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বিষয়: Policy Document for Post-clearance Audit in Bangladesh ডকুমেন্টটি জাতীয় রাজস্ব বোর্ডের ওয়েবসাইটে আপলোডকরণ।

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০২। বর্ণিতাবস্থায়, Policy Document for Post-clearance Audit in Bangladesh ডকুমেন্টটি জাতীয় রাজস্ব বোর্ডের ওয়েবসাইটে আপলোড করার পরবর্তী প্রয়োজনীয় ব্যবস্থা গ্রহণের জন্য নির্দেশক্রমে প্রেরণ করা হলো।

সংযুক্তি: Policy Document for Post-clearance Audit in Bangladesh ডকুমেন্ট ০১ (এক) সেট

Imam Goshali
24-6-2021

(ইমাম গাঙ্গালী)

দ্বিতীয় সচিব (কাস্টমস: আধুনিকায়ন ও প্রকল্প ব্যবস্থাপনা)

ই-মেইল: sscusmodern.gov.bd

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✓ সিস্টেমস ম্যানেজার
জাতীয় রাজস্ব বোর্ড, ঢাকা।

নথি নং- ০৮.০১.০০০০.০৬৭.১২.০০২.২০

তারিখ: ১০ আষাঢ়, ১৪২৮ বঙ্গাব্দ
২৪ জুন, ২০২১ খ্রিস্টাব্দ

অনুলিপি সদয় জ্ঞাতার্থে ও কার্যার্থে:

১. পিএস টু চেয়ারম্যান, জাতীয় রাজস্ব বোর্ড, ঢাকা (চেয়ারম্যান মহোদয়ের সদয় অবগতির জন্য)।
২. পিএ টু সদস্য (কাস্টমস: নিরীক্ষা, আধুনিকায়ন ও আন্তর্জাতিক বাণিজ্য), জাতীয় রাজস্ব বোর্ড, ঢাকা (সদস্য মহোদয়ের সদয় অবগতির জন্য)।

(ইমাম গাঙ্গালী)

দ্বিতীয় সচিব (কাস্টমস: আধুনিকায়ন ও প্রকল্প ব্যবস্থাপনা)

Ms. Anika

Policy Document for Post-clearance Audit in Bangladesh

**National Board of Revenue
Bangladesh**

June, 2021

Abbreviations

AEO	Authorized Economic Operator
AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
ASYCUDA	Automated System for Customs Data
CEVTA	Bangladesh Customs, Excise & VAT Training Academy
CH	Custom House
CIID	Customs Intelligence and Investigation Directorate
CRMC	Customs Risk Management Commissionerate
FoS	Framework of Standards
LC	Letter of Credit
LCS	Land Customs Station
LRMU	Local Risk Management Unit
NBR	National Board of Revenue
NII	Non-intrusive Inspection
PCA	Post Clearance audit
RKC	Revised Kyoto Convention
SOP	Standard Operating Procedure
SRO	Statutory Regulatory Order
TFA	Trade Facilitation Agreement
ToT	Training of Trainers
UNCTAD	United Nations Conference on Trade and Development
VAT	Value Added Tax
WCO	World Customs Organization
WTO	World Trade Organization

I. General

1. Customs administrations have three core functions:

- i. Protecting revenue due on imported goods ensuring the correct amount of duties and taxes is paid at the right time;
- ii. Protecting society and public health by preventing the importation of prohibited or restricted goods that could cause harm, e. g. illicit drugs, explosives, and firearms; and
- iii. Facilitating international trade.

2. Customs administrations universally follow international conventions or agreements and issue Rules/Statutory Regulatory Orders (SROs)/guidelines/Standard Operating Procedures (SOPs)/administrative orders, etc. in line with their legislations, to carry out their core functions. The most relevant international agreements or conventions, which Bangladesh has ratified or accessed or expressed its intention to implement are:

- i. **World Customs Organization (WCO) International Convention on the Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention-RKC)** which includes provisions for maximizing audit-based controls to expedite the customs clearance process;
- ii. **World Trade Organisation Trade Facilitation Agreement (WTO-TFA)** endorses Post-Clearance Audit (PCA) to facilitate the movement of international goods;
- iii. **Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific (Paperless Trade Agreement)** to promote cross-border paperless trade enabling the exchange and mutual recognition of trade-related data and documents in electronic form;
- iv. **WCO SAFE Framework of Standards to Secure and Facilitate Global Trade (WCO SAFE FoS)** designed to protect society by securing the international supply chain and enhance compliance.

3. Post-Clearance Audit (PCA) can be conducted in isolation but international best practice is to combine this control with an effective risk management system. The risk management system, using the selectivity of the Customs Computer System (ASYCUDA), identifies suspect consignments and non-compliant businesses to inform PCA units/office. Feed-back from PCA allows, if necessary, the risk rating for a business to be adjusted. The impact of PCA can be amplified by using it in conjunction with Non-intrusive Inspection (NII).

4. Moving compliance checks on imported goods to post clearance ensures faster clearance of legitimate consignments, allowing importers to benefit from real time deliveries and reduced costs and enables customs to concentrate resources on higher risk consignments.

II. Post-Clearance Audit (PCA)

A. General

5. There are two forms of PCA: transaction-based and systems-based. Transaction-based audit is usually carried out in the customs office and checks one import declaration whether systems-based audit is conducted at the importer's premises and checks an importer's accounting system including the entire supply chain to ensure the accurate completion of customs declarations. Systems-based audit includes thematic (issue based) audits, e. g. revenue evasion, regulatory compliance check, commercial frauds, AML/CFT, transfer pricing, apparently non-fiscal issues like health & safety, narcotics & drugs, tobacco, arms, wild life, etc.

B. Definition

6. United Nations Conference on Trade and Development (UNCTAD) and the WCO define PCA as: "Audit-based customs controls performed subsequent to the release of the cargo from customs custody. The purpose of such audits is to verify the accuracy and authenticity of declarations and covers the control of traders' commercial data, business systems, records, and books. Such an audit can take place at the premises of the trader and may take into account individual transactions, so called "transaction-based" audit, or imports and/or exports over a certain period of time, so called company-based audits."

C. Policy

7. Post Clearance Audit helps customs achieve their core functions. PCA facilitates trade by releasing goods quickly from customs control, reducing costs by eliminating the need for port storage charges, ensures predictability in the import procedure enabling real time deliveries which in turn encourages new business and enhances a country's overall economy.
8. PCA also protects the revenue by enabling officers' access to a greater range of data to verify the accuracy of the customs declarations.
9. PCA is an essential tool in any compliance management system. The possibility of a customs audit, either transaction-based or systems-based, encourages importers to ensure compliance with customs law and pay the correct amount of duty and taxes. Additionally,

the time saved by removing the importations liable to PCA from individual examination releases resources (officers) to target higher risk importations at their point of entry which in turn generates more revenue.

10. PCA also assists customs administrations to ensure transparency and accountability and is a supportive tool to the Authorized Economic Operator (AEO) programme/Trusted-Traders Programme.

D. Legal Base

11. Customs Act, 1969, as amended, provides the necessary provisions to effectively carry out PCA in Bangladesh. Section 83C of the act provides for audit and examination of records and access to business premises while section 211 requires importers or their agents to keep specified records for a specific period.

12. It is important that the records cover all the records that the audit officials need to see as mentioned in the section 211. Large multi-national businesses will keep more records, probably computerised, than small business/micro enterprises. They may also call the records by different names, for example "ledger" or "journal" or "day-book". Whichever records are specified, it is a best practice for the businesses to include a separate entry "any other business records" and ensure balance sheet and profit and loss accounts, key documents in any audit, are also always specified.

E. Standard Operating Procedures (SOP)

13. It is essential that officers carrying out PCA follow the procedures detailed in an SOP. This ensures consistency of treatment, transparency and provides a system that auditors can follow. The SOP should cover both transaction-based and systems-based audits.

F. Outreach - Working with business

14. Effective PCAs require the assistance of the business community. An outreach programme to explain the reasons for these audits and how they will be conducted should be designed as a priority.

III. Transaction-based PCA

A. Current position

15. Bangladesh has been carrying out transaction-based PCAs for a number of years, the result of which indicate a moderate rate of non-compliance in the business process.

16. Customs Valuation and Internal Audit Commissionerate, hereinafter referred to as the Audit Commissionerate, based in Dhaka, with a branch office in Chattogram, is responsible for carrying out these audits centrally. In addition, there are six Custom Houses (CHs) and around 30 active Land Customs Stations (LCSs), controlled by the concerned VAT Commissionerates, whose staff also carry out transaction-based PCA within their own jurisdiction.

17. Currently all customs declarations (excluding the declarations lodged by the AEOs) with their related documents are scrutinised manually at the Custom Houses and LCSs and a very few of those are selected for transaction-based PCA by the PCA units of the concerned CHs and LCSs, which is not only a time-consuming exercise but leaves scope for arbitrary and subjective selection of consignments. ASYCUDA selections of Blue and Green channels are not widely used till now.

18. Consequently, the overall results of PCAs are not satisfactory. This is due to several factors, including:

- i. inadequate skills of PCA auditors;
- ii. lack of proper and adequate documentation; and
- iii. lack of application of risk management in identifying consignments for PCA checks.

19. The challenges in the way of implementing an effective PCA system include:

- i. Lack of overall guidance on an audit system covering both transaction-based and systems-based audits;
- ii. Systems-based PCA has not yet been initiated;
- iii. Lack of skills and training for PCA auditors; and
- iv. Difficulty in accessing records of certain traders once goods leave customs control.

20. As a result, the full benefits of PCA are not being realised by either businesses or Customs.

B. Transaction-based PCA procedure

21. At present, PCA officers select customs declarations for transaction-based audits. There is no common criteria for selecting these declarations with limited use of both risk management techniques and the ASYCUDA system. The current system is time consuming,

at random, and not fully targeted. There is not enough coordination or dissemination between and among the Audit Commissionerate, CHs, LCSs, Customs Risk Management Commissionerate (CRMC) or Local Risk Management Units (LRMUs) of CHs and LCSs.

22. PCA must be part of an integrated audit system where Audit Commissionerate, other offices and all PCA units including all concerned officers of NBR coordinate their auditing functions to avoid duplication of audits or creating gaps in the overall auditing process. The integrated audit system should clearly specify criteria for selection of traders to be covered under audit and the frequency of audit for traders. ASYCUDA Blue and Green channels, Customs Risk Management Commissionerate (CRMC) and the Local Risk Management Unit (LRMU) of the concerned Custom House/LCS should be the instigators for all transaction-based audits.

C. Selection of cases for conducting transaction-based PCA

23. PCA assumes that ASYCUDA profiles place all high-risk consignments in either the red or yellow channel requiring pre-clearance checks. Therefore, consignments of first-time importers, previous offenders, where supporting data is inaccurate, previous underpayments have been assessed or where there is specific intelligence including from Customs Intelligence and Investigation Directorate (CIID), will not normally be referred for transaction-based PCA.

24. The criteria may be used for selecting consignments for transaction-based PCA include:

- i. Where after pre-arrival processing, the officer is not satisfied as to the accuracy of the Bill of Entry and accompanying documentation
- ii. Cases of referral from CRMC, CIID, LRMU or other customs offices
- iii. ASYCUDA Blue channel referral
- iv. ASYCUDA Green channel clearance referral
- v. Local intelligence on possible violation/evasion
- vi. High value consignments
- vii. Unusual consignments
- viii. Non-compliant traders
- ix. First time and occasional importers.

D. Transaction-based PCA process

25. In this system, the audit is initiated based on the declarations filed and supporting documents submitted to customs. The post clearance auditor may contact the importer or their agent by telephone or e-mail requesting more details in case of doubt about potential non-compliance. The requested evidence is sent by the trader to the customs auditor in the customs office.
26. If the evidence provided is satisfactory, the audit is finalised.
27. If the evidence is not satisfactory and the importer is unable to provide a satisfactory explanation for the query, additional duty and/or tax will be assessed. Customs Computer System (ASYCUDA) database and CRMC will be updated with the amended information.
28. Transaction-based audits are often precursors to systems-based audits. It is best practice that where a transaction-based audit determines serious, multiple or habitual irregularities for a trader, the business is then subject to a full systems-based audit.
29. Although a PCA auditor carrying out a transaction-based audit is automatically limited by not knowing what other records are available and is therefore dependent on what he/she is told and shown by the importer, transaction-based audits are a good way to resolve specific risk-based queries.
30. These transaction-based audits complement and inform systems-based audits and are an integral part of the overall auditing process.

E. Audit Programme for transaction-based PCA

31. An audit programme should be prepared centrally for each year, or for a longer period, showing objectives, the resources allocated, and time allowed for transaction-based audits in each location. A transaction-based audit will normally be carried out by one officer, if not otherwise requires, and completed expeditiously, often within two to three working days. It may take additional time if additional data has to be requested from the trader, scrutinized and any follow up action should be taken. However, the Audit has to be completed in a manner that any demand notice for short payment of duties, penalties can be issued within the time limits set in the Customs Act.

F. Training for transaction-based PCA

32. All officers carrying out transaction-based PCA need to be trained on the topics including the following:
 - i. Auditing techniques and principles
 - ii. Customs law and regulations

- iii. Customs import and export procedure
- iv. Customs valuation, classification, and rules of origin
- v. Risk management
- vi. Customs Computer System (ASYCUDA) basics
- vii. Allied laws and rules enforced by Customs
- viii. Understanding of business practices in international trade
- ix. Understanding LC, banking issues and payment methods
- x. Interviewing skills
- xi. Reporting.

IV. Systems-Based PCA

A. Current position

33. Currently, no systems-based audits are being carried out on a regular basis.
34. Underpayments of duties and taxes arise from either incorrect valuation, use of wrong tariff (HS) code, wrong quantities, wrong country of origin, incorrect use of exemptions and reliefs or straight forward smuggling or unmanifested goods, etc.
35. A systems-based audit has the potential to detect all the irregularities mentioned in the paragraph above by examination of the trader's records, including annual accounts profit and loss account, and examination of stock. However, the systems-based audit can also identify potential weaknesses in the importer's supply chain and the accounting system that could result in a revenue loss or violation of law and recommend actions to correct those weaknesses. A sufficiently robust business accounting system with internal controls may ensure accuracy of the customs declaration. All regular importers with a sufficient number of customs declarations per annum, including those importers deemed high risk, are therefore subject to systems-based PCA.

B. Selection of traders for Systems-Based PCA

36. Audit Commissionerate and PCA units in CHs and LCSs should use intelligence from other customs units/offices (e. g. CRMC, LRMU and CIID) and ASYCUDA to select importers for systems-based PCA.
37. Systems-based PCAs are carried out to regular importers that annually have enough customs declarations and pay a significant amount of duty and tax to merit the time and cost of such audits.

Type of transaction	Objective
High revenue payers	To ensure the correctness of the bulk of tax and

	duty payments is assured.
Referrals after transaction-based PCA	To identify any irregularities in the supply chain and the accounting system of traders and protects the revenue.
Importers with associated overseas companies	To avoid high risk of under-valuations due to related party transactions and value adjustments.
High risk importers	To ensure compliance and lowering risk. These covers Customs Computer System (ASYCUDA) Red and Yellow importers that represent a significant risk to the revenue.
Non-compliant traders	To improve compliance and detect evasion.
Referrals from CRMC, CIID, LRMU or other customs offices	To protect the revenue.
AEOs or other trusted traders	To ensure continuing compliance with conditions for trade facilitation measures.
Thematic audits (Regulatory compliance check, commercial frauds, AML/CFT, transfer pricing, apparently non-fiscal issues like health & safety, narcotics & drugs, tobacco, arms, wild life, etc.)	To identify irregularities and avoid/mitigate risks and to improve compliance across specific sectors where there is generic and/or specific risks.
Top priorities of Customs authority	To assist in meeting the authority's priorities.

38. ASYCUDA uses basic risk management techniques to determine in which of four channels (Red, Yellow, Blue, Green) import consignments are to be placed. Red and Yellow require customs interventions before clearance, Green requires no customs interventions and Blue channel consignments are selected for PCA. The risk profiles for the Blue channel selection need to be finalised by the CRMC consulting with CIID & LRMUs.

39. Overall policy responsibility for all PCA activity lies with the concerned desk of the National Board of Revenue (NBR). However, functional coordination with any other Customs PCA units, must rest with the Audit Commissionerate. The operational policy can be divided among the Audit Commissionerate and the CHs/LCSs but must be coordinated by the Commissionerate. The Commissionerate responsibilities must ensure:

- Sufficient resources are deployed to perform PCA effectively and efficiently throughout the country
- Officers are fully trained
- A pool of PCA trainers (ToT) is maintained and a training module written
- The PCA SOP is regularly reviewed and updated to reflect best practice
- An annual audit programme is prepared by the Commissionerate and the CHs/LCSs and followed
- Priorities of Customs authorities for enhanced compliance, tax collection and trade facilitation are taken into account when setting the audit programme
- Trade partnerships are developed to facilitate PCA
- Audits are coordinated between the Commissionerate, Customs PCA units and different offices to produce an integrated audit system.

40. Audit Commissionerate and Customs PCA units should commence systems-based audits as soon as officers can be trained.

41. As systems-based PCA may involve account offices in different regions, requiring the officers to travel and perhaps stay away over-night and time consuming, it is better to engage headquarters officers of the concerned LCS controlling VAT Commissionerate to conduct systems-based PCA other than the regular officers posted at LCSs.

C. Audit Programme for systems-based PCA

42. Audit programme prepared centrally for each year, or for a longer period, shows objectives, the resources allocated and details the number of systems-based audits to be carried out per office. An average systems-based audit should take no more than ten days, including planning and reporting on the outcome of the audit. Systems-based audit teams should normally consist of three to five officers depending on the accounting complexities of the business.

43. After each systems-based audit, the auditor is to record the frequency that audits are to be carried out on that importer. The frequency is determined by the risk to the revenue or other issues. If the trader is compliant, with robust internal controls and the risk of revenue loss minimal, the frequency of audit of that trader could be every three or four years. Where the risk is greater or internal controls are weak, the frequency could be every year.

44. The audit plan will reflect the priorities of the Customs authority including importers in high-risk areas, non-compliant importers and those businesses that present a substantial risk to the revenue and other issues as well as importers that the Customs authorities decide to facilitate at import (e. g. AEOs/trusted traders).

45. The programme should be completed in conjunction with the CRMC and be part of an integrated audit system with other Customs units/offices that carry out audits to ensure there are no gaps or overlaps in the auditing process.

D. Training for systems-based PCA

46. All officers carrying out systems-based PCA need to be trained on the topics including the following:

- i. Accounting techniques and principles
- ii. Auditing techniques and principles
- iii. Analyzing audit reports
- iv. Accounting forensic
- v. Understanding of business practices in international trade
- vi. Customs law and regulations
- vii. Customs import and export procedure
- viii. Customs valuation, classification, and rules of origin
- ix. Understanding LC, banking issues and payment methods
- x. Risk management
- xi. Customs Computer System (ASYCUDA) basics
- xii. Understanding VAT system basics
- xiii. Understanding income tax basics
- xiv. Allied laws and rules enforced by Customs
- xv. Understanding different thematic issues
- xvi. Interviewing skills
- xvii. Reporting.

47. Trained PCA officers should carry out at least one systems-based audit per month to not only retain but to enhance their auditing skills.

48. As there will always be a need to train new officers, a pool of PCA trainers (ToT) is necessary. A standard training course module for the auditors should be developed by the Bangladesh Customs, Excise & VAT Training Academy (CEVTA) and Audit Commissionerate in consultation with other concerned offices.

E. Retention of staff on systems-based PCA

49. Officers are regularly moved from one post to another. It should be the policy that officers once trained in PCA should remain in the post for at least two to three years as it is experience that makes an effective auditor. To attract officers to work in Audit

Commissionerate/PCA units, a voluntary system whereby officers can apply to work on PCA should be considered. To make PCA an area that officers want to work in, Customs authority can look at incentives such as paying an additional allowance to auditors.

V. Businesses not to be included in the PCA process

50. Several countries suffer from what are termed "Ghost Traders" or "Missing Traders". These businesses are usually new traders who import goods using false business names and addresses and when Customs try and contact them to validate the customs declaration, the business is found to be non-existing or uncontactable. Although all these businesses have a Business Identification Number/VAT Registration Number, due to shortage of manpower regular supervision or strong monitoring system is not in place to prevent criminal elements importing and exporting goods with the purpose of evading taxes or other purposes.

- In order to protect the revenue, first time importers are to be excluded from the Green and Blue channels in the selectivity system of the Customs Computer System (ASYCUDA) ensuring that the import consignments are not released until they have been inspected and the correct taxes and duties are paid. These importers may also be subject to transaction-based PCA.
- Additionally, businesses that are currently under investigation should be subject to transaction-based PCA (in addition to systems-based PCA).
- Businesses that only have a low number of imports are not usually to be subject to the time and cost of a systems-based audit but can be subject to a transaction-based audit.

VI. Implementation Plan

51. Audit Commissionerate may prepare, in conjunction with CRMC, LRMU, ASYCUDA team and Custom Houses and LCSs that carry out audits, an implementation plan to produce an integrated audit system, coordinating the audit process, changing the way transaction-based audits are selected and to enable systems-based audits to be commenced. The implementation plan will include providing training and framing of an SOP and audit programme covering a minimum of twelve-month period.

VII. Summary

A. Integrated Audit Policy

- i. Both transaction-based and systems-based audits are required to implement an effective PCA system for better compliance management.
- ii. An integrated audit system covering all CHs and LCSs that carry out audits is necessary to ensure there are no gaps or overlaps. The integrated audit system may be reflected in a policy document or administrative order that may be published on the website of the National Board of Revenue (NBR).
- iii. Systems-based audits should be commenced early to complement the existing transaction-based audits, after the officers are trained.
- iv. An annual, or longer period, audit programme reflecting priorities of Customs authority needs to be agreed.
- v. Standard operating procedures for both transaction-based and systems-based audits need to be prepared and published.

B. Selection criteria

- vi. Volume of transactions and/or the revenue at risk and involvement in thematic issues will determine the importers liable to a systems-based audit. For detailed selection criteria, please refer to paras 23, 24 and 37.
- vii. First time importers are not to be included in systems-based PCA to counter "ghost or missing traders".
- viii. Customs Computer System (ASYCUDA) Blue and Green channels and information received from other customs units/offices (e. g. CRMC, LRMU and CIID), should be used to select customs declarations for transaction-based PCA.
- ix. CRMC in consultation with the LRMUs will manage the selectivity system of ASYCUDA Blue channel consignments.

C. Organizational arrangements

- x. National Board of Revenue (NBR) to have overall policy responsibility for PCA.
- xi. Systems-based PCA to be undertaken by the Audit Commissionerate, CHs and LCSs (including their controlling VAT Commissionerates) where the Audit Commissionerate will coordinate the process.

D. Capacity Building

- xii. Officers trained in systems-based PCA should remain in post for at least two to three years.
- xiii. Systems-based trained officers to carry out at least one systems-based audit per month.
- xiv. A pool of PCA trainers (ToT) should be created as well as a standard training course module adopted by the Bangladesh Customs, Excise & VAT Training Academy (CEVTA) and Audit Commissionerate in consultation with other concerned offices.
- xv. An incentive scheme to encourage officers to work on systems-based PCA to be considered.
- xvi. An outreach programme is required to educate businesses liable to audit.