



WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES

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ENFORCEMENT
COMMITTEE

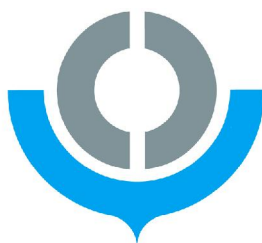
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Working Group on
Commercial Fraud

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UPDATE (3RD EDITION) COMMERCIAL FRAUD TYPOLOGIES SUMMARY



WORLD CUSTOMS ORGANIZATION
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Commercial Fraud Typologies Summary

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**Enforcement sensitive
For Customs use only**

Commercial Fraud Typologies Summary

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INTRODUCTION

The revenue implication of commercial fraud for Members around the world is huge. Information from different sources indicates that countries lose hundreds of millions of dollars in revenue as a result of commercial fraud. Customs commercial fraud perpetrators are taking advantage of every opportunity presented in the multi-modal transportation systems and trade patterns to execute a variety of schemes. The Customs commercial fraud is not only the subject to the developing countries, but also has implications to the developed countries. Further, it is suspected that some aspects of Customs commercial fraud, in particular overvaluation, have been linked to the money laundering scheme. Such disguised illegal capital outflows could provide criminal groups with funds for other criminal acts such as arms and drug smuggling.

Member administrations may be aware of various kinds of "Typology Reports" produced by a number of international organizations specialized in respective crimes. Annual typology reports on money laundering, which are being produced by Financial Action Task Force (FATF) and some FATF-style regional bodies, are the good examples. These reports are prepared, based on the information provided by their members and relevant stakeholders, to develop better understanding of the money laundering methods, techniques and trends. These practices are welcomed by the members of the respective organizations.

Following the good exercises done by other specialized organizations, the WCO Secretariat produced this typologies summary with a view to providing its Members with examples of prominent commercial fraud cases in a narrative way, and to share the ideas on practical administrative enforcement measures, which have resulted in the detection of these complicated Customs offences.

The fraudsters target various Customs procedures and tariff regimes, which may bring them considerable amount of profits. Such procedures and regimes vary from one administration to another, but there are somewhat similarities as well. In light with the definition¹ of the commercial fraud, this typology summary sorts out the provided fraud cases primary by the nature, namely:

1. Evasion and of the duty/tax payment;
2. Evasion of prohibition, restriction or requirements for import an/or export;
3. Unauthorized receipt of repayment, subsidy and/or disbursement;
4. Gaining illicit commercial advantage; and
5. Transfer of proceeds of crime using import or export of goods (Trade-based money laundering)

Commercial fraud is perpetrated in various ways, often combined, for the various reasons. Bearing this in mind, this Typology Summary enumerates a range of cases showing how fraud was committed (i.e. methods). The Secretariat considers that, by this way, the Typologies Summary provides the Members with better ideas on common methods particular to the respective nature of commercial fraud offences linking both together. In order to update the relevant information, the Secretariat underlines the importance of Members' support and

¹ "Commercial fraud means, any offence against statutory or regulatory provisions which Customs are responsible for enforcing, committed in order to:

- Evade, or attempt to evade, payment of duties/levies/taxes on movements of commercial goods; and/or
- Evade, or attempt to evade, any prohibitions, restrictions or requirements applicable to commercial goods; and/or
- Receive, or attempt to receive, any repayments, subsidies or other disbursements to which there is no proper entitlement nor transaction; and/or
- Obtain, or attempt to obtain, illicit commercial advantage injurious to the principle and practice of legitimate business competition ; and/or
- Exploit, or attempt to exploit commerce for the purpose of transferring proceeds of crime."

(Note: This amended definition was agreed by the Working Group on Commercial Fraud (Doc.EF022E1), approved by the 27th Session of the Enforcement Committee and adopted by the Council in June 2008)

contribution through the provision of more detailed information of relevant commercial fraud offences to CEN database in a narrative way.

SECTION 1. EVASION OF DUTY/TAX PAYMENT

Although the motives of committing commercial fraud offences vary, the results of the Global Assessment on the Impact of the Commercial Fraud conducted by the RILO A/P and the Secretariat (Doc. EC0190E1/F1) suggest that the primary objective of committing commercial fraud is to gain the financial benefits. Although there has been a global downward trend in Customs duty rates within the framework of the GATT/WTO trade negotiations, the duty rates in a number of countries for a variety of commodities remain high and these commodities are being targeted for commercial fraud, having huge economic and revenue implications for both public and private sectors.

(1) Under/Over-valuation

a) Under-valuation is to make a false declaration indicating a value lower than the actual transaction value. This type of fraud is attempted, in principle, to pay fewer amounts of duty/excise taxes and/or evade import restrictions, such as anti-dumping duty.

Case 1. False declaration of value (Republic of Guinea)

An invoice covering the importation of rice into the Republic of Guinea from China was forged. Two separate importers imported rice, using the same supplier. Strangely, the two invoices were not made out in the same typeface, and the FOB value per ton was much lower on the first invoice than on the second. Our first response was to look back over all the old invoices from that supplier, so that we could compare the typefaces. We then contacted the supplier by Internet to find out the FOB value per ton. We gathered from this that the importer had under-valued the imported rice.

Case 2. False value declaration (Italy)

Italy had a case of commercial fraud regarding textiles (HS Chapters: 54, 52, 60), which is about smuggling through false value declaration.

The origin of the goods was China-Indonesia, destined for import in Italy. The declared value is \$ 291.845 and the real value \$ 2.642.839. As a consequence of this case, further investigation led to controls on the bank accounts of the Company, which led to find out evidence of further undeclared exchanges for a total amount of \$ 2.987.988.

Case 3. Use of falsified documents (United States)

A California man was sentenced by a federal judge in Los Angeles in February 2005 to 18 months in jail, with 3 years probation & assessed a US\$7,500 penalty. He may be the 1st importer to receive a jail sentence for circumventing U.S. trade laws. His crimes began in July 1994 when the U.S. Dept. of Commerce imposed an antidumping duty order on fresh garlic imported from China into the U.S. The order required importers to post a bond or cash deposit of 377% of the value of any shipment of the product. Using falsified documents, he grossly undervalued or incorrectly identified country for origin of 98 shipments of fresh garlic from China. Each shipment violated the antidumping duty order and resulted in the total avoidance of more than US\$9M in antidumping duties.

Case 4. Manipulation of invoice prices (Australia)

Information received that a company has been importing Plastic Mail Trays, which they sell to Australian Post. The freight and insurance has been overstated on the invoices and entries resulting in a lower valuation and as a shortfall in duty and GST (Goods and Service Tax). According to the information, this undervaluation has been occurring since 2000. The importer has come to an arrangement with supplier in Malaysia. Exporter supplies invoices to show the amount of insurance and freight on each invoice as higher than it actually is. The total invoice price is correct, however, the higher insurance and freight costs result in a lower CVAL.

Case 5. False declaration of values (Uganda)

A consignment of cosmetics was imported into Uganda. An invoice with a consolidated c.i.f. value was presented to Customs. A scrutiny of the document revealed that the VAT number on invoice purported to have been issued in the exporting country was the same as the one quoted on invoices of similar imports from other country. The consignment was subject to physical examination to ascertain quantities and descriptions. The examination results were as follows:

- There were cosmetics for both men and women with specific labels and different quantities in each bottle;
- The goods were of two distinct item codes and none of them was similar to the one quoted on the invoice.

The supplier was contacted for clarification on their supply and invoicing procedures with their distributors in another country. He was also requested to provide a copy of the invoice that was issued in respect of goods in question. The copy of invoice with the goods properly itemized, indicated that the invoice presented to Customs was a forgery and an attempt had been made to undervalue the goods by 70%.

Case 6. False declaration of values (France)

In early 2007, French Customs services verified a semiconductor manufacturer's fixed asset accounts. It transpired that the company had, with no payment being made, provided its supplier with machines worth a total value of € 378.3 M. As these machines are used in the manufacture of imported semiconductors, their value should be reincorporated as a proportion of the value of the imported goods. The false declaration of value amounted to € 137.7 M, with evasion of € 261,000 in Customs duties.

The investigations conducted subsequently focused on the raw materials used by the subcontractor. These raw materials, with a total value of € 1,700 M, were made available free of charge by the importer without being reincorporated in the Customs value of the imported semiconductors. In April 2007, another false declaration was notified for an amount of € 128,000 in Customs duties.

Case 7. Forging invoice using home computer (New Zealand)

An importation of plastic food containers shipped to New Zealand was stopped for Customs investigation on the grounds that *prima facie* the value declared to Customs was erroneous. During the course of the investigation, it was ascertained that the importer had previously cleared a number of shipments of these goods through Customs. Firstly, bank records of the remittance made by the importer back to the foreign supplier were compared to the respective declared values; a discrepancy of some thousands of dollars was noted. Secondly, copies of the purported supplier invoice were obtained for the proceeding shipments. A key indication that these had been forged by means of the importer creating these documents on his home computer was that the same invoice number (and same date even though the invoices were raised a month or so apart) appeared on the purported supplier invoices used to clear three of these shipments. Obviously, this is contradictory to normal business practice but can occur if the creator of the invoicing subsequently overlooks altering the invoice number (and date as in this instance) of initial 'template' invoice.

Case 8. Intervention of third country offshore company (Lithuania)

In cooperation with the U.S. Customs officers it was established that the value of vehicles imported into Lithuania sometimes differs even several times. The Lithuanian companies buy used cars from the exporting companies through some third country offshore companies registered in different islands of the Pacific Ocean. The first invoice between the exporting company and the offshore company indicates the real price of the vehicle. During the shipment of a vehicle to Lithuania, the invoice issued by the offshore company to the Lithuanian enterprise is presented to the Lithuanian Customs with declared value that is much lower than the one initially declared to the Customs in the exporting country. It is assumed that documents are forged in Lithuania in order to hide the real value of imported vehicle.

Case 9. Substitution of documents (Russian Federation)

Electrical equipment manufactured by French company A was transported through territories of third countries from an offshore consignor B to the address of the Russian company C. Documents containing false information about the real owner of the goods and their value were used for these deliveries. As the result of enforcement actions in Russia 11 vehicles with contraband goods were detained, total value of the goods – more than 4 million Euros.

These offences relating to importation of high priced equipment proved to be a series of cases of commercial fraud. As the result of enforcement measures and analysis several other instances of importation of electrical equipment were detected, the importation had been organized through several mediator companies acting as importers. The involvement of these companies allowed criminals to state false information regarding customs value of the goods and also to misclassify these goods during clearance. 325 similar deliveries of equipment manufactured by company A to Russia were detected. The value of the goods imported was more than 10 million euros. Approximate damage to the state budget in evaded customs duties was more than 2 million euros.

Case 10: Undervaluation between related companies (China)

A foreign company set up two companies in Hong Kong China and Nanjing, China. The foreign company purchased and sold waste metal to the company in Nanjing in the name of the company in Hong Kong China; the goods were directly transported from the foreign territory to Nanjing. The company in Hong Kong China declared a lower price than the actual transaction value by forging the contract, invoice, packing list in order to avoid the tax. The company in Nanjing paid the gap price to the company in Hong Kong China illegally, and then the latter transferred the money to the foreign company.

b) Over-valuation is to make a false declaration indicating a value higher than the actual transaction value aiming at, for example;

- Obtaining higher export refunds and higher duty compensation;
- Evading internal taxes;
- Avoiding anti-dumping duties; and
- Money laundering schemes.

Case 1. Abuse of price differential duty system (Japan)

This is the case where some companies evaded Customs duty by abusing the differential duty system*. They falsely declared the import price of frozen swine higher than the actual transaction price, using fabricated double/false invoices.

The importers and exporters also established bogus companies both in Japan and in the export country, USA, for the purpose of camouflaging the real importers and exporters.

(*) Price differential duty is a tariff which establishes a duty rate equal to the difference between the imported price and a specific (intercepting) price. The objective of price differential duty is to strike a balance between the protection of domestic products and price stability. Even if import prices dip below a certain level, the duty prevents imported products from being sold at lower levels in the domestic market. When prices soar, the tariff burden is automatically lightened.

(2) Misdescription

Misdescription occurs when any information provided in relation to goods under clearance is false. Misdescription can take place when goods are imported or exported and also when goods are brought into free circulation (e.g. removal from warehousing). Misdescription may be observed in connection with, among other things, classification of imported and/or exported goods.

Case 1. Misclassification (Slovenia)

The goods were imported from Far East (China, Chinese Taipei, Hong Kong) and USA. The goods were declared to Slovenia Customs and other EU countries. Declared were as LCD monitors classified under HS code 8531 with rate of duty 0% instead under code 8528 with rate of duty, declared were as LCD monitors 14%.

Case 2. Misclassification (Romania)

Following an analysis of heading 9026 in Romania's Customs Import Tariff, taking into consideration the General Interpretative Rules for the classification of goods in the Harmonized Commodity Description and Coding System and the technical standards for the interpretation of the Harmonized Commodity Description and Coding System, it was discovered that a Romanian firm had imported, under tariff subheading 9026.10.51.000, instruments for measuring or checking the flow or level of liquids, for which the customs value declared by the importer was higher than the values declared at importation for similar goods. A subsequent audit initiated by the company concerned revealed that the goods at issue were in fact systems for measuring the flow of petrol from a petrol depot, consisting of flowmeters, temperature sensors, "petrocounts" and modular valves, classifiable in tariff subheading 9028.20.00.000.

Case 3. Misclassification of imported goods motivated by the staged increase of duty rate (Ireland)

Whilst processing a Refund Claim it was discovered that two US based companies were supplying Door Facings to an Irish customer. On importation, the rate of Customs Duty applicable to the product was 7%. In March 2004 an additional USA duty of 5% was introduced under EU Regulation 2193/2003 which increased by 1% each month up to 14% in December 2004.

The goods were being correctly classified at Code 4411191000 prior to the introduction of the additional duty but the company changed the Code in March 2004 to one not attracting this duty. Customs had samples of the product analyzed and it was found that the correct Commodity Code for the door panels – 4411191000- was that which was being used prior to March 2004.

The Importer when interviewed said that they were guided by the code used in the USA and had assumed that the code used on declarations made in Ireland up to March 2004 had been incorrect.

Case 4. Misdescription of goods (Russia)

In September 2005 in the framework of the international operation the following commercial fraud scheme was revealed. Electronic goods of non-European origin were imported to Finland and after some time sent to the Baltic States for further exportation to Russia by vehicles. In Latvia the goods were customs cleared and 3 vehicles went in the direction of the Russian-Estonian border. During importation to Russia the goods were falsely declared as construction goods. Duty evasion amounted to 0.5 million USD. The scheme was uncovered during profiling of consignments and further examination of the goods in the framework of international co-operation.

Case 5. Misclassification (Romania)

Following a post-clearance audit in company X, it was noted that the company had imported goods called "lathe centres" from a Canadian manufacturer. The first two deliveries had been correctly classified in tariff subheading 8458.19.40.00 (Customs duty = 2.7%), whereas the subsequent deliveries had been falsely classified in tariff subheadings 8466.93.00.00 (Customs duty = 1.5%) and 8482.99.00.00 (Customs duty = 8%). In addition, according to the audits of the financial/accounting entries, external orders for a value of USD 6,277,308 were identified, but only USD 5,191,700 had been declared to Customs, hence a discrepancy of USD 1,085,608. This discrepancy stems from the fact that company X had only declared the partial invoices and had not taken the final invoices into account.

Case 6. Misdescription of goods (El Salvador)

In some cases, Customs detected that the goods imported doesn't match with economic activities of the importers, in that case Customs officers decide to have a physical check and often detect that goods are improperly described or misclassified. Customs received import declaration for ink, which was claimed for the use on textile, but the importer was a constructing company. It was found that the ink is for the use in a different way with different properties other than declaration.

Case 7. Misclassification (Italy)

Some imports from China of "sheets or plates of polytetrafluoroethylene (TEFLON), covered on both sides with copper foil" classified under CN heading 7410210010 were investigated. A thorough check of the documents relevant to the declarations as well as technical paperwork obtained from the traders concerned has highlighted that the product concerned was actually only made of copper, epoxy resin and glass fibers (vetronite plates) but was Teflon free.

As a result, the correct heading for the product was CN 7410210090 to which no duty suspension applies.

Case 8. Mislabelling of merchandise (The United States)

Specific information was obtained that a U.S. importer was importing catfish but mislabeling as Grouper to avoid payment of anti-dumping duties. This information was analyzed and ICE conducted the investigation. Search warrants were executed which conducted resulting in the seizure of imported catfish labeled as Grouper, as well as numerous documents and emails proving the owners of the U.S. company were involved with the foreign exporter in mislabeling the fish.

The investigation resulted in a total of 15 indictments, 3 criminal arrests, 6 convictions and seizures of approximately 395,850 pounds of seafood, with a domestic value of approximately of \$687,787. In addition, the U.S. Company was ordered to pay \$1,139,275 in anti-dumping duties evaded, as well as forfeit business property.

Case 9. Misdescription of quality (Italy)

A physical inspection as well as a documentary check of a goods consignment declared as "100% cotton fabric" or origin of Country A, have highlighted that these goods according to their quality and size appeared to be bed clothes. Further investigations on the importer allowed to verify that his business was actually the manufacturing and marketing of bed clothes. On the basis of previous BTI issued by French and German Customs as well as the relevant Community legislation referring to this goods type, it was possible to define their correct customs classification.

Later on, it was verified that the importer had performed several imports of the type until 2007, hence he unduly benefited from the duty preferential treatment applying to the customs heading that he misdeclared, and evaded both the TC duty and the antidumping duty applying to imports of bed clothes from the Country A.

Case 10: Misclassification of textiles (Norway)

A company declared clothings of China under HS code 52.09 ("Woven fabrics of cotton..") with a duty rate of 0 %. However, a scrutiny of the invoice revealed that the goods were jackets (HS code 62.01) and pants (HS code 62.03) with a duty rate of 10,7 %.

(3) Smuggling and unauthorized release of goods under Customs control

Smuggling is defined as "a Customs fraud consisting in the movement of goods across a Customs frontier in any clandestine manner (Nairobi Convention Article 1-(d))." This type of fraud includes unauthorized removal of goods from Customs warehouses, authorized processing plants, free trade zone, internal movement, etc.

An element in the smuggling equation is the adequacy of Customs control to detect smuggling. If the smugglers/fraudsters believe that there are insufficient controls and that they have a good

chance of not being detected, then the environment is right for smuggling, -e.g. remote from the Customs checkpoints. Maintenance of professional integrity among Customs officials is another important element to prevent and detect this type of commercial fraud.

Case 1. Smuggling of goods (Switzerland)

As a result of significant price differences and high import duties, undeclared meat is discovered in our country every day. It is not unusual for meat to be imported in consignments of several hundred kgs, alongside other foodstuffs. Illegal consignments of meat are discovered not only in private cars and delivery vehicles, but also in the baggage compartments of coaches. Instances of smuggling have been uncovered as a result of border surveillance tailored to the risks, and the observation of people and premises.

Case 2. Unauthorized discharge of goods during Customs transit (Lithuania)

Consumer goods (clothes and footwear) originating in Turkey are sent in transit via Poland and Lithuania to Latvia and shipped by lorries, although they are offloaded (illegally) in Lithuania, transit procedures is ended fictitiously at the Lithuania/Latvian border.

Case 3. Fictitious termination of Customs transit (Hungary)

Bananas were imported to Hungary in huge quantities and they disappeared without Customs clearance. Consignment outside of EU arrives by train in transit procedure inland. Criminals use many Customs offices they transport the consignment from one Customs office to another:

- 1) Customs office of departure got an electronic message from Customs office of destination;
- 2) Customs guarantee will be freed by document TC11, criminals use counterfeit stamp on it;
- 3) Customs office of departure considers that transit procedure came to an end and does not look for the goods anymore;
- 4) No real Customs clearance, goods disappeared.

Case 4. Substitution of goods under the temporary importation procedure (Lithuania)

Consumer goods (clothes, footwear) originating in China are sent to Germany by air cargo or in the sea containers, CARNET TIR is opened in Germany and goods are named in an unidentifiable way (e.g. miscellaneous). Goods are then reloaded onto the lorries and shipped to Lithuania. Upon declaring for release for free circulation in Lithuania, invoices are presented where goods are identified as other goods (e.g. building material) to which lower tariff rate is applied and consumer goods are re smuggled (not declared).

Case 5. Forgery of Customs stamp (Finland)

A customs transit was opened in UK and the lot concerned was going through Finland to a third country. The Customs transit tried to be closed in Finland by showing to Finnish Customs a document (export declaration form) with Finnish Customs stamp (stamp No:063, dated 25.10.2005) as a proof that the goods has left EU-area. The Custom officer didn't accept the document because it was sent via fax. Later the same document was sent to Finnish Customs, but the number and date of the stamp had changed (stamp No: 053, dated 5.11.2005).

During the investigation it could be shown that the first document included forged Finnish Customs stamp (stamp No: 063). It was found out also that suspect C sent these documents from Russia by email to Finnish forwarding agent, who handed them over to Finnish Customs.

Case 6. In-bond diversion and smuggling of counterfeit merchandise (The United States)

A Container Freight Station (CFS) and 2 freight forwarders were actively engaged in the smuggling of ocean containers arriving into the New York area. CFS received arrival notices from freight forwarders via fax. CFS then filed paperwork with Customs at JFK Airport to have the shipments moved to the Freight Station via a Permit to Transfer (PTT). The containers never moved to CFS unless a shipment was targeted for examination by CBP. The empty container would be returned to CFS and a "dummy" shipment would be loaded into the container and delivered to the designated Customs Examination Station (CES). All of the paperwork provided to Customs Brokers to make entry into the U. S. was fraudulent. The consignees listed on the

paperwork were either "made up" or legitimate importing companies unaware that their names were being used. The manifested and entered commodities were either totally bogus or misclassified.

Case 7. Smuggling of cigarettes (Finland)

Company X was importing wall elements of metal into Finland. A shipment was sent to an X-ray inspection which revealed that something was hidden inside the elements. A Customs control revealed that 2.885.600 pcs of cigarettes were hidden inside. During an investigation it was found out that there have been seven similar shipments before. It was also revealed that the company's bookkeeping was not in order and that invoices were falsified as well.

Case 8. Smuggling of disassembled used cars (China)

Suspect companies purchase second-hand cars in North America, Europe and Japan, disassemble the vehicles and conceal the parts in container of waste metals. The declaration to Customs was waste metal; sometimes milk powder was hidden as well.

(4) Falsification of origin

There are several kinds of preference regimes, e.g. GSP and EC preference. As an example, the GSP rules of origin consist of three main elements, namely, origin criteria, documentary evidence and the direct consignment rules. "Origin/preference fraud" means any attempt to knowingly violate or abuse rules of origin and/or Customs documentary requirements as laid down by bilateral or multilateral agreements in force in the country concerned.

Case 1. Change of the origin by transshipping goods at a third country (Sweden)

Before the Provisional Anti-Dumping duty was introduced in Sweden on 9 February 2001, a company imported electronic compact fluorescent lamps from China and declared China as country of origin at the customs clearance. After that date, the company has imported electronic compact fluorescent lamps from Vietnam to a customs value of 15,700,000 SEK (1.7 million Euros). Vietnam has been declared as country of origin and GSP preferential treatment (Form A) has been claimed for the lamps.

Physical controls were carried out, but Swedish Customs found no information about the origin of the lamps at all. When the audit started on the 24th April 2003 records, correspondence etc. for the year 2002 was examined. Swedish customs couldn't find any evidence at the audit but in November 2003 customs received a tip-off via OLAF, which confirmed its suspicions. The received documents showed a shipment of fluorescent lamps, which had been transported in two containers from China to Vietnam. In Vietnam the lamps were reloaded in two new containers, which then were shipped to Sweden.

Case 2. Use of third party "law risk" countries and suppliers to disguise true origin and routing of shipment (New Zealand)

The New Zealand Customs (NZCS) was informed by the Australian Customs Service (ACS) that the latter had intercepted information in the international mail concerning what appeared to be an attempt to "carousel" a shipment of cigarettes, described as car batteries, into Australia via New Zealand (originating from a free port in a third country). The container number was included and this was also supplied along with the identity of a purported New Zealand importer.

Based on the information the container in question was intercepted on arrival and subjected to a covert Customs inspection. This inspection confirmed that the shipment contained a large quantity of cigarettes (about 3 million sticks) concealed behind a cover load of car batteries. The shipment was then held to await either Custom clearance into NZ (possibly by the NZ consignee shown on the Bill of Lading) or more probably transshipment to Australia as appeared likely from the information. Shortly thereafter, a request was received by the port authority from a NZ Customs broker requesting that the container be loaded onto a vessel for transshipment from NZ to Australian port. The NZCS then obtained the cooperation of the broker who from this point on

was able to maintain communication with an Australian entity, who eventually attempted to clear the goods through the ACS, was apprehended whilst doing so with the seizure of the shipment.

The Australian entity requested that the Customs broker arrange with the shipping agent to change the name of the shipper on the first version of the Bill of Lading cut from the original Dubai-based shipper to the name of the purported NZ importer. This was on grand (so the entity claimed) that the latter had “on sold” the shipment to him. To “validate” this claim the Australian entity produced an invoice purporting to have been raised by the NZ entity on him as evidence of the sale. It was later confirmed with the NZ entity that this invoice was a forgery and subsequent ACS forensic examination of the Australian entity’s computer confirmed that the invoice had been created on the latter.

Case 3. Change of origin via third countries to avoid higher duty rates (France)OLAF

informed Member States of a suspected evasion of duties on the importation of hand pallet trucks of Chinese origin. The French services then analysed the traffic, and discovered a sudden increase in imports, particularly from Thailand, shortly after the introduction of these duties. Investigations were conducted on the French companies most likely to be involved in this fraud. A Community mission made up of French, German and Italian officers was then organized in Thailand, to collect evidence of the true origin of these goods.

With the agreement of Thailand’s Ministry of Trade, inspections were conducted on the premises of manufacturers of hand pallet trucks, in order to ascertain the true origin of the goods by examining certificates of preferential origin and comparing the price of the imported articles with the manufacturing cost. Nine rules of origin offences were then notified in France, involving duties totaling more than 1.4 million Euros.

(5) False declaration of quality and quantity

False declaration may occur when any information furnished to Customs authorities concerning the physical attributes, nature, volume, quantity or measure of goods declared is untrue. This false declaration is made with the intention of deriving undue advantage or pecuniary benefits or to avoid existing restrictions and prohibitions.

Case 1. Incentive tax on volatile organic compounds (Switzerland)

Anyone who imports volatile organic compounds (VOCs) or, as a manufacturer, introduces such compounds into the marketplace or uses them, pays an incentive tax to the Swiss Confederation.

VOCs themselves are subject to the tax when imported, or manufactured on Swiss territory. When products containing VOCs are imported, the quantity of VOCs they contain must be taxed.

Through improved targeting, we have discovered that many consignments containing VOCs were being falsely declared as not containing any of these compounds. Proof that an offence had been committed was provided by chemical laboratory analysis.

(6) Off-record transaction

An off-record transaction is a commercial transaction, which is subject to a tax or duty that must be accounted for to a tax or Customs authority, when it is not so accounted for. This fraud covers off-record transaction relating to internal taxes and duties, such as sales tax, value add tax and excise duties imposed on: hydrocarbon oils; tobacco; alcoholic beverages; playing cards, matches, lighters, etc. Off-record transaction fraud does not cover ‘smuggling’, which is non-declaration of goods subject to a Customs duty. However, it is worth noting that smuggled goods are likely to be subject to an off-transaction when sold after being smuggled.

Case 1. Forgery of seals (Czech Republic)

The investigation into the evasion of taxes, duties and other similar payments was commenced after an anonymous tip-off that alcohol was being produced at a distillery in country A, which was

being offered to be used by various makers of alcoholic drinks at a lower price than the regular price with the added consumer tax.

After verifying and assessing the available information on the operations of the distillery and assessing the information obtained on the persons operating the distillery, the seals on official taps at key places in the alcohol production process were replaced. This was done with the agreement of the customs authority officials who perform the overseeing of tax issues at the plant. The removed official taps were submitted to the criminal department of the Customs General Directorate to verify their authenticity. The tests revealed that one of the taps removed from the distillery was false, which confirmed one of the working theories that the distillery was in fact producing unaccounted for alcohol, which was siphoned off avoiding the official taps and that false sealing pliers were used to manipulate with the official taps.

It was possible to record the way and frequency the un-taxed alcohol was transported by the action taken, in particular the surveillance of the distillery premises and the phone taps, and also the interim warehouse where part of it was delivered before final distribution and four recipients who used the alcohol for both legal and illegal production of alcoholic drinks.

Case 2. Duty-free shop fraud (Romania)

During an audit conducted at the duty-free shop at the Bechet border crossing point, the following Customs offences were discovered:

- excess goods (eau de toilette, beverages, rum, tequila, cigarettes vodka) for which there were no origin documents; these goods were seized with a view to their confiscation;
- missing goods (beer, coffee, cognac, gin, liqueurs, perfume, beverages, rum, tequila, cigarettes, whisky, vodka, vermouth), which had been removed while subject to Customs surveillance; as it proved impossible to locate these goods, the company concerned was obliged to pay their value (i.e., customs value plus import duties);
- for violating the Customs law in the aforementioned cases, and for failing to comply with the terms of the warehousing procedure, the economic operator had 3 fines imposed upon him.

(7) End-use

National legislation may offer a zero or lower rate of duty on certain goods when imported for a specified end-use. End-use provisions may be contained within the tariff schedule. End-use certificates may be required by the national Customs authority to support the declared end-use.

Case 1. Non-compliance with the preconditions (Romania)

During controls on economic operators who imported goods for which they received favourable Customs treatment under the provisions of the Law on the encouragement of private enterprises to foster the establishment and development of SMEs, a violation of the Customs law was discovered the imported goods had been leased out, instead of being used for the development of the companies' own manufacturing and service activities. These economic operators were, in fact, trading. Offence reports were made out against the companies concerned, establishing the amount of the Customs debt payable to the State budget.

Case 2. Use of the imported goods for other than the specified purpose (Romania)

A Romanian company received unwarranted exemptions from import VAT, for raw materials. An audit on the company, carried out on the basis of a risk analysis, revealed a Customs debt to the State budget of 739,206 RON, because the company had declared in the course of the import formalities that the imported raw materials would be used in the car manufacturing industry, whereas in reality they were used in the furniture-making industry. The company did not comply with the provisions of the Ministry of Finance Decree issued for the application of the Law on the procedure for granting certificates of exemption from import VAT.

Case 3. Use of a ghost company to abuse VAT exemption status (Hungary)

It has been proved on the basis of data available that Hungarian and foreign citizens established and maintained a criminal gang in Hungary selling various goods procured from third

countries in the name of companies registered in Hungary. On the evidence of data obtained during the investigation it could be ascertained that the company (real customer) owned by foreign citizens – in order to evade the obligation to pay VAT in Hungary – had cleared and released goods originating from the Far East and being distributed by the company itself for free circulation in Vienna with VAT suspension in more than 1000 cases. It happened in the name of Hungarian companies with the active contribution of a Hungarian citizen who had a leading role in the criminal gang. Soon after that, they sold the goods in Hungary failing their obligation to pay taxes.

The registered managing directors of these companies were only issuing counterfeit certificates and invoices on behalf of the companies being ostensibly under their direction, in return for 5-10% of the value of the invoices. However, the goods coming from the Far East were not sold by their companies, but by the real customer. These activities were managed by the Hungarian leader of the criminal gang who organised the procurement, the shipping, the customs clearance and the sale. He was actively assisted by his “staff” sharing the co-ordination activities concerning the above-mentioned companies, being responsible for maintaining contact with the managing directors and the accountants of the companies, for the administration concerning customs clearance in Vienna and for the preparation of false or counterfeit customs documents (bills, certificates of origin).

The real customer company – in the name of the above-mentioned group of companies and with the assistance of its accountant - entered fictitious invoices related to internal procurements containing false data into the books issued by a company registered in Hungary acting as an “invoice factory”. These were done in order to legalise the goods procured in the above-mentioned way and to evade the obligation to pay VAT in Hungary. The products legalised and held in this way were sold to the internal partners of the company by cutting down the obligation to pay VAT through the VAT content of the fictitious procurement invoices, partly evading the obligation to pay taxes, partly avoiding examination of the tax authority.

SECTION 2. EVASION OF PROHIBITION, RESTRICTION OR REQUIREMENT FOR IMPORT AND/OR EXPORT

This type of fraud includes the violation of regulations other than Customs laws, such as export/import license, physically changing the presentation of the goods during transshipment, for example, re-boxing, re-packaging, or re-labelling.

(1) Smuggling and unauthorized release of goods under the Customs control

Smuggling is likely to occur when there is an imbalance in the supply and demand requirements for particular goods in a country or there are other economic factors that make it attractive.

Unauthorized release of goods under the Customs control or “temporary admission fraud” normally involves evasion of Customs duties and taxes on goods that have been imported or exported under such a procedure. The fraudulent activity is aimed at circumventing various conditions in national legislation. Temporary admission is considered to include ATA and CPD carnets as well as Customs transit operations.

Case 1. Non declaration to Customs (Czech Republic)

Customs Officials from a Customs office carried out an inspection on the temporary storage of goods, which ascertained that the containers contained 38 boxes of frozen spinach weighing a total of 745 kg and 584 boxes of frozen meat weighing 14,600 kg. Only the frozen spinach was declared in the temporary storage application. The officials then carried out a preliminary investigation, monitoring and analysis of possible similar imports, and found that seven containers which it had reasonable suspicion were loaded with goods other than those officially declared (garlic and spinach) were being held at a container park (within its customs area). The transit regime, which had started in the Netherlands for all the suspected cases, ended at that container park. The Officials performed complete internal inspections of all these containers, which ascertained that they contained a total of 4670 boxes, only a small number of which were the declared goods (252 boxes of spinach and 206 boxes of garlic), which were packed at the front of the containers. Behind these were a total of 4212 boxes of unspecified meat.

This fraud was not only serious due to its economic (financial) effect, but also due to the fact that it by-passed veterinary measures intended to restrict the imports of goods which could spread foot-and-mouth disease, small-pox for sheep and goats, swine fever, or Newcastle disease in poultry.

(2) Misdescription

Case 1. Misdescription of imported goods (Italy)

A Customs audit was carried out on a joint stock company, in order to check on the Customs declarations presented and how they matched with the accounting records found, whether mandatory or optional. The official representatives of the company audited were found to have evaded the payment of anti-dumping duties and Value Added Tax on goods (CFL-i lamps of Chinese origin), thus rendering themselves liable for offences provided for in, and sanctioned by, the penal code.

An analysis of the business correspondence and tax documentation obtained from the company revealed discrepancies between the particulars relating to the tariff classification and the origin of the goods traded. The fraudulent Customs declarations uncovered as a result of the audit related to two different methods of tax evasion:

- a) Evading the payment of anti-dumping duties and VAT on CFL-i lamps of Chinese origin, by presenting a declaration with different goods for inspection (halogen lamps and/or other lighting appliances) than those actually imported (CFL-i lamps).
- b) Presenting Customs declarations showing an origin different from the true origin of the goods.

Case 2. False declaration of the name of exporter (Korea)

After returning to the exporting country some 34 tons of frozen sharks with mercury above the maximum permission level, importer tried to import them with different names of the exporters and the goods evade the mercury examination.

Case 3. Unauthorized resale of prohibited goods (Canada)

Replica firearms are classified as prohibited devices in Canada and are only allowed importation by companies licensed to transfer them to the movie industry or museums. Investigators became aware of a large quantity of replica firearms being unlawfully sold and traded through on-line internet sites to the general public. Due to the nature of replica firearms lacking any serial number or identifying marks, the challenge was for investigators to identify the source and destination of the transfers. Investigators physically marked specific models of replica firearms within incoming shipments of known importers, with a translucent but uniquely identifiable solution. When identical model appeared for sale on suspect web sites, investigators made purchases and through the forensic marking were able to link the importers to the unlawful resale.

Further investigation into the offending companies revealed an industry undervaluation conspiracy between the foreign vendors and the importers. The foreign vendor facilitated this false invoice creation scheme by distributing their products order form in a spreadsheet format that contained an optional cell labelled "value of invoice for Customs." Entering a percentage into this field automatically adjusted the entire order to a lower corresponding value for declaration, thus reducing duties and taxes payable at the time of import. Product ordering, invoicing and payments were completed entirely on-line and through bank wire transfers, leaving no paper trail for Customs inspectors to uncover at the border. Through production orders and search warrants, it was found that the majority of orders declared to Customs varied from 25% to 80% of their actual values.

Case 4. Alteration of serial number (Lithuania)

During the analysis of routes of stolen vehicles into/from the territory of Lithuania through the Customs posts, the Customs Criminal Service compared police data on stolen vehicles with Lithuanian vehicles import-export data. After the evaluation, it became clear that Customs procedures were applied for tens of stolen vehicles. Two separate import procedures are executed for the same vehicle body number. Sometimes only the name of consignee and consignor differs. At the beginning, a vehicle is imported as not suitable for exploitation (broken) and afterwards (it is assumed that vehicle body plate with number is cut and put on the stolen vehicle together with original documents) the stolen vehicle is imported as a legal vehicle with body plate from the previously imported wrecked car.

(3) Falsification of origin

There are several kinds of preference regimes, e.g. GSP and EC preference. As an example, the GSP rules of origin consist of three main elements, namely, origin criteria, documentary evidence and the direct consignment rules.

"Origin/preference fraud" means any attempt to knowingly violate or abuse rules of origin and/or Customs documentary requirements as laid down by bilateral or multilateral agreements in force in the country concerned.

Case 1. Falsification of the origin certificate (Sweden)

Swedish companies purchase footwear from sellers/ agents in Hong Kong who have their own factory or/and outsource the production in/to Mainland China. The sellers offer an overall concept to the Swedish importers to purchase footwear from China and conceal the Chinese origin for the European authorities with a view to make it possible to sell and avoid quota restrictions from Mainland China. The seller used a specific agent, which has its Head Office in Hong Kong and a branch office in Singapore. The agent or/and sellers issue and provide false documents with the consignments such as GSP Form A certificate and master B/L. The price for the false documents was between \$2000 and \$3000 depending on the size of the container.

(4) Falsification of trade licenses

Case 1. Use of a false import license (Malta)

A French company was putting Chinese fresh garlic consignments in 'free circulation' (within the EU) in Malta for onward transmission to another country. Amongst other relevant documents, the company was presenting licenses (AGRIM) in order to benefit from the agricultural quotas (i.e. paying 9.6% only instead of 9.6% + 120Euros/100kgs). Following alerts from OLAF indicating cases of false AGRIM licenses for garlic imports, it was decided to send one similar license to the issuing body for verification. This was confirmed false and subsequently all licenses for a total of 325,500 kg garlic were confirmed false.

Case 2. Falsification of certificate of analysis (The United States)

Food and Drug Administration (FDA) learned that certain pet foods were sickened and killing cats and dogs. The FDA found that contaminants in wheat and corn gluten imported from China had been used as ingredients in pet food. The importer of the contaminated glutens was identified. A joint investigation by ICE and FDA has determined that the identified importer falsified certificates of analysis on the imported glutens.

(5) Violation of consumer protection requirements

"Consumer protection" is requirements/specifications applied to goods to ensure minimum safety standards usually applied by government departments/agencies, national legislation and notified to Customs for implementation at national borders. These goods may include items such as foodstuff, medicines, chemicals, toys for babies, cosmetics and other items, which could pose health and safety concerns. There are a number of commodities which could pose health and safety concerns but not subject to said consumer protection requirements.

Case 1. Substandard goods (The United States)

CBP initiated a seizure of substandard fasteners and bolts used in the commercial construction of bridges and buildings that were imported into Cleveland, Ohio from China. The fastener did not pass laboratory tests. Although the value of the seizure only totalled \$4,000, one substandard fastener could result in the collapse of major structure and possibly kill or injure untold Americans. The foreign manufacturer has been responsible for four other shipments of fasteners into the Cleveland area.

Case 2. Tainted counterfeit products (The United States)

A toothpaste company issued a national warning that counterfeit toothpaste falsely packed using their company's product had been found in several discount "dollar" stores in New York, New Jersey, Pennsylvania, and Maryland. FDA testing found that the product contained Diethylene Glycol and measurable amount of harmful bacteria. The national notification was the result of a CBP seizure of a container loaded with counterfeit toothpaste in the port of Newark, New Jersey. The resulting ICE investigation identified a criminal organization and distribution system for the tainted counterfeit products that stretched from Florida to Toronto, Canada.

SECTION 3. UNAUTHORIZED RECEIPT OF REPAYMENT, SUBSIDY AND/OR DISBURSEMENT

Drawback in respect of Customs duties may apply to any commodity. Drawback in respect of excise duty will generally apply to those goods produced domestically on which excise duties have been levied, such as alcoholic beverages, tobacco products and petroleum products.

Drawback fraud could be attempted in several ways, such as substitution of commodity; incorrect quantity or fictitious export. Substitution can occur in two ways. Firstly, a legitimate product that is not the product on which drawback has been claimed may be exported, e.g. shirts may be exported instead of suits. Secondly, an item of little or no commercial value may be exported in place of the product on which drawback has been claimed, e.g. scraps/rags are exported instead of suits.

Case 1. Over-valuation of exported Goods (India)

Specific information was obtained that an Indian exporter is exporting Ready Made Garments at highly over-invoiced prices to Country X with an intention to claim higher refund of duties by way of drawback.

This information was analyzed in details and investigations were carried out by Directorate of Revenue Intelligence. After investigation, it was found that the goods were highly over-invoiced and the value declared before 'X' customs was different than that declared before Indian customs. Further, inquiry into remittance of foreign exchange indicated that the remittance had come from "hawala" operator in country 'Y' on behalf of 'X' consignee through telegraphic transfers into account of Indian Exporter. These unrelated remittances were deposited into several accounts in the same bank by the exporter and who again withdrew them for further delivery to the Hawala operators in India. This cycle was repeated over and over again. Thus, the Indian exporter showed realization of export proceeds of approx USD 9 Million (unrelated remittance) without receiving payment from the overseas buyers (consignee) and availed of inadmissible refund of taxes amounting to approx. USD 1 million.

Case 2. Overvaluation of exported goods (Finland)

Driver (D) and the owner of Finnish forwarding agent (E) tried to place a lot under a customs procedure by giving to Finnish Customs an Export declaration. Export declaration was attached with an invoice in which declared value of lot was 19,708 USD. Invoice looked forged and the Custom officer decided to have a physical check on goods. Checked goods were same than declared in the invoice and even the information about trading partners on the goods consistent with the invoice. There was still reason to doubt the authenticity of the invoice. Investigation Unit made home research to suspect's E home and the real invoices were found. It could be shown that real value of the lot was circa 105.000 Euros. Suspect E told that forged invoices were sent from the company in importing country to be attached to Export Declaration in Finland.

Case 3. Overvaluation of exported goods (Hungary)

It can be established on the basis of data available through the criminal case that persons belonging to the circle of potential suspects established and were maintaining an organised criminal gang exporting various out of date or worthless IT devices and fixtures out of the European Union – mainly to Switzerland – in the name of companies registered in Hungary, using counterfeit certificates and documents from 2005 to April 2007. Their main objective was to store the products - legalised through fictitious procurement invoices of a value 100 times higher than their real price - in VAT warehouses and after export sale they reclaimed unpaid taxes illegally on the pretext of turnover tax, which for the most part have been paid out.

To this purpose, the perpetrators bought up worthless or totally out of date products with minimal investment necessary. They collected fictitious invoices of an amount of about 100 times higher than the real value of the products in order to reclaim several million HUF on the pretext of export sale of the IT devices and fixtures. These fictitious invoices were either bought from "invoice factories" for a few percent of their gross value, or they were issued in the name of

companies managed by the perpetrators. In this case the sale and purchase of these products were passed through several companies so as to make examinations of the tax authority more difficult or unviable.

Case 4. False export by forging Customs stamps (Finland)

A Tax audit was carried out to a joint stock company X, which was running business with companies in a foreign country. This Finnish company X sold goods to the foreign company on terms of ex works. Company got VTA returns because of selling goods out of Community. During the audit it was noticed that there was 93 SAD-forms with false Finnish customs stamps in the company X's accounting. Tax authority considered that because of fraudulent Customs declarations it couldn't be shown that items have been moved to the foreign country. Avoided VTA was total 50.000 Euros.

The official representatives of the company were suspects on aggravated tax fraud and aggravated forgery. During investigations it was found that the foreign companies involved didn't exist in the country. There weren't any customs declarations either in the foreign country in question about those goods which were claimed to be exported. There was reason to believe that those goods stayed in EU-area and VTA returns had been ungrounded.

Case 5. Fraudulent alteration of currency code (Canada)

A refund application led to an investigation of a Customs broker when it was discovered the duties and taxes accounted for on client's copy of the Customs accounting documents were considerably less than on the client's copy of the documents. Investigators found that unbeknownst to his clients, the broker submitted false duplicate accounting documents to Customs, claiming little or no money owing, but billing clients for the full amount of duties and taxes, and pocketed the surplus. This was accomplished by utilizing two schemes including: submitting entries with a federal Goods and Service Tax (GST – similar to VAT) exemption code – so goods were classified as tax exempt; and second, declaring alternate currency conversion code to reduce the value for duty. In both schemes, duplicate sets of account documents were created to avoid detection, with a fraudulent set submitted to Customs and the real version for the client. In a typical example, the broker accounted for shipment of watches declaring the currency code as Chinese Yuan (CNY) instead of U.S. dollars. The resulting lower exchange rate of the CNY reduced the amount payable from \$112,272 down to the \$10,289. The broker pocketed the difference of \$101,983. Investigators estimated that the evaded duties and taxes diverted over three year period exceeded 7 million dollars.

Case 6. Fictitious Export (Indonesia)

Customs officer at the Port of Jakarta suspected one container destined for Hong Kong, the goods was declared as 960 pieces of computer monitors. The suspicion began from the container's weight that was too light for such kind of goods. After checked through x-ray scanner, it was found that the container was only 5% filled, and it was revealed that only 30 pieces of computer monitor found in that container. The investigation was continued to the other 5 containers from the same company and the same destination with the first one, and the final result was the same with the previous one, those containers only contain nearly 5% from declared goods. The suspected company was a "bonded zone" company, if those containers were not seized, the company will attempt to get repayment based on the fictitious export declarations.

SECTION 4. GAINING ILLEGAL COMMERCIAL ADVANTAGE

(1) Falsification of origin

Falsification of origin and misdescription (trade description fraud) may be perpetrated with a view to facilitating the importation of inferior goods so as to obtain an unfair advantage on the domestic market when competing against other, often home-produced goods. Fraudsters may be motivated to obtain maximum fiscal advantage in manufacturing cost by producing in countries with no quality control or regard for safety or consumer protection standards.

Case 1. Re-labeling (Canada)

In May 2006, at the Quebec Court of Justice in Montréal, a Canadian company admitted to unlawfully marking imported headgear in a deceptive manner and making false statements in NAFTA certificates. A CBSA investigation revealed that, over an extensive period of time, between March 2003 and June 2005, the Canadian company replaced '*Made in China*' labels with '*Made in Canada*' labels on imported toques to be sold on Canadian, American and European markets.

The company was charged with unlawfully marking imported goods in a deceptive manner thereby misleading clients as to the country of origin or geographic origin of the goods. It was also fraudulently benefiting from NAFTA privileges when exporting toques to the United States and, therefore, was charged for unlawfully making false statements in certificates under the NAFTA agreement.

(2) Abuse of inward/outward processing relief

Relief/remission regimes in respect of inward/outward processing normally involve the evasion of Customs duties and taxes on goods that have been imported or exported under inward/outward processing procedures. The fraudulent activity is aimed at circumventing various conditions in national legislation, which are designed to extend relief, exemption or remission of duties and taxes on goods imported or exported under the relevant procedures.

(3) Falsification or abuse of Import/Export license

Import or export licenses are sometimes required as a result of certain conditions or restrictions being imposed on the importation or exportation of goods. These conditions or restrictions may depend on a variety of factors, such as the type of commodity or the destination/origin, quantity or end-use of the goods involved in the transaction.

Methods of License Fraud could be:

- Counterfeit licenses;
- False Statements made to obtain a license;
- Alteration of a genuine license.

Case 1. Abuse of import license (India)

Ten major traders of paper and paperboard were investigated and found to have imported all kinds of paper in the name of various registration holders by mis-declaring/description of the goods and undervaluing them. These traders were found to be selling imported newsprint paper in the market actually meant for the registration holders for printing of newspapers and magazines in utter disregard of the conditions of the EXIM policy of India as well as Customs Notifications. These traders were paying a commission to the registration holders in lieu of utilization of their Registration certificates. Thirteen registration holders have been examined, most of whom, have admitted the non use/very limited use of LWC and newsprint.

SECTION 5. TRANSFER OF PROCEEDS OF CRIME USING IMPORT OR EXPORT OF GOODS (TRADE-BASED MONEY LAUNDERING)

So-called “trade-based money laundering” is the process of legitimizing the proceeds of crime by disguising them in the form of the payment for an international trade transaction.

Cross-border money laundering can involve goods other than cash and negotiable instruments. Gold is used as means of exchange within the underground banking system, and gold smuggling has been frequently highlighted at various money laundering typologies meetings. Precious metals and gemstones are also attractive to money launderers because of their inherent value and portability. Such high-value commodities can be used both as a source of illegal value to be laundered – theft or fraud – or as the actual laundering vehicle – through the outright buying and selling.

Case 1. Under-valuation (Tunisia)

Acting on information concerning a false declaration of value by an industrialist operating in the telecommunications sector, documentary controls enabled us to establish that the operator had falsified the invoice attached to the Customs declaration, by reducing the unit price at importation to 1/10th of the true value. This finding was confirmed by a review of the amount of foreign currency actually transferred to the foreign suppliers.

Case 2. Over-valuation of exported Goods (India)

Specific information was obtained that an Indian exporter is exporting Ready Made Garments at highly over-invoiced prices to Country X with an intention to claim higher refund of duties by way of drawback.

This information was analyzed in details and investigations were carried out by Directorate of Revenue Intelligence. After investigation, it was found that the goods were highly over-invoiced and the value declared before ‘X’ customs was different than that declared before Indian customs. Further, inquiry into remittance of foreign exchange indicated that the remittance had come from “hawala” operator in country ‘Y’ on behalf of ‘X’ consignee through telegraphic transfers into account of Indian Exporter. These unrelated remittances were deposited into several accounts in the same bank by the exporter and who again withdrew them for further delivery to the Hawala operators in India. This cycle was repeated over and over again. Thus, the Indian exporter showed realization of export proceeds of approx USD 9 Million (unrelated remittance) without receiving payment from the overseas buyers (consignee) and availed of inadmissible refund of taxes amounting to approx. USD 1 million.

Case 3. Large scale over-invoicing of imported goods (India)

Intelligence inputs were received that some Indian importers are indulging in over-valuation of rough diamonds imported into India for illegally transferring large amounts of money abroad.

On the basis of intelligence inputs Indian Customs intercepted 15 consignments of Rough diamonds imported from Country ‘X’ by certain importers in India. The consignments were grossly over-valued and importers were found to be working in conjunction with a syndicate based in Country ‘X’ for the transfer of foreign exchange abroad. The over- invoicing to the extent of 800 % amounting to USD 15 million was detected. From one of the Banks in India, foreign exchange worth more than USD 24 million was remitted since February 2003. Thus not only a large sum of foreign exchange was siphoned off from India, but at the receiver’s end it could also be used for illegal purposes, including money laundering.

Case 4. Overpricing of exported goods (Brazil)

A Brazilian cigarette manufacturer held a cigarette factory in a neighboring country ‘A’. This manufacturer was repeatedly involved with the evasion of taxes, as evidenced by reason of lack of use of control stamps (of compulsory use in cigarettes sold in Brazil). In various repression operations, cigarettes of brand ‘X’ were seized, with the assumption to be manufactured in country ‘A’ and smuggled into Brazil. The brand seized was not officially produced in Brazil.

For more than a year joint investigations were conducted between the Federal Revenue Service and the Federal Police, which culminated in the seizure, in 2006, of 23,000 cartons of cigarettes of brand 'X' in an establishment of the manufacturing firm in Brazil. The fraud, therefore, consisted of using industrial plants in Brazil to produce the neighboring country 'A' brand of cigarettes (although of the same firm) and commercialize them on the domestic market, leading the surveillance officers to believe that it was a case of cigarette smuggling.

As the sales of brand 'X' could not be supported by invoices, the firm could not make the corresponding records in the commercial accountancy books. So it was produced a legal way to give the appearance that the money did not come from these illegal activities.

In searches made in the records of the Federal Revenue Service, it was noted that the firm was one of the largest exporters of cigarettes in the country, with almost 97.5% of its exports destined to an importing country 'Y'. Using information from DARTTS system (Data Análisis Research for Trade Transparency System), the declared figures to Brazilian and country 'Y' Customs were compared and discrepancies were detected of about \$ 7.5 million (in Brazilian exports the amount declared to Customs was of \$ 8,940,702 and in imports the amount declared to country 'Y' Customs was of \$ 1,430,626). Based on these surveys, it was concluded that between the years of 2003 and 2006 the firm used overpricing methods in exports and managed to launder \$ 7,510,076.

EXAMPLES OF COMMON ENFORCEMENT ACTIONS PROVED TO BE EFFECTIVE

(1) Post Clearance Audit (PCA)

The growth in international trade, coupled with declining resources for Customs administrations worldwide, has necessitated the adoption of risk management and audit-based control. In particular, Post Clearance Audit (PCA) is regarded as one of the most effective measures for compliance verification and detecting commercial fraud, especially valuation fraud, since it provides a clear and comprehensive picture of the transactions relevant to Customs as reflected in the books and records of international traders. Due consideration should be given that the PCA is not a part of the investigation, which normally requires search warrant from the court, and the PCA is normally conducted on a basis of voluntary cooperation.

The introduction of PCA does significantly contribute to Customs efficiency, trade facilitation and to building an environment for sound investment at national level. PCA enables Customs to offer traders facilitated release of goods by applying simplified procedures, shifting from close examination of every declaration.

Case 1. (Romania)

As a result of suspicions aroused during documentary controls or auditing of economic operators, post-clearance controls were requested on the certificates of origin for several products.

Following correspondence with the Customs administrations of Germany and Italy concerning the post-clearance controls on evidence of origin presented by the importers of used tyres, it was established that the imported goods were not originating, under the terms of the Annex to the Romania – EU Agreement, and could not benefit from the preferential tariff regime. Consequently, offence reports were made out against the companies concerned, establishing the amount of the Customs debt payable to the State budget.

Case 2. (Ireland)

A US-based company was supplying plastic bottles on a Delivered Duty Paid basis to an Irish customer. An Irish Customs Clearance Agent was acting on behalf of the Supplier in relation to the payment of Customs Duties and was acting on behalf of the Purchaser in relation to the VAT payment on the importation. The commercial documentation was supplied by the US Company to the Irish Customs Clearance Agent.

During a Customs audit of the Importer's records, officers found the corresponding invoices to contain a higher value (up to 100% higher) than those attached to the customs declaration. The Importer was not aware of the invoices attached to the customs declaration and had got his invoices direct from his supplier. His payment records reflected the higher value.

An examination of fax transmission/reception data at the Customs Clearance Agent's office confirmed that the lower value invoices had been supplied directly by the US supplier to the Clearance Agent.

Case 3. (Ireland)

An Irish importer purchasing Vitamin Supplements from a US-based supplier was selected for a Customs audit. Officers suspected that values shown on the supplier's invoices appeared to be low compared to the sales value of the same product. A detailed examination of the Importer's payment records showed payments considerably higher than the invoices presented for customs clearance. Scrutiny of the invoices held by the importer showed that some lines on the invoices presented for Customs clearance had been altered in the following manner:

Original Invoice 1000 packages each \$11.50 = \$11,500.00

Altered Invoice 1000 packages each \$ 1.50 = \$1,500.00

Commercial documentation was forwarded by US Company direct to Importer. The Importer in turn forwarded the documentation (including the altered invoices) to the Customs Clearance

Agent by fax. These invoices were used for Customs clearance. The practice had been going on for two years.

Case 4. (Sweden)

Incorrect customs value was discovered when auditing an importing company. In the year of 2006 some of the importing company's suppliers began to issue two invoices for each shipment, in most cases an A-invoice and a B-invoice. The first invoice included the actual costs of the goods and the second invoice a purchase commission related to the invoice of the goods. The goods amounts to 80% and the commission amounts to 20% of the total value. The company has only declared the value of the goods in the customs value.

Case 5. (Sweden)

During an audit of a company importing goods from China it was discovered that the declared customs value was too low. The company had calculated the customs value on basis of packing-lists with estimated values. There was no invoice issued. The importer paid money in advance to the supplier and received monthly reports from the supplier explaining the costs for producing the goods during the month. The reports covered costs as: material, production fee, commission fee and freight costs in China. The customs value has been established on the basis on the advance payments and the monthly reports. The customs value was increased approximately 100 % as a result of the audit.

Case 6. (Finland)

A Customs audit was carried out on a bonded warehouse in the Eastern Finland. After audit it was clear that huge amount undeclared goods had transferred from bonded warehouse without making any declarations to Customs. All together 260.000 pieces of mobile phones and 80.000 pieces of tyres had transferred against regulations. Avoided customs duties and VTA was total 8 million euros. There was reason to doubt aggravated tax fraud, because undeclared goods had been transferred from bonded warehouse without giving to those goods any new customs-approved treatment. Audition Unit considered the official representative of the bonded warehouse liable to tax. The official representative of the bonded warehouse (A) and chief of the bonded warehouse (B) were suspects during preliminary investigation. It was shown that A had systematically taken undeclared goods from bonded warehouse. The official representative forged invoices and list of goods to stock accounting to conceal loss.

Suspect A told during investigation that all mobile phones and tyres have been smuggled out to a third country. Suspect A also told that mobile phones were in the language of the third country. It was impossible to solve during investigation whether those goods have been smuggled to the third country or have they been left to EU-area. District court decided that because it couldn't show that goods have been left to EU-area, there was reason to believe that they were smuggled to the third country. Suspect A was found guilty only to a violation of customs regulations.

Case 7. (Sweden)

Customs officers at the Swedish/Norwegian border discovered during a control of goods that a company had declared 12 % VAT for medical products instead of 25 %. In the Customs Computer System it was established that the company had presented four other declarations with the wrong VAT rate. The Risk analysis desk was informed and confirmed the information from the border control. They estimated the undeclared VAT to be about 1 million SEK and handed the case over to the Post Control section to carry out an audit. The audit revealed false classification, low declared value and low declared VAT (12 % instead of 25 %).

The company had no written customs routines. They had no employee with special knowledge in customs handling. For all import activities they contacted an agency. .

The audit resulted in a post-clearance recovery of a little more than 1 million SEK. .

Case 8. (Sweden) .

Risk analysis revealed that two consignments of a large import/export company had very low price per kilo in comparison with other consignments declared to the same customs code. A subsequent audit established that for many customs declarations no commercial invoices could be produced. Company representatives explained the reason was because the commercial invoice was not available at the time for declaration or could not be localized. There was a notification in the declaration that a correction could follow when the documents were available. No corrections have been sent to the Customs. It was also established that the estimated value was considerably lower than in the commercial invoices. In some cases the difference between the estimated and the real value was USD 1 000 - USD 120 228 and SEK 100 000 – SEK 1 416 791. Besides the low value, freight costs were not included in the customs value in some cases. .

Concerning deferred (partial) payments, it was established that in some cases only parts of the payment were declared. In addition, some declarations had been converted to Swedish currency using wrong foreign currency rates. The company had not updated the currency rates in their lists and used old currency rates. The audit resulted in about SEK 8,6 millions in debiting and about 500 000 SEK in repayment due to changed classification. .

In other cases, audits revealed that system faults in the IT-systems of companies led to incomplete declarations and the use of wrong or outdated currency rates or even the use of wrong currencies. .

Case 9. (Thailand) .

A company in Thailand imported instant coffee from a supplier in Singapore. After conducting the Post Audit at the premise, the competent officials found some documents being clear that the importer made the supplier do R&D (Research and Development) regarding new instant coffee product. The importer paid the cost for R&D to the supplier without declaration for customs value. At the same time, same documents were also clear that the importer requested the supplier to repack the new product by using new designed package on the importer's expense without customs declaration too. Therefore, such R&D cost and packaging cost should be added to the customs value. .

(2) Use of a national valuation database

A national valuation database may be used by a Customs administration along with other risk tools to assess potential risk regarding the truth or accuracy of the declared Customs value for imported goods. The database can also be used as a risk assessment tool to perform cross-check in order to target specific import for examination.

Normally, a valuation database should form part of a more extensive database embracing risk assessment linked to other aspects of the import/export operation, such as origin, tariff code number, importer's profile, exporter's profile, etc.

Case 1. (Italy)

An Italy-bound consignment of statues and decoration articles from China, which were made from wood, was declared under HS Code 4420. As the declared value of about 0,5 US\$ / piece seemed very cheap, the Customs officer decided to have a physical check and it was established that the goods had to be declared under Code 9505. Based on this irregularity a database query was carried out and all previous imports were checked. By request for mutual assistance with Italian Customs authorities, it was found out that also the value was declared incorrect (under-valuation).

Case 2. (Hong Kong, China)

We had conducted price verification on the declared dutiable value of liquors imported by an importer named X in Hong Kong from a Supplier Y in Mainland China.

Upon verification, we requested the Importer X to submit the related invoice of the transaction. We found that the invoice value did not tally with the declared value of the liquors. Since all

subject liquors were exported under a subsequent dutiable commodities permit, therefore, no revenue loss was incurred.

However, as read from the importation history, in our system, of the subject liquors, there were two different declared prices for the same product supplied by the same supplier, i.e. Supplier Y. According to the explanation given by Importer X, the “higher price” was offered by the supplier for international market including Hong Kong while the “lower price” was offered for duty-free sales only. Upon further tracing, it was found that some of the subject imported products, which were originally intended for duty-free market, were duty-paid at a “lower price” to meet the sudden local demand.

We then reassessed the duty on all the previous importations of the subject product imported by Importer X, at the price of the same product for local and international markets, i.e. the “higher price” and lodged duty recovery action taken against Importer X.

Case 3. (Uganda)

A consignment of desks and chairs for a school was imported. The invoice value appeared abnormally low compared to those of the valuation database. A comparison with values in the valuation database confirmed the suspicion. Further scrutiny of the invoice presented revealed the following:

- The invoice amount quoted was for balance payment and not the total payment done or due: and
- The invoice had no terms of payment and no Incoterms.

Consequently, an inquiry of a price quotation of these goods was made to the supplier via Internet. A proforma invoice with payment terms and Incoterms, among other details, was provided by the supplier. Comparison of the proforma invoice details with the valuation database proved that the invoice presented to Customs was a forgery and that the consignment had been undervalued by 65%.

Case 4. (El Salvador)

Using the database of the Customs, the Customs detected the evasion of taxes for the import of air conditioning systems. These products were declared before Salvadorian Customs as parts of air conditioning system. This information was analyzed in details and investigations were carried out by the Customs in order to check the declaration presented and how they matched with the accounting records. It was found that the company declared as parts such as compressors, condensing units and evaporator coils. However, it was found that these parts form an air conditioning system and the company sold these goods as a complete system. Based on this irregularity, a database query was carried out and all previous imports were checked for different companies.

Case 5. (Italy)

This case was highlighted as a result of a complex monitoring activity of flows of goods falling under Customs Tariff chapters 42, 61, 62, 63 and 64 and declared upon import. Actually, values were checked against quantities (weight and pieces) of imported goods and it was reckoned that the value ‘threshold’ was not satisfactory as it was too low for the corresponding goods categories. Therefore, imports, which showed values lower than the defined threshold thereby pointing to underinvoicing, were identified and inspected.

It was verified that customs declarations were accompanied by false invoices bearing values 2 to 3 times lower than the real transaction values. In some cases, the amounts of invoices submitted to customs were only equivalent to the final payment amounts and advance payments were usually made cash upon the goods orders. Delivery terms shown on invoices were also false (CIF/CFR/CNF instead of FOB). Actually, it was verified that freight, insurance and transport costs were paid cash at departure. In some cases, freight and insurance costs made up over 60-70% of the goods declared values.

The intermediary company which used to deal with customs clearance in Italy physically ‘created’ the documents so modified (invoice value, delivery terms, DV1) and handed over the relevant documents to importers.

Case 6. (Sweden).

Several currency cases have been traced thanks special designed reports in the Swedish Customs IT-programme. Extra skilled customs auditors have created special reports in the Customs data warehouse system to identify the most frequent companies dealing with wrong currencies and wrong currency rates. .

A total of 11 companies matching the criteria were audited. Among all declarations controlled, approximately 60 declarations were identified as relevant. The goods came from different countries as Brasil, Chile, China, Norway, Russia, Chinese Taipei, Thailand, Uruguay and USA. They have in common that they have used wrong currency or wrong currency rate. .

Usually, the currency rate changes once a month, but due to the unstable finance market, the changes have now been more frequent. The companies had not observed that. .

The audits resulted in the recovery of 5,6 millions SEK. .

(3) Mutual administrative assistance

Given the nature of commercial fraud, which may involve an international conspiracy, it reaffirms the need of the international Customs cooperation, in particular information exchange.

Bearing in mind that the exchange of valuation and other relevant information among Members is often ruled by the national laws on information and privacy protection of the respective Members, the Members are highly encouraged to explore the possibility to accede to, and/or use the existing WCO instruments, such as Nairobi Convention, Johannesburg Convention, Model Bilateral Agreement and WCO Recommendations.

Case 1. (Malta)

A UK based company was putting sugar consignments in 'free circulation' (within the EU) in Malta for onward transmission to another country. The sugar was declared as originating in Malawi and covered by EUR1 certificates. Thus, no import duty let alone additional duties were due. A Unit within Malta Customs transmitted electronically a certificate to the Malawi Customs for verification. The reply confirming authenticity was received by another Unit within Malta Customs through the trader. Malta Customs insisted that correspondence should pass directly from Malawi Customs to Malta Customs. The certificate was also referred to the EU's 'Rules of Origin Unit' in Brussels who declared the certificate as false on 2 main technical reasons, namely the absence of the guilloche pattern on the certificate and the ineligibility of the stamp. Finally, the actual letter of verification arrived from Malawi Customs claiming that the certificate submitted was false. Further EUR1 certificates for sugar were confirmed false and total accounted for 912,000 kg.

Case 2. (Slovenia)

In the period from 2002, it was found several cases of the origin fraud at the import procedures of textile from Turkey. The origin certificates were forged. The investigation was started based on information received from other country. Several companies were involved in the evasion of the tax repayment. The goods were destined to Slovenian market.

Case 3. (Romania)

A Romanian company was importing equipment for use in the petroleum industry. Following correspondence with the Customs Administration of the United Kingdom, it was established that the imported goods were not originating. Under the terms of the Annex to the Romania – EU Agreement, this equipment cannot benefit from the preferential tariff regime. Consequently, a Customs debt was recorded against the company concerned.