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TIMOR-LESTE CUSTOMS SECTOR ASSESSMENT

July 2020

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USAID/TIMOR-LESTE CUSTOMS SECTOR ASSESSMENT

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TABLE OF CONTENTS

ACRONYMS	3
EXECUTIVE SUMMARY	6
1. INTRODUCTION AND BACKGROUND	10
2. METHODOLOGY AND APPROACH	13
3. CUSTOMS OPERATIONS	16
4. LEGAL AND REGULATORY ENVIRONMENT	32
5. INTERNATIONAL TRADE FACILITATION REQUIREMENTS AND ASSOCIATED INSTRUMENTS	36
6. INSTITUTIONAL AND HUMAN CAPACITY GAPS	40
7. COMMITMENT AND SUSTAINABILITY OF REFORM PROGRAMS	48
8. CONCLUSION	58
ANNEX A: ACTIVITY AUTHORIZATION REQUEST	60
ANNEX B. INTERVIEW QUESTIONS	65
ANNEX C. LIST OF STAKEHOLDERS INTERVIEWED	72

LIST OF TABLES

TABLE 1: GUIDING QUESTIONS FROM USAID	14
TABLE 2: LIST OF OTHER GOVERNMENT AGENCIES (OGAS) RELEVANT TO CUSTOMS	15
TABLE 3: RECOMMENDATIONS FOR USAID TO IMPROVE THE EXISTING CUSTOMS BROKERAGE SYSTEM	20
TABLE 4: RECOMMENDATIONS FOR USAID TO IMPROVE IMPLEMENTATION OF THE ASYCUDA WORLD SYSTEM	25
TABLE 5: RECOMMENDATIONS FOR USAID TO SUPPORT ENHANCED RM	30
TABLE 6: RECOMMENDATIONS FOR USAID TO ENHANCE THE LEGAL AND REGULATORY ENVIRONMENT	34
TABLE 7: RECOMMENDATIONS FOR USAID FOR BRINGING HRM INTO CONFORMITY WITH THE GLOBAL BEST PRACTICES AND STANDARDS, RECOMMENDED IN THE WCO REVISED ARUSHA DECLARATION	42
TABLE 8: RECOMMENDATIONS FOR USAID FOR STRENGTHENING COOPERATION BETWEEN CUSTOMS ADMINISTRATIONS, OGAS AND THE BUSINESS COMMUNITY, IN LINE WITH THE BEST PRACTICES OF SAFE	46
TABLE 9: RECOMMENDATIONS FOR USAID TO SUPPORT THE DEVELOPMENT AND OPERATION OF THE NSW, THE NATIONAL TRADE PORTAL AND ELECTRONIC NATIONAL ENQUIRY POINT	54
TABLE 10: STAKEHOLDERS	60
TABLE 11: ASSESSMENT QUESTIONS	61

ACRONYMS

AAR	-	Activity Authorization Request
ADB	-	Asian Development Bank
AEO	-	Authorized Economic Operator
ASEAN	-	Association of Southeast Asian Nations
ASYCUDA	-	Automated System for Customs Data
BM	-	Border Management
CBM	-	Coordinated Border Management
CDCS	-	Country Development Cooperation Strategy (USAID)
CPLP	-	Community of Portuguese Speaking Countries
CREP	-	Customs Revenue Entry Processing unit
CRP	-	Customs Reform Project
DAU	-	Customs Declaration
FGD	-	Focus Group Discussions
FRC	-	Fiscal Reform Commission
GATT	-	General Agreement on Tariffs and Trade
GOTL	-	Government of Timor-Leste
HRD	-	Human Resource Development
HRM	-	Human Resource Management
HRT	-	Human Resources and Training
ICT	-	Information and Communications Technology
IT	-	Information Technology
KII	-	Key Informant Interview
LEAP III	-	Learning, Evaluation, and Analysis Project III

MOF	-	Ministry of Finance
MOU	-	Memorandum of Understanding
NEP	-	National Enquiry Point
NSW	-	National Single Window
OGA	-	Other Government Agencies
RKC	-	Revised Kyoto Convention
RM	-	Risk Management
SAFE	-	Framework of Standards to Secure and Facilitate Global Trade
SAMES	-	Serviço Autónomo Medicamentos & Equipamentos De Saúvé
SERVE	-	Serviço de Registo e Verificação Empresarial
SOP	-	Standard Operating Procedures
TFA	-	Trade Facilitation Agreement
TLTIP	-	Timor-Leste Trade Information Portal
UNCTAD	-	United Nations Conference on Trade and Development
USAID	-	United States Agency for International Development
WCO	-	World Customs Organization
WTO	-	World Trade Organization

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EXECUTIVE SUMMARY

To build upon the customs modernization reforms currently being undertaken by the Customs Authority in Timor-Leste, the United States Agency for International Development (USAID) Learning, Evaluation, and Analysis Project (LEAP III), on behalf of USAID/Timor-Leste, assessed the current operational and legal environment within the customs sector.

The review sought, *inter alia*, to determine the Authority's adherence to international norms and best practices, with a particular focus on trade facilitation. The LEAP III team assessed the commitment and capacity of various stakeholders involved in cross-border trade, including customs authorities, customs brokers, transporters, freight forwarders, and members of the business community. The assessment also includes an overview of technical assistance provided by USAID to the Customs Authority since 2017 and the impact of the activities undertaken to date. Overall, the assessment has sought to identify any continuing gaps in the government's customs reform efforts and to provide recommendations for further assistance.

PROGRESS TO DATE

Despite the provision of substantial technical assistance from various development partners, including the World Bank, the World Customs Organization (WCO), USAID, and other international agencies, the Customs Authority in Timor-Leste has struggled over a number of years to implement many of the customs modernization reforms required to meet international best practices. The USAID Customs Reform Project (USAID CRP), launched in June 2017, has rightly focused its activities on delivering the essential foundation needed to develop and sustain a modern customs administration. This foundation requires two elements: 1) compliance with international customs rules and best practices, such as the WCO Revised Kyoto Convention (RKC) and the obligations associated with membership in the Association of Southeast Asian Nations (ASEAN) and the World Trade Organization (WTO); and 2) a progressive business enabling environment that fosters foreign direct investment and supports a robust small and medium size enterprise ecosystem – key elements of the Government of Timor-Leste (GOTL) Fiscal Reform Plan.

The USAID CRP has made significant progress since the commencement of the reform program in 2017 and continues to provide appropriate guidance, advice, and support to the Customs Authority for the adoption of international norms and best practices. There have been various initiatives during the intervening period. The Risk Management (RM) capacity of the Customs Authority has been strengthened by the development and subsequent operationalization of RM Standard Operating Procedures (SOPs). Additional functionality has been added to the Automated System for Customs Data (ASYCUDA) World system, which includes the integration of selectivity parameters designed to enhance the overall customs clearance process using the principles of RM.

BARRIERS TO THE CUSTOMS MODERNIZATION PROCESS

This assessment acknowledges the excellent work undertaken by the USAID CRP in supporting the changes needed by the Customs Authority over the past two and a half years, particularly in light of the

uncertain political environment in the country. Despite this progress, the assessment team has identified significant gaps in the performance of the Customs Authority in a number of key areas and more must be done to fulfill the overall aims and objectives of the GOTL in customs modernization. The assessment report outlines detailed recommendations to address these gaps, including:

- **Customs operations:** Significant progress has been made in the overall customs clearance process as a consequence of the various reform initiatives already undertaken. However, some procedures are not being fully applied by the Customs Authority and its officials, in conformity with the international norms and recommended best practices. Accordingly, there are continuing ‘gaps’ in performance, including in RM and the implementation of the ASYCUDA World system, which are negatively impacting the provision of effective and efficient operational clearance procedures.
- **Complications in the legal and regulatory environment:** In a number of instances there appeared to be conflicts between national legislation and the changes required by the Customs Authority to align with global best practice. For example, there are currently laws in place that do not allow for electronic signatures to be used and require original or hard-copy documentation to be submitted for OGAs, while the 2017 Customs Code allows for declarations to be prepared and transmitted electronically. The team also noted ongoing delays from the Council of Ministers in ratifying proposed legislation, which are impacting the timely delivery of the customs modernization agenda of the Customs Authority. Most notably, the new Code of Conduct, recently developed by the Customs Authority in conformity with the WCO Arusha Declaration and with considerable assistance of the USAID CRP, needs to have a Decree-Law passed in order to be put into effect.
- **Compliance with international trade facilitation requirements:** The Customs Authority is not complying with many of the requirements associated with trade facilitation simplification and harmonization. The broad requirements associated with the application of RM, in particular, are not being fulfilled, and the capabilities of the ASYCUDA World system are not being fully utilized.
- **Institutional and human capacity gaps:** Some personnel of the Customs Authority are negatively impacting the adoption and implementation of customs reform initiatives. Barriers to implementing reforms include individuals with inadequate language skills, lack of integrity, poor terms and conditions, and a reluctance of some older staff members – known as veterans – to willingly apply the reforms required.¹ Many of the issues identified were due in part to the centralization of recruitment, as well as the promotion and disciplining of staff, by the Civil Service Commission. The current lack of personnel with appropriate customs skills and expertise in the Civil Service Commission limits its ability to ensure successful human resource management (HRM) within the Customs Authority. The assessment team recommends that the Customs

¹ The term “veterans” should be understood literally, as the assessment team members were told that many were hired after the war for independence with Indonesia and were not selected under the skills criteria that are needed for working in a modern customs administration that centers on the use of RM and trade facilitation. They constitute approximately 50 percent of the staff complement.

Authority be given greater autonomy to control its own administrative and HRM affairs, in line with the implementation of Decree-Law (2/2020), recently passed by the Council of Ministers.

- **Commitment and sustainability of reform programs:** The Customs Authority has done a good job laying the requisite foundations for customs modernization, which will be advanced by the introduction of the new Customs Code and Code of Conduct. Although approved by the Director General of Customs in 2019, both will require a Decree Law to be passed by the Council of Ministers. On the other hand, the Customs Authority is only partially through the customs modernization effort, and substantial work remains to reach the goals of the GOTL Fiscal Reform plan. As such, it is the view of the assessment team that continued support for the Customs Authority is required, both to achieve these goals and also to ensure that these reforms are sustainable.

OPPORTUNITIES FOR CONTINUED CUSTOMS MODERNIZATION

Timor-Leste has a particularly challenging political environment. During the course of this assessment, the governing coalition failed to pass its annual budget and, as a consequence, the government relied on monthly 'extensions' based on 2019 expenditures. The governing coalition of the Prime Minister collapsed and as of May 2020² remains in limbo. Notwithstanding, it would appear that, since the commencement of the USAID CRP in 2017, three successive governments have continued to endorse and support customs reform to some degree.

GOTL has recently passed legislation giving greater autonomy to the Customs Authority, which will enable the Director General to exercise greater administrative and budgetary freedom. Among the proposed changes in the Decree-Law (2/2020), which have yet to be operationalized, is the designation of the Director General as a Commissioner, which provides the Director General with a greater level of political capital and autonomy over strategic decisions. This change is clearly an important and positive step forward and demonstrates the government's continued commitment and support for sustained customs modernization.

Senior government officials, through conversations with the assessment team, recognized that the GOTL is conscious of the poor terms and conditions of all its public servants, particularly in the Customs Authority, and are proposing to introduce a new system of remuneration based on performance. This initiative will undoubtedly pave the way for the provision of long overdue enhancements to the terms and conditions of customs personnel, which, based on international experience, leads to the recruitment and retention of better qualified and capable personnel.

There is, however, a need for the GOTL to adopt the requirements set out in the General Annex to the WCO RKC, such as the adoption of advanced rulings on tariff classification, origin, valuation, and applicable regimes and pre-arrival processing to enable the trader to lodge Goods Declarations as soon as a manifest

² The collapse of the governing coalition occurred during the report writing phase on this assessment. The political situation is highly fluid, and a new coalition is likely to form.

is registered within the ASYCUDA World system. Although not mandatory, many of these provisions are obligatory for accession to the WTO and ASEAN communities.

RECOMMENDATIONS

While many challenges remain, the assessment team considers it essential that USAID support for the Customs Authority be maintained in order for the GOTL to become members of the WTO and ASEAN. While unforeseen developments related to the COVID-19 pandemic will undoubtedly impede the progress of the customs reform and modernization process in the short and medium term, it is recommended that USAID's support should continue in order to address the activities that will undoubtedly remain outstanding beyond September 2020.

The assessment team has highlighted seven priority reform areas for additional USAID assistance to the Customs Authority.

1. Align the Customs Legal and Regulatory Environment with WCO RKC, WTO Trade Facilitation Agreement (TFA), ASEAN accession, and other best practices and standards.
2. Align HRM with the WCO Revised Arusha Declaration.
3. Make improvements to the Customs Brokerage system.
4. Expand the use of RM best practices.
5. Coordinate border management (BM) and communications.
6. Better utilize ASYCUDA World features.
7. Run National Single Window (NSW), National Trade Portal, and National Enquiry Point (NEP).

Based on the willingness stated to the assessment team by the GOTL and Customs Authority to continue customs modernization reforms, and new opportunities, such as the devolution of HRM functions to the Customs Authority, the assessment team strongly recommends continued support for Timor-Leste customs modernization. The assessment team believes that this should be in the form of a follow-on project to CRP, in the form of four-year project. This duration is based on our assessment of the length of time needed to accomplish the recommendation, while also taking into account risks and challenges (such as the COVID-19 pandemic).

A series of recommendations have been outlined in this report and are presented in detail in the *Recommendations for Further Technical Assistance* document annexed to this report.

I. INTRODUCTION AND BACKGROUND

As a critical public service, Customs Border Management (BM) agencies and associated stakeholders play an essential role in today's fast-moving and dynamic international trading system. The growth in international trade and the exponential increases in the number of travelers and the advances in technology, coupled with changes in trading methods have all contributed to new challenges that require Customs and other BM agencies to adapt. RM can be used in order to achieve an optimal balance between the facilitation and control of trade and the movement of people.

"The most pressing development issue in Timor-Leste now and for the next five years will be achieving the necessary capacity to implement the Strategic Development Plan and effectively and efficiently deliver public services."

- USAID Timor-Leste Country Development Cooperation Strategy (CDCS), 2013–2020

In this regard, nations across the globe have recognized the need to implement sound fiscal and administrative reform programs, including RM, within the customs sector. These changes are designed to improve the business enabling environment by enhancing transparency, clarity, and predictability in order to reduce uncertainty. In short, as stated by Michel Danet, former WCO Secretary General, *"the customs services of tomorrow must be integrated, act in real time, operate on-line, be properly equipped, empowered, manage risk and make well-informed decisions in partnership with their counterparts."*

After independence in 2002, the GOTL identified the Customs Authority as a priority area for reform and modernization, and since then it has benefitted from numerous multilateral and bilateral technical assistance programs. From the outset, the Government of Timor-Leste recognized that, in order for the Customs Authority to function properly, it would be necessary to: 1) apply strict international norms and standards in order to ensure that revenue was properly collected; 2) secure borders appropriately; 3) facilitate low-risk trade; 4) contribute to economic growth; and 5) adequately manage the increasing numbers of people and cargo entering and leaving Timor-Leste through the application of effective RM.³

In 2006, GOTL introduced a multilateral partner-financed Public Financial Management Capacity Building Project, under the stewardship of the World Bank. The initiative strengthened the capacity of the Ministry of Finance (MOF) by requiring government revenue functions to be *"administered efficiently and transparently, with improved performance in line with economic development."* The project included a draft Customs Reform and Modernization Program to guide the implementation of the changes required, leading to the subsequent design and introduction of the GOTL Strategic Development Plan (2011–2030), which focuses in part on the institutional development and capacity building of the Customs Authority.

The World Bank undertook an assessment mission in 2012 and reported on the *"significant progress and improvements that had been made"* in customs in the intervening period but noted the existence of *"significant gaps across many operational areas between the existing practices and internationally accepted standards."* The report also highlighted the *"extremely slow progress in key areas"* and suggested that intensive

³ List drawn from various GOTL documents, including the Fiscal Reform Plan.

efforts were required to ensure that the “*nascent reform momentum*” was not lost and emphasized that there was a need to maintain “*staff enthusiasm*.”

In the four years leading up to July 2014, the GOTL, with the assistance of the World Bank and WCO, continued to advance essential trade facilitation initiatives through the delivery of a wide range of activities, including, *inter alia*: 1) the establishment of a Customs Brokers Association; 2) provision of WCO Time Release Studies designed to establish a baseline for the impact of any reform changes introduced; 3) adoption of a new Customs Code; 4) ratification of the WCO Revised Arusha Declaration; 5) establishment of the Customs administration as an “Authority”; and 6) an upgrade of the United Nations Conference on Trade and Development (UNCTAD) ASYCUDA World system.

The approval of the new Customs Code, the ratification of the WCO Revised Arusha Declaration by the Council of Ministers (which sets out specific guidelines for enhancing the integrity of customs officials through training and strict enforcement of punitive measures for transgression), together with the ongoing commitment of the GOTL to implement the proposals contained within its Fiscal Reform Plan, all indicated broad-based support for the continuing process of customs reform and modernization.

In 2015, as a component of the Fiscal Reform Program, the GOTL established a Fiscal Reform Commission (FRC) with specific responsibility for improving the efficiency and effectiveness of international and cross-border trade. The entity sought to reduce trade costs by implementing internationally recognized best practices in supply chain and trade facilitation procedures in an endeavor to stimulate economic growth, encourage foreign direct investment, and increase revenue, while simultaneously supporting Timor-Leste’s accession to the ASEAN and the WTO.

To continue these endeavors, the Commission approached USAID in 2017 with a request to undertake an assessment of the existing situation in Customs for clearing goods against international norms and standards, by examining the legal and regulatory environment, and by determining the operational capacity of the Customs Authority. The assessment identified a range of deficiencies in the operation of the Customs Authority, including:

- The ineffective use of RM and selectivity processes.
- The adoption of arbitrary valuation of imported goods.
- The need to strengthen the Post Clearance Audit capability.
- Integrity and associated human resource development issues.
- The absence of an appropriate Authorized Economic Operator scheme.⁴

⁴ The assessment team is aware that the proposal to establish an AEO or similar trusted trader scheme had been removed from the USAID CRP work-plan. However, we continue to recommend that this initiative should be progressed as it fully supports the facilitation of trade and is a fundamental requirement of the WCO SAFE and WTO obligations. It should also be noted that this was a recommendation made and accepted by the GOTL in 2017.

Having endorsed the findings, the MOF requested USAID/Timor-Leste to design an activity to provide technical support to address the shortcomings highlighted during the course of the assessment. To achieve the specific objectives, a program was designed with three interrelated outcomes:

1. Implementation of the WCO RKC and the Framework of Standards to Secure and Facilitate Global Trade (SAFE).
2. Implementation of the WCO Revised Arusha Declaration.
3. Operational use of a Timor-Leste Trade Information Portal (TLTIP).

Consequently, USAID/Timor-Leste commenced a comprehensive CRP designed to strengthen the governance of the Customs Authority and to contribute to the GOTL Fiscal Reform Plan in June 2017. In order to continue to strengthen the institutional and human capacity of the Customs Authority, the three-year program was expanded and extended in 2019 to encompass other government initiatives, including the establishment for operational use of a multi-agency Integrated Clearance Services Office designed to function as a rudimentary single window for the processing of import and export declarations.

While this assessment does include an overview of the technical assistance provided by USAID CRP, the primary purpose of this report is to determine the Customs Authority's adherence to international norms and best practices, with a particular focus on trade facilitation, by assessing the commitment and capacity of various stakeholders involved in cross-border trade, including customs authorities, customs brokers, transporters, freight forwarders, and members of the business community.

2. METHODOLOGY AND APPROACH

This assessment examined the current operating environment of the Customs Authority in its quest to implement and comply with international best practices while simultaneously determining the commitment and capacity of the stakeholders involved in the international supply chain, including customs brokers, freight forwarders, transporters, etc., together with members of the business community. This work supports USAID/Timor-Leste's Development Objective, which aims to strengthen "institutional and human capacity for development ... to improve the lives of Timor-Leste's citizens."⁵ Having identified gaps in performance, the assessment team have prepared an annex to this report outlining technical recommendations for assistance based on USAID's priorities and comparative advantages.

2.1 METHODOLOGY

In order to determine the current status of the Customs Authority in Timor-Leste as well as identify impacts of the activities associated with the current USAID CRP, the assessment team has employed both primary and secondary research methodologies designed to collect quantitative and qualitative data. The assessment has been modeled in part on the World Bank Trade and Transport Facilitation Assessment by examining the current functionality and adequacy of the processes and procedures associated with the trade supply chain infrastructure.⁶

The assessment has examined the current systems, policies, and procedures relating to the processing of imported and exported goods, including the application of RM principles, the increased use of the ASYCUDA World automated system, the development of human resource systems, communication and information exchange with stakeholders, and the readiness of the Customs Authority to support the GOTL objective of accession to the WTO and ASEAN.

As part of the preliminary activities, the assessment team conducted a comprehensive literature review of documents provided by USAID, including the quarterly and annual reports prepared by the USAID CRP team, along with other publicly available studies related to the Customs sector. The review provided the assessment team with valuable insight into many of the substantive issues to be addressed, affording the team the opportunity to address the questions presented in Table I below.

Following the conclusion of the literature review, the assessment team undertook a series of key informant interviews (KIIs) and focus group discussions (FGDs) with both public and private sector participants in the international trade supply chain, including customs and other BM agencies, transport operators, freight forwarders, customs brokers, and port and airport officials. The assessment team also convened a series of meetings with members of the USAID CRP Team to discuss the activities undertaken as part of their reform program initiative, including the achievements made, the obstacles encountered, and any future activities.

⁵ USAID/Timor-Leste. "Country Development Strategy 2013-2018." Last updated June 12, 2020. <https://2012-2017.usaid.gov/sites/default/files/documents/1870/cdcs-timor-leste-2013-2018.pdf>

⁶ World Bank. "Trade and Transport Facilitation Assessment: A Practical Toolkit for Country Implementation." Washington, D.C.: World Bank Group, 2010. <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/967151468325281350/trade-and-transport-facilitation-assessment-a-practical-toolkit-for-country-implementation>

The team also held meetings with a number of non-Customs stakeholders including the Director General of the Ministry of Foreign Affairs and Cooperation responsible for ASEAN accession, a senior representative of the MOF, the former Head of the Fiscal Reform Commission, and other diplomatic and donor community officials, including representatives from the Australian Embassy and USAID. The team also took the opportunity to hold discussions with the Customs Brokers Association and Women’s Business Association in Timor-Leste, as well as with members of the Chamber of Commerce and Industry and a number of small/medium size enterprises.

The team structured the interviews around USAID’s guiding questions and a series of more in-depth supplementary questions. Supplementary questions are outlined in Annex B. Although not exhaustive, they provided a framework for obtaining the necessary information. The interviews were supplemented with site visits to the Batugade Border crossing with Indonesia and the Dili air and seaports, where the team examined the current passenger and cargo clearance procedures and spoke with various Customs officials.

TABLE I: GUIDING QUESTIONS FROM USAID	
<p>Part I – Assessment of the Customs Environment</p>	<ol style="list-style-type: none"> 1. How effective are operational clearance procedures? 2. How well does the customs brokerage system function and what are the gaps? 3. How effective are RM approaches being used to selectively examine import consignments? 4. What are the gaps in legal and regulatory environment to support effective customs system in Timor-Leste? 5. To what extent are the practices used in the Customs Authority consistent with the ASEAN, the RKC on the Simplification and Harmonization of Customs Procedures, and the WTO TFA? Which practices are not implemented or not in compliance, and why? 6. What bottlenecks exist in the capacity and commitment of stakeholders (Customs Authority, MOF, other government agencies (OGAs), private sector) for institutionalizing international best practices in the customs sector? 7. How effectively has USAID’s CRP engaged with and strengthened the capacity of stakeholders (Customs Authority, MOF, OGAs, private sector, and others) to institutionalize international best practices? How are the Trade Information Portal, the National Enquiry Point, the Customs Intelligence Database, and the Hotline being utilized, and what is the likelihood of these systems being sustained? Which practices supported by USAID are likely and which are unlikely to be sustained by the Customs Authority, MOF, OGAs, and the private sector, and why?
<p>Part II: Development of Technical Recommendations for Assistance</p>	<ol style="list-style-type: none"> 1. Keeping in mind limited resources, over what time period and in what order would it be reasonable to anticipate the identified gaps being addressed? 2. Which of these gaps can the GOTL be expected to address, and over what time period? 3. Which of these gaps most likely necessitate international expert technical support, and over what time period? 4. Which of these gaps could benefit from USAID assistance?

	5. What is the purpose of the recommended assistance, the theory of change, the results framework, illustrative interventions, illustrative indicators, expected results, budget estimate, and selection criteria for the type of personnel needed to attain success and time period?
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A comprehensive list of the persons interviewed, and activities undertaken is attached in **Annex C** in this report.

At the conclusion of the assessment exercise, the team identified ongoing gaps and needs for assistance, which were used to develop a series of programmatic recommendations for USAID to support development of the updated CDCS and future programming. The specific recommendations have been included in a second report entitled *Recommendations for Further Technical Assistance*.

2.2 LIMITATIONS AND ASSUMPTIONS

One of the limitations faced by the team was the difficulty in arranging interviews during the fieldwork activities due to several public holidays. Fortunately, the team was able to reach many of the key informants by email who were unavailable in person. While they were able to get their perspectives, face-to-face interviews are preferable as they allow for more follow-up questions, among other advantages. While the COVID-19 did not impact the fieldwork activities, the pandemic has caused some disruption to the schedule of drafting and delivering this assessment to USAID/Timor-Leste and will undoubtedly influence the momentum of the reform program activities in the short to medium term.

TABLE 2: LIST OF OGAS RELEVANT TO CUSTOMS	
MINISTRIES	NON-MINISTRIES
Ministry of Agriculture and Fisheries	Civil Service Commission
Ministry of Commerce, Industry and Environment	Immigration Service of Timor-Leste
Ministry of Defense	Maritime Police Unit
Ministry of Finance	National Directorate of Quarantine
Ministry of Foreign Affairs and Cooperation	Ombudsman for Human Rights and Justice
Ministry of Health	Port Authority of Timor-Leste
Ministry of the Interior	
Ministry of Transport and Communications	
Ministry of Tourism, Commerce and Industry	

3. CUSTOMS OPERATIONS

The GOTL seeks to modernize the Customs Authority and professionalize its workforce by adopting international norms and standards. The goal is to facilitate legitimate trade by simplifying and harmonizing procedures for the expeditious clearance of import and export consignments. In this regard, the assessment team was tasked with determining the overall effectiveness of the current customs operations and with making recommendations for addressing any gaps identified.

3.1 HOW EFFECTIVE ARE OPERATIONAL CLEARANCE PROCEDURES?

Summary: Many of the operational clearance procedures that are fundamental and obligatory requirements for membership of the WTO and ASEAN communities have not been fulfilled.

To determine the effectiveness of the current operational clearance procedures associated with the importation and exportation of goods into and out of Timor-Leste, the assessment team met with Customs officials and other stakeholders directly involved in the international supply chain, including members of the business community.

The customs modernization effort in Timor-Leste is predicated on the WCO RKC, which seeks to facilitate cross-border trade by harmonizing and simplifying Customs procedures and practices. Contracting partners to the General Annex of the RKC are committed to applying transparent and predictable principles, including the:

- Standardization and simplification of the goods declaration and supporting documents.
- Introduction of simplified procedures for authorized persons.
- Maximized use of information technology.
- Adoption of minimum Customs controls necessary to ensure compliance, including the use of RM and Post Clearance Audit based controls.

It is clear that significant progress has been made in the overall customs clearance process as a consequence of the various reform initiatives already undertaken. USAID's assistance through the CRP has included, for example, the provision of training and awareness activities to customs personnel and other stakeholders involved in the international supply chain, the drafting of new legislation, including regulations and SOPs, together with the enhanced use of RM and selectivity principles using the ASYCUDA World system. Some procedures, however, are not being fully applied by the Customs Authority and do not conform with international norms and recommended best practices. As a result, there are continued gaps in performance, which negatively impact the provision of effective and efficient operational clearance procedures. These gaps include:

- The automated customs system, ASYCUDA World, is not being utilized to its full capacity. Importers and exporters are frequently required to produce hard-copy declarations and associated documentation.⁷ Difficulties are further compounded by an unpredictable and unreliable internet service.
- There is currently no trusted trader system in place to allow simplified procedures to be used by Authorized Traders.
- Although enhanced RM and audit-based controls have been introduced, it is apparent that the principles and procedures set out in the applicable SOPs are not fully understood and/or being adhered to by many Customs officials.
- There is a perceived lack of coordinated intervention with OGAs that have statutory responsibility for the admissibility or inadmissibility of goods entering or leaving the country, resulting in increased clearance times and associated costs.
- While enhanced legislation and associated procedures have been introduced in some cases to facilitate the trading community, the assessment team identified a number of legal obstacles that appear to conflict with the existing national and revised customs legislation. These are leading to confusion and misunderstanding by customs officials, brokers, and the trading community.
- It is evident that many customs brokers, who are statutorily responsible for the preparation and submission of customs declarations, are not fully conversant with the legal requirements associated with tariff classification, rules of origin and valuation.
- During the course of the various meetings with the business community, concerns were expressed about the inappropriate conduct of many customs officials, resulting in some cases, in the imposition of undocumented 'fees' and ongoing delays in the clearance process.

While many of the requirements are recommended best international practice, a number of fundamental and obligatory requirements for membership in the WTO and ASEAN communities have not been fulfilled. These are outlined in more detail throughout this document.

Further details of the specific issues and identified gaps in performance are provided in each of the following paragraphs, together with recommendations to address the problems highlighted.

3.2 HOW WELL DOES THE CUSTOMS BROKERAGE SYSTEM FUNCTION AND WHAT ARE THE GAPS?

Summary: The current brokerage system in Timor-Leste is not functioning effectively, efficiently, or in conformity with the statutory requirements.

⁷ The assessment team were advised by brokers and the business community that the Customs Authority frequently required paper declarations to be produced. We suspect hard-copy documents are required when declarations are channeled in the ASYCUDA World system to 'yellow' and/or when associated documentation is required.

In order to determine the overall effectiveness of the customs brokerage system in Timor-Leste, the assessment team conducted an FGD with 22 members of the Customs Brokers Association to identify any gaps in performance. Meetings were also convened with members of the business community, including the Chamber of Commerce and Industry, the Women's Business Association in Timor-Leste, and a number of small/medium enterprises, in order to determine their concerns about the existing customs broker system.

OVERVIEW OF CUSTOMS BROKERS

In Timor-Leste, customs brokers fall into one of two categories. Public brokers are engaged by individuals and smaller business entities, to prepare and submit customs declarations on their behalf. Private brokers are retained by larger companies to fulfill specific customs obligations and requirements on their behalf.

In order to become either a public or a private customs broker, an individual must submit an application to the GOTL and, following a period of appropriate training and examination by the Customs Authority, be registered by the Director General. Currently there are 28 licensed customs brokers in Timor-Leste, the majority of whom (23) are members of the Customs Brokers Association, an entity established in 2014 to interface with the Customs Authority. There are no formal arrangements for regular meetings to be held between the Customs Brokers Association and the Customs Authority, and face-face meetings with the Director General and Directors responsible for Operations and Compliance are convened only when required.

MAJOR GAPS IN THE CUSTOMS BROKERAGE SYSTEM

Customs brokers are statutorily and exclusively responsible for the preparation and submission of Customs declarations on behalf of importers and exporters (discussed more below). From the discussions held, however, it became evident that there are numerous deficiencies in the current customs brokerage system. Most notably, some customs brokers:

- Have limited knowledge and/or understanding of the customs requirements associated with the WCO Harmonized Tariff, the WTO General Agreement on Tariffs and Trade (GATT) Valuation Rules and Rules of Origin and consider the requirements to be “too complex.”
- Are not fully conversant with the ASYCUDA World system and the ongoing requirements associated with the submission of declarations.
- Are unaware of the proposed single window initiatives and expressed their concern that the single window would lead to “less work and less profit.”

Depending on the degree of noncompliance, the Customs Code provides the Customs Authority with the opportunity to impose appropriate sanctions or take specific action on importers or their agents who are noncompliant. These can include the imposition of a penalty and in more serious cases, prosecution.

Members of the business community registered their disquiet with the brokerage system and, in particular, the statutory obligation to engage a customs broker to complete import and export formalities on their

behalf. In their view, this was leading to the imposition of additional costs, a slowdown in the clearance process and, by extension, missed opportunities.

ANALYSIS OF THE STATUTORY REQUIREMENT TO ENGAGE A REGISTERED CUSTOMS BROKER

Members of the Chamber of Commerce and Industry and Women's Business Association of Timor-Leste suggested that, in order to reduce costs and speed up the clearance process, consideration should be given to allowing all businesses and individuals the opportunity to prepare and submit their own declarations⁸ without recourse to the services of a customs broker.⁹ This request aligns with Chapter 8 of the Revised Kyoto Convention, which allows contracting parties to make the use of customs brokers' services 'optional,' and the WTO TFA, which requires that members do not permit the mandatory use of customs brokers.¹⁰

INTERACTIONS BETWEEN THE CUSTOMS BROKERS ASSOCIATION AND THE CUSTOMS AUTHORITY

Some members of the Customs Broker's Association complained that they were required to undertake "too many Harmonized System classifications"¹¹ for their clients and, further, that customs officials were often holding up shipments while classification and associated issues were being resolved "even when no revenue is at play." This problem is compounded by customs officials who are not invoking the correct procedures associated with valuation and classification, often increasing valuations on the basis of online searches and without providing opportunities for the brokers to challenge the changes made.

At present, it would appear that the Customs Brokers Association does not have any formalized mechanisms for interfacing with the Customs Authority, relying instead on face-to-face meetings with the Director General and his senior personnel.¹² During the course of the discussions, members of the association indicated that changes in Customs procedures, particularly with regard to the use of the ASYCUDA World system, had not been communicated or discussed with them before implementation. Brokers were aware of the impending introduction of the 2017 WCO Customs Tariff, for example, but said that no information or training had been provided. Acknowledging the points made, there would be significant benefit if a joint committee and formalized mechanism, such as a memorandum of understanding

⁸ The assessment team acknowledges that DL14/2017 does permit importers the authority to prepare and submit their own declarations, it was our understanding that the importer (a company) must employ a staff member who is a "despachante privado" or private customs broker who must possess the requisite documentation (permit) to do so. We were advised in meetings with the brokers that a number were private brokers and had received training and had been tested by the Customs Authority in order to obtain their licenses.

⁹ The assessment team is not aware of a specific SOP for small importers. However, at present the Customs Authority, with the assistance of USAID CRP, are providing awareness activities to stakeholders, including the business community, many of which are small/medium size enterprises, and this activity will be further facilitated by the introduction of the proposed trade information portal (discussed below). Once the appropriate mechanism is operationalized within ASYCUDA World, all importers, through their brokers, will be able to obtain pre-clearance online.

¹⁰ WCO/customs-broker guidelines.pdf

¹¹ The Harmonized System is an international nomenclature for the classification of products.

¹² Moving forward, this will be addressed as part of USAID CRP's work to develop the Customs and Trade Consultative Committee (CCTC).

(MOU) between the Customs Authority and Customs Brokerage Association, were established for regular dialogue.

RECOMMENDATIONS

In order to address the issues highlighted above, the team recommends the following:

TABLE 3: RECOMMENDATIONS FOR USAID TO IMPROVE THE EXISTING CUSTOMS BROKERAGE SYSTEM	
RECOMMENDATION	PARTNER ENTITY
Review and, where appropriate, support the Customs Authority in amending national legislation to allow importers and exporters the opportunity to prepare and submit customs declarations (DAUs) on their own behalf using the ASYCUDA World system.	GOTL Director General of Customs National Customs Director, Operations
Provide specific awareness and training events on the legal requirements associated with the WCO Harmonized System Tariff, the WTO GATT Valuation Rules and Rules of Origin to Customs officials and Customs brokers.	National Customs Director, Operations Head of HRM and Training Unit
Provide hands-on guidance, mentoring and technical advice to the Customs Brokerage Administration and its members in order to enhance professional standards and integrity, supplemented with periodic testing by Customs personnel.	National Customs Directors, Procedures, Compliance, and RM Head of HRM and Training Unit
Support the establishment of a formalized coordination/ cooperation mechanism between the Customs Authority and the Customs Brokerage Association, such as an MOU.	Director General of Customs

3.3 HOW EFFECTIVELY IS ASYCUDA WORLD BEING IMPLEMENTED?

Summary: The adoption of the ASYCUDA World automated system fulfills many of the requirements and obligations associated with the WCO Revised Kyoto Convention, the WTO Trade Facilitation Agreement, and membership of the ASEAN community. However, the system is not currently being used to its full capacity and is negatively impacting continued customs modernization efforts.

The ASYCUDA World system, developed by UNCTAD, uses state-of-the art technology to support the customs clearance processes associated with the import and export of consignments. The Customs Authority in Timor-Leste introduced the ASYCUDA system in 2003 and migrated to the current version, known as ASYCUDA World, in 2017. Following a USAID assessment conducted by the USAID CRP in 2018, further features were added, and the system was installed at the border crossings in Batugade and Salele, and at the international airport in Dili.

The ASYCUDA World system in Timor-Leste forms the core of the customs clearance process and is used to support the RM and selectivity procedures which have been designed to facilitate the expeditious clearance of import and export consignments. These are addressed in more detail in the RM and Selectivity section (see Paragraph 3.4 below).

Although not yet implemented, other features of the ASYCUDA World system include the opportunity for the electronic processing of manifests and DAUs in advance of a ship's or aircraft's arrival, combined with a capacity for interfacing with other enabling electronic systems including banks and OGAs. In addition, a recent ASYCUDA World development has resulted in the introduction for operational use of mechanisms designed to support the adoption of a single window capability for all stakeholders involved in the international supply chain.

In order to maintain and maximize the use of the ASYCUDA World system in Timor-Leste, a National Project Team has been established by the Customs Authority within a dedicated Informatics and Customs Statistics Unit. The project team comprises four members and includes a full-time resource seconded from UNCTAD.

On the basis of RM and selectivity parameters previously introduced into the system, declarations are automatically routed to a traffic light-style system of control. Declarations selected for the Red channel are routed for physical inspection of the consignment before clearance and release. Declarations routed to a Yellow channel require two paper DAUs and associated documentation to be produced and scrutinized by a Customs official at a dedicated facility known as the Customs Revenue Entry Processing Unit (CREP) before clearance. Declarations routed to a Blue channel, subject to the processing of payment, are selected for post-clearance audit scrutiny. Paid declarations, for which no further intervention by Customs is considered necessary, are routed to the Green channel for immediate release, although officers may still examine the goods prior to doing so.

As part of the clearance process, customs brokers are statutorily obliged to submit the DAU online and are subsequently advised of the channel to which the declaration has been directed. After it clears selectivity, a documentary check is required, two copies of the Single Administrative Document, known as the DAU, and associated documents must be delivered to the CREP for scrutiny. Once the documents have been satisfactorily examined and payment confirmed, the documents are forwarded to the Operations Directorate for further processing, including inspection, clearance, and release. However, as indicated above, a number of problems continue to impede the satisfactory performance of the overall clearance process, and these are highlighted in more detail in the following paragraphs.

GAPS IN THE IMPLEMENTATION OF THE ASYCUDA WORLD SYSTEM

The adoption of the ASYCUDA World automated system in Timor-Leste has enabled the Customs Authority to positively fulfill many of the requirements and obligations associated with the WCO RKC, the WTO TFA, and membership of the ASEAN community. However, the system is not currently being used to its full capacity which, in the view of the assessment team, is negatively impacting the continuing reform endeavors. Particular issues identified have included:

- The continuing requirement for the provision of the DAU and associated documentation in paper form.
- The payment of revenue and fees not being processed electronically through the system.¹³
- Frequent inaccessibility of the system due in large part to the unreliable internet system and frequent power outages in Timor-Leste.
- Absence of published fallback procedures.¹⁴
- Insufficient training and awareness of customs officials, OGAs, customs brokers, and the business community.
- OGAs noted unpreparedness and/or unwillingness to establish electronic linkages with the ASYCUDA World system – a fundamental requirement for the introduction of a single window capability.

As indicated previously, the difficulties are compounded by an unreliable and unpredictable internet system in Timor-Leste that prolongs delays, resulting in the imposition of penalties and demurrage charges. It is anticipated, however, that the issue may be resolved following the installation of a fiber optic cable in 2021 – an initiative supported by both the Australian and Indonesian governments.

CAPACITY TO SUPPORT ONLINE ELECTRONIC PAYMENTS

Although the ASYCUDA World system has the capacity to support online electronic payments, the facility is not currently being used for that purpose. The assessment team was advised that banks are reluctant, or in some instances lack the technical capability, to establish a link with the ASYCUDA World system.

At present payments are accepted by Customs using a credit or debit card at a point of sale or in cash at a designated bank, for which a receipt is issued and produced to the Customs Authority to be input into the ASYCUDA World system in order to complete the clearance process. Unfortunately, at present there is only one authorized bank for importers to use in Timor-Leste.¹⁵ In order to facilitate trading, community banks in Timor-Leste should be encouraged to establish technical linkages with the ASYCUDA World system to allow importers to pay revenue and/or fees online. This would undoubtedly speed up the clearance process with a commensurate reduction in costs.

¹³ Once payment has been made at the bank, the Customs Authority enters the payment into the ASYCUDA World system. Banks have previously refused to undertake this function and utilize ASYCUDA World directly. Changing this would likely require a legal order from GOTL compelling banks to update ASYCUDA World. Moving forward, GOTL must apply pressure to the Central Bank in order to operationalize the “national Switch”. This would allow the banking sector to receive and process electronic payments, and via appropriate connectivity between the Central Bank and or commercial banks, would mean AW could be updated on an automated level.

¹⁴ This procedure represents an alternative for communicating with the authorities when their IT systems or infrastructure malfunction. It enables the authorities to continue operations despite technical problems in their system landscape, for example by allowing continued processing of international trade transactions and managing the formalities.

¹⁵ The Customs Authority signed MOUs with both the BNU, and more recently, the BNCTL, though it appears this does not include the need for the banks to update ASYCUDA World directly.

Similarly, as outlined above, the system can electronically accept ship and aircraft manifests and process declarations prior to the arrival of goods in Timor-Leste. Unfortunately, from the discussions held, electronic acceptance is happening infrequently. Currently, in many cases, hard copies of the ship and aircraft manifests, together with appropriate Bills of Lading, are being input into the ASYCUDA World system only after the arrival of the ship or aircraft. As a consequence, Customs Brokers are unable to prepare and process the DAU and associated documentation until the manifests and associated documents have been deposited in the CREP and entered into the ASYCUDA World system. Adoption of the pre-arrival facility would enable customs brokers to prepare and enter the DAU and associated documentation into the ASYCUDA World system prior to the arrival of the consignment. Subject to clearance by Customs, this would significantly reduce clearance times and associated costs.

ISSUES WITH THE EXPEDITED RELEASE OF PERISHABLE CONSIGNMENTS

The ASYCUDA World system supports the expedited release of perishable consignments and other items as required by the WTO TFA. The list of designated perishable consignments, which is prepared by the MOF, is incomplete and can cause unnecessary delays and confusion.

During discussions with the Chamber of Commerce and Industry, for example, one importer noted that he had a consignment of fresh fish rejected by a customs officer at the airport. The customs officer was correct to reject the consignment, as it did not appear on the designated perishable consignment list. The importer, however, was unaware of this, resulting in the consignment being confiscated and a consequential missed opportunity and additional cost to the importer. Accordingly, the assessment team recommends that steps be taken to ensure that importers are made aware of those items that are subject to restriction and prohibition, perhaps using the proposed NEP to outline the specific requirements. It is also suggested that the list of perishable and other items is reviewed and updated to ensure it remains fit for purpose.

ABSENCE OF FALLBACK OR CONTINGENT PROCEDURES

In the event of a system malfunction due to power outages or internet problems, the clearance process is reliant on a manual system. It would appear, however, that there are no written fallback or contingent procedures available to staff and/or the public. By way of example, on the day of our discussions with the National Customs Director for Operations, the system had been down for most of the day and had similarly malfunctioned the week before at the border post in Batugade. Although the functioning of the internet and power outages are outside the competence of the Customs Authority to address, it is essential that both customs officials and the trading community are made aware of the procedures to be used in the event the ASYCUDA World system is inoperable.

At present, staff are working with outdated hardware that has limited capacity and slow operating capabilities. Some computers are over 10 years old. The team was advised that 50 computers had been procured with the assistance of the FRC in 2017 along with a number of vehicles, many of which were diverted for use by the MOF. The Director also advised that at present 20 staff are sharing three printers

which, in his opinion, are totally inadequate for fulfilling their administrative requirements. At a minimum, the assessment team should consider that at least 10 printers should be made available.¹⁶

INADEQUATE TRAINING IN THE USE OF THE ASYCUDA WORLD SYSTEM

It would appear that insufficient or inadequate training is impacting the ability of Customs officials to maximize the operational use of the ASYCUDA World system. Many officers within the Customs Authority are unaware of the functionality available in the ASYCUDA World system, including pre-clearance, electronic payments, etc.

The assessment team were advised that 60 percent of staff have not received any training on the system. It was further suggested that the 10 or 12 officers who had received training from UNCTAD now require refresher training, with a particular focus on RM. It would also appear that none of the managers have received training in the system capabilities. The Head of the RM Unit noted that a number of his officers could benefit from further training in RM and, in particular, the application of selectivity parameters. In order to ensure the efficient and effective operation of the ASYCUDA World system, particularly with regard to RM and selectivity, it is essential that appropriate training is provided to all staff members, including senior management.

At present, the Customs Authority is dependent on a small UNCTAD team to provide training. Accordingly, the assessment team recommends that the capacity within the Customs Authority should be enhanced in order to deliver additional training to officers and other stakeholders as considered necessary.

UNOFFICIAL FEES AND DELAYS

During the course of the assignment, the business community frequently advised the assessment team that, despite consignments being routed to the Green channel for immediate release, officials, including customs officers, were continuing to insist on inspecting the goods and often imposed a “fee” for doing so.

Such payments were assessed without consulting any official rate chart, and no receipts were provided to traders. The team was further advised that this was happening on a daily basis and, although the concerns had been brought to the attention of senior management, no further action had been taken. While further inspection of any consignment after clearance to the Green channel by the ASYCUDA World system is not usually a common occurrence, officers are permitted to undertake an examination at any time prior to release, subject to the approval of a superior officer.¹⁷

¹⁶ The assessment team is not aware of any user fees being imposed for the processing of customs declarations, although it is apparent that fees are applied by others (e.g. Port Authority) for the clearance of goods in Timor-Leste. Attempts to impose appropriate fees to enable the Customs Authority to pay salaries, deliver training and purchase equipment would likely require changes to the existing legislation and associated procedures. In addition, their imposition would be somewhat controversial with the trade community.

¹⁷ Paragraph 9 of the SOP associated with RM states: “In the event that specific, credible information is received concerning a particular item or stakeholder, then Customs reserves the right to apply appropriate control action irrespective of which processing lane the ASYCUDA system may have directed the consignment to (i.e. Red, Yellow, Blue or Green lane). Customs will maintain a procedure that clearly identifies when such action has been taken, and the reasons for doing so.”

It should also be noted that the application of such a “fee” mechanism could be construed as a non-tariff barrier that might conflict with various requirements of ASEAN and the WTO.

RECOMMENDATIONS

In order to address the issues highlighted above, the team recommends the following:

TABLE 4: RECOMMENDATIONS FOR USAID TO IMPROVE IMPLEMENTATION OF THE ASYCUDA WORLD SYSTEM	
RECOMMENDATION	PARTNER ENTITY
Facilitate awareness seminars to foster greater understanding of the ASYCUDA World system.	National Director, Operations Head of HRM and Training Unit Head, Informatics and Custom Statistics Unit UNCTAD
Provide new hardware to support the operation of the ASYCUDA World system, including computers and printers.	National Directors, Operations and Administration Head, Informatics and Custom Statistics Unit UNCTAD
Facilitate dialogue among the Customs Authority, customs brokers and the business community on the issues associated with the use of the ASYCUDA World system as a consequence of the unreliable and unpredictable internet system.	Director General of Customs National Directors, Administration and Operations
Support the Customs Authority to develop fallback or contingency procedures that are made available to Customs officials and the business community when the ASYCUDA World system is unavailable.	National Customs Director, Operations Head, Informatics and Custom Statistics Unit
Support the Customs Authority in ongoing reviews of processes to determine what features in ASYCUDA are being used and with what frequency. This would include identifying features that are either underutilized or not being utilized in supporting the Customs Authority to meet global best practices and standards.	National Customs Director, Operations Head, Informatics and Custom Statistics Unit UNCTAD
Support the Customs Authority to develop a strategy to use the ASYCUDA World for information sharing with Customs, GOTL, and other stakeholders, including customs brokers, OGAs, and the trading community.	Director General of Customs National Customs Director, Operations Head, Institutional Relations and Communications Unit Head, Informatics and Custom Statistics Unit UNCTAD

TABLE 4: RECOMMENDATIONS FOR USAID TO IMPROVE IMPLEMENTATION OF THE ASYCUDA WORLD SYSTEM

RECOMMENDATION	PARTNER ENTITY
Conduct a study to assess the capacity of the ASYCUDA system to process electronic ASEAN certificates of origin between member administrations.	National Customs Director, Operations Head, Institutional Relations and Communications Head, Information and Statistics Unit UNCTAD

3.4 HOW EFFECTIVE ARE RISK MANAGEMENT APPROACHES BEING USED TO SELECTIVELY EXAMINE IMPORT CONSIGNMENTS?

Summary: While recognizing the positive steps already taken by the Customs Authority, it is apparent from the discussions held that the RM principles currently employed within the RM Department are not being used effectively or efficiently. The current assessment of risk by the Customs Authority is limited, narrowly focused, and does not effectively support either the control of import and export consignments or the facilitation of compliant traders.

In order to assess the overall effectiveness of the RM approaches currently being used to selectively examine import consignments in Timor-Leste, meetings were convened with the National Customs Directors responsible for RM and Operations, together with the Head of the RM Department and USAID CRP personnel. The team also met with the Director of Customs at the border crossing at Batugade and the Supervisor of Customs at Dili International Airport to assess the application and use of RM and selectivity of cargo and passengers at each location.

In Timor-Leste, the GOTL has recognized the need to introduce measures to strengthen the capacity of the Customs Authority by adopting the principles of RM based on intelligence and information, as outlined in Article 7 of the WTO TFA and Chapter 6 of the WCO RKC. Since 2017, the USAID CRP team has worked assiduously to support the Customs Authority in Timor-Leste in the implementation of enhanced clearance procedures based on an analysis of risk. Activities undertaken have included: 1) drafting and passing of a RM SOP; 2) establishment of a new RM Department; and 3) provision of RM training.

GAPS IN RM APPROACHES

While recognizing the positive steps already taken by the Customs Authority, it is apparent from the discussions held that the RM principles currently employed within the RM Department are not being used effectively or efficiently. During the course of the meetings, it became clear that, in a number of instances, the current assessment of risk by the Customs Authority is limited, narrowly focused, and does not

effectively or adequately support either the control of import and export consignments or the facilitation of compliant traders. In particular, the assessment team was advised that:

- There is currently no dedicated intelligence/information database for RM, although one had existed previously.¹⁸ A secure, centralized, and web-based system is currently being developed with the assistance of USAID CRP.
- The RM process within the Customs Authority is reliant on selectivity data input to the ASYCUDA World system and based primarily on a determination of classification and value. These are the only criteria being used and other parameters should be considered.
- Operational staff conducting inspections are often failing to feed accurate information back to the ASYCUDA World system following the examination of goods.¹⁹
- The rate of compliance is not being measured.
- No risk registers have been introduced at Customs locations.
- Details of seizures made at Dili International Airport and at other border locations are not being routinely reported back to the RM Department.
- There is limited or no risk assessment of passengers at Dili International Airport.²⁰

It is recommended that the following risk parameters be considered. Although the list is not exhaustive, the following could be considered by the Customs Authority: 1) national security; 2) human disease, epidemic, and pandemic controls; 3) pests and invasive species; 4) previous noncompliance with admissibility requirement; 5) goods subject to inward processing relief; 6) consignments eligible for preferential tariff treatment; 7) results of post-entry reviews and examinations, 8) items of high value and/or from key sectors; and 9) first-time importers. All consignments should also be subject to random sampling, including goods imported by Authorized Economic Operators (AEOs), or trusted traders.

An essential element of a sound and well-functioning RM and selectivity principles within Customs are their application by staff with the necessary skills, knowledge, and abilities. Unfortunately, the assessment team was advised by the Head of the RM Department that, in his view, many of the personnel employed within the Customs Authority do not understand the concept of RM and have received little or no training

¹⁸ This relates to a excel spreadsheet that was developed by the New Zealand Police around 2014. The data was lost when the computer it was stored on crashed.

¹⁹ While the assessment team acknowledges that improvements have been made (e.g. through the provision and use of tablets), the 'unauthorized' inspections are still impacting on the reliability of the information in the AW system.

²⁰ The Customs Authority determines who should be examined by first scanning their baggage, and then a Customs Authority official looks at the Customs Declaration. As such, a risk assessment is undertaken, but in practical terms, it is not effective and certainly needs reviewing. From the discussions held at the Dili airport, there are few officers trained in the use of the scanner and the declaration cards are not always being scrutinized. Also, we were advised that no training in RM had been provided to officers.

in its application.²¹ He also confirmed that the majority of staff members had not been provided with or have access to copies of the SOP as mandated by the Administrative Order.²²

It is clear that there is still much to accomplish if the Customs Authority and its personnel are to apply sound and effective RM and selectivity principles for the identification of high-risk consignments – an essential component in facilitating compliance among members of the trading community. The following paragraphs highlight some of the specific issues and make a number of recommendations to address the problems identified.

INTRODUCTION OF SOP AND RISK MANAGEMENT DEPARTMENT

The SOP associated with RM was issued by the Director General of Customs by way of an Administrative Order. The SOP sets out the requirements for establishing and operationalizing RM principles to ensure conformity with Article 53 of the Customs Code (Decree-Law 14/2017), which states that:

“All customs controls based on risk analysis using electronic data-processing techniques, have the purpose of identifying and assess(ing) the risks and developing the necessary counter-measures, on the basis of criteria developed at national and international level.”

Pursuant to the SOP, the Director General, on behalf of the Customs Authority, is required to adopt, maintain, and apply RM practices and methodologies to the processing of all goods entering, leaving, or transiting the territory of Timor-Leste.

In conformity with the SOP, a RM Department was established, supported by a RM Committee under the chairmanship of the Director General. The committee meets each month to undertake a review of the risk profiles and to consider recommendations for changes proposed by members of the RM Department. The RM Department consists of 20 staff members who are responsible for analyzing and conducting inspections based on a determination of risk.

A dedicated intelligence/information database for RM is an essential component in the operation of clearance procedures based on RM. The assessment team were advised that one had been established previously but that it became redundant and replaced by the information contained in various paper documents and those stored within the ASYCUDA World system.

ADHERENCE TO THE PROCEDURES AND PRACTICES OUTLINED IN THE SOP

During the course of the discussions, it also became apparent that many of the procedures and practices outlined in the SOP are not being adhered to. For example, officers were not recording the results of their examinations into the Inspection Act contained within the ASYCUDA World system. The requirement, which is currently not mandatory, may be improved through the recent provision of tablets

²¹ The RM Department has received training by USAID CRP, including the delivery of a seven-day training course in RM to 16 members of the RM unit. Pre-and post-written assessment showed a 50 percent increase in skills following this course. More recently, 14 members of the RM unit also received further two-day training in RM related practices. Prior to USAID CRP, other donors also delivered RM related training, including WCO, World Bank, New Zealand Police and ADB.

²² 15 staff working directly within the RM unit were provided with a printed copy of the SOP in Tetum. Electronic copies were also circulated via data-stick.

with which officers can transmit the results of their examinations directly into the ASYCUDA World system. The Head of the Customs Authority RM Department noted that the failure of staff to fully apply SOPs was due in large part to ineffective management with no well-defined consequences for not doing so.

At present, no risk registers have been introduced to anticipate any risks at the customs locations in Timor-Leste. In addition, no mechanisms have been established to record seizures and feed relevant information to the RM Department. These are essential components in facilitating a sound and effective RM strategy.

Ideally, reviews of performance should be undertaken on a regular basis by the Customs Director responsible for RM in order to ensure continued effectiveness of the RM approaches for selectively examining import and export consignments.

A number of customs brokers and members of the business community expressed concerns about the high volume of declarations currently being directed to the Red channel for inspection, although it is understood that the number of interventions has been reduced markedly recently.²³

Given the increased usage of the ASYCUDA World system by OGAs, it is highly likely that the percentage of goods selected for examination through the RM facility will rise. For example, the assessment team was advised that approximately 40 percent of all goods entering Timor-Leste in 2017 were subject to scrutiny by the Ministry of Agriculture and Fisheries.²⁴ In an endeavor to reduce the number of inspections, it is essential that OGAs currently using the ASYCUDA World system introduce their own RM and selectivity-based controls.

Accordingly, it is recommended that the Customs Authority RM Department and Training Unit provide awareness training and appropriate guidance to OGAs in the principles associated with the application of RM and selectivity. Training on how to improve risk analysis based on pre-departure and pre-arrival information may also be helpful.

RECOMMENDATIONS

Table 5 presents recommendations for the Customs Authority and, in particular, the RM Department to address the issues highlighted above and to enhance RM best practices.

²³ The results of the inspections undertaken by Customs officials in Timor-Leste, together with information and intelligence (both local and international) should influence the RM parameters to be set in the ASYCUDA system. Currently not all officers are feeding the results of their examinations back into the ASYCUDA Inspection Act, which is a fundamental component in the RM methodology. Further, the results of the unofficial inspections are not recorded.

²⁴ By contrast, the U.S. inspects only 4 percent of cargo. The U.S. does not pre-clear all shipments that come to the United States. Some cargo can be pre-cleared, but not all. Cargo may be physically inspected or inspected with non-intrusive technologies by U.S. Customs personnel stationed in other countries under the Container Security Initiative. Cotton imports to the United States are a good example of a response that the country takes to address the risks posed to agriculture by pests/invasive species. In the U.S., Customs was merged at the border with the Animal and Plant Health Inspection Service after 9/11. This is an example of coordinated border management that Timor-Leste will likely address not through merging Quarantine with Customs but rather by coordinating their response. RM techniques will be used to select which shipments are subject to inspection and what type. They may undertake a spot check, use technology such as microscopes to inspect a percentage or even conduct intensive examinations of all shipments. The point is that the Customs Authority and OGAs need to improve their RM techniques to identify and determine levels of risk and the appropriate response to those risks.

TABLE 5: RECOMMENDATIONS FOR USAID TO SUPPORT ENHANCED RM

RECOMMENDATION	PARTNER ENTITY
Assist the RM Department in reassessing its current structure in line with the requirements set out in new Organic Decree-Law 2/2020.	Director General National Customs Director, RM
Encourage the RM Committee to meet regularly and maintain minutes in conformity with the RM SOP.	Director General of Customs National Customs Directors, RM, Compliance, and Operations Head, RM Unit
In partnership with the RM Department, provide awareness training and guidance to OGAs in the principles associated with RM and selectivity.	Customs Directors, Operations, Compliance and RM Heads of RM and HRM and Training Unit
In partnership with the RM Department, provide all Customs Authority personnel with appropriate training, seminars and/or awareness activities for RM and selectivity.	<u>National</u> Customs Directors, Operations, Compliance, and RM Heads of RM and HRM and Training Unit
Encourage that copies of the RM SOP are made readily available to all Customs personnel.	National Customs Directors, Administration, Logistics, and Finance Head of RM Unit
Work with the Customs Authority to ensure that staff conducting inspections enter the results of their examinations in the Inspection Act maintained within the ASYCUDA World system.	National Customs Director, Operations Regional Customs Directors Supervisors (Heads), airports, seaports, and border crossings
Conduct a rapid study to determine the hardware required to support RM endeavors, and provide hardware as needed.	National Customs Directors, Administration, RM, and Operations
Support the Customs Authority to ensure that risk registers are developed and introduced at each Customs location throughout Timor-Leste.	Regional Directors Supervisors (Heads), airports, seaports, and border crossings
Support the Customs Authority to introduce procedures at each Customs location to record seizures and feed the relevant information to the RM department.	National Customs Director, Operations Supervisors (Heads), airports, seaports, and border crossings
Support the Customs Authority in establishing a process for recording and reporting seizures made at each customs location and forward the information to	National Customs Directors, Operations, Compliance, and RM

TABLE 5: RECOMMENDATIONS FOR USAID TO SUPPORT ENHANCED RM

RECOMMENDATION	PARTNER ENTITY
the RM Department for inclusion in the intelligence and ASYCUDA World database.	Regional Customs Directors Head of RM Department
Conduct a program of awareness activities designed to apply risk principles associated with the clearance of passengers and air transport at Dili International airport and other border Customs locations.	National Customs Director, RM Head RM Unit Head of HRM and Training Unit
Encourage the RM Department to closely scrutinize the monthly intelligence reports provided by the CPLP in order to determine its applicability to risk in Timor-Leste and, if adopted by the RM Committee, appropriate selectivity parameters are input into the ASYCUDA World system.	Head of RM Unit and staff

4. LEGAL AND REGULATORY ENVIRONMENT

A sound legal and regulatory environment facilitates effective and efficient business practices for any customs administration in supporting cross-border trade. This section outlines the findings of the assessment team and highlights gaps or contradictions in the enabling environment for the Customs Authority in Timor-Leste.

4.1 WHAT ARE THE GAPS IN THE LEGAL AND REGULATORY ENVIRONMENT TO SUPPORT AN EFFECTIVE CUSTOMS CLEARANCE SYSTEM²⁵ IN TIMOR-LESTE?

Summary: Progress has been made by the GOTL in strengthening the legislative base of the Customs Authority through the development of new and revised legislation, including the recent passing by the Council of Ministers of a new Organic Law (Decree Law 2/2020). In addition, the Customs Authority, with considerable assistance from the CRP, has drafted further legislation, including a new Code of Conduct, and have been instrumental in the preparation of a significant number of SOPs, some of which have been brought into effect by the Administrative Orders of the Director General

Notwithstanding, the assessment team has concluded that there are still a number of gaps in the legal and regulatory environment for supporting the customs clearance process and have some reservations and concerns about the impact of the timing of the reform initiatives following the introduction of the new Organic Law.

At present, the legal and regulatory environment associated with the functioning of the Customs sector in Timor-Leste consists of a number of separate and distinct enactments (i.e., Ministerial Orders, SOPs, etc.), each of which is designed to complement Decree-Law 9/2017 and now the Organic Law (Decree-Law 2/2020), which established the former Directorate of Customs as a Customs Authority. During the course of the assignment, a number of legal issues and potential obstacles were identified that, in the view of the assessment team, could prevent the GOTL from complying with the requirements associated with membership of the WTO TFA and ASEAN community. For example, there are a number of decree laws that do not allow for electronic signatures to be accepted, requiring instead signed, original paper copies to be produced and retained. Conversely, the Customs legislation allows for the preparation, submission, and processing of DAU and associated documents using the ASYCUDA World system. Other examples include the ongoing requirement to submit an original signed paper document, the mandatory use of a customs broker (as outlined in Paragraph 3.2 above), and the absence of a formal legal and regulatory environment that supports coordinated border management (CBM) with OGAs.

ANALYSIS OF THE NEW ORGANIC LAW

As indicated above, a new Decree-Law 2/2020 was recently passed by the Council of Ministers which establishes the 'organic structure' of the Customs Authority and replaces the previous Decree-Law 9/2017. The new law, which awaits formal implementation, sets out the role and responsibilities of the

²⁵ The system is the customs clearance process and refers to the various elements associated with the procedure, including RM, automation, post clearance audit, etc.

Customs Authority for “carrying out the tasks of the Ministry of Finance.” Specific Articles within the Decree-Law will enable:

- A revised ‘organic’ structure for the Customs Authority.
- An enhanced Human Resources and Training (HRT) Unit.
- Great autonomy to the Customs Authority for ‘collaboration’ with national and international organizations.

In a number of instances, the changes will require the development and approval of further Decree-Laws and/or Ministerial Diplomas, which will undoubtedly impact the timing of the ongoing reform activities in the short to medium term, A Code of Conduct which establishes the legal basis for enhancing integrity among Customs officials, for example, was recently repealed. A revised Code has been developed by the Customs Authority, with the assistance of the USAID CRP, which will require a Decree Law to be passed to bring it into effect. Similarly, the introduction and implementation of a revised Customs Organizational Structure cannot be finalized until a further Decree-Law or Ministerial Diploma is approved.

One of the other changes, outlined in the new Decree-Law, will be the installation of a Commissioner as Head of the Customs Authority. This may be considered a positive step in providing more autonomy and control within the Authority. The team, however, has some reservations that the GOTL may replace the current Director General with a political appointee who lacks the requisite Customs experience (also discussed in Section 7 below).

While it is clear that a number of activities planned for 2020 will be unaffected, others may require the passage of further Decree-Laws or Ministerial Orders (including the proposed CBM and revised HRM initiatives). The assessment team believes that this will result in a number of planned activities not being achieved in the limited time that now remains. In other cases, the USAID CRP team have also recognized that the attention of management will be diverted away from the customs modernization program activities while implementing the revised departmental structure.

LACK OF LEGAL EXPERTISE WITHIN THE CUSTOMS AUTHORITY

The drafting of new or revision of existing legislation is undertaken by the MOF legal unit. There is normally a legal draftsman who is normally employed on a full-time basis within the Customs Authority to provide specific Customs legal opinion. However, the position has remained vacant for the past two years. This is of concern to both the assessment team and the USAID CRP team, as an Appeal Board for Customs and Tax Matters is to be established in the near future and a dedicated legal expert with a clear understanding and experience of Customs issues will be essential in fulfilling this objective. Accordingly, it is recommended that the GOTL fill the vacant position within the Customs Authority or that consideration be given to the engagement of a local or international legal advisor or consultant with the requisite skills in Customs matters, including single window, a necessary prerequisite for ASEAN accessions, as part of any future USAID support.

NEED FOR A COMPREHENSIVE LEGAL GAP ANALYSIS

The stakeholders interviewed do not fully understand the extent to which there may be conflicts in the legal framework in light of the new Customs Code. The Customs Code, for example, requires import consignments to be valued on the basis of Article VII of the WTO GATT. The assessment team noted, however, that Customs officers were using arbitrary methods to value goods instead of the required hierarchical methodology.

No legal gap analysis has been conducted since the establishment of the Customs Authority in 2017. Accordingly, it is recommended that a review of all customs legislation be undertaken to ensure it is fit for the purpose in satisfying the requirements of the WCO RKC, the WTO TFA, and membership of the ASEAN community, while ensuring that it does not conflict with any other national legislation.

The Customs Authority has a statutory responsibility to remove unnecessary barriers that impede the flow of international trade across the borders in Timor-Leste. In this regard, it is essential that all Customs personnel have a clear understanding of the legal obligations associated with the movement of goods and people across the borders in Timor-Leste and that they are fully aware of their roles and responsibilities. In this regard, it is recommended that all staff be provided with appropriate training in the complexities of the international supply chain, including the legal requirements associated with the seamless facilitation of legitimate trade.

RECOMMENDATIONS

In order to address the issues highlighted above, the team recommends the following:

TABLE 6: RECOMMENDATIONS FOR USAID TO ENHANCE THE LEGAL AND REGULATORY ENVIRONMENT	
RECOMMENDATION	PARTNER ENTITY
Encourage the GOTL to fill the vacant legal adviser position within the Customs Authority and provide technical assistance in the form of a legal adviser or consultant.	GOTL Director General
Undertake an assessment of all Customs and associated legislation to ensure it is fit for the purpose in satisfying the legal requirements and obligations associated with the WCO, WTO and membership of the ASEAN community.	Director General National Customs Directors Head, Legal Unit
Examine the legislative framework of all relevant OGAs in order to ensure that it will support collaboration with the Customs Authority through the CBM initiative.	Director General National Customs Directors Head, Legal Unit
Support the drafting of further legislation, where appropriate, to support the introduction for operational use of a single window to encompass all stakeholders involved in the international supply chain in Timor-Leste.	Director General Heads of OGAs National Customs Directors Head, Legal Unit

TABLE 6: RECOMMENDATIONS FOR USAID TO ENHANCE THE LEGAL AND REGULATORY ENVIRONMENT

RECOMMENDATION	PARTNER ENTITY
Assess the impact of the new Decree-Law 2/2020 on the future structure and operating environment within the Customs Authority in order to address any gaps in complying with international agreements, best practices and obligations.	Director General National Customs Directors Head, Legal Unit
Lobby the GOTL to formally commit to becoming a contracting party to the General Annex to the RKC.	GOTL Director General National Customs Directors
Undertake a comprehensive review to address the outstanding issues which should be addressed in order to ensure compliance with the provisions contained within the General Annex of the RKC associated with trade facilitation.	Customs Authority committee with assistance of USAID CRP

5. INTERNATIONAL TRADE FACILITATION REQUIREMENTS AND ASSOCIATED INSTRUMENTS

The assessment team was tasked with determining the extent to which the current practices used by the Customs Authority in Timor-Leste are consistent with the requirements and obligations associated with ASEAN accession, the WCO RKC on the Simplification and Harmonization of Customs Procedures, and the WTO TFA.

5.1 TO WHAT EXTENT ARE THE PRACTICES OF THE CUSTOMS AUTHORITY CONSISTENT WITH THE WORLD CUSTOMS ORGANIZATION REVISED KYOTO CONVENTION?

Summary: Many of the business processes and policies introduced by the Customs Code in 2017 are largely compliant with the RKC General Annex. However, there are still a number of key provisions that are obligatory for membership of the WTO TFA and ASEAN communities, including the adoption of advanced rulings on tariff classification, origin, valuation, and applicable regimes and the use of pre-arrival processing capabilities.

The WCO RKC aims to facilitate cross-border trade by harmonizing and simplifying Customs procedures and practices. The General Annex of the RKC requires contracting parties to commit to applying transparent and predictable principles, including the:

- Standardization and simplification of the goods declaration and supporting documents.
- Introduction of simplified procedures for authorized persons.
- Maximized use of information technology.
- Adoption of minimum Customs controls necessary to ensure compliance.
- Use of RM and post-clearance audit-based controls.

The Customs Code adopted in 2017 was designed in part to comply with the requirements of the WCO RKC and, in this regard, many of the provisions required by the Customs Authority to support enhanced business processes and policies have been introduced and are largely compliant with the RKC General Annex.

However, there are still a number of key provisions in the Annex that, in the view of the assessment team, should be implemented, including:

- **The adoption of advanced rulings on tariff classification, origin, valuation and applicable regimes:** While the Customs Authority does not see advance rulings on tariff classification as necessary because of the flat duty rate, there is a high incidence of errors by customs brokers in this particular area that must be addressed. Once corrected, the team confidently predicts that the measures will expedite the timely release of cargo and accurate

collection of revenue while simultaneously enhancing the use of RM by the Customs Authority for compliant traders.

- **The use of pre-arrival processing capabilities²⁶:** This enables traders to lodge the DAU as soon as a ship or aircraft manifest and associated documents have been registered within the ASYCUDA World system. For sea cargo, it is necessary for shippers to register the manifest as soon as a vessel departs from its last port of call. The implementation and use of this component within ASYCUDA system will undoubtedly have a profound effect in facilitating the speedy clearance of import consignments with a commensurate reduction in costs. As indicated previously, subject to the requisite infrastructure being in place and a clear knowledge and understanding of the requirements by transporters, importers, exporters, and customs brokers, the percentage of goods cleared without further intervention should be increased to the greatest extent possible.

At present, the GOTL is not a contracting party to the General Annex of the RKC and must adopt a number of recommended best practices that are obligatory for membership in the WTO TFA and ASEAN communities. These are outlined in more detail in paragraphs 5.2 and 5.3 below.

5.2 TO WHAT EXTENT ARE THE PRACTICES OF THE CUSTOMS AUTHORITY CONSISTENT WITH THE WORLD TRADE ORGANIZATION TRADE FACILITATION AGREEMENT?

Summary: Timor-Leste has established a sound basis for membership of the WTO TFA, although the requirements associated with the WCO RKO, noted above, will need to be addressed.

The WTO TFA has been designed to streamline, speed up and coordinate trade procedures across countries. Its goal is to lower trade costs and provide a significant, sustainable boost to international trade. Other anticipated benefits include faster economic growth and greater export diversification in implementing countries. Estimates show that full implementation of the WTO TFA could reduce trade costs by an average of 14.3 percent and boost global trade by up to \$1 trillion per year, with the biggest gains in the poorest countries.²⁷

In 2017 GOTL signaled its intention to become a member of the WTO and has established a TFA Committee, of which the Director General of Customs is an active participant. Although not directly involved in the accession committee deliberations, project activities undertaken by the USAID CRP have supported the Customs Authority in the adoption of 26 out of a total of 35 WTO TFA requirements. Subject to the availability of additional resources, it is anticipated that seven further TFA-related provisions will have been adopted by the conclusion of the USAID program in September 2020. It is understood that other remaining provisions relate to transit and are not applicable to Timor-Leste at this time.

²⁶ There is no "reasonable" percentage of goods that should be inspected. While optimal percentages for the physical examination of goods have been recommended by the WCO, the volume of goods to be examined is dependent on the assessment of risk based on a changing national, regional and local context and, the perceived compliance of traders and the availability of resource.

²⁷ WTO, "Trade Facilitation," wto.org. https://www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm

In the view of the assessment team, the adoption of the aforementioned provisions has established a sound basis for membership of the WTO TFA, although the requirements associated with the WCO RKC outlined in the paragraph above, will need to be addressed.

5.3 TO WHAT EXTENT ARE THE PRACTICES OF THE CUSTOMS AUTHORITY CONSISTENT WITH THE ASEAN TRADE FACILITATION FRAMEWORK?

Summary: While it is clear that some progress has been made, the Customs Authority has not adopted all the obligations required for accession to the ASEAN community and are unlikely to do so by the target date of 2021.

In order to determine the status of the customs obligations associated with accession of Timor-Leste to the ASEAN community, the assessment team met with a number of individuals, including the former Head of the FRC, now engaged as an adviser with the Asian Development Bank (ADB) and the Director General of the Ministry of Foreign Affairs and Cooperation responsible for ASEAN affairs.

Recognizing that trade facilitation is a key driver for economic development and regional integration, the ASEAN Trade Facilitation Framework seeks to apply similar disciplines to those contained within the WTO TFA and the WCO RKC, outlined in Paragraphs 5.1 and 5.2 above. The Customs Authority must adopt the following key principles:

- Transparent procedures.
- Communication and consultation mechanisms designed to engage with all stakeholders in the supply chain.
- Consistent and predictable legislation, rules and associated procedures.
- Modernization endeavors, including the use of new technology.
- Adoption of a national single window.

GAPS IN OBLIGATIONS FOR ASEAN ACCESSION

GOTL and ASEAN stakeholders recognize the importance of the role of the Customs Authority in the accession process. The former Head of the FRC views the Customs Authority as an essential component in the accession endeavor and stated that, in her opinion, significant progress has already been made with the assistance of the USAID CRP team to fulfill many of the requirements. This was further confirmed by a representative from ADB who considered the reforms currently being undertaken by the Customs Authority as crucial if Timor-Leste is to become a member of ASEAN by 2021.²⁸

²⁸ This was confirmed in meetings with the former Head of the FRC, a representative of ADB and the Director General of the Ministry of Foreign Affairs (ASEAN Division). Of course, in light of the current difficulties associated with COVID, the target date will undoubtedly be subject to revision.

Despite this progress, the Customs Authority has not adopted all the obligations required for accession to the ASEAN community and are unlikely to do so by the target date of 2021. Activities still to be addressed include:

- The establishment of a sound legal and regulatory framework.
- The implementation of a single window.
- Enhanced coordination and sharing of information with OGAs.
- The development of the ASYCUDA World system to accommodate the exchange of information between member administrations who are not users of the system and the ASEAN Trade repository.

MOVING FORWARD WITH ASEAN ACCESSION

Clearly the attainment of the trade facilitation components will not be achieved by the Customs Authority by 2021. This provides a clear role for USAID to provide continued support to the Customs Authority to ensure that the requirements associated with membership of the ASEAN community, including the implementation of a single window and trade portal, are fulfilled.

The Director General of the Authority and his staff continue to provide guidance and advice to the ASEAN Directorate within the Ministry of Foreign Affairs and Cooperation in addressing many of the trade facilitation requirements.²⁹ USAID CRP team members have not been party to these discussions, which is understandable, and so it is not known what difficulties or obstacles still need to be overcome. The USAID CRP has met with officials of the Ministry of Foreign Affairs and Cooperation to discuss the various requirements associated with the accession process and further collaboration is anticipated but not yet defined.

²⁹ The assessment team was unaware of any other formal mechanisms for coordination.

6. INSTITUTIONAL AND HUMAN CAPACITY GAPS

6.1 WHAT BOTTLENECKS EXIST IN IMPLEMENTING THE COMMITMENTS OF THE ARUSHA DECLARATION?

Summary: There are a number of constraints impacting the ability of the Customs Authority and its personnel to implement the commitments of the Arusha Declaration. These include internal resistance to change by veterans of the Customs Authority, low morale due to poor terms and conditions of staff, lack of proper English and Portuguese language skills, and corruption. The new Customs Code and Code of Conduct offer opportunities to address many of these gaps.

An essential component in the modernization of any customs administration is the need to professionalize its workforce by embodying the core values associated with integrity, professionalism, transparency, and respect. In recognizing the fundamental role that Customs performs on behalf of governments in contributing to their national aims and objectives, the WCO has established a series of principles through the Arusha Declaration that are designed, *inter alia*, to engender high confidence and trust by all stakeholders involved in the international supply chain. The Arusha declaration is focused on the integrity and professionalism of Customs personnel.

The Customs Authority must adopt the tenets outlined by the Declaration in order to fulfill the ambitious change and modernization program in Timor-Leste.

GAPS IN IMPLEMENTING THE COMMITMENTS OF THE ARUSHA DECLARATION

The assessment team identified a number of constraints that are impacting the ability of the Customs Authority and its personnel to introduce many of the initiatives associated with the reform program. These are highlighted below.

- **Resistance to change:** Unfortunately, there appears to be a degree of internal resistance by some operational staff to the changes proposed, particularly among those referred to as veterans who are uninterested and, in some cases lack the appropriate skills.
- **Low morale:** There is low morale among some Customs staff, which is compounded in large part by the poor terms and conditions associated with their employment. It is understood that there is considerable disquiet among staff members following the requirement for them to reapply for their positions following the introduction of a new Special Career Regime.
- **Language barriers:** A number of staff members are unable to communicate in either English or Portuguese. Additionally, a number of officers are unable to read and write Tetum.

Many of the issues identified are due in part by the centralization of recruitment, as well as the promotion and disciplining of staff by the Civil Service Commission. The lack of dedicated customs expertise in the Civil Service Commission limits its ability to ensure successful HRM.

During the course of the fieldwork activities, members of the business community and other stakeholders frequently noted the unhelpful attitude of some officials and of other serious misdemeanors bordering on corruption. While the allegations could not be substantiated by the assessment team, it was suggested that, although Customs management had been informed of the improper and potentially illegal behavior of some officials, no further action had been taken. The issue was raised diplomatically with the Director General, who indicated that in many instances the complainant was unable to provide the requisite evidence to substantiate the claims made, and therefore no further action was taken. In those instances when the complaints could be validated, the matters were referred to the Civil Service Commission to take appropriate disciplinary action.

REVISED CODE OF CONDUCT

In order to address the issues of integrity within the Customs Authority, the USAID CRP has drafted a revised Code of Conduct that sets out the standards of behavior expected from its officials. This has been complemented by the drafting of an Assets and Liabilities declaration form that Customs Authority officials will be obliged to complete, setting out their financial assets, financial obligations, or conflicts of interest for themselves and their families. Although the new Code of Conduct was approved by the Director General in 2019, it is anticipated that both documents will now be introduced following the passing of either a Decree-Law or similar enactment, as outlined in Decree-Law (2/2020).

In 2020, the USAID CRP will assist the Customs Authority in developing and implementing a Capacity Building Plan designed to address issues associated with HRM, including integrity-related problems. The document will incorporate the international business practices outlined previously, including those contained within the WCO Revised Arusha Declaration. This assessment recommends several activities in Table 7 below for follow-on USAID support that build on this Capacity Building Plan.

IMPACT OF THE NEW ORGANIC DECREE-LAW (2/20)

On a positive front, the new Organic Decree-Law (2/20) is designed to provide greater autonomy to the Customs Authority. The Code empowers the administration to undertake many of the HRM functions currently undertaken by the Civil Service Commission, including the recruitment, promotion, and movement of staff. This change will enable the Customs Authority to hire more suitable candidates as it has more specialized knowledge of customs than the Civil Service Commission. However, in order to maximize the benefits of this change, the Customs Authority will need to develop appropriate recruiting or onboarding procedures and strengthen training and development capacity, including the adoption of initiatives designed to enhance personal and professional development. Recommendations are outlined in Table 7 below.

Additionally, a Senior Economic Adviser in the MOF informed the assessment team that the GOTL is in the process of developing a new Decree-Law to improve the terms and conditions of all public servants in the country, including customs personnel. While the precise details of this Decree-Law are currently unknown, it was indicated that remuneration would in the future be based on satisfactory performance.

RECOMMENDATIONS

In order to address the issues highlighted above, the team recommends the following:

TABLE 7: RECOMMENDATIONS FOR USAID FOR BRINGING HRM INTO CONFORMITY WITH THE GLOBAL BEST PRACTICES AND STANDARDS, RECOMMENDED IN THE WCO REVISED ARUSHA DECLARATION	
Building on the Capacity Building Plan to be developed by the Customs Authority, with the support of USAID CRP:	
RECOMMENDATION	RESPONSIBLE ENTITY
Encourage the Council of Ministers to ratify and fully implement the revised Code of Conduct at the earliest opportunity.	Director General GOTL (MOF)
Assist the enhanced HRT Unit of the Customs Authority in introducing a system for undertaking periodic assessments of personnel within the Customs Authority, including measures to assess their ongoing commitment, suitability, and integrity.	Director General Customs Director, Administration Head, HRM and Training Unit Head, Internal Audit & Ethics
Assist the enhanced HRT Unit of the Customs Authority in enforcing the HRM provisions of the new Code of Conduct through the provision of technical assistance by an HRM expert.	Director General Customs Director, Administration Head, HRM and Training Unit Head, Internal Audit and Ethics
Assist the enhanced HRT of the Customs Authority in redesigning and implementing improved selection and onboarding criteria for the recruitment of individuals.	Customs Director, Administration Head, HRM and Training Unit Head, Internal Audit and Ethics
Build on the work done by the USAID CRP by developing and providing training to all Customs Authority personnel on their specific roles and responsibilities in adopting the various components of the WCO RKC, the WCO Revised Arusha Declaration, and the WTO TFA, with a stronger emphasis on HRM.	Customs Director, Administration Head, HRM and Training Unit Head, Internal Audit and Ethics

6.2 WHAT BOTTLENECKS EXIST IN IMPLEMENTING THE WCO FRAMEWORK OF STANDARDS TO SECURE AND FACILITATE GLOBAL TRADE?

Summary: While the Customs Authority in Timor-Leste, with the continued assistance of the USAID CRP, has made some progress in strengthening cooperation between Customs administrations, OGAs, and the business community, a number of difficulties still remain. Such difficulties include a limited understanding by stakeholders, including OGAs, of the concept of a single window, the absence of an AEO or trusted trader scheme, and a lack of formal coordination and consultation mechanisms with some OGAs and other stakeholders.

The WCO SAFE seeks to strengthen cooperation between Customs administrations, OGAs, and the business community to work toward a common goal of enhancing supply chain security and efficiency based on mutual trust and transparency. This is an essential component in the development of a single window. The SAFE package comprises three pillars: customs to customs, customs to businesses, and customs to OGAs. The assessment team assessed performance on all three pillars against SAFE international best practices.

Based on discussions held and observations made, it is clear that the Customs Authority, with the continued assistance of the USAID CRP, has made some progress to strengthen coordination mechanisms. However, the following gaps remain:

- The absence of an AEO or trusted trader scheme.
- A limited understanding by stakeholders, including OGAs, of the single window concept.
- Lack of formal coordination and consultation mechanisms with some OGAs and other stakeholders.

The specific details associated with the findings identified by the assessment team have been highlighted in the paragraphs below, and recommendations are presented in Table 8.

CUSTOMS TO CUSTOMS

The Customs Authority is an active participant in the CPLP, an organization established by Portuguese-speaking customs administrations. In addition, the Customs Authority is a member of the Regional Intelligence Liaison Offices network, an organization established by the WCO to facilitate the exchange of intelligence and information among Customs Authorities in the region. The network aims to create conditions for enhanced enforcement action and control while securing the optimum use of available resources.

In order to better understand cooperation between the Customs Authority and other regional customs agencies, the team visited the Batugade border crossing with Indonesia and met with the Regional Customs

Director and his staff. While the Regional Customs Director indicated that regular contact was maintained with his counterpart across the border, the following issues were raised:

- The scanner for processing cargo had been inoperable since 2018.
- Although 25 staff were employed at the border office, only three had received appropriate training in the use of the scanner.
- There is some confusion at the Border over the authority of the different agencies, including the Border Patrol Unit, a unit of the Police Department that, in the view of the Regional Customs Director, are not always adhering to the obligations set out in the appropriate legislation (Article 25). For example, in some cases it was felt that the Border Patrol Unit was acting within the jurisdiction of the primary Customs inspection zone while officers were inspecting conveyances and shipments for compliance with Customs and OGA clearance procedures.
- Reference prices for goods regularly imported from Indonesia are being applied to determine value for duty purposes, which is not in compliance with GATT valuation requirements.
- A number of border crossings are not staffed by Customs officers. The problem is compounded by a lack of vehicles to undertake patrols.
- As stated previously, a number of officers at the border point have difficulty in communicating in English or Portuguese, which also impacts their ability to review and understand the various laws and regulations.
- There are difficulties in using the ASYCUDA system, often compounded when importers are unable to secure funds at a bank or Point of Sale machine.
- Officers have received insufficient training in search techniques and RM.

The Director raised another issue on the different hours of operation by the various agencies at the border, which was creating some difficulties in maintaining adequate control.³⁰ The issue has been recognized by both administrations and steps are currently being taken to draft an MOU with Indonesia in order to harmonize the hours of operation across the border.

As part of the single window initiative, the team recommends establishing integrated border facilities by combining the activities of the respective administrations.³¹ The adoption of this initiative would result in enhanced control and considerable reductions in costs through the sharing of facilities, staff, and

³⁰ Cross-training will be helpful if the existing legislation allows for cross-enforcement authority. CBM can help address this, but a legal gap analysis and ensuring that a government agency can enforce it on behalf of another will be key. In the experience of the assessment team, government agencies are not always willing to share some of their authority with OGAs and this can be a touchy subject politically.

³¹ This is something that USAID CRP is actively working on in terms of integrating and automating procedures. In addition, USAID CRP assisted the Customs Authority in the development of a Ministerial Diploma 'coordinated hours of operation' at Dili Port, Dili Airport and all Customs border posts. This is currently with the MOF Minister and will need to be signed by all relevant parties.

equipment. More importantly the conjoined facility would facilitate the trading community by adopting a one-stop shop environment.

CUSTOMS TO BUSINESS

From the discussions held, it is clear that a number of initiatives have improved the interaction of the Customs Authority with the business community. This has been achieved in large part through the establishment of a number of consultative committees. These committees, discussed below, have been designed to provide a platform for participants to raise issues of mutual concern and to discuss proposed changes to processes prior to their implementation.

The overall goal of the committees is to facilitate the expeditious movement of import and export cargo consignments through ports of entry, a key requirement of the WTO TFA. A Port Stakeholders Committee is in operation and the Customs Authority, with the assistance of the USAID CRP, intends to create a Customs to Trade Consultative Committee with active participation from the Timor-Leste Chamber of Commerce and Industry and other private sector organizations. The assessment team views this to be mutually beneficial, which will undoubtedly lead to enhanced collaboration and communication with business partners in successfully concluding the various reform initiatives.

To build on these positive initiatives, the assessment team were notified that the Customs Authority, with the assistance of the USAID CRP, has developed and are currently delivering appropriate workshops to the trading community and other relevant stakeholders.

In order to facilitate an expedited clearance process for compliant traders, WCO SAFE encourages administrations to introduce an AEO or trusted trader scheme. Although this requirement was proposed following the 2016 USAID Customs Assessment, to date no such facility exists. The team was advised that at present there is little or no interest in the initiative and it is not considered a high priority by the Customs Authority. Furthermore, the Customs Authority does not currently have the human or financial capacity to resource and maintain a dedicated AEO scheme. There is openness, however, to a trusted trader scheme, although no timetable has been set for the endeavor.

As this is an important trade facilitation component, the assessment team recommends that further consideration be given to the introduction for operational use of an AEO scheme for compliant traders.

After the WCO Mission to Timor-Leste in February 2020, it was recommended that the Customs Authority examine the WCO Customs–Business Partnership Guide for developing robust and sustained engagement and partnership mechanisms with the trading community. The assessment team also supports this recommendation.

CUSTOMS TO OGAS

While the Customs Authority is recognized as the lead agency associated with the clearance of imports and exports, a number of OGAs are involved in the international supply chain process. At present, there is limited coordination of activities between the Customs Authority and OGAs, and importers and exporters are required to submit the same information to a plethora of agencies in order to comply with

statutory requirements. For commercial goods to clear customs in and out of Timor-Leste, importers and exporters are required to produce a business certificate issued by the Registry and Verification of Enterprises Service (in Portuguese, Serviço de Registo e Verificação Empresarial, or SERVE), the GOTL licensing authority and to be in possession of a tax identification number assigned by the National Directorate of Revenue. Failure to comply with the statutory requirements results in a delay in the customs clearance process and a commensurate increase in costs.

Some mechanisms had already been established by the Customs Authority to communicate and collaborate with OGAs and other stakeholders involved in the supply chain. These meetings, however, are not formalized. The USAID CRP is currently assisting the Customs Authority in drafting cooperation agreements in an endeavor to establish long-term relationships with participating OGAs. The initiatives will undoubtedly be strengthened following the recruitment of a Communications Adviser by the USAID CRP, who will be tasked with developing and implementing effective communication strategies with all stakeholders involved in the international supply chain in Timor-Leste.

The assessment team recommends that further measures be taken to introduce CBM initiatives, including an associated legal framework to enhance collaboration between the Customs Authority and relevant OGAs. The assessment team views this as an essential prerequisite to the establishment of the proposed single window designed to streamline and integrate procedures, as outlined in paragraph 7.2.2. below.

RECOMMENDATIONS

In order to address the issues outlined above, the following recommendations are made:

TABLE 8: RECOMMENDATIONS FOR USAID FOR STRENGTHENING COOPERATION BETWEEN CUSTOMS ADMINISTRATIONS, OGAS AND THE BUSINESS COMMUNITY, IN LINE WITH THE BEST PRACTICES OF SAFE	
RECOMMENDATION	RESPONSIBLE ENTITY
Provide technical assistance to repair or replace the Cargo scanner at the border crossing at Batugade.	National Customs Director, Administration
Provide appropriate training for Customs officials in the operational use of scanners.	National Customs Director, Procedures Head, HRM and Training Unit
Assist the Customs Authority to resolve the issues relating to the authority of agencies (Border Police) at the border crossing at Batugade.	Director General
Lobby the Customs Authority to eliminate the use of reference prices for the importation of goods in Batugade, and ensure officers conform with the WTO GATT requirements and obligations.	National Customs Director, Operations Regional Customs Director, Batugade

TABLE 8: RECOMMENDATIONS FOR USAID FOR STRENGTHENING COOPERATION BETWEEN CUSTOMS ADMINISTRATIONS, OGAS AND THE BUSINESS COMMUNITY, IN LINE WITH THE BEST PRACTICES OF SAFE

RECOMMENDATION	RESPONSIBLE ENTITY
Provide funding to provide additional vehicles at the border crossing in Batugade to patrol unapproved border crossing points.	National Customs Director, Administration
In partnership with the HRM and Training Unit, provide Customs officials with appropriate language skills training.	National Director, Administration Head, HRT Unit
In partnership with the HRM and Training Unit, provide customs officials with training in search techniques and risk management.	National Director, Operations Regional Director, Batugade Head, HRM and Training Unit
Provide technical assistance, as considered necessary, to the Customs Authority to finalize an MOU between Timor-Leste and Indonesia (in coordination with the ADB).	Director General Head, International Cooperation Unit
Promote to the Customs Authority and OGAs the possibility of establishing an integrated clearance procedure at the border in Batugade as part of a one-stop shop initiative.	Director General Regional Director, Batugade National Customs Director, Operations
Develop a legal framework to support CBM initiatives.	National Customs Director, Operations Legal Adviser/Consultant
In partnership with the HRT Unit, design and deliver appropriate training and awareness initiatives on CBM to Customs, OGA officials, customs brokers, and the trade community.	National Customs Director, Operations Head, HRM and Training Unit
Design and develop outreach and communication strategies using appropriate media.	National Customs Director, Operations

7. COMMITMENT AND SUSTAINABILITY OF REFORM PROGRAMS

Activities to implement many of the proposed changes within the Customs Authority have already commenced or will begin shortly. In order to achieve the customs modernization objectives, it is essential that the Customs Authority fully collaborate with OGAs and stakeholders from the public and private sectors involved in the international trade chain. In addition, despite the many challenges, it will be important for the Customs Authority to continue to undertake the reforms themselves. In the view of the assessment team, this will not only build capacity but will also ensure the long-term sustainability of the changes made.

7.1 HOW EFFECTIVELY HAS USAID'S CUSTOMS REFORM PROJECT ENGAGED WITH AND STRENGTHENED THE CAPACITY OF STAKEHOLDERS TO INSTITUTIONALIZE INTERNATIONAL BEST PRACTICES?

Summary: Significant progress has been made by USAID CRP since the inception of the reform program in 2017 in strengthening the operational capacity of the Customs Authority. It is apparent, however, that there are continued gaps in the performance of the Customs Authority in a number of key areas, and more needs to be accomplished. Many of the planned activities are unlikely to be accomplished within the current timeframe of the USAID CRP.

The USAID CRP seeks to strengthen the governance of the Customs Authority in Timor-Leste through the application of improved clearance systems, procedures, and personnel. Its goal is to support the GOTL Fiscal Reform Plan, which aims to stimulate economic growth, encourage investment, and increase revenue while simultaneously supporting the aspirations of the government in becoming a member of the WTO and ASEAN communities. The assessment team was asked to determine how effectively the USAID CRP had engaged with and strengthened the capacity of the Customs Authority and other stakeholders to institutionalize international best practices.

OVERVIEW OF THE USAID CRP

In 2017, the GOTL, through the MOF, requested USAID to design a reform program to provide the Customs Authority with the technical guidance and support required to address the shortcomings highlighted during the course of an assessment conducted the previous year. To achieve the specific objectives, an activity was designed with three interrelated outcomes, namely the:

1. Implementation of the WCO RKC and SAFE.
2. Adoption of practices associated with the WCO Revised Arusha Declaration.
3. Development and use of a National Trade Information Portal.

The three-year activity sought to strengthen the institutional and human capacity of the Customs Authority in Timor-Leste by implementing revised policies and procedures in line with the international standards and obligations outlined in the preceding paragraphs above and to establish a multi-agency Integrated Clearance Services Office designed to function as a rudimentary single window for the processing of import and export declarations.

In the early stages, the USAID CRP team worked in close cooperation with the FRC, embedded within the MOF. The FRC sought to enhance revenue collection and was fully supportive of the reform activities being introduced by the Customs Authority with the assistance of the USAID CRP. However, in 2019 the FRC was disbanded, resulting in a shift of strategy as the project transitioned to working more closely with the Customs Authority and its personnel.

In September 2019, the USAID CRP program was extended for a period of four months in order to advance a number of new and current activities still required to strengthen the institution, including measures to enhance the professional competencies of individuals within the Customs Authority.

To support the various initiatives, the USAID CRP has engaged a number of technical experts who continue to provide workplace mentoring, guidance, and advice to officers in a number of key operational areas outlined below.

The assessment team was informed that a number of short-term technical advisers will be employed in the near future to promote the adoption of enhanced communication capabilities, procedural techniques associated with warehousing, and the development of the National Trade Portal.

The personnel embedded by CRP within the Customs Authority have established excellent working relationships with their Customs counterparts, which is an essential component in advancing the customs modernization initiative.

HIGHLIGHTS OF USAID CRP WORK

The assessment found that significant progress has been made by USAID CRP since the inception of the reform program in 2017 in strengthening the operational capacity of the Customs Authority. Highlights of USAID CRP support include:

- Established working relationships with GOTL officials, including the Director General, senior management, and operational customs staff, by providing hands-on guidance, mentoring, and advice.
- Focused on supporting the Customs Authority in installing the essential foundations to support adherence to the international norms and best practices advocated by the WCO through the introduction of new legislation, SOPs, a revised Code of Conduct, and a five-year strategic plan.
- Provided appropriate training and awareness to Customs officials and other stakeholders involved in the international trade chain, including OGAs and the business community. Through these

trainings, participants gained a deeper understanding of the requirements associated with their specific roles and responsibilities in the clearance of import and export consignments.

- Developed additional functionality within the ASYCUDA World system, including the integration of selectivity parameters designed to enhance the customs clearance process. Maximized use of the automated system is a key requirement in conforming with the WCO revised Kyoto Convention and WTO TFA.
- Introduced a system for archiving paper customs declarations, leading to an improvement in the statutory retention of documentation by the Customs Authority.
- Prepared job descriptions and profiles for each position within the Customs Authority, providing officers with details of their specific roles and responsibilities within each operational area.
- Provided assistance to the Director General of Customs in preparing a business case proposal for submission to the CPLP, enhancing the credibility and status of the Customs Authority among other Portuguese-speaking customs administrations.

CONTINUED GAPS IN THE PERFORMANCE OF THE CUSTOMS AUTHORITY

However, there are continued gaps in the performance of the Customs Authority in a number of key areas. More needs to be accomplished in order for “the new Customs Authority [to be] the gateway to prosperity of Timor-Leste,” as outlined by the GOTL Fiscal Reform Plan. Ongoing gaps include:

- Failure of the Customs Authority to comply with a number of recommended best practices advocated by the WCO with regard to trade facilitation simplification and harmonization (see Section 5).
- The underutilization of the capacity of the ASYCUDA World automated system.
- Difficulties with Customs Authority personnel who are perceived as negatively impacting the adoption and implementation of the reform endeavors (particularly those that are on long-term sick leave without documentation, or those with the wrong capacity/education).
- The applications for operational use of RM and selectivity principles, which are not effectively supporting either the control of import and export consignments or the facilitation of compliant traders.
- Complications associated with the legal and regulatory environment.
- Lack of effective mechanisms to collaborate, coordinate, and communicate with OGAs and other stakeholders involved in the supply chain.

The gaps have been compounded by the passing of the new Organic Law (Decree-Law (2/2020), which may require restructuring and reordering of the Customs Authority and its personnel, together with the potential impact of the COVID-19 pandemic.

LIKELIHOOD OF USAID CRP COMPLETING REMAINING TASKS

At present, many of the activities required to achieve the three specific outcomes associated with the USAID CRP have yet to be fully accomplished and, as a consequence, have been included in the proposed USAID CRP 2020³² list of deliverables. They include measures to:

- Enhance the risk management capacity within the Customs Authority by continuing to streamline procedures.
- Draft cooperative agreements with OGAs and other partners.
- Develop and implement integrated services.
- Develop and implement a five-year Customs Authority Strategic Plan.
- Develop and implement anti-corruption activities.
- Enhance HRM capacity.
- Establish a Trade Consultative Committee.
- Develop and deliver workplace mentoring, guidance, advice, and training.
- Develop and deliver further workshops/seminars to stakeholders.
- Develop outreach material.
- Develop and implement a TLTIIP.
- Integrate key information into the TLTIIP.
- Prepare policy and procedural manuals.
- Develop a monitoring and evaluation plan designed to measure the impact of the TLTIIP on the trading community.

Many of these planned activities are unlikely to be accomplished within the current timeframe of the USAID CRP for a number of reasons, including the unpredictable political climate in Timor-Leste, the impact of the introduction of the new Customs Code, and the unknown influence of the COVID-19 pandemic.

³² CRP Annual Plan (Redacted) 2020.

7.2 HOW ARE THE TRADE INFORMATION PORTAL, THE NATIONAL ENQUIRY POINT, THE CUSTOMS INTELLIGENCE DATABASE, AND THE HOTLINE BEING UTILIZED, AND WHAT IS THE LIKELIHOOD OF THESE SYSTEMS BEING SUSTAINED?

Summary: None of these initiatives have yet been operationalized, although it is anticipated that a beta version of the TLTIIP will be introduced for testing by a number of selected traders toward the end of July 2020. Notwithstanding, it would appear that initial steps are being taken by the Customs Authority to develop a Customs Intelligence database and the proposed Customs Hotline.

The assessment team examined how the TLTIIP, the NEP, and Customs Hotline are being utilized and assessed the extent to which each will be sustained. From the discussions held, it is apparent that none of the aforementioned initiatives have yet been operationalized, although it is anticipated that a beta version of the TLTIIP will be introduced for testing by a number of selected traders toward the end of July 2020.

Nevertheless, it would appear that the Customs Authority, with the assistance of the CRP, is taking initial steps for developing a Customs Intelligence Database and the proposed Customs Hotline, both of which will be undertaken in the latter half of 2020. Accordingly, the assessment team was unable to assess the utilization of each system at present or to determine the likelihood or otherwise of them being sustained.

The following paragraphs provide an outline of the status of each initiative at the time of the assessment, together with a number of recommendations for consideration.

7.2.1 TIMOR-LESTE TRADE INFORMATION PORTAL

The development and operationalization of the TLTIIP is an essential component toward the creation of a NSW – a key priority of the GOTL in satisfying the obligations associated with the WTO TFA and membership in the ASEAN community. Activities undertaken thus far by the Customs Authority, with the continued support of the USAID CRP, include preliminary measures to develop the TLTIIP and a web-based NEP.

It was initially envisaged that the USAID CRP would assist the Customs Authority in developing TLTIIP for operational use. However, the requirement changed in February 2020 as UNCTAD informed the USAID CRP that it had already developed a Customs Trade Portal. UNCTAD has advised the Customs Authority that it does not plan to support the Customs Authority in the identification, collation, and uploading of trade related information within the portal, but instead would focus on the development of the IT application itself. Accordingly, USAID CRP will now assist the Customs Authority in entering the requisite data into this system, and a beta version will be trialed by a number of selected traders toward the end of July 2020. Each trader selected will be requested to provide appropriate feedback. Once any identified problems or issues have been resolved, the TLTIIP will be rolled out for operational use throughout Timor-Leste. Specific tasks that USAID CRP is set to undertake include:

- Identifying enhanced portal functionality, such as the development of additional information tabs and pages, associated with the new NEP and Customs Hotline.

- Collating trade information data as it pertains to the cross-border movement of goods for uploading into to the ASYCUDA World portal.
- Developing procedures and authorities to manage, maintain, and update the portal content.
- Collaborating with UNCTAD to identify the potential for the development and implementation of monitoring and evaluation-related measures and metrics, such as a facility for end users to provide feedback and end-user satisfaction metrics.
- Collaborating with other stakeholders, including UNCTAD and the ADB, to identify the potential for linking the portal to the ASEAN Trade Repository.

The team recognizes that this is an extensive undertaking and that steps must be taken to provide resources to adequately maintain the portal. International experience has demonstrated that the maintenance of a trade portal is time-consuming, requires a number of dedicated staff, and is costly.

The implementation of the TLTIIP will undoubtedly contribute positively to the trading community by speeding up the customs clearance process and lowering costs. More importantly, it will support the ultimate endeavor of introducing an NSW in Timor-Leste.

7.2.2 NATIONAL SINGLE WINDOW

The establishment of an NSW enables importers, exporters, and transporters to submit standardized forms at a single location in order to speed up the Customs clearance process and reduce costs. At present, manual procedures in Timor-Leste require traders to apply for permits, pay fees, and submit documents to a multitude of OGAs, often in different locations. This is both costly and time-consuming. The implementation of an electronic NSW will enable all import and export formalities to be conducted online, using ASYCUDA or an alternative automated system.

The Customs Authority is considered responsible for the establishment of an NSW using the tools currently available in the ASYCUDA World system. Eight OGAs have committed to exchanging data with the Customs Authority, although no formal MOUs have been established.³³ These OGAs include SERVE; the Immigration Office; the Directorate of Quarantine; the Ministry of Health; the Port Authority (APORTIL); Trade Investment; the Ministry of Tourism, Commerce, and Industry; and the Ministry of Transport and Communications. The assessment team was advised that work to establish an NSW is expected to start in 2020, although specific details on this plan by the Customs Authority were vague, and the source of funding is unknown.

There is, however, reluctance on the part of some OGAs that are concerned about the impact that an NSW will have on their organizations or their employees. In past international experience, some OGAs resisted the establishment of an NSW due to the additional costs associated with the development of

³³ There is some confusion over whether Government Resolution 24/2016 already mandates OGAs to utilize AW part of the NSW effort. The assessment team reviewed this resolution and could not find anything explicit about the sharing of information between agencies. Accordingly, in the absence of any legal requirement, we would continue to recommend the establishment of MOU's at the working level to facilitate the exchange of data between the OGAs.

technical interfaces. These are legitimate concerns, and the assessment team recommends that the GOTL establish a high-level steering committee within the MOF to ensure there is buy-in from all OGAs, consider the source of funding for the initiative, and confirm that the Customs Authority is prepared to institutionalize an NSW.

7.2.3 NATIONAL ENQUIRY POINT

In conformity with the Fiscal Reform Plan, the Customs Authority is committed to a more transparent and customer-focused service. At present, there is no dedicated Customs-related website providing the necessary guidance and forms required by traders to import or export goods. Although some information pertaining to Customs is available on the MOF website, it has clearly not been updated for some time and, in the view of the assessment team, is inadequate. For example, the list of Customs brokers “currently” registered was last updated in 2011.

At the time of writing, the proposed NEP is in development by the Customs Authority and, following finalization and testing, will be made available to the public via the MOF Information Technology Data Center. The NEP will serve as a mechanism to provide answers to reasonable trade-related queries and documents.

7.2.4 CUSTOMS HOTLINE

The assessment team were advised that a Customs Hotline is to be implemented in 2020, which will allow individuals and the business community to communicate directly with the Customs Authority. The Customs Authority, with the assistance of USAID CRP, is currently undertaking the ongoing development of this system, which is anticipated to become operational in July 2020. The sustainability of the system is questionable, as it is not clear where the resources needed for maintenance and ongoing operations are going to come from.

RECOMMENDATIONS

In order to address the issues outlined above, the following recommendations are made:

TABLE 9: RECOMMENDATIONS FOR USAID TO SUPPORT THE DEVELOPMENT AND OPERATION OF THE NSW, THE NATIONAL TRADE PORTAL, AND ELECTRONIC NATIONAL ENQUIRY POINT	
RECOMMENDATION	RESPONSIBLE ENTITY
Following the testing of the TLTP and Customs Hotline, provide technical assistance to address technical issues and undertake preliminary activities for implementation.	National Customs Director, Procedures Head of Information and Statistics Unit UNCTAD
Conduct an assessment to determine the next steps associated with the development of the NSW. This should include the resource implications (both human and financial) for the operation and maintenance of the system.	National Customs Director, Procedures Head of Information and Statistics Unit UNCTAD

Based on the assessment, provide support for the preparation and implementation of a work plan with timelines for progressing the development and implementation of the NSW.	National Customs Director, Procedures Head of Information and Statistics Unit UNCTAD
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7.3 WHICH PRACTICES SUPPORTED BY USAID ARE LIKELY AND WHICH ARE UNLIKELY TO BE SUSTAINED BY THE CUSTOMS AUTHORITY, MOF, OGAS, PRIVATE SECTOR, AND WHY?

Summary: The Customs Authority has done a good job of laying a long-term foundation for customs modernization, particularly in terms of the introduction of the new Customs Code and Code of Conduct, which are likely to be sustained. Unfortunately, the changes identified may slow the customs modernization process in the short term. However, with the adoption of the strengthened HRM measures outlined in the new Customs Code, which are designed in part to enhance the capacity of personnel in the Customs Authority, the likelihood of the reforms already made being sustained will be substantially increased.

The assessment team was requested to determine the ongoing commitment of the Customs Authority, the MOF, and OGAs to support the customs modernization efforts. This included examining sustainability and the extent to which further activities could be undertaken without further assistance from USAID or other development partners. In answering these questions, the analysis is broken into three parts: 1) assessment of commitment of the GOTL; 2) assessment of commitment of the Customs Authority; and 3) assessment of the sustainability of the reform effort.

COMMITMENT OF THE GOTL

Timor-Leste has a challenging environment with frequent changes of government. This has impacted and on occasion, slowed the progress of the GOTL’s customs modernization reform activities. During a conversation with the principal Project Advisor to the MOF, the assessment team expressed concern that any future change of government might result in a reprioritization of the Custom Authority’s reform program agenda. In response, the Advisor indicated that, although there had been three changes of government since the commencement of the customs modernization activities in 2017, each had been fully supportive of the GOTL Fiscal Reform Plan, including the changes required in the customs sector. In this regard, he anticipated that any future government would undoubtedly continue to support the reform program, provided the reforms proposed are country-owned, country-led, and integrated with other country systems.

A number of initiatives have been advanced by the GOTL to enhance the overall performance of the Customs Authority, including the recent passage of an Organic Law (Decree-Law 2/2020) which will introduce a revised structure within the Customs Authority and designate the Director General as a Commissioner. This is an important development, as it will enable the incumbent to exercise greater control over the administrative and financial requirements of the Authority. The new legislation will also devolve a number of HRM administrative functions, such as recruitment, discipline, and promotion, which are currently managed by the Civil Service Commission

During the discussions with the principal advisor in the MOF, the assessment team was advised that the GOTL intends to introduce a Decree-Law to enhance the terms and conditions of public servants, with a revised system of remuneration based on performance. Although the specific details are unknown at present, the initiative could have a significant impact and profound effect on the overall performance of the Customs Authority in the long term, both in terms of staff retention and attracting more skilled staff.

COMMITMENT OF THE CUSTOMS AUTHORITY

However, while noting the potential benefits outlined above, the assessment team is concerned about the impact the proposed changes will have on additional customs modernization activities. For example, in the early stages of implementing the new legislation, the Director General and his senior staff will undoubtedly be focused on the restructuring process, diverting their attention away from some of the current activities. In addition, the process may result in a change to the Director General, which could further slow progress. The Director General, despite his limited experience within the Customs sector, has been *in situ* since the inception of the reform program and has demonstrated full commitment. A change in leadership at this juncture could have a detrimental impact on the reform program activities.

It is clear that the Director General of Customs and many of his staff are fully supportive of the customs modernization reforms. However, other staff members are less enthusiastic about the adoption of many of the proposed changes for a number of reasons, such as:

- Lack of understanding of the reform program aims and objectives.
- Disinterest in or unwillingness to adopt changes proposed.
- Inability in some cases to read and write, or to speak either Portuguese or English.
- Poor terms and conditions of service.

The problems are compounded by a number of staff members who are resorting to inappropriate practices that negatively impact the customs clearance process. As stated previously, this is resulting in physical inspections of cargo, although the risk profile and assessment in the ASYCUDA World system do not require such measures to be imposed. In some instances, it would appear that these are serious disciplinary matters, which must be addressed by the Customs Authority.

The assessment team was also informed that the new Decree-Law (2/2020) will require staff in the Customs Authority to reapply for their positions. Although this may support an opportunity for the removal of the veterans within the Customs Authority, this is likely to cause discontent.

SUSTAINABILITY OF REFORM AGENDA

On the one hand, it is clear that there is continued political support from both the GOTL and the Customs Authority for continued customs modernization. With the support of USAID CRP, there has been progress in building a sustainable legal foundation and supporting international norms and best practices. The training provided by USAID CRP to customs officials, OGAs, and the business community has resulted in a deeper understanding of the requirements required for the efficient clearance of imports and exports.

It is the view of the team that there are staff within the Customs Authority who possess the relevant skills to provide training and/or guidance to customs colleagues and other stakeholders in the international trade chain. In particular, training could be conducted in the areas of the ASYCUDA World system, RM, examination of consignments, and use of scanners. The Customs Authority would see further benefits by increasing staff within the Human Resource and Training Unit and conducting train-the-trainer courses to deliver training and awareness activities that are currently facilitated by the USAID CRP.

On the other hand, as noted throughout this report, the Customs Authority has only partially completed the customs modernization effort and substantial work is still required to achieve the goals of the GOTL Fiscal Reform Plan. The Customs Authority needs continued support not only to achieve these goals, but also to ensure that the reforms made are sustainable.

8. CONCLUSION

This assessment has found that while current customs modernization initiatives, in particular the USAID CRP, have positively impacted Timor-Leste, further activities are still required to accomplish the objectives of the Fiscal Reform Plan. The USAID CRP has rightly focused its activities on delivering the essential building blocks needed to develop and sustain a modern customs administration, such as the establishment of benchmarks, regular reporting of performance, provision of workplace mentoring and support, introduction of revised customs procedures like RM, and enhanced use of the ASYCUDA World system.

Despite this progress, the Customs Authority must address the following gaps in order to fulfill the overall aims and objectives of adhering to strict international standards. These include:

- Many of the requirements associated with the simplification and harmonization of customs procedures are not being complied with. The broad requirements associated with the application of RM, in particular, have not been addressed, and the capacity of the ASYCUDA World automated system is not being fully utilized.
- HRM issues within the Customs Authority, such as limited Portuguese and English language skills, coupled with a lack of integrity, and poor remuneration, are also negatively impacting the adoption and implementation of the Customs reform and modernization efforts.
- Conflicts between national legislation and the changes required by the Customs Authority to align with global best practice (i.e., the use of electronic signatures). The team also noted ongoing delays in ratifying proposed legislations, such as the new Organic Decree-Law and the Code of Conduct, which are impacting the timely delivery of the customs modernization agenda of the Customs Authority.
- Failure to live up to the SAFE commitments on broad stakeholder consultation and communication in order to establish proposed single window capability.

Clearly, many challenges remain, but the Customs Authority of Timor-Leste must continue its reform and modernization program in order to support the GOTL's aspirations of becoming a member of the WTO and ASEAN.

However, there are three recent developments that will impact the attainment of the requirements in the short to medium term. These are:

- The recently enacted Decree-Law 2/2020 will impact the accomplishment of some of the initiatives within the limited time remaining, by requiring further Decree-Laws or Ministerial Diplomas to be enacted.
- The COVID-19 pandemic is currently restricting the movement of individuals across the globe. The effects on trade facilitation and RM in Timor-Leste will be substantial, although it is difficult to predict where this may lead in the coming months and even years. As this assessment was conducted just before Timor-Leste recorded its first case, the team cannot speak to how the

pandemic is impacting the movement of goods, the work of the Customs Authority, or what activities are needed to address this impact. The assessment team would, however, recommend reading the World Bank's *April 2020 Timor-Leste Economic Report: A Nation Under Pressure*, for the most recent analysis of the impact of the COVID-19 pandemic on Timor-Leste.³⁴

- The continued political uncertainty in Timor-Leste.

While taking note of these risks, which will undoubtedly impact the progress of the customs modernization program in the short term, the assessment team recommends that USAID's support should be extended to address the remaining gaps and needs of customs reform program beyond September 2020. The assessment team believes that this should be done in the form of a four-year follow-on project to CRP. This proposed timeline is based on our analysis of the remaining needed to carry out the recommendations, while also taking into account risks and challenges (such as COVID-19).

Recommendations are presented in greater detail in the Technical Recommendations for Further Assistance document provided as an annex to this report.

³⁴ World Bank, "April 2020 Timor-Leste Economic Report: A Nation Under Pressure," (Washington, D.C.: World Bank Group, May 15, 2020): <https://www.worldbank.org/en/country/timor-leste/publication/april-2020-timor-leste-economic-report-a-nation-under-pressure>.

ANNEX A: ACTIVITY AUTHORIZATION REQUEST

USAID/Timor-Leste asked the LEAP III project for assistance in conducting an assessment of the customs sector in Timor-Leste and to provide technical recommendations for assistance. This Activity Authorization Request (AAR) builds on a Scope of Work provided to LEAP III by our Contracting Officer Representative on December 1, 2019. There are two key areas of inquiry for this assessment:

Part I – Assessment of the customs environment: Building upon a similar 2016 USAID assessment, Part I will assess the current status and operating environment, legal and regulatory environment, compliance with international best practices, and commitment and capacity of relevant stakeholders. Primary stakeholders include the Customs Authority; OGAs engaged in moving goods entering or leaving the country; the MOF; and other related institutions including importers-exporters, freight forwarders, customs brokerages, and carriers. The assessment will document the overall sector condition, status of operation, gaps, and opportunities for reform and specific areas of assistance that USAID/Timor-Leste has a comparative advantage to support. It will examine how successful the current customs project has been in engaging with and strengthening the capacity of the key stakeholders to institutionalize best practices.

Part II: Development of technical recommendations for assistance: Part II of the assessment will provide targeted technical recommendations for future USAID programming assistance. Technical recommendations will identify priority areas that could benefit from USAID assistance and describe the purpose of the recommended interventions, theories of change, results frameworks, illustrative interventions, illustrative indicators, expected results, budget estimates, and selection criteria for the types of personnel needed for success. Technical recommendations will also factor in other influences, such as political will, gaps in programming, opportunities and constraints, and lessons learned. The recommendations will directly support the development of USAID/Timor-Leste’s CDCS and will reflect USAID’s development priorities, including the Indo-Pacific Strategy, the Journey to Self-Reliance, the Private Sector Engagement Policy, and the priorities of the GOTL.

Table 10: Stakeholders

Customs Authority	Australian Federal Police
MOF	Japan International Cooperation Agency
Quarantine Directorate	Asian Development Bank
The Port Authority of Timor-Leste	World Bank
Municipal Customs Offices	Importers-Exporters
Ministry of Health	Freight Forwarders
United Nations Conference on Trade and Development	Customs Brokerages
Australian Border Force	Carriers

TECHNICAL APPROACH

The following are the assessment questions provided by USAID. These will be refined during the development of the work plan.

Table I I: Assessment Questions

<p>Part I: Assessment of the Customs Environment</p>	<ol style="list-style-type: none"> 1. How effective are operational clearance procedures? 2. How well does the customs brokerage system function, and what are the gaps? 3. How effective are RM approaches being used to selectively examine import consignments? 4. What are the gaps in legal and regulatory environment to support effective customs system in Timor-Leste? 5. To what extent are the practices used in the Customs Authority consistent with the ASEAN, the Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures, and the WTO Trade Facilitation Agreement? Which practices are not implemented or not in compliance, and why? 6. What bottlenecks exist in the capacity and commitment of stakeholders (Customs Authority, MOF, OGAs, private sector) for institutionalizing international best practices in the customs sector? 7. How effectively has USAID's Customs Reform Project engaged with and strengthened the capacity of stakeholders (Customs Authority, MOF, OGAs, private sector, and others) to institutionalize international best practices? How are the Trade Information Portal, the National Enquiry Point, the Customs Intelligence Database, and the Hotline being utilized, and what is the likelihood of these systems being sustained? Which practices supported by USAID are likely and which are unlikely to be sustained by the Customs Authority, MOF, OGAs, private sector, and why?
<p>Part II: Development of Technical Recommendations for Assistance</p>	<ol style="list-style-type: none"> 1. Keeping in mind limited resources, over what time period and in what order would it be reasonable to anticipate the identified gaps being addressed? 2. Which of these gaps can the GOTL be expected to address, and over what time period? 3. Which of these gaps most likely necessitate international expert technical support, and over what time period? 4. Which of these gaps could benefit from USAID assistance? 5. What is the purpose of the recommended assistance, the theory of change, the results framework, illustrative interventions, illustrative indicators, expected results, budget estimate, and selection criteria

	for the type of personnel needed to attain success and the time period?
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ASSESSMENT APPROACH AND METHODOLOGY

The assessment will use a mixed-methods approach to data collection, which will include a desk review, KIIs, and FGDs. The full assessment approach and methodology will be provided in more detail as part of the Work Plan and Assessment Design document (see Section 2.2 below) but, at the very least, the team will ensure:

- Data collection will be conducted in Tetum and English interchangeably.
- The assessment design will clearly articulate the link between each assessment question, the proposed data to address it, and the analysis plan for the data.
- Analysis will be based on international best practices rooted in the context of Timor-Leste.
- The assessment design will consider the strengths and weaknesses of the assessment methodology, as well as the factors to be employed.
- Gender considerations will be incorporated into the design and implementation of the assessment, in compliance with Automated Directives System 205 on Integrating Gender Equality and Female Empowerment.

It is important to note that, while this assessment will adhere to relevant quality standards, such as those provided in the USAID Evaluation Policy, the scope of the assessment does not provide for or constitute a full USAID performance evaluation.

TASKS AND DELIVERABLES

I. DEVELOPMENT OF ACTIVITY AUTHORIZATION REQUEST

Based on the Statement of Work provided by USAID/Timor-Leste on December 1, 2019, LEAP III will provide an AAR for approval (i.e., this document). The AAR outlines the background, technical approach, and the anticipated timeline and budget for the assessment. This AAR is a working document and will be updated based on feedback from USAID/Timor-Leste.

2. WORK PLAN AND ASSESSMENT DESIGN

2.1 Assessment Kick-off Meeting: The assessment Team Lead will arrange two kick-off phone meetings: one with USAID/Timor-Leste focusing on technical priorities and logistics and a second with the USAID Customs Reform Project team³⁵ to get an overview of the project and the current state of play in regard to implementation.

2.2 Desk Review: Based on input from USAID/Timor-Leste, LEAP III will conduct a literature review of all documentation relevant to the assessment. This will include existing USAID strategy documents, the 2016 USAID customs assessment, the scope of work for the USAID’s Customs Reform Project, all available documentation from the USAID’S Customs Reform Project (including quarterly and annual

³⁵ All correspondence between Integra and the implementor of the Customs Reform project, IBI International, will include the project’s Contracting Officer Representative, Ms. Ana Gutters.

reports), documentation from the Customs Authority, and any relevant national or regional customs assessments. A concise 10-page literature review will be provided as part of the Work Plan.

2.3 Identification and Recruitment of Staff Gaps: Concurrent with desk review, the LEAP III team will work on identifying and recruiting staffing gaps in the assessment team (as outlined in Section 3, Staffing Plan).

2.4 Work Plan and Assessment Design: Based on the findings of the literature review, as well as the criteria set out in the 'Assessment Approach and Methodology' section above, LEAP III will provide USAID/Timor-Leste with a Work Plan and Assessment Design document. The document will have two elements:

- **Assessment Work Plan:** This will update some details contained in this AAR and will include 1) draft schedule and logistical arrangements; 2) members of the assessment team, delineated by roles and responsibilities; 3) assessment milestones; 4) anticipated schedule of data collection; and 5) assessment report outline.
- **Assessment Design:** This will include: 1) detailed assessment design matrix that links finalized assessment questions to data sources, methods, and the data analysis plan; 2) draft questionnaires; 3) list of potential interviewees and sites to be visited and selection criteria; and 4) limitations to the assessment design.

The Work Plan and Assessment Design document will be completed by February 7.

2.5 Fieldwork Preparation: Given the challenges in scheduling meetings in Timor-Leste, LEAP III will begin to schedule meetings for the fieldwork as soon as the Work Plan and Assessment Design document are submitted. We will send official letters of invitation, which will be delivered electronically or physically, as appropriate. Our Local Mid-Level Researcher/Facilitator will follow up by telephone to confirm meeting times. Where stakeholders are not available within the fieldwork assessment window, either our Local Customs and Trade Facilitation Expert will conduct the meeting, or we will schedule a telephone call. Where we have challenges in scheduling meetings, we will coordinate with USAID/Timor-Leste on mitigation strategies.

3. FIELDWORK AND DATA ANALYSIS

3.1 In-Brief with USAID/Timor-Leste: LEAP III will arrange an introductory oral briefing with USAID/Timor-Leste at the start of the fieldwork phase. The purpose of the in-brief is to make introductions and to discuss the team's understanding of the assignment, initial assumptions, assessment questions, methodology, and work plan for the fieldwork.

3.2 Fieldwork: The LEAP III team will conduct two weeks of fieldwork in the capital. The team will follow guidance from USAID/Timor-Leste if any other travel is required outside of the capital. This will be outlined in the Work Plan and Assessment Design document. LEAP III will be responsible for making all travel, transportation, and lodging arrangements as per the Work Plan.

During the fieldwork, Integra will visit at least one Customs office outside the capital. This will be outlined in the Work Plan.

3.3 In-Person Initial Findings Presentation: LEAP III will provide an oral briefing to the Mission with preliminary assessment findings and recommendations for assistance.

4. REPORT PRODUCTION

4.1 First Draft Assessment Report: Following the guidance from the Work Plan and Assessment Design document, LEAP III will provide a draft version of the assessment report in Microsoft Word.

The first draft will be provided by March 27. The Mission will provide comments on this draft within 10 business days.

4.2 Second Draft Assessment Report: Based on Mission comments and following the timeline of the Work Plan and Assessment Design document, LEAP III will provide a second draft of the assessment report in Microsoft Word by April 24. The Mission will provide comments within five business days.

4.3 Final Assessment Report: Based on Mission approval, the LEAP III team will submit a final assessment report, in both Microsoft Word and Adobe PDF by May 15, whose content and format reflect comments received from USAID. The report will be edited by a professional copyeditor to ensure plain, grammatically correct English. LEAP III will submit the final assessment report to the Development Exchange Clearinghouse.

5. FORMULATION OF TECHNICAL RECOMMENDATIONS FOR ASSISTANCE

5.1 First Draft of the Technical Recommendations for Assistance document: Following the guidance from the Work Plan and Assessment Design document, one week after the submission of the first draft assessment report LEAP III will submit technical recommendations for assistance. As noted above, technical recommendations will identify priority areas that could benefit from USAID assistance and describe the purpose of the recommended interventions, theories of change, results frameworks, illustrative interventions, illustrative indicators, expected results, budget estimates, and selection criteria for the type of personnel needed to achieve success. Technical recommendations will also factor in other influences, such as political will, gaps in programming, opportunities and constraints, and lessons learned.

The first draft will be provided by March 27. The Mission will provide comments on this draft within 10 business days.

If needed, the LEAP III team can organize a co-creation style conference call to discuss recommendations.

5.2 Second Draft Technical Recommendations for Assistance document: Following the timeline in the Work Plan and Assessment Design document, and one week after the submission of the second draft assessment report, LEAP III will provide a second draft of the Technical Recommendations for Assistance in Microsoft Word by April 24. The Mission will provide comments within five business days.

5.3 Final Technical Recommendations for Assistance document: Based on Mission approval, the LEAP III team will submit the final Technical Recommendations for Assistance document by May 15. The report will be edited by a professional copyeditor to ensure plain, grammatically correct English.

ANNEX B: INTERVIEW QUESTIONS

Supplementary Questions to be used in the Key Informant Interviews and Focal Group Discussions

Operational Customs Procedures

Customs Environment

1. Can you provide an outline of the structure of the Customs Authority in Timor-Leste? Organogram? Human and Financial Resources? Ports of Entry? Strategic Direction? Law?
2. Assessment team is aware of the recently introduced Strategy Document (2020/2025) The Director General is obviously the custodian, but who is responsible for managing the plan? Setting performance targets/indicators?
3. Is there an overall monitoring/evaluation system to determine compliance with the plan? If yes, are the targets measurable and known to policy staff, operational managers, operational staff, and external stakeholders?, Is it available to the public? How is it published?
4. Is there a system in place for reporting against the targets – annually, quarterly, monthly, weekly, or daily?
5. What information is collected and collated? Are performance indicators collected for all functional areas? For example, does it include statistics associated with reports of inspections? What data is collected (border posts, products, customers, values, etc.)?
6. Are the procedures reviewed on a regular basis? If so, who monitors and reviews?
7. Do external stakeholders contribute to security policy and reforms?
8. Can you provide an overview of the current operational clearance process in Timor-Leste?
9. The assessment team is aware that the Customs Authority is currently using the ASYCUDA World system. Can you please outline the current functionality and operational use of the system within the overall customs clearance process?
10. Can you confirm that the configuration and operational use of the system is meeting the legal and procedural requirements associated with the clearance of goods by the Customs Authority?
11. Do users of the ASYCUDA system use Direct Trader Input, Electronic Data Interchange or the internet to submit their declarations to the Customs Authority? Is the internet system in Timor-Leste sufficiently robust to enable users to quickly and correctly upload declaration data to the system?

12. Is there a facility to enable users to attach supporting documents to the customs declaration electronically?
13. How are the payments of duties and taxes expedited?
14. Is there a facility for payments to be made electronically through a bank or other financial institution?
15. How is information regarding the use of the IT system communicated to users? Does that include an overview of the statutory obligations and tariff requirements? Is information also available to the trade on their obligations and procedures for assessing, declaring, and paying customs liabilities?
16. Does the system enable a duty deferment scheme to be used?
17. Does the system allow for the submission of import documentation prior to the arrival of the goods? Does that include manifest? DAU?
18. Are goods released before clearance formalities have been finalized?
19. Are provisional or incomplete declarations accepted in an endeavor to expedite the quick release of goods? If so, what is the process?
20. Does the Customs Authority grant immediate release to any particular categories of goods?
21. Is a minimum value and/or duty rate set by the Authority below which duties and taxes are not collected?
22. Are there occasions when hard-copy declarations are required? If so, under what circumstances, and for what period are they retained?
23. Are there mechanisms in place to ensure data elements within the Automated Window system are kept to a minimum?
24. During the course of a review undertaken by the USAID CRP in January 2018, it was suggested that there were a number of changes that could be introduced relating to the electronic processing of the goods declaration (DAU) and application of risk management. Can you confirm that these changes have been adopted?
25. Is there a dedicated investigation/enforcement capability within the Authority?
26. Has an overall Investigation and Enforcement Policy been established? If so has it been communicated to all staff members? Is its application regularly monitored and updated by management?
27. Does the authority have an automated enforcement information system?

28. Have any MOUs been established with key trade companies, transport operators, etc., or other Customs Administrations or governments? Are there any procedures in place for cooperation with other law enforcement agencies in Timor-Leste?
29. What methodologies are in place to aid communication between the investigation and enforcement unit and other operational staff? Does the Authority have an in-house intranet capability?
30. What training has been delivered, and are the activities coordinated with other law enforcement units?
31. Are Investigation and Enforcement personnel provided with up-to-date equipment?
32. How are enforcement cases communicated to the unit?
33. Are enforcement management reports generated and communicated to staff on a regular basis?
34. Has the Authority established an information and communications technology (ICT) data protection and privacy security policy? If so does it meet the international standards advocated by the WCO ICT guidelines outlined in the RKO?

Customs Brokerage System

1. Are customs brokerage services optional in the clearance process?
2. Are there licensing/accreditation requirements for a customs broker? If so what are they, and who is the regulatory and licensing authority for customs brokers in Timor-Leste?
3. Are the requirements transparent? Are they published? If so, where?
4. Does the Customs Authority provide training for customs brokers and other stakeholders? If so, how frequently?
5. Are customs brokers required to meet any specific requirements to handle customs clearance formalities?
6. Is there an examination? If so, by whom? Please provide details.
7. What are the list of functions that the broker can perform?
8. Who has responsibility for ensuring the professional conduct of brokers? Who has oversight?
9. What fees are charged by brokers, and are they fixed and monitored?
10. How does the Customs Authority communicate and consult with brokers?

11. It is understood there is a Broker's Association in Timor-Leste. Please provide an overview of its role and responsibilities.

12. Has the Authority experienced any problems with informal or unauthorized brokers?

Risk Management

1. Has the Authority established a dedicated department or specialist unit for risk management profiling and/or targeting?
2. Have intelligence and information systems been established to gather and store data? Is a dedicated IT system utilized for the purpose? If so, please provide an outline of its functionality. How is the data stored? What systems are in place to mitigate unwarranted access?
3. How are the Authority's strategic, tactical, and operational risks determined?
4. Are selections for customs examination based on a proper analysis of the risks involved and, if so, who is responsible for maintaining, developing, and updating the list? How frequently is the list updated, and what is the process?
5. What criteria are considered when defining high-risk consignments? Insufficient information to deem them as low-risk?
6. How do you strike a balance between the imposition of customs controls and trade facilitation by legitimate traders and those who might be fraudulent?
7. Is there a centralized database to enable strategic and tactical intelligence to be stored for future trade supply chain initiatives?
8. It is understood that the Authority uses a traffic light system when assessing risk associated with import consignments. What percentage of consignments are currently deemed high risk and subject to physical examination? What percentage of consignments are subject to post-clearance audit, and what percentage is considered to be at low or minimal risk and cleared with limited or no further customs intervention? Is a random capability available to override the traffic light system? If so, how does it operate, and who is responsible for invoking the override?
9. Have any formal or informal co-operation and information exchange mechanisms been established at the international level in relation to supply chain initiatives?
10. Does the Authority have an Authorized Economic Operator program? If not, are there plans to introduce one?
11. Are traders encouraged to conduct self-assessments of their supply chains based on the Customs Authority's security standards and recommendations?
12. Have all staff been provided with training in risk management concepts?

13. Is there a dedicated post clearance audit section currently operating within the Authority?
14. Are any post clearance audits undertaken at traders' premises?
15. Is there an Audit Plan? If so, please provide a copy.
16. Have management and staff received appropriate training with regard to customs procedures, risk analysis and risk assessment, accounting, bookkeeping, and electronic data processing audits?
17. How are audit results fed back into the Risk Management/Intelligence Department?

Legal and Regulatory Environment

1. Is the national legislation based on and in conformity with international best practice?
2. Is the national legislation consistent with the revised Kyoto Convention?
3. Does national legislation confer sufficient powers on the Authority with regard to examination, detention, and seizure of goods, means of transport, etc.?
4. Does national legislation provide for the imposition of controls throughout the territory?
5. Does national legislation allow Customs personnel the power to obtain information on goods and services prior to arrival of goods into Timor-Leste?
6. Does national legislation allow for effective sanctions and penalties to deal with fraud?
7. Does national legislation require complete and accurate advance information on cargo consignments within a particular timeframe?
8. Does national legislation confer authority to administrative agreements with the trade, other government agencies, other customs administrations, and regional/international organizations?
9. Does national legislation require companies to retain commercial and accounting documents? If so, for how long?
10. Does the legislation allow Customs the powers to examine, copy, and upload these documents and records?
11. Does national legislation allow for the introduction of an Authorized Economic Operator's scheme of control?
12. Does national legislation allow for the implementation of international and regional instruments, agreements, and standards?

13. Does national legislation establish appropriate provisions for binding rulings by Customs? In writing? Time period? Right of appeal?
14. Does national legislation establish appropriate provisions for binding rulings by Customs? In writing? Time period?
15. Does national legislation allow for disclosure of confidential information? Commercially sensitive?

Stakeholders

1. Does the Customs Authority have prime responsibility for security and operations at the borders in Timor-Leste?
2. Is there a national security policy for operations at the border, and has it been or is it being implemented?
3. Does the Customs Authority have overall functional responsibility at the borders (e.g., health, agriculture, immigration, security, etc.)? If not which other agencies are involved in controls at the borders, and how are the activities coordinated?
4. It would appear that there is currently no single window approach to current border controls, although an initiative has commenced through the establishment of an integrated National Trade Information Portal. What impact do you think that might have on other stakeholders?
5. In 2019, the Customs Authority introduced a strategic plan, which sets out the Authority's objectives and priorities regarding, *inter alia*, the trade supply chain. Were you aware of that, and what impact do you think that might have on the conduct of your activities and those of other stakeholders in international trade?
6. What information exchange mechanisms exist with the public and other stakeholders? Help desks? Inquiry points? Customer/trader contacts? Call centers? Centralized one-stop shops? Locations?
7. Has introduction of information services improved availability, accuracy, and availability?
8. Has introduction of information services required organizational or staff changes? Relationships with traders?
9. Is there formal or informal cooperation with Customs, other stakeholders, and the trade? Regular consultation? Feedback? MOUs?
10. Is there consultation with trade before changes are made? Is media used?
11. Have expected levels of service been identified and communicated to traders and the general public?

USAID Customs Reform Project

1. To what extent has the Customs Authority in Timor-Leste implemented the WCO Revised Kyoto Convention and the Framework of Standards to Secure and Facilitate Global Trade? What further steps or reforms are still required?
2. To what extent have the requirements associated with the implementation of the WTO and ASEAN trade facilitation obligations? What further steps or reforms are still required?
3. What has been and what has not been achieved, and why?
4. What further steps are needed to build risk management capacity?
5. What steps are needed to further streamline procedures by the enhanced and extended use of the ASYCUDA World system?
6. With whom would you propose the Customs Authority enter into cooperative agreements?
7. What steps are needed to develop and implement integrated services?
8. What further steps are required to finalize the National Customs Hotline?
9. Continuing development and use of the Customs Intelligence database?
10. With regard to the adoption and implementation of the WCO Revised Arusha Declaration, what steps are required to develop a Capacity Building Plan and introduce further anti-corruption measures, including the implementation and use of the Customs Code of Conduct and Assets and Liabilities Declaration?

Trade Information Portal, the National Enquiry Point, Customs Intelligence Database and Hotline

1. Please provide an outline or overview of the proposed Trade Information Portal.
2. Please provide an outline of the National Enquiry Point. How will it operate, and who will be responsible for its implementation, maintenance, and operational use?
3. What is the current status of the development and/or operation of each system?
4. What steps have been or are in the process of being taken for the implementation/enhancement of the Customs Intelligence Database?
5. In indicating how each system is or is anticipated to be implemented for operational use please indicate how each will contribute to enhancing the overall customs clearance process.