

Legal Framework in Single Window Development – The New Zealand Experience

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Recommendation 35 Check list

- (a) Has the legal basis for the implementation of the Single Window facility been examined/established?
- (b) Has an appropriate organizational structure for the establishment and operation of a Single Window facility been chosen?
- (c) Are proper identification, authentication and authorization procedures in place?
- (d) Who has the authority to demand data from the Single Window?
- (e) When and how data may be shared and under what circumstances and with what organizations within the government or with government agencies in other countries and economies?
- (f) Have proper data protection mechanisms been implemented?
- (g) Are measures in place to ensure the accuracy and integrity of data? Who are the responsible actors?
- (h) Are liability issues that may arise as a result of the Single Window operation addressed?
- (i) Are there mechanisms in place for dispute resolution?
- (j) Are procedures in place for electronic archiving and the creation of audit trails?
- (k) Have issues of intellectual property and database ownership been addressed?
- (l) Are there any situations where competition issues may arise?

Recommendation 35 Check list

Has the legal basis for the implementation of the Single Window facility been examined/established?

- March 2010 - a Cabinet paper was prepared seeking approval for the proposed legislative amendments in the Customs and Excise Amendment Bill. This Bill covers both Customs and MPI requirements.
- August 2010 - Cabinet agreed to further amendments to the Bill and that an information sharing framework be specified in the amendment. Also that planned information sharing between Customs and MPI be included.
- October 2010 - Customs briefs the Select Committee on the Bill. Select committees work on behalf of Cabinet and report their conclusions back to them.
- December 2010 - Bill has its second reading debate in Parliament. This follows a large number of recommended changes from the Select Committee.
- December 2011 - Support for a second Bill, the TSW bill, is sought to cover aspects of legislation not in the current Bill.

Recommendation 35 Check list

Has an appropriate organizational structure for the establishment and operation of a Single Window facility been chosen?

- Formal agreements already exist between Customs and MPI viz MOUs etc.
- End User agreements? Considerable consultation but NZ has not entered into any formal agreements with Traders.
- Electronic messages to Customs has been mandated for a number of years prior to TSW.

Recommendation 35 Check list

Are proper identification, authentication and authorization procedures in place?

- Present procedures are already in place
- Will be enhanced by the Customs and Excise Amendment Bill and the proposed TSW Bill 2014
- B2B Digital Certificates
- Unique Pin for Declarant
- Authentication string for Declaration
- Realm NZ Government login
- Online TSW Registration

Recommendation 35 Check list

Who has the authority to demand data from the Single Window?

- Customs and MPI
- Biosecurity Act 1993 addresses MPI requirements
- Privacy Act constraints apply.
- Official Information Act covers external requests for data.
- All will be combined in the proposed TSW Bill.
- Current legislation provides for interim sharing agreements until the TSW Bill is passed.

Recommendation 35 Check list

When and how data may be shared and under what circumstances and with what organizations within the government or with government agencies in other countries and economies?

- Current processes already exist for Customs and other specified Parties. Electronic data submission and data sharing has been in practice for over 15 years.
- Other parties as specified in sections of the Customs and Excise Act e.g. Statistics NZ, MPI, etc.
- The proposed TSW Bill will further enhance data sharing for other Parties.

Recommendation 35 Check list

Have proper data protection mechanisms been implemented?

- Single Window Security Analysis Team
- TSW Access Security Matrix
- Audit logging
- Privacy Act compliance

Recommendation 35 Check list

Are measures in place to ensure the accuracy and integrity of data? Who are the responsible actors?

- TSW data can be submitted by a number of Parties viz Shipping Companies, Carriers, Importers, Exporters, Brokers, Freight Forwarders etc.
- Submitter is responsible for the accuracy and integrity of the data
- **Right data** from the **right place** at the **right time**
- Industry will be more likely to submit accurate data if it is coming from the right source.
- NZ currently has an Administrations Penalty process supported by legislation
- TSW will aim to encourage the submission of accurate data in all circumstances by providing enhanced risk management for those who comply
- Trusted Trader programs

Recommendation 35 Check list

Are liability issues that may arise as a result of the Single Window operation addressed?

- Liability Issues will mostly be handled by existing process.
- Internal use of data is monitored by unauthorised sharing and matching procedures.
- External data issues are addressed by the Privacy Act and the Official Information Act.
- Administrative Penalties as specified by the Customs and Excise act to address erroneous declaration data issues.

Recommendation 35 Check list

Are there mechanisms in place for dispute resolution?

- TSW is a NZ Government undertaking and has no Private Enterprise holdings
- No specific provisions exist in Legislation for the NZ TSW
- NZ legislation has dispute resolution mechanisms in place viz Arbitration Act

Recommendation 35 Check list

Are procedures in place for electronic archiving and the creation of audit trails?

- NZ TSW does not currently have an archiving policy. All data is used for Risk and Intelligence assessment.
- Nexus – Customs Data Warehouse is used to store TSW data for reporting and analysis.
- Audit trails to be handled by logging and reporting. These exist already in a lot of cases.

Recommendation 35 Check list

Have issues of intellectual property and database ownership been addressed?

- IP not specified in current legislation.
- Vendor Agreements and contractual obligations are in place.

Recommendation 35 Check list

Are there any situations where competition issues may arise?

- Not an issue in NZ

Case Studies

- Legal Timeline.
- Initial Policy Assessment
- Registration legal Issues

Legal timeline

1	20/04/2009	Cabinet note that a business case is being prepared for JBMS for submission in the first quarter of
2	14/10/2009	Cabinet agreed in principle to replace the aging systems
3	02/11/2009	Cabinet agreed to replace the aging systems subject to a funding bid in 2010/11 and approved seed
4	01/03/2010	Cabinet paper prepared seeking approval for the proposed legislative amendments in the Customs and Excise (Joint Border Information and other matters) Amendment Bill (the Bill). This Bill covers both
5	24/03/2010	Cabinet agree that subject to funding, proposals for cost recovery from industry could proceed
6	19/04/2010	In Budget 2010 Cabinet approved funding for the JBMS
7	30/05/2010	Cabinet agreed to the release of the discussion paper on cost recovery which included meetings with
8	25/08/2010	Cabinet agreed to further amendments to the Bill and that an information sharing framework be specified in the amendment. Also planned information sharing between Customs and MPI be included
9	29/08/2010	Cabinet agree to another bill, the TSW Bill, to support the implementation of TSW
10	30/08/2010	Cabinet agree to the introduction of the Bill to Parliament
11	14/10/2010	Customs briefs the Select Committee on the Bill
12	18/10/2010	Cabinet approve increases in Custom's transaction fees, the increases to come into effect upon
13	10/12/2010	Bid for a slot in the 2011 legislation programme sought for the Bill (no automatic carry forward to the
14	11/12/2010	Bill has its second reading debate in Parliament. This follows a large number of recommended changes
15	12/12/2011	Bill has its third reading
16	20/12/2011	Support for a second Bill, the TSW bill, is sought to cover aspects of legislation not in the Bill
17	21/12/2011	a legislative slot is sought in the 2012 programme for the TSW Bill
18	13/02/2012	Completion of the final stages of the Bill
19	05/04/2012	Bill is passed into law and the Biosecurity and Customs Acts are amended accordingly
20	17/06/2013	Cabinet agree to the new biosecurity levies for MPI and new Customs fees to take effect from 1 August
21	01/07/2013	TSW Bill approved by Cabinet and introduced to Parliament on the same day.
22	26/09/2013	Select Committee receive the initial briefing on the TSW Bill from Customs
23	20/04/2014	Forecast date for the TSW Bill to pass into law



Initial Policy Assessment

- Refer Initial Policy Assessment Document

Registration legal Issues

Customers include:

- Agent/broker
- Cargo Terminal Operator
- Carrier: international airline or shipping company
- Carrier: domestic transport operator
- Consignee for import and export
- Declarant
- Excise client
- Exporter
- Freight forwarder / consolidator / de-consolidator
- Importer
- Shipping agent

Registration legal Issues

Legacy registrations -

- Previously all Client Details were entered into the respective Agency systems by an Officer
- Clients did not have direct access to information held in the systems
- Agencies had complete control over the registration data and there were no privacy issues

TSW registrations –

- TSW will require all customers to be registered online
- A registered user of TSW can register a customer online
- Users have access to the data to maintain as required
- Privacy is a major consideration as Agencies no longer are the sole custodians of the data
- Satisfactory security measures needed to be implemented to ensure privacy of the registration data
- Where a customer is registered by another party, proof that the customer approves of the registration is required

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QUESTIONS?