**Enhancing resilience through a collaborative Customs-Business relationship**

1. **Background**

A crisis is a litmus test for preparedness and business continuity plans and their respective protocols. Since the start of the COVID-19 pandemic, the Private Sector Consultative Group (PSCG) has focused on the complexities of international supply chain disruptions and the implementation of tools such as business resilience protocols. In late 2023, the WCO Secretariat requested that the PSCG provide guidance from a private sector perspective on how Customs authorities can best engage with the private sector in times of crisis.

One of the main challenges that arises during a crisis or disruption is the halt to the flow of goods, resulting in goods being stuck in ports or terminals. Terminals will fill up quickly, sometimes within a day, causing serious congestion. In a recent case of congestion across South Africa’s ports, the country’s imports and exports suffered significantly, costing the economy an estimated R98m ($5.32m) a day.[[1]](#footnote-2)

The PSCG’s prior paper, *Ensuring business continuity in the face of trade disruptions (2023)*, highlighted the importance of streamlining customs and security procedures to provide a strong foundation for crisis preparedness and business continuity plans. Functioning protocols are essential to minimise the impacts of any crisis. The PSCG recommended that such protocols should include the following essential elements:

* **Plan for disruption:** think through the impact of the unexpected while developing and capturing the best possible response mechanisms;
* **Practice those responses:** assess that essential elements are in place and test them to determine if they will accomplish the desired outcome; and
* **Engage Partner Government Agencies:** all agencies operating at the border must be involved in the planning and response testing to examine the outcomes and the ability to apply flexibility to their standard requirements.

Building on these recommendations and recognising that strong public-private partnership is central to effective disaster responsiveness, this paper summarises the different existing models for Customs-business engagement in times of non-crisis on a national and regional level. By looking at the existing models, the paper aims to draw out recommendations that can be applied by Customs authorities worldwide.

The Standard Operating Procedures (SOPs) and disaster preparedness plans should anticipate different types of disruptions. For example, a cyber attack on a port system that takes down all automated systems will require a different response and engagement protocols than a pandemic. That is why, scenario-based testing will contribute to improved preparedness. The type of disruption will also affect what would be the most useful and effective means of engagement with the private sector.

In general, the Customs-business relationship and engagement strategies vary across countries as well as their inclusion in business continuity or crisis preparedness plans. A crisis or disruption can reveal weak points in existing engagement protocols or the lack of practice.

This paper emphasises the imperative need for fostering trust-based engagement, collaboration, coordination, and communication between Customs authorities and trade stakeholders, including business. It is through a relationship that is well-defined, intentional, and rooted in trust, that genuine collaboration and coordination can be achieved, elements that are crucial during times of crisis.

The COVID-19 pandemic, along with other crisis situations, have underscored the importance of establishing such relationships. While crises necessitate immediate responses to emerging challenges, the primary focus of this paper are recommendations that should be followed not only during crises but also during regular times. This proactive approach ensures preparedness and resilience in the face of future uncertainties.

1. **The Customs-business engagement within the regulatory framework outside of a crisis situation**

Laws, structures, and perceptions regarding the engagement of Customs authorities with the private sector vary significantly across individual countries. There is a spectrum of scenarios:

* countries that have already established a trust-based engagement model with the private sector and other relevant stakeholders (e.g., U.S., Canada, the EU, Jamaica, Peru, or Colombia);
* countries that are receptive to engaging with the private sector, possibly on a limited range of topics or directly with specific company representatives (e.g., Brazil);
* countries that currently lack an engagement structure with the private sector, including those that harbour mistrust towards the business community.

The WCO has a variety of tools, instruments and guidance designed to facilitate and enhance the engagement of Customs authorities and the private sector, for example:

* SAFE Framework of Standards and associated guidance tools and efforts related to Authorized Economic Operator (AEO) Programmes
* Revised Kyoto Convention (RKC)
* WCO Customs-Business Partnership Guidance
* WCO Data Model

These tools and instruments are part of the WCO’s broader efforts to foster the Customs-Business relationship worldwide. Within the WCO, there is also structured engagement with the private sector, through the Private Sector Consultative Group (PSCG) that acts as advisory body as well as industry observers such as the ICC.

1. **Regional Customs – business engagement**

The Asia-Pacific Economic Cooperation (APEC) Customs Business Dialogue (ACBD) serves as a vital platform for the private sector to constructively engage with Customs administrations of 21 APEC economies. This engagement aims to address border barriers, reduce business costs, and time delays, and expedite the movement of goods across borders. The ACBD typically convenes annually under the coordination of the APEC Subcommittee on Customs Processes and Procedures (SCCP).

Furthermore, APEC organises the A2C2 (Alliance for Supply Chain Connectivity) and/or related workshops that are accessible to trade stakeholders. The level of engagement and information sharing with the private sector varies across countries that are part of the group.

The ACBD has played a pivotal role in facilitating dialogue, particularly during recent crisis situations. This highlights the importance of such platforms in fostering communication and collaboration in challenging times.

1. **Models for engagement during crisis**

The COVID-19 pandemic underscored the importance of the swift movement of critical medical supplies, equipment, and essential goods (e.g., food, fuels, refined oil, truck replacement parts) across borders.

Whether the crisis is a pandemic, natural disaster, or any other disruption, the cross-border movement of physical goods involves multiple agencies and necessitates clear, coordinated border management at domestic, regional, and international levels. This coordination ensures that goods can be moved quickly and compliantly around the globe.

The private sector has a vested interest in the swift and efficient clearance of goods at international borders for legitimate and compliant trade. When a crisis hits, the facilitation of trade, particularly border processing and the minimisation of supply chain costs, becomes more critical than ever.

In many countries, national customs administrations, regional and global governmental organizations, and the private sector engaged constructively during the COVID-19 pandemic. It is essential to examine this engagement, along with other existing non-crisis engagement models, as the basis for future use cases and best practices.

During the COVID-19 pandemic, the WCO requested its members to share information on national measures implemented to facilitate the movement of not just relief supplies, but all goods, while applying appropriate risk management. This included examples of enhanced coordination and cooperation with other government agencies and the private sector. Some business stakeholders encouraged WCO Members to share their national experiences, advocating for the consideration and adoption of best practices from other administrations wherever possible. This sharing of knowledge and experiences is crucial for improving global trade practices and crisis management strategies.

To illustrate a successful example of Customs-business engagement during a crisis, the following section outlines key actions taken by the U.S. Customs and Border Protection (CBP) throughout the COVID-19 pandemic:

* **Regular updates** **and briefings** - During the COVID-19 pandemic, U.S. CBP provided regular updates to trade stakeholders to assure them that the U.S. – Canada and U.S. – Mexico border closures would not inhibit cargo operations and that during this critical period, continued movement of cargo was prioritised, and port closures were limited to non-essential travelers / passengers. CBP regularly leverages its Trade Association contact network to brief on border closures (e.g., due to rain impacting the Northern border). During crisis, the points of entry/exit are particularly vulnerable to congestion that can quickly exacerbate logistical bottlenecks in supply chains, which is why the CBP took specific measures to communicate with relevant stakeholders to minimize the risks:
	+ **Updates on port downtimes** – Communications about port downtimes in both the crisis and non-crisis environment are vital. At the U.S. level, CBP, Coast Guard, ports, and port authorities must ensure that ports (maritime, air, truck, and rail crossing) remain fully operational to facilitate the movement of critical and essential goods at time of import and export. Downtimes should be minimised, and as necessary trade stakeholders should be advised if the downtime will require the diversion of shipments. As a general matter, we encourage countries to undertake all measures available aimed at keeping the ports open and operational. Further, countries should communicate to the trade community when and if a port is closed and the estimated period of closure.
	+ **Updates on border closures** – Border closures communications regarding cargo and ports of entry – Using the COVID-19 pandemic as just one example, U.S. CBP held periodic conference calls with trade stakeholders, with a focus on trade associations who can amplify information sharing, addressing the impact of COVID-19 on cargo at the ports of entry and border crossings. These calls also helped to address evolving questions and concerns. This open dialogue and the ability to seek clarifications on developing CBP practices has been important as the U.S. has moved to close U.S. – Canada and U.S. – Mexico borders to non-essential travelers.
* **Dedicated staff** – In the crisis and non-crisis environment, CBP has dedicated staff to manage the CBP relationship with respective trade associations. This ties into what can be viewed as a CBP established Trade Association contact network, which is leveraged to provide briefings, updates, and to serve as “a voice amplifier” on issues. Again, this is a standard body and is not limited to a crisis environment only.
* **Headquarter support** – Port functionality is a critical topic. The size and function of ports at national levels vary greatly. In crisis environments, some smaller ports might be facing a greater impact on resources and staffing; and therefore, headquarters must engage to leverage CBP management of resources and Customs officers in a time of crisis. For example, during COVID-19, CBP provided guidance to trade stakeholders via the CBP COVID-19 page about CBP Confirmed COVID-19 cases by location.
* **Points of contact** – CBP has established an intake process (e.g., establishment of email) to be shared with trade stakeholders. This provides a clear point of contact for stakeholders and enables a single location for Customs to review questions, clarifications, recommendations and /or proposals. Reponses could be directed to the submitter and where appropriate addressed during standing calls with trade stakeholders.
* **Consolidated information sources** – In times of crisis when timely information on developments are critical to business operations, multilateral organizations (e.g., WCO), trade associations and their members, government agencies (e.g., CBP) have created consolidated webpages to ease access and communication flow. During COVID-19, CBP created and maintained a dedicated COVID-19 webpage aimed at keeping trade stakeholders appraised of developments. Additionally, there was guidance on the CBP, DHS, and FEMA’s website aimed at distinguishing between rumours and facts regarding the response to the COVID-19 pandemic. Dedicated website examples: coronavirus.gov and USA.gov/coronavirus.
1. **General engagement strategies outside of crisis situations**

In the non-crisis environment, mechanisms and platforms allowing for two-way engagement between Customs and the private sector help build trust and improve communication in the long-term.

**National Committees on Trade Facilitation**

Article 23.2 of the World Trade Organization’s (WTO) Trade Facilitation Agreement (TFA) made the establishment of National Committees on Trade Facilitation (NTFCs) a binding obligation with the objective “to facilitate both domestic coordination and implementation of provisions of this Agreement.”

In many countries, NFTCs have contributed to fostering public-private partnership by bringing stakeholders together and thereby building a platform for constructive dialogue. The composition varies from country to country and the private sector is often represented through business and sectoral associations. Different approaches have been observed ranging from the private sector having a consultative role, i.e., they are not part of the committee but are engaging in dialogues, to official membership of private sector representatives on the NTFC or its sub-committee(s).

|  |
| --- |
| **Example of private sector involvement in NTFC - Costa Rica – VERIFY** (source: <https://thedocs.worldbank.org/en/doc/42b2167b86a8f1fb52391e1d5bc5b63e-0350012021/related/NTFC-Private-Sector-Participation-Guidance-Note-FINAL.pdf>)In Costa Rica, the composition of the NTFC features a balanced representation from both public and private sectors, with five private sector delegates and seven deputy ministers. The committee is supported by a technical secretary under the auspices of the Presidential office, alongside local committees dedicated to implementing strategies at land border crossings, airports, and seaports. Additionally, specialised technical commissions tackle vital issues including regulatory frameworks, international commerce, and the development of infrastructure and equipment. The decision-making process within the NTFC unfolds in four key stages: initial assessment of needs related to infrastructure, technology, and human resources at ports, airports, and land borders; evaluation of these needs by technical commissions who then formulate preliminary proposals; presentation of these proposals to the committee for further technical review; and finally, the formulation of decisions at the political level by deputy ministers and private sector representatives. Working well?**Example of private sector involvement in NTFC enhancing disaster preparedness - Mozambique**The Global Alliance for Trade Facilitation is a public private partnership dedicated to international trade facilitation. The Alliance supported Mozambique to improve the import processes of essential medical goods by: 1. digitalising the import processes for vaccines and associated medical products, 2. streamlining the pre-shipment approval process for critical medical equipment, especially rapid test kits (RTKs) for diagnosis of HIV/AIDS and malaria. As part of the project, a dedicated public-private working on vaccines and medical goods was created and anchored within the NTFC. The incorporation in the NTFC provided the group with a strong institutional foundation, ensuring the project’s sustainability in the long-term by enabling it to address any emerging issues after the project was concluded. Additionally, this approach enhanced disaster preparedness through improving coordination between relevant stakeholders and opening lines of communication. |

The WTO Committee on Trade Facilitation recently [published](https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/TFA/W96R1.pdf&Open=True) draft key principles of shared practice of successful NTFCs, and it includes the participation of the private sector in paragraph 2.3:

*2.3. All Members, in their presentations, emphasized the importance of the participation and role of the private sector in the creation and functioning of the NTFC. The experience-sharing showed that effective NTFCs are dynamic and responsive to both private-sector and public-sector needs and interests. For some Members, the private sector is part of the NTFC itself; for other Members, private-sector individuals have the role of vice-chair of the NTFC; other NTFCs have private-sector advisories or advisory boards; and some Members provide public notice about NTFC meetings and seek public comments. From the experiences shared, private-sector involvement is key to NTFC success.*

UNCTAD studies have also shown that the involvement of the private sector in NTFCs is an important success factor for the bodies as illustrated below:

[*https://unctad.org/system/files/official-document/dtltlb2017d3\_en.pdf*](https://unctad.org/system/files/official-document/dtltlb2017d3_en.pdf)

Aside from improving coordination between different border agencies, NTFCs are key instruments to establish and foster communication channels between government and the private sector.

|  |
| --- |
| **UNECE recommends private sector involvement in National Trade Facilitation Bodies (NTFBs)[[2]](#footnote-3)**In January 2024, UNECE published Trade Facilitation Recommendation No. 48 on “Private Sector Participation in National Trade Facilitation Bodies” and lists the following benefits:* Strong private sector engagement positively impacts the relevance, legitimacy and credibility of an NTFB and encourages a business-centric approach to trade facilitation.
* Firstly, consultation with the private sector leads to holistic solutions that respond better to actual trade facilitation needs and problems. The private sector has direct, firsthand knowledge of bottlenecks and inefficiencies and can therefore provide meaningful input on the pros and cons of government regulations and procedures.
* Secondly, private sector representatives can share their knowledge of solutions and practices with the government, such as those gleaned from piloting new technologies like artificial intelligence (AI), blockchain technology and the internet of things (IoT). Involving and learning from the private sector can increase innovation within the public sector and promotes fresh thinking.
* Thirdly, the private sector is an invaluable contributing partner in trade facilitation. This refers both to the private sector internalizing and taking responsibility for compliance, as well as their ability to contribute information and data for problem identification and decision-making.
* Fourthly, encouraging women-led businesses and their representatives to participate in NTFBs—many of which are small, cross-border traders—would enable a gender inclusive approach to trade facilitation initiatives.
* Finally, it is well known that the legitimacy and acceptance of decisions and reforms is often contingent upon private sector consultations. A trusted dialogue is key to overcoming resistance to change from certain stakeholders.
 |

**National Advisory body or partner**

Many countries have established advisory bodies or partners to provide the private sector with a channel of participation. For example, both the U.S. and Canada have either advisory or partner committees. As a general matter these are only one communication pathway for industry into matters before the respective Customs authorities.

* Canadian Border Services Agency (BSA): *“The Trade Chain Partner (TCP) Working Group was established in July 2018 to share information and conduct consultations with a range of representatives from the trade community, including importers, brokers, couriers, service providers, and trade associations.*
* The U.S. Customs and Border Protection (CBP) has set up the Commercial Customs Operations Advisory Committee (COAC) as well as the Trade Support Network (TSN).
	+ *About COAC*

*The COAC shall advise the Secretaries of the Department of the Treasury (Treasury) and the Department of Homeland Security (DHS) on the commercial operations of U.S. Customs and Border Protection (CBP) and related Treasury and DHS functions. In accordance with section 109 of the Trade Facilitation and Trade Enforcement Act of 2015, the COAC shall:*

### *Advise*

***Advise*** *the Secretaries of the Treasury and DHS on all matters involving the commercial operations of CBP, including advising with respect to significant changes that are proposed with respect to regulations, policies, or practices of CBP;*

### *Provide*

***Provide*** *recommendations to the Secretaries of the Treasury and DHS on improvements to the commercial operations of CBP;*

### *Collaborate*

***Collaborate*** *in developing the agenda for COAC meetings; and*

### *Perform*

***Perform*** *such other functions relating to the commercial operations of CBP as prescribed by law or as the Secretaries of the Treasury and DHS jointly direct.[[3]](#footnote-4)*

* *About the* [*Trade Support Network*](https://www.cbp.gov/trade/ace/trade-support-network)

*“The Trade Support Network (TSN) provides a forum for the trade community to gather information and provide input on U.S. Customs and Border Protection’s (CBP) modernization efforts, including enhancements to the Automated Commercial Environment (ACE). TSN membership is open to individuals from all sectors of the trade community who are interested in CBP’s trade modernization efforts.*” The TSN is led by a TSN Executive Committee (EC) and a Trade Leadership Council (TLC).

In addition to advisor groups or bodies, the ability to provide review and comment on proposed amendments of laws and regulations is important to ensure their effectiveness.

1. **Approaches to avoid**

Establishing an environment of trust is crucial for effective engagement, collaboration, cooperation, and communication between customs and trade stakeholders. The communication between Customs and the private sector should indeed be a two-way street and will have to be fostered continuously. Governments should feel comfortable approaching their established trade stakeholder network, and the private sector should feel that they can share their questions, views, and concerns with customs authorities in a non-adversarial and collaborative environment.

The private sector has a wealth of insight and experience that can inform processes and guide policy changes. For example, logistics providers have early warning systems and elaborate supply chain resilience plans in place and could be part of the solution, even before a disruption arises.

At the headquarters level, establishing relationships with trusted trade associations – both large and small, sector-specific and sector-agnostic – can provide a valuable mechanism for information sharing. Under the umbrella of an association, companies may choose to share sector-specific information with Customs over time. This network can be leveraged for briefings, information requests, and addressing specific issues. Moreover, it is critical for each Customs authority to implement a communications mechanism, to ensure information accessibility to all interested parties via the internet.

During the COVID-19 pandemic and other crisis situations, the private sector has witnessed approaches that were not based on trust and partnership. For instance, trucks were not allowed to cross borders, resulting in goods being transferred by hand. Similarly, flights landed, and pilots were quarantined without any established processes. These examples underscore the importance effective crisis management strategies and trust-based partnerships. It is crucial to learn from these experiences to improve future responses and ensure the smooth operation of international trade, even in crisis situations.

1. **Recommendations to achieving trust-based Customs – Business engagement**

The Customs-Business relationship should be leveraged to build resilience and to better respond to a crisis or disruption. For example, as witnessed during the pandemic, some countries needed to scramble to establish communication channels with the private sector during periods of closure and lock down. It showed the importance of building the relationship sustainably ahead of the crisis.

These essential elements will contribute to effective engagement with the private sector during a crisis or disruption:

* **Communication is key.** We encourage countries to implement robust dialogues with trade stakeholders to build trust and share experiences on a regular basis. This is particularly important and can be activated/reinforced when a crisis or disruption emerges. It can also provide the opportunity for early warning alerts. Consistent policy and operational engagement between Customs authorities, the private sector, and other relevant stakeholders in day-to-day operations is crucial for fostering a resilient and efficient trade environment.
* **Transparent and clear procedures reduce risks.** Predictability and clarity about processes, for example Standard Operating Procedures, are important factors to build resilience. The main objective in times of crisis should be to allow the flow of goods securely and that may require special arrangements, for example for Customs to manage risks retrospectively. But all stakeholders need to know what the specific procedures and arrangements are beforehand.
* **Continue knowledge and experience sharing**. The WCO Secretariat could seek national examples of Members. For example, for those countries that have specific advisory bodies, whether those bodies are established or codified in law, and how they have functioned in times of crisis. These national examples can aid in informing members who are looking to establish or improve the Customs-Business relationship.
1. [South African port congestion sees queue of 96 ships at anchor - The Loadstar](https://theloadstar.com/south-african-port-congestion-sees-queue-of-96-ships-at-anchor/) [↑](#footnote-ref-2)
2. UNECE (01/2024): [Private Sector Participation in National Trade Facilitation Bodies (ECE/TRADE/479) | UNECE](https://unece.org/trade/publications/private-sector-participation-national-trade-facilitation-bodies-ecetrade479) [↑](#footnote-ref-3)
3. https://www.cbp.gov/trade/stakeholder-engagement/coac [↑](#footnote-ref-4)