

Where There's a Way, There's a Will: The World Customs Organization's Capacity-Building in the Field of Strategic Trade Control Enforcement

JAMES MCCOLM, MALIK GHULAM ALI, AND ADAM VAS¹; PETER HEINE², DEBIKA PAL³

Abstract

The World Customs Organization's (WCO) approach to capacity-building in the domain of strategic trade control enforcement has been exceptionally effective. This article outlines what the WCO has done, documents some of its impacts, and examines factors contributing to its effectiveness. One of these factors has been a focus on influencing senior policy makers at the national level in addition to upgrading working-level skills and abilities. This strategy in turn owes its success, at least in part, to the WCO's legitimacy and norm-setting ability as a member-driven international organization, a customizable approach adaptive to various national circumstances, adherence to universal international mandates such as United Nations Security Council resolution 1540, and the ability to couple training and operational activities.

- 1 Jim McColm is the Program Manager of the WCO Security Programme and is responsible for the delivery of the WCO's Strategic Trade Control Enforcement and Small Arms and Light Weapons Project. Jim has worked for the WCO since 2016 and previously has 29 years of customs experience in the UK where he was responsible for setting up the Counter Terrorist and Radio-Nuclear Intelligence Team in HMCE and the Counterproliferation Team within the UK Border Force. Ghulam Ali Malik is a Deputy Collector of Pakistan Customs with field experience of more than twelve years in different areas of customs enforcement. He is working as an STCE Expert Trainer within the WCO STCE Program since July 2017. Adam Vas manages the Strategic Trade Control Enforcement Project for the World Customs Organization. Before joining the WCO, Adam was a Senior Policy Officer in Hungarian Customs with expertise in restrictions and prohibitions in customs procedures.
- 2 Pete Heine is a Senior Advisor in Global Security Technology and Policy at Pacific Northwest National Laboratory and a Strategic Trade Control Enforcement National Expert with the World Customs Organization. Pete received his BS in Applied and Engineering Physics from Cornell University and his MBA from the University of Chicago.
- 3 Debika Pal is a nonproliferation specialist at Argonne National Laboratory and a Strategic Trade Control Enforcement National Expert with the World Customs Organization. She holds a BA in Political Science from the University of California at Los Angeles and an MA in International Policy Studies from the Monterey Institute of International Studies.

Keywords

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Introduction

The United Nations suggests that capacity-building can be defined as: “...the process by which individuals, groups, organizations, and communities increase their abilities to: (1) perform core functions, solve problems, define and achieve objectives; and (2) understand and deal with their development needs in a broad context and in a sustainable manner.”⁴ Importantly, according to this definition, capacity-building is something these organizations do themselves, not something done to them. Certainly, they may seek and obtain assistance, but capacity-building must be undertaken by the organizations seeking to improve; they cannot merely be passive recipients of training. This article will examine the WCO’s efforts to assist national Customs administrations seeking to build their capacities to enforce strategic trade controls. It will summarize what the WCO has done, assess the impacts of these efforts, and offer some possible explanations for the extraordinary effectiveness of the program.

What the WCO has Done

Despite its importance, combatting illicit trafficking in the multitude of strategic commodities related to Weapons of Mass Destruction (WMD) and their delivery systems is a particularly challenging topic for Customs. At the 31st Session of the WCO’s Enforcement Committee, in March 2012, several WCO Members took the floor, outlined the challenges they faced in relation to enforcing strategic trade controls (STCs), and called upon the WCO to do more to help them. The Enforcement Committee, which represents the heads of Customs enforcement of 182 Member States, then established the WCO Security Program. Since its inception, the program has focused on three commodity-based areas of work: precursor chemicals for improvised explosive devices, small arms and light weapons, and strategic commodities, with an emphasis on materials and equipment related to chemical, biological, and nuclear weapons and their means of delivery, in keeping with United Nations Security Council resolution (UNSCR) 1540. Under this Security Program, the Strategic Trade Control Enforcement (STCE) Project first produced an Implementation Guide and a comprehensive training curriculum for Customs administrations.⁵ It also conducted Operation Cosmo in 2014, the first global law enforcement operation focused on strategic goods. The WCO then launched a long-term programme employing the Implementation Guide, training curriculum, and lessons learned from Operation Cosmo to develop global STCE capacity and raise the priority of this important topic within Customs administrations. When the WCO launched the second global STCE operation,

4 United Nations Development Programme, Management Development and Governance Division, 1998, <<http://www.undp.org/>>.

5 World Customs Organization, “WCO Strategic Trade Control Enforcement Implementation Guide,” <<http://www.wcoomd.org/en/topics/enforcement-and-compliance/instruments-and-tools/guidelines/wco-strategic-trade-control-enforcement-implementation-guide.aspx>>.

Operation Cosmo 2 in 2018, it was the largest operation ever conducted by the WCO with 114 participating countries and international organizations.

WCO STCE Curriculum and Implementation Guide

The STCE Program is the WCO mechanism and toolset through which Customs administrations can access training and materials to support their implementation of the customs elements of UNSCR 1540. The curriculum contains high-level briefings for senior managers on strengthening national STCE efforts and modules for operational personnel covering chemical, biological, radiological, and nuclear (CBRN) materials and related dual-use materials and equipment. In addition, it includes training modules on applying risk management and post clearance audit in the context of strategic trade control enforcement.

The WCO STCE curriculum is designed to be modular and adaptable in level and scope. First, a STCE Maturity Model (included in the Implementation Guide) is used as a simple diagnostic tool to identify specific gaps in national STCE systems and to suggest actionable next steps. The assessed STCE maturity level also guides selection of suitable training modules from the curriculum. For example, training in countries with a strong foundation for strategic trade control enforcement can focus on upskilling operational personnel, but training for countries without established regulations, policies, and procedures would focus first on senior-level policy makers and decision-makers and may initially promote effective implementation of sanctions and embargos. To this end, in addition to training, a WCO STCE team conducts meetings with senior officials to promote the development of a plan for the establishment and implementation of a strategic trade control regime within their Customs administration.

Secondly, the WCO STCE curriculum is designed and intended to be adapted based on each country's individual trade flows. To this end, the WCO provided its Members a Strategic Trade Atlas.⁶ The Strategic Trade Atlas, developed by the United States Department of Energy's Argonne National Laboratory and the European Union's Joint Research Centre originally to support Operation Cosmo and updated to support Operation Cosmo 2, provides a high-level snapshot of each country's principal imports, exports, and trading partners for goods classified under Harmonized System (HS) Headings associated with strategic goods according to the STCE Implementation Guide.⁷ The WCO uses this information to tailor the commodity-based training, which is also organized according to the HS, to focus on goods most relevant to each country. Customs administrations can also use it to guide company selection for outreach and audit and risk profile development for targeting and risk management.

6 Cristina Versino, Peter Heine, and Julie Carrera, "Strategic Trade Atlas: Country-Based Views," European Commission Joint Research Center, 2018, <<http://publications.jrc.ec.europa.eu/repository/handle/JRC111470>, 2018>.

7 World Customs Organization, "What is the Harmonized System," <<http://www.wcoomd.org/en/topics/nomenclature/overview/what-is-the-harmonized-system.aspx>>.

Accrediting STCE Expert Trainers

The WCO does not have the staff or resources to conduct training in all countries of the world. Instead, the WCO employs an accreditation model whereby Member Customs administrations nominate personnel to become WCO Accredited Customs Expert Trainers. The WCO announces Accreditation workshops through letters to Customs Directors General inviting them to nominate personnel matching a very specific profile which looks for duties and experience relevant to strategic trade control and to training. In addition to helping identify the most suitable candidates, this process helps ensure that the candidates' management understands and supports the STCE mission. This, in turn, sets expectations for the nominated individuals from the WCO and from their own Customs administrations, paving the way for them to establish STCE training programs in their countries.

The WCO has conducted twelve STCE Accreditation Workshops, producing a large number of pre-accredited trainers poised to complete the full accreditation process, and forty-eight Accredited Expert Trainers who have already done so. The WCO's Accredited Customs Experts (ACES) database now includes 135 accredited and pre-accredited STCE Expert Trainers from 51 different countries, spanning five of the six WCO regions.⁸

Critically, when Customs Directors General nominate their personnel to become ACES, they also commit to making them available to support as many as three WCO STCE Missions over the following three years. Through this mechanism, many of these accredited expert trainers have helped the WCO and others to deliver dozens of national and regional workshops, with several more already scheduled. Each training event provides opportunities for additional pre-accredited ACES to complete their accreditation, a virtuous cycle that further increases the WCO's capacity to build capacities.

Operations

Operations form a very important component of the WCO's activities in general across the full range of Customs functions. Operations separate theory from practice and represent the true test of individual and collective capacities. Operation Cosmo was conducted early in the STCE Project (starting in 2014 and concluding in 2015) and served to raise awareness of strategic trade control and to reveal operational challenges. These experiences informed the STCE trainings and capacity-building efforts that followed and helped set the stage for Operation Cosmo 2, conducted in 2018.

Like Cosmo 1, Cosmo 2 was a global operation (114 countries participated – 25 more than participated in Cosmo 1) to target strategic goods during export, transit and transshipment, and promote cooperation among customs administrations. Participants reported conducting over 30,000 risk assessments during the operation's three week high-intensity period, resulting in

8 These regions are: South America, North America, Central America and the Caribbean; Europe; Far East, South and East Asia, Australasia and the Pacific Islands; North of Africa, Near and Middle East; West and Central Africa; and East and Southern Africa. See World Customs Organization, "Membership," <<http://www.wcoomd.org/en/about-us/wco-members/membership.aspx>>.

over 8,000 physical inspections, 18 seizures, and the initiation of nine criminal investigations. In addition, participants cooperated internationally, sending 33 Customs Action Messages related to suspicious shipments on STRATComm, the WCO's secure communications platform for cases involving strategic commodities.

Many countries reported that national STCE courses helped them prepare for the operation and strengthened their ability to perform audit-based controls, risk management, and analysis of strategic goods. In addition, there was widespread appreciation for the ease of communication with Customs authorities in other countries.

However, countries also reported continuing challenges, especially their need to improve risk management of strategic goods, lack of domestic STC legislation, lack of quick and reliable technical reachback, and the need to keep training new personnel on STC. In addition, participation in the operation was not uniformly high, with many countries demonstrating little progress in their strategic trade control commitment or capacity. Cosmo 2 provided the WCO with information and understanding on what countries need to move from classroom-based theory to practical fieldwork and provided the WCO as well as the participating countries with a path-forward for future work.

Harmonized System (HS) Reform

The difficulty with attempting to use the HS for strategic trade control enforcement was identified as a major issue at the WCO's first Strategic Trade Control Enforcement Conference in October 2012, and this is a challenge beyond the ability of countries to solve individually. As part of the overall STCE effort, the WCO Secretariat has introduced a set of possible amendments to the HS nomenclature related to dual-use items starting with the 49th Session of the HS Review Subcommittee (RSC) in November 2015. These reforms, which focused on goods identified in the STCE Implementation Guide that were difficult to classify or which were classified under residual subheadings along with many common goods, should facilitate the monitoring and control of trade in strategic items.

Impressive Results

The WCO's STCE capacity-building efforts have resulted in the establishment of a global network of STCE trainers and an increase in the priority afforded to strategic commodities within many Customs administrations. More countries participated in Operation Cosmo 2 than in any other WCO operation to date, and many STCE ACES have established STCE training programs within their home administrations, often without further assistance from the WCO, as the following United Kingdom case study nicely illustrates.

United Kingdom Case Study

The United Kingdom launched a nation-wide strategic trade control upskilling campaign following WCO STCE accreditation of officers from the UK Border Force's Heathrow Counter Proliferation Team (CPT) and from Her Majesty's Revenue and Customs (HMRC).

Over the course of several training events, UK trainers have reached frontline Border Force officers from various ports and airports, as well as officers from HMRC's National Clearance Hub who set and monitor profiles for strategic goods. In addition to employing the WCO STCE Implementation Guide and training materials in these events, HMRC's Risk and Intelligence Service provided assessments of the high- risk goods and destinations relevant to the ports, and training modules were selected to focus on these commodities in particular. Additional sessions detailed local detention and seizure processes and the compelling national and international drivers requiring effective strategic trade control.

As evidence of the effectiveness of the training, one of the airport teams made two detentions during a two-day training event, obtained the relevant technical information, and referred the cases to the licensing authority for a ruling. Since the training events, all participants have been provided access to SPIRE, the UK Export Control Organization's online licensing system, to enable smoother referrals for licensing ratings and to facilitate effective risk profiling by the officers, exactly as suggested in the WCO's Implementation Guide and training materials.

These efforts by WCO STCE Accredited Customs Experts result in more than training programs; they can also result in substantial systemic reforms designed to increase the Customs administration's level of STCE maturity, as the Pakistan case study below well illustrates.

Pakistan Case Study

While Pakistan has had comprehensive STC legislation on the books for many years, major strides toward implementation within Pakistan Customs did not begin until June 2016 when an officer from Pakistan's Customs administration was first exposed to STCE at a WCO accreditation workshop.

Within a span of the following two years, the administration has been able to establish an impressive STCE training program as well as create a National Counter Proliferation Unit implementing WCO STCE guidelines. The success story of Pakistan Customs is a result of the administration's active participation in the STCE Program by sending numerous officers to accreditation workshops, hosting WCO national STCE workshops, embedding STCE curriculum into its national capacity-building training courses, delivery of national trainings and seminars not only to customs managers and frontline officers, but also to importers and customs brokers, and above all, the strong commitment of senior management.

Pakistan Customs hosted two STCE national workshops conducted by WCO staff, and the Directorate General of Training and Research also embedded STCE curriculum into different training courses meant for capacity-building of mid-career and entry level officers both for managerial and frontline streams. As of June 2018, Pakistan Customs has a pool of five accredited and five pre-accredited STCE trainers. In the span of one and half years, the Directorate General has delivered various STCE trainings and seminars attended by 83 customs managers, 299 frontline officers, and 1,232 importers and customs brokers.

Thanks to senior management engagement, on September 4, 2018 the Federal Board of

Revenue (FBR) issued an administrative order for the creation of a National Counter Proliferation Unit (NCPU) at Karachi and a Counter Proliferation Training Cell at the national training facility. The unit has been tasked, in close alignment with WCO STCE guidelines, to create counter proliferation teams at all Customs field offices which are clearing exports, update the national risk management system, support Directorate General of Post Clearance Audit in selecting and conducting audits of companies engaged in the export of strategic goods, and coordinate capacity-building activities in the area of STCE. The NCPU started working under a WCO STCE ACE as its Program Director and established two counter proliferation teams at the two major ports of Karachi which clear more than 85% of Pakistan's exports. The NCPU is currently analyzing Pakistan's national database with the Strategic Trade Atlas to update the national risk management system, helping counter proliferation teams in conducting physical examinations, providing "reachback" support to field offices, and functioning as the Customs national focal point for the national licensing authority, the Strategic Export Control Division (SECDIV).

These undertakings by Pakistan Customs mark clear and important progress toward establishing effective strategic trade control enforcement capabilities as measured by the STCE Maturity Model.

The STCE Program is recognized as the marque programme for strategic commodity capacity-building for Customs administrations worldwide. This has been recognised by United Nations Office for Disarmament Affairs (UNODA) and the UNSCR 1540 Group of Experts. WCO STCE also supports the Organization for the Prohibition of Chemical Weapons' (OPCW) annual Chemical Weapons Convention Controlled Chemical Training.

The STCE Program has also been a success story from a policy perspective. The WCO STCE training curriculum and Implementation Guide have been adopted by the Proliferation Security Initiative (PSI), by the export control outreach programs of the European Union and the United States, and by numerous Customs administrations internally. This emerging global standard for Customs training in the field of STCE, in turn, can accelerate adoption by remaining countries. As with many international standards, the more countries adopt it, the more effective the global system will be. The initiative has already led some participating countries to embark on policy enhancements, with some introducing dedicated Counter Proliferation Units, setting up counter proliferation targeting cells, and running regular STCE National Training and STCE-focused enforcement operations.

Summary and Conclusion

The track record of the WCO in the field of STCE capacity-building is impressive, especially considering some of the common criticisms of capacity-building efforts generally, such as low rates of adoption, lack of measurable impact, and lack of sustainability.⁹ At least in part, the WCO's success stems from its status as a member-driven international organization. Thus, the

9 See, for example, "Aid Workers Talk Endlessly about Capacity-Building - But What Does it Really Mean?," *The Guardian*, November 10, 2016.

WCO acts on behalf of its Members and for its Members, bypassing the difficulties of donor-recipient relationships. The WCO is a resource available to Members seeking to improve their capabilities and adhere to international norms, not an exogenous force telling Members what they should do.

Also likely contributing to the success of the effort is the modular flexibility of the approach. Specifically, the training curriculum can be adapted to different levels of STCE system maturity and the commodity focus can be tailored to national priorities and trade flows. A key aspect of this flexibility is the ability to focus on decision-makers responsible for system design and resource allocation, not just implementers. Especially because STCE is not a traditional priority for Customs administrations, this senior policy-level commitment and political will is vital to success, providing essential guidance, motivation, and support to implementers.¹⁰

It is often said that where there is a will there is a way, but the reverse can also be true. According to Morrissey and Verschoor, decision-makers' assessments of their capacity to implement reforms will influence their *a priori* willingness to make commitments.¹¹ By providing a way to more easily enforce strategic trade controls, the WCO may actually increase the chances that Customs administrations are willing to try. Continued advocacy by the WCO for the importance of the security mission to Customs administrations and related capacity-building is still urgently needed, as the remaining challenges observed during Operation Cosmo 2 illustrate.

10 Derek Brinkerhoff, "Where There's a Will, There's a Way? Untangling Ownership and Political Will in Post-Conflict Stability and Reconstruction Operations," *The Whitehead Journal of Diplomacy and International Relations*, Vol. 8 (Winter/Spring 2007).

11 Oliver Morrissey and Arjan Verschoor, "What Does Ownership Mean in Practice? Policy Learning and the Evolution of Pro-Poor Policies in Uganda," in Alberto Paloni and Maurizio Zanardi, eds., *The IMF, World Bank and Policy Reform* (London: Routledge, 2006).