

ICC BUSINESS RECOMMENDATIONS ON THE CUSTOMS TREATMENT OF RELIEF SHIPMENTS IN HUMANITARIAN EMERGENCIES

BUSINESS RECOMMENDATIONS

Prepared by the ICC Commission on Customs and Trade Facilitation

Summary and highlights

The ICC Business Recommendations highlight some of the key challenges business and governments must overcome, include real business case examples and contain a set of policy recommendations to ensure the smooth and efficient delivery of relief shipments following natural disasters and humanitarian emergencies.

After a natural disaster, the private sector often steps in to provide much-needed financial assistance and in-kind goods and services to facilitate the movement and customs clearance of relief shipments. Natural disasters often disrupt daily business, ports of entry and the ability of governments and departments, most often Customs Administrations, to operate as usual. This leads to the untimely delivery of relief supplies, or in some cases, shipments that are not able to be cleared in the country. The underlying issues are often linked to a lack of contingency planning and/or trade resumption planning. The relevant United Nations (UN) bodies and agencies have not yet fully engaged with the business community in working together to resolve these issues and develop tangible solutions.

There are several examples of key challenges that have been identified and presented:

- Lack of contingency and trade resumption planning.
- Lack of specific customs procedures for the clearance of humanitarian relief supplies and/or limited experience in dealing with such situations by Customs officials.
- Limited list of approved relief supplies.
- Limited time to bring relief supplies into a country (e.g., 30 days).
- Requirement to pay duties, taxes and fees on certain relief supplies and/or the requirement to put in place guarantees or bonds.
- Excessive documentary requirements and the need for documents to be translated before submission.
- Limited flexibility in the working hours of border authorities.
- Damage to vital transportation infrastructure.
- Excessive physical inspections and testing of relief consignments.
- Inability to physically distinguish humanitarian shipments from commercial shipments.
- Necessity to transit goods through third-party countries.
- Limited experience in international freight operations by some international organisations, non-government organisations, small charities and private actors.

The below business examples illustrate some of the current challenges faced by the private sector and relevant donor organisations in the customs treatment of relief shipments in humanitarian emergencies.

Business example 1:

Context: Country X and Country Y are located on an island which is home to two nations. Country X suffered a natural disaster. A company attempted to ship in supplies such as food, water, medicine.

Challenges: Due to the natural disaster, the sea ports were closed. In order to facilitate the shipment of much-needed resources, the company was forced to move the goods into Country Y to unload the containers, locate and fund warehouse space, and convert the container shipments into small shipments that could be carried by small trucks, cars or other vehicles. Instead of a handful of large shipments, the company was forced to do many small shipments to move the much-needed resources into Country X, thus increasing the burden for customs formalities and resource expenditure.

Business example 2:

Context: A company attempted to ship a water filtration system to Country A through Country B.

Challenge: The filtration system was not on the approved list of relief items and was not shipped within the designated 30-day time period, so even with the tremendous need for such materials,

importation was refused. After sitting at the border between Country A and B for over two months, with no hope of entering into Country A as a humanitarian good, the shipment was rerouted to Country Q, where it effectively clear customs and was put to use.

Business example 3:

Context: A company was providing in-kind shipping for a container of relief and medical supplies to a country on behalf of a missionary group who planned to utilise the supplies and provide social services.

Challenge: The paperwork associated with the shipment was considerably time-consuming and required many hours to prepare based on the quantity and type of commodities. The container was shipped three weeks in advance of the ground team's arrival on site, to allow enough time for clearance and final delivery by a cartage agent. The majority of the shipment was held for inspection by local agencies and ultimately much of the shipment did not clear in time for use and delivery by the ground team. These un-cleared items were eventually abandoned.

ICC policy recommendations:

- Establishment of an internationally-recognised and accredited system of marking and identification for humanitarian relief shipments for quick and efficient detection. . Possible solutions may include:
 - Humanitarian waybill issued by the UN, similar to an air waybill, as most humanitarian cargo moves by air, but multi-modal and combined with an electronic variant.
 - Specific procedure codes provided by the World Customs Organization (WCO) for humanitarian and reconstruction shipments. This could include an expansion of the WCO Harmonized Commodity Description and Coding Systems (HS).
 - Document certified by named 'competent authority' in donor nations to confirm the status of the cargo.
- Adoption by Customs Administrations and relevant border agencies of the voluntary UN Office for the Coordination of Humanitarian Affairs (OCHA) Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance, in particular Chapter VI Part 29-36.
- Swift and robust implementation of the World Trade Organization (WTO) Trade Facilitation Agreement (TFA). The TFA does not make specific reference to the treatment of humanitarian relief shipments. However, the implementation of its provisions would significantly improve the facilitation of relief shipments throughout the supply chain.
 - Further guidance could be issued under Article 7.8 Expedited Shipments to clarify that humanitarian shipments are intended to be included.
- Establishment of contingency and trade resumption plans, developed in partnership with all stakeholders, including Customs, border agencies, donor organisations and the private sector. This is particularly vital for countries in areas that are more susceptible to natural disasters..

- Amendment to or drafting of supporting legislation to provide a more specific level of detail on customs clearance treatment, as usually this does not exist in the primary legislation.

Potential partnerships:

- Collaborative engagement with the WCO: approach relevant UN bodies and agencies; incorporate the treatment of humanitarian aid shipments under a coordinated border management framework; promote good governance by standardising operating procedures applicable to all relevant agencies; encourage the implementation of existing best practices for improving the Customs treatment of humanitarian relief shipments.
- Engagement with other relief agencies and corporate foundations: gain additional support and collect additional tangible examples of bottlenecks at the border to further develop recommendations for improving the clearance process for humanitarian shipments.

Contact:

Rachel Dignam
Commission on Customs and Trade Facilitation
International Chamber of Commerce
E: Rachel.dignam@iccwbo.org

ANNEX:

EXISTING TOOLS OR PROVISIONS RELATED TO HUMANITARIAN SHIPMENTS

WORLD CUSTOMS ORGANIZATION (WCO)

Recommendations of the World Customs Organization to Expedite the Forwarding of Relief Consignments in the Event of Disasters 1970:

- The WCO Recommendations are a non-binding instrument that calls on countries to adopt a number of measures to facilitate the treatment of relief shipments. These include: waiver of restrictions on the export or import, simplification of associated documents, waiver of duties, taxes and fees on consignments of approved organisations and authorisation of customs clearance outside regular hours and locations.

WCO International Convention on the Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention):

- Annex B.3: Provides the “recommended practice” that contracting parties provide relief from import duties and taxes, from economic prohibitions and from restrictions to “goods such as foodstuff, medicaments, clothing and blankets sent as gifts to an approved charitable or philanthropic organization free of charge to needy persons by the organization or under its control”.
- Annex J.5: Provides a combination of binding and recommended steps to expedite the clearance of relief shipments, the conducting of inspections outside of regular hours, the simplification of documentation procedures and exemptions from examination under exceptional circumstances.
- Note: Not all countries have ratified the Revised Kyoto Convention. Further, countries are given the flexibility to select Annexes as part of their commitments. The instrument also does not provide for compliance and enforcement.

WCO Convention on Temporary Admission 1990 (Istanbul Convention):

- The Istanbul Convention includes Annex B.9: Concerning Goods Imported for Humanitarian Purposes. The Annex details steps that must be taken in order to comply with the Convention.
- In the Annex:
 - “goods imported for humanitarian purposes” refers to: medical, surgical and laboratory equipment and relief consignments.

- “relief consignments” refers to: all goods, such as vehicles and other means of transport, blankets, tents, prefabricated houses or other goods of prime necessity, forwarded as aid to those affected by natural disaster and similar catastrophes.
- Note: Not all countries are contracting parties to the Istanbul Convention. Further, the status of implementation and country commitments are not consistent across contracting countries. The WCO has [listed](#) all contracting parties to the Istanbul Convention and the applicable positions related to specific Annexes of the Convention.
- Note: The scope of the Convention includes temporary imports, free of duty, tax, up to one year or as in the case of humanitarian temporary imports, as specified.

UNITED NATIONS (UN)

United Nations Model Agreement between the United Nations and a State:

Developed by UNOCHA and WCO, the model agreement concerns measures to expedite the import, export and transit of relief shipments and possessions of relief personnel in the event of disasters and emergencies. To date, the Customs agreement has been signed by Belarus, Bhutan, Dominican Republic, Honduras, Liberia, Moldova, Nepal and Uzbekistan.

WORLD TRADE ORGANIZATION (WTO)

World Trade Organization Trade Facilitation Agreement (TFA):

While the TFA does not have specific provisions for expediting relief shipments during humanitarian emergencies, TFA implementation will effectively and inherently improve the facilitation of relief shipments throughout the supply chain. The following provisions are of particular significance:

- Article 1: Publication and Availability of Information
- Article 8: Border Agency Cooperation
- Article 7: Release and Clearance of Goods
 - 7.1 Pre-arrival Processing
 - 7.4 Risk Management
 - 7.8 Expedited Shipments
 - 7.9 Perishable Goods



The International Chamber of Commerce (ICC)

ICC is the world business organization, whose mission is to promote open trade and investment and help business meet the challenges and opportunities of an increasingly integrated world economy.

With interests spanning every sector of private enterprise, ICC's global network comprises over 6 million companies, chambers of commerce and business associations in more than 130 countries. ICC members work through national committees in their countries to address business concerns and convey ICC views to their respective governments.

ICC conveys international business views and priorities through active engagement with the United Nations, the World Trade Organization, the G20 and other intergovernmental forums.

Close to 3,000 experts drawn from ICC member companies feed their knowledge and experience into crafting the ICC stance on specific business issues.

www.iccwbo.org

INTERNATIONAL CHAMBER OF COMMERCE

33-43 avenue du Président Wilson, 75116 Paris, France

T +33 (0)1 49 53 28 28 F +33 (0)1 49 53 28 59

E icc@iccwbo.org www.iccwbo.org