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**JORDAN: RECOMMENDATIONS FOR REFORMS
IN THE APPLICATION OF FINES FOR
INFRACTIONS OF CUSTOMS LAW AND
IN THE INCENTIVE SYSTEM FOR CUSTOMS
OFFICERS**

FINAL REPORT

U.S. Agency for International Development

Prepared for: USAID/Jordan

Prepared by: The Services Group, Inc.

**Sponsored by: Private Enterprise Development
Support Project III
Contract No. PCE-0026-Q-00-3031-00
Delivery Order No. 2
Prime Contractor: Coopers & Lybrand, LLP**

December 1994

**Coopers
& Lybrand**

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Consultant to The Services Group, Inc.**

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Executive Summary

Introduction

This study was undertaken to identify improvements in the assessment of fines and penalties in the Jordanian Customs Service and to suggest changes in the incentive system for Customs personnel with respect to fines and penalties. The present system is viewed as hampering trade and imposing an undue burden on importers and exporters. The recommendations in this report aim to establish a more flexible and effective method of imposing fines for infractions of Customs law and reduce arbitrary imposition of fines by divorcing incentives from the finding of penalty cases

The author interviewed various Customs officials at the headquarters office, including the official responsible for penalty cases and the official in charge of the distribution of incentives. The author also interviewed the chief judge of the Customs court and the Customs attorney who represents Customs at the court. Also interviewed were importers, Customs brokers and members of trade associations. In addition, the author reviewed operations at the Amman Customs house, Aqaba Customs and the surrounding Customs posts

Customs supplied the author with an English translation of the present Jordanian Customs law, a copy of the Harmonized Tariff and statistics on the collection of fines for calendar year 1993

A draft Customs law is now under consideration. No English translation was available. It appears that the draft law would be more abbreviated than the present law. Details would be left to Ministerial regulation.

Recommendations

Violations and Smuggling Offenses

Chapter 3 in the Customs law entitled "Customs Contraventions and Penalties" should be amended to impose fines only for breaches of law or regulation done through negligence or fraud.

The law should penalize only those who are negligent or who intentionally set out to deceive the Government. Errors should, normally, not be treated breaches of law. An importer may, for example, make an error in calculating the exchange rate. This, of itself, should not be considered an offense, unless circumstances otherwise indicate. Nor should an incorrect declaration of the tariff classification be treated as an offense, if the goods have been properly declared.

Chapter four in the Customs law entitled "Smuggling and its Penalties" should be amended to provide that for certain infractions set out in that chapter, for example, the failure to follow a prescribed route, small penalties be applied when there is no question of fraudulent intent.

The law should establish a range of penalties from mild to severe. The Ministry of Finance should publish written guidelines setting down the mitigating and aggravating factors for the use of Customs when fixing the amount of the fine. The guidelines should be made available to the public.

See Section II, Findings and Observations

Binding Tariff Classification Rulings

Article 38 in the Customs law should be amended to provide importers the right, upon request, to obtain a binding ruling from Customs on the correct tariff classification of the goods they intend to import. When an importer obtains a binding ruling on the classification of his goods, he should be required to enter his goods using that classification and its corresponding rate of duty. These rulings should be published and made available to the public. Once Customs has issued a ruling on the classification of goods, it should alter it only after giving the public due notice.

Using the Harmonized Tariff Number

Article 40(g) of the present law should be amended to eliminate the requirement that the tariff description be placed on the declaration. The present law causes the imposition of arbitrary fines. Once that article is amended, the Director General, under the authority granted by article 59, should require that the Harmonized Tariff number and rate of duty be entered on the entry declaration.

See Section II, Violations for Misdescription

Consular Certifications of Value

Article 40(a) should be amended to delete the invoice requirement that the price of the goods be certified. Certifications serve no useful purpose, except to place another obstacle in the path of commerce. Despite invoice certifications, Customs continually uplifts the declared value of goods, evidence that certification serves no useful purpose.

Certificates of Origin

A certification of origin should be required only in exceptional cases, for example, when the importer claims a favorable tariff rate because of the origin of the goods.

Differences between the Country of Origin and the Source Country

The Import/Export law should be amended to delete the 1% fine when the country of origin and the source country differ. This does not appear to serve any useful purpose.

Article 40 should be amended by adding a provision giving the Director General authority to prescribe the required content of invoices and

accompanying documents. The Director General should require that the invoice contain, as a minimum, a complete description of the goods on the invoice. Article 59 appears to give the Director General this authority already; however, when amending article 40, this authority should be included there since it deals specifically with invoice requirements.

Tariff Classification by Other Government Agencies

The Customs law should be amended to give Customs the sole authority to classify goods in the Tariff, subject to the provisions regarding this authority in the present law. Other Government Agencies should not classify goods. If Customs consults other agencies, it should be merely to obtain information about the goods to be classified. If a Government Agency has certain requirements on imported goods, they should be published in the Customs regulations and enforced by Customs for that Agency. However, the determination of the correct Harmonized Tariff number should be made by Customs.

See Section II, Tariff Classifications by Other Government Agencies

Incentives

Article 271 should be amended to create an incentive system that is independent of the assessment of fines and penalties. Customs officers should be paid an incentive, calculated as a percentage of their basic salary, as is now done with overtime compensation.

Enforcement positions, which entail greater danger, risk and hardship should be given incentive pay commensurate with those risks. Other Customs positions should be given incentive pay commensurate with the skills and the responsibility of the position.

Payments to informers should be controlled to ensure they alone receive the monies due them.

See Section II, Incentives

Other Recommendations

Modernizing the Customs Declaration

Jordanian Customs should replace the present customs declaration, basing any new declaration form on the "Kyoto Convention Lay-out Key."

Tariff Classification Training

Customs should establish a training program in tariff classification for the officers responsible for those functions.

See Section II, Violations for Misdescription

Customs Brokers

Article 177 should be amended to require that Customs brokers pass a test demonstrating their knowledge of customs laws and procedures

before issuing them a license. Article 179 should set out the specific breaches of Customs laws and regulations for which a broker's license could be revoked, or other suitable penalty applied. For example, the provision might specify that a Customs broker's license could be revoked if he were found guilty of aiding someone to avert the Customs laws. A fine could be imposed for negligence in completing customs declarations.

Closing Out Export Shipments

Customs should close out export shipments at the border, instead of having it done through certification by a foreign government. The present system causes undue delays and an unnecessary financial burden to exporters.

Bank Guarantees

The Ministry of Finance should investigate the possibility of using a system of guarantees that cover all Customs operations, not only those subject to special scrutiny. The present system of bank guarantees is expensive and a financial burden to importers. A system, which would serve to guarantee all Customs duties and compliance with Customs formalities, would be cheaper because it would spread the risk over the entire spectrum of imports.

Findings and Observations

Violations and Smuggling Offenses

Penalty cases with respect to contraventions in declarations can be divided into two broad categories:

- (a) "Violations" relating to declarations for consumption, in articles 209 and 210 of the present law; "violations" with respect to export declarations in articles 211 and 212; "violations" involving temporary entry and re-export declarations in article 221; and "violations" concerning cargo manifests in articles 224 and 225.
- (b) "Smuggling," which is covered by chapter four.

Article 209(a) provides sanctions of up to 300% of the duty and other fees when there is a variance between statements made on the documents presented to Customs with respect to the kind, origin, source or value of the goods, and the facts as established by Customs. The kind of goods is their name in the tariff list. The country of origin is, normally, the country where the goods were produced. The source of goods is the place from which the goods were exported to Jordan. Article 209 makes no distinction between an error and an evasion of the customs law through fraud or negligence. Accordingly, the same amount of fine may be imposed for an arithmetical error as for negligence or fraud.

Article 233 lists the "smuggling" offenses, which are more serious than "violations". Some of these offenses are, by definition, extremely serious. For example, article 233(l), which reads: "The submission of false or forged or factitious documents or bills of lading . . . with the intent of evading Customs duties . . ." However, other offenses listed in article 233 are not, prima facie, serious, unless the circumstances indicate otherwise. For example, Article 233(b) reads: "Failure to follow the appointed routes when importing or exporting goods." The latter offense is one for which the Kyoto Convention recommends a small penalty if there is no question of fraudulent intent. The Jordanian Government should review the "smuggling" offenses to distinguish between infractions committed through fraud and those that result from negligence or error.

Customs decides penalty cases involving declarations based on very strict criteria. The system attempts to distinguish between minor infractions and more severe breaches of law and to punish those who

commit more serious breaches of law accordingly. However, the criteria do not take account of intent and other circumstances surrounding the discrepancy. This leads to anomalies in the assessment of penalties. Customs bases its decision on the manner and degree that the facts relating to the goods differ from the contents of the declaration and its accompanying documents. Sometimes, this results in the imposition of penalties when the importer makes an arithmetical error or when the importer differs with Customs as to the legal conclusion to be drawn from facts that are not in dispute. The Kyoto Convention recommends treating errors differently from breaches of law done by negligence or fraud. A breach of law may be described as the attempt to alter the treatment to which goods are entitled by means of any false document, statement, act or omission. U.S. Law distinguishes between negligence, gross negligence and fraud. An infraction is treated as negligence if the act or omission is due to the lack of reasonable care and diligence. An error is not treated as negligence, unless the circumstances show it to be otherwise. For example, a pattern of clerical mistakes would be evidence of negligence. U.S. Law treats a breach of law as gross negligence if it results from an act done through disregard for the relevant facts and with indifference or disregard for the offender's obligations under the law. An act is treated as fraud if it is done voluntarily and intentionally, as established by clear and convincing evidence.

Because of the criteria it uses, Jordanian Customs sometimes fails to punish a violator sufficiently, although it may be clear from documents that the importer is deliberately attempting to deceive Customs. When Customs finds a discrepancy based on documentary evidence, it assesses fines on the basis of the kind of documentary evidence, rather than the nature of the infraction or the intent revealed by those documents. If Customs finds a letter that proves a declared value to be understated, it applies a fine of 200% to 300% of the duties and fees, under article 209, if the undervaluation is determined to be 10% or more. If Customs finds a duplicate of the false invoice presented to Customs, which shows the true price, Customs applies the more severe sanctions under the smuggling provision, article 233.

Customs faces a greater challenge in finding valuation penalty cases than in finding penalty cases for misdescription because Custom can readily determine, through physical inspection of the goods, any discrepancies with respect to the physical identity of the goods, or their quantity, weight or number. However, it is much more difficult for Customs to establish discrepancies between the invoice value and the price actually paid for the goods because Customs cannot easily obtain the necessary documents. The importer will only, reluctantly, or, inadvertently, provide Customs with such documents. Consequently, it is to be expected that Customs would make fewer penalty cases for

undervaluation than for misdescription. Nevertheless, Customs may well make a significantly higher percentage of penalty cases for undervaluation than expected because Customs has, in the past, used misdescriptions, though not necessarily relevant to the value, to establish undervaluation violations. If Customs finds a misdescription, it can use its authority to raise values and then, because of the misdescription, make a penalty case for undervaluation. There follow some examples that illustrate these points. They have been obtained from interviewing Customs officials, importers, exporters and Customs brokers.

Example: The declaration and the invoice claim that the goods were sold at a c.i.f. price. Customs believes that the declared value is lower than the true value but there is no documentary evidence that this is true.

Action: Customs will increase the value by the amount it believes necessary to reflect the "real" value but will not impose a fine.

Example: The same facts as above, but Customs discovers a bill of lading which states: "Freight collect."

Action: Customs will increase the value and will initiate a penalty case for a violation. If Customs increases the value by 10% or more, a fine is assessed under article 209 in an amount equal to 200% to 300% of the duties. If Customs increases the value by less than 10%, Customs applies a fine of 10 to 25 JD.

Example: Customs believes that the declaration and the invoice seriously understate the "real" value of the goods but there is no documentary evidence.

Action: Customs will increase the value by the amount it believes necessary to reflect the "real" value.

Example: Customs believes that the declaration and the invoice seriously understate the "real" value of the goods. It finds a letter that suggests the actual price is 20% greater than the declared and invoiced price.

Action: Customs will increase the value by the amount it believes necessary to reflect the "real" value and impose a fine of 200% to 300% of the duty, under article 209. However, Customs will not invoke the more serious "smuggling" provisions.

Example: Customs believes that the declaration and the invoice seriously understate the "real" value of the goods. Customs finds a duplicate invoice showing the true price of the goods, which is 20% higher than the price shown on the false invoice and on the Customs declaration.

Action: Customs will increase the value to reflect the "real" value and invoke the "smuggling" provisions under article 233.

Example: The declaration shows the correct dollar value of the goods and the correct rate of exchange. However, the importer made an arithmetical error when converting the dollars into JD.

Action: Customs fines the importer 200% to 300% of the duty on the goods represented by the incorrect amount.

Example: Customs finds, on exportation, that a temporary importation incorrectly identified fabric from china, as 100% polyester, which is actually 65% polyester and 35% cotton. The change does not affect the tariff classification or amount of duty.

Action: Customs changes the value of the goods by more than 10% and fines the Company 200% of the duty that would have been payable if the goods had been entered for consumption.

Example: Customs discovers that the invoice and declaration of a job lot of textiles does not accurately describe all the goods.

Action: Customs increases the value by 10% or more. Because the value uplift is based, in theory, on a discrepancy in the description, Customs also assesses a fine for undervaluation, although the misdescription may not, in fact, affect the value.

Whether Customs uses a misdescription as the basis for invoking a valuation violation or for a violation of kind, it appears that the major source of penalty cases is based on differences between the description of the goods on the documents and the "kind of commodity," i.e., their tariff classification.

**Violations for
Misdescription**

Violations for misdescription may often punish the importer simply because Customs disagrees with the importer's conclusion as to the proper tariff classification of his goods. The importer may present invoices that accurately and fully describe the goods. Nevertheless, he may be fined because article 40(g) requires him to describe the goods according to the rules of the tariff. This requirement must, inevitably, lead to many violations of article 209 because compliance with this requirement is difficult. When the importer attempts to describe the goods in the language of the tariff, he must make a legal decision, not a factual one. The Harmonized Tariff is extremely complicated, as one would expect, since it attempts to describe and classify an enormous number and variety of goods. Some examples, will illustrate the problem that the importer faces in trying to meet his obligation to describe the goods in the language of the tariff.

Example: An importer purchases handkerchiefs, 61 cm x 61 cm. His invoice accurately describes the goods as handkerchiefs. However, legal note seven in chapter 62 of the Harmonized Tariff says that handkerchiefs, of which any side exceeds 60 cm, are to be classified as "scarves".

Action: The importer could be liable for a fine for misdescription or Customs could raise the value of the goods and assess a fine for undervaluation.

Example: An importer purchases wire 17 mm in diameter and describes his goods as "wire". However, legal note two to chapter 73 limits the term "wire" to goods that have a cross sectional dimension no greater than 16 mm. Wire that is 17 mm in diameter might be classified as "Articles of iron or steel".

Action: Because of the misdescription, the importer could be liable for a fine of 200% to 300% of the duty, under article 209. Alternatively, Customs could raise the value of the goods and make a penalty case for undervaluation.

Example: An invoice describes fabric as 35% cotton, 20% nylon and 20% rayon. The invoice is accurate. The importer might well conclude that he should describe the shirts as cotton shirts but the legal notes in section XI of the tariff require that such shirts be classified as wholly of manmade fibers.

Example: A temporary importation of fabric from china, was described on entry as 100% polyester. On exportation,

Customs found that the material was actually 65% polyester and 35% cotton.

Action: Customs changed the value of the goods by over 10% and fined the Company 200%. However, the difference in textile fiber content did not affect the duty. In addition, the goods were properly described, according to Jordanian law, as wholly polyester. Article two of the Customs law says that the "kind of commodity" is the name in the tariff. According to the Harmonized Tariff rules, a fabric that is 65% polyester and 35% cotton is classified as wholly of polyester. Therefore, there was no violation of article 209 with respect to "kind". However, the combination of physical misdescription and Customs authority to change the value resulted in a penalty of 200% of the duty.

Example: An invoice accurately described the goods, under the general heading of medicines. The importer described the goods as medicines. Customs accepted the tariff description. Later, the documents were sent to the Ministry of Health, which classified the goods in 30.06 as pharmaceutical goods, with a higher rate of duty.

Action: Customs assessed a fine of 200% of the duty. In this case, another Government Agency decided the tariff classification of the goods, not Customs.

These are but a few of the many difficulties that importers face in attempting to describe goods in the tariff language. The tariff is complex, as it must be to reflect the enormous variety of goods. Differences of opinion constantly arise between importers and Customs as to the correct tariff classification of goods. Indeed, Customs officers cannot agree among themselves as to the proper tariff classification of goods. Yearly, the tariff section in Customs headquarters resolves thousands of differences of opinion about the tariff classification of goods between Customs and importers. In 80% of the cases, the tariff section selects a tariff classification that differs from both the tariff classification favored by Customs and that chosen by the importer. In many Customs services throughout the world, Customs issues classification rulings for the guidance of importers and of other customs officers. The law should be amended to give importers the right to obtain binding tariff classification rulings on the goods they intend to import. The rulings should be published for the information of all interested parties. Customs should be required to give the public due notice if it intends to change a binding tariff classification ruling it has issued.

***Using the Harmonized
Tariff Number***

Importers should be required to enter the Harmonized Tariff number on the entry declaration instead of a tariff description of the goods. The invoice, if correct, provides Customs with the best description of the goods. It can be verified by physical examination. The practice of requiring the importer to enter the tariff description on the declaration does nothing to ensure the accurate classification of the goods and results in unnecessary penalties, either because the importer errs in translating the invoice description into Arabic, or because the importer is unaware of the tariff implications of the description he chooses, or because he wishes to mislead customs. However, what matters on the entry declaration is the Harmonized tariff number. It is the Harmonized tariff number that decides the rate of duty. The tariff description flows automatically from that tariff number. It is the description opposite the harmonized tariff number to which it belongs.

The present law's requirement that the importer describe the goods in the tariff language was appropriate when the tariff was a simple list of goods, arranged alphabetically. Such lists were sufficient when the number, variety and complexity of goods were limited. Tariffs are no longer simple lists of goods, arranged alphabetically. The Harmonized tariff is a complex document that attempts to describe and classify a vast array of goods. The use of the Harmonized Tariff number is the only accurate way to indicate the tariff treatment that an importer claims. Article 40(g) should be amended to require the importer to put the tariff number and rate of duty he claims on the entry declaration.

***Tariff Classification
Training***

Because of the complexity of the Tariff, importers are not the only ones who have difficulty in choosing the correct tariff description for goods. Customs officials have the same problem. Yearly, the tariff section in Customs headquarters resolves thousands of differences of opinion between Customs and importers. In 80% of the cases, the tariff section selects a tariff classification that differs from both the tariff classification favored by Customs and that chosen by the importer. By issuing binding tariff classification rulings and making them available to their own personnel as well as the public, Customs will reduce errors in classification. It will also reduce the number of disputes between Customs and importers as to the correct tariff classification and free Customs to concentrate its energies on other important issues. Customs should also provide training in tariff classification for Customs officers and provide field offices with copies of The Explanatory Notes To The Harmonized Tariff. With training and guidance, Customs officers will be better equipped to classify goods correctly and this should result in fewer disputes with importers concerning the tariff classification of their goods.

***Tariff Classifications by
Other Government Agencies***

Customs regularly refers classification questions to other Government Agencies, who actually classify the goods. The Ministry of Health handles medical goods; the Ministry of Agriculture, fruits and

vegetables and the Ministry of Supplies classifies other goods. This causes delays in the processing of goods, creates uncertainty among importers and leads to the imposition of fines, despite acceptance by Customs of an importer's initial declaration. It also places Customs in a position that it cannot carry out its primary mission independently. It is a practice that may distort the tariff by introducing criteria for classifying goods that are not set out in the tariff.

In one case, an importer described his goods as "medical furniture". Customs classified the goods as "other furniture" at a higher rate of duty. The matter was referred to The Ministry of Health, which agreed that the goods were "medical furniture", but because the importer had not previously submitted the goods to the Ministry of Health to certify the proper tariff number. The Ministry of Health agreed that Customs classified the goods correctly as "other furniture".

Incentives

Although, the present law on fines and penalties is the cause of many unwarranted fines, the situation is exacerbated by the incentives program, which encourages Customs officers to find penalty cases because it is in their personal interest to do so. However, it must be recognized that the fundamental problem lies in the high tariffs and the large number of rates of duty. Fines and penalties will continue to be a problems until duty rates are lower, and fewer in number. With the present rate structure, it is inevitable that there will be frequent attempts to evade the payment of duty. If an importer knows that his competitor undervalues his goods, he faces the choice of losing the competitive struggle or undervaluing his own goods. Customs raises values based on incomplete and unreliable information because that is the only information they usually have. But their instincts are correct when they view invoice values with suspicion. One importer told me that he reviewed a number of valuation problems for a trade organization and that, in his opinion, the values that Customs used were, in most cases, "more correct" than those claimed by importers. However, while reducing duty rates is essential, this does not mean that the fines and penalties system cannot be improved within the present tariff structure. Customs employees are not well paid. Every violation that they discover represents additional income for them. Large fines are an enormous financial burden for importers and exporters. However, any fine, large or small, causes delays and frustration for traders. Nevertheless, I do not suggest eliminating incentives. The reduction in income for Customs employees would be a terrible financial blow and would be destructive of morale. Incentive pay should be retained but should not be tied to penalty cases.

The incentives program is based on Customs Law no. 16 of 1983. That law provides in article 271 that 60% of the fines collected shall be for the Treasury, and the remaining 40% given to those who uncovered the contravention of law, and to their principal officers. The distribution

of the Customs portion of the fines is, according to paragraph (b) of article 271, to be decided by the Minister of Finance upon the recommendation of the Director General of Customs.

The distribution of the income from fines among Customs personnel is fairly complicated. However, its purpose is to assure that not only the actual finder of the penalty case be rewarded but that other customs officers who have not actually discovered the breach of law also benefit, either because they are designated as "participants" in the discovery of the penalty case or because they receive a portion of the share set aside for nonparticipants.

An example of how incentive payments are distributed reveals the complexity of the incentive system. It also shows that the incentive system is not intended to the benefit only those individuals who make the penalty cases. The system aims to encourage increased efficiency and high morale among all customs officers.

A penalty case was made for a total of 4,298 JD. The Treasury received 60% of that amount or 2,578 JD. The remaining 40% or 1,719 JD was distributed among Customs officials in the following manner:

1,031 JD or 60% of the Customs allotment of 1,719, was paid to two finders and to "participants".

The 1,031 JD for the finders and "participants" was divided as follows:

- The two finders each received 129 JD or 12.5% of the 1,031 JD.
- The district director received 65 JD or 50% of the 129 JD paid to each finder.
- The maximum amount that the district director can receive is 100 JD per case.
- The asst. district director received 52 JD or 40% of the 129 JD paid to each finder.
- The maximum amount that the asst. district director can receive for one case is 80 JD.
- The other "participants" received 50% of the asst. district director's share or 26 JD.

Since there was 656 JD remaining after payment to the finders, the district director and the assistant district director, 26 employees in the district office were designated "participants" and each received 26 JD.

688 JD, or 40% of 1,719 JD, the total allotted to Customs, was set aside for "nonparticipants" and for "enforcement". The amount "nonparticipants" receive depends on their grade. The distribution is handled by the chief of the Finance directorate in Customs. Incentive payments are made to nonparticipants twice a year, in June and in December.

The amount distributed to Customs officials differs when the discovery is made by an informer. An informant receives 15% of the amount allotted to "participants". The maximum amount that an informant may receive is 500 JD per case but the Minister may authorize payment of up to 1,000 JD to an informant. Some allege that Customs officials increase their share of a fine by inventing "informants" so that they, in fact, collect the "informer's" share.

If a case is made by post-audit, the auditors receive 40% of the amount allotted for "participants". The maximum amount that auditors may receive is 400 JD per person per case.

The incentive for Customs officers to find penalty cases is understandable in view of the low salaries of Customs employees. The basic salary of Customs officers varies, depending on rank, from 49 JD a month to 279 JD a month. An employee receives an additional 50% of his basic salary, if he has a university education. Employees also receive a family allowance of up to 15 JD per month and a personal allowance of 55 JD per month. In addition, Customs employees receive an overtime allowance that varies from 60% to 85% of their basic salary. With all the supplements noted above, the salaries range from of 185.15 JD per month (using 85% as the overtime figure) to 488.50 JD per month.

With such low salaries, the rewards offered by the incentive system are very attractive. Employees who discover violations can supplement their income by as much as 400 JD per month. However, employees, other than the finder, also benefit from fines. Managers, who participate in all the cases discovered by employees under the supervision, can earn 25% to 50% of their basic salaries through the incentive system. The fines are an important part of an employee's income. However, I heard complaints that fines are not fairly distributed and that certain employees benefit more from the program than is right. Some allege that payments to informants are actually made to Customs officers with fertile imaginations.

Managers would also be reluctant to part with the incentive system because they would lose income and because it would have a demoralizing effect on their subordinates. If the incentive system were eliminated, it would reduce the amount available to employees by 2,000,000 JD a year. This would have a impact on morale. Importers

and exporters might find themselves in a more difficult situation than at present, faced, as they would be, with a disgruntled and demoralized work force.

It is important that incentives be maintained but it is also essential that whatever incentive pay Customs employees receive, it should be separated from fines and penalties. I suggest that a percentage of basic salary be paid employees as an incentive. Customs positions should be given incentive pay commensurate with their skills and the responsibility of the position. Enforcement positions, which entail greater danger, risk and hardship should be given incentive pay commensurate with those risks.

Payments to informers should be continued but there should be strict controls to ensure the payments are made only to those outside the Customs service who provide the information.

Section II

Other Findings & Observations

Modernizing the Customs Declaration

Customs should replace its present declaration with one modeled on the Kyoto Convention Lay-out Key. The present declaration is cumbersome and outdated. It is designed for a time long past when declarations were made by hand and numerous written observations were necessary. It does not lend itself readily to computerized processing. The Kyoto Lay-out Key is designed to conform to the commercial invoice. Its adoption should help simplify Customs procedures. It would be especially useful in any effort to computerize Customs processing of declarations.

Closing Out Export Shipments

Customs should close out export shipments at the border. The exporter's shipment should not be kept open, waiting certification by a foreign government. Under the present system, the carrier crosses the border with the documents. The Customs post in the importing country verifies that the goods have been exported. The Jordanian exporter must await the return of the carrier before he can have his liability for the shipment closed. The delay is unnecessary. Jordanian Customs should not place itself, unnecessarily, in the position that compliance with its formalities must be verified by a foreign Customs entity. Jordanian Customs could close out export shipments with a simple inventory control system. It could be done using paper documents or with computers.

Bank Guarantees

The Ministry of Finance should investigate the possibility of using a system of guarantees that protects Customs from all possible risks. It should cover the payment of duties and compliance with Customs formalities for all Customs declarations and operations. The present bank guarantees serve as protection only in specific instances, for example, when the importer fails to present a specific document. The bank guarantees are a financial burden to importers. A system that served to guarantee all Customs duties and formalities would be cheaper because it would spread the risk over the entire spectrum of imports, instead of the few that are irregular. It would also eliminate the inefficient and, sometimes unfair, practice of taking a portion of the importer's goods in payment of customs duties and fees.

Annex A: List of Contacts

Customs Administration of the Hashemite Kingdom of Jordan

Nazmi Al Abdullah	Director General of Customs
Kamel J. Tadros	Asst. Director General, Cases
Mohammad Garaibeh	Asst. Director General, Exemptions & Temporary Entry
Khalid Alkutub	Asst. Director General, Finance & Administration
Saud Abdel Kader Saleh	Asst. Director, Sales Tax
Mohammad Saraireh	Asst. Director, Tariff Directorate
Hamdi Hiyari	Chief, Tariff Section
Mahmoud Atawi	Project Director
Hani Barakat	Counsellor, Customs Department
	Chief, Valuation section
Miss Zeim Al Ayed	Director, Public Relations
Khalid Rababa	Chief, Temporary Imports and Drawback Division
Adel Abu Samhadaneh	Chief, Cases Division
Fahd Al Masalheh	Chief, Research
Miss Abeer Mina	Chief, Incentives Section
Arif Alfitiani	Communications Officer

Aqaba Customs

Kalaf Al Hazaymi	Director, Aqaba Customs
Ali Khalil	Chief, Penalty Cases
Mahmoud Rawashdeh	Chief, Valuation
Ahmad Diheimesh	Chief, Inspection
Ghazi Taweel	Chief, Manifests
Adel Nimrat	Chief, Audit
Mohammad Khawaldeh	Chief, Ships Station
Awad Omarii	Chief, Customs Laboratory

Dirreh Customs

Adel Wahab Saraireh	Chief, Dirreh Customs
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Jordanian Customs Court

Misbah Diab	Chief judge, Customs Court of Appeals
Khaled Al Ahmad	Customs Attorney

USAID

Khatib Bassam	Project officer, USAID
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Associations

Salim Y. Jadoun	Head of the Customs Brokers Association
Azar Osama	Customs Broker, Orient Transport Co.
Ali T. Dajani	Advisor, Chamber of Industry
Munir K. Taghloul	Director, Jordan Institute of Management
Oden Sweiss	Manager, Research Dept., Amman Chamber of Commerce
Amin Y. Hussein	Secretary General, Federation of Jordanian Chambers of Commerce
Rana Al Fahoum	Librarian, Documentation and Information Section, Federation of Jordanian Chambers of Commerce

Importers and Exporters

Yahya R. Alami	Manager Director, Industrial & Agricultural Co. LTD
Samir K. Maqdash	Director, Jordan Clothing Co.
Munir Al Asseh	General Manager, White House Trading Co.
Khaled Naffa	General Manager, Khaled Naffa

Annex B: Scope of Work

Sector Policy Reform Technical Support Project

Task Order: 5
Date: July 25, 1994
Subject: Customs Fines
PIO/T No. 278-0289-3-30085

I. Objective

The objective of this task is to provide 23 person-days of expertise to recommend: 1) categorization of infractions by importers and exporters for the purpose of allocating fines by the customs departments; and 2) alternatives to the present incentive systems for customs officers.

II. Tasks

A. The contractor shall provide a qualified consultant to:

1. Review the current customs law and regulations governing the application of customs fines.
2. Meet with appropriate customs officials to discuss and clarify the imposition of fines and the associated incentive systems currently applied for customs officers.
3. Interview a sample of clearing agents to discuss infractions and procedures of application of fines in the process of clearing goods from customs.
4. Visit one or two customs clearing centers to review the customs clearing process and examine cases involving infractions.
5. Recommend new categorization of infractions and fines to be applied in the process of clearing goods from customs.
6. Recommend new procedures for the application of fines including level of authorities in the administration of fines applications.
7. Recommend a new incentive system for customs officers.

B. Nomination of Consultant: The contractor nominated Joseph P. Moss of The Services Group.

C. Work Plan, Presentations and Reports

1. **Implementation Plan:** The consultant shall within three days from arrival to Jordan, prepare a work plan for the implementation of the tasks in section II. The work plan shall be prepared with the cooperation of the Department of Customs outlining all laws, regulations, and other procedures that will be reviewed. The work plan shall also include a schedule of site visits and names of institutions that need to be consulted.

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2. The Consultant shall make an oral presentation on his progress and any findings and recommendations. The presentation shall be made to USAID management and other Government of Jordan officials.
 3. The Consultant shall prepare a draft final report about his findings and recommendations prior to his departure from Jordan. USAID shall review the draft final report and provide its comments to the Contractor for preparation of the final report. The Consultant shall, as requested by USAID, present his progress, findings and recommendations to USAID management and other key Government officials of Jordan.
- D. Report Preparation: All findings and analyses and conclusions regarding the categorizations and application of customs fines and incentive system for the customs officers shall be detailed in a report submitted in a final draft to USAID prior to the departure of the Consultant. The report shall contain an Executive Summary of findings and recommendations not to exceed five pages, followed by the principal text not to exceed 30 pages. All contacts in and out Jordan must be identified in the report as well as all reference materials consulted. Annexes may be appended to the report, if needed. The Consultant shall deliver the final draft in five copies. The contractor shall submit ten copies of the final report and attachments to USAID.
- E. Timing: The task shall be completed by December 30, 1994 or earlier. The final report shall be submitted to USAID by January 15, 1994.

Annex C: Fines Collected in 1993

Violation Cases and Smuggling Cases - 1993				
Customs Post	Number of Violation Cases	Amount of Fines (JD)	Number of Smuggling Cases	Amount of Fines (JD)
Omarri	5,300	624,123	778	260,619
Amman	4,898	1,004,707	707	490,105
Ramsa	4,606	265,574	1,335	539,988
FTZ	2,362	208,109	958	132,592
Aqaba	1,001	237,538	80	46,612
Mudawarah	909	45,418	139	59,551
Cargo ¹	802	170,327	3	1,686
Sahab ²	271	25,363	54	3,146
Ruwaished	225	11,901	471	320,817
Passengers. ¹	131	13,100	117	53,786
Cust. Hq.	56	18,985	2,508	770,205
Maan	39	1,948	31	5,392
Quesmeh ²	16	3,196	10	1,815
Karak	10	343	20	2,937
Post Off.	9	4,899	8	2,238
Total	20,635	2,635,535	7,267	2,789,182
¹ Airport ² Industrial Park ³ Bonded Warehouse				

Annex D: References

1. Jordanian Customs Law Number 16 of 1983
2. The Kyoto Convention on The Simplification and Harmonization of Customs Procedures
3. Volume 19, Code of Federal Regulations of the United States of America