

Strategic Advisor to the Comptroller General of the Nigeria Customs Service

Report 1

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List of Abbreviations

CG – Comptroller General
 CITES – Convention on International Trade in Endangered Species
 DFID – Department for International Development
 NCS – Nigeria Customs Service

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It should be noted that the BSI Symbol and UKAS Accreditation mark signify that Crown Agents operate a documented Quality Management System registered with the British Standards Institution to the international quality standard BS EN ISO 9001:2008. The scope of this registration specifically covers the provision of consultancy services in revenue enhancement and expenditure and debt management including customs, taxation and trade, institutional development, engineering and procurement management, advice and reform.



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1. Mission Report

The Consultant greatly appreciated the warm welcome and support he has received from the Comptroller General and his staff. This included setting up a new office close to the Comptroller General, the provision of secretarial and transport services and full cooperation on all the issues under consideration.

The mission commenced with a meeting between the consultant and the Comptroller General of Customs and his Deputies. The CG said that the first task he would like the consultant to undertake was to review the curriculum of the recently opened Gwagwalada Command and Staff College. Individual meetings were also held with the Deputy Comptroller Generals responsible for Human Resources and for Strategy and Organisation.

A copy of the draft Nigeria Customs Service Bill was provided to the consultant with a request for it to be reviewed to identify any significant gaps and to ensure that it reflected international best practice. A meeting of the entire top management team was attended. The Staff College was visited and the facilities inspected. There is no doubt that this facility is one of the best and up to date customs training centres in the world. Memos on the training curriculum and the draft Nigeria Customs Service Bill were submitted by the Consultant to the Comptroller General, and a proposal made to CG about the areas that might be covered in the remaining phases of the mission. A meeting was held with the Comptroller General and his Deputy responsible for HR to review the first two weeks of the mission and to consider the timing and content of the next phase. The CG said that he was pleased with what had been produced so far and would like the consultant to give presentations on modern customs methods to groups of senior customs managers in Abuja and Lagos and also to representatives of business.

The key findings of the review of the Training Curriculum and draft Nigeria Customs Service Bill are set out below.

2. Review of Training Curriculum

A great deal of effort has gone into the production of a comprehensive curriculum to train and develop managers within a modern Customs Service. The curriculum is split into modules starting with basic level training and progressively develops to more advanced aspects including the development of personal skills, academic training and includes the development of staff from business and trade. There are no significant gaps in the programme but technical aspects such as Transit, Excise, Intellectual Property Rights, Post Clearance Audit, Money Laundering, CITES and environmental issues need to be covered. General issues such as information technology, trade facilitation, intelligence and risk management are part of the programme but introductions to these more modern ways of working could be incorporated into earlier parts of the curriculum. Customs work covers a wide spectrum of activities and there should be a broad based introduction to them in basic training, more detail in advanced training and full time training on each aspect for those who are going to specialise in particular activities. The Nigerian Customs Service should articulate more clearly the vision of the management style they want for the future and put in training components to develop it. NCS has some significant developments over the year ahead including the ending of Destination Inspection contracts, bringing the management and operation of scanning activities under NCS control and the development of Single Window arrangements. It is recommended that individual training courses should be developed to cover these changes. The Gwagwalada Staff College is a tremendous asset and should be used as a catalyst for the further modernisation of and reform of Nigeria Customs. Regional training initiatives should also get underway.

The detailed evaluation and recommendations provided in a memo by the Consultant to the CG on the Training Curriculum are attached at Annex A. Key recommendations include:

- Developing modules on:
 - Understanding Business, to raise awareness amongst NCS officers of their role in the business world
 - Intelligence, Risk Analysis, Targeting and Selection. This would complement the more theoretical module on Risk Management
 - Customer Service & Trade Facilitation

- The Command and Staff College should be seen as a base for developing more strategic learning and development-related programmes, such as:
 - Fast Track Management Programme
 - Continuous Professional Development
 - Mentoring and Coaching
 - Team Building
- Developing a programme specifically for managers, as part of any transition plans related to the phasing out of Destination Inspection or the implementation of Single Window
- Realising the potential of the Staff College as a Regional Training Centre
- Undertake a strategy-based Training Needs Analysis, and developing a training programme that is inextricably linked with NCS' operational and reform strategies.

3. Review of draft Nigeria Customs Service Bill

The draft Bill will put NCS on a robust legal footing and will provide the necessary legislative cover for modern ways of operating such as the use of information technology, including paperless electronic processing, risk management techniques and Authorised Economic Operators. The new provisions are fully up to modern international standards although the opportunity could have been taken to make it clear that NCS have the lead on the development and introduction of the Single Window. Some of the provisions, particularly those covering Customs Warehousing and Excise have not been updated and there is scope for them to be reviewed to incorporate international best practices. The penalties proposed for breaches of the provisions of the Bill seem inflexible and to some extent inconsistent and could be further reviewed.

The detailed evaluation and recommendations provided in a memo by the Consultant to the CG on the draft NCS Bill are attached at Annex B.

Clearly there are a range of ways in which the draft Bill will enable (and/or require) the NCS to work differently. The impact of the enactment of the Bill should be comprehensively analysed, with an appropriate change management plan drawn up (ideally integrated with a wider change management plan embracing the full range of programmes impacting on the NCS).

4. Strategic Priorities and Next Steps

In addition to the specific recommendations made in response to requests by the CG on the NCS Bill and the Training Curriculum, the Consultant also identified a number of strategic areas where support could be focused for the remainder of the project. These were proposed to the CG at the end of this first mission (see the memo at Annex C), and the Consultant will engage with the CG at the start of Mission 2 to discuss the extent to which the CG is keen for the consultant to provide support in these areas. Within the limited time frame of this project, these areas can only be assessed in broad terms, with some high level recommendations given. DFID and NCS could discuss whether these areas are of mutual interest for the development and implementation of more detailed projects. NCS may also wish to discuss these with other development partners. These strategic issues include:

- NCS's current single key performance measure is based on revenue collection. This is clearly important, and is NCS' *raison d'être*. However, there is room to develop a broader range of performance measures that would help drive the modernisation and performance of the NCS.
- An over-arching NCS Modernisation Programme, using modern change and project management techniques will be critical to NCS successfully delivering its change agenda. There is value in analysing the existing Destination Inspection transition plan, the Single Window programme, the development of the training curriculum and the Zuma Programme to assess if there is a need to develop a single organisational transformation programme with some of these existing projects forming key pillars.
- With NCS being given the lead role on Single Window in Nigeria, NCS will need to develop a strategic programme to successfully deliver this objective.

- As mentioned in section 3, the implementation of a Senior Staff Development programme should be considered in order to harness and release the energy and innovation of the best staff.
- The development of an advanced risk analysis capability for maximising the effectiveness of cargo inspections. This capability should embrace Intelligence, Risk, Targeting and Selection with an objective of improving the hit rate of inspections, thereby focusing customs activity on illegitimate traders and facilitating legitimate goods movements. This is broader than the training recommendation suggested in Section 3, and is more about the development of a modernised risk-led operating model.
- The development of a modernised, professional investigation capability, with appropriate police powers is a powerful way of improving the capacity of customs administrations to tackle the wilfully non-compliant. The information gathered as a result of investigations is also key to maintaining up-to-date intelligence and risk systems, thereby continuously improving the targeting and selection capability. A successful Investigation function can also be a catalyst for transforming stakeholder perceptions of Customs, from Ministers and Parliament, through to the general public.
- The development of a professional Post Clearance Audit capability should be a key component of developing NCS' trade facilitation offering. Simplified processes along these lines will be a necessary part of any trusted trader or authorised economic operator scheme, and should also positively impact on the speed with which goods move through the port.
- A real challenge for NCS is the perception that it has a poor public image. This can impact on Customs ability to develop key partnerships with business and other public sector organisations. It can also directly impact on trader compliance levels, which in turn impacts on revenue collection and the ability of NCS to facilitate legitimate traders. Support to the Public Relations Office in developing a proactive media strategy should be a key pillar in developing a strategy that seeks to increase voluntary compliance as well as identify non-compliance.
- In line with this compliance-based approach, and in order to promote trade facilitation, consideration should be given to the development of a comprehensive strategy to facilitate legitimate trade, including through the development of a trusted trader or Authorised Economic Operator programme, and other simplified procedures.
- Having a partnership approach with business interests is also a key component in modernising the international trade environment. Formal consultation arrangements with business representatives should be developed from the current bilateral arrangements into broader groupings chaired by an appropriate top Customs manager.
- Excise duties can be an important part of a country's revenue base. The current draft NCS Bill does not provide for a modernised approach to controlling Excise and Warehousing. Consideration should be given to developing an up-to-date Excise and Warehousing regime.

During the course of the second mission, the NCS Comptroller General would like the consultant to give presentations on modern Customs ways of working to groups of senior Customs managers and to business representatives. This is being arranged.

The Consultant will also engage with the CG on the recommendations in this report to discuss the priorities for the Consultants' engagement during the remaining missions.

Appendix A

The Comptroller-General,

ZUMA 2/13 CURRICULUM

You asked me to review the content of the Zuma 2/13 Curriculum.

I attach a short report which contains my initial thoughts. In brief I am impressed with the proposed curriculum. Its implementation will be a major step forward for the development of Nigeria Customs Service.

I have also come up with some suggestions as to how the curriculum might be developed further and will be happy to expand on these. I hope the authors of the curriculum will forgive me if my lack of knowledge of course content means that I am making proposals that they have already thought of.

Douglas Tweddle

14th February, 2012.

cc:

DCG (Makarfi, G. B.),

Above for your information only.

THE ZUMA 2/13 PROGRAMME
A STRATEGIC EVALUATION
SOME INITIAL THOUGHTS.

1. The Zuma 2/13 curriculum has been designed to develop the technical and leadership skills of current and future Nigeria Customs Service managers and will be used to identify and select future top managers of the Service. It has been designed on a modular basis based on International World Customs standards. The curriculum starts with basic level training and progressively develops to more advanced aspects including personal skills, academic training and includes the development of external stakeholders and the participation of business representatives and regional and international organizations.
2. I have reviewed the curriculum in the light of my own personal and international Customs experience. I am very impressed at the effort that has gone into producing this well thought through and very comprehensive curriculum. There is no doubt that it goes a long way to meeting the training and development requirements of a modern Customs Service.
3. The Comptroller-General asked me to identify if there are any gaps in the curriculum. I am pleased to say that in my opinion there are no significant gaps which reflects the detailed effort and thought which has gone into the curriculum's production. Such omissions I have identified may well be covered in the content of the individual modules which I have not had access to. On the technical side aspects such as Transit, Excise Intellectual Property Rights, Post Clearance Audit, Money Laundering, CITES and environmental issues need to be covered. On the personal skills side issues such as customer service, discipline procedures, staff engagement, performance management, budget management and health and safety need to be covered. General issues such as the use of information technology, trade facilitation, intelligence, and risk management are part of the programme but as well as having separate

modules it may be worthwhile including introductions to these ways of working in earlier parts of the curriculum. As a general comment the curriculum may be a little too compartmentalized. Customs work covers a wide spectrum of activities and consideration should be given to having a broad based introduction to them in basic training, more detail in advanced training and then full time training on each aspect for those who are going to specialize in particular areas.

4. An unstated aim of the curriculum is to develop and change the Nigeria Customs service management and leadership culture. It is correct that this should be an unstated aim – it can be counter productive if managers consider their ways of leading and thinking are being manipulated – but nevertheless this is a crucial aspect of a management development programme. It is not clear to me if Nigeria Customs Service has a clear vision of the management style it wants for the future and if the components are in place to deliver it.

5. As part of the Nigeria Customs Service management development programme I suggest there is scope for some additional modules to be delivered at the Staff College.

These are:-

- 5.1 **Understanding Business:** A module that would cover how the commercial world operates, what are their priorities, what do they expect from Nigeria Customs Service and other Government Agencies. How do Nigeria Customs Service activities impact on them. How can Nigeria Customs Service and business work together better. Business representatives should be heavily involved in the running of the module which could be adapted for Nigeria Customs Service staff at various levels.

- 5.2 **Intelligence/Risk Analysis/Targeting and Selection:** Although risk management is covered in the current curriculum I consider there would be value in having an overview module which brings together all aspect of the selection of cargo for physical examination. The aim would be to be more selective in choosing cargo for examination – thereby improving trade facilitation – but having a higher hit rate by identifying more illegitimate and smuggled items.
- 5.3 **Customer Service:** Nigeria Customs Service provides a wide range of services to a broad spectrum of stakeholders – both within Government and outside. The aim of this module would be to consider the quality of the services provided, how it can be measured and improved.
- 5.4 **Fast Track Management Programme:** The Gwagwalada staff College provides an ideal environment for the development of a cadre of staff on an accelerated management programme. What I have in mind is the selection of the most talented younger people within Nigeria Customs Service (and perhaps from outside if a suitable recruitment avenue exists) and to put them on an integrated development programme covering most aspect of the work of Nigeria Customs Service. Standards would be high and those who did not meet them would be removed from the programme. Those that are successful would be found appropriate appointments at a senior management level.
- 5.5 **Continuous Professional Development:** Managers at all levels should be required to spend a minimum of five days a year on developing themselves. This could include attendance at appropriate conferences, lectures, workshops, training courses to update themselves on technical developments and

for senior managers an emphasis on management development.

5.6 **Mentoring and Coaching:** At present this training is envisaged for managers at Assistant Comptroller level and above. I suggest that the use of coaching and mentoring skills is required for all staff who are required to manage other staff and recommend that a programme is introduced to include all managers.

5.7 **Team Building:** The strength of any organization comes from how well teams work together. The Staff College should be used to develop ways in which staff can better understand how teams should work together and support each other.

6. Nigeria Customs service has some significant changes taking place over the year ahead. Steps are in hand to develop the skills necessary to cope with the transition from Destination Inspection. These must continue but it may be worthwhile developing a course for managers which would only be given during 2012 to prepare them for what lies ahead. Similarly the transfer of scanning operations and the development of the Single Window might be candidates for a dedicated managers training course. It is essential for Nigeria Customs Service that all these changes go well and there are those external to the organization who will take pleasure in drawing attention to any short comings.

7. I have visited the staff College at Gwagwalada and continue to be impressed at the world class facilities that are available and the pride that all concerned are showing in them. These must now be used to act as a catalyst for the further modernization and reform of Nigeria Customs. An early priority must be to get Regional training programmes underway to enable the Customs services of West Africa to learn from each other.

8. I have also reviewed the Nigeria Customs Service Harmonized Training Calendar for the year 2012. A very wide range of courses are proposed for the year ahead covering nearly all aspect of Customs work. I am surprised that most of the courses appear only to be scheduled to be given once – with such a large number of staff I would have thought most of the courses would need to be given several times to cover the target population. I also observe that few of the courses are scheduled to be held at Gwagwalada. If the Staff College is going to have the impact that is hoped for the facilities should be used to the maximum possible extent.

9. I will be very happy to expand on any of the points and issues I have raised in this short note.

DOUGLAS TWEDDLE

14TH FEBRUARY, 2012.

Appendix B

The Comptroller-General,

REVIEW OF NIGERIA CUSTOMS SERVICE BILL.

I have reviewed the draft Nigeria Customs Service Bill in the light of my knowledge of Customs legislation in the UK and other countries.

I attach a short commentary on the proposed provisions. In summary I think the draft Bill is very much fit for purpose in placing Nigeria Customs Service on a robust statutory footing. In view of recent development, and if it is not too late, the Bill could be used to make it clear that Nigeria Customs Service is responsible for taking the Single Window forward. I also think that there may be scope to modernize the legal framework for warehousing and Excise controls but this is probably for a future occasion.

I have not had an opportunity to discuss the Bill with the Nigeria Customs Legal Department but will be happy to do this if they would find this helpful.

Douglas Tweddle

14th February, 2012.

THE NIGERIA CUSTOMS SERVICE BILL 2011

SOME INITIAL COMMENTS

SUMMARY

I have read the Nigeria Customs Service Bill with great interest. Although I am not a lawyer I fully recognize that a proper legal framework is essential if a revenue collecting and law enforcement organization such as the Nigeria Customs Service is to operate effectively.

2. The draft bill is clearly a development of the legislation that has preceded it. This is hardly surprising as the basic objectives of Customs work – collecting revenue and regulating/controlling Nigeria's international trade have not changed. However a great deal of thought has gone into giving legislative cover for new ways of operating such as the use of information technology, in particular paperless electronic processing, Authorized Economic Operators and risk management.

3. In my view the draft legislation covers these new methods of working well. The sections on electronic systems and the use of information technology are fully up to international standards. The provisions for Authorized Economic Operators are entirely consistent with World Customs Organization and European Union standards although it may be appropriate to make it clear that applicants can be designated as both "Customs simplification" and "Security and safety" authorized economic operators. The section on the application of risk management techniques (S 30) is interesting as such provisions are not usually in primary legislation but it is helpful to have statutory backing to this method of working.

4. The parts of the Bill which I assume have not changed much, particularly those covering warehousing and excise, rather remind me of the Customs legislation I first studied in the 1960s – the UK's 1952 Customs and Excise Management Act. Perhaps an opportunity has been

missed to bring these provisions up to date relying more on an open warehouse systems with the necessary powers to conduct audits and inspections.

MORE DETAILED OBSERVATIONS.

Section 2: Scope and Application: It seems odd that the Act shall apply to "all matters connected with.....pre-shipment inspection.....when Section 41 specifically prohibits the use of mandatory pre-shipment and post shipment inspection for Customs purposes.

Section 3-5: Properly establishes Nigeria Customs Service and spells out the functions and powers.

Section 6: Exercise of police powers by the Customs Service: This is an important provision which enables Nigeria Customs Service to operate as a law enforcement agency. But is giving such police powers as are necessary sufficient? Should not the powers to pursue and seize uncustomed goods, to carry arms, to board vessels and search vehicles etc not be covered in this part of the Act. Moreover it is not clear who decides which police powers are necessary. Could this be a source of dispute and argument?

Section 7: Establishment of the Governing Board: It is interesting that the Minister is the formal Chairman of the Board. This is clearly a matter for Nigeria but international practice separates the operation of tax collection from Government Ministers so that they cannot be involved in individual cases. This is perhaps implicit with the Board being responsible for policies and strategic plans etc and it might be difficult to draft a sub clause which specifically prohibits the Chairman from being involved in

operational matters – particularly as the Comptroller-General and his Deputies who are responsible for operations are also Board members.

Section 9 & 19: Functions and powers of the Board: The Board does not seem to have a responsibility to exercise and purview over the performance of the Nigeria Customs Service.

Section 19: Annual Report: It seems odd that the Customs Service is required to submit an annual report to the Minister – who is the Chairman of the Board. Should not the reporting responsibility be to the Finance Minister and perhaps the President and/or Parliament?

Section 21: Provision of information by the Customs Service: It is good that the primary method of disseminating information is via the website but I assume that quite a lot of Nigerians will not have access to the internet and should a hard copy designation – Official Notices at Customs Houses etc – be specified?

Section 26: Electronic system and use of information technology: Should these provisions be expanded to give a legal framework for Single Window?

Section 27: Transparency and stakeholder consultations: One of the aims of formal consultations with stakeholders is to ensure the highest possible facilitation of legitimate international trade. Is this not an opportunity to establish a formal Customs/Business Consultative Forum?

Section 29: Customs Control Zones: The Comptroller-General does not appear to have the authority to suspend or revoke a designation (in practice I recognize that it is not practical to

close down a major port or airport but it is good to have a nuclear weapon in the armoury even if it is never used!). Section 29(3) states that control zone operators shall be responsible for trade facilitation. I suggest that all those involved in the control and movement of international trade – especially Customs – also have a responsibility.

Section 30: Risk Management Technology: It is good that the use of risk management is specifically covered in the legislation. However as is recognized in S 30(a) there is sensitive information involved and I hope this sub section is strong enough to safeguard release of information to Freedom of Information and Judicial requests.

Section 31: Cooperation with relevant authorities: Is this another provision where Single Window should be covered?

Section 34 – 38: Post Clearance Audits: The provisions are excellent and fully reflect international best practices. However this is a specialized activity, very different from normal port based control works and I have yet to see evidence that Nigeria Customs service is developing the skills or the organizational infrastructure to cope successfully with a significant shift to post clearance activity.

Section 44: Joint border operations: Do these provision give sufficient authority for Nigeria Customs Service powers to be exercised on the territory of neighboring States and for neighboring States Customs to operate on Nigerian territory?

Section 52: Release of goods: As presently drafted this is restricted to Customs matters only. When the Single Window is operating it

may be necessary to have a power to hold back release until all government control requirements have been satisfied.

Section 53: Prohibitions and restrictions on imports and exports: I assume that there is an import and export licensing regime in Nigeria and that any goods not accompanied/covered by an appropriate license are subject to enforcement measures. I also assume that Nigeria supports, on a case by case basis, trade sanctions imposed by the United Nations Security Council or other United Nations Bodies and perhaps these should be specifically mentioned.

Part ix: Determination of Duties: The provisions on classification, value and origin reflect the relevant international agreements. I have no comment except to say that putting this level of detail in primary legislation can lead to difficulties if the international agreement changes. Some countries have found it helpful to only cover the main principles in the primary provisions and to cover the detail in subsidiary legislation.

Section 105 – 109: Authorised Economic Operations: The European Union implementation of AEO allows for three types of authorization – Customs simplification and safety and security and a combined “simplification and safety and security”. I assume that in Nigeria business can apply for both and it might be simpler for them if they could make a combined application.

Section 111: Simplified declarations: This procedure gives real benefits for those wish AEO status and should be one of the factors used to promote the AEO scheme. It does require Nigeria Customs Service to have the necessary level of skills to conduct post clearance audit of business records and accounts.

Section 114: Centralized Customs Clearance: This is a major trade facilitation initiative which can enable business/representatives to concentrate their activities at a single location. Significant practical problems can be encountered and use of the procedure should be carefully monitored.

Section 124: Customs control of warehouses: Although Customs have authority to decide the level of control over warehouses the ability to impose double locks and have permanent supervision by Customs officers seem very old fashioned. The aim should be to have a light touch audit based control and if this is not satisfactory for the warehouse to be closed down.

Part xiv: Temporary Admission Procedure: The temporary admission arrangements seem standard but I would also have expected to see some provision for Inward Processing Relief where goods are imported, subject to processing and may be either re-exported or brought into the domestic economy. In certain cases "equivalent" goods may be exported rather than those originally imported and processed.

Part xvi: Export Procedure: Most countries support exports by providing simplified procedures. These usually involved the provision of the minimum necessary information at the time of export – to satisfy security requirements for example – and for the statistical detail to be provided on a periodic basis at a later stage. It is not clear if this procedure is available in Nigeria.

Section 149/151: Coastwise carriage of goods: The UK experience is that controls over the coastwise carriage of goods had fallen into disuse and were no longer required. Nigeria Customs Service might like to review what benefits are obtained from them.

Part xvii: Express shipments and Postal Traffic: The provisions reflect international best practice. Limits on the size and weight of express shipments have largely gone in the developed world and the operators are in effect offering a air cargo service. They still demand rapid Customs clearance and other operators now argue that if the express companies can obtain clearance in a small number of hours why is this not available to all air cargo operators?

Part xviii: Travelers and Duty Free Shops: These provisions follow international practice. If the dual channel system is being used for travelers to make a declaration and oral declarations are acceptable why are arriving international air passenger required to make a written declaration? Where is the legal provision for this?

Section 163: Duty Free Shops: Many countries do not allow duty free shop facilities for arriving passengers – the original concept was that duty free supplies were allowed for travelers to consume whilst they were traveling which clearly does not apply when they have arrived. Inwards duty free shops on land borders have resulted in fraud and abuse.

Part xix: Protection of Intellectual Property Right: These provisions cover what is expected in the World Trade Organization TRIPS agreement.

Part xx: Excise Taxes: The provisions covering the control and collection of excise taxes are very comprehensive and detailed. They also reflect a very old fashioned method of control with for example talk of double looks and the provision of living accommodation for Excise staff. Excise is very important from a revenue collection point of view – very large amounts of

revenue are collected from relatively few business. Because of the high duty rates excise goods are frequently smuggled and a close relationship is necessary between excise and Customs border controls. At the appropriate time I recommend that Nigeria Customs Service conducts a review of excise regulations and controls with the aim of moving away from procedures developed in the 19th century towards, system based controls linked to audits with the occasional physical check.

Part xxi: Customs Offences etc: Criminals who abuse Customs laws are becoming ever more sophisticated and Nigeria Customs service need to have access to all necessary means to successfully combat them. The provisions in Sections 221 to 239 to allow a wide range of enforcement methods and techniques to be used. However it is not clear to me if Nigeria Customs Service are able to use what I call full criminal investigation powers. These would include covert surveillance, under cover operations, telephone intercepts, use of tracking devices and payments to informants. These techniques should only be used by fully trained and professional officers under close management supervision. However in my experience those Customs Administrations who can deploy these methods are much more effective and have a much stronger reputation than those who have to rely on Police units to provide these facilities.

Section 234: Penalties for armed or bodily assault of officers: It is important that all Customs officers have the full protection of the law and these provision provide provide an appropriate deterrent. However a more frequent occurrence is when officers are obstructed from carrying out their duties, short of physical assault. Should there be provision for action to be taken against those obstructing officers?

Penalties – Generally: Throughout the Nigeria Customs Service Bill a variety of monetary and custodial penalties are provided for those convicted. In many cases there seems to be no flexibility in their application, for example a breach of data protection renders a convicted person liable to “imprisonment for a term of two years or to a fine a fine of ₦1,500,000 or to both fine and imprisonment”. In other cases the penalty is described as “up to”. Is there a lack of consistency here or will the Courts have the flexibility to apply an appropriate penalty in all cases.

It is not my role to comment on or propose levels of penalty although in my mind those contained in the Bill seem proportionate. However the penalty that does seem out of line to me is that contained in Section 147(2). Why should somebody who is convicted of an export declaration offence be liable for a term of five years without the option of a fine when those convicted of most other offences are only liable to two years?

Section 241 makes it very clear that export goods which are not properly declared are liable to forfeiture. I have not been able to identify a corresponding provision for the forfeiture of mis/non declared imports.

Part xxiv: Appeals: These provision allow for a structured appeal process ultimately to a court with competent jurisdiction. I believe what is proposed is in line with the revised Kyoto Customs Convention which requires that there should be access to an appeal level independent of Customs. However taking an appeal to a court is normally an expensive and time consuming procedure. In a number of countries many appeals against the decisions and actions of Customs can be made, after appeal

levels within Customs have been exhausted, to an independent Tax and Duty Appeals Tribunal. These Tribunals are less formal than courts and appellants can normally represent themselves. Similarly in nearly all European countries a system of "Ombudsmen" have been set up where those who consider Customs – and other public bodies – are guilty of "maladministration" can have an independent review. These issues are wider than Nigeria Customs Service but the need to have a more informal but independent avenue of appeal should be considered at some stage.

Section 269: Sales under the Customs and Excise laws: In the UK to avoid any accusations of collusion all sales of goods seized by Customs are handed by an independent contractor and Customs staff are not allowed to be involved in any way – including bidding at the auctions by them or their families and contacts.

General: Money Laundering Controls: I assume that money laundering legislation and powers are covered elsewhere in Nigeria legislation but shall there not be some link to the Nigeria Customs Service Bill?

CONCLUSION:

The Nigeria Customs Service Bill will, when enacted, will put Nigeria Customs Service on a robust legal footing with a series of up to date statutory Provisions. This will enable the Nigeria Customs Service to develop and implement modern ways of working particularly in the areas of information technology, risk management, Authorized Economic Operators and Single Window. Other aspect of the Bill reflect more traditional ways of carrying out Customs, warehousing and excise controls. In

due course these are areas which should be reviewed to see if they reflect international best practice.

I hope my comments – or at least most of them – are helpful. If nothing else they give the views of somebody who knows quite a lot about Customs controls but not very much about how they are applied in Nigeria.

I will be very pleased to expand on my views.

DOUGLAS TWEDDLE

14th February, 2012.

Appendix C

Comptroller-General,

DFID SUPPORT MTO NIGERIA CUSTOMS SERVICE

As you know the UK's Department for International Development as agreed to fund me spending a total of six weeks in Nigeria giving support and advice to the Nigeria Customs Service in line with the terms of reference agreed by you. It is now coming to the end of my first two week stay in Abuja and it seems sensible to explain to you how I have spent my time and to make some suggestions as to what I might do in the remaining four weeks.

2. My first two weeks in Abuja have been very busy learning about the issues Nigeria Customs Service is facing and the environment Nigeria Customs Service is operating in. It was helpful that Terence Jagger, the Chief Executive Officer of Crown Agents was visiting Nigeria for a few days shortly after I arrived. He was able to see first hand the warm welcome that you and your colleagues have given me and the meetings and receptions arranged for him enabled me to meet a wide variety of people involved in public and business life in Nigeria. I visited the Nigeria Customs Service Command and staff College at Gwagwalada with the Chief Executive Officer and were able to tour the facilities. We were both very impressed and look forward to assisting Nigeria Customs Service to make the Staff College a central part of the Nigeria Customs Service modernization programme.

3. My first main task has been, at your request, to review the Staff College curriculum. I have submitted a separate report to you on my conclusion but there is no doubt in my mind that the curriculum provides a sound base on which to build Nigeria Customs Service management development activities.

4. I have also sent you my thought on the draft Nigeria Customs Bill 2011 which is currently going through the Parliamentary approval process. The Bill will put Nigeria Customs Service on a robust legal footing and does give the necessary provisions for electronic processing, risk management, trade facilitation etc but I think there are also some other areas which could be brought up-to-date on a future occasion.

5. Turning to how I might find my time in Nigeria over the next few months I have had the opportunity to exchange some ideas with DCG Makarfi and DCG Jatau. As an general observation I think the year ahead will be very challenging for Nigeria Customs Service. An ambitious revenue collection target of One Trillion Naira. A goal to reduce average import clearance times to less than 48 hours. Destination Inspection is to be taken over by Nigeria Customs Service by the end of 2012 and Customs has the lead role to deliver the Single Window. I very much look forward to supporting Nigeria Customs Service in meeting these challenges and opportunities.

6. I have the following suggestions as to how I may be able to support Nigeria Customs Service:-

6.1 **Intelligence/Risk Management/Targeting/Selection:**

The heart of a Customs enforcement strategy is deciding what consignments need to be physically inspected and learning from what is or not found to influence future selections. Nigeria Customs Service are accused of examining too high a proportion of cargo and I could work with the risk teams to help them to target the higher risk items.

6.2 **Investigation and Fraud:** A professional investigation capability, including the ability to deal with sophisticated documentary fraud strengthens the overall enforcement strategy and can be very beneficial to the image of Customs –

if the right media coverage can be obtained when successful results are achieved. I would be pleased to work with the DCG and his team to see if this can be done better.

- 6.3 **Post Clearance Audit:** As Authorized Economic Operators and simplified clearance schemes increase in number Nigeria Customs Service will need to develop the necessary post clearance audit skills. These are rather different from traditional customs control techniques and I would be very happy to review how they should be developed and expanded in Nigeria.
- 6.4 **Nigeria Customs Service Modernization Programme:** If Nigeria Customs Service is going to successfully modernize I suggest a comprehensive modernization programme is required using modern change management and monitoring techniques. I have considerable experience in project and programme management in the UK and would be pleased to share it with the Nigeria Customs Service modernization team.
- 6.5 **Single Window/Trade Facilitation:** Single Window is not just an information technology project and it would be developed as a strategic initiative in conjunction with external stakeholders within other parts of Government and the private sector. I suggest a specific project team needs to be established – headed by a Customs Manager – and I would welcome an opportunity to contribute to this.
- 6.6 **Senior Staff Development:** Successful organizations harness and release the energy and innovation of their staff. In traditional hierarchal structures this can be difficult to achieve. I would be interested to explore with the appropriate

senior managers how this could be done better in Nigeria Customs Service.

6.7 **Public Relations and Media:** Nigeria Customs Service is accused of having a poor public image. The best way of combating this is to have a proactive media strategy. Additionally internal communication should have an objective of making the staff proud of the organization. I will be happy to advise the Public Relations team of my experience in this area.

6.8 **Key Performance Measures:** My understanding is that Nigeria Customs Service effectively only has one public performance measure - revenue collected. Although revenue is extremely important I suggest that other key performance measures are also necessary and would be pleased to advise on their development.

7. **TIMING:** I have some flexibility in when I can return to Nigeria and I would wish to fit in with any significant Nigeria Customs Service events or absences from the office of top level Nigeria Customs Service staff. My ideal dates are:-

11th - 16th March

12th – 19th May

17th – 30th June.

8. It would be difficult for me to be involved in all the areas I have listed in Paragraph 6 and I would welcome your thoughts on which you consider should be the priorities.

Douglas Tweddle
16th February, 2012.

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