

# Somaliland Trade Regime Review: Improvement and Reform Plan

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**January 2018**

Trade Facilitation Support Program  
Macro, Trade and Investment Global Practice  
on behalf of the  
Somali Investment Climate Reform Program



**WORLD BANK GROUP**

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The Somali Investment Climate Reform program (SICRP) is working to improve economic prosperity in the Horn of Africa through addressing investment and competitiveness related constraints. SICRP is implemented by IFC with the support of UKAID, USAID, DANIDA, EU, IFC CASA Africa, SPIRA and the Somali Multi Partner Fund. SICRP phase 1 is coming to an end in December 2018 and phase 2 is in development. This scoping document is expected to support the design of a trade component within SICRP2 as well as other trade programs

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## **ACKNOWLEDGMENTS**

The WBG would like to thank the Ministry of Trade and Investment for its support in hosting and facilitating this mission. This report is a result of a mission conducted by WBG mission team members David Wright (Trade Automation Consultant), Robert Struthers (Customs Consultant), David Sparks (Port Operations Consultant), and Patrick Banya (Public-Private Dialogue and Regulatory Reform Consultant). Fred Zake (Senior Private Sector Specialist, and TTL), Ankur Huria (Senior Private Sector Specialist), June Ghimire (Private Sector Specialist), Olga Oyier (Regulatory Reform Consultant), and Miles McKenna (Analyst) provided off-site support from Nairobi and Washington, D.C. Mohammed Dalha Ali, from Hanvard Africa, a local vendor, supported the team on the ground. Logistical and security support and clearances were coordinated by Salome Aganda and Leah Okoth.

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## Executive Summary

The Somaliland Port Authority (SPA) requested through the Somali Investment Climate Reform Program that the World Bank Group (WBG) review its port operations so that the SPA may increase its efficiency and effectiveness in light of the 30-year concession granted in 2016 to Dubai Port World (DPW), a United Arab Emirates-based global port operations and maritime services firm. This concession will significantly affect trade facilitation, and it was therefore decided that the WBG should review Somaliland's trade facilitation regime to identify gaps and opportunities for reform support, as well as assess the performance of and capacity needs at Berbera Port, in particular.

The condition of Somaliland's trade regime was assessed using the international standards contained in the technical articles of the World Trade Organization Trade Facilitation Agreement (WTO TFA). Current practices and procedures were compared with the requirements of the TFA to ascertain needed improvements in the trade regime. SPA operations in Berbera were reviewed by the team's port specialist, and the procedures were compared with appropriate international standards, such as those promulgated by the International Maritime Organization (IMO).

## Overview of content

The report is organized into five sections and is supplemented with an annex on broader trade facilitation-related issues and recommendations.

### Section I

The report begins by providing a very brief overview of the political context and motivation behind the assessment. It then outlines the objectives and scope of the report. The methodology is introduced, followed by a short introductory section providing an explanation of the WTO TFA and describing its architecture.

### Section II

Section II contains a complete assessment, article by article, of Somaliland's compliance (or lack thereof) with the WTO TFA. For each article of the Agreement, a description of the requirement(s) is provided, followed by key points of consideration in the Somaliland context, as well as a more complete description of the current situation in practice. For ease of use, suggested reform actions are included under each article.

### Section III

Section III provides a wider analysis of overall customs procedures and operations beyond the Port of Berbera. Additional recommendations are provided to improve trade facilitation.

### Section IV

Section IV contains a complete assessment of the status of SPA operations in the Port of Berbera. These findings are based on a site visit and consultations with port officials and private sector stakeholders in the port.

## Section V

Section V captures all the recommendations presented in Section II, II, and IV in a matrix of actions, designed to clearly illustrate how each action will meet specified objectives. Each set of actions is prioritized and given an estimated timeline for implementation. Relevant agencies and partners are also highlighted.

### Summary of findings

An extensive list of recommendations to improve procedures, build necessary capacity, and introduce needed legal reforms is provided in each section of the report. Overarching messages can be summarized by the following:

- **Trade facilitation agencies in Somaliland are not effectively coordinated.** Meetings with both the public and private sector revealed a lack of coordination mechanisms for ministries, departments, agencies and other stakeholders involved in facilitating cross-border trade, as envisaged under the WTO TFA. Currently, most trade facilitation agencies work independently and interact only when they need to solve a specific problem or resolve a crisis. Lack of effective coordination largely stems from inadequate understanding and appreciation of good trade facilitation practices among key stakeholders.
- **Customs procedures need to be reformed.** While some reforms have been implemented—primarily by reducing the processing steps necessary to produce and clear customs entries—there remains an urgent need for major reform and modernization of all customs processes and procedures. Self-assessment of declarations is not allowed, so customs entries are all prepared and signed by the customs agency, which is entirely responsible for determining the classification, valuation, and origin of goods. These procedures are inconsistent with international standards and with the new modern Customs Law 73, 2016, which was enacted in 2016 but which has not yet been implemented. Only very limited automation is employed at Berbera Port, while the process at Hargeisa Airport and other Customs offices is entirely manual. Public consultation meetings are rare, and only limited trade information is available, either in print or on government websites.
- **The standards and quality assurance framework is inadequate.** Meetings with officials of the Somaliland Quality Control Commission (SQCC) revealed that Somaliland’s quality infrastructure (QI) is inadequate. The quality assurance system, outside the livestock sector, remains rudimentary. Furthermore, products are imported into Somaliland without scrutiny, and the SQCC purports to inspect only food and drug imports coming through Berbera Port. The SQCC lacks resources, facilities, and tools to enable effective execution of its mandate.
- **Controls applicable to other border agencies, such as Health and Agriculture, are inadequate.** These agencies issue licenses and certificates to importers and exporters but do not inspect, sample, or otherwise control imported or exported goods. Such controls are devolved to Customs, which lacks the equipment, access to laboratories, and training necessary to carry out this vital work.



- **The legal framework underpinning Somaliland Port Authority operations is not clarified.** Meetings with the SPA management demonstrated lack of clarity regarding the legal framework underpinning the port authority. The SPA manager indicated that the port reports directly to the Ministry of Presidential Affairs but did not provide any evidence to back this up. Despite the lack of mandate clarity, SPA issues bylaws and other instruments to support its operations.

Recommendations to increase compliance with WTO TFA and improve Customs operations

**Establish an effective system for providing trade-related information in an easily accessible manner to local importers, exporters and carriers, as well as potential foreign investors.** The system should involve publication in print and on government websites. Such a system should, at a minimum, include:

- Publication of all international trade-related official requirements, forms, certificates, licenses and procedures
- Establishment of inquiry points
- Publication of a consolidated list of all fees and charges associated with import, export and transit
- Tariff classification information and rates, and
- Customs valuation methodologies

**In the long term, develop a trade portal to compliment and deliver the provision of information.** The trade portal should be a website that contains all the information required by traders (i.e. importers, exporters, freight forwarders, and transport operators) to discharge the regulatory obligations required by all the government agencies involved in the control of imports, exports and transit movements. There is no single window for submitting documents to border agencies or ship arrival information to the port at Berbera – it would be practical to develop these two in conjunction.

**Ensure that controls that protect the safety of imports and exports are properly designed and implemented.** These controls should include a formalized system of inspecting and sampling to ensure the safety of imported food and foodstuffs, which will require investment in equipment, laboratories, and training necessary to carry out this vital work. Additionally, a Quality Control Act should be developed, mandating the proper authorities to perform quality assurance, conformity assessment, and market surveillance duties. All stakeholders, public and private, should be afforded the opportunity to provide comments in the drafting and finalization of such an act.

**Implement Customs Law 73, 2016.** Implementation of this law with accompanying regulations, guidelines and Standard Operating Procedures will result in:

- Self -declaration by traders
- Procedures for appeals and reviews of administrative decisions made by Customs
- Use of risk management techniques when processing declaration
- Use of pre-arrival processing of manifests and declarations
- Customs valuation system in accordance with the World Trade Organization's Valuation Agreement
- Implementation of a trusted trader system
- Implementation of formal temporary entry, inward and outward regimes
- Implementation of Revised Kyoto Convention transit procedure

**Establish and formalize coordination among border agencies, including at the strategic level.** Implementing service-level agreements and signing a memorandum of understanding among border authorities will help to delineate the roles, responsibilities, and functions of each agency. Furthermore, establishing a National Trade Facilitation Committee that includes both public and private stakeholders will help to institutionalize strategic coordination and action on trade facilitation matters. The Terms of Reference for the committee and select membership of the committee need to be drafted and circulated.

#### Recommendations to improve marine operations in the Port of Berbera

**Devise a master plan for the development and management of the port.** The apparent absence of a maritime competent authority and effective marine related laws and regulations undermines the authority of the SPA and in turn the functions of the Harbor Master. On the up-side, this situation permits the SPA to develop, unimpeded, new laws, regulations and rules based on international best practices to demonstrate its authority—and it should do so.

**Establish procedures and strategies to ensure the safe movement of vessels and maintenance of port infrastructure.** The SPA should introduce a clearance procedure to ensure that ships entering the port are safe to receive and handle. Furthermore, the SPA should develop a short-term and a long-term plan for the maintenance of port infrastructure, including funding for ongoing maintenance and repair of navigational aids.

**Ensure safe conveyance to and from vessels by investing in upgrading the pilot boat and pilot competence.** In view of the imminent arrival of much larger ships, the SPA should replace the current pilot boat with a modern launch to cover day and night time operations, introduce revised pilot operating procedures, and train the new pilot launch crew on the safe operation of the craft. With larger tonnage expected and an increase in the number of vessel calls, the SPA also needs to carry out risk assessments on current and future berthing gangs work arrangement practices, and to develop and train workers on safe practices including the use of personal protective equipment.

**Establish necessary maintenance and capacity building programs prior to proceeding with the acquisition of a new tug.** It is imperative that the SPA determine staffing requirements and

develop training programs for all tug crew according to the characteristics of the new tug(s). A planned maintenance system should also be developed that includes stocks of spare parts for routine maintenance.

**Address gaps in both the functioning of safety equipment and emergency preparedness.** The Harbor Master should review equipment status and obtain funding to repair existing equipment that is not fully functional. Emergency preparedness drills should be revised and regularly conducted.

### Next Steps

These recommendations in this report should be reviewed and validated by relevant authorities and private sector stakeholders. A workshop hosted by the WBG in Somaliland has been proposed, and is pending at the time of writing.

Subsequent to the workshop, action plans and capacity building should be developed by donor partners in conjunction with the relevant authorities. The WBG has already developed an agenda for a 3-day implementation workshop, based on the findings within this report, to be offered to relevant authorities in Somaliland. No date has yet been set for this workshop.

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## Abbreviations and Acronyms

BCP	border control point
BFMA	Berbera Maritime and Fisheries Academy
CODEX	Codex Alimentarius (Food Code)
DPW	Dubai Ports World
GATT	General Agreement on Tariffs and Trade
HM	harbor master
HS	harmonized system (for commodity description and coding)
ILO	International Labour Organization
IMO	International Maritime Organization
ISPS Code	International Ship and Port Facility Security Code (IMO/ILO)
MARPOL	Maritime Pollution Convention (IMO)
MLC	Maritime Labour Convention (ILO)
NGO	nongovernmental organization
NTFC	National Trade Facilitation Committee
OIE	Office International des Epizootique (World Organization for Animal Health)
P&I	protection and indemnity (insurance system)
QI	quality infrastructure
RKC	Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures
RMT	risk management team
SAD	single administrative document
SCCIA	Somaliland Chamber of Commerce, Industry and Agriculture
SOLAS	Safety of Life at Sea (IMO Convention)
SPA	Somaliland Port Authority
SPS	Sanitary and Phytosanitary measures

SQCC	Somaliland Quality Control Commission
STCW	Standards of Training, Certification and Watchkeeping (IMO)
TEU	twenty-foot equivalent unit
TFA	Trade Facilitation Agreement
WBG	World Bank Group
WMU	World Maritime University
WTO	World Trade Organization

DRAFT FOR DISCUSSION



## Section I: Introduction

### Context

Britain withdrew from British Somaliland in 1960 to allow its protectorate to join with Italian Somaliland and form the new nation of Somalia. In 1969, a coup headed by Mohamed Siad Barre ushered in an authoritarian socialist rule characterized by the persecution, jailing, and torture of political opponents and dissidents. After the regime's collapse early in 1991, Somalia descended into turmoil, factional fighting, and anarchy. In May 1991, northern clans declared an independent Republic of Somaliland that now includes the administrative regions of Awdal, Woqooyi Galbeed, Togdheer, Sanaag, and Sool.

Somaliland is currently independently governed, despite the formation of a new government for Somalia that is based in Mogadishu and supported by the United Nations. Somaliland considers itself to be separate from Puntland and Somalia, operating border crossing points on the boundaries with these regions, and levying duties and taxes on goods passing through these points. However, there is no international recognition of Somaliland's claimed status as an independent entity. This situation leads to severe difficulties for the trading community, who have thus far been unable to benefit from international banking services and who must pay duty twice on goods imported through Somaliland and destined for consumption in Puntland and Somalia.

Recent World Bank Group analysis in the Horn of Africa has suggested Berbera is well positioned—in terms of population served, investor interest, political consensus, potential traffic and readiness—to develop into a trade hub along the corridor, connecting markets from its port through Hargeisa, Tog Wajaale, and Dire Dawa to Addis Ababa.<sup>1</sup> In order to leverage recent private and public financial commitments in Somaliland to develop the Berbera Corridor, more support and investment will be needed in the areas of trade facilitation and regulation, social and economic development, and energy and telecommunications infrastructure.

### Objectives

This report analyzes key elements of Somaliland's trade facilitation environment using an evaluation of its alignment with the World Trade Organization Trade Facilitation Agreement (WTO TFA). A World Bank Group (WBG) team collected the information contained in this report during a mission undertaken in November–December 2017, which visited Hargeisa and Berbera. The objectives of the mission were to:

- review the status of Somaliland's trade facilitation regime and identify gaps and opportunities for reform support;
- undertake a light-touch review of The Somaliland Port Authority (SPA) operations and capacity needs in Berbera; and
- hold planning meetings with the government, the private sector, and other stakeholders to review reform priorities for 2018.

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<sup>1</sup> World Bank Group (2017), "Horn of Africa Initiative: Corridor Opportunities in the Horn of Africa". Report No ACS22760.

The analysis and recommendations are based on a field validation of observations of relevant processes and procedures and on interviews conducted with multiple stakeholders, including private sector and government officials. The agenda for the mission is attached as Annex A which also indicates the people consulted. The findings have been validated by internal peer review and will be further verified through a proposed stakeholder meeting in Somaliland.

## Methodology and Scope

This report focuses on trade facilitation processes as they are conducted in practice in Somaliland, particularly on their degree of alignment with the requirements set out in the TFA. The objective is to highlight key issues that need to be addressed in relation to Somaliland's trade regime.

The report is limited in scope. It recognizes recent and ongoing analyses conducted by other World Bank Group teams in support trade and development in Somaliland, including a 2017 assessment of trade corridor development options in the Horn of Africa which focused on a Berbera corridor. The team was aware of the 2012 Doing Business in Hargeisa report and, as this was dated in terms of its publication date, intervening political changes and the need to identify the current status with regard to WTO requirements and assistance, it was not considered as a reference document. Additionally, the report does not seek to analyze laws and regulations that govern trade or to make recommendations on trade policy, trade in services, logistics, or competitive advantages of regional ports nor does it provide a comprehensive overview of Somaliland's border control process.

The report deals specifically with the processes and procedures practiced by the SPA in Berbera, because the effectiveness and efficiency of the port will have a direct influence on trade facilitation. In compiling the report, the team was cognizant of issues surrounding Somaliland's status as a self-declared independent region that has not received international recognition. This has informed the report's treatment of such issues as the relationship between Somaliland government units, such as the SPA, and international organizations with regulatory mandates, such as the IMO.

## The World Trade Organization Trade Facilitation Agreement

At the WTO's Ninth Ministerial Conference, held in Bali, Indonesia, on December 3–7, 2013, the 160 members unanimously adopted the TFA. This agreement, which has become known as the Bali Package, aims to reduce trade barriers globally. It is the first agreement reached under the auspices of the WTO that has been approved by all the members.

The technical measures of the TFA have three main objectives, with benefits to both traders and governments. The objectives are (a) transparency and fairness, (b) better governance, and (c) modernized border procedures and controls (box 1). The transparency and fairness objective offers predictability and reduced costs for the traders, and better compliance and better-quality decisions for the governments. Attainment of the better governance objective will provide the traders reduced costs, fewer and shorter delays, and reduced complexity while the government will gain better compliance, greater effectiveness, and improved efficiency. Modernizing border procedures

and controls will reduce clearance times and costs for the traders and align government procedures with modern business practices, resulting in more effective and efficient government.

### **Box 1: TFA Measures Shown by Objectives**

#### **Measures Aimed at Transparency and Fairness**

- Set standards for publication of trade information—brochures, guides, information circulars.
- Make information available through the Internet.
- Establish enquiry points.
- Provide customs advanced rulings.
- Create a mechanism for appeals and disputes.
- Set disciplines on fees and charges, including penalties.

#### **Measures Aimed at Better Governance**

- Standardize government rule-making procedures.
- Consult with stakeholders.
- Reduce border formalities and required documentation.
- Make common border procedures uniform.

#### **Measures Aimed at Modernized Border Procedures and Controls**

##### ***Sanitary and phytosanitary–motivated***

- Issue import alerts.
- Establish test procedures.
- Create a process for detention of goods.
- Standardize handling of rejected goods.
- Release perishable goods more quickly.

##### ***Customs clearance simplifications***

- Institute pre-arrival processing of goods.
- Draft procedures to separate the release of goods from final determination of monies owing.
- Use authorized operator schemes.
- Initiate rapid release of expedited shipments.
- Set guarantees that would allow for the rapid release of goods.
- Accept copies of some documentation.

##### ***Control methods***

- Initiate risk management.

- Perform post-clearance audits.
- Enhance border agency cooperation.
- Set provisions for customs agency to customs agency cooperation and coordination.

#### ***Customs procedures***

- Simplify national transit procedures.
- Improve inward processing.
- Improve outward processing.
- Provide for temporary admission of goods.

#### ***Electronic processing***

- Promote the single window concept.
- Use electronic payment systems.

#### ***Policy***

- Perform pre-shipment inspections.
- Promote use of customs brokers.
- Employ international standards.

Simple, transparent trade procedures are a key component of good trade policy and are vital for economic growth. Outdated bureaucracies suppress trade and entrepreneurship, discourage investment, and encourage corruption. Small and medium-sized enterprises are particularly vulnerable to difficulties arising from bureaucracy because costs related to outdated procedures represent a larger portion of the turnover of such firms. Therefore, a lack of transparency in rules and procedures is often enough to dissuade such enterprises from exporting altogether. Inefficient trade procedures thus create clear barriers to trade, which the WTO TFA aims to reduce and ultimately eliminate.

## Section II: Comparison of Somaliland's Import and Export Procedures with TFA Requirements

### TFA Measures Aimed at Transparency and Fairness

#### Article: 1.1 Publication

##### **TFA requirement**

Each member shall promptly publish the information referenced in the Article in a nondiscriminatory and easily accessible manner in order to enable governments, traders, and other interested parties to become acquainted with it. The Article requires the publication of the following:

- procedures for importation, exportation, and transit;
- applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;
- fees and charges imposed by or for governmental agencies on or in connection with importation, exportation, or transit;
- rules for the classification or valuation of products for customs purposes;
- laws, regulations, and administrative rulings of general application relating to rules of origin;
- import, export, or transit restrictions or prohibitions;
- penalty provisions for breaches of import, export, or transit formalities;
- procedures for appeal or review;
- agreements or parts thereof with any country or countries relating to importation, exportation, or transit; and
- procedures relating to the administration of tariff quotas.

##### **Key points**

- The government of Somaliland has not published information as required by this article.
- Some posters provide information in government offices.
- The Somaliland Chamber of Commerce, Industry and Agriculture (SLCCIA) has produced some brochures.
- Stakeholders obtain information directly from government officials.

##### **Description of the current situation**

The government has not published information (practical guides; documents or forms required for import, export, or transit; relevant trade legislation; appeal procedures; and contact information points) as required by this article.

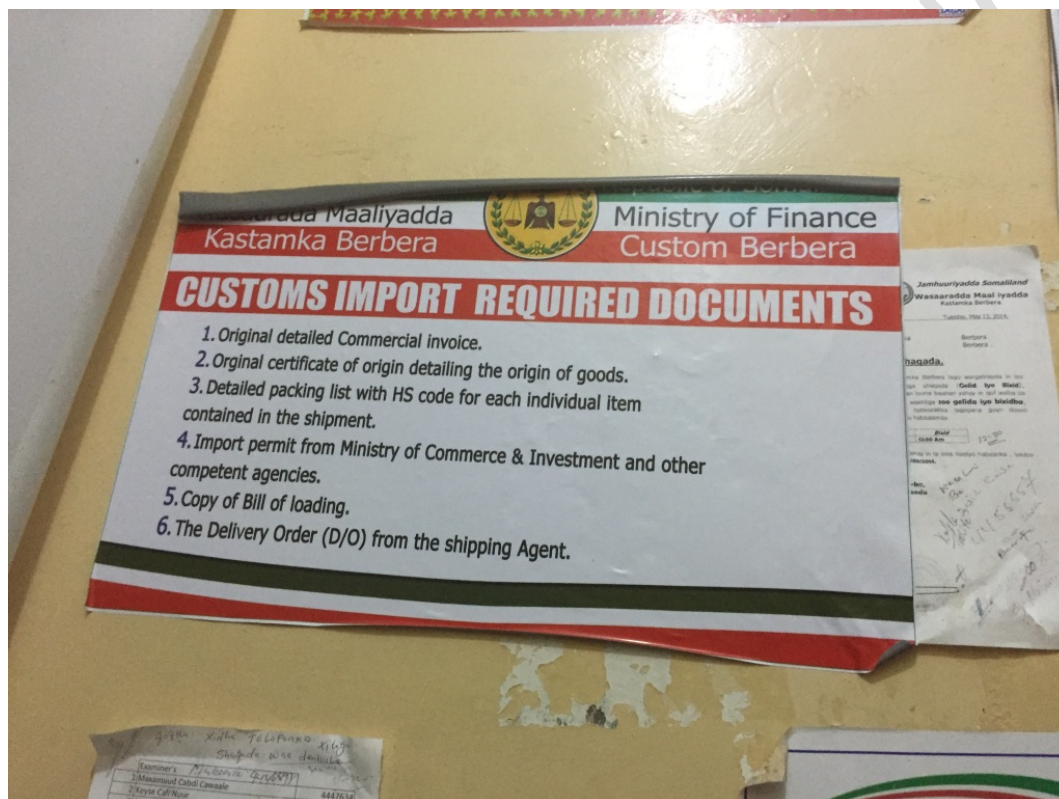
Customs has not published any guidelines, brochures, standard operating procedures, or similar documents. However, at the Customs office in Berbera, various posters outline customs requirements and provide information.

A national livestock policy exists, and written procedures concerning exports exist at the regional level. Staff members of the Department of Plant Protection advised that they are in the process of developing policy and procedures because nothing had been issued in the past 25 years.

The SCCIA has produced some brochures that describe the customs process.

Private sector representatives advised the team that, although there was no printed material as required by this article, they could obtain the necessary information easily from government officials.

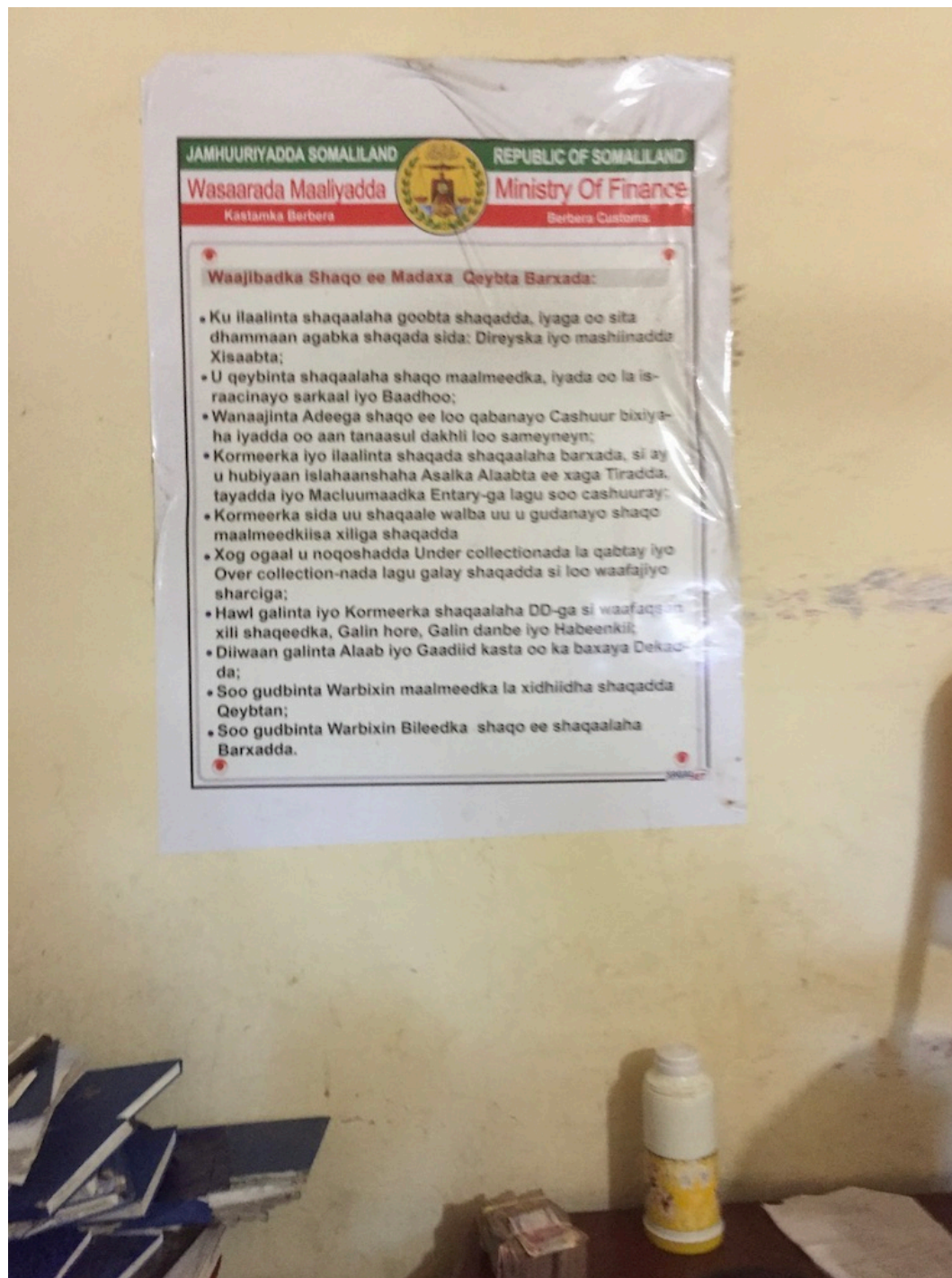
**Photo 1: Poster in Customs Office, Berbera**



Source: ©World Bank staff. Reproduced, with permission from the World Bank; further permission required for reuse.



Photo 2: Poster in Customs Release Office, Berbera



Source: ©World Bank staff. Reproduced, with permission from the World Bank further permission required for reuse.

English Translation: The Responsibilities of Release Manager

- Supervise staff in the designated release area while ensuring that every staff is dressed in custom uniforms and have all the necessary tools, like calculators and other stationary items;



- Send examiners and security officers to investigate goods and report back to the release office;
- Ensure that good service is maintained for taxpayers without compromising revenue collections;
- Direct supervision on the ongoing activities of the employees in the release area, and that proper investigation is done through physical counts, cross checking with entry forms to ensure that goods counted are in conformity with the entry in terms of quantity and quality;
- Proper investigation on under/over collections to comply with the procedures of payments and refunds;
- Lead and supervise the DO team in shifts;
- Register all goods and trucks going out of the port facility;
- Prepare daily reports of the section;
- Prepare monthly reports of the section.

**[[The poster shows 10 bullet points, but the translation has just 9. Need to add the missing information]]**

**Photo 3: Poster in Customs Manager's Office, Berbera**



Source: ©World Bank staff. Reproduced, with permission from the World Bank; further permission required for reuse.

### **Suggested reform activities**

- Issue a government directive requiring publication of trade facilitation information in print.
- Publish all international trade–related official requirements and associated procedures.
- Produce a consolidated list of all government fees and charges payable with respect to import, export, and transit.
- Nominate government units that have the prime responsibility of producing comprehensive publications.
- Provide training and a budget for the communication officers and the establishment of a communication section.

### **Other international standards**

- Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures (RKC) Standard 9.1
- RKC Transitional Standard 9.3

## **Article 1.2: Information Available through Internet**

### **TFA requirement**

Members shall make available through the internet, and update to the extent possible and as appropriate, the information specified in the Article.

### **Key points**

- Required information is not available on government websites.
- New legislation and regulations are published monthly in the *Somaliland Republic Official Gazette*.
- The Somaliland Chamber of Commerce Industry and Agriculture’s website (somalilandchamber.com) includes some information concerning importation and exportation.

### **Description of the current situation**

There are no up-to-date government websites that contain the information required by Article 1.2. The team checked the websites of the following ministries: Ministry of Trade and Investment; Ministry of Foreign Affairs and International Cooperation; Ministry of Finance, Customs Department; Ministry of Agriculture; Ministry of Livestock; Ministry of Justice and Judiciary Affairs; and Quality Control Commission.

The Somaliland Chamber of Commerce, Industry and Agriculture’s website has information on the following: export procedures, customs and excise (statement of tariff ranges), harbor taxes,

certificate of origin, certificate of health, movement permit, export license, safety standards pertaining to the export of live animals, and shipping.

The *Somaliland Republic Official Gazette* has been published monthly since February 2012. The *Gazette* covers the legislation and other official notices issued since January 2012. Copies of the *Gazette* are available on the Internet ([garyaqaankaguud.com/somaliland-official-gazette](http://garyaqaankaguud.com/somaliland-official-gazette)). The *Gazette* is issued by the Office of the Solicitor General and published in the Somali language.

For the purposes of providing information and identifying the widest range of web sources for the business community, the provision of an electronic trade portal that follows the World Bank model developed for the Lao People's Democratic Republic and Lesotho would be beneficial.

A trade portal is a website that contains all information required by traders (importers, exporters, freight forwarders, and transport operators) to meet the regulatory obligations required by all government agencies involved in the control of imports, exports and transit movements.

This trade-related information should comprise, as a minimum:

- All laws and subsidiary regulations relating to import/export/transit
- The Customs commodity nomenclature (i.e. the Harmonized System code table)
- Additional duties, taxes and service fees
- Customs offences and penalties
- All Non-Tariff Measures (NTM), i.e., licensing, permit, certification requirements, prohibitions, restrictions and any other obligations imposed by various government agencies
- Procedures and forms required to obtain licenses, permits, certificates, etc.
- In addition, the trade portal should comprise sections about market access to external markets to assist exporters.

The website should also have facilities to be kept up to date on a timely basis with news, announcements, publications and notices that may be of interest to the trading public.

Information in the website should be organized in such a way that it can be viewed in a user-friendly way by the public including dynamic query facilities.

Background and additional guidance on the portal principle and benefits can be found at World Bank Trade Portal Guide, which has operational examples of the Lao People's Democratic Republic (Lao PDR Trade Portal) and Lesotho (Lesotho Trade Portal).

### **Suggested reform activities**

- Issue a government policy requiring ministries to develop websites with the required information.

- Appoint a webmaster(s)— either for each government agency including SPA, or a single entity if one agency is tasked with maintaining the trade portal —responsible for posting and updating information and provide training to the webmaster(s).
- Develop a trade portal.

### **Other international standards**

- RKC Standard 9.1
- RKC Transitional Standard 9.3

## **Article 1.3 Enquiry Points**

### **TFA requirement**

Members shall establish one or more enquiry points to respond to enquiries from traders and other member states and to provide the forms and documents necessary for trading.

### **Key points**

- Somaliland has no established enquiry points.
- Information is available at ministry offices for no charge.
- Private sector stakeholders are able to obtain the information they need.

### **Description of the current situation**

Somaliland has not established any enquiry points. Individual ministries respond to requests for information on a no-charge basis and will supply forms and documents on request. As stated earlier, the private sector advised that it had no problems obtaining information from the government. Additionally, pertinent information can be obtained from the SCCIA.

### **Suggested reform activities**

- Assess enquiry point implementation options and needs (single versus multiple enquiry points, agency or agencies to host and participate, staffing needs, modes of operation, information to be provided, and so on).
- Define required procedures and roles and responsibilities for collection and coordination of information and operation of the enquiry point.
- Provide information technology and material support as required.
- Provide training and public outreach.

## **Article 3: Advance Rulings**

### **TFA requirement**

Members shall issue advance rulings with respect to tariff classification and origin upon written request.

### **Key points**

- The procedure for obtaining an advanced ruling does not exist in Somaliland.

### **Description of the current situation**

Currently there is no procedure for the trader to obtain a ruling on a tariff or origin application before the arrival of the goods.

There is no procedure for advanced rulings to be issued either by Somaliland Customs or by any other government agency.

The new Customs Law 73, which has been passed but not implemented, has provisions for the issuance of such rulings.

### **Suggested reform activities**

- Develop and publish rules to implement a binding rulings program, including details on the submission and processing of ruling applications, time frames for issuance of rulings, and the use of rulings in clearance.
- Establish and designate an advance rulings unit in the Customs Department and develop the required procedures.
- Engage in stakeholder outreach and training to promote greater understanding of the benefits and use of the rulings program.

### **Other international standards**

RKC Standard 9.9

## **Article 4: Procedures for Appeal or Review**

### **TFA requirements**

Members shall allow for an administrative decision by Customs to be appealed to or reviewed by (a) a higher administrative authority or an independent administrative authority, (b) a judicial body, or both of these.

In cases in which a decision of an administrative decision on appeal to a higher or independent administrative authority is not rendered within the period specified by law, or without undue delay, a further appeal can be lodged.

Customs and other border agencies are required to provide traders with the right to appeal decisions made in an administrative or judicial proceeding.

Reasons for administrative decisions must be provided in order to enable interested parties to appeal.

### **Key points**

- There is no formal dispute resolution or independent review mechanism to appeal Customs decisions in Somaliland.
- Customs disputes in Somaliland are often resolved by using an arbitration system.
- Most disputes are resolved by discussions with appropriate Customs officials.
- Disputes involving other border agencies are handled in the same manner as those involving Customs.
- Customs Law 73 establishes a formal appeal system.

### **Description of the current situation**

There is no formal dispute resolution or independent review mechanism in Customs. Disputes are generally handled by discussion between the trader and Customs management. Disputes are generally discussed orally and decisions are conveyed orally to the Customs port manager. The Chamber of Commerce may also become involved and act as a mediator if requested. However, if the dispute is significant, the Chamber will write Customs outlining the facts of the dispute and the decisions will be given in writing. If the trader is not satisfied with the outcome of discussions with Customs, the case can be discussed with officials at the Ministry of Finance. In that case, Finance will advise Customs of the disposition of the case. If not satisfied with the decisions that have been made at that point, the trader can take the case to court for a final decision. There are no documented procedures that stipulate such issues as time limits to appeal a decision, who should be appealed to, and so on.

There generally are very few instances of appeals. The traders that were interviewed by the team advised that they were satisfied with the current system. They did state that if changes were made to the customs system (particularly in the method of determining the value for duty), then the introduction of customs tribunals (consisting of a lawyer, a representative of Customs, and a trusted representative of the trade) would be welcome and would enable any dispute to be quickly and inexpensively settled.

Appeals of decisions made by other border agencies are handled in the same manner as those involving Customs.

### **Suggested reform activities**

- The current system respects the Somaliland culture of dispute resolution, so the requirements of the article have been met.
- Consider issuing written responses to appeals and distributing them to all offices.
- Consider the early establishment of a Custom/Tax tribunal as reflected in Customs Law 73.

### **Other international standards**

RKC Standards 10.1–10.12 cover appeals in customs.<sup>2</sup>

## **Article 6.1: General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation**

### **TFA requirement**

Members shall publish all fees and charges they impose in connection with the importation and exportation of goods.

Adequate time shall be allowed between publication of new or amended fees and charges and their entry into force.

Members shall periodically review the fees and charges with a view to reducing their number and diversity, where practicable.

### **Key points**

- Fees and charges are not easily located.
- Fees and charges are not posted on the Internet
- No consolidated list of fees and charges is available.

### **Description of the current situation**

A wharfage fee of 3 percent ad valorem is payable on goods imported or exported with some exceptions (samples, duty-exempt goods imported by the state, materials for humanitarian assistance, and livestock or pets belonging to a sovereign or head of state under a reciprocity agreement).

Import and export licenses are required at a cost of 2,084,000 Somali shillings for corporate traders. Clearing and forwarding and shipping agencies licenses cost US\$200. Licenses are required to be renewed annually. No goods may be imported or exported without a permit, the cost of which is approximately US\$10 per consignment.

Fees are associated with the export of livestock and are payable to the Ministry of Agriculture, the Berbera municipality, and the SCCIA.

A large exporter of gum resins advised the team that a business license cost between 6 and 7 million shillings annually. Additionally, the fee for a certificate of origin for gum resins is 50,000 shillings per shipment.

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<sup>2</sup> World Customs Organization, Revised Kyoto Convention, 1999, General Annex, chap. 10, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/gach10.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/gach10.aspx).



There is no consolidated list of fees payable, and government websites do not list them.

Ad valorem fees do not represent an amount that is commensurate with the cost of services provided; consequently, any fee that is expressed as an ad valorem fee should be reviewed and converted into a specific fee representing the cost of service, as required by the WTO General Agreement on Tariffs and Trade (GATT) and the TFA.

### **Suggested reform activities**

- Develop and publish a consolidated list of all fees and charges related to importation, exportation, and transit. Ensure that the list is easily accessible.
- Revise ad valorem fees (that are expressed in percentages) to reflect approximate costs of services rendered. The existing ad valorem fees are not in line with WTO obligations and practices and exert an undue burden on businesses.
- Develop government policy requiring regular review of fees and charges.

### **Other international standards**

GATT, Article VIII: Fees and charges shall be limited in amount to the approximate cost of services rendered.<sup>3</sup>

## **Article 6.2: Specific Disciplines on Fees and Charges for Customs Processing Imposed on or in Connection with Importation and Exportation**

### **TFA requirement**

Fees and charges imposed in connection with the importation or exportation of goods shall be established in law and proportional to the services rendered on or in connection with the specific import operation.

### **Key points**

- Fees and charges are not easily located.

### **Description of the current situation**

See the description for Article 6.1.

### **Suggested reform activities**

- Replace ad valorem fees with specific fees based on the cost of services, as discussed in Article 6.1.

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<sup>3</sup>World Trade Organization, General Agreement on Tariffs and Trade, 1994, Article VIII, [https://www.wto.org/english/res\\_e/booksp\\_e/gatt\\_ai\\_e/art8\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/gatt_ai_e/art8_e.pdf).

## **Other international standards**

GATT, Article VIII: Fees and charges shall be limited in amount to the approximate cost of services rendered.

### **Article 6.3: Penalty Disciplines**

#### **TFA requirements**

Members have certain obligations with respect to the assessment of penalties for breach of customs laws, regulations, or procedural requirements.

Members shall ensure that penalties are imposed on only those persons responsible for the breach and that such penalties are commensurate with the severity of the breach.

Members shall avoid conflicts of interest in the assessment of penalties.

Members shall provide a written explanation whenever a penalty is imposed.

Members are encouraged to put in place mechanisms allowing for voluntary disclosure in exchange for a mitigation of penalties.

#### **Key points**

- A standard penalty of 50 percent of the duty payable is charged for breach of customs laws.

#### **Description of the current situation**

A ministerial circular states that the penalty for a customs infraction is 50 percent of the duty payable. This is the penalty for all types of customs infractions.

Under the current system, Customs prepares and submits the declaration on behalf of the trader. The trader or a representative only provides Customs with documentation (delivery order, invoice, packing slip). However, the trader is subject to the penalty if there is an error on the invoice or other errors.

There is no provision for mitigation of penalties.

The Customs Law 73, 2016, has different penalties for various infractions. Customs Law 73 has been passed by Parliament but has not been implemented.

#### **Suggested reform activities**

- Customs Law 73 should be implemented as passed, with the various penalty amounts included.

- Standard operating procedures should be developed for applying penalties and for considering the mitigation of penalties. Procedures and guidelines should be developed for the new law when it is implemented.

### **Other international standards**

- RKC Standard 3.39<sup>4</sup>
- RKC Annex H, Standards 19, 22–25<sup>5</sup>

## **TFA Measures Aimed at Better Governance**

### **Article 2.1: Opportunity to Comment and Information before Entry into Force**

#### **TFA requirement**

Members shall allow stakeholders an opportunity to comment on the introduction of new, or the modification of existing, laws and regulations relating to the movement, release, and clearance of goods. Members shall ensure that new or amended laws or regulations are published or information related thereto is made publicly available as early as possible before their entry into force.

#### **Key points**

- Somaliland has no government requirement to consult with stakeholders or to publish proposed rules and regulations for public comment.
- Laws and regulations are not generally circulated so that stakeholders can provide input.
- No legal obligation exists that requires a delay in new laws and regulations entering into effect.
- Laws enter into force when they are published in the *Somaliland Republic Official Gazette*.

#### **Description of the current situation**

Formal governmentwide policies and procedures do not appear to be established for stakeholder consultation of proposed laws and regulations. As a general rule, laws and regulations are not circulated to permit interested parties to make observations and preliminary comments before publication of the laws and regulations.

There is no general legal obligation that requires a delay in the effective date of any law. Laws enter into force when they are published in the Somaliland Republic Official Gazette and are not generally published in advance of their entry into force.

<sup>4</sup>World Customs Organization, The Revised Kyoto Convention, General Annex, chap. 3, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/gach3.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/gach3.aspx).

<sup>5</sup>World Customs Organization, The Revised Kyoto Convention, Specific Annex H, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/spanh.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/spanh.aspx).

The SCCIA advised the team that it is often consulted by the government on new laws, but other stakeholders are not. As an example, major exporters and importers who were interviewed by the team commented that they were not consulted during the drafting of the new Customs Law 73.

Ministry of Agriculture officials advised that there is no government requirement to consult with stakeholders but that the ministry generally does.

### **Suggested reform activities**

- Draft and enact appropriate legislation to require border authorities (or government authorities generally) to
  - publish proposed rules for public comment, and
  - delay effective date of new or changed rules, subject to appropriate exceptions.
- Develop necessary rules and procedures to implement rulemaking subject to notice and comment.
- Train border authority officials and stakeholders in rulemaking and consultation procedures.

## **Article 2.2: Consultations**

### **TFA requirement**

Members shall provide for regular consultations between border agencies and traders based within their territory.

### **Key points**

- No formal legal provisions or policy has been established to require border authorities to engage in “regular consultations” with their stakeholders.
- Stakeholder consultations do occur but not on a regular basis.
- Private sector stakeholders reported that consultations are hit and miss and not the norm.

### **Description of the current situation**

The government has no legal provisions or formal policy or guidance requiring or authorizing border agencies to hold regular consultations with private sector stakeholders.

Formal consultation with trade partners occurs only rarely and informally. There is almost no information available on the Internet from any border agency nor are there formal helpdesks or any reliable sources of information available to the trader, particularly concerning cross-agency topics. Most officials are always willing to assist with trade inquiries, but their knowledge is generally confined to their own agency’s practices.

The Ministry of Livestock staff members stated that the ministry operates in a transparent and open system and has regular consultations with stakeholders. The Ministry of Justice staff members also stated that the ministry regularly consults with stakeholders.

Private sector stakeholders stated that consultations with government institutions are not the norm.

It should be noted that in discussions with the Ministry of Justice, the team was informed that to date the ministry had concentrated in developing criminal law and had not yet begun work on civil law.

### **Suggested reform activities**

- Develop formal policies and procedures to ensure effective consultation practices.
- Train relevant officials and stakeholders in effective consultation.

### **Other international standards**

RKC Standard 1.3<sup>6</sup>

## **Article 10.1: Formalities and Documentation Requirements**

### **TFA requirement**

Members shall review the formalities and documentation requirements they impose for import, export, and transit to ensure that such formalities and documentation requirements are adopted, inter alia, with a view to a rapid release and clearance of goods, particularly perishable goods, and adopted or applied in a manner that aims to reduce the time and cost of compliance for traders and operators.

### **Key points**

- There is no government policy requiring the periodic assessment of existing rules.

### **Description of the current situation**

There is no legislative, regulatory, or other formal government policy that requires border authorities to assess the trade effects of new or changed rules, or to periodically assess existing rules.

There is no existing requirement for ministries to conduct a regulatory impact analysis before they issue new rules.

Custom formalities are outdated and require modernization. The Customs Department does not yet allow declarants to prepare self-assessed declarations and has a multistep operation that involves

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<sup>6</sup>World Customs Organization, Revised Kyoto Convention, General Annex, chap. 1, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/gach1.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/gach1.aspx).

two separate physical goods examinations to prepare, classify, and value the goods. The current valuation method used by Customs is based on an out-of-date valuation record that employs the old Brussels Tariff Nomenclature definition of value. It is out of line with modern WTO GATT valuation methods. Invoice values are ignored and Customs-determined values are very low, hence duty rates are set correspondingly high.

The customs process operates differently at each station because there are no written instructions and procedures are undocumented—with the exception of the odd wall chart found in a variety of offices.

A description of the customs process and proposed reform actions is attached as annex B.

### **Other international standards**

Organisation for Economic Co-operation and Development, 2012 Recommendation of the Council on Regulatory Policy and Governance

### **Suggested reform actions**

- Develop and publish appropriate legislation and a formal policy requiring border authorities to conduct
  - trade impact analysis of new rules, procedures, and document requirements; and
  - periodic reviews of such existing requirements.
- Designate individuals within each border authority who are responsible for implementing the above action.
- Train relevant officials in impact analysis modes and methods.

**Photo 4: Customs officer assigning tariff classification**



*Source: ©World Bank staff. Reproduced, with permission from the World Bank; further permission required for reuse.*

## **Article 10.7: Common Border Procedures and Uniform Documentation Requirements**

### **TFA requirement**

Members shall apply common, uniform procedures and documentation requirements for the release and clearance of goods at all border posts.

### **Key points**

- Customs procedures are not uniform at all border points.

### **Description of the current situation**

The border agencies issue no printed standard operating procedures or guidelines. It was reported to the team that because of this lack of guidance, procedures are not aligned at all border points.



Private sector stakeholders advised the team that, while procedures may differ, documentation requirements were the same.

### **Suggested reform actions**

- Develop standard operating procedures for all government departments and agencies present at the border and publish and distribute the procedures for all stakeholders.

## **TFA Measures Aimed at Modernizing Border Procedures and Controls**

### **Sanitary- and Phytosanitary-Motivated**

#### **Article 5.1: Notifications for Enhanced Controls or Inspections**

#### **TFA requirements**

For members that have established systems for issuing notifications for an enhanced level of controls at the border with regard to foods, beverages, or feedstuffs, notifications may be issued on the basis of risk and may apply uniformly only at those border posts where the sanitary or phytosanitary conditions apply.

Notification shall be suspended promptly once the conditions are no longer in place.

When notification is terminated, such termination shall be published promptly in an easily accessible manner or the exporting member or importer shall be informed promptly.

#### **Key points**

- Very limited import controls on foods and beverages
- No form of enhanced controls

#### **Description of the current situation**

A very limited basic control is exercised over rice, sugar, beverages, and pharmaceuticals by the Somaliland Quality Control Commission. (For example, agents make a visual check of the foodstuffs and inspect the pharmaceuticals for description, production date, expiration date, and country of origin.) To import medicines, the trader must submit a certificate of analysis, certificate of origin, and packing list to the Ministry of Health and the SQCC in Hargeisa. These documents are forwarded to the SQCC manager at Berbera. Customs provides ships manifests to the manager's unit and the unit staff identifies shipments requiring examination. The SQCC unit then provides Customs with forms advising of release permission for shipments.

There is no form of enhanced control.

Customs examination is applied selectively to all imported goods, including foodstuffs and beverages. The examination of the commodities that are of interest to the Somaliland Quality

Control Commission is carried out jointly with the SQCC officers. The mission team believes that Customs has never been formally requested to apply any form of enhanced control to these goods.

Other government agencies, such as the Ministry of Agriculture, Ministry of Fisheries, and Ministry of Livestock issue documents such as Sanitary and Phytosanitary (SPS) certificates but do not undertake any form of control at the border when the goods are landed. The mission was not informed of any enhanced control ever applied by any agency in Somaliland.

### **Suggested reform actions**

- Following international best practices, implement a formal system of import controls for ensuring the safety of food and foodstuff.
- Determine the need for creating an enhanced alert system from the legal, procedural, and technical point of view.
- Develop the appropriate legal basis, policy, standard operating procedures, and guidelines, including structures to activate and deactivate border alerts.
- Provide SQCC officers at the port level with the capacity to perform tests. Consider acquiring mobile laboratories, hand-held equipment, or both to accomplish this.

### **Photo 5: Somaliland Quality Control Commission Notice of Acceptable Release**

Hay, Ada Dhawrista Tayada Somaliland  
HDHT

Somaliland Quality Control Commission  
SQCC

Serial NO: SQCC

IMPORT GOODS

Date: /12/2017

Inspection for import forms/ Foomka ururinta & baadhida shixnada

Import's Name: ..... Vessel Name: ..... Arrival Date: ...../...../2017

Location Stores: ..... Address Mobile: ..... Contact person: .....

S/N	Description of Goods	Quantity	Product of Country	Production Date	Expiry Date	Conditions	Weight
1.							
2.							
3.							
C/N							

Tell: 4445143

Approved by Quality control commission

Inspector Signature: .....

Acceptable Release

Source: ©World Bank staff. Reproduced, with permission from the World Bank; further permission required for reuse.

**Photo 6: Somaliland Quality Control Commission Clearance Letter**



Ref: SQCC/ HIR/ 84/17

19 Nov 2017

To: SQCC Berbera Port office

CC: Custom Manager

Re: SQCC CLEARANCE LETTER for Moumin Group

This letter is to certify that the [redacted] has submitted to the Somaliland Quality Control Commission (SQCC) the relevant document with regard to items shown in table1 the following page (see table1, on page 2).

The [redacted] has submitted the certificate of analysis from [redacted]

The company has presented the relevant documents, the SQCC has granted clearance for the Items medical products. Container NO:

Ali Mohammed Abdalla

SQCC Chairman

SQCC Hargeisa Headquarters

Hargeisa Somaliland



## **Article 5.2: Detention**

### **TFA requirement**

Members shall promptly inform the importer in case a consignment is held for further inspection by customs or other competent authorities.

### **Key points**

- Importers are advised if shipments are to be detained in exceptional cases.

### **Description of the current situation**

Customs and the SQCC are the only competent authorities that inspect goods at the port level. One hundred percent of shipments are inspected; if the shipments are held in exceptional cases, the importer is advised. Because traders are advised when goods are detained beyond the routine 100 percent examination, the procedure meets the requirements of the article. However, the use of risk management techniques should be introduced to reduce the examination rate. (See the description and recommendations for Article 7.4, Risk Management.)

### **Suggested reform actions**

- No action is required for this article.
- See recommendations for Article 7.4, Risk Management

## **Article 5.3: Test Procedures**

### **TFA requirements**

Members may grant an opportunity for a second test in case of an adverse finding on the first test.

Members shall publish the contact information for a laboratory in which such a test can be conducted or shall provide such contact information to the importer.

Results of the second test must be taken into account in deciding on the release and clearance of goods.

### **Key points**

- There is no testing capability at points of entry—the Port of Berbera or the airport in Hargeisa. For some ministries, required tests are performed by outside accredited laboratories.
- Ministry officials have advised that they would allow a second test and consider the result.

### **Description of the current situation**

The team was advised that there were no tests conducted by SQCC officers at Berbera Port at the time of import. The SQCC officers mostly check pharmaceuticals, and it is only a visual check for production date, expiration date, country of origin, and manufacturer information. If there is a concern, samples are sent to Hargeisa for laboratory tests. Officials there stated that in the case of a dispute with the trader concerning the results of the laboratory test, they would consider the results of a second test performed by an accredited laboratory before making a final decision. The same basic procedure is followed at the airport in Hargeisa. There is no testing equipment available to the SQCC officers either at the port in Berbera or the airport in Hargeisa. When required, SQCC officers will refer samples to the World Health Organization laboratory located in Hargeisa.

Officials from the Ministry of Agriculture stated that they too would consider the results of a second test performed by an accredited laboratory if requested. The officials said that they had never had a case in which a second test was requested.

The SQCC and Plant Protection Department both stated that they did not have the capacity or laboratories to conduct tests.

Multiple laboratory tests are performed in the process of exporting livestock. The team was advised that there are three laboratories that perform tests associated with the export of livestock. Two of the three laboratories are accredited. Each year inspections of the quarantine facilities and their laboratories are conducted by the OIE, the Office International des Epizootiques. Lack of inspection and testing of exported livestock has serious repercussions because the export of diseased animals can result in import bans in the country of destination.

A large exporter of livestock advised the team that quarantine facilities need upgrading and that tests need to be strengthened. He stated that the OIE had registered 16 cases of foot and mouth disease in Somaliland in 2016; however, the Somaliland still has no vaccination program or prevention measures in place for that disease. The exporter advised that several other diseases, such as River Valley Fever, were not being tested for.

### **Suggested reform actions**

- Encourage the creation and authorization of more accredited laboratories, both public and private.
- Develop and publish guidelines outlining roles and responsibilities of authorities and traders with respect to second tests.
- Provide testing equipment at border points.
- Provide training for border officials.



**Photo7: Quarantine facilities at Berbera United Quarantine**



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## **Article 7.9: Perishable Goods**

### **TFA requirement**

Members shall release perishable goods in the shortest possible time and, if necessary, outside the regular office hours of Customs and other agencies at the border.

### **Key points**

- Perishables are to be given priority for release.
- Direct delivery of perishables to the importers' premises is permitted.
- No formal published procedures or guidelines exist.

### **Description of the current situation**

Although today perishables have priority for release, there is no formal documented procedure.

Customs allows direct delivery of the goods to the importers' premises. Documents are submitted to Customs in advance of the arrival of the goods, and the document check is completed before the goods arrive.

There is no cold storage available to store perishable goods at either the Berbera Port or the airport at Hargeisa.

#### **Suggested reform actions**

- Develop formal written procedures for the handling of perishable goods.
- Install cold storage facilities at the Berbera Port and the airport in Hargeisa.

#### **Other international standards**

RKC Standards 3.2 and 3.34<sup>7</sup>

### **Article 10.8: Rejected Goods**

#### **TFA requirement**

Members shall allow an importer to re-export goods that have been rejected for import because of their failure to meet prescribed sanitary or phytosanitary regulations or technical regulations.

#### **Key points**

- Authorities have no authority to reject goods at the time of import.

#### **Description of the current situation**

The Ministry of Agriculture does not have the authority to reject goods at the time of import. Agriculture officials are not located at points of entry.

#### **Suggested reform actions**

- Develop a legal basis that meets the requirements of the article.
- Develop procedures and guidelines on the handling of rejected goods.

## **Customs Clearance Simplification**

### **Article 7.1: Pre-arrival Processing**

#### **TFA requirements**

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<sup>7</sup>World Customs Organization, The Revised Kyoto Convention, General Annex, chap. 3, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/gach3.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/gach3.aspx).



Members shall adopt measures allowing for the submission of import documentation and processing of that documentation before the arrival of the goods.

Members shall, as appropriate, provide facilities for the lodging of relevant documentation in electronic format.

### **Key points**

- No procedures are in place for the processing of customs declarations before the arrival of the freight.
- There is no electronic submission of documentation.

### **Description of the current situation**

No processing is completed prior to the arrival of the vessel or aircraft. Customs processing does not commence until importers or their agents present the required import documents (invoice, certificate of origin, packing list, import permit, copy of the bill of lading, and the delivery order).

A description of the customs formalities and recommendations for modernizing the customs system are attached as annex B.

### **Suggested reform actions**

- When developing the single window/customs automation system, ensure that the functionality for direct trader interface and pre-arrival processing is included.

## **Article 7.3: Separation of Release from Final Determination of Customs Duties, Taxes, Fees and Charges**

### **TFA requirement**

Members shall adopt or maintain procedures allowing the release of goods before the final determination of customs duties, taxes, fees, and charges.

### **Key points**

- There is no provision for the release of goods before the final determination of duty and taxes.

### **Description of the current situation**

Under the customs procedure, it is the Customs Department that completes the declaration. If documentation is lacking, the declaration is not completed and the goods are not released. Additionally, if there is a dispute between the trader and Customs after Customs has completed the declaration, the goods are not released until the dispute is resolved.

Customs Law 73 allows for the release of goods pending outcome of an appeal and contingent on the trader's paying the duty originally determined by Customs.

### **Suggested reform actions**

- Develop a business process that provides for the release of goods against a guarantee (cash, insurance guarantee, or bank bond, if available).
- Set the amount of guarantee equivalent to the amount of duty and taxes assessed by Customs.
- Develop standard operating procedures accepting, monitoring, and discharging the guarantees.
- Provide training to Customs officials and stakeholders.

### **Other international standards**

RKC Standards 3.13, 3.14, and 3:42<sup>8</sup>

## **Article 7.7: Trade Facilitation Measures for Authorized Operators**

### **TFA requirement**

Members shall provide additional trade facilitation measures related to import, export, or transit formalities and procedures to operators who meet specified criteria, which should be based on risk management principles and be published.

### **Key points**

- There is no trusted trader or authorized operator program.
- Customs has not yet developed or published any rules, procedures, guidelines, or other administrative measures to implement an authorized operator program of the type described by the TFA measures.

### **Description of the current situation**

There is no authorized operator or trusted trader program in Somaliland. One hundred percent of imports are subject to examination to one degree or another (from tailgate examination to full physical examination).

A large importer advised the team that the lack of such a program was a big issue to him and that he would welcome such a program. He has not had any customs contraventions, yet in his view, he is treated in the same manner as every other importer. Having all his goods subject to the 100

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<sup>8</sup>World Customs Organization, Revised Kyoto Convention, General Annex, chap. 3, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/gach3.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/gach3.aspx).

percent exam rate creates delays in his receiving his goods. An exporter also said he would like the benefit of being an authorized operator so that he could load his containers at his premises.

A pilot program to test the facilitation concept of self-declaration by the trader by the top 20 trusted traders was proposed by Berbera Customs. This is an important concept for trade facilitation. The pilot has not been implemented yet.

### **Suggested reform actions**

- Design an authorized operator program offering the measures stipulated in Article 7.3.
- Develop and publish implementing regulations and procedures, including the definition of qualifying criteria, the processes for submitting applications and for verifying eligibility, and the specific benefits to be provided for qualified operators.
- Design and develop implementing regulations and processes for the simplified clearance procedures that will be made available to authorized operators (such as the terms and conditions for creating periodic declarations).
- Develop and publish a practical guide for stakeholders on the authorized operator program and associated simplified procedures (once implemented).

### **Other international standards**

RKC Transitional Standards 3.32 and 3.41<sup>9</sup>

## **Article 7.8: Expedited Shipments**

### **TFA requirements**

Members shall adopt or maintain procedures allowing for the expedited release of at least those goods entered through air freight facilities, subject to specific criteria.

Members are required to provide for a minimum of documents to clear such shipments, to ensure their rapid release, to apply such treatment to goods of any weight and value, and to provide for a de minimis shipment value within which duties and taxes (other than the value added tax) are waived.

### **Key points**

- Very low-valued parcels imported by air couriers are subject to expedited release.
- No de minimis is defined.

### **Description of the current situation**

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<sup>9</sup>World Customs Organization, Revised Kyoto Convention, General Annex, chap. 3, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/gach3.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/gach3.aspx).

Very low-value parcels imported by air couriers are currently cleared without defined procedures, except for a random examination for contraband. Most parcels are subjected to formal examination and duty payment.

### **Suggested reform actions**

- Enact a legal basis to support the requirements of an expedited release of goods imported by air express-delivery operators or other expedited shippers.
- Develop formal TFA-consistent rules and procedures for expedited release of goods imported by air express-delivery operators or other expedited shippers.
- Establish a de minimis below which duty and taxes are not collected.

### **Other international standards**

RKC Transitional Standard 4:13<sup>10</sup>

## **Article 10.2: Acceptance of Copies**

### **TFA requirements**

Members shall, when appropriate, accept copies in lieu of original supporting documents and ensure that when a government agency holds the original of a document, other agencies should obtain a paper or electronic copy from that agency.

Members shall not require the original or a copy of export declarations.

### **Key points**

- Original documents are required by all ministries.

### **Description of the current situation**

Original documents must always be presented with customs entries and are also required by other government agencies that issue permits and certificates.

### **Suggested reform actions**

- Develop legal government authority for all agencies to accept copies of required documents in lieu of the originals.

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<sup>10</sup>World Customs Organization, Revised Kyoto Convention, General Annex, chap. 4,  
[http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/gach4.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/gach4.aspx).

### Article 7.4: Risk Management

#### TFA requirement

Members shall, to the extent possible, implement a risk management system.

#### Key points

- No formal risk management system is in operation in Somaliland.
- Risk management may be undertaken at each officer's discretion.
- No risk management unit or intelligence unit exists in the Somaliland government.

#### Description of the current situation

Somaliland's risk management system is currently in the pilot stage and operates at each officer's discretion according to the officer's recollection of risk levels. There is no national risk management unit nor is there an intelligence unit that could provide information to officers responsible for developing targets even if a risk management unit existed.

At Berbera, the Customs manager reviews daily the ships manifests and depending on the identity of the trader, clearing agent, commodity, or carrier decides which shipments require detailed inspections and advises senior staff of the targets. On a monthly basis, the manager circulates information concerning offenders, and the officers use that information in determining which shipments will be subject to more scrutiny. However, the current system relies on each officer's judgment and memory.

The few noncompliant traders are all known to Customs, and goods are categorized according to risk. Consignments of building materials, cement, and goods such as rice imported in sacks are regarded as being of low risk. Customs agents know how many sacks of rice can fit into a container and so can check the manifested goods accordingly.

Customs still requires 100 percent examination of containers.

There is no formal risk management system used by other government agencies. Imports are handled on a transaction-by-transaction basis by the officials stationed at the border.

#### Suggested reform actions

- Ensure that Customs Law 73 provides the legal basis for risk management and selective controls correlated with automated systems that will be developed.
- Create a national risk management unit responsible for developing risk criteria and risk analysis.
- Develop an interagency risk management strategy and institutional framework, including mechanisms to share risk data and information.
- Provide training in risk analysis.

- Establish regular review and updating of risk criteria.
- Develop a feedback mechanism from ports of entry to headquarters to be used in evaluating criteria.
- Ensure that adequate resources, both human and financial, are assigned to risk management.

### **Other international standards**

RKC Standards 6.2–6.5<sup>11</sup>

## **Article 7.5: Post-clearance Audit**

### **TFA requirement**

Members shall put in place a post-clearance audit regime as part of the risk management continuum in order to expedite the release of goods and shall ensure compliance with customs and other related laws and regulations.

### **Key points**

- Somaliland has no post-clearance audit program.

### **Description of the current situation**

There is no post-clearance audit in place. Customs Law 73 provides the legal basis for this procedure.

### **Suggested reform actions**

- Create a national post-clearance audit unit that will be responsible for developing and implementing an annual audit plan.
- Develop formal operational procedures and guidelines for the performance of audits.
- Train audit staff on accounting and audit techniques and risk management.
- Ensure audit results and findings are communicated to the risk management unit.
- Ensure that adequate resources are assigned to post-clearance audits.

### **Other international standards**

RKC Standard 6.6<sup>12</sup>

## **Article 8: Border Agency Cooperation**

<sup>11</sup>World Customs Organization, Revised Kyoto Convention, General Annex, chap. 6, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/gach6.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/gach6.aspx).

<sup>12</sup>World Customs Organization, Revised Kyoto Convention, General Annex, chap. 6, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/gach6.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/gach6.aspx).

## **TFA requirement**

Members shall ensure that their authorities and agencies responsible for border controls and procedures dealing with the import, export, and transit of goods cooperate with one another and coordinate their activities to facilitate trade.

### **Key points**

- Somaliland border authorities have minimal-to-no coordination and/or cooperation.

### **Description of the current situation**

Key agencies involved in cross-border trade include the Customs Department, Ministry of Trade, Ministry of Agriculture, Ministry of Livestock, Ministry of Health, and the Somaliland Quality Control Commission. Except for the Somaliland Quality Control Commission, the ministries confine their activities to the issue of licenses and permits and depend on Customs to control the goods. However, the customs officers have neither the experience nor the training, equipment nor access to any laboratories to control this work and so, in general, there is little enforcement of border agency regulations. A National Trade Facilitation Committee should be established to coordinate border agency reforms.

Various ministries reported that there is no government coordination among ministries. Except for the SQCC, there is no enforcement once the appropriate licenses and permits are issued. When the SQCC issues a release authority certificate, a list is given to Customs and is held at the release office. If there is no release authority, the goods are not released.

Health certificates and certification for livestock being exported are verified by Customs before the export is authorized.

### **Suggested reform action**

- Establish service-level agreements and a memorandum of understanding among border authorities that clearly delineate the roles, responsibilities, and functions of each agency.
- Develop standard operating procedures for border processes.
- Establish a National Trade Facilitation Committee as required by the TFA and task it with ensuring that policy and procedures for border agency cooperation are implemented.

### **Other international standards**

RKC Transitional Standard 3.35<sup>13</sup>

## **Article 12: Customs Cooperation**

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<sup>13</sup>World Customs Organization, Revised Kyoto Convention, General Annex, chap. 3, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/gach3.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/gach3.aspx).

## **TFA requirement**

Members shall exchange information for verifying an import or export declaration in identified cases in which there are reasonable grounds to doubt the truth or accuracy of the declaration.

### **Key points**

- There is no formal procedure for exchange of information with foreign Customs administrations.

### **Description of the current situation**

There are no routine, laid-down procedures for the regular exchange of information or data. The department will, in very rare cases, use informal contacts to obtain information that it requires.

### **Suggested reform actions**

- Develop a legal basis and procedures that allow for the exchange of information with the customs services of other member states to verify an import or export declaration.
- Develop legal procedures for the protection of information received from third parties.

### **Other international standards**

World Customs Organization, International Convention on Mutual Administrative Assistance in Customs Matters (2003) (Johannesburg Convention)  
Southern African Development Community, Trade Protocol

## Customs Procedures

### **Article 10.9 Temporary Admission of Goods and Inward and Outward Processing**

## **TFA requirement**

Members shall provide for temporary admission and inward and outward processing procedures.

### **Key points**

- No formal inward or outward processing regimes are in place.
- Customs Law 73 contains provisions on inward and outward processing.

### **Description of the current situation**

There is no formal procedure to relieve the import duty on the raw materials that are intended to be processed into added-value products. The government does, very irregularly, offer duty concessions to certain manufacturers. To claim a duty concession, which is applied to each individual consignment, the importer must send the bill of lading, invoice, and packing list to the Association of Industries asking the association to prepare a letter requesting that the Minister of



Industry approve an exemption of duty for the consignment. If the exemption is approved, another letter must be sent to the Minister of Finance asking for Customs to be instructed to exempt the consignment from the duty.

### **Suggested reform actions**

- Pursuant to Customs Law 73, define rules and procedures for operational implementation and management of temporary import, inward processing, and outward processing.
- Develop and publish a practical guide for temporary import, inward processing, and outward processing, all according to international standards.

### **Other international standards**

RKC, Specific Annex G, Temporary Admission<sup>14</sup>

RKC, Specific Annex F, chap. 1, Inward Processing<sup>15</sup>

RKC, Specific Annex F, chap. 2, Outward Processing<sup>16</sup>

RKC, Specific Annex F, chap. 3, Drawback<sup>17</sup>

## **Article 11: Freedom of Transit**

### **TFA requirement**

Members shall facilitate transit traffic as practicable by, inter alia, ensuring formalities and documentation requirements are only the minimum necessary to identify the goods and to ensure fulfillment of transit requirements; ensuring that guarantees, if imposed, are limited to the value of the goods; providing for advance filing of transit documents; and making available special lanes for transit traffic at border crossings.

### **Key points**

- There is no formal transit procedure for importation.
- Customs Law 73 contains sections on transit.

### **Description of the current situation**

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<sup>14</sup>World Customs Organization, Revised Kyoto Convention, Specific Annex G, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/spang.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/spang.aspx).

<sup>15</sup>World Customs Organization, The Revised Kyoto Convention, Specific Annex F, chap. 1, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/spanf.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/spanf.aspx).

<sup>16</sup>World Customs Organization, Revised Kyoto Convention, Specific Annex F, chap. 2, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/spanf.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/spanf.aspx).

<sup>17</sup>World Customs Organization, Revised Kyoto Convention, Specific Annex F, chap. 3, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/spanf.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/spanf.aspx).

Apart from aid shipments, there is no transit system for imported goods destined for outside Somaliland. Duties are levied in Somaliland on all imported goods, including those destined for Ethiopia, Puntland, and Somalia. No refund of duty paid is offered when the goods leave Somaliland.

There is an informal transit system. The trader advises the Ministry of Finance of the commodity involved, the license number of the vehicle, and the identification of the driver and requests that transit be approved. If Finance approves, Customs is advised and no further action is taken. Customs is usually advised by phone.

### **Suggested reform actions**

- Implement a RKC-compliant regime for transit of goods from outside Somaliland to a different location outside Somaliland, including enabling legislation.
- Develop rules, procedures, and operational guidance on transit.
- Ensure that future automated systems include transit (including transit guarantee management).

### **Other international standards**

RKC, Specific Annex E, chap. 1<sup>18</sup>

## Electronic Processing

### **Article 7.2: Electronic Payment**

#### **TFA requirement**

Members shall, to the extent practicable, adopt or maintain procedures that allow the option of electronic payment for duties, taxes, fees, and charges collected by Customs incurred upon importation and exportation.

#### **Key points**

- Electronic payment of duty and taxes is not accepted.
- Duties, taxes, fees, and charges must be paid in cash.

#### **Description of current situation**

Electronic payments of duties, taxes, fees, and charges have not yet been introduced in Somaliland, although general payments made via a “mobile phone wallet” are commonplace.

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<sup>18</sup>World Customs Organization, Revised Kyoto Convention, Specific Annex E, chap. 1, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/spane.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/spane.aspx).

### Suggested reform actions

- Assess cost-benefit, demand, and suitability of e-payment options (such as credit card, debit card, automated debit, and mobile payments) for payment of customs duty and taxes in Somaliland in the medium and long term.
- Develop as required the technical framework to support the implementation of the relevant electronic payment method.
- Establish an e-payment gateway.

**Photo 8: Approximately two hours of collection—Customs office, Berbera**



*Source:* © World Bank staff. Reproduced, with permission from the World Bank; further permission required for reuse.



**Photo 9: Customs employee counting deposit, Berbera**



*Source:* © World Bank staff. Reproduced, with permission from the World Bank; further permission required for reuse.

#### **Article 10.4: Single Window**

##### **TFA requirements**

Members shall “endeavor to establish or maintain” a single window.

Members shall, to the extent possible and practicable, use information technology to support the single window.

##### **Key points**

- A single window has not been developed in Somaliland.

##### **Description of the current situation**

There is no single window for submitting documents to border agencies or ship arrival information to the port at Berbera.

## **Suggested reform actions**

- Develop a single window in conjunction with modernization and computerization of customs procedures.

## **Other international standards**

United Nations Economic Commission for Europe, Recommendation No. 35, “Establishing a Legal Framework for International Trade Single Window,” United Nations Centre for Trade Facilitation and Electronic Business, Geneva, December 2010.

## Policy

### **Article 10.3: Use of International Standards**

#### **TFA requirement**

Members are encouraged to use relevant international standards, such as the World Customs Organization Revised Kyoto Convention or parts thereof, as a basis for their import, export, or transit formalities and procedures and to take part in the preparation and periodic review of relevant international standards by appropriate international organizations.

#### **Key points**

- Standards have been adopted by SQCC but have not been published in the official gazette.
- Customs Law 73 reflects RKC standards.
- International standards such as those of the OIE (on animal health) and Codex Alimentarius (CODEX, the food code) are applied.

#### **Description of the current situation**

There is no act in Somaliland that stipulates what standards must be followed regarding import and export.

The SQCC has based its standards on CODEX standards, but these have not been published in the *Somaliland Republic Official Gazette*, so they do not have the force of law. SQCC is developing standards and has established several committees to accomplish this task: Medical, Livestock, Food Safety, and Electronics. Officials of the SQCC advised the team that they did not have the capacity to enforce standards.

Customs Law 73, 2016, reflects the standards contained in the Revised Kyoto Convention; although this law has been passed by Parliament, it has not yet been implemented.

The Ministry of Livestock has based various codes (such as the National Veterinary Code and the National Animal Welfare Code) on standards set by the OIE.

### **Suggested reform actions**

- Draft a Quality Control Act.
- Mandate and identify the proper authorities to perform quality assurance, conformity assessment, and market surveillance duties.
- Develop policy, procedures, and guidelines to be used with the new quality control act.
- Ensure that procedures, rules, and regulations are harmonized with international conventions.

### **Other international standards**

RKC Standard 1.2<sup>19</sup>

#### **Article 10.5: Pre-shipment Inspection**

##### **TFA requirement**

Members shall not require use of pre-shipment inspections with regard to tariff classification and customs valuation.

##### **Key points**

- Not required.

##### **Description of the current situation**

The use of pre-shipment inspections regarding tariff classification and customs valuation is not required in Somaliland.

##### **Suggested reform actions**

- None required.

#### **Article 10.6: Use of Customs Brokers**

##### **TFA requirements**

Members shall not introduce new requirements for the use of customs brokers for the clearance of goods as of the entry into force of the Agreement.

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<sup>19</sup>World Customs Organization, Revised Kyoto Convention, General Annex, chap. 1, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/gach1.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/gach1.aspx).

Members shall apply transparent and objective rules in the licensing of customs brokers.

### **Key points**

- Use of clearing agents is not mandatory

### **Description of the current situation**

Clearing agents do not actually clear goods on behalf of importers or exporters. Customs is responsible for completing the customs declaration. Clearing agents ensure that all the required documents are gathered and submitted to Customs; they provide advice to clients and make the arrangements necessary for the examination of goods.

There are no rules or regulations concerning the licensing of clearing agents. The only stipulation is that an agent must obtain a license—and there are no published criteria on becoming a clearing agent or any examination set by the government or the Clearing Agents' Association. Training courses for clearing agents have not been offered by Customs.

With the implementation of Customs Law 73, clearing agents will be in a position to make customs declarations and will need to be trained in classification, valuation, and other customs procedures.

### **Suggested reform actions**

- Establish criteria for becoming a clearing agent and include the requirement to pass an exam designed by Customs.
- Provide training for agents conducted by Customs.

### **Other international standards**

RKC Standards 8.1–8.3 and 8.6<sup>20</sup>

RKC Standard 1.2<sup>21</sup>

## **Article 23.2 National Trade Facilitation Committee**

### **TFA requirement**

Members shall put in place a national trade facilitation body or group to provide oversight and coordination in the implementation of the WTO trade facilitation measures.

### **Description of the current situation**

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<sup>20</sup>World Customs Organization, Revised Kyoto Convention, General Annex, chap. 8, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/gach8.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/gach8.aspx).

<sup>21</sup>World Customs Organization, The Revised Kyoto Convention, General Annex, chap. 1, [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv/kyoto\\_new/gach1.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/gach1.aspx).



There is no National Trade Facilitation Committee (NTFC) in Somaliland.

**Suggested reform action**

- Determine the capacity to form a functional, effective NTFC.
- Develop Terms of Reference for an NTFC and decide on the composition of the committee.
- Determine if existing committees should be amalgamated into the NTFC to avoid duplication of effort.
- Select the membership of the committee and include both public and private stakeholders.

## Section III: Customs Procedures and Reform Recommendations

### Current Status

#### Customs Operations in General

Customs operations are undertaken throughout 22 offices in Somaliland, but many are along the boundary with Puntland and Somalia. Only headquarters and eight other offices deal with any significant trade flow; these locations are detailed in the next section.

The customs process operates differently at each station since there are no written instructions and procedures are undocumented except for the odd wall chart found affixed to the wall in some of the offices. However, the procedures at Berbera Port have recently been partly computerized and simplified. Hence, this report analyses the procedures at the port since, although they remain very largely traditional, they are the most modern to be found in Somaliland and they deal with overwhelming the largest portion of the trade flow. The mission team saw that procedures were similar at Hargeisa Airport, except that they were fully manual.

The Port of Berbera has been purchased by the Dubai Ports World (DPW) company, which is based in Dubai. The port is benefiting from substantial investment by DPW in its infrastructure, equipment, staff resources, and facilities. As of January 2018, the capacity of the port was expected to increase by 50 percent over the next six months and by 5 to 10 times in the next three years. It will be necessary for the customs operations to expand at the same pace to cope with the increases in trade volume, and this task can be undertaken only by introducing a modern customs regime based on international practice.

#### Customs Offices

Customs operates from the following offices, which had approximately the following staffing levels as of January 2018:

Headquarters in Hargeisa	20 <sup>22</sup>
Berbera Port	100
Berbera Airport	20
Hargeisa Airport	20
Wajalle, on the border with Ethiopia	10
Lowyado, on the border with Djibouti	40
Arnot, on the border with Somalia	15
Two road checkpoints:	
On the road to Wajalle	10

<sup>22</sup> Divided into the following sections: Checking; Tariff; Statistics; Revenue (accounting); Security

On the road to Boro	10
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The other border posts have no significant trade flow but exist in each town ostensibly to exercise control over the boundary to Puntland and Somalia. Each has a staff of about 5 to 10 officers.

**Photo A1: The Customs office at Berbera Port**



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### Berbera Port Description

Berbera Port functions mainly on a hard-paved, small island that is connected to the mainland by three causeways, each controlled by security gates: one for port workers and passengers, one for trucks and vehicles entering the port, and one for trucks and vehicles leaving the port. All the wharfs are located on the island, together with several short-term container storage areas, the port administration office, the Customs office, the Customs examination area, and a loose cargo storage shed. The causeway used for outgoing trucks links the island to a large loading area located on the

mainland, where containers are either loaded onto an importer's vehicle or are outturned into the vehicle or vehicles.

The exit gate from the port is built into a fence that surrounds the loading area. A large nearby area of scrubland, which borders the sea, has been designated for the free zone, and this area is in the process of being hard paved and fenced. The security of the ports was found to be excellent and was well controlled.

Most of cargo is imported in containers, and these are off-loaded from the ship onto the wharf side, after which they are moved directly to a nearby short-term storage area of the island. They are subsequently moved, at the importer's or Customs agent's request, to a Customs examination area. Once the examination has been completed, the cargo is moved across a causeway, off the island, to the mainland loading area, where they await release from the port.

**Photo A2: Loose cargo and the cargo warehouse on the wharf side at Berbera Port**



*Source:* © World Bank staff. Reproduced, with permission from the World Bank; further permission required for reuse.

Most loose cargo is delivered to the storage shed, where it is stored, examined, and released. Other loose goods may be stored outside the shed, being mainly building materials such as wood, steel,

and bricks. That material is similarly examined and released. About 150 containers are landed each day, 95 percent of which are full container loads. The remaining 5 percent are filled with groupage cargo belonging to several different importers. The groupage containers are dealt with by only one agent, and the individual consignments must all be off-loaded into separate piles of goods next to the container before the customs examination is conducted.

Neither Customs agents, nor importers, nor exporters are allowed to complete a customs entry because they are not yet regarded as competent to do this work. The agent obtains a delivery order from the port authorities and produces it to a Customs officer at the first stage. Delivery orders are not accepted by Customs until the entire ship has been completely discharged. Because officers write the initial entry by hand, it is impossible for declarations to be produced ahead of the arrival of the goods. This control is designed to prevent any importer from having an unfair advantage over the other importers, but the procedure causes delay and means that the customs desks become crowded as soon as the vessel is deemed to be unloaded. This delay is exacerbated by the short working hours that agents in the private sector work, effectively from 8 a.m. until noon, although there is a small Customs presence in the afternoons and evenings to deal with priority imports and livestock exports.

Before presenting his documents to Customs, the agent must obtain an import or export permit from the Ministry of Trade and Investment. Ministry officers at the port first verify that the trader has a valid, annually renewable import or export license. There are 52 licensed traders and such licenses cost about US\$2,000 annually. No goods can be imported or exported without a permit, which costs about US\$10 for each consignment.

The Customs Office, where the entry is processed, and the release office, where officers re-check the entry and re-examine the goods, are both quite some distance from the loading yard, which is near the exit gate. Thus, if anything is found wrong in the second examination, the agents have a lot of walking to do to correct the error and pay the additional revenue.

### Summary of Customs Import Procedure

The detailed customs procedures are described fully in the next section but can be summarized as follows:

At the first stage, the agent must present all his documents to the Customs Deputy Head, who scrutinizes the documents and then makes out a white manuscript examination note, recording summary details of the goods from the attached documents. The deputy then assigns an examiner, and the clearing agent arranges for the customs examination to be conducted and for the quality assurance examination to be carried out, if appropriate (for medicine and food.) There is a delay if the container needs to be outturned (unloaded) because it must then be moved to the examination area.

Nearly all the containers are fully loaded and consigned to only one importer, and the remaining about 5 percent are groupage containers consigned to several importers. For those, each consignment must be outturned from the container and piled separately for examination. About



10full containers will be fully outturned each day, as determined manually by the customs examiner. There are only 15 available examination officers, so most of the remaining containers, many of which are laden with only one or two items of cargo, are examined by simply opening the rear container doors. The customs examiner records, on the white examination note, details of all goods and packages found and attempts to list each item on a separate line, according to the description of the goods.

After this step, the goods are repacked into the container as necessary and the container is then moved across the outgoing causeway to the loading area. Meanwhile, the agent takes the papers to another officer, who completes a yellow customs entry, again by hand but now listing all the various items found in the consignment on separate lines. This form is taken to an evaluator, who assigns a four-digit tariff code and a value to each tariff line.

**Photo A3: Poster showing documents required by Customs**



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This manual entry is then keyed by Customs officers into a computer, which calculates all the duties and taxes and produces a multipart printout of the entry.

**Photo A 4: Input of prepared customs entries at Berbera.**



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The agent then takes this multipart form and the other documents to the manifest section for the manifest to be discharged and then to the cash office, where the entry is paid in cash (normally with many bundles of local currency) and the entry is then stripped down with a manual receipt being issued and with the entry being recorded on the computer as having been paid. The cash office retains copies of the entry, one of which is subsequently filed with the ship's file and the other sent to headquarters.



**Photo A5: The computer input screen**

The image shows a computer monitor displaying a 'CUSTOMS ENTRY FORM' software interface. The form is divided into several sections: 'Entry No' (0000012345), 'Date' (10/10/2017), 'Examiner' (10/10/2017), 'Consignor', 'S/O / B/O Loading', 'Vehicle Trip', 'Vehicle Name', 'Arrival Date', 'Import Code', 'Clearing Agent', 'Customer ID', 'Customer Name', 'Address', 'Status', 'Packages', and 'DUTIES AND TAXES'. The 'DUTIES AND TAXES' section includes fields for Total Value, Total Duty, Sales Tax, Harbour Tax, Municipality Tax, M/Tax, Den Tax, Profit Tax, Admin Tax, Stamp Duty, and Total. The form also features a table for 'Items' with columns for Description, Quantity, Unit, City, Value Unit, Tax Rate, Total Value, Total Duty, and Port S. The interface includes various buttons like 'Add Item', 'Delete Item', 'Clear', 'Print', 'Save', and 'Exit'.

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The agent then takes the receipt, the first entry copy, and the other supporting documents to the release office, where the entry and documents are fully checked and scrutinized again, after which another examination of the goods is undertaken. More than 20 percent of these examinations result in the collection of additional revenue, mostly because of errors made during the first examination. If, however, the second examination and tally of goods reveal no irregularities, then the vehicle and its cargo are recorded in the separate but similar exit records of both the police and Customs, and the truck is allowed to exit from the controlled area.

### Detailed, Stage-by-Stage Customs Process

Note: A customs wall chart (Photo A3) shows the process as consisting of eight steps. The following list describes the actions taken under each step.

#### Step 1:

The first customs stage is for the Customs agent to present to the Deputy Head of Customs the delivery order (obtained from the port authorities) together with an import permit, invoice, packing list, certificate of export, and bill of lading. The deputy head assigns a customs examination officer and completes an examination report (a summary listing of the goods as detailed on the delivery order and associated documents).

#### Step 2:

The customs examination officer, with officers from the quality assurance department, if appropriate, then physically examines the goods. The customs examiner attempts to list the

detailed tariff commodities that he finds in the consignment on the examination note. Offloaded goods are stuffed back into the container, which is then moved off the island to the loading yard.

### **Step 3:**

Meanwhile, the agent takes the examination note and papers to an officer who completes a yellow manual import entry listing the goods, as described, by tariff item.

The agent then takes this form, together with the examination report and the other documents, to another office where a customs evaluation officer will assign a tariff code, a four-digit harmonized system (HS) tariff heading, and a value to each item listed on the form. This value and the HS code are taken from the customs valuation book, where there is one value for each HS tariff commodity code (despite there being numerous different products covered by the commodity code). The officer will sign the customs entry once he has completed all the goods items on the form. Neither the clearing agent nor the importer signs the document.

All documents are then taken to the computer room, where five laptop computers are each operated by a customs computer operator who keys the manual entries into the computer. The operator must key in a three-digit serial number for the goods into the computer, which then transposes the code into a tariff heading found in the valuation book. The computer then automatically completes the tariff description field, tariff heading field, value field, and the duty rate for the goods. Thus, only 999 tariff headings can be accommodated by the system. The computer then automatically calculates the duty and the other nine taxes relating to each line of goods. (Since it is connected to the port, it thus calculates certain taxes relating to the port.) After this step, the operator then prints out four copies of the customs computerized declaration.

Duties and the nine taxes that are calculated are

- a. Import or export duty (rate depending on the tariff code)
- b. Sales tax (5 percent cost, insurance, and freight)
- c. Harbor tax
- d. Municipality tax
- e. Administration tax
- f. T/G/B
- g. Profit Tax
- h. Ganciga
- i. Stamp duty
- j. Fuel levy

### **Step 4:**

The agent then takes all documents to the Manifest Section, where the manifest will be manually discharged against the customs entry. Although the computer is connected to the port system, it does not discharge the manifest. Manifests are held in a ship's file, and manifest lines are noted with the entry number allocated by the computer.

**Step 5:**

All documentation is checked against the manifest prior to payment. If any discrepancy is found, the entry is rejected. The agent must restart the process (often with the port authority if there is a discrepancy on the delivery order) and have his documents corrected.

The manifest reconciliation procedure is detailed later in Section V.

**Step 6:**

The entry is then submitted to the cash office, where the agent pays in cash. The computer does not issue the receipt, which must be written by hand (on a sheet from a prenumbered series issued by the Ministry of Finance). The receipt is issued, the account ledgers are updated, and the receipt number is noted on the computer.

The four copies of the declaration are distributed as follows:

- 1) Copy 1 is returned to the agent together with the original receipt.
- 2) Copy 2 is sent to the Ministry of Finance with the duplicate receipt. These are collected together and dispatched to the ministry once a month.
- 3) Copy 3 is sent to the statistics division (the entry copies are bundled together and sent at the end of the day). Note that statistics for Berbera are now taken from the computer so that this copy is redundant. At the Hargeisa airport, the statistical copy should be used to produce the statistics, but since it is not noted with either a tariff commodity code or a heading, it is not possible to produce them with any accuracy.
- 4) Copy 4 and the remaining papers are sent in a bundle to the manifest section, where at the end of each day they are filed in their respective ship's files.

The cash reconciliation procedures are outlined in the section on accounting.

**Step 7:**

The agent must now present the entry, receipt, and invoice to the release office, where the documents will be fully checked and another customs examination officer assigned.

The goods are examined again and tallied against the entry as they are loaded to the importer's vehicle. This is to ensure that goods from another unpaid declaration are not loaded with the duty-paid goods. The police conduct this examination with the customs officers. When a full container is to be released outside the port (rather than the goods' being offloaded onto an importer's vehicle), the goods may again be fully outturned and then repacked into the container. However, this action is at the officer's discretion, and for single-commodity cargos, only the rear doors are opened. Because it is known, for example, how many bags of rice or cement fill a container, this examination is usually enough. Note that this examination reveals that over 20 percent of the cargos are incorrectly declared, mostly because of errors made in the first examination. Such consignments are not released until the declaration has been corrected and additional payment is made to the release office.

## Step 8:

On completion of the examination, the police officers and customs officers record the consignment in separate, similar ledgers. A release order is then issued and the vehicle proceeds to free circulation in the home market.

### Summary of Berbera Port's Export Procedure

Essentially the procedure is similar to the import procedure, but animals and containers are released to the ships rather than to free circulation. The main commodity exported is live animals that remain in quarantine for a 21-day period while they are tagged, inspected, and vaccinated and before they are issued a health certificate by a veterinary officer employed by United Quarantine, an NGO. They are then issued a certificate of origin by the SCCIA and sent to the port for loading.

The exporter must have already booked a place on the ship before arriving at the quarantine station. The animals, following the 21-day quarantine period, are walked to the port preloading area before commencing step 1. As with the other kinds of goods, they are examined and tallied by the customs officer and the steps are followed, with an export duty paid before the release office will issue the final permission to load.

The main difference in the procedure is that the exporter must be registered with an export license at the Ministry of Trade and must obtain an export permit for the animals or goods. Moreover, there is no check against a manifest, which is created once the animals or goods have been loaded onto the ship.

Today, exporters are free to load containers of goods other than live animals at their premises. If they do so, they later take the container to the port and then suffer examinations in which the goods are often outturned from the container, examined, and then reloaded into the container. Thus, most exporters take their goods to the port in their own vehicles and then load them into a container at the port, while the examination is conducted. Exporters need to wait while the declaration is prepared; they normally pay export duties and taxes and eventually obtain permission for the container to be loaded onto a vessel.

### Somaliland Fiscal Regime and Transit Procedure

Somaliland operates border posts on the boundaries with Puntland and Somalia. Somaliland operates no formal procedures with any economic impact, such as warehousing, processing under Customs control, or processing raw materials into manufactured products that are intended for re-export (inward processing relief). Further, there are no free-zones currently in operation, although one is planned at Berbera. Instead, duties are levied in Somaliland on all imported and exported goods, including those destined to and imported from Ethiopia, Puntland, and Somalia.

The government does, very irregularly, offer duty concessions to certain manufacturers. To claim a duty concession, which is applied to individual consignments, the importer must send the bill of lading, invoice, and packing list to the Association of Industries asking for a letter requesting that the Minister of Industry approve exemption of duty for the consignment. If the request is approved, another letter must be sent to the Minister of Finance asking for Customs to be instructed to exempt

the consignment from duty. This is an elaborate and burdensome procedure that in other countries operates in a much simpler manner because it is normally controlled by Customs according to predetermined rules laid down by various ministries.

Some consignments are imported to Somaliland for processing. Frankincense, for example, is melted down and extracted from rocks in liquid form, then exported, and export duty is paid on the finished product. Many Somaliland exporters expressed their desire to add value to goods that they could import and subsequently re-export at an increased price, but they admitted that they were thwarted by the burdensome procedures necessary to do so. Other importers stated that they would engage in repackaging, re-processing, and similar procedures if the facilities and regulatory regimes were conducive to such activities.

There is no formal procedure to relieve the import duty on the raw materials that are intended to be processed into added-value products, except for a similar and complex exchange of letters between ministers and the Customs Department. In many countries of the world, duty relief (inward processing relief) is afforded to traders that are engaged in manufacturing for export. This relief is renewed each year following a customs audit of the trader's stocks and records and of the manufacturing operation. This process involves Customs in the monitoring of the export of the finished product and it allows duty relief to be automatically claimed on all raw materials consumed in the making of the finished products that are declared to Customs at export.

In addition to the procedures of direct export and direct import, there exists a procedure for temporary import and re-export of goods in the same state, but this is an exceptional procedure, which uses nonstandard entry forms. In Somaliland, traders are not allowed to operate their own duty-free warehouses and thus neither engage in storage operations nor in assembly, repackaging, freezing, thawing, or any other simple operations that would be of economic benefit to the region. In the absence of an inward processing relief procedure, neither cottage industries such as garment manufacturing nor assembly of manufactured components exists, since duty must be paid on the raw materials. If a simpler relief system were available, containers of raw materials might be temporarily imported to Somaliland for conversion into finished products for re-export, thereby offering revenue to Somaliland and employment to Somaliland labor.

Similarly, some potential exists for slaughtering animals and for exporting fresh or frozen packages of meat, but there is no customs procedure to facilitate such activities nor is there any cold storage refrigeration available near the port area. Hence it is planned to open a free zone near the Berbera Port that will operate as an alternative to the current procedures.

## Disputes

Traditionally, because of the verbal culture of Somaliland, differences are normally resolved by obtaining spoken rather than written agreement. Customs employees do all the work, and the traders simply carry the paper around to the various desks and provide information to the officers.

Disputes are rare because the traders are not familiar with the classification system and because values taken from the customs valuation book are very low. There is rarely anything to dispute.

However, the government does occasionally raise duty rates without prior consultation and doing so generally provokes widespread protest from the traders.

If there is a dispute, generally the Chamber of Commerce intervenes and mediates with the Customs managers. It also is possible to take disputes to a court of law, but that never occurs because of the expense involved. Traders said that a better dispute resolution process might be needed if the valuation system were modernized; then, the introduction of customs tribunals (consisting of a lawyer, a representative of Customs, and a trusted representative of the trade) would be welcome and would enable any dispute to be settled quickly and inexpensively. TFA Article 4, Procedures for Appeal and Review, would be relevant here.

### Valuation and Classification

Currently, the plain-language descriptions written onto the examination note by the examination officer and transposed onto the manual customs entry must each be assigned a value and a tariff code. The Customs Department uses a valuation book that classifies goods down to the six-digit HS level, with each commodity code having an assigned value.

The current Somaliland Customs Law requires the Customs Department to use the transaction value or the price paid abroad but, in practice, Customs determines the value of the goods from the book. Throughout the world, values vary according to the brand of the goods, the country of manufacture, the country of export, the quantity purchased, and the date of sale (since prices rise or fall in time). None of these factors are taken into account in the Somaliland valuation book. Moreover, there is only one value per commodity code, so that when many products and models are covered by the same commodity code they are all assigned the same value even if the goods are quite different. So, for example, there is a commodity code for mobile phones and another for televisions, while the price of a mobile phone varies considerably according to make and model. TVs are priced differently according to size, make, and model and the features that each has, such as speakers, surround sound, backlighting features, capacity for high definition TV, and whether the TV is LCD, plasma, or another type. Prices cannot be accurately determined by the Somaliland valuation book, because the book is well out of date and does not account for every transaction being different.

Although some attempt has been made to list the various kinds of cars that are imported in Somaliland, the price of a Toyota Hilux 4-seat pickup truck is shown as being US\$1,400, whereas a more realistic price for this vehicle today is well over US\$20,000. Clearly, this valuation has not been updated in 30 years. The mission was informed that rates are high because prices assessed by Customs are known to be low. While import duties on cars may vary around the world, a duty elsewhere set between 20 and 30 percent on this vehicle would range between US\$4,000 and US\$6,000, whereas the 100 percent Somaliland rate yields only US\$1,400. Yet the traders regularly complain about increases in the rates that are applied. Because the traders have no access to the valuation book and do not complete the customs entries, they may not realize how low the values used are. Importers concentrate more on the profusion of taxes and complain frequently about the very high tax rates.



The plain-language descriptions of the goods that are determined by the examining officers are converted to four-digit HS codes. At Hargeisa Airport, the tariff codes were not used, so the team noted that statistics must be extremely difficult to produce with any accuracy.

International practice is for the importer, exporter, or his agent to declare the value paid abroad for the goods and the exact tariff code down to a minimum of six digits. Importers appoint a trained customs agent to prepare a self-assessed customs entry. The agent uses a customs tariff to determine the correct classification for the goods and should declare the price actually paid by the importer.

The team recommends that Somaliland transition toward this international valuation practice and that the trading agents complete self-assessed entries. A reform in the valuation procedure and consequently in the use of more accurate values will likely result in higher revenues for the government and in higher duties and taxes paid by businesses. As such any reform on valuation needs to be undertaken with a more holistic view on the tax and duty structure prevalent in Somaliland. The completion of self-assessed declarations is a prerequisite for many of the TFA measures listed in this report and will enable the reforms to be introduced rationally.

#### Manifest System

A copy of the manifest is received by Customs when the ship or aircraft arrives. The manifests are filed with the ship's or aircraft's papers, and once a declaration has been produced it is compared against the manifest and the goods are noted as having been discharged. The full amount of the goods must be entered—officers are not allowed to clear only part of the load. If there is an excess of goods (over the manifested quantity) or a shortage of goods, then the entry is refused and the agent must return to the port to have the manifest amended. Only if the quantities agree exactly will the entry be accepted.

Several days later, the ship's file is examined and any manifest lines not discharged will be investigated and pursued since they will relate to goods not entered. Only when all lines have been discharged will the ship's file be closed.

Occasionally officers will tally goods against the manifest as they are being discharged to identify whether any surplus, unmanifested goods were carried as sometimes occurs on the dhows that do not have such accurate manifests. The mission team concluded that manifest control was satisfactory but that it would benefit from being automated.

#### Accounting

After being discharged against the manifest, the customs entry is paid at the cash office. Only local currency is accepted, and many large bundles of cash are received for a declaration of average value. Although the number of bundles is counted, the amount of cash inside each bundle does not appear to be counted—it is just accepted as being of a certain value. There are no cash machines available to do this work, and to count each bundle would be excessively time consuming since by the end of the day the count is in terms of the number of pallets of cash that have been collected.



For each entry, a prenumbered manuscript cash receipt is issued, and the total of the receipt is noted on the computer entry. The receipt number is also noted in an accounting ledger. Each individual tax must be recorded on the receipt and must agree with the amount shown on the computerized customs entry.

Nine separate taxes must be listed on the manuscript receipt, thus the procedure to hand-write a receipt is quite time consuming. The Ministry of Finance has not yet agreed, or been asked to agree, to use computerized receipts, which would simply be printed out and would agree exactly with the duties and taxes calculated by the system.

Instead, each manuscript cash receipt must be manually checked against the system to ensure that all the receipted taxes are the same as listed on the entry. At the end of the day (about midday), the account is closed on the computer and a total of cash received is calculated by the system. This is reconciled with the amount of cash received. Also, the total for each tax or budget line is also calculated. Each duplicate cash invoice is also checked again against the system to be sure that it was recorded correctly.

**Photo A6: The Customs cashier at Berbera—with a mere two hours of receipts**



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The team did not see the process, but it was assured that any declarations that were unpaid were followed up after a period of time.

The accounting officers complete the next consecutive number in the accounting ledger and use it as the reference number for the receipt. This is the number recorded on the computer record of the customs entry, and it is different from the prenumbering system used on the receipt, although both numbers are shown in the ledger. This number is used because the prenumbered receipts are not used in consecutive number order, but the effect is to increase the complexity of the process. Hence

today's manuscript system involves the use of two numbering systems and depends on a difficult and rigorous manual reconciliation procedure.

After being reconciled, the cash is paid into the government account at the local bank each day. Provided that unpaid declarations are checked and that the money is reconciled properly, the system was found to be reasonably secure. However, the team was concerned that this large amount of cash would be vulnerable to a potential robbery. Once electronic payment is possible, then electronic transfers of money can be made directly from an importer's account to the government account, thereby eliminating the need for large volumes of actual cash.

#### TFA Article 7.4, Selectivity and Risk Management System

TFA Article 7.4 requires countries to use appropriate selectivity criteria to control the import, export, and transit of goods. The article directs countries to concentrate more on high-risk consignments to enforce compliance and to spend less time and energy on low-risk goods. The agencies can do this work either manually or via a computer system.

In Berbera, risk management is applied manually to import and export examinations since the 15 examiners employed on the first examination and the release examiners undertaking the second examination could not possibly outturn all 150 containers that are landed each day. For the first examination, about 10 containers per day are fully unloaded and during the second examination, the number depends on whether the container is removed from the port.

Traders do not make errors, since they do not sign declarations and virtually the entire work is undertaken by Customs, so any errors are the responsibility of Customs. However, traders are still able to commit offenses. For example, traders are sometimes caught trying to remove a second unpaid consignment from their vehicles, while removing a load with a legitimate, paid consignment. Traders also have been found with additional, unmanifested imported goods.

The customs manager makes reports of traders who have committed offenses, and these reports are circulated regularly to officers. The officers then manage risk according to their judgment. The few noncompliant traders are all known to Customs, and goods are categorized according to risk. Thus, consignments of building materials and cement and goods such as rice imported in sacks are regarded as being of low risk. Customs officers know how many sacks of rice can fit into a container and so can check the manifested goods accordingly.

This manual risk management system is based on targeting the commodity and on employing the knowledge of the examining officers about the limited number of importers and agents. A modern computerized risk management system would automate this process. Factors such as the country of origin, country of consignment, and value are also taken into account in assessing the risk. Certain countries may represent a higher risk than do others, and an automated system should be capable of targeting consignments from high-risk countries. The system could not do so, however, if the country were not included in the computerized declaration information, and the Somaliland declaration currently does not capture country information.

Customs currently does not target controls on undervalued goods (since the values are determined by Customs) and cannot target goods manufactured in or consigned from a particular country. Neither is it possible to target “enhanced controls” (as required by TFA Article 5.1) on food products from particular countries if a Somaliland government agency were notified of a problem with such goods.

Moreover, Customs has been classifying certain cargo as being low risk for many years. All traders are aware of these items, so the effectiveness of this risk-based system is questionable. It is very probable that high-risk goods are being concealed within cargo of low-risk goods because they are rarely outturned or examined. Hence, the team recommends that Somaliland review and overhaul its risk management system to bring it more into line with today’s modern systems.

## Proposed Reforms

### Self-Assessment of Customs Declarations

As is detailed in the discussion of valuation and classification, the team recommends that the importer or exporter be required to produce a self-assessed entry of all the goods in the consignment. This should include a declaration as to the classification, value, and origin of the goods. (TFA Article 10.1 is relevant here.) If such information were required to be declared:

- It would be much easier for Customs to check the information than to have the officer produce the customs entry. The Customs staff and resources could then be employed more efficiently and effectively.
- Customs officials would not be blamed for mistakes made on the declaration; in fact, they could penalize those agents making deliberate or repeated reckless errors.
- The declaration could be made before the arrival of the goods and certain checks could be made before the goods were offloaded from the vessel or aircraft.
- The declaration could be written-off against the manifest automatically as is prepared. Manifests could be received electronically, normally many hours before the arrival of the ship or aircraft.
- If an acceptable value were declared, it could be recorded in a valuation record and compared against similar imported goods. This process occurs automatically in a modern customs processing system, but this is not possible if Customs always determines the value.
- When the ship or aircraft arrived, selectivity could be run on the computer and those goods categorized as low risk could go green and be loaded directly from the ship or aircraft onto an importer’s truck, to be released immediately from the port or airport. Only the goods that required examination and checking would need to be held by Customs.

The mission team was informed that Customs errors are at 20 percent when conducting the first examination. This occurs because there are simply too many containers for each one to be fully offloaded, and it is difficult to list all the separate goods from every consignment, especially when

most consignments cannot be fully examined. In fact, most containers are not emptied and so the officers cannot see all the packages, thus they are bound to make mistakes.

The importers and exporters should be made responsible for declaring their own consignments, thereby making the first examination unnecessary. Having traders make the declarations would replace the first six steps of the current customs procedure and release the staff for the more productive work of checking documentation and of more thoroughly examining the goods.

Under a system of self-assessment, customs officials are still needed to verify that declarations have been made truthfully and accurately. To verify this, the officials will need to check some of these declarations and other documents and they will also need conduct some physical examinations of the customs entry against the goods. This is exactly the work that is today undertaken by the release officers, and this work should be retained and expanded. However, by eliminating the first five steps and the first examination, the customs procedure is made far more efficient and would be much less of a burden to the trade. Customs will then be in a position to better cope with the rapid expansion of work that they will soon face.

### Computerizing the Customs Processing

The Customs Department has done well to develop its own custom-made computer system, which calculates duties accurately and enables declarations to be reconciled against payments. However, several automation solutions on the market today have been developed gradually over time and have much more functionality than Somaliland's current bespoke system. Thus, the team proposes that Somaliland implement one such modern customs automation system. Doing so would enable Customs to introduce transit and customs procedures that are not properly employed today.

The more sophisticated computer systems generally operate with self-assessed declarations made under the Direct Trade Input system. Agents have their own computer terminals connected to the Customs system and instead having Customs staff members keying entries into the system, the customs agent (or the importer or exporter) can do this after some training.

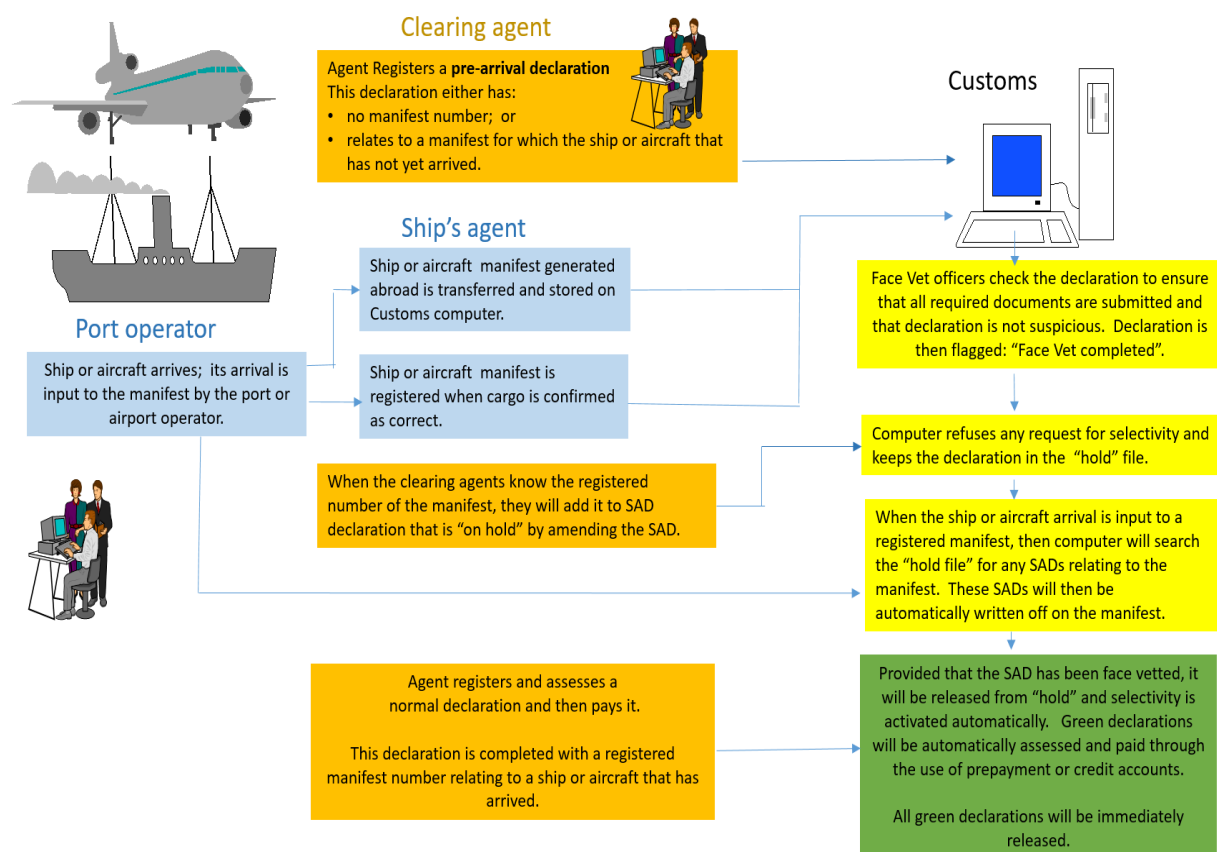
The modern computer systems are designed to help these agents correct their own mistakes. Lists of codes used on the customs entry are available with each box on the declaration that is being completed. If the agent uses a code that does not exist, the computer will refuse it and will give the agent a list of the codes that do exist. Help is given when using the tariff so that a plain-language description of the goods can be entered and the computer will show all the commodities in the tariff where this description is used. The entry cannot be registered until it is correct, and it will normally be checked and written off against the ship's manifest automatically.

The system helps the agent produce a valid and complete declaration, which is normally electronically paid with money transferred directly from the agent's or the importer's bank account directly to the Treasury account. The role of Customs then is to establish that the entry is truthful and correct. The system will thus replace steps 1 to 6 of the manual customs process, and the new procedure can commence at Somaliland's step 7, with the release officer checking and examining the entry against the goods.

A selectivity module operates and is preprogrammed to determine the importers, exporters, and agents that can be trusted. This feature enables Customs to target most of its effort on high-risk consignments instead of spreading its resources thinly across low-risk routine consignments.

Customs clearance entries and transit declarations are made before the arrival of the goods, and exit notes and transit certificates are produced once the goods have cleared customs formalities, enabling the trucks to exit the compound within minutes after the ship has commenced its discharge. (TFA Article 7.1, concerning pre-arrival processing, is relevant here).

**Figure A1: Recommended Automated Pre-Arrival System**



Source: David Wright, World Bank Group

Note: SAD = single administrative document

### Transit System

The team recommends that a transit expert be engaged to assist Somaliland in implementing a transit system since, as yet, Somaliland has no transit system in any form. Many automated systems use a transit module that will automatically control transit and the associated use of guarantees.

The transit declaration is much simpler than a full clearance entry, such as the single administrative document (SAD), and would provide traders with a useful and easily learned introduction to self-assessed declarations. If the recommended computer system is not available, then transit declarations will have to be produced by hand initially, but the sooner that these are computerized, the better. Paper transit declarations, which must be reconciled after the event in order to discharge transit, could lead to problems for trade.

In recent years, a bilateral transit agreement has been negotiated with Ethiopia, but that has not yet been implemented. Somaliland is concerned that it will lose the revenue that it currently collects on Ethiopian consigned goods that are imported and exported via Berbera. If Somaliland were a WTO member, then any transit charges that it collected would have to be commensurate with the services provided (Articles 6.1 and 6.2 of the TFA agreement), so Somaliland could not directly profit from the transit trade.

In the international arena, transit takes three main forms:

- Through transit—across a nation from a border control point (BCP) of entry to a country to the BCP of exit from a country
- Inward transit—from the BCP of entry to a country to an inland clearance office
- Outward transit—from the outward clearance office to the BCP of exit from a country

Currently Somaliland clears all goods to free circulation within its borders at the BCP of entry.

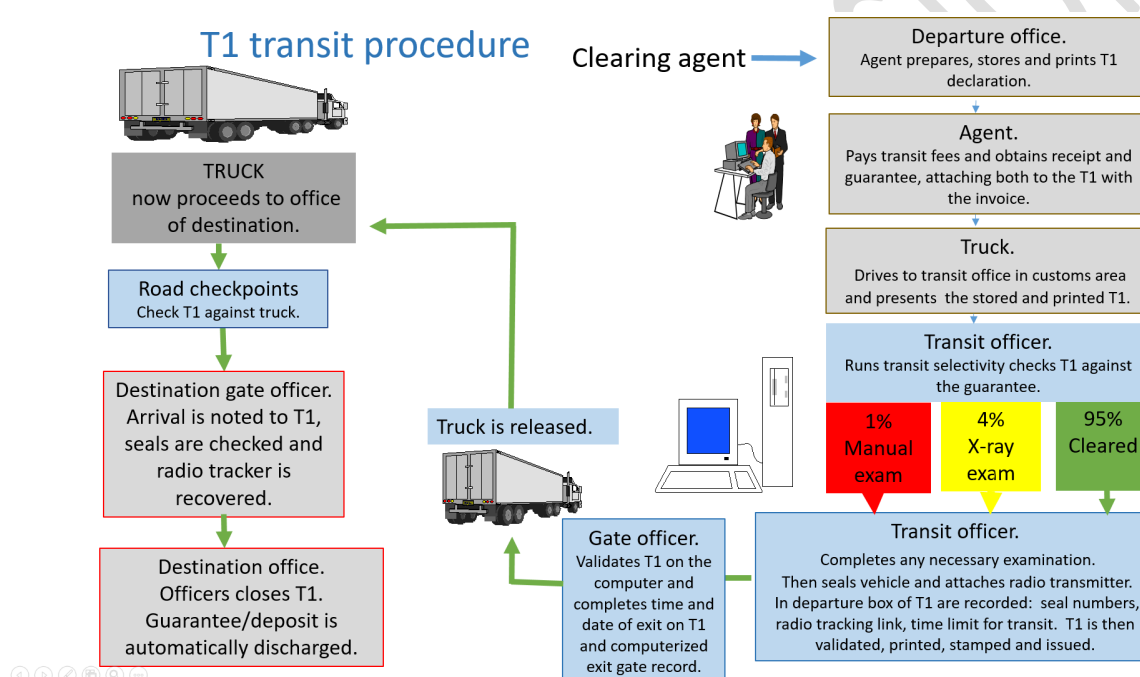
A simple transit declaration is accompanied by basic documentation and involves only a summary description of the goods (being far less detailed than for a multi-item clearance declaration or customs entry). It is made at the office of departure (the office of entry to Somaliland), where a guarantee is normally secured. This guarantee may take several forms but is normally sufficient to cover the estimated duty and taxes that would be liable on the goods if they were imported. The truck is customs-sealed (although open trucks may be used for easily tallied, bulk loads) and it then proceeds to the office of destination (either the inland container depositor the BCP of exit from the country). The truck travels with a copy of the transit declaration (together with other documents such as an invoice and packing list). Checkpoints along the road note the passing of the vehicle, and the transit declaration may include comments on various incidents during the transit movement.

The truck is expected to complete the transit movement within a time period set by Customs and, when it arrives at its destination, the date and time are noted and the seal is checked to ensure that goods have neither been added to nor removed from the load. The transit declaration is closed and a copy is returned and subsequently reconciled with the transit record preserved by the office of departure. These actions occur automatically in an automated transit system but otherwise must be conducted manually. If the truck does not complete the transit movement, the record will not be closed, and a failed transit will be apparent once the time period has elapsed. Thus, the office of departure will act against the guarantee to collect the duties and taxes.



Guarantees can take the form of a customs bond or deposit of money secured against the transit. They can be individual insurance guarantees opened and closed for each consignment or they can be comprehensive guarantees, held by a carrier, valid for a period of a year, and covering multiple truck movements. It is not necessary to calculate the duty involved for each transit movement for a guarantee since the amount of the debt can be determined only when a truck has disappeared or gone astray. Normally a fixed percentage of the value of the whole consignment is taken for the guarantee. In some countries, added security is obtained by hiding radio transmitting devices onto the trucks. Various systems have their own advantages and disadvantages.

**Figure A2: T1 Transit Procedure**



Source: David Wright, World Bank Group.

Note: T1 = goods passing from outside the border through to a final destination outside the border.

### Pre-authentication of Export Cargo

As noted previously, export procedures are similar to import procedures. As stated, few exporters load containers at their own premises since these are frequently outturned when they arrive at the port. A meeting of Somaliland exporters enthusiastically supported the concept of an export loading scheme and agreed that such a plan would save them considerable amounts of time and money provided it was undertaken under rules similar to those applied internationally. Given that an export facility would be available only to trusted and approved exporters, the international rates of export examination would be low, only about 1 percent of consignments, (other than live

animals and restricted products). The facility, then, would encourage exports without drawing heavily on Customs resources.

In many countries, trusted and approved exporters are allowed to load a container that they wish to export within their own premises. They prepare a self-assessed export declaration and seal the container with a prenumbered commercial seal, noting the seal number on the entry. The exporters then notify a designated and nearby Customs office that the consignment is ready to be examined. Customs staff members acknowledge the notification and may decide to undertake an examination or may simply decide that the container can be exported without examination. If an examination is required, it must be undertaken within a certain time period—normally within a few hours and on the same day if the notification is made early in the morning. The exporter collects the customs officers and takes them to the premises to examine and then later to reseal the container.

Once the examination has been carried out, the newly sealed container is taken straight to the port and is loaded to the ship without any further formality; provided that the seals are intact, the container is not examined again at the port. Similarly, if Customs decides not to undertake an examination at the trader's premises, officers will allow the container to be taken to the port and will not normally examine it at the port. Approved traders are also allowed to issue and authenticate their own certificates of origin, which may be inspected by the examining officers when they visit the premises.

## Valuation

The team recommends that a valuation expert review Somaliland valuation procedures and devise a work plan with Customs so that GATT valuation methods can be introduced, in line with the current Somaliland law. The Customs Law of 1973 states that Customs should base values on the transaction value paid by the importer in accordance with the GATT/WTO Valuation Agreement.

The current system whereby Customs determines values in Somaliland is based on the outdated Brussels Definition of Value. But that definition was replaced by the GATT/WTO Valuation Agreement during the Uruguay Round of negotiations and is commonly known as the WTO Valuation Agreement.

The WTO Valuation Agreement stipulates that customs valuation shall, except in specified circumstances, be based on the actual price of the goods to be valued, which is generally shown on the invoice. This price, plus adjustments for certain elements, equals the transaction value, which constitutes the first and most important method of valuation referred to in the agreement. For cases in which there is no transaction value, or in which the transaction value is not acceptable as the customs value because the price has been distorted as a result of certain conditions, the agreement lays down five other methods of customs valuation, to be applied in the prescribed hierarchical order.

Customs officials are entitled to ask for more evidence of value if they suspect that a value has been underdeclared. If Customs officials do not feel that sufficient information has been provided, then the officials may go through the different valuation methods to arrive at a valuation decision.

Traders have the right of appeal and any court of law would consider the evidence presented by Customs against the documents submitted by the trader. It is recommended that a full review of the valuation procedures be conducted and a reform action plan be devised to help Somaliland improve not only its own performance but also its alignment to global good practice.

Customs is also advised to automate the valuation procedure. There are many automated valuation databases on the market, but most of these rely on checking the declared values manually against the database. Customs should therefore ensure that the automated entry processing system and any valuation database that is obtained are capable of working harmoniously together.

Each high-risk product listed in the valuation database should be preloaded with an acceptable value range for the product rather than with a specific value. This is because the purchase price will differ slightly from day to day for different quantities of the product that are procured and even for different kinds of packaging. Declared values should be automatically checked against this value range for each such product.

Ideally, the value range for each product should itself be regularly and automatically adjusted from declared values found to be acceptable by the system. As world prices gradually rise or fall then this change should be reflected in the value range that is held on file. Also, it is important that the tariff used by the entry processing system does not have to be excessively subdivided, since this could render the numbers unwieldy and difficult to maintain.

#### TFA Article 7.2, Electronic Payment

As reported previously, the mission team found that the customs cashier process involves much work as staff members write out elaborate prenumbered receipts, add another set of tracking numbers, and face difficulties reconciling the documents. Further, the acceptance of cash only creates a risk involving traders who bring large volumes of money to the Customs office.

The team recommends that Customs automate the payment process with an accounting module so that the entry processing system automatically issues electronically numbered receipts for the payments received and so that the amount due for each declaration is automatically validated against each receipt that is issued.

The Ministry of Finance, will need to agree to the change, but the use of manual prenumbered receipts should be discontinued because these are capable of being manipulated and they are not easily reconciled, mostly because they cannot be used in numeric sequence. With today's automated cashier systems, the computer prints and issues a consecutively numbered receipt for every transaction. The receipt number is posted automatically to the declaration and to the accounting records and it is not possible to obtain an exit pass to release the goods unless the declaration is fully paid.

The computer automatically produces a consecutively numbered, daybook list of the day's transactions and receipts, the total of which should reconcile with the day's takings for each cashier. Hence, automated cashier systems normally ensure that, provided goods are manifested, there is a closed loop from manifest to release. There should be no leakage of the revenue calculated for

each declaration, provided that the daybook is reconciled against the takings, which is a simple job to perform.

Although such systems generally provide a significant increase in revenue, they do not address the problem of large volumes of cash having to be transported to Customs. Several countries have therefore allowed their main banks to operate the customs cashier module, which is linked to the customs system and enables the trader to move the cash to the government account without the need to bring it to the Customs office.

In advanced countries, these kinds of payment are made by the trader over the internet, from a terminal operated in the payer's home or office. The payers instruct their bank to make payment from their account directly into the Government Revenue Account held in the Central Bank. Such payments are made immediately, and an electronic response is sent to the payer and to the Customs system, confirming the payment and automatically writing the customs accounting ledgers. However, this system depends on the banks' having their own automated systems, including an inter-bank payment mechanism, and it is perhaps a step too far at this stage of development in Somaliland.

#### TFA Article 7.4, Selectivity and Risk Management System

While the manual selectivity system that operates today operates adequately with today's relatively low volume of trade, it cannot be expected to cope with the large increases in volume that are planned for the port. Not only are the factors used to determine the selection criteria insufficient, but there is no formalized system for analyzing and controlling Customs risks other than to regularly circulate a list of traders that have been involved with Customs offenses.

It is recommended that to comply with Article 7.4 of the TFA, which requires Customs to employ a formal risk-based system, customs entries should be selected for control according to a color system in which:

- Red selections have documents checked and cargo examined;
- Yellow selections have documents checked; and
- Green and blue selections have documents checked post clearance so as not to delay the consignment.

Blue is distinguished from green in that there is work remaining to be carried out on the entry, such as to resolve a valuation dispute. Doing so is normal when the selection process is automated.

Customs varies the selected percentages according to the trade volume and the resources available to deal with the work. On a busy day, with many of the personnel off sick, the number of red and yellow selections may have to be reduced and more consignments allowed to be cleared as green. Such decisions would have to be made in any event, but in an automated system the risk management system selects the consignments to examine rather than having the officers choose them. Officers are, of course, free to examine anything they consider to be suspicious, but they cannot neglect examinations for cargo tagged as high risk.

The aim of the process is to identify the compliant, regular importers and exporters that can normally be trusted to prepare customs entries honestly and truthfully. Proportionately, more Customs resources are targeted onto high-risk consignments rather than being spread evenly over the trade regardless of the risk. Customs privileges, such as reduced examinations (possibly conducted at their own premises) and post-clearance control are afforded to the compliant trade, while noncompliant traders face the normal delays caused by examination and checking.

A modern automated system of risk management will select entries for control using preprogrammed selection criteria that mainly involve the trader, agent, country of export, country of origin, tariff commodity code, and value. However, any declared factor, such as if the goods are containerized or loose, can be employed, and the system can combine criteria to select, for example, meat originating in a certain country if imported by an untrustworthy trader.

Normally, a small risk management team (RMT) is employed to set the selection criteria, which must be regularly changed so it does not become predictable to the traders. It is important that examiners and personnel engaged in checking the documents report all results of the examinations. Even negative results are important, since it is not efficient to carry on examining a trader's consignments every time when three or four previous checks have proved negative.

The RMT will analyze examination results and should adjust the selection criteria to eliminate those that do not produce any results and to keep those that are successful. For example, the selectivity page shown in figure A.3 lists the criteria and color selected for the entry and enables the officers to indicate when the required checks have been completed and if there are any comments to be made for the benefit of the RMT.

**Figure A3: Example of Selectivity Control Page**

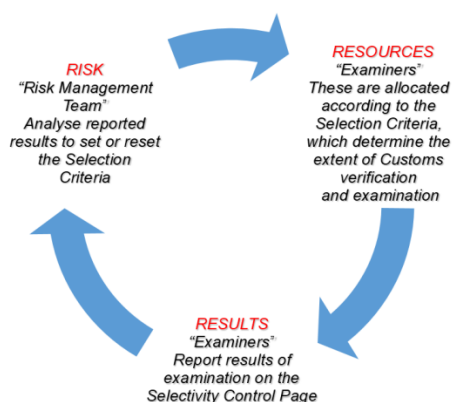
Assigned Section	Assigned Officer	Officer Type	Selection Criteria involved	Work completed	Check	Comments
EXAM	test1	Officer	DAVIDSTEST		<input type="checkbox"/>	
EXAM	obert	Chief	DAVIDSTEST	2014-02-06 09:56	<input type="checkbox"/>	
SCRUTINY	test2	Officer	DAVIDSTEST		<input type="checkbox"/>	
SCRUTINY	test3	Chief	DAVIDSTEST		<input type="checkbox"/>	

*Source:* Test selectivity control page from the UNCTAD Geneva core ASYCUDA World system.

*Note:* Comments can be expanded and multiple lines are allowed.

The illustration shown in figure A.4 indicates how the RMT operates to adjust the selection criteria.

**Figure A4: The Risk Management Cycle**



*Source:* David Wright, World Bank Group

### Proposed New Customs Processing System

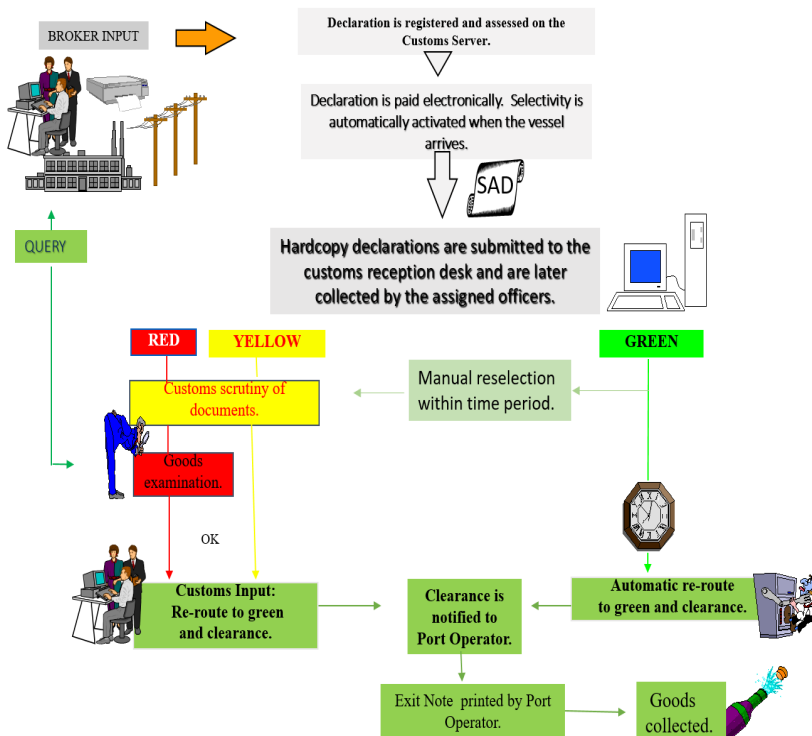
The team recommends that when the new automated customs system is implemented, the customs procedures should be reengineered so that they are based on risk assessment and management of self-assessed entries. Doing so will enable the existing customs resources to be redeployed so that they can cope with the rising trade volumes as the Port of Berbera expands its operations. One such reengineered system is suggested as follows:



- a. **Entry preparation.** Before the ship or aircraft arrives, the agent should prepare a self-assessed declaration (customs pre-entry), which should be assessed by the agent on a computer terminal located in the agent's own office. If the single window is in operation, the agent will by then have obtained the various permits and other documents from the other government agencies, and these documents would be held on a shared file that the government agencies would have access to and that Customs could view. If the single window is not in operation, the agent can scan the documents into the computer and attach the paper originals to the customs paper entry.
- b. **Payment and submission of entries.** The agent will then pay his entry either electronically or to an automated customs cashier. When this money has been accepted, a transaction number should be automatically posted to the entry, proving that it has been paid. Until electronic signatures become legal, the agent should print out the entry, retain one copy for his records, and submit another copy to the Customs reception desk, together with any required supporting documents, (these may be e-documents). Customs will hold the records a reception until the ship arrives.
- c. **Arrival of vessel: Selectivity is run and value is automatically checked.** If the ship has already arrived, then selectivity is run when the entry is paid. If the ship has not arrived, the pre-entry is sent to a computerized hold file. The port authority informs the computer when the ship arrives, and then the entries that are being held are all run through the selectivity module and at the same time are automatically checked against the value file. Goods relating to green and blue entries will be automatically released (after a delay period, if required).
- d. **Automatic assignment of officers.** Once selectivity has been run, the pre-entry or entry may be selected to red or yellow, in which case the officer who must check the documents will be assigned. If the color is red, a different officer may be assigned to examine the goods and a valuation officer may be assigned if the value was not found to be acceptable. As soon as the red examination is completed, the truck will be allowed to exit the compound.
- e. **Other government agencies.** If a government agency is involved—say, a health inspection of food is required—then that agency will be automatically informed that the consignment is awaiting clearance. (Several agencies may be informed if more than one is involved.) Each agency will operate its own selectivity control (red/yellow/green).
- f. **Clearance and exit.** Other consignments that are not selected will be cleared to green after a delay period (say, one hour) and in this event the port authority will be informed that the goods are cleared and that it will be able to produce an exit note (one for each vehicle leaving the port, which lists the goods loaded to the vehicle. Note that only cleared goods can be listed on an exit note). The port will be able to load green containers directly from the ship to trucks or to the loading yard. Following completion of examination or documentary check of red or yellow entries, the officer clears the entry and the clearance message is sent to the port authority.

- g. **Exit examination.** The exit note is checked against the exiting vehicle and its cargo (a quick tally of the goods) by the exit officer (police and
- h. customs) and against the Customs computer at the exit gate. If the document is genuine, the truck is allowed to exit.
- i. **Release of agency-controlled goods.** Customs cannot clear goods if the cargo is selected for control by any other agency. When the health inspectors and the quality assurance personnel have completed their examinations, they will each set their own agency color to green and, once all agencies have done this, only then will Customs be able to clear the goods, after which the port operator can issue the exit note.

**Figure A5: A proposed fully automated clearance system based on “Management of Risk”**



Source: David Wright, World Bank Group

## Section IV: Operations in the Port of Berbera

### The Port Authority, Marine Services, and the WTO TFA

Recent and ongoing developments at the port of Berbera will affect the flow of cargo through the port in several ways, not least of which is the need to improve cargo processing and the provision of marine services. An improvement in cargo processing through, in part, the adoption of the articles of the TFA without a corresponding improvement in the provision of efficient marine services will undoubtedly hinder the full benefits of trade facilitation. In this respect the following observations, comments, and recommendations relating to port services are intended to assist the government of Somaliland and, in particular, the Somaliland Port Authority (SPA) in identifying areas in which action—some of which is urgent—is required to meet future challenges.

The scope of this review concerns port operations at the port of Berbera and does not include any cargo handling operations, which have been the exclusive domain of Dubai Ports World under a concession agreement since April 2017. The review is therefore confined to an examination of the current port rules and regulations and support activities associated with the safe movement of ships in and out of the port or within the port limits.

The findings of this report are based on discussions with the Harbor Master and his departmental subordinate officials, as well as observation of the physical environment and equipment currently in use and out of service. These discussions were occasionally limited and disjointed. Brief discussions were also held with the DPW Operations Manager concerning the movement of ships in and out of the harbor and with the DPW Finance Manager regarding ongoing development and deployment of cargo handling equipment, trade volumes and impending extensions to the port. Financing of developing the port, port charges and tariffs were not discussed for reasons relating to confidentiality. For more detail, see Annex B.

### Overview of Berbera Port

The port of Berbera is located on the main Europe to/from South East Asia trade route, approximately 150 miles southeast of Aden, Yemen. The port is established in a naturally occurring sheltered bay protected from the open sea by a long sand bar. The extreme southwest tip of the sand bar is marked by a lighthouse. Water depths in the bay exceed 20 meters with depths of 8 to 13 meters alongside the nominated five berths on a continuous off-shore 650-meter quay composed of concrete on piles and connected to the land by two causeways. Expansion plans include extending the quay westward by 400 meters and adding a new four-lane vehicle causeway that will connect the new facilities to the mainland.

The port limits, according to the latest chart (from 1989) and confirmed by the harbor master's office, are delineated on map 2 by a dotted line that runs southwest from the end of the sand bar

lighthouse until it strikes the mainland the west of the port, thereby enclosing the bay. The entrance to the harbor is relatively deep, though deep-drafted ships are restricted to a narrow channel because of underwater obstructions close to the fairway. Ships must enter by closely following the line bearings of two light structures located on the eastern shore of the harbor. Vessels approach the port either from the designated anchorage (due west of the port and outside the port limits) or directly from the open sea approaching from the north.

The port, though protected from the effects of heavy ocean swells, is subject to high winds from the southwest (up to 40 knots) during the summer monsoon periods (April to November) and to a

## Map 2: Location and Layout of Berbera Port



Source: World Bank illustration using Google Maps satellite view.

lesser extent (10 to 20 knots) during the winter months (November to March). Although the bay is sheltered, currents within the harbor, driven by a tidal range up to 2 meters high measured from the low water mark and seabed topography, run at the rate of 3 knots or more. It was reported that

occasionally during spring tides, seawater breaches the quay face and inundates parts of the working berths.

The port currently has no rail-mounted or fixed quay cranes; therefore, cargo operations are carried out using ship's gear or shore-based mobile cranes. All cargo operations at Berbera since April 2017 have been conducted by Dubai Ports World (DPW) under a concession agreement signed in 2016. Although it has conceded the cargo operations to DPW, the SPA retains the responsibility for all other remaining port-related functions, including pilotage, towage, mooring, conservancy (maintenance of harbor depth and navigational aids), radio communications, search and rescue, pollution control, port state control, and ship clearance.

The port handles a full range of cargo, including containers, bulk products (primarily construction materials), general cargo from both ocean-going vessels as well as dhows, oil through a dedicated oil berth, and very large consignments of livestock. Cargo volumes have been static for some years but are now expected to rise under the DPW concession agreement, which includes drawing Ethiopian cargo away from Djibouti and developing Berbera as a hub port for East/West and North/South trade. Indicatively, container traffic before DPW involvement was 50,000–60,000TEU<sup>23</sup> per annum. DPW advised that levels have since risen by 30 percent. More than 10,000 TEU was handled in the month of October 2017 alone, in part due to a large consignment of US Agency for International Development cargo. The cargo operations are now being conducted with fewer port workers than previously, and some new equipment has already been introduced to improve performance. DPW intends to increase the capacity of Berbera to 1,250,000 TEU by the end of a three-phase investment plan. An interim increase in capacity under Phase 1 that entails a 400-meter extension of the quay and three ship-to-shore gantry cranes is scheduled to begin within 12 months of handover of cargo operations.<sup>24</sup> Importers reported that since DPW took over cargo operations handling charges have risen by 7 percent in six months.

A cargo shed situated close to the eastern berths where general cargo is handled is used to store loose cargo. The berths to the west, where water depth is greater (up to 16 meters), are used for container operations. Empty containers awaiting shipment are block stacked up to six containers high, close to the berths, and arranged according to ship operator with full import containers to the rear of the berth and onshore in a new stacking area. Inspections and destuffing operations are confined to the rear berth and onshore locations.

Vessels can be berthed and unberthed 24/7, although because of failing navigational aids and the absence of a tug, some restrictions are occasionally applied, causing delays to ship schedules.

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<sup>23</sup>TEU, twenty-foot equivalent unit, is the basic acronym used to describe a 20-foot standard container.

<sup>24</sup>According to the DPW document *Summary of Berbera Port Deal prepared for IFC*, under Phase 1 concession container capacity will increase to 550,000 TEU. According to the DPW chief financial officer, contracts for quay extension and dredging were due to be signed in the first quarter of 2018.

## Somaliland Port Authority

### General Managers Office

The legal status of the SPA could not be established. No laws could be identified that assign to the SPA legal responsibility for the functions that it carries out together with the responsibilities normally assigned to a government's competent authority for marine matters. The team has directed questions regarding the legal status of the SPA and the name of the agency responsible for maritime competent authority matters to the Minister of Justice, and team is still awaiting an answer.

It was difficult to obtain any documented laws, rules, regulations, and procedures for the port function other than those offered verbally (see the section on the harbor master).

At the time of the mission, responsibility and management of the SPA was assigned to the general manager. Following the transfer of all cargo operations to DPW in April 2017, only two departments (Harbor Master and Financial/Administration Manager) remained within the SPA management structure.<sup>25</sup>

In the post since October 2017, and at the time of the visit, the general manager was mainly engaged in resolving issues arising from the changes to cargo operating procedures brought about by the concession to DPW, including future expansion of the port—that is, dredging and the first stage of extending the quay to the west by 400meters. Regarding dredging, there was some debate as to who is responsible for the cost.

### Harbor Masters Office

The harbor master (HM) is effectively responsible for all day-to-day marine operations associated with ships entering and leaving the port. The incumbent, appointed in February 2017, was formerly a ship's captain with 40 years of sea service and familiarity with the port through experience gained from regular calls to Berbera. It is understood that the previous harbor master had been in ill health and absent for some time. The HM's office is situated in a building at the seaward end of the present quay and, under Phase 1 expansion plans, is to be relocated to a new building at a different location in the port.

From conversations and observations in the HM's office, the team noted an absence of formal, documented port rules and regulations. Inspection of the few technical books available (a SOLAS-IMO publication concerning Safety of Life at Sea; a MARPOL-IMO publication concerning Marine Pollution for ships; and a STCW publication regarding Standards of Training, Certification and Watchkeeping) indicated that marine operations are carried out according to long-established operational procedures rather than procedures based and documented on local requirements and

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<sup>25</sup>A copy of the concession agreement was requested to identify the specific areas of responsibility transferred to DPW and by default those remaining with the SPA. However, the general manager was unable to provide the document, or extracts or clauses, even with sensitive financial information omitted.



best international standards and practices. Further, there was no evidence of documented policies, rules, and regulations for marine operations covering pilotage, towage, radio communications, safety and health of port service providers, pollution prevention, emergency preparedness, or harbor conservancy matters. It should be noted that while the IMO conventions and standards principally apply to ships, such publications contain elements of minimum standards that apply to some port activities. Knowledge of the requirements of the International Labour Organization (ILO) Maritime Labour Convention (MLC) that concern minimum standards for seafarers was weak. Both the IMO and ILO conventions are used as the basis for flag and port state control inspections. Recognizing that Somaliland is not a member of the International Maritime Organization, the team still believes it would be reasonable to expect the SPA and the HM to carry out such inspections for the purposes of good international practice and as a means of ensuring ships that call at Berbera do not pose a safety and pollution threat to the port.

The SPA has assigned the requirements and responsibilities of the International Ship and Port Facility Security Code (ISPS Code) to DPW, and the ISPS Code status of ships calling at Berbera is managed by DPW with little or no apparent SPA involvement. DPW therefore controls access to and from the port, save for military checkpoints on the approach roads close to the port entrance. Port security also includes responsibility for dealing with emergency situations on the cargo berths.

Under the concession arrangements, the harbor master staff works alongside DPW operations staff in the production of a ship call register and the management of berthing arrangements for all classes of vessels calling at the port, including dhows. A comprehensive plan is regularly produced and circulated by DPW. The plan shows the name of vessels on the berths together with the times of expected arrivals and departures and cargo volumes to be worked. The plan serves as a tool to manage the berths, including cargo disposition in the port and future planning.

Ships calling at Berbera are required to complete a single-page arrival form (Marine Department/Pilot Form) that contains, inter alia, details of the ship, owner, number of crew, gross and net tonnage, and other vessel dimensions, berth-related information, space to record “remarks,” the ship master’s signature, and a distribution list for the form. The form is endorsed by the finance department to indicate to the radio room that all port charges have been paid and that a vessel is allowed to leave the port. The form fails to meet many of the basic requirements of the Facilitation of International Maritime Trade Convention, in particular recent provisions contained in amendments to the convention that include the following:

- 2002 amendments relating to stowaways and notification of dangerous goods on board
- 2005 amendments concerning ISPS Code notifications and status and dealing with injured and sick persons on board, providing a place of refuge for ships involved in emergency situations
- Making available a “single window” portal for providing information on customs and immigration in a standardized format and for providing advanced notification of waste delivery requirements and port reception facilities

Most notable of the above amendments are those related to the provision of information covering dangerous goods and the use of a single window for the provision of all arrival information. With specific reference to dangerous goods, at least two incidents (fires) were recorded in the port during the last 6 months of 2017 (after DPW took control of the cargo operations).

Operational responsibility for port conservancy and dredging, including port infrastructure, is assigned to the SPA and falls within the domain of the HM. In this respect it is evident from observation that work to preserve the quay front (fenders and the front wall of the concrete quay) has not received the attention it should have received. Reinforcing bars are exposed in places where ships have come into contact with the quay wall and the damage is exacerbated by a lack of adequate fenders that would protect both the quay and the ships.

Conversations with the SPA general manager and the financial controller of DPW revealed an apparent difference in understanding as to who is responsible for dredging the berth alongside the proposed quay extension. While the water depth is adequate to accommodate current ship calls (16meters), it is insufficient to accommodate larger ships with a fivefold increase in carrying capacity that require a minimum depth of 20meters.

At the inner end of the existing quay, some silting has occurred due to sand buildup caused by subsurface currents and the effects of silt buildup from rain runoff. Recent soundings taken by the harbor master suggest the water depth over the years has decreased from 8meters to 6meters.<sup>26</sup> It is evident that a hydrographic survey has not been carried out at the port for some years, thus water depths may be significantly different from those shown on the last marine chart (British Admiralty Nautical Chart 3530) published in 1989. A vessel stranded on a shoal or sand bank within the harbor due to undetected and unreported changes in water depth would have significant effects on the arrival and departure of ships.

Limited revenue from cargo volumes over the years has had an adverse effect on the upkeep of navigational aids. For example, buoys and navigation lights have not been maintained, rendering them ineffective during hours of darkness. Other examples of a lack of maintenance include the following: (a) the lamp of one lead light was not working; (b) a light mounted on the lighthouse at the harbor entrance glowed irregularly instead of in a set sequence; and (c) buoys and their securing mechanisms corroded and were heavily coated with crustaceans that will soon likely lead them to sink, producing another danger to navigation.

The temporary absence of one light normally does not significantly increase risks to shipping. However, lights that have been out of service for a long time or those that have a characteristic different from what has been published and that have not been reported yet to hydrographical offices pose significant dangers to ships that are navigating offshore but inside Somaliland territorial waters. Under normal circumstances, changes (temporary or permanent) to navigational aids are reported by Somaliland's hydrographic agency or to the chart publisher, or both, who in

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<sup>26</sup>Depth reduction at the inner berths was discovered in late 2017 by the harbor master, who took hand soundings using the pilot launch and measuring tape.

turn issue navigational warnings to mariners. In Somaliland no such procedure or mechanism for reporting exists.

Insurance to cover accidents and damage to port installations is provided by the UK P&I Club, a mutual insurance club, according to the harbor master. He said he was unaware of any approach made to reduce the premiums after cargo operations were transferred to DPW. Record of claims and coverage details were not available during the mission.

### *Recommendations*

- Identify, obtain, and update the library of international publications relating to port and marine service activities. Consider joining international trade organizations such as the International Association of Ports and Harbors as a source of reference and advice.
- Introduce a clearance procedure that ensures that ships entering the port are safe and that ships' papers, such as those issued by flag states, classification societies, and international organizations, are valid and can be verified through electronic means.
- Develop effective port state control procedures.
- Introduce a system that ensures that the SPA is notified of and, where applicable, restricts the type and quantity of dangerous goods entering the port.
- Devise a short-term and long-term plan for the maintenance of the port infrastructure and obtain funding for repairs to navigational aids; consider increasing port charges to fund this maintenance.
- Arrange for a hydrographic survey of the harbor to establish water depths through the port.
- Review the cost of P&I (protection and indemnity) insurance with a view to obtaining a reduction in premiums because the SPA no longer is responsible for cargo operations.

### *Pilots*

Ships entering and leaving Berbera are obliged to use pilots.

The SPA at Berbera maintains a register of six pilots who are available 24/7. There are three senior and three junior pilots on the roster, generally with one junior pilot accompanying a senior pilot. It is not known if pilots possess qualifications recognized outside Somaliland. The current system of pilot training consists of a combination of academic qualifications, such as a bachelor's degree from the Maritime Academy or a college in Ethiopia, and a period spent in the radio room in Berbera followed by on-the-job training as a junior pilot. Junior pilots work initially under the direct supervision of senior pilots before being allowed to pilot smaller craft entering and leaving the port. It is not known how long this system of qualifications and training has been in operation or the length of time that is required for a junior pilot to become a senior pilot. The record of pilots involved in incidents, near-miss situations, or both was not discussed, though one recent event of a near collision with the quay was described by an importer who personally observed the incident.

Although the port is relatively sheltered, periods of high winds sometimes combine with strong tidal flows to challenge the pilots trying to safely maneuver ships, especially in the dark. Ships currently calling at Berbera do not present a particularly high freeboard (containerships up to

3,000TEU with many containers on deck), but this is likely to change if the port becomes a hub port and is required to service ships up to 15,000 TEU, which are highly susceptible to the effects of wind. The introduction of such large ships could quickly follow the completion of the first quay extension scheduled for mid-2019. The team determined that no provisions or plans have been developed to train pilots to guide such ships or to maneuver ships alongside berths that are equipped with ship-to-shore gantry cranes, such as those scheduled for installation in 2019 under the Phase 1 expansion plans.

Pilots board arriving vessels within 2 miles of the harbor limits. Passage time to berth is approximately 30 minutes from the time the pilot boards. Pilots are equipped with portable VHF radios and automatic/manual inflatable life jackets. Access to ships is via pilot ladders (manual and motorized) depending on the freeboard of the vessels, which can be more than 10meters long. A single outboard engine open launch of unknown age is used to ferry pilots to and from ships. The launch is not modified or customized to provide shelter to pilots and crew during adverse weather and sea conditions. While the craft may have been considered adequate at one time, it lacks the safety features usually associated with craft operating in most ports.<sup>27</sup> Further, with a greater volume of ship calls and the types and sizes of such ships likely to call in the future, the current craft should not be considered fit for the purpose.

Although pilot boat crews undoubtedly possess the necessary skills to maneuver the pilot boat, the absence of standards for lifeboat operations and procedures in the HM's office suggests that best international practices, such as holding emergency drills, are not being followed. In addition, no manuals, standards, publications, or procedures covering pilotage operations were apparent. This suggests that some capacity building is urgently required to support the pilotage function, especially in view of the forthcoming changes in ship size and characteristics and the associated increase in risks that accompany a change in operating procedures.

### *Recommendations*

- Establish a register of pilot performance and near-miss incidents for regular review and identification of improvements to procedures and training issues.
- Replace the current pilot boat with a modern launch that offers full protection from the elements during day and nighttime operations. A new pilot launch should consider what will be needed when significantly larger vessels visit the port in the future. Commence drafting specifications for the new craft now.
- Conduct a needs analysis to identify current and future demands for equipment and personnel and evaluate the needs against current condition and competence.
- Develop, introduce, and review operating procedures and train pilot launch crew on safety issues as well as on the safe operation of the new launch.

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<sup>27</sup> Normal requirements include a secondary means of propulsion, lifebelts and other materials for the recovery of personnel in man-overboard situations, searchlights, recovery ladders, distress flares, covered cabins, and flat platforms for embarkation and disembarkation.

## Towage

Towage services at Berbera have now ceased to be available because the single tug operated by the port authority (“Saaxil,” built in 1979) is beyond its designed life cycle, uneconomical to repair, and unsafe to use in its dilapidated condition. The tug’s starting motor (auxiliary and original) no longer operates, the firefighting facilities and towing hook have long ceased to work, and the ship’s plating—areas of both deck and above the waterline—have been damaged and wasted through age and use throughout its 38 years of operation. The team learned that the maintenance program has for some years been hampered by the unavailability of spare parts (no longer manufactured) and make-shift repairs on effectively obsolete equipment. Dry docking (part of every ship’s maintenance plan) previously entailed a voyage to a Gulf of Aden port, but because the tug is in such poor condition, this option has long been abandoned as impractical. Repair and maintenance, therefore, had for some time been carried out on a “breakdown” rather than planned basis.<sup>28</sup> No towing ropes or wires were evident, and it is understood that towage has been dependent on the use of a ship’s own ropes and wires that may or may not have been tested and maintained in a safe and workable condition.

The tug was manned by nine people: captain, chief officer, chief engineer, second engineer, four able-bodied seafarers, and one cook.

The requirement for towage services is well documented, and provision for one or more new tugs has been recognized by the allocation of US\$5million in Phase 1 of the concession agreement budget. Although there is an undoubted need for a replacement tug, no specifications were available to indicate whether any planning has been carried out to guide the preparation of a tender or procurement document developed for the purposes of tug selection.

It should be noted that tugs, and ships, have undergone significant technical innovation since the existing tug was built. Tugs are now less general purpose and are designed to satisfy specific operating criteria. Propeller systems that were predominantly direct drive now include options for variable pitch and azimuth pod technology. Concurrently, ship size and construction have changed, with reduced scantlings (frames and plate thickness) so that tugs are restricted to contact at specific strengthened zones to avoid hull damage. Stern and bow thrusters are also fitted to high-sided vessels to aid in docking and maneuverability, partly reducing the need for tugs but at the same time limiting the zones where tugs can apply force. In summary, the purchase of a tug is no longer a straightforward process but one that requires careful consideration of the tug’s operating environment.

While there was excitement at the prospect of acquiring new towage equipment, the harbor master’s staff was focused on the type of tugs with no mention of the considerable requirements for training and familiarity or maintenance. There appeared to be no planning, as previously noted,

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<sup>28</sup>The terms “breakdown” and “planned,” as they refer to maintenance systems, are expressions in common use in the ship management industry. “Breakdown” refers to maintenance that is not carried out until the equipment fails to operate as designed.

for the introduction of new tugs. Training should address both machinery and operating characteristics. Because any new tugs will be expected to handle larger vessels than present crews have the knowledge and competence to handle, a training program that includes theoretical as well as practical aspects needs to be developed with some urgency. Such a training program should inevitably include hands-on training at another port that engages in similar operations and simulator training for senior personnel directly engaged in towing operations. Training programs should include all tug crew members and should not be restricted to the tug captain and chief engineer. If SPA determines the need for two tugs, the authority will need to consider engaging at least two if not three crews to allow for 24-hour operation and the rotation of crews.

Any new tonnage acquired should be accompanied by details of the planned maintenance system for the vessel. In addition to identifying and obtaining the necessary stock of spare parts, the SPA must consider engaging engineering staff with the appropriate qualifications and experience to professionally maintain the tug(s) according to the builder's specifications. Modern maintenance systems are computer based, especially for keeping records such as those for equipment running hours. Thus, engineering staff must be capable of using or instructed on the use of such computer-based management systems. SPA staff should keep in mind that the cost of maintaining and establishing a stock of spare parts, including consumables such as filters, can amount to 20 percent of the purchase price.

Planning for the replacement tug should include the safe and responsible disposal of the existing tug before it becomes too dilapidated to be moved or recycled in a controlled manner.

Support for replacement tug selection and for the identification of training needs and capacity building is required in the near future.

### *Recommendations*

- Urgently replace the current defunct tug.
- Develop tug specifications for a tender document that outlines the SPA's requirements—and obtain expert advice if necessary.
- Determine staffing requirements and develop job descriptions and training programs for all tug crew members in line with the anticipated staffing requirements of the new tug(s).
- Ensure that maintenance personnel are also trained and have the requisite education and qualifications to manage the new technology.
- Ensure that special attention is paid to the training of those who command the tug to ensure that training includes theoretical and practical (simulator and on-the-job) elements before the new tug enters service.
- Ensure that a thorough planned maintenance system is developed and implemented and include the acquisition of the necessary stocks of spare parts.
- Draw up plans for the demolition and safe recycling of the defunct tug.



## Radio communications

Radio communication is at the heart of managing harbor operations since it allows stakeholders to maintain contact with each other and coordinate the movement of craft. This is especially true for individuals who are engaged in ship operations and particularly during the hours of darkness when tugs, pilot boats, and linemen cannot be seen.

A team of seven people (one senior officer and six radio operators) attend the radio station on a continuous 24-hour basis, working in teams of two. Hours of work, on a rotating basis, are from 6 a.m. to 2 p.m., 2 p.m. to midnight, and midnight to 6 a.m., with the supervisor working a day shift. The training and qualifications of radio operators is well established, though not well documented. All operators must have earned a bachelor of science degree in a marine-related field, from either the Berbera Academy or a similar institution. Training in the operation of the equipment is by hands-on experience provided by the supervisor and then by senior radio staff until the operator is considered competent. Reviews of operators' competence and performance were not revealed during interviews.

The radio room in Berbera is located on the top floor of the HM building. The following equipment is installed and in use:

- Sailor System 5000 MF/HF radio telephone, installed in 2012
- Sailor RT 5022/RT5020 VHF/DSC duplex radiotelephone, installed in 2012
- Olex UAIS Transponder (Automatic Identification System for ships), installed on a laptop in 2012
- Furuno Radar/ARPA, compliant with MSC 192(79) FAR-28x7 Series, Model FAR-21x7 (-BB) Series, installed in 2012
- Olex Weather Station, installed in 2013
- Victron Energy battery system for external power supply

When members of the team asked about the technical operation of the various items of equipment, radio operators present were unable to provide any information on the functionality of the equipment other than what they used the equipment for. When asked about their familiarity with and the location of the respective operating and installation manuals, radio operators took some time to locate and produce the respective manuals, which were in mint condition and showed no evidence of having been consulted since the equipment was first installed. The Sailor radio telephones satisfy the IMO's Global Maritime Distress Safety System requirements concerning search and rescue operations for ships in distress. However, there were no visible signs of procedures to be followed upon the receipt of a distress signal or evidence that emergency drills in which the radio function would play a pivotal part had been carried out at the port.

All the equipment listed was fitted in-line on a purpose-built table with apparently no consideration to ergonomics or practicality of use. For example, the radar/ARPA was at one extreme from the location of the radios, requiring the operator to stretch the handset wires of the radio to visually identify the vessel with whom the operator was communicating. That flaw may explain why the

outer covers of the telephone handset wires were worn, exposing the individual wires to further damage. Such damage was also probably made worse by ambient factors, especially during the high summer temperatures.

The weather station was not fully functional due to a problem with the sensors; the radar/ARPA was not fully operational because the waveguide located on a 30-meter mast outside the office was locked in a set position, thus it was not rotating; and the automatic identification system chart details were not up to date due to the lack of access to software updates.

The cost of rectifying the problems is probably a deciding factor in the deficiencies. Because no agents or equipment suppliers are available locally, the cost of small repairs is significantly inflated by the travel costs of technicians.

The team was told that the present radio room will be relocated to a new building as part of the Phase 1 quay extension plans.

The radio room is the final point of reference for pilots before they commence the unberthing of the vessels. Only when the radio room has received an annotated copy of the Pilot Form indicating all port fees have been paid are pilots allowed to commence port departure procedures. Copies of the annotated form are retained and filed in the radio room.

A working log book of all radio calls is maintained and extracts are subsequently entered into an official radio log book by the supervisor.

The present equipment in use is adequate for the purposes intended, providing it receives the necessary attention to enable all functionalities to be restored in the not too distant future. There should be formal reviews and appraisals of radio operators and an ongoing training program so that all operators have a fuller understanding of the capabilities and restrictions of the equipment at their disposal.

### *Recommendations*

- Improve the knowledge of radio operators regarding the operation and functionality of the equipment available to them.
- Regularly conduct emergency preparedness drills and simulations to reinforce the operators' ability to respond quickly and effectively to an incident.
- Prepare an equipment status report and obtain funding to make repairs to existing equipment currently not fully functional.
- Introduce a computerized system of logging contacts with the port confines and ships calling at Berbera to enable better analysis of information and data covering radio operations.
- Review the clearance procedure to remove the reliance on a paper-based process.
- Prepare a plan for the relocation of the radio room so that equipment is optimally positioned both for use and for reducing wear and tear.

## Berthing gangs

Under the conditions of the DPW concession, the HM retains responsibility for the provision of workers to secure and release vessels from the berths (berthing gangs). Although a review of their practices was not possible due to time constraints and lack of accessibility during berthing/unberthing operations, such workers perform important and risk-laden tasks working close to the quay wall and close to open water and handling heavy, wet ropes. The tasks performed require physical strength and good health as they are carried out during all weather conditions and at night. The welfare of these workers should not be ignored, especially in view of the risks to health to which they are exposed. Thus, the SPA should ensure that workers are properly trained and aware of the risks to their wellbeing, are instructed in the use of protective equipment (gloves, clothing, protective footwear, life jacket operation, high-visibility jackets, and so on), and learn the correct and safe way to handle ropes and wires.

## Recommendations

- Conduct risk assessments on the work of berthing gangs to identify the inherent risks in the work routines.
- Develop training on safe practices and identify personal protective equipment using the findings of the risk assessments.
- Develop work procedures that include the use of personal protective equipment and its effect in eliminating and reducing risks in the workplace.
- Develop and implement a health screening process for all SPA employees—in particular, berthing gangs and other workers for whom physical exertion is part of their work routines.

## Berbera Maritime and Fisheries Academy

The academy is located a short distance from the port in Berbera. It is financed to varying degrees by the Somaliland government, DPW, international organizations, and nongovernmental organizations (NGOs). Finances come from a set amount from the central government, monthly contributions from DPW (soon to change), and grants or specific project funding from international organizations and NGOs. The academy was established in November 2012. A memorandum of understanding on academic cooperation was signed between the World Maritime University (WMU) and the Berbera Maritime and Fisheries Academy (BMFA) on February 22, 2014, when the current academy president (appointed December 2015) was academy vice president. The agreement enables links in the field of marine affairs, broadly defined to include maritime safety, security, and marine and maritime environmental management. Specific areas of cooperation include potential exchange of faculty members, academic and information exchange, education of BMFA faculty and students at WMU, and development of joint scientific or technological research projects. The president possesses a master of science degree in port and shipping administration obtained in 1992 from the WMU in Malmo, Sweden, and a bachelor of science degree in accounting and management obtained in 1987 from the Swedish International Development Cooperation Agency-Mogadishu, Somalia.

The academy has six classrooms, a central hall with projection facilities, a library with more than 20,000 publications, a computer room with more than 20 personal computers, workshops and working areas for manual skills training, and administrative offices including a separate President's office.

A small permanent staff of eight lecturers is maintained and supplemented by with four part-time and visiting lecturers from various educational establishments and industry.

The bachelor of science maritime courses on offer are as follow:

- Port and shipping management                      duration 3 years
- Nautical science    duration 3 years
- Marine engineering                                      duration 4 years
- Fisheries and marine science                      duration 4 years

The total number of students enrolled at the academy for 2017 were as follows:

- Port and shipping management:                      53 students
- Nautical science:    17 students
- Marine engineering:                                      3 students
- Fisheries and marine science:                      9 students

A total number of 82 students are enrolled for the current semester.

The annual number of students that graduate after paying US\$240 per year of study differs but ranges around 80 students. The following students graduated in three batches during2017:

- First batch: 21 students studying marine engineering, and 30 students studying nautical science,
- Second batch: 10 students studying nautical science, and
- Third batch: 24 students studying fisheries and marine science students.

Apart from the memorandum of understanding with the WMU, the academy has no other affiliations with any other educational establishment both within Somaliland and abroad. In addition, because of the absence of a maritime affairs competent authority in Somaliland that sets national standards, it is unlikely that the qualifications issued by the academy would be acceptable and recognized outside Somaliland. The situation is further complicated by Somaliland's not being a recognized state.

It is believed that an arrangement exists with the Ethiopian Maritime Affairs Authority—in Ethiopia, an IMO “White List country”<sup>29</sup>—that might provide for some Somaliland maritime qualifications to be granted the Certificates of Equivalency that would allow holders to work on ships outside Somaliland territorial waters. However, where no equivalency arrangements exist, such Somaliland-issued maritime certificates are not valid outside Somaliland territorial waters. By extension, academic degrees earned by students at the academy may also be regarded by outside educational institutions as not meeting international norms.

The lack of an effective competent authority and affiliation with internationally recognized organizations seriously affects the value of qualifications issued by the academy, and some capacity building is necessary to turn this situation around.

### *Recommendations*

- Develop a plan for qualifications earned at the academy to gain international recognition. This may be achieved by affiliation with a suitably accredited body that can verify the academy’s education program and examination process and the close alignment of the curricula with international standards.
- Develop a means of funding an upgrade of facilities for students that incorporates the state-of-the-art equipment necessary to ensure that topics are current and embrace evolving technology.
- Academy staff members must use their imaginations and vision to exploit possible sponsorships, sources of funding, and capacity building. As a first step, the academy should consider developing a management training program with DPW that includes modules that require students to spend part of their learning experience in ports managed by DPW.
- The academy may also wish to seek assistance in the form of scholarships from other ports that have established training programs. Some overseas port programs allow for students (or workers who are taking a training course) to join their programs cost free, except for the cost of travel.

### *Other challenges confronting the SPA and Harbor Master’s Office*

By necessity, all navigational aids require regular maintenance by the port authority if safe passage in and out of a port is to be assured. While the SPA had some limited facilities available, the transfer of cargo operations has resulted in transferring responsibility for equipment maintenance, including maintenance workshops, to DPW. The SPA, therefore, no longer has the capacity to make repairs other than by subcontracting such work. In addition, the SPA does not appear to have the expertise to set standards and assess whether repairs have been carried out to the required standards, and therefore it has little if any control over costs.<sup>30</sup> In view of the foregoing, the SPA needs to decide how it intends to manage the issue of maintenance. Further, if SPA decides to carry

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<sup>29</sup>For further information, see “STCW: The White List,” <http://www.stcwonline.com/stcw/stcw-the-white-list>.

<sup>30</sup>An arrangement for repairs may be contained in the concession agreement, which was not available to the team during the mission.

out its own repairs and maintenance of floating equipment, it will need to obtain a barge fitted with a crane.

While the concession agreement appears to set out the direction of the port insofar as cargo handling and predicted volumes of traffic are concerned, there appear to be no corresponding future plans in respect of the direction of the SPA. The relatively new and limited experience of the SPA management at Berbera needs to address this situation by developing a document that sets out its future plan for the port. Such a plan could be developed in the form of a master plan that echoes the plans of DPW and that explains how the SPA intends to meet the challenges of obtaining the budget and resources needed as the controlling authority for the port and its installations. The absence of an SPA master plan or other comprehensive document may result in the SPA's constantly playing catch-up and not having any influence in the port's development. It should be borne in mind that cargo volumes through Berbera are predicted to rise 10-fold from 50,000TEU to more than 500,000TEU in the foreseeable future.

Complaints and concerns received from port users included port handling charges, which the users said were raised by 7 percent in the first six months after the start of the concession arrangement. A further complaint was made that the clock for free time for imported goods was started when the vessel entered the anchorage rather than when the goods were discharged and available on the berth or in storage. Bearing in mind that ships may remain at anchor for some days and that the anchorage is not, according to the published charts for the port, within the port limits, cargo-related charges are increasing without any additional corresponding contributions being received by the SPA. The increase in traffic at the port may mean increased revenue from marine services, but it may not offset the additional costs from wear and tear on the port's equipment and infrastructure. In view of the foregoing, SPA needs to be mindful of not only its costs of maintaining the harbor and providing marine services but also the need to carefully manage the tariff, which could otherwise result in low port costs that subsidize cargo handling fees.<sup>31</sup>

Health and safety at the cargo berths have been clearly addressed and upgraded by DPW; for example, all DPW workers wear high visibility jackets and hard hats. In marked contrast, no SPA employees were seen wearing this basic safety equipment in the port confines. The SPA should introduce rules and procedures that mirror or refer to the DPW standards as well as standards and equipment corresponding to the risks that workers are exposed to whenever they are on SPA property—in particular, all persons, including visitors and those assigned to tug and pilot boat duties. Risk assessment techniques employed to identify and determine the extent of risks in the workplace and measures devised and implemented to lower such risks should be developed.

Environmental protection and pollution prevention measures need to be addressed and documented and procedures practiced. With increased traffic volumes comes an increase in the potential risks to the port infrastructure, including damage to the environment from incidents such as oil spills, the presence of and increasing complexities and volumes of dangerous goods transiting the port,

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<sup>31</sup>It is acknowledged that in order to stay competitive with Djibouti, costs at Berbera were not disclosed.



and pollution from improper garbage disposal. These risks must be addressed in advance and weaknesses in response procedures identified beforehand rather than being identified after the event and somewhat late for mitigating damage and its associated costs. Since DPW has reportedly taken over responsibility for cargo-related emergency situations, the SPA must ensure that the port is equally protected and that the two sets of emergency procedures complement one another. With specific reference to dangerous goods, as defined in the IMO's Dangerous Goods Code, the SPA should introduce a system for the notification of or at the very least monitoring of such goods passing through the port. Many ports around the world require prior notification of what a ship is carrying as well as those dangerous goods to be landed. Information is usually supplied to port authorities in a digital format.

### *Recommendations*

- Address the absence of equipment and infrastructure maintenance facilities and personnel and how the maintenance function is to be carried out.
- Consider the development of a master plan for the port so that planning for the expansion and development of the port are studied and addressed in a quantified, calculated, and systematic manner.
- Address the port charges tariff to ensure that it keeps pace with inflation and generates sufficient revenue to cover operating and capital costs.
- Develop and implement occupational health and safety policies and procedures for the port and ensure that they correspond and complement those implemented by DPW.
- Develop and implement pollution prevention policies and procedures and carry out drills and reviews on performance.

### *Conclusions on Port Operations*

It is evident from the list of port-related recommendations in this report that investment over many years in the Port of Berbera has been negligible. Funds to cover the maintenance of equipment, the maintenance of infrastructure, and the updating of skills and human resources competencies have been less than what is required to provide and operate an efficient and safe port. As the main port for Somaliland and a prime national asset, the Port of Berbera should be recognized by the government as an ongoing obligation and responsibility, particularly as it pertains to port activities that affect both the concession agreement with DPW and the viability of the port. Stability, sustainability, and predictability are of prime importance to the private sector to generate and maintain ongoing trade.

While the income generated from port activities appears to have kept the port operating, port users have not benefited in the same way as at most other modern ports. Port users should be entitled to minimal delays to their cargo, safe handling of their goods to ensure that minimum damage is sustained during transit, and access to and participation in the preparation and implementation of port rules and regulations, including transparent port charges.

In modern ports, especially those publicly operated, users are provided with a platform that allows their voices to be heard and to be consulted on issues that have an effect on the services provided as well as on their own businesses. Further, it is normal for ports to publish their performance reports as a form of accountability for the revenue collected and to indicate to the public the service levels being attained and pursued. The apparent absence of an effective maritime competent authority responsible for establishing rules, regulations, and standards should be of particular concern.

Most of the recommendations arise from a lack of attention to those stated needs. The DPW concession will undoubtedly address some commercial issues, such as service levels and some operational infrastructure investment. However, responsibility for the operation of the port (in areas not related to cargo handling) remains in public hands, and there appears to be no acknowledgment of or provision for the many residual critical port operations outside those contained in the concession agreement. The needs to establish an effective competent authority, to allocate funds for new and replaced equipment, and to update training and competence of human resources are but a few of the issues that require urgent attention.

Many possibilities are open to the government to start addressing the fundamental issues contained in the recommendations. However, most will require the input of expertise from outside Somaliland to quantify and produce detailed plans before progress can be made. To this end, the government could:<sup>32</sup>

- Engage a consultancy firm.
- Engage expert individuals.
- Engage with international trade associations.
- Engage with DPW.
- Engage with and work with international lending or financial institutions.
- Try to undertake the work from existing resources.

Each of those options requires study and funding even if the last option is exercised. In addition, it would be prudent to bear in mind the limited expertise within Somaliland and to appoint an individual or group to oversee and monitor the work being carried out by third parties.

With regard to funding, the government may wish to examine the following options:

- Approach an international lending agency.
- Approach international private banking facilities.
- Approach the concession holder.
- Discuss financial requirements with international donor agencies for grants.
- Set aside funds from revenue generated on an ongoing basis by the port.

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<sup>32</sup> Some of the issues identified in this report have been earlier identified and raised during a learning visit to Dublin, Ireland, organized by the IFC for Berbera Port and corridor officials. A memorandum of understanding was to be signed between Berbera and Dublin ports, but it is unknown if such an MoU was developed and signed.

The current state of the port requires significant effort and investment to meet basic international standards in service levels and safety. The investment must be sufficient to protect and preserve the resource and to support and sustain the future of the port and the revenue it generates for the state.

Finally, it is not known if the SPA or another Somaliland government agency is already in discussion with DPW concerning the issues raised in this report or what actions have been taken or proposed by DPW to address the inadequacies highlighted. It is evident that DPW is aware of the requirement for a tug; therefore, it is assumed DPW is also aware of other areas of port operations that need reinforcement and investment.

## Section V: Reform Action Plan

### Actions to Increase Compliance with the WTO FTA and Improve Customs Operations

*Note:* Short term = 2 years or less; medium term = 2 years to 5 years; long term = more than 5 years

TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
Measures Aimed at Transparency and Fairness	1.1 Publication	<ul style="list-style-type: none"> <li>• Issue a government directive requiring publication of trade facilitation information in print.</li> <li>• Publish all international trade–related official requirements and associated procedures.</li> <li>• Produce a consolidated list of all government fees and charges payable with respect to import, export, and transit.</li> <li>• Nominate government units that have the prime responsibility of producing comprehensive publications.</li> <li>• Provide training and a budget for the communication officers and the establishment of a communications section.</li> </ul>	Medium term	High	Somaliland government	
	1.2 Information Available	<ul style="list-style-type: none"> <li>• Issue government policy requiring ministries to develop websites with the required information.</li> </ul>	Medium term	High	Somaliland government	

TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
	through Internet	<ul style="list-style-type: none"> <li>• Appoint a webmaster responsible for posting and updating information and provide training to webmasters.</li> <li>• Develop a trade portal.</li> </ul>	Medium term  Long term			
	1.3 Enquiry Points	<ul style="list-style-type: none"> <li>• Assess enquiry point implementation options and needs (single versus multiple enquiry points, agency or agencies to host and participate, staffing needs, modes of operation, information to be provided, and so on).</li> <li>• Define required procedures and roles and responsibilities for collection and coordination of information and operation of the enquiry point.</li> <li>• Provide information technology and material support as required.</li> <li>• Provide training and public outreach.</li> </ul>	Short term	High	Somaliland government	

TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
	3. Advance Rulings	<ul style="list-style-type: none"> <li>Develop and publish rules to implement a binding rulings program, including details on the submission and processing of ruling applications, time frames for issuance of rulings, and the use of rulings in clearance.</li> <li>Establish and designate an advance rulings unit in the Customs Department and develop the required procedures.</li> <li>Engage in stakeholder outreach and training to promote greater understanding of the benefits and use of the rulings program.</li> </ul>	Medium term	High	Customs	
	4. Procedures for Appeal or Review	<ul style="list-style-type: none"> <li>Consider issuing written responses to appeals and distributing them to all offices.</li> <li>Consider the early establishment of a Custom/Tax tribunal as reflected in Customs Law 73.</li> </ul>	Medium term	Medium	Customs	
	6.1 General Discipline on	<ul style="list-style-type: none"> <li>Develop and publish a consolidated list of all fees and charges related to importation, exportation, and transit. Ensure that the list is easily accessible.</li> </ul>	Short term	Medium	Somaliland government	



TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
	Fees and Charges	<ul style="list-style-type: none"> <li>Develop government policy requiring regular review of fees and charges.</li> <li>Replace ad valorem fees with fees that represent the cost of the service rendered.</li> </ul>			Somaliland government	
	6.3 Penalty Disciplines	<ul style="list-style-type: none"> <li>Customs Law 73 should be implemented with the various penalty amounts included.</li> <li>Standard operating procedures should be developed for applying penalties and for considering the mitigation of penalties. Procedures and guidelines should be developed for the new law when it is implemented.</li> </ul>	Medium term	Medium	Customs	
Measures Aimed at Better Governance	2.1 Opportunity to Comment and Information before Entry into Force	<ul style="list-style-type: none"> <li>Draft and enact appropriate legislation to require border authorities (or government authorities generally) to <ul style="list-style-type: none"> <li>publish proposed rules for public comment, and</li> <li>delay effective date of new or changed rules, subject to appropriate exceptions.</li> </ul> </li> <li>Develop necessary rules and procedures to implement</li> </ul>	Medium term	High	Somaliland government	

TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
		<p>rulemaking subject to notice and comment.</p> <ul style="list-style-type: none"> <li>• Train border authority officials and stakeholders in rule-making and consultation procedures.</li> </ul>				
	10.1 Formalities and Documentation Requirements	<ul style="list-style-type: none"> <li>• Develop and publish appropriate legislation and formal policy requiring border authorities to conduct <ul style="list-style-type: none"> <li>○ trade impact analysis of new rules, procedures, and document requirements; and</li> <li>○ periodic reviews of such existing requirements.</li> </ul> </li> <li>• Designate individuals within each border authority who are responsible for implementing the above action.</li> <li>• Train relevant officials in impact analysis modes and methods.</li> </ul>	Long term	Medium	Somaliland government	
	10.7 Common Border Procedures	<ul style="list-style-type: none"> <li>• Develop standard operating procedures for all government departments and agencies present at the border and</li> </ul>	Short term	High	Somaliland government	

TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
	and Uniform Documentati on	publish and distribute the procedures for all stakeholders.				
Measures Aimed at Modernizing Border Procedures and Controls						
	SPS MOTIVATED					
	5.1 Notification for Enhanced Controls	<ul style="list-style-type: none"> <li>Implement a formal system of import controls for ensuring the safety of food and foodstuff.</li> <li>Determine the need for creating an enhanced alert system from the legal, procedural, and technical point of view.</li> <li>Develop the appropriate legal basis, policy, standard operating procedures, and guidelines, including structures to activate and deactivate border alerts.</li> <li>Provide SQCC officers at the port level with the capacity to perform tests. Consider acquiring mobile laboratories,</li> </ul>	Medium term	High	Somaliland Quality Control Commission (SQCC)	

TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
		hand held equipment, or both to accomplish this.				
	5.2 Detention	<ul style="list-style-type: none"> <li>See recommendations for Article 7.4, Risk Management</li> </ul>	Medium term	High	Customs	
	5.3 Test Procedures	<ul style="list-style-type: none"> <li>Provide testing equipment at border points.</li> <li>Provide training for border officials.</li> </ul>	Short term	High	SQCC	
	7.9 Perishable Goods	<ul style="list-style-type: none"> <li>Develop formal written procedures for the handling of perishable goods.</li> <li>Install cold storage facilities at the Berbera Port and the airport in Hargeisa.</li> </ul>	Medium term	Low	Somaliland government	
	10.8 Rejected Goods	<ul style="list-style-type: none"> <li>Develop a legal basis for permitting ministries to reject goods at import.</li> <li>Develop procedures and guidelines on the handling of rejected goods.</li> </ul>	Medium term	Medium	Somaliland government	
	CUSTOMS CLEARANCE SIMPLIFICATION					

TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
	7.1 Pre-arrival Processing	<ul style="list-style-type: none"> <li>When developing the single window/customs automation system, ensure that the functionality for direct trader interface and pre-arrival processing is included.</li> </ul>	Medium term	High	Customs	
	7.7 Trade Facilitation Measures for Authorized Operators	<ul style="list-style-type: none"> <li>Design an authorized operator program offering the measures stipulated in Article 7.3.</li> <li>Develop and publish implementing regulations and procedures, including the definition of qualifying criteria, the processes for submitting applications and for verifying eligibility, and the specific benefits to be provided for qualified operators.</li> <li>Design and develop implementing regulations and processes for the simplified</li> </ul>	Medium term	High	Customs	

TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
		<p>clearance procedures that will be made available to authorized operators (such as the terms and conditions for creating periodic declarations).</p> <ul style="list-style-type: none"> <li>Develop and publish a practical guide for stakeholders on the authorized operator program and associated simplified procedures (once implemented).</li> </ul>			Customs	
	7.8 Expedited Shipments	<ul style="list-style-type: none"> <li>Develop formal TFA-consistent rules and procedures for expedited release of goods imported by air express–delivery operators or other expedited shippers.</li> <li>Establish a de minimis below which duty and taxes are not collected.</li> </ul>	Medium term	Low	Customs	



TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
	10.2 Acceptance of Copies	<ul style="list-style-type: none"> <li>Develop legal government authority for all agencies to accept copies of required documents in lieu of originals.</li> </ul>	Short term	Low	Somaliland government	
	CONTROL METHODS					
	7.4 Risk Management	<ul style="list-style-type: none"> <li>Ensure that Customs Law 73 provides the legal basis for risk management and selective controls correlated with automated systems that will be developed.</li> <li>Create a national risk management unit responsible for developing risk criteria and risk analysis.</li> <li>Develop an interagency risk management strategy and institutional framework, including mechanisms to share risk data and information.</li> <li>Provide training in risk analysis.</li> <li>Establish regular review and updating of risk criteria.</li> <li>Develop a feedback mechanism from ports of entry to</li> </ul>	Medium	High	Customs	

TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
		<p>headquarters to be used in evaluating criteria.</p> <ul style="list-style-type: none"> <li>• Ensure that adequate resources, both human and financial, are assigned to risk management.</li> </ul>				
	7.5 Post-clearance Audit	<ul style="list-style-type: none"> <li>• Create a national post-clearance audit unit that will be responsible for developing and implementing an annual audit plan.</li> <li>• Develop formal operational procedures and guidelines for performance of audits.</li> <li>• Train audit staff on accounting and audit techniques and risk management.</li> <li>• Ensure audit results and findings are communicated to the risk management unit.</li> <li>• Ensure that adequate resources are assigned to post-clearance audits.</li> </ul>	Medium term	Medium	Customs	

TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
	8. Border Agency Cooperation	<ul style="list-style-type: none"> <li>• Establish service-level agreements and a memorandum of understanding among border authorities that clearly delineate the roles, responsibilities, and functions of each agency.</li> <li>• Develop standard operating procedures for border processes.</li> <li>• Establish a National Trade Facilitation Committee as required by the TFA and task it with ensuring that policy and procedures for border agency cooperation are implemented.</li> </ul>	Short term	High	All border authorities  Somaliland government	

TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
	12. Customs Cooperation	<ul style="list-style-type: none"> <li>• Develop a legal basis and procedures that allow for the exchange of information with the customs services of other member states to verify an import or export declaration.</li> <li>• Develop legal procedures for the protection of information received from third parties</li> </ul>	Long term	Medium	Customs	
	CUSTOMS PROCEDURES					
	10.9 Temporary Admission of Goods	<ul style="list-style-type: none"> <li>• Pursuant to Customs Law 73, define rules and procedures for operational implementation and management of temporary</li> </ul>	Medium term	Medium	Customs	

TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
		import, inward processing, and outward processing. <ul style="list-style-type: none"> <li>Develop and publish a practical guide for temporary import, inward processing, and outward processing, all according to international standards.</li> </ul>				
	11.Freedom of Transit	<ul style="list-style-type: none"> <li>Implement a RKC-compliant regime for transit of goods through Somaliland, including enabling legislation.</li> <li>Develop rules, procedures, and operational guidance on transit.</li> <li>Ensure that future automated systems include transit (including transit guarantee management).</li> </ul>	Medium term	Low	Customs	

TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
	ELECTRONIC PROCESSING					
	7.2 Electronic Payment	<ul style="list-style-type: none"> <li>Assess cost-benefit, demand, and suitability of e-payment options (such as credit card, debit card, automated debit, and mobile payments) for payment of customs duty and taxes in Somaliland.</li> <li>Develop as required the technical framework to support the implementation of the relevant electronic payment method.</li> <li>Establish an e-payment gateway.</li> </ul>	Medium term	High	Customs	
	10.4 Single Window	<ul style="list-style-type: none"> <li>Develop a single window in conjunction with modernization and computerization of customs procedures.</li> </ul>	Long term	High	Somaliland government	
	POLICY					

TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
	10.3 Use of International Standards	<ul style="list-style-type: none"> <li>• Draft a Quality Control Act.</li> <li>• Mandate and identify the proper authorities to perform quality assurance, conformity assessment, and market surveillance duties.</li> <li>• Develop policy, procedures, and guidelines to be used with the new quality control act.</li> <li>• Ensure that procedures, rules, and regulations are harmonized with international conventions.</li> </ul>	Long term	Medium	SQCC  Somaliland government	
	10.6 Use of Customs Brokers	<ul style="list-style-type: none"> <li>• Establish criteria for becoming a clearing agent and include the requirement to pass an exam designed by Customs.</li> <li>• Provide training for agents conducted by Customs.</li> </ul>	Medium term	Medium	Customs	
	23.2 National Trade Facilitation Committee	<ul style="list-style-type: none"> <li>• Develop Terms of Reference for a National Trade Facilitation Committee (NTFC) and decide on the composition of the committee.</li> <li>• Determine if existing committees should be</li> </ul>	Short term	High	Presidency	



TFA objective	Article	Recommendation	Time frame	Priority	Lead agency	Development partner
		<p>amalgamated into the NTFC to avoid duplication of effort.</p> <ul style="list-style-type: none"> <li>• Select the membership of the committee and include both public and private stakeholders.</li> </ul>				

## Actions to Improve Marine Operations in the Port of Berbera

Department/Activity	Recommendation	Time frame	Priority	Lead agency	Development partner
Harbour master	<ul style="list-style-type: none"> <li>Identify, obtain, and update the library of international publications relating to port and marine service activities. Consider joining international trade organizations such as the International Association of Ports and Harbours as a source of reference and advice.</li> </ul>	Medium term	Medium	Somaliland Port Authority (SPA)	
	<ul style="list-style-type: none"> <li>Introduce a clearance procedure that ensures that ships entering the port are safe and that ships' papers, such as those issued by flag states, classification societies, and international organizations, are valid and can be verified through electronic means.</li> </ul>	Short term	High		
	<ul style="list-style-type: none"> <li>Develop effective port state control procedures.</li> </ul>	Medium term	Medium		
	<ul style="list-style-type: none"> <li>Introduce a system that ensures that the SPA is notified of and, where applicable, restricts the type and quantity of dangerous goods entering the port.</li> </ul>	Short term	Medium		
	<ul style="list-style-type: none"> <li>Devise a short-term and long-term plan for the maintenance of the port infrastructure and obtain funding for repairs to navigational aids; consider increasing port charges to fund this maintenance.</li> </ul>	Short term	Medium		

	<ul style="list-style-type: none"> <li>• Arrange for a hydrographical survey of the harbour to establish water depths through the port.</li> </ul>	Short term	Medium		
	<ul style="list-style-type: none"> <li>• Review the cost of P&amp;I (protection and indemnity) insurance with a view to obtaining a reduction in premiums because the SPA no longer is responsible for cargo operations.</li> </ul>	Short term	Medium		

Department/Activity	Recommendation	Time Frame	Priority	Lead Agency	Development Partner
<b>Pilots</b>	<ul style="list-style-type: none"> <li>• Establish a register of pilot performance and near-miss incidents for regular review and identification of improvements to procedures and training issues.</li> </ul>	Medium term	Medium	SPA	
	<ul style="list-style-type: none"> <li>• Replace the current pilot boat with a modern launch that offers full protection from the elements during day and night time operations. A new pilot launch should take into account what will be needed when significantly larger vessels visit the port in the future. Commence drafting specifications for the new craft now.</li> </ul>	Medium term	High		
	<ul style="list-style-type: none"> <li>• Develop, introduce, and review operating procedures and train pilot launch crew on safety issues as well as on the safe operation of the new launch.</li> </ul>	Short term	High		

Department/Activity	Recommendation	Time Frame	Priority	Lead Agency	Development Partner
Towage	<ul style="list-style-type: none"> <li>Urgently replace the current defunct tug.</li> </ul>	Medium term	High	SPA	
	<ul style="list-style-type: none"> <li>Develop tug specifications for a tender document that outlines the SPA's requirements—obtain expert advice if necessary.</li> </ul>	Medium term	High		
	<ul style="list-style-type: none"> <li>Determine staffing requirements and develop job descriptions and training programs for all tug crew members in line with the anticipated staffing requirements of the new tug(s).</li> </ul>	Medium term	High		
	<ul style="list-style-type: none"> <li>Ensure that maintenance personnel are also trained and have the requisite education and qualifications to manage the new technology.</li> </ul>	Short term	Medium		
	<ul style="list-style-type: none"> <li>Ensure that special attention is paid to the training of those who command the tug to ensure that training includes theoretical and practical (simulator and on-the-job) elements before the new tug enters service.</li> </ul>	Medium term	High		
	<ul style="list-style-type: none"> <li>Ensure that a thorough planned maintenance system is developed and implemented and include the acquisition of the necessary stocks of spare parts.</li> </ul>	Short term	High		
	<ul style="list-style-type: none"> <li>Draw up plans for the demolition and safe recycling of the defunct tug.</li> </ul>	Medium term	Medium		

Department/Activity	Recommendation	Time Frame	Priority	Lead Agency	Development Partner
Radio communications	<ul style="list-style-type: none"> <li>Improve the knowledge of radio operators regarding the operation and functionality of the equipment available to them.</li> </ul>	Short term	Medium	SPA	
	<ul style="list-style-type: none"> <li>Regularly conduct emergency preparedness drills and simulations to reinforce the operators' ability to respond quickly and effectively to an incident.</li> </ul>	Short term	Medium		
	<ul style="list-style-type: none"> <li>Prepare an equipment status report and obtain funding to make repairs to existing equipment currently not fully functional.</li> </ul>	Medium term	High		
	<ul style="list-style-type: none"> <li>Introduce a computerized system of logging contacts with the port confines and ships calling at Berbera to enable better analysis of information and data covering radio operations.</li> </ul>	Medium term	Medium		
	<ul style="list-style-type: none"> <li>Review the clearance procedure to remove the reliance on a paper-based process.</li> </ul>	Medium term	Medium		
	<ul style="list-style-type: none"> <li>Prepare a plan for the relocation of the radio room so that equipment is optimally positioned both for use and for reducing wear and tear.</li> </ul>	Short term	Medium		

Department/Activity	Recommendation	Time Frame	Priority	Lead Agency	Development Partner
<b>Berthing gangs</b>	<ul style="list-style-type: none"> <li>Conduct risk assessments on the work of berthing gangs to identify the inherent risks in the work routines.</li> </ul>	Medium term	Medium	SPA	
	<ul style="list-style-type: none"> <li>Develop training on safe practices and identify personal protective equipment using the findings of the risk assessments.</li> </ul>	Short term	Medium		
	<ul style="list-style-type: none"> <li>Develop work procedures that include the use of personal protective equipment and its effect in eliminating and reducing risks in the workplace.</li> </ul>	Short term			
	<ul style="list-style-type: none"> <li>Develop and implement a health screening process for all SPA employees—in particular, berthing gangs and other workers for whom physical exertion is part of their work routines.</li> </ul>	Medium term	Medium		

Department/Activity	Recommendation	Time Frame	Priority	Lead Agency	Development Partner
<b>Berbera Maritime and Fisheries Academy</b>	<ul style="list-style-type: none"> <li>Develop a plan for qualifications earned at the academy to gain international recognition. This may be achieved by affiliation with a suitably accredited body that can verify the academy's education program and examination process and the close alignment of the curricula with international standards.</li> </ul>	Short term	Medium	SPA	

Department/Activity	Recommendation	Time Frame	Priority	Lead Agency	Development Partner
	<ul style="list-style-type: none"> <li>Develop a means of funding an upgrade of facilities for students that incorporates the state-of-the-art equipment necessary to ensure topics are current and embrace evolving technology.</li> </ul>	Medium term	Medium		
	<ul style="list-style-type: none"> <li>Academy staff members must use their imaginations and vision to exploit possible sponsorships, sources of funding, and capacity building. As a first step the academy should consider developing a management training program with Dubai Ports World(DPW) that includes modules that require students to spend part of their learning experience in ports managed by DPW.</li> </ul>	Short term	Medium		
	<ul style="list-style-type: none"> <li>The academy may also wish to seek assistance in the form of scholarships from other ports that have established training programs. Some overseas port programs allow for students (or workers who are taking a training course) to joint their programs cost-free, except for the cost of travel.</li> </ul>	Short term	Medium		



Department/Activity	Recommendation	Time Frame	Priority	Lead Agency	Development Partner
Other challenges for the SPA and HM Office	<ul style="list-style-type: none"> <li>Address the absence of equipment, infrastructure maintenance facilities, and personnel and determine how the maintenance function is to be carried out.</li> </ul>	Short term	High	SPA	
	<ul style="list-style-type: none"> <li>Consider the development of a master plan for the port so that planning for the expansion and development of the port are studied and addressed in a quantified, calculated, and systematic manner.</li> </ul>	Short term	High		
	<ul style="list-style-type: none"> <li>Address the port charges tariff to ensure that it keeps pace with inflation and generates sufficient revenue to cover operating and capital costs.</li> </ul>	Medium term	High		
	<ul style="list-style-type: none"> <li>Develop and implement health and safety policies and procedures for the port and ensure that they correspond and complement those implemented by DPW.</li> </ul>	Short term	Medium		
	<ul style="list-style-type: none"> <li>Develop and implement pollution prevention policies and procedures and carry out drills and reviews on performance.</li> </ul>	Short term	Medium		

## Annex A: Trade Facilitation Scoping Mission Agenda

### Trade Facilitation Scoping Mission to Somaliland, November 25 – December 5, 2017

Date	Time	Agency	Participants	Key Discussion Points	Relevant WTO TFA Articles
Sunday November 26	08:00 - 09:00	Minister of Trade and Investment	Dr. Omer Shuayib Mohamed Minister Mohamed M. Awale	(1) Purpose and agenda of the Mission.  (2) Overall impact of the WTO TFA on all the border regulatory agencies.  (3) Ministry role in National Trade Facilitation Committee.  (4) Impact of Customs computerization on the ministry.  (5) Key issues identified for action by them and other agencies.	All articles 1-12; 23
	10:00- 11:00	Minister of State for Finance	Yusuf Xasan Umal  Abdirahman Abdeg Mohomed (DG)	(1) Purpose and agenda of the Mission.  (2) Key issues identified for action by them.	

	11:15 - 13:00	Ministry of Foreign Affairs and International Cooperation	Abdirahman Abdeeq Muhumed (DG)	<p>(1) Purpose and agenda of the Mission.</p> <p>(2) Overall impact of the WTO TFA on Customs.</p> <p>(3) Impact of Computerization of declaration processing and accounting.</p> <p>(4) Resulting Key issues identified by Customs.</p> <p>(4) Integration of TFA activities managed by other agencies with the Customs process.</p>	
<b>Monday November 27</b>	08:00-09:00	Customs	Ahmed Abdikalin Omar (DG)	<p>(1) Overview of current import and export procedures (2) Probable Impact of TFA on these procedures and focus (3) Identified gaps requiring action to achieve TFA standards (4) Methods and time frame to fill gaps</p>	<p>article 1: publication and availability of information, article 6: disciplines on fees and charges imposed on or in connection with importation and exportation, article 7: release and clearance of goods, article 10: formalities connected with importation and exportation and transit</p>
	09:15 – 12:00	Chamber of Commerce and Industry and Agriculture		1) Configuration and Installation of the ASYCUDA System.	<p>article 1: publication and availability of information, article 6: disciplines on fees and charges imposed</p>

				<p>2) Sustainability of the system.</p> <p>3) System capacity &amp; functions employed to comply with TFA</p> <p>4) Challenges encountered and how overcome.</p>	<p>on or in connection with importation and exportation, article 7: release and clearance of goods, article 8: border agency cooperation, article 9: movement of goods under customs control intended for import, article 10: formalities connected with importation and exportation and transit, article 11: freedom of transit</p>
	12:15-13:00			<p>(1) Current issues in Valuation and Origin</p> <p>(2) Impact of TFA on current working practices</p> <p>(3) Identified gaps requiring action to achieve TFA standards</p> <p>(4) Methods and time frame to fill gaps</p>	<p>article 1: publication and availability of information, article 3 advanced rulings, article 6: disciplines on fees and charges imposed on or in connection with importation and exportation, article 7: release and clearance of goods, article 8: article 10: formalities connected with importation and exportation and transit, article 11: freedom of transit</p>

	18:00-19:00			<p>1) Current issues in Human Resources and Training that may impact on implementation of TFA</p> <p>(2) Legal issues in implementing TFA</p> <p>(3) Identified gaps requiring HR, Training or legal changes to achieve TFA standards</p> <p>(4) Methods and time frame to fill gaps</p>	All Articles 1 -13
<b>Tuesday November 28</b>	08:00-09:00	Customs International Airport		<p>(1) Post Clearance Audit, Intelligence and Enforcement</p> <p>2) Impact of TFA on current working practices</p> <p>(3) Identified gaps requiring action to achieve TFA standards</p> <p>(4) Methods and time frame to fill gaps</p>	article 1: publication and availability of information, article 6: disciplines on fees and charges imposed on or in connection with importation and exportation article 10: formalities connected with importation and exportation and transit, article 11: freedom of transit, article 12: customs cooperation
	09:15 - 10:00	Meeting with Large Importer/Exporter	Guella Osman Guelleh Neo Trading (Importer)	(1) Current issues in Transit and Warehouse Management	article 1: publication and availability of information, article

				(2) Impact of TFA on current working practices (3) Identified gaps requiring action to achieve TFA standards (4) Methods and time frame to fill gaps	6: disciplines on fees and charges imposed on or in connection with importation and exportation article 10: formalities connected with importation and exportation and transit, article 11: freedom of transit
	10:15 - 11:00	Quality Assurance Commission	Cali Maxamed CEO	1) Overview of Ministry's role in border activity 2) Overall impact of the WTO TFA on business community and the requirements of the Department. (3) Key issues identified by the Department for action by them	All articles
	11:15 – 12:00			(1) Legal issues in implementing TFA (2) Identified gaps requiring legal changes to achieve TFA standards (3) Methods and time frame to fill gaps	
	12:15 - 13:00			Article 1	
	18:00 - 19:00			(1) Discussion relating to TFA provisions.	

				<p>(2) Identify gaps between current environment and TFA targets.</p> <p>(3) Exporter's suggestions to improve the Customs process.</p>	
DAVID SPARKS ARRIVES			SEPARATE AGENDA FOR DAVID SPARKS ATTACHED		
Wednesday November 29	08:00-09:00	Ministry of Agriculture	Ibahaur Omar Director of Planning and Coordination	(1) Purpose and agenda of the Mission. (2) Overall impact of the WTO TFA on business community and the requirements of the Department. (3) Key issues identified by the Department for action by them (4) TFA related activities identified by Department that are managed by other agencies but impact on the speed, cost and effectiveness of the clearance process.	article 1: publication and availability of information, article 5; article 6: disciplines on fees and charges imposed on or in connection with importation and exportation, article 7: release and clearance of goods, article 8: border agency cooperation, article 9: movement of goods under customs control intended for import, article 10: formalities connected with importation and exportation and transit, article 11: freedom of transit
	09:15 - 10-00	Ministry of Livestock	Mohamoud Hersi	(1) Purpose and agenda of the Mission. (2) Overall	article 1: publication and availability of



			(CEO of Somvet LTS and President of Somali Livestock Board) Dr. Farhan Ahmed Yusuf	impact of the WTO TFA on business community and the requirements of the Department. (3) Key issues identified by the Department for action by them (4) TFA related activities identified by Department that are managed by other agencies but impact on the speed, cost and effectiveness of the clearance process.	information; article 5; article 6: disciplines on fees and charges imposed on or in connection with importation and exportation, article 7: release and clearance of goods, article 8: border agency cooperation, article 9: movement of goods under customs control intended for import, article 10: formalities connected with importation and exportation and transit, article 11: freedom of transit
	10:15-11:00			(1) Purpose and agenda of the Mission. (2) Overall impact of the WTO TFA on business community and the requirements of the Department. (3) Key issues identified by the Department for action by them (4) TFA related activities identified by Department that are managed by other agencies but impact on the speed, cost and	article 1: publication and availability of information, article 5; article 6: disciplines on fees and charges imposed on or in connection with importation and exportation, article 7: release and clearance of goods, article 8: border agency cooperation, article 9: movement of goods under customs control intended for

				effectiveness of the clearance process	import, article 10: formalities connected with importation and exportation and transit, article 11: freedom of transit
	11:15 - 12:00			(1) Purpose and agenda of the Mission. (2) Overall impact of the WTO TFA on Standards Bureau (3) Key issues identified for action by them (4) TFA related activities identified by them that are managed by other agencies but impact on the speed, cost and effectiveness of the clearance process.	All Articles 1 -13
	12:15 - 13:00			(1) Discussion relating to TFA provisions. (2) identify impact of Customs computerization and TFA. (3) Identify gaps between current environment and TFA targets (4) Importer's suggestions to improve the Customs process.	All relevant articles
	18:00 - 19:00			(1) Purpose and agenda of the Mission. (2) Overall impact of the WTO TFA	All Articles 1 -13

				on business community and the development of Somaliland. (3) Key issues identified by the Chamber for action by them (4) TFA related activities	
<b>Thursday November 30</b>	10:00	Meeting with Large Exporter	Guella Osman Guelleh Neo Botanika (Exporter)		
<b>Friday</b>  December 1 TRAVEL TO BERBERA					
<b>Saturday December 2</b>	08:00 – 10:00	Customs Walk through border operations	Maxamed Gabdi Gurxan (Manager)	To understand challenges faced, the impact of Computerization on the Customs process and to identify gaps in the process that should be addressed.	
	10:00 - 13:00			Undertake walk through of Customs clearance process to understand how it operates, including meeting with other border agencies staff.  Broker. Customs Reception	

				Manifest Section Documentary Check section. Query and amendment procedures. Examination Section Accounting Section Release and Exit Enforcement or Risk management personnel	
	18:00-19:00	Customs Brokers Association – Clearing Agents Association Large Compliant Broker Large Importer/Exporter Freight Forwarders Association		Discuss challenges faced in operating the computer system and in supporting Customs staff and the trade.	
<b>Sunday December 3</b>	08:00 – 10:00			1) Impact of TFA on working practices and clearance process (2) Identify gaps between current environment and TFA targets	"article 1: publication and availability of information, article 6: disciplines on fees and charges imposed on or in connection with importation and exportation, article 7: release and clearance of goods, article 8: border agency

				(3) Actions proposed by Industry representatives to close gaps	cooperation, article 9: movement of goods under customs control intended for import, article 10: formalities connected with importation and exportation and transit, use of customs brokers article 11: freedom of transit"
	10:00 - 13:00	USAID Growth, Enterprise Employment and Livelihoods Project (GEEL)	Mohamed Abdinoor (Chief of Party)  Alexander Filippov Team Leader, Energy  Philip Corper Finance and Investment Director		
	18:00-19:00			(1) Discussion relating to TFA provisions. (2) Identify gaps between current environment and TFA targets. (3) Broker's suggestions to improve the Customs process.	

	09:00 - 12:30	OGAs at port:  Commerce/Trade office  Quality Control  Berbera United Quarantine	Trade and Commerce  Deputy Director  Dr. Nashwan Mohemed Ali	(1) Challenges faced and how overcome.  (2) Actual operation of TFA procedures.	
<b>Tuesday December 5</b>		RETURN TO HARGEISA			
<b>Wednesday December 6</b>	9:00-13:00	Telesom  Department of Justice	Mahamud Abdirahman International Relations and ISP Division Manager  Ahmed Farah Adare Minister	Discussions concerning Gaps identified, Trade challenges and suggestions Proposals for reform.	All relevant articles

\* Evening meeting of approximately one hour commencing between 18:00 hours to 19.00 hours, at the convenience of the Somaliland participants.

\*\*If protocol requires representatives to attend high level meetings with Customs