

Remarks by Kunio Mikuriya, Deputy Secretary General, World Customs Organization, at the International Conference on Illicit Tobacco Trade (ICITT), intended to advance the work of the WHO Framework Convention on Tobacco Control (FCTC) with a view to eliminating the illicit tobacco trade

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Mr. Chairman,

1. I would like to begin by expressing my sincere appreciation to the United States Bureau of Alcohol, Tobacco and Firearms for the invitation to address this important meeting before such a prestigious audience.

First of all, I hope you will forgive me if I give a very short introduction on the WCO for the benefit of those persons who are not familiar with the Organization.

Like the World Health Organization (WHO), the World Customs Organization or WCO is an intergovernmental organization whose world-wide membership consists of 161 Customs administrations which process more than 95% of global trade. Its mission is to enhance the effectiveness and efficiency of Customs administrations in the areas of compliance with trade regulations, protection of society and revenue collection, thereby contributing to the economic and social wellbeing of nations.

The Convention that set up the WCO, or the Customs Co-operation Council to use its formal title, came into force in 1952. This year therefore sees our 50th Anniversary.

2. Since Customs originally started as a revenue agency, the activities of the WCO initially concentrated on tariff-related areas, such as tariff classification, Customs valuation and origin for all international trade. In this area, we play a complementary role to the World Trade Organization which sets national tariff levels through trade negotiations.

Over the years there has been a growing recognition that simplification and harmonization of Customs procedures can promote trade facilitation for legitimate goods, and hence can encourage international trade and investment, the engine for economic growth. At the same time, Customs has been expected to protect society from the inflow of hazardous goods, and that is an example of our work in the enforcement field. The tragedy of September 11 here in New York is the latest reminder of the role Customs is expected to play in the protection of border security.

In order to assist Member Customs administrations to discharge these multiple missions, the WCO has developed standards and best practices. It has also provided training and technical assistance to help Members implement those standards. Promotion of co-operation among Members has been another priority of the WCO.

3. Customs administrations control all imports and exports at national borders. With this competence and expertise in controlling and processing goods at frontiers, Customs administrations are vested with many enforcement responsibilities and WCO programmes must reflect these.

Governments look to Customs to deal with commercial fraud, illicit drug trafficking, anti-terrorist actions, money laundering, protection of the environment, and protection of intellectual property rights. The WCO has developed instruments and initiatives to assist Members to address these criminal activities at national borders.

In relation to these Customs responsibilities, the illicit trade in cigarettes shares many common features with other programmes. It is a transnational business designed to make money for criminals and, as such, it falls within the commercial fraud programme. With regard to control of both the demand and the supply of illicit drugs, there have been joint efforts by health and law enforcement agencies to counter this problem, with Customs being responsible for the interdiction of the cross-border movement of drugs. We can implement similar joint efforts to control the illicit cigarette trade. Counterfeit cigarettes clearly infringe the intellectual property rights of legitimate manufacturers that Customs control at borders. In addition, the proceeds of illicit cigarette trafficking may well subsequently be subject to laundering and this falls within the anti-money-laundering programme.

Thus, we can see that cigarette smuggling can be linked to a number of the Customs enforcement programmes. It is not a stand-alone issue.

4. We in Customs are fully aware that the FCTC (Framework Convention on Tobacco Control), developed under the auspices of the WHO, is concerned with a wide range of measures designed to control both the demand for and the supply of tobacco products. These include manufacturing, licensing, packaging and labelling, controlled distribution, advertising, education and training, passive smoking, and so on.

One of these measures is a wish to control the illicit trade. We fully understand the rationale for this - measures to reduce demand and supply will be circumvented by illicit trade. It is therefore considered necessary to include the illicit trade within the FCTC.

5. The WCO and the WHO have a common interest in combating illicit trafficking in tobacco products, based on their respective missions.

Recognizing this, both Organizations have been working together to seek the best way forward. Co-ordination of efforts leads to synergy and complementarity of action between the two Organizations. As a result, we can avoid unnecessary duplication of efforts and wasting of public resources.

One recent product of our working together is the conclusion of an MOU earlier this month between the WCO and the WHO.

That MOU contains provision for exchange of information on relevant issues, specifically to facilitate the development of the FCTC. The MOU also provides for reciprocal attendance at relevant WCO and WHO meetings. Thus, WHO representatives have attended meetings of the WCO Enforcement Committee and the WCO Council Sessions, and we in the WCO have attended meetings of the Intergovernmental Negotiating Body (INB) on FCTC in Geneva.

My presence here today is clearly part of the liaison process.

6. Perhaps I can now touch on what Customs and the WCO can offer to your deliberations. As Customs administrations are involved on a day-to-day basis in dealing with the illicit trade in tobacco products, there are a number of instruments and procedures already in place which may be of interest to this conference.

Customs operations are based on intelligence, supported by information gathering.

The collection of international trade data is a key function of Customs. Governments obtain their statistics on import, export and transit traffic from their Customs administration. Customs also collects data on illicit trade, with details of seizures in all parts of the world being notified to the WCO through its regional intelligence network via the Customs Enforcement Network, or CEN for short.

The CEN database contains records of cigarette seizures made by Customs around the world. The WCO has carried out an intelligence analysis of the seizures made in 2001, totalling more than 3 billion cigarettes; the analysis has been made available to all Customs administrations. I have brought a copy of the report to be presented to the WHO later.

7. Since the exchange of information and co-operation between different administrations or agencies is essential to efficient and effective Customs enforcement activities, the WCO has developed several instruments and initiatives in this regard.

The exchange of information, or mutual administrative assistance, is well established in Customs circles. There are three levels of mechanisms which countries can employ in this respect : multilateral, regional or bilateral.

Multilateral exchange is covered by the *International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences*, called the "Nairobi Convention" as it was adopted in Nairobi (Kenya) in 1977. A project group is currently undertaking a review of the Convention to ensure it fully meets the needs of international trade and the concerns of society today, including the aspect of the illicit trade in cigarettes.

The WCO has established Regional Intelligence Liaison Offices (RILOs), a type of regional information hub, which collect seizure data from the Customs administrations in the region in order to analyse regional smuggling trends.

Many countries also adopt bilateral agreements on exchange of information. To facilitate this, the WCO has a model bilateral agreement which has been used by many Customs administrations.

As far as co-operation with other agencies is concerned, the WCO has 39 existing MOUs with intergovernmental organizations, UN agencies and representative trade bodies for sea, road and air transport. The most recent MOU is with the WHO, as I have already mentioned. The conclusion of MOUs to enhance co-operation with other bodies at regional and national levels is encouraged and facilitated in Customs administrations by the WCO.

8. The WCO has other initiatives in respect of the illicit tobacco trade which you may not be aware of.

We have a Strategic Expert Group on Combating Cigarette Smuggling which is considering the fundamental causes and effects of cigarette smuggling. The Group will produce, inter alia, best-practice guidelines and training material for Customs administrations.

It is also discussing the need for legal instruments in respect of tobacco smuggling. At present, this is being looked at in the wider context of the review of the Nairobi Convention which I referred to earlier.

Furthermore, the WCO has training programmes on commercial fraud, which are delivered to Customs administrations world-wide.

Finally, we are engaged in a Capacity Building exercise that will enable us to identify best practices and weaknesses in our enforcement controls. In order to overcome limitations in respect of human and financial resources, we appreciate the co-operation from the WHO, governments and civil society.

9. Addressing this conference has been a privilege for me. The creation of a Framework Convention will be of great value to the health and prosperity of our society.

As the name implies, a framework requires additional structures before it becomes a finished product. The World Health Organization is, of course, pre-eminent in the field of health. In relation to the illicit trade in tobacco products, the WCO and its Member administrations are ready to contribute their unique global experience in dealing with all forms of smuggling, control procedures, trend analysis, international co-operation and enforcement skills. Together I am sure we can create a dynamic partnership, one that can enhance the fight against those involved in the iniquitous illicit trade in tobacco products.

Thank you very much for your attention.