the import function and prioritize their importance for their company. The results, from highest to lowest importance, were as follows:

- Risk Minimization
- Duty Cost Reduction
- Internal Cost Reduction
- Strategic Planning
- Other

The participants agreed that in the past, the primary objectives often varied from time-to-time, with many citing duty cost reduction as the consistent leader. However, the consensus was that risk minimization has evolved to become the primary objective, with importance significantly reinforced by the corporate focus on risk management and internal controls imposed by the Sarbanes-Oxley Act. One participant expanded on this by stating that objectives and mandate have also become more complex with the enhanced overall business focus on risk management. For example, the customs function is viewed internally in the company as a key component of the overall supply chain function and is responsible for facilitating rapid and cost effective movement of the company’s materials and finished products. Proactive risk management and minimization has become the means to best achieve the supply chain objective, as well as a goal in and of itself.

As a corollary, many of the participants recognized a shift from past activities designed to seek out non-compliant activities within their companies, to instead being asked by other functions in the company how to best avoid non-compliance. This paradigm shift was directly attributed to the current overall emphasis on risk management.

The participants agreed that the focus on risk minimization would continue. Proactive risk minimization was defined as a best practice with many participants noting this to be consis-
tent with the stated primary objectives of other company regulatory functions, such as tax, environmental, legal, etc. Some believed that achieving effective risk minimization had also allowed them to become more effectively involved in other areas, such as the strategic planning activities of the company.

All agreed that risk management is a primary mandate. One participant explained that “you cannot have savings without compliance” and that the company is able to be more aggressive with its strategic opportunities because it has effectively managed risk.

Where is the Customs Function Located?

Customs functions of the participating companies were located in a variety of corporate departments: logistics and transportation, finance, tax, legal, and manufacturing.

While there was no consensus on the “ideal” location for the function, many of the participants commented that as their company and function evolve, the best place for their function to reside in the future would be in the finance or tax area rather than its current location. Others, however, believed that the best location remains the logistics area. This was attributed to the fact that getting the imported product to market quickly would remain an overriding priority for the company and the customs function itself is an integral part of the company’s supply chain function.

There was consensus that the location of the customs function is critical to its success. At the same time, the best practice depends on the company’s overall structure, culture, and industry. Companies that focus the customs function on timely clearance, for example, may be well suited to house the function with logistics or transportation. Companies that are more focused on duty minimization may have more synergies aligning customs with tax or finance. All agreed that customs is a cross-functional activity. In order to meet the needs of the company it must interact with numerous functions, ranging from purchasing and logistics to finance, tax and legal. The critical factor was to be situated where the function receives the internal support it requires to ensure the company meets all applicable governmental requirements in an efficient and cost-effective manner. For some participants this is best achieved in the logistics area while for others it is in the finance or tax area.

Structure of Function — Global, Regional or National

In the advance questionnaire, participants were asked whether the customs function was organized under a global, regional, or national structure.
Most of the participants responded that they operated under a regional structure.

In discussion this emerged as an evolving issue for most of the participants. A number of the participants stated that they had only recently achieved an effective regional structure in North America and were using it as a model to achieve the same result in other regions globally. Another participant noted that while regional groups had existed for some time, they had only recently begun to coordinate their activities and share best practices.

While many pros and cons were discussed for different reporting structures, the group agreed that regardless of the company’s organization or industry, it would be a best practice for the customs function to have a global reporting structure. Many expressed the view, however, that while the ideal, this would not be possible to achieve it practically within their organization. As a result, a coordinated regional structure would be the best alternative. Some participants commented that this structure could be as effective as a global one if they could ensure consistency for all countries and regions in which the company operates.

The group also discussed whether the best practice might vary depending on whether the overall structure of the company was more centralized or decentralized. Several of the participants indicated that their companies were highly decentralized and, in some cases, the only centralized functions were tax and legal. Even in these cases, those participants generally felt that their customs function would be most effective if it was centralized, parallel with the tax and legal functions.

Finally, the importance of complementing a centralized function with viable service providers to assist the company when required in different countries, was noted.

A Centralized or Decentralized Customs Function

Building on discussions about the structure of the customs function, the participants addressed the issue of whether the function should be more centralized or decentralized in the management of its responsibilities. The majority strongly preferred a centralized function. All agreed that this was the best means to utilize scarce experienced personnel. Also, a number of the participants indicated that while they do use customs brokers, they maintain strong control over the release and entry process and have in-house personnel to classify imported products. In certain instances, participants prepare the customs entries that are transmitted to the customs authorities by the brokers. There was unanimous consensus that such time-sensitive responsibilities are most effectively managed in a centralized function.

Corporate Customs Committee

We discussed whether the participant companies maintained a corporate level “Customs Committee,” separate from the customs function itself. A Customs Committee would typically be comprised of senior management of functions impacted by the customs function, such as procurement, manufacturing, transportation, and finance, and would provide policy level guidance and input to the customs function.
The group concluded that a Customs Committee was clearly a best practice, provided that committees can be generally effective within the organization. Most of the participants’ companies without a formal committee hold formal meetings with one or more company executives periodically, ranging from once a quarter to once a year, unless there is a critical emergency that requires immediate attention. The purpose of such meetings is to review current risks and issues, cost savings, and future planning opportunities. If effectively conducted, this could substitute for a formal Customs Committee. All agreed it is critical that the customs function have some means of formal, regular interaction with, and access to, the company’s executive team.

Companies that had a Customs Committee, or regular and effective executive team meetings in lieu of a formal committee structure, generally found them valuable. Several participants commented that the value of such a committee depends on numerous factors, including the company’s size, number of countries involved and the complexity of issues with which it is dealing. One noted that the committee must have a clear, agreed-upon mandate and executive sponsorship and involvement. Another participant echoed this by noting that the company’s current committee is an ad-hoc one and does not have a budget. When it identifies ideas and opportunities the committee has to drive them to whichever operating units have the budget and resources for implementation.

Composition of the Function’s Personnel

In addition to assessing the structure and management of the global customs function, the group also discussed the composition of the function’s personnel. We touched on the personnel, experience, and skills that currently manage the customs function, and explored the optimal balance needed for a best-in-class function.

One participant noted that they seek only experienced personnel; they do not hire recent graduates. Trade-related experience is a prerequisite and industry-related experience preferred. Having a customs broker’s license is viewed as an indication of previous experience but is not required. The policy reflects the structure and mandate of the function, which is to serve primarily in an advisory capacity to the operating units.

Another participant stated that while experienced personnel are preferred, they are required to hire 50% of people from within the company. The function has had the most success with personnel with previous internal audit or production experience. Several of the other participants indicated that their personnel are generally experienced and are licensed customs brokers. These again seem to match with functions that operate in an advisory capacity and require highly skilled personnel.

Some participants employ a larger number of less experienced personnel in the function because they perform more routine compliance work, such as pre-classification of imported products. However, it appears that these companies all have policies to build the skills of such personnel, for example; by encouraging the
employees to obtain their broker’s license or through specific training on customs topics relevant to the company’s business.

While no consensus developed on an “optimal balance,” it was clear that a variety of skills and skill levels are necessary to properly run a customs department.

**Internal Performance Measures**

The group turned its discussion to performance measures, assessing measures for both individuals in the function and for the function itself.

All of the companies evaluate individual employees. When posed the question if their organizations have individual performance measures for customs personnel, which are tied to departmental objectives (e.g., compliance rate, duty savings, speed of cargo clearance), the majority said “no.” One of the key reasons given was that generally individuals are not tied to a specific compliance effort or savings opportunities. Hence, it is difficult to associate such measures with any individual. One participant stated that the function’s employees are assessed on “client satisfaction,” how effectively they engage with their clients at the company’s business units and meet their needs. Many agreed that they had similar measures based on operating unit feedback, success working on cross-functional teams and similar measures. There was also agreement that these measures do not differ materially from the employee measures in other functions. There was consensus that such measures are most effective for individuals in their groups.

On the other hand, most of the participants indicated that their companies have tangible performance measures for the customs function as a whole that the personnel in the group must strive to meet together. One participant noted that the customs function reports weekly to the company’s executive committee.

Measures include goals of clearing at least 96% of entries within 48 hours and classifying at least 95% of imported products accurately, as measured by internal audit and response times to the company’s business units. Another participant stated that their function is measured on key performance indicators (KPIs) from the company’s operating units. With few exceptions, all participants are measured on meeting various duty savings targets, including participation rates in different duty preference programs, such as NAFTA.

When further discussed, the participants agreed that it was a best practice for the customs function to have clear and tangible performance measures and that the measures should be consistent with measures used throughout their company. Some participants also believe that having well defined performance measures motivates the customs personnel to pursue additional savings and efficiencies because the results are shared throughout the company. Others added that where savings are based on participation in conditional duty exemption programs, the existence of effective measures allows them to justify additional compliance expenditures for the program.
Measuring the Customs Broker

Many of the participants noted that they also have extensive performance measures for their customs brokers. Such measures were clearly viewed as a best practice. With few exceptions, the participants also agreed that the best practice is to have their broker perform the activities of transmitting data to customs and providing the physical presence at the border to facilitate and address issues of release. Without exception, there was consensus that the broker should not be responsible for matters such as classification at the time of entry. Rather, such data should be provided to the broker by the customs function.

As a result, the participants employ tools to monitor broker error rates and response times on routine items, such as CF 28 (Customs request for information) response times in the United States. The key overall best practice was focused on reducing broker errors and improving response times to the company and the Customs authorities.

On the critical issue of broker consolidation, there was little consensus. A number of the participants felt strongly that their companies are best served with one broker or as few as possible. Several preferred “one stop shopping” for brokerage, transportation, and third party logistics services. Others thought better service could be obtained by using separate providers for each type of service.

The only exception to the use of brokers is among the participants with oil refinery foreign trade zones (FTZ). This activity is characterized by a low volume of entries, typically one weekly entry per FTZ with extremely high values. In addition, classification of petroleum products is often difficult and requires the involvement of skilled company personnel. As a result, these companies have found it more effective to file their own entries in this specific area of FTZ activity.

Summary of Key Findings

- The customs function should be global and centralized to the extent possible.
- The prime location for a customs function differs from company to company, with the best location depending on alignment with business goals.
- Clear departmental performance measures improve results. Individual performance measures should differ from departmental measures. Extensive broker performance measures are a best practice.
- Formal periodic interaction with senior executives in areas impacted by the import function (e.g., procurement, manufacturing, transportation, finance), through a Corporate Customs Committee, is a best practice.
- Risk management has emerged as the primary objective of a global import function. Proactive risk management is becoming the norm, and is considered a best practice.
Risk Management, Internal Controls, and Self-Monitoring

Risk Minimization of the global import process is a complex topic that is presently attracting significant attention from executive management as it weighs risk management and internal controls across the organization. Many companies now appear to be focusing resources and efforts to identify and define their risk areas, to develop appropriate internal controls for managing these risks on a daily basis, and to create effective self-monitoring techniques once the appropriate controls are implemented.

In this session, Symposium participants discussed best practices for overall risk management of the global import process. Discussion centered primarily on three areas:

- Identifying and defining key global risks;
- Developing appropriate and effective internal controls to address the defined risks; and
- Managing the risks through effective self-monitoring techniques.

Consideration was given to how corporate governance on a global scale, driven by the Sarbanes-Oxley Act, impacts import risk and raises the need for a global trader to have effective self-monitoring techniques.

Risk Identification

The manner in which the participants identify customs-related risks seemed to vary from company to company. Most participants agreed that risks could be identified on a product-by-product or transactional basis, but were quick to point out that risk identification must be carefully customized to the company.

Primary methods for gathering product and transactional information varied. For example, one company’s customs function interacts heavily with other departments including the legal, finance, services, and purchasing departments, and identifies risks for global transactions in part by its interaction and participation in many aspects of the business. Doing so helps the customs function identify key elements required for proper reporting, such as correct valuation related to royalty payments received.

In another case, the company examines its business model and determines where it is involved or has responsibility (e.g., Importer of Record) in the model. This permits the customs function to be involved from a strategic point of view, to actively participate in planning and to outline the customs compliance requirements in advance for a particular transaction or to establish requirements for a vendor. One participant also mentioned that...
assessing the level of involvement of vendors is a means to identify valuation (i.e., assist) risks.

One participant cited examples of how the company segments risk on a product-by-product basis. The company first identifies key products. It then reviews product and transaction risks for each product.

Key Risks

Participants collectively cited the following customs activity areas as key risks:

- **Valuation**: Almost all participants consider valuation to be a key risk. Participants cited royalties, assists, commissions, and transfer pricing to be the key valuation related risks.

- **Exports and Re-exports**: Almost all participants agreed that exports and re-exports are risks, with two participants identifying this to be a key issue. The risk level is enhanced by multiple parties controlling information important to the transaction.

- **Classification**: The extent to which participants found classification to be a risk depended on the industry and product type. Where classification is straightforward for a particular commodity, classification was not considered to be a high risk; however, where a particular product classification differs across the globe or where potential alternative classifications exist which could result in a higher duty cost, risk was considered greater in this area.

- **Origin**: Most participants cited managing country of origin to be a significant risk.

All participants indicated that other key areas were considered based upon potential ramifications to their business.

Prioritization of Risks

Most participants have prioritized risks based on results or experiences during a U.S. Customs Focused Assessment or its predecessor, the Compliance Assessment Review audit, or using tools developed specifically for participation in the Importer Self Assessment program (ISA). While each of these is a U.S. program, results have generally been used as a foundation for global risk assessment.

One participant discussed assessing risk globally by looking at the company’s overall business objectives, and where trade-related risks may fall in that model.

Valuation and origin were identified by the participants as high-risk areas from a global perspective due to the importance each plays in global trade costs and compliance.

One company, an ISA participant, developed a three-tiered matrix. The tiers include areas of past non-compliance, products, and value/volume. Using this chart for risk assessment, the company identified its area of highest risk as valuation, and then, based on staffing resources, prioritized.

Another company had a similar approach and developed a risk matrix with its company locations on one axis, the customs topical area on another, and the level of complexity or volume on the third. Another company also designed a risk matrix and then by reviewing the controls...
in place for each risk, assigned a point of one to ten. When assigning points, the company considered factors such as past compliance history, sourcing location, effectiveness of existing internal controls, etc. In sum, participants generally agreed that using some form of risk assessment model to identify areas of risk, and rank the results, is helpful in determining how to then address each risk area.

Risk Assessment

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SAS 78

While the majority of the participants were familiar with the five components of Statement on Auditing Standards No. 78 (SAS 78), only about half of their companies used the framework when developing internal controls for the import function. For ISA participating companies, understanding the SAS 78 framework was crucial to being able to respond to the ISA questionnaire. One participant’s company worked with its internal audit and finance departments to obtain additional understanding on how to use the tool.

All participants agreed that using SAS 78 as a basis for internal controls development and testing is a best practice. Many stated that it “made sense to use the tool as that would be what customs would expect from a U.S. review perspective.” But participants also emphasized the importance of taking internal controls further than the SAS 78 foundations.

Considering Materiality

The consensus of the participants was that the materiality of the risk should be identified early in the process and that areas of high risk be addressed first. Participants look at volumes and trade flows to determine materiality. Participants also mentioned that they often use cost benefit concepts to assess materiality and often have to apply “the 80/20 rule” when determining which risks to address.

Global Risk Management

Participants agreed that education and training are key for effective global risk management. Not only is it important to educate company personnel, it is important to educate customs authority personnel about company-specific issues. One participant identifies and prioritizes key markets and then spends significant amounts of time traveling to those markets, meeting with local customs authorities to educate them on the company’s business and developing a partnership with the authorities. “This is a big investment.”

Another participant mentioned that although uniformity should be a best practice, it is not always achievable. As an example, the participant mentioned that the company is rolling out SAP globally. While the company had determined that putting the classification code on the invoice was
a best practice, one of its customers in Brazil has requested that it not be on the invoice because Brazilian Customs would not accept the same classification code.

**Communicating Risks Internally**

Each participant believed that the use of fear of penalties or business disruption tends to work when communicating risk upwards within a company. In addition, not only identifying issues, but providing solutions to management is key. Participants noted that consistency in communications is important.

Participants agreed that it is important to be selective on risks communicated upwards. For instance, only communicate issues of risk that warrant management attention and resources. The level within the company to which risks are communicated varies by situation, but there is no ceiling. A number of participants have experienced situations that required communication to the company president or board of directors.

One participant stressed the importance of using the right terminology when communicating risks. For example, talking in terms of market expansion, market erosion, and profitability of sales rather than describing “assists” proved most effective.

When communicating risks downwards, participants stressed the need for developing processes and then providing education on the processes.

**Internal Control Responsibility – Inside or Outside of the Customs Function**

Whether the customs function is responsible for the effectiveness of internal controls varied among participants. About half of the participants are fully involved in designing, implementing, and testing controls, while the other half are involved in a more advisory role—identifying issues and suggesting controls to correct the gap.

For example, some participants’ companies follow a model whereby the customs function develops guidelines for controls, but does not design the actual control. Specifically, the customs function is responsible for recommending internal control processes and making sure other areas understand the rules, but the business units retain ownership for implementing the process.

One company has developed a tool so that other groups can provide the information necessary (e.g., classification and valuation data) to the customs function. In other cases, the responsibility from identification to implementation of internal controls lies primarily with the customs department. In some situations, this expands to being responsible for conducting follow-up testing to ensure that controls are properly implemented.

In all cases, participants agreed that for certain areas, i.e., assist-related issues, the customs department does not have the ability to design and approve processes, but can only provide assistance.
Global Internal Controls and Procedures

All participants believed that it is a best practice to have a global framework of procedures, with sufficient flexibility to be customized to meet local country requirements. Two participants have developed and implemented global internal controls and most other participants are working towards developing global procedures.

Participants agreed that in most cases the U.S. rules are the most stringent; therefore, participants have been able to start with the U.S. as a model and make adjustments for differences in local interpretations of rules and cultural sensitivities.

Participants also pointed out the importance of getting the business groups in other countries to “buy-in” to the procedures, including them in the development, and incorporating their comments, as key to successfully developing and implementing global procedures. Certain countries were identified as more difficult than others (China, Brazil) and in these instances, greater attention to the rules or resources is needed to be successful.

All participants agreed that strong internal controls are a priority. While direct benefits are not always demonstrable, one participant recounted a situation which involved the smuggling of unapproved merchandise. Customs determined that the company’s internal controls were adequate and that the supplier of the goods was responsible for the violation.

Global Training

While participants find training globally to be a best practice, there are many challenges to making training successful. One company conducts training via an intranet site where training developed in the U.S. is “pushed out” to local areas. This company has also developed matrices as tools to show how countries have interpreted rules differently.

Another company has been able to “piggyback” off of its corporate code of conduct training to provide export-related training. With the use of an e-tool, this company’s export training will be the second part of company-wide code of conduct training.

Participants agreed that while much of the customs-related training can be done via e-learning, participants have also found value in doing on-site training and doing it regionally. One participant cited language barriers as a difficulty in being able to drive training from the United States.

One participant pointed out that training is different than awareness. While training is in place to develop a certain level of expertise, raising awareness is also important. This participant suggested that rolling out customs and export-related awareness programs during new-hire training is a best practice.

Best Practices for Monitoring

There was a variance of opinion on the degree of reliance on systems for monitoring compliance.
While one participant stated that a reliable system with strict controls is a best practice in reducing the likelihood of compliance errors, other participants cautioned that over-reliance on systems can create false securities.

Participants agreed that the effectiveness of systems needs to be monitored and tested on a periodic basis. For example, one participant runs reports from its system that identifies transactions and the party who initiated the transaction. This company uses these reports to highlight potential risk areas. Another company, an ISA participant, recognized the need for additional systems-related resources and has developed reports that can be used for cost-benefit analysis.

Two participants identified using meetings as a method for monitoring operations and staying abreast of issues.

While moving towards systems-oriented controls is a good practice, there was consensus that audits remain critical to testing compliance. Further, while portions of trade compliance can be audited by a systems check, all areas still require judgment and a comprehensive risk assessment process to determine areas for auditing.

**Systems Automation and Management**

One participant emphasized the importance of having systems-related expertise and capabilities within the customs function. After analyzing the amount of time spent on troubleshooting customs issues, this company decided to dedicate one person to customs information technology issues. With this expertise and the use of an outside vendor, the company has been able to develop a customs system that integrates into the company’s electronic invoicing system. The customs system verifies information such as the validity of the purchase order, the accuracy of the transfer price, the existence of the classification against the classification database, and the existence of an assist.

**Use of Internal Audit**

Approximately half of the participants use the internal audit function to assist with trade-related audits. One participant cited the constraint on internal audit resources as a reason for not being able to incorporate them.

For companies that use the assistance of their internal auditors, participants identified appropriate training for the auditors as crucial. For example, one company had an experience where internal audit was testing the customs function, and the participant knew that the internal auditors did not understand the subject matter and therefore, was asking questions that did not make sense or were not relevant.

Another company mentioned that it has been successful using its internal audit function, if the customs group writes the audit program, and then has the auditors implement it. In another case, a participant mentioned that they added red flag trade-related questions to an existing audit program and, as a result, was able to get some compliance measurement information using the internal audit process.
Independent Audits

A number of participants stressed the importance of having an independent third party perform audits. One participant added that it was also important to have a third party validate the company’s internal audit plan as well. One participant cautioned that while relying on internal experts is fine, reasonable care also needs to be considered, which may dictate looking for outside assistance.

Summary of Key Findings

- Using a formal risk assessment model is a best practice.
- A global framework of procedures with local customization is a best practice.
- Education of both company personnel and customs authority personnel is a risk management best practice.
- Risk identification can generally be assessed on a product-by-product or transactional basis, but must be carefully customized to be effective.
- Regular monitoring of internal controls is essential, and independent audit on a periodic basis is a best practice.
Several participants noted the difficulty in identifying financial significance. Assessing the impact of internal controls over processes that result in duty avoidance, such as NAFTA or FTZ, could prove difficult. Duties avoided do not appear in any corporate financial accounts. Also, some internal controls are critical to operations, but failures in the controls would not necessarily materially affect financial statements. A failure in internal controls, which keeps goods from timely crossing a border, may keep the company from making a sale and recognizing revenue, but would not necessarily affect financial statements. Properly identifying internal controls subject to Sarbanes-Oxley was anticipated to be difficult.

Internal Controls Subject to Review

Over 90% of the participant companies are subject to Sarbanes-Oxley Section 404. In response to the advance questionnaire, about 60% of the impacted participants believe that some aspect of international trade internal controls would likely have a significant impact on financial reporting, and would be included in a Sarbanes-Oxley Section 404 review. Very few of the participant companies, however, had yet made a final decision on the necessity of review. As discussion progressed on the topic, a number of questions were raised as to how financial significance could be understood in a Sarbanes-Oxley context, and whether a thorough analysis of financial impact would actually lead to the inclusion of international trade internal controls in a Sarbanes-Oxley Section 404 review.

Collateral Benefits to Import Function

Heightened corporate awareness of the importance of internal controls has been viewed as a positive by a number of participants. Internal controls have been key to import risk management programs, and fit right along with the corporate emphasis on Sarbanes-Oxley. One participant commented, “now we are not the only ones using the term ‘internal controls.’”
Similarities between Sarbanes-Oxley and the Importer Self-Assessment program were also noted. Both are based on SAS 78. “Sarbanes-Oxley made ISA an easy sell,” said one participant. Several contemplated coordinating ISA and Sarbanes-Oxley efforts.

**Budgets and Sarbanes-Oxley**

Three participants noted that Sarbanes-Oxley has led to additional headcounts in their departments. Budgets for training and auditing have also increased. Even where there has been no increase in budget or headcount in the customs function directly, several participants noted that other Sarbanes-Oxley driven corporate compliance efforts had positively impacted import and export compliance.

**Summary of Key Findings**

- Sarbanes-Oxley has raised the level of awareness of the importance of internal controls, which has positively impacted import and export compliance efforts.
- Identifying internal controls over imports and exports which and should be included in a Sarbanes-Oxley Section 404 review, will likely be challenging.
Coordinating Interrelated Trade Areas

THERE ARE IMPORTANT AREAS of international trade which are often considered separate and distinct from the traditional customs function. For example, there are an array of requirements imposed by other governmental agencies as well as trade policy-related matters, that not only impact a company’s duty liability, but the overall admissibility of product into various countries.

Based on the participant’s responses, it is clear that the responsibilities associated with customs work versus international trade work and other related activities, including export, vary depending on the company, and to some degree, the industry. The consensus among participants was that due to the lack of harmonization between the various functions, opportunities are being missed and risks are not being adequately addressed.

The Link Between Customs and Trade

Responsibilities associated with the international trade function have been fragmented, with the traditional customs professionals responsible for the administrative consequences of trade actions, but generally not the strategic risk/opportunity management. Instead, the strategic risk/opportunity management component is usually dispersed among government affairs, legal, or purchasing/logistics. Customs is consulted on an issue-by-issue basis.

Specifically, all participants agreed that programs such as the establishment of procedural safeguard measures or the imposition of retaliatory tariffs (e.g., European tariffs related to the Foreign Sales Corporation issue) are handled on an issue-by-issue basis. The involvement of the various departments that could be impacted varied from the U.S.-based logistics group to a more locally involved manager (e.g., European Customs Manager) to the corporate compliance group.

Customs and International Trade Topics – Which Department is the Owner?

All participants overwhelmingly agreed that responsibility for the core customs activities including tariff classification, product valuation, and country of origin should reside in the customs department.

Participants provided the following feedback as to which department should own responsibility for these areas:

- **Customs-Trade Partnership Against Terrorism Initiative (C-TPAT)** — Most participants stated that the customs department owns the C-TPAT function stating, “C-TPAT is a Customs program, and we want one face to Customs for consistency.” However, some participants’ customs
departments co-own C-TPAT responsibility with other departments including supply chain and security.

- **Hazardous Material Safety** — For participants involved in hazardous material safety, all agreed that the responsibility should reside in the logistics department.

- **Transfer Pricing** — Participants stated that transfer pricing should be joint responsibility of the tax and customs departments. In a few cases, participants stated they have not been properly involved by the tax department in transfer pricing.

- **Other Taxes Assessed on Import (e.g., Value Added Taxes)** — The consensus is that the tax department should own this area.

- **Human Rights** — Participants did not agree on where this function should be housed. One participant stated that its company has a VP of Human Rights.

- **Denied Party Screening** — There was consensus that export denied party screening should be handled by a trade compliance specialist. Most thought this specialist should be part of a single import/export department.

- **Export Licensing** — While most participants agreed that this function should reside with a trade compliance specialist in an import/export department, one company’s export licensing is done by the legal department.

- **Non-Proliferation** — The consensus among participants is that this function should be owned by a trade compliance specialist.

- **Embargoes** — This function should be owned by a trade compliance specialist.

- **Anti-boycott** — Most agreed that this function should reside in the legal department.

- **Deemed Export** — Participants were split on whether this function should reside in human resources, legal, customs or a combination. However, one participant emphasized the importance of ensuring that the party responsible for this function is familiar with the company’s products.

- **Anti-dumping, countervailing, and safeguards** — Participants determined that a cross-functional team involving customs and government affairs could most effectively handle these issues.

### The Framework of an Optimal Trade Function

Participants agreed that the optimal international trade function would have a global framework. It would however, be customized at the local level to consider local rules, regulations, and cultural sensitivities. One participant pointed out the importance of focusing the framework, taking into account existing processes and process owners.

Participants also agreed that there is no single best practice on how to structure and then implement a best in class trade function — since each company has its own framework, each situation is different. However, all agreed that whatever it takes to push out best practices globally should be done. This may include education and training, developing committees, disseminating news alerts, conducting audits, etc.
The Existence of a Strategic Planning Function for Trade Opportunities

Strategic planning will be discussed in more detail later in the report. This session touched briefly on how companies actually plan for trade-related opportunities. Few companies maintain independent strategic planning functions that cover trade topics, although most agreed having one would be a best practice. Instead, for those companies that conduct trade strategy planning, the function typically resides with the customs group, if anywhere.

Two participants’ companies have distinct strategic planning departments. For one participant, the function is located in the company’s corporate headquarters within the operations and logistics department. The strategic group identifies opportunities and is responsible for educating the business units on the impact. They occasionally involve the customs group for assistance in understanding the practical implications of strategic planning options, or to understand customs-related terminology.

One participant has a corporate planning department that pushes ideas down within the organization. This department is primarily involved in product development, and often, due to concerns of protecting product development information, does not push the information down soon enough. Thus, customs and trade-related issues are often overlooked and opportunities are missed.

Missing Trade Opportunities

The consensus among participants is that trade-related opportunities are being missed. Participants overwhelmingly agreed that defining opportunities often takes a back seat to compliance.

Summary of Key Findings

- Responsibilities for international trade functions, other than core customs functions, tend to be fragmented.
- Lack of coordination of the various functions involved with international trade leads to missed opportunities.
Obtaining Critical Trade Data

TOPICS IN THIS SESSION included the availability and timeliness of data — necessary not only for day-to-day operations, but also for strategic planning.

The discussion centered on the importance of transforming raw data into a usable format resulting in a knowledge platform that would facilitate planning initiatives. In this session, it became clear that access to reliable, verifiable data is critical to any potential planning strategy.

Data Requirements
Successful strategic planning is to a large extent dependent upon getting the right information into the hands of the right people. What data is needed to conduct strategic planning? Participants noted that the necessary information to conduct strategic customs planning was fairly straightforward:

- Duty paid on a global basis;
- Volume of specific products shipped globally;
- Value of specific products shipped globally;
- Product flows;
- Incoterms (terms of payment); and
- Sales transaction details.

Participants were confident they knew this information with regard to U.S. imports. The element of difficulty existed in obtaining this information related to global import activity. Only a limited number of participants knew how much duty their companies paid on a global basis. Most indicated that different individuals in the organization likely knew how much was paid in various regions of the world, while noting that having the global information reviewed collectively would be helpful in planning efforts. Most thought the information was currently divided by business unit and/or region. Most participants also noted that future improvements in global planning would be dependent upon the sophistication and/or accuracy of shared electronic data nationally and globally. Planning is only as good as the information relied upon in making decisions.

Difficulty in Accessing Data
Participants agreed that both the availability and reliability of data are key to successful planning. When asked about the difficulty level in accessing company data, nearly half of the participants thought it not difficult, although a third thought it highly difficult.

Internal Data Sources
Most participants agreed that sources for internal information were readily available. Some of the data sources cited by participants include purchase orders, sales orders, production forecasts, bills of
To compensate for difficulties in accessing data, participants discussed tools that they have developed to make necessary data available. For example, one participant described an Internet-based tool, prepared in a format similar to a Customs Request for Information (CF 28). The tool, more user friendly than a CF 28, enables the customs function to identify opportunities for Heading 9802 or to report assists. Another participant mentioned a tool used for classification purposes which requires the user to complete a series of questions based on a certain Informed Compliance Publication.

**Difficulty in Accessing Data**

![Difficulty in Accessing Data](image)

All participants agreed that working closely with supply chain groups is a best practice. In addition, one participant highlighted that another best practice is making sure that supply chain partners work with the company’s designated customs broker(s).

Most participants believe that the supply chain planners understand the importance of customs and also require good information to plan accordingly. One participant mentioned that the supply chain group in its organization is very well aware of the customs-related data and is able to obtain country-by-country data. Participants generally agreed that while improved, additional education of supply chain departments in customs processes and import would be beneficial.
Accessing Global Data

Accessing reliable, internal data on global operations generally presents challenges. A few of the challenges highlighted by the participants include:

- **Systems knowledge**—Systems integrity and the know-how to access the proper systems are key to data gathering. For example, one participant mentioned the importance of having personnel with Microsoft Access skills for data manipulation.

- **Stale data**—One participant highlighted the challenge with accessing data before it becomes stale and meaningless.

- **Language barriers**—Several participants mentioned that language barriers create a hindrance to obtaining useful data.

- **Time constraints**—One participant mentioned that the customs function is too busy with U.S. issues to tackle global issues.

Managing global data is not an easy task for any of the participants, but is considered a best practice. It became clear that all participants have a much easier time managing U.S. data over global information.

Customs: Automated Commercial Environment (ACE)

Five participants are actively involved with the U.S. Customs ACE pilot. Each of these participants found that the data provided through ACE has not met expectations. Data is often incomplete, not “real time,” and difficult to manipulate. Others mentioned that the data is in “pre canned” reports—in formats helpful to Customs, but not necessarily to the business. Participants would like to see additional flexibility from ACE that would enable users to customize the data. One participant stated that much of the ACE data is already available from brokers in more user-friendly formats.

Service Providers

Most participants consider availability, quality, and flexibility of data when evaluating service providers. Everyone agreed that having data available to do quantitative risk assessment is important.

When considering third party logistics (3PL) candidates, participants concurred that considering the availability of real time data is important. One participant emphasized that access to data directly downloaded from a system is better and more reliable than getting information that has already been manipulated by a service provider (e.g., customs broker).

One participant found that the best source for industry data is from trade organizations, consultants, attorneys, or peers.

Suppliers and Customers

All participants agreed that having an electronic interface with suppliers, while not always feasible, is a best practice. One participant mentioned that all data received from its suppliers is hard copy.
When talking about difficulties over specific types of data, one participant mentioned the struggle in getting suppliers to unbundle amounts for freight and international insurance on Cost Insurance Freight (CIF) invoices. On the other hand, two participants talked about being able to work directly and with ease, with suppliers and customers to obtain data necessary for Certificates of Origin or for transshipment purposes.

Most participants agreed that whether data is easier to obtain from a related or non-related supplier depends upon the type of data being collected. Specifically, most concurred that for inbound shipments it is easier to obtain information from non-related suppliers, and more difficult on the outbound shipments. However, two participants disagreed that obtaining supplier or customer-related data is difficult; retrieving data is not complicated in their industry.

**Summary of Key Findings**

- Reliable global data is essential to the success of planning projects.
- Accessing U.S. data is generally not difficult. Accessing non-U.S. data is often challenging.
- Involving the customs function in the development of systems-related business requirements is a best practice.

**Participation in Systems Selection and Development**

All participants agreed that while being involved in systems selection and development is crucial, coordination is not always an easy task. Participants also agreed that early involvement of the customs function is also a best practice.
DURING THIS SESSION, Symposium participants focused their attention on strategic planning: what it is, who should do it, how and where it should be implemented. Consensus was quickly reached that strategic planning is necessary in today’s competitive environment and that the customs function of the company is central to planning initiatives. Planning itself encompassed a large and varied number of items for the participants, from tariff engineering, valuation and free trade agreement planning to compliance initiatives, increasing speed of delivery and reducing penalty exposure—all things that could ultimately reduce duty or fee liability related to imports.

Consensus was that planning should be done beyond borders, although the specific organization of a global structure differed depending on general corporate structure and practice. It is a worthwhile effort that someone in the company should understand global duty liability, although many participants noted their corporate knowledge was currently regional. A theme running through the discussion was effective communication, across functional and geographical lines. While methods and regularity of communication differed among participants, all agreed it is critical that the customs function be kept informed of larger corporate initiatives (new markets, products or sales transactions), global customs activities and duty liabilities. This allows the customs function to properly identify opportunities or prevent unintentional negative consequences.

Further, participants noted that personnel in the customs function take on both traditional compliance and planning roles, with compliance always winning the battle for their time. Additional resources to focus on planning would be extremely helpful, so as to avoid leaving opportunities on the table. Most felt there were likely lost opportunities when considering the global product flows.

Finally, consensus was that completing and communicating internally about successful planning projects (e.g., duty minimization examples) resulted in direct benefits to the customs function, whether that was “using strategic planning as a public relations tool to achieve compliance,” “justifying additional headcount,” or receiving positive feedback from other business functions considered as “clients” of the customs group.

Strategic Planning Defined

What is strategic planning? Participants agreed that strategic planning should ultimately include all elements that could minimize import duties, fees, and penalty exposure. While some strategic planning elements may be subtler than others, corporations would be well-advised to consider the following areas within strategic customs planning:

- Valuation Planning — Valuation planning would include initiatives to reduce the dutiable value of imported products, from “first sale for export” planning, to
unbundling of various non-dutiable costs from the price paid, to negotiating reductions in vendor pricing.

- **Free Trade Agreements and Special Programs**—A number of participants stated that their companies had achieved significant savings utilizing free trade agreements, such as NAFTA, and special programs, such as foreign trade zones. This was also identified as a significant area of future opportunity.

- **Classification Planning**—Many participants think of classification as a compliance-only item: review the product and determine where in the tariff schedule it falls. One participant reminded the group that, when thinking strategically, tariff engineering could be part of product development. For example, one participant worked successfully with the corporate research and development group, foreign vendors, and customs officials during a new product development phase to design a product in such a way that it fell into a desired tariff provision as opposed to another with a higher duty rate.

- **Anti-dumping/Countervailing Duty Planning**—Participants agreed this could include strategic sourcing initiatives to avoid existing or potential future duties by using a different vendor or source country, or defense work in the dumping actions themselves.

- **Methods to Streamline or Support Speed of Delivery**—Another participant expressed that timing of product delivery was critical to their industry. Planning customs business procedures in a way to minimize delays is a very important part of the group’s responsibility for strategic customs planning.

- **Compliance Initiatives**—Consensus was that compliance efforts also very directly relate to “strategic planning.” Good compliance programs result in fewer penalties and less time diverted to correcting errors. Compliance procedures also protected special programs or free trade agreement preferences being claimed by companies.

Participants agreed that planning must occur in all countries of the supply chain, not just focus on the U.S. or any other country in isolation. The total duty impact from component sourcing to customer delivery should be included as part of a corporation’s strategic planning efforts. Furthermore, planning should focus on both new product and new market efforts.

### Strategic Planning – Ownership

Most corporate customs functions had a formal mission statement. Most mission statements did not directly focus on strategic planning; compliance was the more frequently cited purpose for the group’s existence. Regardless, each participant identified the customs function as the primary owner of strategic customs planning.

To be successful, participants indicated that the customs functions should serve to both drive and respond to various strategic planning initiatives. Ideally, both scenarios would exist if internal corporate communication levels were on par. The customs personnel drive knowledge, as they are the trade experts, the most likely to identify opportunities, and often facilitate necessary changes. They may also respond to ideas from other business functions, evaluate risks associated with potential change, and assess feasibility of
options from a customs standpoint. For customs groups more formally focused on strategic planning as a mission, one participant described his role “to introduce concepts to the business,” to “identify perceived barriers to market entry in countries,” and to determine if products or countries could be more accessible or competitive through the use of strategic customs planning. In essence, his focus went beyond identifying and minimizing duty under the current scenario; it included customs as a true planning tool to analyze new markets and products against what the company and its competitors were currently doing.

**Strategic Planning – Resources**

A majority of participants reported difficulty obtaining necessary resources to conduct both general compliance and planning on an ongoing basis. Most companies employed generalists in the customs function (versus having certain individuals conduct compliance activities and others planning activities). However, most participants agreed they would like more resources to focus on planning efforts. Currently, participants often sought temporary help or outsourced initiatives on a project-by-project basis in order to focus on certain strategic planning initiatives.

Conversely, participants did cite strategic planning as an internal public relations tool. In some cases, illustrating strategic planning successes helped them push compliance and obtain additional headcount.

From a global perspective, participants agreed that lost opportunities likely existed due to a lack of information either across functional lines or across borders. This could result from decentralized governance of business units/entities or simply the lack of time and/or money to review all operational scenarios.

**Quantifying Customs Savings**

Most participants agreed that quantifying savings was a worthwhile effort when possible. One participant expressed that he receives notable support if he can report to superiors the dollar amount involved, even if estimated. This can sometimes be a challenging exercise with regard to customs initiatives that focus more on speed or penalty-minimization, versus comparison of alternative duty rates as related to free trade agreement planning, for example. In any event, the exercise generally proved a meaningful effort for the customs functions.

**Corporate Function/ Communication Involved in Strategic Customs Planning**

The group conducted a brainstorming session to “assemble the ideal multi-functional team” necessary to conduct strategic customs planning. Excellent points were raised to justify including other departments in the planning process. These functions and some discussion points are included below.

- **Environmental** — Potential limits or regulatory requirements on imports/exports/scrap
- **Finance and Treasury** — Valuation planning, documentation
After compiling this “dream team,” one point became obvious: customs planning can touch just about every business function of the company and it is impracticable, if not impossible, to gather such a cross-functional team on a regular basis. Instead, an appropriate team or teams should be built around initiatives.

Broader Corporate Initiatives

We inquired whether the customs function is kept abreast of larger corporate initiatives or intended business changes that could impact customs duties, either intentionally or unintentionally. All in all, participants reported sometimes being linked to decision-making processes in early stages, and sometimes being an afterthought. Participants shared advice on how they successfully communicated with cross-functional departments.

All participants had undertaken efforts to educate and drive initiatives with other functional units of the company. This effort furthered the customs function’s goal to be advised of issues, potential business changes, etc. Publicizing success stories was seen as very effective in getting “invited to the table” when other initiatives or business changes were being contemplated. One company publishes an internal newsletter to market themselves. One participant noted benefits of getting to know the business lawyers that review planning ideas from a variety of subject areas. The lawyers would then bring in customs professionals to advise on potential impacts before decisions were made. Others conducted quarterly web-cast training programs, and published newsletters to heighten awareness.
One participant identified core people/skill sets needed to regularly address the customs function with respect to the most commonly faced issues. Other subject matter experts were then brought in as needed on particular projects. Planning was initiative based. Different core teams existed for different initiatives. For example, when completing the company’s C-TPAT application, the core team involved, among others, security personnel and purchasing, whereas a trade agreement planning project would not involve the same core players.

Most believed their company had room for improvement and that general communication and education outward was important to maintain. Highlighting proven success stories and/or mistakes/delays experienced by the business functions, grabbed attention and served as the impetus for good communication thereafter.

All thought internal marketing was a good idea, and participated in an effort to market the customs function to other groups. Customs personnel in numerous companies attended other business functions’ staff meetings on a regular basis and felt that effort was helpful toward understanding the current and intended import scenarios and/or issues to be addressed. Many participants noted that larger multidisciplinary customs planning meetings were held periodically. Regularity of meetings and methods of interaction differed based on corporate culture. Some companies were more “meeting-driven” than others.

**Global Focus**

A majority of participants addressed customs planning on a geographic or regional basis, but were moving toward a global focus where possible. Few companies have similar customs groups (counterparts) in other countries. Most agreed that strategic planning ideas should be leveraged across geographic boundaries where possible. Modeling some aspects of the U.S. customs function abroad was viewed favorably by most participants, while noting that complete replication of the function was not likely possible or recommended. For the U.S. function, many noted that it was often difficult to “take off the American hat” and address planning from something other than the U.S. standards. The challenge is to stay global and use the U.S. perspective as a guidance tool only.

One participant had a structured global planning effort underway. That company developed cross-functional teams and a process requiring all executives to contribute a certain percentage of their time toward customs planning. Strategic planning ideas to save duty or improve a process are raised to the top of the corporation through an in-country approach. The idea is then assessed by an independent group that determines if it should become a formal program on a global basis. The corporate representative felt this process of applying the same set of tools globally had been very helpful thus far. At the least, the exchanging of ideas was a good starting point.

Another participant indicated they are part of a global customs function of a foreign parent company. In order to effectively leverage planning ideas, there definitely is a need for core expertise to exist at the corporate parent level.

One company utilized a global product Harmonized Tariff System database with commonality at six digits, rather than every country...
maintaining its own. That participant viewed centralized databases as extremely helpful to global planning. Another noted that with different information technology systems in place at their company, it becomes “impossible to get our hands around all the data” that exists globally.

All participants agreed that it is a worthwhile effort to consolidate global data and that organizing or aligning the information on a product flow or business unit basis would be most helpful. It was noted however that actual product flows might not be known or transparent to the U.S. entity/importer. There is a common goal or interest that can be identified for all persons along a particular business unit or product flow, as well as high level executives at that division that can push initiatives down across multifunctional areas of the company.

Ultimately, the group felt it is important to understand activity in all relevant regions of the company in order to successfully identify potential customs opportunities. One participant stated the importance of understanding foreign market size in the company in order to determine importance of planning in that region. That drives the level of activity necessary in that region. Another participant noted that global initiatives roll up to his department in the U.S. Each must be prioritized and then coordinated around the world. Simply due to the size and scope of activity, consensus was that strategic planning on a global basis should be initiative based. Communication across country lines must be strong enough to identify necessary initiatives, key players and geographies.

While most participants believed the U.S. customs function was fairly sophisticated, most also noted that global connectivity and strategic plans could be improved in the future.

Consensus was reached that strategic planning is necessary for every industry in today’s marketplace. It is sensibly led by the customs function and should be comprehensive from both a subject matter and geographic standpoint. Effective interaction and communication across functional and geographical lines may be the key difference between companies who capture or miss planning opportunities, along with resources capable of focusing on identified opportunities. While no participant believed it had reached a truly global planning effort as of yet, all agreed that was a goal to be achieved.

Summary of Key Findings

- Comprehensive strategic planning for the minimization of duties, fees, and penalty exposure is a best practice.
- Ownership of strategic planning should fall within the customs function, but requires cross-departmental coordination to be effective.
- Considering “total duty impact” along the entire supply chain, from component sourcing to final product delivery, is a best practice.
- Early involvement of the customs function in corporate initiatives has yielded financial benefits, and is a best practice.
- Even businesses with a sophisticated U.S. customs function are likely not maximizing global strategic planning opportunities.
Challenges and Future Views

The Symposium
The Symposium concluded by asking the participants to look ahead, predicting how their jobs might change, and the source of those changes. Two clear themes emerged:

- The environment would become increasingly complex and require more time and effort to perform the import function; and
- Data and systems needs are critical to performing the function, and will likely be the single largest determining factor for success in the future.

Allocation of Time
Duty reductions, harmonization, and greater transparency in customs processes globally have all resulted in efficiencies in the import function. Those efficiencies, however, are outweighed by the increasing complexity of the rules governing international trade, the volume of cross-border transactions, and the globalization of business. All participants believe that they will be devoting more time to virtually all aspects of the import function in the future. Comments were made on the following specific areas:

- Classification — This is the one area where the majority of participants anticipate achieving necessary results with less time in the future. Significant investments have been made in classification systems, particularly in the 1990s, which have led to classification becoming a relatively routine process conducted with a high level of certainty. One participant in the technology area did note that classification of new products where the Harmonized Tariff System has not kept pace with technology continues to be manually intensive and difficult.

- Valuation — The participants were much less confident that valuation would become routine, and anticipated devoting more time to it in the future. Business complexities, varying interpretations, and lack of sophistication of customs authorities continue to make identifying, properly declaring or supporting the proper exclusion of and additions to value more complex and time consuming. Participants dealing with related party transactions believe they will be spending more time actively interfacing on company transfer pricing policies and procedures. Participants with dutiable goods believe there are opportunities for value reduction planning that have not been achieved, and expect to devote resources to take advantage of these untapped opportunities.

- Country of Origin — The increasing number of preferential trade agreements, each with unique rules, will require that more attention be given to origin determination. Preferential trade agreements have yielded significant savings for a number of the participants; more agreements can equate to more savings, but
require more effort. Because of the way the matrix of rules has developed, incrementally more effort will be necessary to maximize value. For example, determining how to meet origin under both NAFTA and the EU-Mexico Free Trade Agreement is more complicated than separately determining how to meet origin under either one. Both determining and tracking non-preferential origin is also anticipated to take more time and effort. Technology participants noted the difficulty in making accurate determinations with rapidly changing locations for assembly and subassembly. Participants from the oil field service companies noted the difficulty in tracking origin for equipment moved and reconfigured from place to place. The lack of harmonization of non-preferential rules was cited as reason alone for needing additional resources to comply with origin rules.

**Supply Chain Security Programs** — All participants believe that there is more to come with C-TPAT, and similar programs in other countries.

**Internal Controls** — The current corporate environment has provided a focus on internal controls. Independent of this focus, however, participants believed that more time and effort would be spent on internal controls over the import function as a means of achieving primary departmental goals and objectives. Coupled with the increased corporate focus and new legal requirements, such as Sarbanes-Oxley, the participants uniformly anticipate internal control development, enhancement, and testing will be a priority over the coming years.

**Strategic Planning** — All participants recognize the bottom line impact of strategic planning. The challenge of devoting adequate time to planning was noted earlier in the Symposium, and all expect that more time will be devoted to strategic aspects of the import function in the future.

### Future Trade-Related Events

When asked about their opinion on the significance, participants provided the following feedback related to each of these trade events:

- **Harmonized Tariff Schedule (HTS) Re-write** — The participants were generally aware that an HTS re-write is scheduled for 2007. Technology participants, in particular, intend to actively monitor and/or participate. Technology continues to grow in ways that make application of dated HTS categories apparent, and even though many of the products are duty-free in Information Technology Accord signatory countries, HTS clarification will ease compliance. Participants from other industries were not as far along in assessing anticipated significance or level of participation.

- **Preferential Trade Program Participation** — All participants expected preferential trade agreements and special programs to continue to grow in number, size, and significance. While noting value in keeping up with an optimizing use of these programs, the general consensus was that the rules were already too varied to effectively take advantage of all opportunities. One participant noted “for NAFTA, to the extent we were able to certify
50% of our products, we are satisfied that we are doing a good job.” The majority expected to focus on identifying and executing on the largest opportunities “following the 80/20 rule,” rather than taking a comprehensive approach to capture all benefits under all agreements.

Harmonization of Rules — Rhetoric, not reality, can best describe the participants’ view of the current discussion about the harmonization of rules (such as origin) or processes and procedures. All agreed, however, that any progress on harmonization would be significant and beneficial.

Doha Round — Only a few participants believe that the Doha Round would be significant to their operations. These companies were following very specific issues, such as agricultural subsidies and internet taxation.

Cargo Security — The participants anticipate that customs authorities will be sharing much more cargo security information in the future. The participants noted the World Customs Organization’s effort to establish harmonized guidelines for cargo security programs. Several anticipated that cargo security guidelines would move towards ISO standardization. The participants generally believed that the standardization would lead to more use of the “authorized trader” model, building supply chain security emphasis into selection of supply chain partners. The participants did not believe that smart technology for container security would be mandated in the near term as additional time is needed for the development of the technology, and costs are excessive, particularly for developing countries.

Stay Awake Issues
When asked whether participants have “stay awake” issues, overwhelmingly participants pointed out that access to good information is critical. Participants worry about keeping abreast of information related to foreign operations, especially within developing countries, and spend a lot of time focusing on the validity and integrity of information.

Both availability and reliability of information is dependent in large part on systems. The majority of companies spend a lot of time dealing with evaluating the integrity of information within systems, finding available time to perform systems-related audits, identifying key requirements, implementing systems, and performing upgrades to existing systems. Participants would like to have systems unification and one integrated system from order management to distribution.

Other stay awake issues cited include:
- Obtaining sufficient resources including budget to work on special projects and having enough people dedicated to the trade function.
- Resolving origin issues, in part due to the lack of harmonization and complexity of the rules.
- Dealing with global complex valuation rules.
- Providing customs-related training to raise awareness of customs issues within the company.
- Threat of potential litigation to resolve controversies.
- Participating in sufficient global planning.
- Conducting necessary global internal customs audits to identify and rectify problems.
Making My Life Easier

Clearly related to the concern over valid information, nearly all participants agreed that systems unification and automation—having one system from order management to distribution—would make their jobs much easier. In addition, many participants mentioned that simplification and harmonization of rules—both origin and classification—would be welcome changes. Similarly, participants believe that implementation of and consistency of interpretation of approach by various agencies would make their lives easier. One participant sought additional resources and management focus on customs activities.

devolved to participate in the U.S. Customs Importer Self-Assessment program, they were confident that they could provide Sarbanes-Oxley Section 404 certification if asked.

Direction of Customs Authorities

Participants would like to see additional expertise in all customs services across the globe. In the U.S., customs personnel need more training in technical areas, such as valuation and foreign trade zones. One participant commented, “the best people are now in enforcement.” The participants noted that the lack of expertise in customs personnel is particularly pronounced in the developing world. None expect that situation to change in the short term.

Consensus among participants is that non-U.S. Customs authorities are moving towards auditing, similar to the U.S. model. One participant thinks that countries are moving towards aligning focus more regionally. Cargo security will be a larger focus globally.

Additional Budget

If participants were to have additional budget, the majority of participants would put the additional funding towards systems. Other participants cited areas such as centralizing the customs function, outside consulting services, and travel costs.

Impact of Sarbanes-Oxley

Sarbanes-Oxley remains a “work in process” for most of the participants. It is difficult to assess the import process in a Sarbanes-Oxley context, as many aspects of the function have overlapping financial and operational impact. Participants were largely unsure whether or not the import function, or a significant aspect of the import function, should properly be considered within the scope of Sarbanes-Oxley Section 404 certification. Several participants did note that because of the emphasis they have given to internal controls, including internal controls

Participants’ Largest Impact in the Future

Participants unanimously agreed that they will have the biggest impact on globalization efforts of their respective companies. An efficient, compliant import process is essential for global expansion, and strategic, proactive import planning can significantly impact company profit. No single geographic focus was identified as common. Instead, geographic focus tended to depend on industry.
Concluding Thoughts

SYMPOSIUM PARTICIPANTS were able to identify clear commonalities and trends. Risk management has emerged as a primary objective of a global import function and has become increasingly proactive. Import functions are taking a more global focus and becoming more centralized. At the same time, companies have recognized material savings from strategic planning. Significant opportunities for additional strategic benefit remain in duty savings, planning for related trade issues, and in supply chain efficiency. Key to recognizing these benefits is the availability of timely, complete and accurate information.

Personnel within the function, location of the function within the company, risk assessment, opportunity identification, and execution on risk minimization and strategic opportunity remain highly individualized. This is not reflective of differences in mission and mandate. Instead it is reflective of business differences, and the very individualized way that Customs rules affect a company—results vary by product, origin, vendor, and type of transaction. As a result, even where companies have identical objectives, the methods for best achieving those objectives can be materially different, and dictate carefully planned customization.

The 16 companies that participated in the Ernst & Young Global Customs Best Practices Symposium are each developing leading-edge customs and international trade functions. Each has recognized the importance of taking a global view, balancing investment in compliance and strategic planning, and relying heavily on process in order to be “best in class.” Yet for each, the development of the function is expected to be an ongoing process in and of itself, requiring proactive attention to refine and re-engineer processes in order to remain effective in an environment of business changes and growth. The participants believe that the recognition of the customs and trade function as significantly impacting the enterprise has increased substantially in recent years, which has resulted in increased resource allocation for the function, fueling the ability to actually impact corporate results. As corporate globalization continues, this trend should accelerate. We anticipate that those businesses with an emphasis on continual improvement of the global customs process will indeed recognize direct financial and operational benefits from their efforts.
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