

# NAVAL POSTGRADUATE SCHOOL Monterey, California



## THESIS

**AN ANALYSIS OF DEPARTMENT OF DEFENSE  
CUSTOMS POLICY**

By

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March 2002

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**AN ANALYSIS OF DEPARTMENT OF DEFENSE CUSTOMS POLICY**

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Submitted in partial fulfillment of the  
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## **ABSTRACT**

In order for DOD sponsored items to clear foreign customs, DOD employs a unique set of paperwork, Government Bills-of-Lading (GBL) that are different from that used in the commercial sector. The use of GBL allows duty-free passage of government sponsored shipments through foreign offices for delivery to U.S. Forces. USTRANSCOM issued the policies and regulations that govern Customs Clearance procedures for DOD sponsored shipments to deployed forces around the world. In compliance with the directive to “Adopt Best Business Practices” from the commercial sector, this thesis examines the policies and/or procedures currently in place that govern the movement of material in and through Foreign Customs Offices.

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# TABLE OF CONTENTS

<b>I.</b>	<b>INTRODUCTION.....</b>	<b>1</b>
	A. PURPOSE.....	1
	B. SCOPE OF THE THESIS.....	1
	C. METHODOLOGY .....	1
	D. ORGANIZATION OF STUDY.....	2
	E. LIMITATIONS.....	3
<b>II.</b>	<b>BACKGROUND: DOD CUSTOMS POLICY.....</b>	<b>5</b>
	A. MILITARY STRUCTURE REVIEW ACT .....	5
	1. Quadrennial Defense Review .....	5
	2. Management Reform Memorandum #15.....	6
	B. GAO AND GOVERNMENT BILLS-OF-LADING .....	7
	1. United States Transportation Command (USTRANSCOM).....	7
	2. Defense Transportation Regulation DOD 4500.9-R.....	8
	C. COMMERCIAL DELIVERY SERVICES.....	9
	1. World Wide Express (WWX).....	9
	2. DHL/UPS/FEDEX.....	10
	3. United States Customs Service (USCS) .....	11
	D. CHAPTER SUMMARY .....	12
<b>III.</b>	<b>ANALYSIS OF CURRENT DOD CUSTOMS CLEARANCE POLICIES AND PROCEDURES .....</b>	<b>15</b>
	A. GENERAL POLICY & UNITED STATES ENTRY REQUIREMENTS.....	15
	1. Role of USTRANSCOM .....	15
	2. Role of the United States Customs Service .....	17
	B. MILITARY .....	19
	1. Chapter 506 USCS Pre-clearance Program .....	19
	2. Chapter 507 Military Customs Inspectors (Excepted).....	22
	C. CHAPTER 508 U.S. EXPORT REQUIREMENTS.....	25
	1. Korea Customs Test.....	25
	2. Export Requirements .....	27
	D. CHAPTER 509 FOREIGN COUNTRY CUSTOMS & BORDER CLEARANCE ENTRY/EXIT PROCEDURES .....	30
	1. DOD Policy on Foreign Customs Requirements.....	30
	2. Domestic Security, Policy and Interagency Cooperation .....	35
	E. CHAPTER SUMMARY .....	38
<b>IV.</b>	<b>CONCLUSIONS AND RECOMMENDATIONS.....</b>	<b>39</b>
	A. INTRODUCTION .....	39
	B. CONCLUSIONS.....	39
	1. Coordinating the Consolidation of the individual Services.....	39
	2. Developing New DOD Regulations.....	40
	3. Incorporating Updates and Changes .....	41

4. Incorporating Technology and the World Wide Web.....	41
C. RECOMMENDATIONS.....	42
<b>LIST OF REFERENCES.....</b>	<b>45</b>
<b>INITIAL DISTRIBUTION LIST .....</b>	<b>47</b>

## LIST OF FIGURES

<b>Figure 1.</b>	A typical day in the life.....	<b>12</b>
<b>Figure 2.</b>	Sample Customs Pre-clearance Announcement Message .....	<b>22</b>
<b>Figure 3.</b>	Customs Management Centers .....	<b>25</b>
<b>Figure 4.</b>	Export Documentation Requirements.....	<b>29</b>
<b>Figure 5.</b>	Country Annex Contents.....	<b>33</b>
<b>Figure 6.</b>	Norway.....	<b>35</b>
<b>Figure 7.</b>	USCS Alert Levels.....	<b>37</b>

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## LIST OF TABLES

<b>Table 1.</b>	U.S. Customs Service Foreign Attaché Locations.....	<b>20</b>
<b>Table 2.</b>	Countries Accepting Carnets .....	<b>30</b>

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## LIST OF ABBREVIATIONS AND ACRONYMS

AMC	Air Mobility Command
AOR	Area of Responsibility
APO	Air Postal Operations
AR	Army Regulation
ATA	Admission Temporaire-Temporary Admission
BATF	Bureau of Alcohol, Tobacco and Firearms
BXA	Bureau of Export Administration
CBCA	Customs/Border Clearance Agent
CBCC	Customs/Border Clearance Coordinator
CBCP	Customs and Border Clearance Program
CBL	Commercial Bill of Lading
CCO	Customs Clearance Officers
CFR	Code of Federal Regulations
CINC	Commander in Chief
CMC	Customs Management Center
CONUS	Contiguous United States (48 States less HI and AK)
CTUS	Customs Territory of the United States
DCS	Defense Courier Service
DD	Department of Defense (used before form numbers)
DFAS	Defense Finance and Accounting Service
DLA	Defense Logistics Agency
DOD	Department of Defense
DODIG	Department of Defense Inspector General
DOT	Department of Transportation
DTR	Defense Transportation Regulation
DTS	Defense Transportation System
EDI	Electronic Data Interchange
E-MAIL	Electronic Mail
EPA	U.S. Environmental Protection Agency
FEDEX	Federal Express
GAO	Government Accounting Office
GBL	Government Bill of Lading
HHG	Household Goods
HN	Host Nation
HNA	Host Nation Approval
IMPAC	International Merchants Purchase Account Card
INS	United States Immigration and Naturalization Service
MCI	Military Customs Inspector
MCI-E	Military Customs Inspector-Excepted
MHE	Materials Handling Equipment
MRM	Management Reform Memorandum
MSC	Military Sealift Command
MTMC	Military Traffic Management Command

NATO	North Atlantic Treaty Organization
NHTSA	National Highway Traffic Safety Administration
OCONUS	Outside Continental United States
PCS	Permanent Change of Station
PFO	Principal Field Officers
POC	Point of Contact
POD	Port of Debarkation
POE	Port of Entry/Port of Embarkation
POV	Privately Owned Vehicle
QDR	Quadrennial Defense Review
SED	Shipper's Export Declaration
SOFA	Status of Forces Agreement
SOP	Standard Operating Procedure
TO	Transportation Office(r)
UPS	United Parcel Service
U.S.	United States
USC	United States Code
USCENTCOM	United States Central Command
USCIB	United States Council for International Business
USCINCTRANS	Commander-in-Chief United States Transportation Command
USCS	United States Customs Service
USDA	United States Department of Agriculture
USEUCOM	United States European Command
USFJ	United States Forces-Japan
USFK	United States Forces-Korea
USJFCOM	United States Joint Forces Command
USML	United States Munitions List
USPACOM	United States Pacific Command
USSOUTHCOM	United States Southern Command
USTRANSCOM	United States Transportation Command
WWX	World Wide Express

## **I. INTRODUCTION**

### **A. PURPOSE**

Deployed forces inevitably need to obtain logistics support to ensure proper and continued operation of equipment required to support their mission. There are times when the item has to be shipped from the U.S. to the user in or near a foreign country. The question that can be asked is whether the DOD can expedite shipments through foreign customs by adopting and implementing commercial-sector practices required by Management Reform Memorandum #15?

In order to answer this question, policies and regulations need to be examined regarding possible revisions and/or changes that expedite clearance/passage of items through foreign customs offices. World Wide Express (WWX), a DOD program which contracts for worldwide small package delivery via commercial air carriers, employs customs brokers to expedite items through customs and to the recipients. Should the DOD widen the use of customs brokers in lieu of maintaining offices in foreign countries? If so, what should be done with military and civilian personnel currently manning those offices?

### **B. SCOPE OF THE THESIS**

The research will analyze policy and processes currently used in the movement of DOD-sponsored shipments to forces located around the world. The research will attempt to determine if there are procedural alternatives to those currently used by DOD Customs officials. This research will also attempt to identify areas of concern in light of the events of September 11, 2001.

### **C. METHODOLOGY**

I will use current published documentation and regulations established by the authorizing agencies, to include but not limited to the U.S. Customs Service (USCS), as well as DOD regulations and laws governing the regulation of government sponsored shipments. Interviews will provide some of the background information regarding practical application of the regulations as well as impediments found in the enforcement

of stated regulations. The methodology used in this thesis will consist of the following steps:

1. Review of the USCS regulations that guide the procedures followed by the DOD. This will include a thorough review of the supporting documents and cases providing the foundation of these laws.
2. Conduct personal interviews with various personnel in DOD, Customs agents and military personnel that served in Customs Offices located on foreign soil.
3. Interviews will be conducted with the lead personnel at USTRANSCOM.

#### **D. ORGANIZATION OF STUDY**

This thesis is organized into four chapters. Chapter I serves as an introduction and overall guide to the research regarding Department of Defense Customs and Border Clearance Policies.

Chapter II provides background information on the role of the U.S. Transportation Command and the progression of changes that have occurred during the mid to late 1990s. The Military Force Structure Review Act is reviewed, to include the Quadrennial Defense Review and Management Reform Memorandum #15. Reports of the General Accounting Office (GAO) relevant to use of Government Bills-of-Lading (GBL) will be discussed and the role of commercial carriers and the ability to learn from what this industry has improved upon since their international expansion. The chapter introduces the United States Customs Service and its primary role in the development of U.S. Customs procedures.

Chapter III analyzes the current DOD Customs Clearance policies and procedures domestically and abroad. The organization and composition of U.S. customs offices will be reviewed as well as the role of the military in processing of imports and exports. This chapter analyzes DOD Customs Policies contained in Chapters 501, 502, and 506-509. Chapters 510-515 are not addressed specifically but are the specific Customs guidance for the areas within the Geographic CINC. Further issues regarding the introduction and use of technology to improve clearance documentation transmittals and the arrangement of pre-arrival inspections or other as-required-by-country regulations will be explored.

This section of the chapter will review the changes to procedures that have gone into effect after the terrorist attack on America on September 11, 2001.

Chapter IV will state the findings and offer recommendations as a result of the conclusions resulting from the analysis conducted in Chapter III. The recommendations will summarize the actions that could be taken in order to improve customs procedures as outlined in the Defense Transportation Regulation (DTR).

#### **E. LIMITATIONS**

This thesis is an analysis and review of current DOD Custom's policy and does not intend to definitively claim to reveal the ideal manner of conducting government business. It is merely intended to offer alternatives to the guidelines that are in use through out the offices falling under USTRANSCOM DOD Customs Policy division.

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## **II. BACKGROUND: DOD CUSTOMS POLICY**

### **A. MILITARY STRUCTURE REVIEW ACT**

#### **1. Quadrennial Defense Review**

The Military Force Structure Review Act, a part of the National Defense Authorization Act for Fiscal Year 1997, required a comprehensive examination of the military that is now known as the Quadrennial Defense Review (QDR). The QDR was a combination of efforts by the Secretary of Defense, Joint Staff, Military Services, and Commanders in Chief of the Combatant Commands (Management Reform Memorandum #15). The first of three organizational levels was used to structure the review of strategy, force structure, readiness, modernization, infrastructure, human resources, and informational operations and intelligence. The second level used an Integration Group to organize panel results into options consistent with the defense strategy. The third level, a Senior Steering Group, co-chaired by the Deputy Secretary of Defense and the Vice Chairman of the Joint Chiefs of Staff, oversaw the process and made recommendations to the Secretary of Defense.

The Senior Steering Group developed a road map consisting of five phases: Start-up and Guidance; Strategy and Fiscal Context; Analysis; Integration and Decision. Work in each phase built upon the work of the preceding phase that led to the decision to reengineer DOD practices and infrastructure. The results of the QDR were to serve as the strategic planning document for the future of the Department. Emanating loud and clear from the QDR was the desire to reduce the size of the defense infrastructure. To close the gap between force structure and infrastructure reductions, one of the QDR recommendations was:

Improve the efficiency and performance of DOD support activities by adopting innovative management and business practices from the private sector. These include “reengineering” or “reinventing” DOD support functions, e.g., streamlining, reorganizing, downsizing, consolidating, computerizing, and commercializing operations. As a critical part of this reengineering, consider far more non-warfighting DOD support functions as candidates for outsourcing – inviting commercial companies to compete with the public sector to undertake certain support functions. DOD’s

experience with outsourcing thus far demonstrates that it can enjoy many of the benefits that private industry has gained from outsourcing – tighter focus on core tasks; better service quality; more responsiveness and agility; better access to new technologies; and lower cost (Report of the Quadrennial Defense Review 1997).

As a result of these proposals, initiatives were adopted in order to reduce DOD's personnel and infrastructure cost. Specifically, among numerous other initiatives, the Defense Finance and Accounting Service (DFAS) was directed to consolidate and outsource accounting functions and payments to vendors. The QDR revealed an overwhelming need to further reduce infrastructure cost by adopting best business practices, streamlining management oversight, eliminating redundant functions, and outsourcing or privatizing where appropriate (Report of the Quadrennial Defense Review 1997). One of the initiatives specifically called for the reduction of logistics support cost by integrating (transportation) organizations and functions.

## **2. Management Reform Memorandum #15**

In July 1997, the Deputy Secretary of Defense directed two communities within the department to go through a revolution in business practices in conjunction with the Quadrennial Defense Review. This tasking involved the complete reengineering of the methods in which the Defense Transportation and Financial communities conducted business. Documentation, billing, collection and payment processes were some of the areas selected for possible overhaul. In order to accomplish the tasking, the Transportation and Financial communities jointly developed a long-term strategy to reengineer the Defense transportation documentation and financial process. The Deputy Secretary of Defense's document directing this process became known as Management Reform Memorandum #15 – Reengineering Defense Transportation Documentation and Financial Processes.

In addition to the QDR, the Department of Defense Inspector General (DODIG) was requested to find the causes of delays in payment of outstanding transportation charges. The DODIG reported the following:

- In February 1998, DOD had \$600M in outstanding bills.
- 40% of transportation documents arrived after the cargo arrived at the port.

- 20% of transportation documents contained inaccurate data.
- It cost carriers twice as much to collect a bill from DOD as it did to collect from commercial customers.
- It took an average of 60-90 days to pay carriers (DODIG Report No.98-016).

Given the background of the DODIG and QDR reports, USTRANSCOM was sent a clear message that it needed to rethink and revise the way it had been conducting business. That specific tasking came out in an Under Secretary of Defense Memorandum dated July 7, 1997. The transportation and financial communities were directed to completely reengineer their processes. More specifically they were to develop solutions to:

- Fix the Transportation Account Code Process.
- Test the potential use of IMPAC credit cards for paying airlift, sealift, domestic freight and express package bills.
- Eliminate the use of government bills of lading for domestic express carrier movements (Management Reform Memorandum #15).

The third solution regarding the use of the GBL provides an opportunity to adopt best commercial practices in the reengineering process. It also provides potential integration of Electronic Data Interchange (EDI) into normal business routines. For example, the ability of a transportation office to conduct daily transactions with satellite offices could result in marked increases in efficiency and customer satisfaction. This could be no more true than developing a cooperative agreement with foreign countries that routinely import and export shipments from the United States.

## **B. GAO AND GOVERNMENT BILLS-OF-LADING**

### **1. United States Transportation Command (USTRANSCOM)**

The DOD Inspector General, at the request of the Under Secretary of Defense (USD) (Comptroller) conducted an audit following concerns expressed in November 1995 about a lack of management controls over the payment of paper Government Bills of Lading (GBLs). A GBL is defined as a document establishing the terms of a contract between a DOD transportation office and a commercial carrier to move freight or personal property to a specified point for a specified charge. The audit uncovered real

weaknesses in the manner in which GBLs were validated and vendors paid. These payments were of significant dollar values. One review revealed the payment offices paid \$576.2 million for 598,992 paper GBLs without validation from June 1 through September 1996 (Controls Over Government Bills of Lading-Report No. 98-016). A suggestion to correct these deficiencies was to develop a method of validating, if not all, at least the questionable GBLs prior to releasing the vendor's payment.

As a result of these findings, the USD (Comptroller) directed DFAS and the Military Traffic Management Command (MTMC) to develop a corrective action plan to fix the validation problems. The two agencies implemented a paper GBL validation plan, performing checks on freight and personal property GBLs. As of the November 1997 DODIG report, transportation payment offices had not suspended payments nor performed research on mismatched GBLs. DFAS did not assess penalties against transportation offices that caused mismatches, as long as they were following the guidelines set forth by the DOD Comptroller's December 1996 plan (Controls Over Government Bills of Lading-Report No. 98-016). There was a clear need for further reform on these issues.

Effective December 1, 1998, the responsibility for establishing and approving operational regulations and procedures necessary for the effective and efficient operation of the Defense Transportation System (DTS) was assigned to CINCTRANS. The Under Secretary of Defense Memorandum dated November 18, 1998, formally announced the assignment for the regulations and procedures authority to Commander-in-Chief, U.S. Transportation Command (CINCTRANS) (Oliver 1).

## **2. Defense Transportation Regulation DOD 4500.9-R**

The regulation that establishes Department of Defense (DOD) policy, prescribes procedures, defines responsibilities and identifies customs, agricultural and other border clearance requirements for entry and exit of selected countries of the world in support of U.S. forces is Part V of the Defense Transportation Regulation (DTR). Officially entitled the Department of Defense Customs and Border Clearance Policies and Procedures, this regulation was revised and issued by the executive agent, USTRANSCOM in January 2001. The revision was necessitated in light of new roles and missions of

USTRANSCOM that had become increasingly complex and was needed to reduce redundancies and improve relations among service and other DOD activities (DOD Customs and Border Clearance Program).

The regulation is applicable to the Office of the Secretary of Defense, the organization of the Joint Chiefs of Staff, the military departments, the unified commands and other Defense agencies as well as acquisition activities. The regulation also extends to commercial vendors and suppliers under contract to DOD and the users of DOD mail and transportation assets in support of programs of national interest. In execution this regulation acts as the single authoritative source for Customs Border Clearance processes and procedures for cooperating countries identified by the executive agent, USTRANSCOM.

### **C. COMMERCIAL DELIVERY SERVICES**

#### **1. World Wide Express (WWX)**

There exist in the commercial sector companies that have nearly perfected the shipment of packages to destinations around the world. Three of the most experienced operators in this field are Federal Express, United Parcel Service and DHL Worldwide Express. Federal Express (FedEx) employs more than 215,000 people delivers nearly 5 million shipments daily and had \$20 billion in revenues in 2000 (FEDEX Web Site). United Parcel Service (UPS) employs 359,000 (320,500 U.S., 38,500 International), delivers 13.6 million packages and documents daily and had \$29.8 billion in revenues in 2000 (UPS Web Site). DHL Worldwide Express (DHL) employs 600,000, delivers 538,000 packages daily and had \$6 billion in 2000 revenues (DHL Worldwide Express Web Site). Although other international firms offered delivery service, DHL, FEDEX and UPS satisfied the government's criteria and were awarded the WWX contract.

The Department of Defense, with USTRANSCOM as the lead agency, has attempted to take advantage of the commercial industry's expertise via a commercial express package contract known as World Wide Express (WWX). This program consisted of a contract with three major package carriers, Federal Express (FedEx), DHL Worldwide Express and United Parcel Service (UPS) (Grandjean and Newburry 26). Initially awarded in October 1998, the initial successes warranted extension of the

contract through FY 2000. To minimize competition and maximize effectiveness, each company was given a region or regions for which they were responsible: FedEx received the European, Central, Pacific, and Southern Theaters; DHL received the European and Pacific Theaters; and UPS received the Central Theater (26).

Under the WWX contract, these three carriers were only responsible for small packages usually weighing less than 150 pounds and dimensions within their standard restrictions. Air Mobility Command (AMC) would still shoulder the responsibility for larger, heavier items as well as military unique cargo such as hazardous cargo and munitions. Other modes of transportation would still be required to transport items whose deliveries are less time-sensitive.

## **2. DHL/UPS/FEDEX**

Commercial package carriers, such as UPS, provide customs and brokerage services, either in-house or through contracted commercial brokers that handle shipments at every step of the way. Included in the transportation and shipping charges, these commercial express carriers offer in-house documentation and electronic forms processing that facilitates passage and clearance through foreign customs. A Commercial Bill-of-Lading (CBL) is commonly used to identify and describe the contents, and show originating and final destinations of packages around the world.

UPS Full Service Brokerage helps to mitigate the impact of border impediments introduced by governments by working with importers in order to meet declaration requirements and ensure compliance with customs regulations. The capabilities of the brokerage services extend to all modes of transportation and may offer guaranteed delivery within a stated timeframe to meet customers requirements. The complexity of these services is fueled by the number of countries served by the carriers, the frequency of customs regulation changes and the personnel employed by the carrier, customs broker (if contracted), and the host government's customs officials. These employees must be adept at understanding the intricacies of shipping and receiving and must be able to communicate and respond, while concurrently sharing applicable customs information as soon as it becomes effective in a particular country.

### **3. United States Customs Service (USCS)**

The United States Customs service is a Department of the Treasury agency that is tasked with U.S. Border security that includes collecting revenues from the importation of goods, and conducting inspections of people and cargo crossing into and out of the U.S. territory. USCS is the lead agency for the determination of derivation for U.S. Customs policies and the conduct of subordinate policies developed by other agencies, such as the DOD (USCS Web Site).

The USCS operates in coordination with other government agencies in order to fulfill its mission. As of April 2000, the USCS employed about 20,000 personnel throughout the country and at overseas offices. Tasked by multiple modes of transportation, by air or sea, the USCS must be able to man inspection stations at short notice in protection of the country. Figure 1 illustrates a day in the life of the USCS.

# A Day in the Life of the U.S. Customs Service

## On a Typical Day...

### The U.S. Customs Service examines:

- \* 1.3 Million Passengers
- \* 2,642 Aircraft
- \* 50,889 Trucks/Containers
- \* 355,004 Vehicles
- \* 588 Vessels
- \* 64,923 Entries

### and effects the following enforcement actions:

- \* 64 Arrests
- \* 223 Other Seizures\*
- \* 107 Narcotics Seizures
- \* 9 Currency Seizures

\* Conveyances, Ammunition, Commercial, Merchandise, Real Estate, Firearms and Weapons, Child Pornography

### and seizes the following amounts:

- \* 5,059 Pounds of Narcotics
- \* \$222,803 in Conveyances
- \* Over \$15,800 in Arms and Ammunition
- \* \$443,907 in Currency
- \* \$525,791 in Merchandise

*Based on FY00 CLEAR and OMR Data (10/20/2001)*

**Figure 1. A typical day in the life (From: USCS Web Site)**

## D. CHAPTER SUMMARY

This chapter introduced the role of the Military Force Structure Review Act and the mandates for change that emanated from the Quadrennial Defense Review and the Management Reform Memorandum #15 to overhaul DOD transportation procedures. The changes included consolidations and adoption of best commercial practices that would improve efficiency and allow accounting and auditing accuracy. The new role of the USTRANSCOM, as executive agent for the Defense Transportation Regulation, was identified and the responsibility bestowed upon it by the Under Secretary of Defense. The WWX contracted companies, DHL/FEDEX/UPS, could be used as models of transporters that have proven to be successful and possess the partnering traits that could

enable the DOD to optimize efficiency and accuracy in expediting DOD-sponsored shipments to U.S. Forces throughout the world. The role of the USTRANSCOM has changed significantly over the past four years and the importance of implementing effective and clearly defined procedures will continue to remain a formidable challenge for the USTRANSCOM DOD Customs Branch.

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### **III. ANALYSIS OF CURRENT DOD CUSTOMS CLEARANCE POLICIES AND PROCEDURES**

#### **A. GENERAL POLICY & UNITED STATES ENTRY REQUIREMENTS**

The overarching policy of the DOD Customs and Border Clearance Program (CBCP) is:

DOD policy is to assist and cooperate with U.S. and Foreign host nation border clearance agencies in halting the flow of contraband both into the U.S. and foreign countries. The DOD will enforce this policy when entry is through military channels and will cooperate with other Federal Agencies when enforcing U.S. laws and regulations and complying with foreign requirements concerning customs, agriculture, immigration, and other border clearance requirements without unnecessarily delaying the movement of DOD personnel and material (Chapter 501 DOD Customs and Border Clearance Regulation).

The policy acknowledges the primacy of the U.S. Customs Service (USCS), U.S. Department of Agriculture (USDA), and Immigration and Naturalization Service (INS) agencies governing the movement and inspection of personnel and cargo into and out of U.S. territory. The current version of the DTR Part V addresses the challenges facing the DoD in an era of multiple channels of mass communication and demands for reduced Customer Wait Times (CWT). In developing the new Customs Program, USTRANSCOM needed to coordinate the efforts of the Services, Defense Logistics Agency (DLA) U.S. Customs Service, State Department, and Theater CINCs (Bane, email).

##### **1. Role of USTRANSCOM**

Effective and efficient customs operations require clear guidance in the DOD regulations and procedures. Prior to the latest revision, Change 1 of the DTR-Part V, the preceding directive was initially published in 1977 and last revised in 1980 (Bane 1). The document was DOD Regulation 5030.49-R Customs Inspection, and contained information and guidance on processing personnel and cargo movements conducted under DoD sponsorship. The recent infusion of new technology and advances made in the transportation industry required the adaptation of the 5030.49-R regulation, because it

only addressed U.S. Customs. The DOD 5030.49-R was in effect and governed the conduct of DOD Custom's procedures from 1980 until the DTR Part V was published in January 2001. Upon the issuance of Part V, the 5030.49-R was cancelled and the guidance pertaining to the procedural requirements of DOD customs inspections became the responsibility of CINCTRANS, Customs Branch TCJ4-LTC.

Chapter 509 in Part V of the regulation addresses the issues involved in CINC - Host Nation support of local requirements and national policies. The DOD policy defers to the foreign customs and border clearance laws and regulations without unnecessarily limiting the effectiveness of the DTS or placing unnecessary and costly restrictions on individual DOD members/employees (DTR V-509-1). The policy is written to comply with the foreign requirements, as long it does not create an unjust or undue burden on the DOD, whether referring to employees or institutional components.

Additional guidance in this chapter articulates the responsibility of the Theater CINC and his responsibilities to determine the specific requirements for customs clearance in all of his Areas of Responsibility (AOR). The CINC would preferably designate a Theater Customs and Border Clearance Coordinator, to oversee the coordination and execution of the duties and responsibilities of the DTR Part V Regulation. The determination of whether customs brokers may be required is addressed and the regulation allows the employment of customs brokers if the CINC (or his designated representative) and the foreign government concur that it is necessary.

Once the CINC has determined the requirements for his AOR, he is responsible for the preparation and reporting of this information to the USTRANSCOM Customs Branch. The preparation of an Annex to the DTR Part V should be submitted articulating the specific requirements of the Host Nation. DTR Part V Chapter 509's guidance also requires the CINC to include additional information deemed necessary to clarify the policies and procedures within his geographical area. The minimum contents of the CINC Country Annex are listed in Section D of this Chapter.

This arrangement allows the CINC to participate in the development of regulations for his geographic area. This information is particularly helpful to USTRANSCOM as it can incorporate new information into subsequent revisions of the

DTR Part V, without prompting external sources and agencies for input. As agreements are reached and other host nation requirements are identified, the new information is made available to the CINC's Customs Border and Clearance Coordinator, who can ensure U.S. personnel are informed and avoid potentially embarrassing situations from developing between the countries. During major and minor military operations and exercises, the timely dissemination of changes to host nation border clearance requirements can prevent operational delays due to extended Customer Wait Time (CWT) for supplies and parts. The sooner that information reaches transportation and shipping personnel the faster they will react and revise procedures to conform to the new requirements.

The new Regulation contains updated information used by the Geographic CINCs for the benefit of personnel reporting to and detaching from overseas commands. Newly reporting personnel are required to undergo familiarization and orientation to prepare the individuals and their families to their new environment. An important element in the service member's adjustment is the safe and timely delivery of his personnel property and household goods. An integral component of the delivery of the household goods is the expectation of a reasonable and prompt host nation customs clearance. Expedient clearances of the DOD-sponsored shipment are realized through cooperation between the U.S. military representatives and the host nation's customs officials.

## **2. Role of the United States Customs Service**

The United States Customs Service, a Department of the Treasury agency, must compete against the other Treasury Agencies, such as the ATF, IRS, U.S. Secret Service and nine other bureaus, for its funding. The hardware and software in use by the USCS is outdated and consists of 1980's technology (Oversight of Management Challenges at the U.S. Customs Service 3). In order to conduct effective searches and provide improved border security, the USCS requires a modern state-of-the-art system able to meet the demands of increased volume and screenings. The Customs Service is in the process of developing and delivering a new import processing system called the Automated Commercial Environment (ACE) system. It is intended to replace the Automated Commercial System (ACS), the existing system that had been in place for more than seventeen years. The older ACS has experienced frequent breakdowns, slowing the flow

of data and cargo entering the country (5). The Automated Commercial Environment (ACE) system will streamline the commercial import process and increase the quality of service to its customers in the trade community. The increases would be reflected in the improved reliability and increased capacity of the hardware required to run the advanced software system. The development of the ACE system could affect DOD Custom's interaction by improving the distribution and capabilities of USCS personnel resources (12). Officials conducting inspections of DOD-sponsored exports, as well as on the receiving side in foreign countries, could receive advance documentation of incoming shipments. The ability of the databases to exchange data and forms increases the efficiency of domestic and foreign offices, resulting in better-informed inspectors and improved customer service.

The Customs Service and border security have been at the forefront of Congressional debate since authorities learned more than a dozen of the alleged conspirators of the September 11 attacks entered the country on legitimate visas (Bettleheim and Adams 2452). If the terrorist found U.S. policy lax enough to allow personnel to enter the country and blend amongst U.S. citizens, then actions must be taken to correct weaknesses exploitable by other enemies of the U.S. Databases that communicate and process information derived from other agencies would improve the effectiveness of the USCS in identification of suspicious vessels and personnel.

The Bush administration requested a \$733.5 million increase for the Department of Transportation, including \$203 million for the Coast Guard to increase security at ports and other areas (2452). Both agencies play an important role in the security of the nation's ports and coastal waters. The strengthening of both agencies provides confidence in the government taking an active role in the protection of its citizens. Increased coverage, formed by cooperative agreements between the Coast Guard and USCS can improve security at the nations' points of entry. A partnership can serve as a model to other government agencies sharing common goals and information among multiple law enforcement agencies.

Other examples of the government's role in empowering the USCS were demonstrated in the House Bill requesting a 17% increase in funding for the Customs

Service while the Senate Bill requested 12% with the main difference stemming from the more generous House appropriation, (Bill of \$300 million vs. \$230 million), for upgrading computers that process trade transactions (Treasury-Postal Spending Highlights 2452).

In the aftermath of the September 11 terrorist attacks, partly in necessity for increased homeland security demands, Congress passed the Treasury-Postal Service Bill that increased U.S. Customs Service funding to \$2.7 billion, \$303 million more than the administration previously requested (Treasury-Postal Spending Highlights 2613). The bill specifically provides \$427.8 million to modernize Customs Service information technology.

## **B. MILITARY**

### **1. Chapter 506 USCS Pre-clearance Program**

The U.S. Customs Service operates at approximately 301 locations in the continental U.S., and has at times found it difficult to adequately staff these locations. In 1995, the Customs Service withdrew its overseas Customs Advisors to streamline operations. However the Customs Service retains responsibility for overseas employees called Foreign Attaches. The U.S. Customs Attaches provide information and assistance to the public on U.S. Customs import and export policies, procedures and regulations. The Customs Attaches' primary mission is investigative, and acts as the law enforcement arm of the USCS over any commodity, vessel, or person entering or exiting the U.S. (U.S. Customs Web Page).

The Customs Attaches work closely with the host nation's Customs Service, as well as with other law enforcement agencies to prosecute those persons responsible for crimes committed in and against the U.S. and a foreign country. This may include joint investigations and sharing of information that is consistent with Mutual Legal Assistance Treaties, Extradition Treaties, Customs Mutual Assistance Agreements, and fundamental working relationships critical to effective law enforcement (USCS Foreign Attaché Web Page).

Table 1 lists the cities in which Customs Attaches are located. These locations can be accessed via the U.S. Customs Web Site and give contact information for those desiring to contact the officials concerning U.S. Customs Policy and/or regulations.

Bangkok, Thailand	Beijing, China	Bogotá, Colombia	Brussels, Belgium
Caracas, Venezuela	Hermosillo, Mexico	Frankfurt, Germany	Hong Kong
Interpol, Lyon, France	London, England	Mexico City, Mexico	Monterrey, Mexico
Montevideo, Uruguay	Moscow, Russia	Ottawa, Canada	Panama City, Panama
Paris, France	Pretoria, South Africa	Rome, Italy	Seoul, Korea
Singapore	Tijuana, Mexico	Berlin, Germany	Tokyo, Japan
Vienna, Austria			

**Table 1. U.S. Customs Service Foreign Attaché Locations (After: USCS Web Site)**

The working relationship between the countries listed in Table 1 presents an opportunity to improve communication between DOD Custom’s personnel and the Foreign Attaches. According to USTRANSCOM LTC-Customs Branch, Branch Chief, DOD personnel rarely interact with the Foreign Attaches. They (Foreign Attaches) mostly deal with airspace and over-flight issues and persons or firms desiring clarification on requirements for importing into the U.S. The interaction that occurs, with any of the Armed Services, is with the U.S. Air Force. There is almost never interaction with the USTRANSCOM Customs Office (G. Walker, personal communication, 19 February 2001).

It is possible that the geographic CINC’s Customs Coordinator will have the opportunity and reason to interact with the U.S. Foreign Attaches in keeping apprised of any changes in the host nation’s border clearance policies. A good working relationship between the offices could ease the processing of items being delivered to U.S. Forces via commercial means or a carrier other than an organic (military) delivery system. Chapter 506 of the DTR Part V addresses the United States Customs Service Pre-Clearance Program policy.

The DOD Policy is as follows:

To effectively and efficiently conduct redeployment operations for exercises, contingencies, or other special airlift/sealift operations, theater CINCs may request USCS pre-clearance for redeployments of units, their

equipment and sustaining supplies. Timelines for pre-clearance of redeployments should be established during the planning phase of the exercise of concurrently with the deployment phase during crisis action planning for a contingency. The theater CINC and the component commands involved in the redeployment must ensure that there are adequate facilities available for pre-clearance operations and work with the Services to identify military law enforcement personnel to be trained as Customs Border Clearance Agents (CBCA). Costs incurred by implementing provisions of this section (e.g., transportation, per diem, overtime charges) will normally be borne or furnished in kind by the requesting Service or Agency. If the supported command determines that pre-clearance of redeploying cargo and passengers will enhance mission effectiveness, the following request procedure must be followed (Chapter 506 DOD Customs and Border Clearance Regulation).

The provisions of this section list the procedures for requesting approval for implementing a pre-clearance program in support of military operations. It remains the responsibility of the Theater CINC to determine if and when to initiate the request to the USCS. Figure 2 contains a sample of the Customs Pre-clearance Announcement Message, released by the CINC's designated representative, the Customs Border and Clearance Coordinator (CBCC). The contents of this message provide information that is important to the shippers and routers of supplies as well as relevant to the organizations providing the services. Once this information has been disseminated it must be monitored, updated and released notifying participants and other organizations of the change. This is an example in which the DOD and USCS work together in support of national interest and U.S. policies.

FROM: (Theater customs and border clearance coordinator)

TO: Theater aerial ports)  
 (Theater water ports)  
 (Theater component customs clearance offices and/or activities)

INFO: CDR MTMC ALEXANDRIA VA//MTOPT//  
 HQ AMC TACC SCOTT AFB IL//XOC/XOO//  
 COMSC WASHINGTON DC//PM-5//  
 USCINCTTRANS SCOTT AFB IL//MCC/TCJ4-LT//  
 DA WASHINGTON DC//DALO-TSP//  
 HQ USAF WASHINGTON DC//ILTT//  
 CMC WASHINGTON DC//LFT/LPO//  
 CNO WASHINGTON DC//N41//

SUBJ: US CUSTOMS PRECLEARANCE FOR (NAME OF EXERCISE OR OPERATION)

1. US CUSTOMS PRECLEARANCE OPERATIONS HAVE BEEN COORDINATED AND APPROVED FOR (NAME OF EXERCISE OR OPERATION) IAW DOD 4500.9-R, DEFENSE TRANSPORTATION REGULATION, PART V.
2. POLICY AND PROCEDURES OUTLINED IN DOD 4500.9-R, PART V, CHAPTER 506 APPLY.
3. USCS ADVISORS WILL BE DEPLOYED TO (LOCATION) FROM (DATE) TO (DATE) TO SUPERVISE PRE-CLEARANCE ACTIVITIES.
4. AERIAL AND WATER PORTS SHOULD SET UP STERILE AREAS TO STORE PRECLEARED BAGGAGE AND CARGO PRIOR TO REDEPLOYMENT.
5. REQUEST AIRLIFT AND SEALIFT SCHEDULERS NOTIFY USCS OF FLOW SCHEDULES AND ROUTINGS TO AVOID UNNECESSARY RE-INSPECTIONS IN CONUS.
6. ADDITIONAL INSTRUCTIONS:
7. POC IS (NAME, ORGANIZATION, TELEPHONE NUMBER, DSN & COMMERCIAL).

**Figure 2. Sample Customs Pre-clearance Announcement Message (From: DTR)**

**2. Chapter 507 Military Customs Inspectors (Excepted)**

To address and assist the recurring movement of military personnel and equipment, the U.S. Customs Service created the Military Customs Inspection (MCI) Program to enable units to identify, track, and report the importation of goods back into the Continental U.S. Specifically, the purpose of the program was to assist the military in

processing troop movements returning to the United States from foreign locations. The program established Customs military advisors who would assist with U.S. Customs laws and regulations in Germany, Japan, Korea, Guam and the Philippines.

David Greenleaf recounted at the recent observance of the 25th anniversary of the fall of Vietnam, an example of the interaction and cooperation that existed between the USCS and military. Currently a retired Director, U.S. Customs Service, Dallas-Fort Worth, Texas port, recalled how he, as the Chief of Party and three other Customs officers, along with twenty-two military customs inspectors, processed over 80,000 Vietnamese refugees in a two-week period on the island of Guam. Although this recollection came at the 25<sup>th</sup> anniversary of the fall of Vietnam, it is a vivid example of the role the military inspectors contributed to the efforts of the Customs Service (U.S. Customs Career Spans Four Decades).

The U.S. Customs Service officially cancelled the Military Customs Inspection (MCI) Program in 1995. The cancellation of this program additionally deleted the requirement and uses of the DD Form 1253, Military Customs Inspection Label. DOD Transportation Regulation Part V, Chapter 501 allows for continued use as a tool to aid commands to ensure compliance with the United States Department of Agriculture (USDA) requirements.

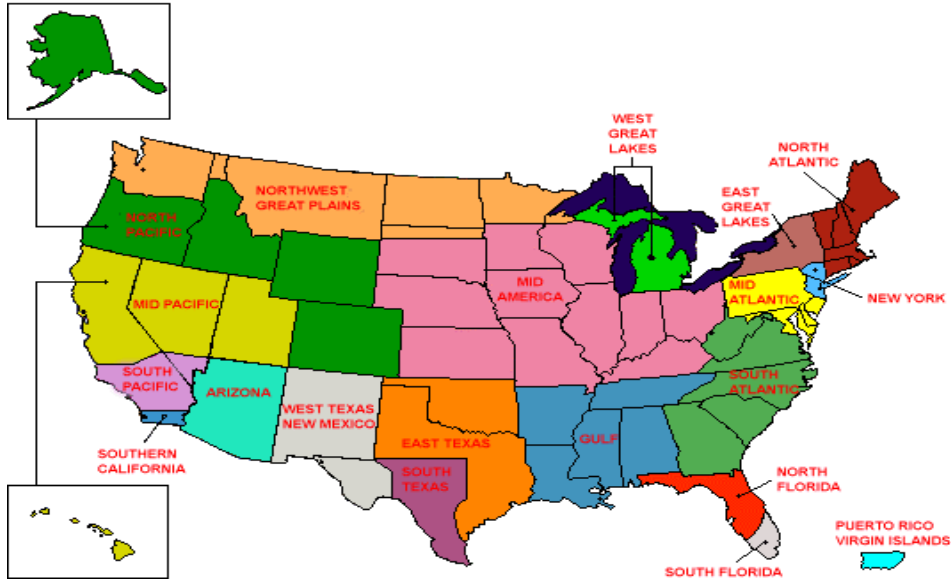
Within the Continental U.S., Chapter 507 provides for the appointment by Base Commanders of Military Customs Inspectors-Excepted (MCI-E). These individuals are issued a CF 55, Designation, Customs Officer-Excepted by the USCS. The personnel selected for this appointment receive training from the USCS and are then authorized to perform the duties of a U.S. Customs Inspector within the Continental U.S. The certification is only valid while the designee is attached to the command. The CF 55 is not transferable and must be surrendered upon transfer or change of assignment (DTR V-507-1).

The MCI-E program is established as a result of a negotiated memorandum of understanding between the base commander and local U.S. Port Director. The person or persons designated as MCI-E are responsible for the enforcement of USCS compliance, but any other agency can be designated on the CF 55. These other agencies can include

the United States Department of Agriculture (USDA), the Bureau of Alcohol, Tobacco and Firearms (ATF), and the Immigration and Naturalization Service (INS). Each of these agencies could have jurisdiction over persons and/or contraband discovered during a Customs Inspectors search. Senior law enforcement personnel will determine the jurisdiction of particular case after the MCI-E notifies the local USCS Port Director. The MCI-E responsibilities do not include conducting personal searches or collecting of duties, fines, or federal taxes (DTR V-507-1).

The program of instruction and training of the command designees' falls under the auspices of the Director, Field Operations of the appropriate Customs Management Center (CMC). Base Commanders should contact directly the Director, Field Operations of the closest CMC, in order to arrange the required training. The locations of the CMC are shown in Figure 3. CMC information can also be found by accessing the USCS web site at <http://www.customs.ustreas.gov>.

The arrangements of having on-base MCI-E provide base commanders with personnel able to respond to the unpredictable schedules inherent in military operations, giving added flexibility in responding to off-hour emergent requirements. Operational security is easier to control by reducing the number of organizations that require notification of forces returning from an overseas operation or assignment. Although the MCI-E can be military, base commanders have the option of selecting civilians to fill the position. The Base Commander's make the final decision as to the number and type, military or civilian, personnel appointed as MCI-E.



Arizona	East Texas	East Great Lakes
Gulf	Mid America	Mid Atlantic
Mid Pacific	New York	Northwest Great Plains
North Atlantic	North Florida	North Pacific
Puerto Rico – Virgin Islands	South Atlantic	South Florida
South Pacific	South Texas	Southern California
West Great Lakes	West Texas	

**Figure 3. Customs Management Centers (From: USCS Web Site)**

**C. CHAPTER 508 U.S. EXPORT REQUIREMENTS**

**1. Korea Customs Test**

Chapter 508 of the DTR Part V addresses the requirements for DOD sponsored shipments, inbound and outbound, to clear U.S. Customs. The policy is as follows:

It is DOD policy to comply with U.S. Export laws as they relate to DOD shipments, in the most efficient manner possible while maintaining the effectiveness of the military mission. U.S. export requirements are generally outlined in 15 CFR Commerce and Foreign Trade and 22 CFR Foreign Relations. Applicable sections of these regulations are referenced

in the following paragraphs (Chapter 508 Customs Border and Clearance Regulation).

The list of requirements and the number of organizations involved in the import and export of DOD cargo additionally includes the Department of State, Office of Defense Trade Controls (ODTC), and the Department of Commerce, Bureau of Export Administration (BXA). The United States Munitions List (USML) is regulated by the ODTC and the non-USML items are regulated by the BXA (DTR V-508-1).

The marking of cargo is one of the most basic yet important aspects of shipping items via military and commercial means. In order to avoid incurring charges on DOD-sponsored shipments, foreign customs officials must be able to readily identify the items as bona-fide government shipments. Efficiencies gained in this aspect of the transportation process produce benefits reflected in minimized delays, reductions in lost cargo and misrouted items. In order to collect data and identify process improvements that would provide the most benefits, USTRANSCOM developed the Korean Customs Clearance Test. This test scenario was a spin-off of MRM #15's goal to eliminate government-unique documentation (GBLs). The test was to determine if a shipment having only a Commercial Bill-of-Lading (CBL) and an electronically generated Korean Customs document could satisfy and clear Korean Customs regulations (Bane 1).

Several other limitations were placed on the Korean Customs Test. World Wide Express (WWX) shipments from a single Defense Logistics Agency Depot in San Joaquin were designated for exclusive testing and coverage using CBLs. Limiting the scope and number of activities involved would allow for greater accuracy when analyzing the data. The test timeframe was limited to ninety days, long enough in order to obtain a reasonable sample size and yet small enough to minimize impacting other Korea bound shipments (2).

TRANSCOM officials were to track in-transit times; customs clearances times and identify problems encountered during the process. After compiling the data, officials would then proceed to make recommendations that would improve the process. Officials would later meet with Korean Customs officials and seek to make permanent changes to clearance procedures (3). The final phase of the test is to develop procedures for transmitting advance clearance information to the Korean Customs officials. The lessons

learned from this test could be applied to the next test scheduled in Europe. The second test was scheduled to begin approximately three months after the conclusion of the Korean Customs Test.

In February 2002, Al Bane, USTRANSCOM, Traffic Management Specialist briefed the German Customs Service personnel about conducting a similar test in their country. According to Gerald Walker, the Germans welcomed the idea and are receptive to innovating the manner in which customs paperwork and documentation is transmitted (G. Walker, personal communication, 19 February, 2002). Once the data is collected and analyzed from the European theater, efforts can be made to widen the area of operations to include the heavily traveled and supported areas frequented by U.S. Armed Forces. Conducting the test in another area could provide a different perspective, possibly revealing issues not encountered in the USPACOM Theater of operations.

The Commercial shipping and transportation industry use Commercial-Bills-of-Lading (CBL) to identify sender, recipient and for material identification. Once a standard, internationally accepted format for the CBL is finalized, it will allow ease of translation and processing understanding by foreign customs personnel. Whether a CBL is used as the supporting document in a DOD shipment is dependent upon the method of entry of the material. If the material is shipped via organic (military) vessels, foreign customs personnel are bypassed as the shipment usually is passed between military personnel, without a break in custody. Once an item arrives in a foreign country via commercial means, the foreign customs clearance requirements must be satisfied in order to expedite delivery, obtain clearance and avoid incurring customs charges.

## **2. Export Requirements**

The Titles of the Code of Federal Regulations (CFR) that address export of DOD-sponsored shipments are Title 15 Commerce and Foreign Trade and Title 22 Foreign Relations. It is important that personnel involved with the shipping of DOD items adhere to the guidelines regarding the documentation, marking, and licensing requirements pertaining to these shipments. If CONUS Customs officials do not properly identify the packages, there exists a reasonable probability that they could experience further delays outside of this country.

Shipper's Export Declarations (SED) are required by CFR 15, Part 30 Foreign Trade Statistics. These allow U.S. officials to track and control exports. Chapter 508 lists the requirements shown in Figure 4. Other regulations provide for the use of Admission Temporaire-Temporary Admission (ATA) carnets used as an international customs document to import goods without paying duties. A fee is paid to the issuer of the carnet, guaranteeing payment of damages if the carnet holder violates the host nations Customs regulations (USCIB Web page). It is convenient for clearing contractor owned equipment through U.S. and foreign customs in support of military or government operations passing through foreign countries (DTR V-508-4). The list of participating countries is contained in Table 2.

Government agencies using WWX for overseas destinations, receive the added benefit of having one of the three commercial carriers perform the customs clearing functions. In order to provide continuity of service, UPS eliminates third-party brokerages. UPS employs brokerage specialist worldwide so that the customer can be assured that his shipment receives rating accuracy, customer service responsiveness, and the best service available (UPS Web Site). One of the reasons the WWX contract was renewed, referred to as Worldwide Express-Next Generation (WWX-2), was to continue the adoption of best commercial practices and placing contracts with firms that specialize in exporting or importing. The service is designed for the handling of cargo requiring time definite delivery. The government shipper is still required to adhere to the guidance contained in the DTR Part V, for preparing the items for shipment. The Contractor is charged with determining customs clearance requirements and providing customs clearance for all parts of the government's shipment (WWX Web Page).

#### **EXPORT DOCUMENTATION REQUIREMENTS FOR SHIPMENTS CONSIGNED TO DOD ACTIVITIES**

1. Shipper's Export Declarations (SED) are used for compiling official U.S. Export Statistics and for export control purposes. Requirements for the SED are detailed in 15 CFR, Part 30, Foreign Trade Statistics.

2. All international shipments originating in the US, which are on the USML must have the following documents:  
a. For shipments exported on commercial carriers.

(1) A Government Bill of Lading.

(2) An SED showing the correct value of the item.

(3) A written statement by the exporter certifying that the requirements of 22 CFR 126.4 have been met.

b. For shipments exported on military carriers.

(1) An SED showing the correct value of the item.

(2) A written statement by the exporter certifying that 22 CFR 126.4 requirements have been met.

c. For shipments originating in the U.S. that are not on the USML, the following guidance applies:

(1) A Commercial Bill of Lading may be used for these shipments.

(2) IAW 15 CFR 30.52 Special Exemptions for Shipments to the U.S. Armed Services, if the shipment is consigned to the U.S. armed services for their exclusive use, including shipments to Armed Services Exchange Systems, an SED is not required. However, the following statement must be cited on the shipping papers: "This shipment is exempt from a SED requirement based on 15 CFR 30.52."

3. For other shipments that do not fit these criteria, refer to 22 CFR for additional guidance.

**Figure 4. Export Documentation Requirements (From: DTR CHAP 508)**

Algeria	Andorra	Australia
Austria	Balearic Isles	Belgium
Botswana	Bulgaria	Canada
Canary Islands	Ceuta	China
Corsica	Crete	Croatia
Cyprus Czech	Republic	Denmark
Estonia	European Union	Finland
France	French Guiana	Germany
Gibraltar	Greece	Guadeloupe
Guernsey Islands	Hong Kong	Hungary
Iceland	India	Ireland
Isle of Man	Israel	Italy
Ivory Coast	Japan	Jersey
Korea	Latvia	Lebanon
Lesotho	Liechtenstein	Lithuania
Luxembourg	Macao	Macedonia
Malaysia	Malta	Martinique
Mauritius	Mayotte	Melilla
Miguelon	Monaco	Morocco
Namibia	Netherlands	New Caledonia
New Zealand	Norway	Poland
Portugal	Puerto Rico	Reunion Island
Romania	Russia	St. Barthelemy
St. Martin, French side	St. Pierre	Senegal
Singapore	Slovakia	Slovenia
South Africa	Spain	Sri Lanka
Swaziland	Sweden	Switzerland
Tahiti	Tasmania	Taiwan
Thailand	Tunisia	Turkey
United Kingdom	United States	Wallis & Futuna Islands

**Table 2. Countries Accepting Carnets (After: DTR Chapter 508)**

**D. CHAPTER 509 FOREIGN COUNTRY CUSTOMS & BORDER CLEARANCE ENTRY/EXIT PROCEDURES**

**1. DOD Policy on Foreign Customs Requirements**

The policy governing DOD adherence to foreign customs and border clearance is as follows:

1. See Chapter 501 for overall policy under the DOD CBCP. Policy specific to foreign customs and border clearance follows.
2. It is the policy of the DOD to comply with foreign customs and border clearance laws and regulations without unnecessarily limiting the

effectiveness and efficiency of the DTS or placing unnecessary and costly restrictions on individual DOD members/employees.

3. Agricultural entrance requirements. U.S. agricultural entrance requirements are outlined in Chapter 505. It is DOD policy that equal vigilance will be exercised in preventing the export of agricultural pests to foreign HNs. Generally, the same responsibilities of DOD activities for the prevention of agricultural pest movements apply to export shipments from the U.S. to foreign countries as well as on imports to the U.S. (clean, free of soil and pest infestations). Specific country requirements/restrictions are listed under the applicable country.

4. Passenger entrance requirements. It is DOD policy that passengers traveling to foreign countries comply with entrance requirements as outlined in the DOD Foreign Clearance Guide (<http://www.fcg.pentagon.mil>).

5. Personal property entrance requirements. It is DOD policy that members/employees shipping personal property to foreign countries comply with the requirements as outlined in the Personal Property Consignment Instruction Guide (PPCIG) (<http://www.mtmc.army.mil>) under Personal Property, Domestic, and Consignment Instructions Guide.

6. Customs Brokers. Generally, the DOD moves cargo into a foreign country duty-free based on agreements between the U.S. Government and that foreign country. If possible, DOD representatives should complete all documentation associated with clearing foreign customs. Under some circumstances, such as lack of an agreement or no established procedures due to lack of day-to-day operations, it may be necessary to hire a customs broker to complete the necessary documentation (import and/or export) to clear customs in a particular foreign country. Use of customs brokers for foreign country customs clearance is not prohibited by this regulation. The theater CINC Customs and Border Clearance Coordinator, in consultation with the foreign government, will determine if it is necessary to use a customs broker. Theater policy should address the following issues:

a. Planning. Generally, if customs broker services are required, it will be in support of an exercise. If outside customs broker services are considered, exercise planners should address those requirements early in the planning process to determine funding sources and contracting responsibilities.

b. Contracting. Responsibility for contracting the customs broker must be established. Theater CINC should consult diplomatic liaisons to determine if a contract currently exists for these

services. If no contract exists, and it is determined that customs brokerage is required, the theater CINC may delegate this responsibility to a component organization in its AOR.

c. Funding. If the customs broker is required to support an exercise, funding for those services should be identified separately, but budgeted in conjunction with other exercise funding requirements.

d. If customs broker procedures are established for customs clearance in a particular country, that information should be included in the applicable country paragraph in DOD Foreign Clearance Guide and this regulation.

(DTR Chapter 509 General Guidance For Foreign Customs)

The policy towards foreign countries attempts to treat the host nation regulations with the same respect expected in the U.S. These policies reflect the responsibilities of the theater CINCs for administering, updating and promulgating the individual policies of the countries in his AOR. Chapters 510 through 514 address the five geographic CINCs and list the individual requirements for those countries. These chapters provide the information in a single regulation that U.S. forces can refer to for planning, preparations and ensuring requirements are met prior to commencement of operations.

The CINC's Customs and Border Clearance Coordinator is tasked as the theater expert and must be able to communicate and exchange information with the host nations expeditiously for clarification and resolution of disputes. As long as the working relationship remains amicable and within the bounds of professional courtesies, the information contained in the guide is assumed accurate. However, if the relationship between the two parties is tense or hostile, the foreign customs policies could change without the CINC's representative's knowledge. Such a case is unlikely, but the potential exists and DOD must be prepared for a variety of non-favorable scenarios.

In order to prevent the unlikely scenario, the provisions of Chapter 509 assign responsibility to the CINC for conducting negotiations in conjunction with the Joint Staff and the State Department to develop acceptable customs agreements. Although there may be an existing SOFA with the foreign country, this responsibility is not authority to change the primacy of that agreement, but allows for modifications in subordinate SOFA

agreements (DTR V-509-2). Figure 5 lists the minimum content for inclusion in the CINC Country Annex, and Figure 6 is a sample Annex.

### **COUNTRY ANNEX CONTENTS**

1. Theater CINC Country Annexes of this regulation will, at a minimum, contain the following elements:

a. A general description of the Customs Clearance and Inspection Process for import shipments to the specified country.

b. A listing of pertinent theater implementing regulations and directives with web site addresses where they may be accessed.

c. Description of Customs/Border Clearance processes and procedures for inbound passenger, cargo, unit deployment, and personal property movements via the DTS.

d. Discussion of processes and procedures for inbound shipments by commercial vendors for both DOD-owned cargo and DVD cargo via commercial transportation.

(1) When consigned to a DOD Activity.

(2) When consigned to a commercial activity.

(3) Related process maps if available.

e. Import restrictions and prohibited items.

f. Firearms/Weapons.

g. Pets.

h. Any export requirements or restrictions.

**Figure 5. Country Annex Contents (From: DTR Chapter 509)**

## NORWAY

1. The Norwegian Customs Authority formally recognizes U.S. Military Customs AE Form 302-1. In practice, however, the low number of U.S. shipments between Norway and Continental Europe means that an individual customs officer will not have seen an AE Form 302-1. For this reason, a standard International Commercial Customs form (RG-0157) is usually issued in addition to the AE Form 302-1. The AE Form 302-1 also serves the function of a receipt confirmation for the shippers.

2. Shippers sending teams to prepare cargo to be exported from Norway should plan on bringing AE Form 302-1 and a customs stamp holder. The 426th Air Base Squadron (ABS) at Stavanger, Norway however, issues a customs stamp and can issue AE Forms 302-1, if required. Temporary Duty support/capabilities are limited.

3. Passengers. See the DOD Foreign Clearance Guide, at <http://www.fcg.pentagon.mil/fcg/no.htm>.

#### 4. Cargo:

##### a. Aircraft Shipments:

(1) All DOD cargo is received through Gardermoen Airport, Oslo, Norway. For AMC channel cargo, OL-A, 426th ABS, Oslo, Norway will submit the air manifest to the Customs Office with annotations about the identity of each receiver, and then release the cargo to the receivers. Each DOD or contractor receiver will then be responsible for import customs clearance within one month.

(2) The TO of OL-A, 426th ABS handles all import/export of cargo (except for cargo destined for the U.S. element 426th ABS, Stavanger, Norway). DOD or contractor cargo shipped on GBLs via a commercial carrier is subject to normal Norwegian customs procedures. Shipments will not be released until customs clearance is granted. Import cargo for the 426<sup>th</sup> ABS, Stavanger is cleared on a NATO Form 1, which is issued locally in Stavanger. Once the shipment is cleared, the carrier delivers the cargo IAW instructions from OL-A, 426th ABS.

##### b. Ocean Vessel Shipments:

(1) Normal manifests must be advanced by the MTMC Port Command responsible for embarkation to OL-A, 426th ABS, Fax # 0047 6714 9340, to effect customs clearance. For export shipments, OL-A, 426th ABS requires TCMDs or Customs Invoice to clear customs.

(2) Full shiploads of DOD cargo loaded or off-loaded at military ports in Norway are customs cleared by the ship's agent or by the Norwegian military receivers.

##### c. Overland Shipments:

(1) OL-A, 426th ABS will provide commercial customs clearance for DOD Cargo based on the commercial carrier's Arrival Notification and TCMD or equivalent information from shippers. Contractor receivers will perform their own customs clearance. 426 ABS, Stavanger, Fax # 0047 5195 0575 handles their own customs clearance.

(2) Overland export shipments are handled the same as ocean vessel shipments.

**Figure 6. Norway (From: DTR Chapter 510 USEUCOM ANNEX)**

**2. Domestic Security, Policy and Interagency Cooperation**

According to Charles W. Winwood, acting Deputy Commissioner, United States Customs Service, addressing the House Subcommittee on April 20, 2000, "Regarding national security, Customs is at the forefront of efforts to protect the United States from: the drug trade; the trafficking of strategic materials and weapons of mass destruction; adulterated food and unregulated pharmaceuticals; and economic crimes including intellectual piracy and commodity dumping, among other things. In fact, the Customs Service enforces over 400 statutes for more than 40 different federal agencies (Management Challenges at the U.S. Customs Service 2)." A snapshot of the Customs' 20,000-person workforce spread over such a wide area, resulting in increased individual workloads lead to some long-time employees departing from the service.

The U.S. Customs Service reorganization has resulted in a loss of expertise within the agency. The personnel directly involved in entry processing are being reduced. In addition, many of the most experienced Customs personnel have left the agency to join private industry. Customs has not replaced this expertise (83). The U.S. Customs Service employs nearly 20,000 people to process and inspect the cargo of more than 300 ports around the country. The Customs Service does not have a system to match its staffing resources with its enforcement and inspection responsibilities (2). As a result of possibly inadequate allocation of its primary resource (personnel), the USCS presents enemies of the U.S. with opportunities to exploit lesser-manned border areas.

According to a 2000 U.S. government employee satisfaction survey, Customs ranked lowest in employee satisfaction. In 28 of 32 questions, Customs employee responses were below the government-wide responses. Customs favorable response rate was 16% below the government-wide average (45). An agency this important in

providing an added measures of security at the U.S. points-of-entry requires employees dedicated responsible to performing the required tasks. If these employees do not feel good about the service they are providing, it does not reflect well on the relative importance placed on the positions along the borders. The War on Terrorism has lead to increased scrutiny of the border agents and their ability to adequately screen travelers and their personal property when entering the U.S. The pursuit of the terrorist and the networks, in which they belong, can come face to face with Customs agents at U.S. borders. Most citizens would feel safer if they knew these same Customs employees enjoyed higher levels of job satisfaction.

Congressional actions, such as Base Re-alignment and Closures, resulted in personnel and asset reductions, affecting organic asset availability to support military operations. This reduction in military assets required other sources of logistical support and personnel transportation. Peacetime operations benefit from the assistance of WWX participants (UPS/FEDEX/DHL) for the transportation of cargo via other than Defense Transportation System assets. The exporting of material is not as difficult for a U.S.-based sender to obtain pre-clearance of items emanating from the Customs Tariff of the United States. The domestically operated shipping and transportation firms associated with the WWX Program possess the ability to initiate and send the proper accompanying paperwork with, or in some instances in advance of, the actual material. Customs faces the major challenges of processing the exponential growth in legitimate trade and combating an array of threats to national security of the United States and its citizens. The same protection expected in the continental U.S. extends and applies to the military (and DOD civilians) forces employed around the world in carrying out U.S. policies and protection of U.S. interests.

Unprecedented levels of security followed the attacks of September 11, 2001. Port Security, air and sea were at levels exceeding what ordinary citizens thought possible in the U.S. Figure 7 illustrates the various levels of security for operations of the USCS. The USCS has been on Alert Level 1 since the Terrorist attacks on the U.S. since September 11 (USCS Web Site).

 <b>U.S. CUSTOMS SERVICE</b> <b>ALERT LEVELS</b> 		
	<b>4</b>	<p>Normal Operations</p> <p>Update COOPs and action plans. Respond to localized situations.</p>
	<b>3</b>	<p>Normal Inspectional Operations with Heightened Awareness.</p> <p>Federal, State and Local Law Enforcement &amp; Public Safety Agencies notified of status change locally by SAIC &amp; nationally by OI Strategic using existing counterterrorism investigative and liaison channels</p>
	<b>2</b>	<p>Increased Operations</p> <p>Federal, State and Local Law Enforcement &amp; Public Safety Agencies notified of status change locally by SAIC &amp; nationally by OI Strategic using existing counterterrorism investigative and liaison channels</p>
	<b>1</b>	<p>Sustained Intensive Antiterrorism Operations</p> <p>Federal, State and Local Law Enforcement &amp; Public Safety Agencies notified of status change locally by SAIC &amp; nationally by OI Strategic using existing counterterrorism investigative and liaison channels</p>

**Figure 7. USCS Alert Levels (From: USCS Web Site)**

The complete grounding of all non-military aircraft enabled U.S. leaders to devise a strategy to renew the confidence of the American people, and others around the world that the U.S. could, and would respond at the appropriate time. Increased border patrols, activations of National Guard personnel to augment security at airports, National Monuments, sporting events and other events in which large numbers people gathered were new to U.S. citizens, and were initial indications that the U.S. needed to revisit procedures for border clearances, of imports and exports. On October 8, 2001, by Executive Order, President Bush announced the creation of a new cabinet-level position

of the Office of Homeland Security. Section 3 contains one of the most challenging aspects of this Office's job:

Sec.3. (d) (i) facilitate the exchange of information among such agencies relating to immigration and visa matters and shipments of cargo; and, working with the Assistant to the President for National Security Affairs, ensure coordination among such agencies to prevent the entry of terrorists and terrorist materials and supplies into the United States and facilitate removal of such terrorists from the United States, when appropriate; (White House Web Site).

The President's selection of Governor Tom Ridge as Director of the Office of Homeland Security presents immediate challenges in attempting to get agencies that historically hoarded information to share it. Other questions eventually will arise in Congress and the implications of exactly how much, if any, power he has to impact the security and most importantly the budget of all the agencies he is supposed to be in charge. Ridge is argued to have at least 46 federal agencies involved in counter terrorism and still-to-be-determined influence as to how they use the \$11 billion the government currently spends on those efforts (Bethlehem 2586).

On October 26, 2001 President Bush signed into law the Anti-Terrorism Bill making it easier for law enforcement to track Internet communications, detain suspected terrorists, and obtain nationwide warrants for searches and eavesdropping. Many of the high-profile wiretap and search provisions end automatically or sunset in four years unless Congress reauthorizes them (Palmer 2533).

#### **E. CHAPTER SUMMARY**

The consolidation of the Service and DOD regulations into a single Defense Transportation Regulation, under the cognizance of CINCTRANS in November 1998, required efficient planning and coordination. The agencies relinquishing control were required to cancel outdated guidance and publish replacements citing the new directives. Through the efforts of multiple agencies and U.S. Departments, the initial DTR Part V was published in January 2001, with Change 1 released in December 2001.

## **IV. CONCLUSIONS AND RECOMMENDATIONS**

### **A. INTRODUCTION**

This final chapter will review the key issues involved in the development of the DOD DTR Part V, Customs and Border Clearance Regulations. The next section will address how USTRANSCOM's strategy engaged the challenges involved in the overhaul of the outdated Customs Inspection Regulation. The final section of this chapter will highlight recommendations for improvements concerning DOD Custom's policies and suggestions of areas additional research.

### **B. CONCLUSIONS**

After CINC USTRANSCOM was appointed Executive Agent for the Customs Regulation, the responsibility for updating or replacing the DOD 5030.49R, Customs Inspection Regulation, required a strategy that would produce thorough and concise guidance for any service and all DOD users. The strategy developed involved getting the right people involved in the decisions and that meant involving personnel around the world facing the challenges of customs and border clearance issues on a daily basis. The synergistic and comprehensive effect of involving the operators in the development of the DTR guidance targeted early involvement in order to address issues prior to publishing new DOD policy. The developers faced formidable challenges and engaged those challenges in Part V of the DTR.

#### **1. Coordinating the Consolidation of the individual Services**

USTRANSCOM had to develop a method to create a new DTR from the outdated DOD 5030.49R Customs Inspection Regulation, last revised in 1980. The 1998 directive appointing USTRANSCOM as the Executive Agent for DOD Customs Procedures meant the individual offices that were previously responsible for each of the services' own particular regulations had to be consolidated under a single point of control. Each Service, accustomed to performing clearance procedures tailored to its characteristics, had to defer to a CINC-level command. The rules of the game had been changed and USTRANSCOM was tasked with coordinating the idiosyncrasies of the Air Force, Army,

Navy, and Marine Corps into a joint office with clear direction, strategic vision, and attainable goals.

USTRANSCOM did not arbitrarily issue Part V without any interaction with other agencies. As Executive Agent for U.S. Customs, USTRANSCOM's responsibility was to incorporate the inputs of various U.S. government, military and commercial agencies in order to devise a logical and feasible regulation that addressed the concerns of each participant involved in customs issues and implementation. In order to address foreign customs, representatives of other countries were consulted to obtain their perspective and requirements. All of these actions were coordinated in concert with the goal of issuing clear instructions to organizations in order for the DOD to support the forces and satisfy mission goals.

## **2. Developing New DOD Regulations**

DOD Regulation 5030.49R, Customs Inspection Regulation was last revised in 1980. Since that revision, there have been numerous changes occurring in the international arena. Countries that were enemies are now friends; military organizations once poised to battle to the end, such as NATO's counterpart, the Warsaw Pact, have faded; military conflicts have changed, involving smaller regions, forces and evoking international United Nations interventions. The support of military operations on foreign soil signaled that it was time to completely revise and develop new Customs guidance reflecting the current international landscape. The DOD needed Regulations incorporating the specific customs clearance requirements arranged between the U.S. and Foreign governments.

USTRANSCOM acknowledged the different requirements unique to foreign customs organizations and developed the Country Annexes to the DTR Part V in the Geographic CINC AOR. The DTR Part V, Chapters 510 thru 514, address individual country customs clearance requirements and are available to units/organizations prior to shipping in order to facilitate foreign customs clearance. Although the details have not been established for each of the countries, Part V has provisions to address each separately without applying a general approach to multiple areas. In areas where detailed foreign procedures have been identified, that information is available to DOD personnel

for proper labeling, packaging, and document submittals to the responsible foreign customs clearance offices.

### **3. Incorporating Updates and Changes**

International agreements and foreign laws change frequently and as they occur, DOD regulations must be annotated and updated to reflect the adds, deletes, and revisions affecting foreign customs clearance requirements. The initial publication of DOD 5030.49R in 1977, and its revision in 1980, may have been adequate for the state of international affairs at the time. Now that the international landscape is significantly changed and is likely to continue along this current path, USTRANSCOM provided a mechanism for the necessary and periodic updates to Part V.

The Geographic CINC's Customs Border Clearance Coordinators (CBCC) are responsible for identifying changes affecting DOD-sponsored shipments foreign customs clearance, and submitting the information to USTRANSCOM. The new information can then be prepared and incorporated into the next revision of the Regulation. After evaluation and consultation between the CBCC and USTRANSCOM TCJ3-TCJ4 determines the change warrants immediate dissemination, USCINCTRANS can release notification via message, rather than waiting until the next scheduled print update. If time is a factor, message announcement and notification ensures widest distribution. The delegation of this responsibility to the CINC improves interaction between the foreign customs officials and the personnel directly affected by changes in foreign customs procedures.

### **4. Incorporating Technology and the World Wide Web**

Message traffic allows government offices to communicate and send information in relatively short periods of time to units throughout the world. Fax machines allow the sending of documents and printed material to remote locations. At the time of their introduction, these methods of communication and sharing information were thought to have revolutionized the way business transactions would occur. Some would find that prediction to be correct. Others, in disagreement could argue that it was just a logical extension of then current trends in technology. Those trends in technology included the widespread introduction of computers and the shrinking size while escalating Central

Processing Unit capabilities make everyday transactions more efficient using fewer personnel. The Internet and World Wide Web have given industry and DOD the capability to reach millions of worldwide locations without having to coordinate simultaneous connections or use identical equipment. The use of DOD Web Sites could facilitate communications and transmission of customs documents, posting of changes to Country Annexes, and provide an avenue for direct feedback (via e-mail) to USTRANSCOM for suggestions and questions concerning customs regulations.

USTRANSCOM TCJ4-LTC developed the DOD Customs Web Site to accomplish those objectives. The site is accessible via the USTRANSCOM Web Site and contains information and links to other U.S. government agencies, such as the USDA, INS, USCS, EPA, ATF, and DOT. Other links include USTRANSCOM TCJ4 message announcements, Defense Transportation Regulation (DTR), Code of Federal Regulations (CFR), DOD Foreign Clearance Guide, and the World Customs Organization (WCO) Web Sites. USTRANSCOM officials are continuing efforts to capitalize on the Internet and make customs documents and CBL's an acceptable means of transmission to foreign customs offices in satisfying requirements representing official U.S. Government DOD- sponsorship of incoming material. The development of the DOD Customs Web Site provided the means by which DOD organizations could access this information any time of the day from anywhere around the world.

### **C. RECOMMENDATIONS**

The officials tasked with developing the new guidance accomplished the overall objective and produced a well-conceived and organized publication. Given the areas that the DTR Part V has been able to address, the following recommendations are presented that could facilitate implementation and interagency cooperation:

- Consider granting CBCC access to USTRANSCOM Web Site to perform on-line Country Annex updates, (requiring approval-level confirmations), en-route submission to USTRANSCOM TCJ4-LTC. The Country Annex information can be expedited through appropriate channels at USTRANSCOM for final approval. Consideration should be given to allowing the CINC's Customs Border and Clearance Coordinator's fast-track

approval channels so that he can indicate a Level-of-Priority to indicate the appropriate attention of the updated information without experiencing unnecessary delays. An added benefit includes eliminating an additional step of updating the web page after USTRANSCOM approval and allows instant availability once posted on the Web Site.

- Develop and enhance Information Technology integration with USCS, USCG, and other enforcement agencies enabling database information sharing and cross-referencing. In certain situations, such as searches for international fugitives, this information could be useful and important in casting the widest possible net to capture or prevent terrorist and or smuggling activities.
- Incorporate where appropriate the practices used by the WWX delivery services. Those organizations employ Customs Brokers on a full time basis to expedite shipments through foreign customs to the recipient or destination. It might prove advantageous in certain areas to use Brokers to facilitate customs clearance of unclassified DOD shipments.
- Coupled with sharing information and databases, state-of-the-art web site security measures must be implemented to prevent compromising sensitive information. A secure net and link must be established to be able to authenticate U.S. and foreign government certifications. The system must use security protocols that maintain the integrity of the DOD and uniformed services. Inherent in DOD's Internet security policy, the DOD Customs web site must have top-of-the line firewalls and up-to-date anti-virus software.
- USCS Foreign Attaches' relationships should work towards pooling U.S. resources and increasing the dialogue with DOD Customs personnel. Attaches are savvy and know the right people within the host nation's government. Prior to the USCS recalling the DOD Customs Advisors, there may have been few reasons to dedicate the personnel solely to the CINC. In this new era of heightened security and global terrorist networks, the increased dialogue can better serve the interest and security of the U.S. and the host nation.

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