CASE STUDY ON THE CUSTOMS-RELATED ASPECTS OF THE ROTTERDAM CONVENTION

JAMAICA’S EXPERIENCE

SECRETARIAT OF THE ROTTERDAM CONVENTION
TABLE OF CONTENTS

I  INTRODUCTION .................................................. page 1
II  THE LEGAL FRAMEWORK .......................................... page 1
III PROCEDURES ....................................................... page 3
IV  EXPORT OF CHEMICALS ............................................. page 6

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1.0  BACKGROUND ...................................................... page 7
2.0  CURRENT METHODS AND PROCEDURES FOR IMPORT LICENSING ................. page 8
3.0  CURRENT METHODS AND PROCEDURES FOR NOTIFICATION ......................... page 8
4.0  PROPOSED METHODS AND PROCEDURES - Import Licensing ....................... page 9
5.0  PROPOSED METHODS AND PROCEDURES - Notification ............................... page 10
6.0  PROCESSING C78 SYSTEM FOR PCA SENSITIVEENTRIES .............................. page 15

Jamaica’s Experience
I. Introduction

The Ministry of Health through the Pharmaceutical Division approves permits to import all chemicals except pesticides. Importation of pesticides is managed by the Pesticides Control Authority (PCA) which is a statutory body within the Ministry of Health.

Being an island state, the control of imports is achieved through a system of import permit or license in collaboration with Jamaica Customs at all ports.

To improve the information exchange about the characteristics of chemicals banned for use, or subject to severe restrictions stakeholders have been involved in implementation of the Rotterdam Convention on Prior Informed Consent procedure for certain hazardous chemicals in international trade.

II. The legal framework

IMPORT REGULATION OF CHEMICALS AND PESTICIDES

Whilst there is no legislation in place for managing chemical imports and permits for chemicals are granted as an administrative measure, the licenses to import pesticides are required by the Pesticides Act 1975.

Among the functions of the Pesticides Control Authority as set out in the Act are:

(a) to register pesticides; and
(b) to license persons to import or manufacture registered pesticides.

The Act states that:

“No person shall manufacture, or import any pesticide unless he first obtains in the prescribed manner a license to, manufacture or import, as the case may require, that pesticide”.

The Act also defines “prohibited” pesticide as:

“any pesticide of which the possible effects on the environment, plants, animals or human beings are considered by the Minister to be too dangerous to justify its use and which is specified in the second schedule.

and “restricted” pesticides as:

“any pesticide specified in the Third Schedule, and any preparation or mixture containing such pesticide, other than--
(a) a preparation or mixture in which the quantity of any such pesticide identified by an asterisk is not more than 2% by weight; or (b) an impregnated resin strip in which the quantity of a restricted pesticide is not more than 20% by weight of dichlorvos”.

Pesticides that are prohibited or restricted are listed in the Act by Schedules which the Minister may from time to time, after consultation with the Authority, amend. A Ministerial Order can withdraw from sale or use, and make provision for the disposal of, any pesticide added to the list of prohibited pesticides.
SECOND SCHEDULE

Restricted Pesticides

aldicarb (Temik)
azinphos-ethyl (Gusathion A)
azinphos-methyl (Gusathion M Guthion)
demeton (Systox)
dicrotophos (Bidrin)
dimefox (Pester XIV)
DNOC
EPN
censulfothion (Dasanit, Terracur P)
fluenetil (Lambrol)
fonofos (Dyfonate)
Gophacide
parathionycophyrin
parathion-methyl
phorate (Thimet)
schradan
sulfotep
TEPP
rhionazin (Nemofos, Zinophos)
Zectran

THIRD SCHEDULE

Prohibited Pesticides

Abate
acrylonitrile
aldrin
alpha naphthyl
thiourea (Antu)
aluminium phosphide
arsenates, lead, copper and calcium arsenites, sodium and potassium
binapacryl (Morocide)
carbofuran (Furadan)
carbon disulphide
carbophenothion (Trithon)
chlordecone (Kepone)
chlorfenvinphos (Birlanc, Sapecron)
chloropicrin
coumaphos (Co-Ral)
cyanides (inorganic)
cycloheximide (Actidione)
*DDT
demephion (Cymetox, Atlasetox)
dichloropropane and/or dichloropropene (D-D, Telone)
dichlorvos (DDVP, Vapona)
dieldsin
dinoseb, dinoseb acetate
dinoterb
disulfoton (Disyston)
Dursban
endosulphan
endrin
ethion
ethylene dibromide
ethylene dichloride
ethylene oxide
heptachlor
mecarbam (Murfotox)
medinoterb acetate
mercuric chloride
all organomercury compounds
mercurous chloride
methamidophos (Monitor, Tamaran)
metham-sodium (Vapam)
methomyl (Lannate)
methyl bromide
Methyl Thriothion
mevinphos (Phosdrin)
Mocap (Prophos)
microcrotophos (Azodrin, Nuvacron)
Nemacur
nicotine sulphate
oxydemeton-methyl (Metasystox--R)
oxysulphotton (Disyston--S)
paraquat (Gramoxone)
Paris Green
Pentachlorophenol
phosphamidon (Dimecron)
*propoxur (Baygon, Unden)
prothoate (Fac)
red squill
sodium fluoride
sodium fluoro acetate (“1080”)
strychnine
TDE (DDD)
thallium sulphate toxaphene
Vorlex, Trapex, Di-Trapex
White arsenic
White phosphorus
Zinc phosphide
III. Procedures

A. REGISTRATION

All pesticides are subjected to screening through the process of Registration. Potential registrants must provide dossiers for scrutiny and final approval.

INFORMATION REQUIRED TO REGISTER A PESTICIDE

1. Application dossiers should be bound in hard cover binders, and be submitted in triplicate. They should be correctly indexed in the order presented below for easy reference.
2. The package size (s) in which the product will be imported.
3. Detailed literature in respect of the chemistry and composition of the product (including percentages of all ingredients), its efficacy, toxicology, antidotes (together with any available references) and precautions to be observed before, during and after use.

N.B. If the active ingredient is registered, only information on the formulation and the composition of the product is required.

4. Six sample copies of the label proposed to be used in connection with the new pesticide, along with samples of the packaging materials and inserts to be used for trade packages. Labels should be in the English language, and should conform to the labeling standards of the PCA.
5. A certificate of analysis which contains:
   a) An assay report on a recent batch of the product analyzed
   b) The method of analysis used (This is only required if the active ingredient is unregistered).
6. A duly authenticated and legalized certificate of free sale from the competent authority with whom the product is registered in the country of origin, and the conditions under which it may be sold in that country, also a copy of the label stamped as being approved by that Authority.

7. A statement showing:
   a) The countries in which the product is registered for Free Sale other than the country of origin.
   b) Any country in which the product has been refused registration for Free Sale and the reasons for refusal.

8. A certificate in the English language from the manufacturer, respecting the safety of the new pesticide, recommended conditions for use, and the conditions under which it is recommended for sale.
9. A copy of the Material Safety Data Sheet (MSDS) or Product Data Sheet.
10. A statement specifying the crops/pests to be covered. State scientific names where possible, application rate (dosage), and re-entry and pre- harvest periods where applicable.
11. Certificates should be authenticated by the Jamaican Embassy or Jamaican Consulate in that country and in cases where none of these are present, by the British High Commission or the British Embassy.

12. An analytical standard is required (on request) for all products with a new active ingredient.
13. The prescribed application fee of x Jamaican dollars made payable to the Ministry of Health/PCA.

Registration is specific to brand name, formulation, manufacturer and package size. For example Paraquat has four registrations including the following two:

<table>
<thead>
<tr>
<th>Brand Name</th>
<th>Concentration of a.i. (%)</th>
<th>Formulation</th>
<th>Package size (s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gaiquat</td>
<td>27.6</td>
<td>Soluble Concentrate</td>
<td>1 L; 20 L; 200L</td>
</tr>
<tr>
<td>Paraquat Super</td>
<td>27.6</td>
<td>Emulsifiable Concentrate</td>
<td>3.8 L and 19 L</td>
</tr>
</tbody>
</table>

An importer could not get a permit to import 10 litre package of gaiquat nor could the import have a different concentration of active ingredient such as 12%.
B. IMPORT LICENCE

The Authority issues licenses to any Jamaican to import registered pesticides when an application is made using Form 4. The Form 4 is a part of the legislation.

More information about the import licensing and notification process can be found under annex I.

FORM 4

APPLICATION FOR LICENCE TO IMPORT A REGISTERED PESTICIDE

1. Importer’s name ________________________________________________________________
2. Importer’s address ______________________________________________________________
3. Product name of pesticide and formulation __________________________________________
4. Quantity and package size ________________________________________________________
5. Manufacturer’s name and address _________________________________________________
6. Supplier’s name and address ______________________________________________________
7. Address of premises where pesticide is to be stored _________________________________
8. Purpose of importation __________________________________________________________

Signature of Applicant Date _________________________________________________________

FOR OFFICIAL USE ONLY

1. Date application accepted or refused _______________________________________________
2. Licence Number _________________________________________________________________
3. Reason for refusal ______________________________________________________________

Signature of Registrar ____________________________________________________________
Two stamps are affixed to this form by the PCA to complete its approval. The first is an oval stamp which grants permission to import the shipment in the amounts not exceeding that on the form. The approval must be granted before the shipment arrives at the port or the importer would have breached Customs Laws and is fined.

The second stamp is a rectangular stamp which is granted after the invoices have been presented, the actual quantity of imports verified and recorded and the appropriate duties paid. Duties amount to 2% of CIF value of actual import and this is the main source of funding pesticides for regulation.

C. COLLABORATION WITH CUSTOMS AUTHORITIES

All new line officers that are employed to Customs are trained by the PCA and other agencies for which they perform agency functions including the Pharmaceutical Division of MOH.

Customs officers are posted at the Post Offices, Airports and Seaports and make interceptions of imported pesticides. Importers who fail to produce a license in the prescribed manner are sent to the PCA. If the product is registered, a license is issued. However, where the product is not registered, it is seized by the PCA Inspector.

PCA monitors sellers of pesticides and with the assistance of the Police prosecutes sellers of unregistered pesticides.

PCA maintains a database of all imports and publishes a Register of Pesticides.

D. IMPORTATION OF INDUSTRIAL CHEMICALS

There are no registration processes for chemicals except pharmaceuticals. The range of chemicals is wider than pesticides. A permit is granted on a case by case basis.

A permit is valid for an approved amount over a period of six months.

Customs releases the imported chemical provided there is a permit from the MOH.

E. ON-LINE NOTIFICATIONS

The Government of Jamaica has initiated a project to create electronic links between critical agencies involved with the issuance of permits. As a result, the Pesticides Control Authority and the Pharmaceutical Division of MOH will receive applications for permits and payments online.

These applications will be directly linked to Customs allowing online communication on imports of interest to the PCA. PCA has seized this opportunity to request notification of all importations of chemicals that are listed on Rotterdam as an extra precaution against illegal imports.

In keeping with this new development, a notification will be made to PCA as soon as an importer prepares an import permit with a Harmonised Systems (HS) Code corresponding to those listed on the Rotterdam Convention. The relevant HS codes are entered into the database for cross reference.

Whilst it is expected that the import response decisions will be honored, the notification process will highlight any attempt to import Annex III chemicals whether from Parties or Non-Parties and will seek to identify products that contain these chemicals.
Legislation is being developed to require import license for all chemicals and end products containing chemicals that are banned or severely restricted including those listed on Annex III.

There are no requirements for import permits for end products and no permit for export of chemicals. The new legislation require a permit from the PCA for import and export of banned or severely restricted chemicals and end products containing these chemicals. Permits will specify conditions.

Whilst there are no export permits, Jamaica is not a manufacturer of chemicals. All formulation are made of imported raw material. PCA registers the raw material and issues import licenses for pesticides raw materials. The permit to import the chemical as a raw material would not be granted hence there is no immediate need for Jamaica to have export permit to comply with the Convention.

iv. Export of chemicals

There is no system to monitor export of chemicals. The exporter must be registered as an exporter. The quantities of exported chemicals are recorded by the Statistical Institute. There is need to develop export controls and the regulations to support the implementation. The export of banned and severely restricted chemicals will be addressed by the legislation to support Rotterdam.
1. BACKGROUND

The Pesticides Control Authority (PCA) is the governing body mandated through the Pesticides Act of 1975 to regulate pesticides Jamaica. The Board meets monthly and sets the policies for the control and regulation of the industry. The PCA is a statutory body with staff compliment of ten (10).

The Ministry of Health has portfolio responsibility for the Pesticides Control Authority (PCA). The functions as outlined in the Pesticides Act are:

- To register pesticides;
- To licence persons to import or manufacture registered pesticides;
- To authorize persons to sell restricted pesticides;
- To register premises in which a restricted pesticide may be sold;
- To licence pest control operators;
- To consider and determine applications made pursuant to this Act and to deal with all aspects of the importation, manufacture packaging, preparation for sale, sale, disposal and use of pesticides and to advise the Minister on all matters in relation thereto; and
- To do such other things as may be expedient or necessary for the proper performance of its functions under this Act.

PCA also has responsibility for implementing the Rotterdam Convention on the Prior Inform Consent Procedure for certain Hazardous Chemicals and pesticides in international trade. Hazardous Chemicals that are listed in Annex III of Rotterdam have been prohibited and should not be imported or exported from Jamaica without PCA’s permit. However, the Convention is binding only on parties, as it is possible that non-parties could attempt to export these prohibited chemicals to Jamaica. There is currently no legislation or registration process for importing chemicals. These are being developed and will be supported by this notification process for greater efficiencies.

THE ORGANIZATIONAL CHART
2. CURRENT METHODS AND PROCEDURES FOR IMPORT LICENSING

SUBMIT APPLICATION
The Importer applies to PCA for an Import Licence via an application form.
1. The application is submitted to the PCA
2. A member of the Inspector group at PCA analyses the application to ensure all required data are submitted
3. A member of the Registrar group, a supervisory group, analyses the application and gives an initial stamp of approval once he or she is satisfied that it is in order
4. The PCA informs the importer that permission is granted to place an order for the pesticide to the overseas supplier
5. The importer, after placing order for pesticide, must then submit the invoice, which states the CIF value or FOB value of the pesticides to be imported. This may be submitted by fax
6. Once the invoice is submitted, a member of the inspector group must verify that products on the invoice are the same products granted on the licence
7. A member of the accounting group calculates the cost of the license using the CIF value or the FOB value. This value is a set percentage of the CIF value
8. A payment advice is generated and given to the importer
9. A supervisory member of the accounting group verifies the cost of the license
10. The PCA informs the importer of the cost of the import licence
11. The importer visits the Ministry of Health and submits payment advice along with fee to the cashier
12. The importer returns to the PCA and shows receipt of payment
13. The application form is given a second approval and the licence is now valid for use.

Customs Officers are trained by PCA how to recognise approved licenses. There are no registration processes nor legislation for industrial chemicals. However import permits are granted on a case by case basis by Pharmaceutical Division.

3. CURRENT METHODS AND PROCEDURES FOR NOTIFICATION

PRODUCTS (PESTICIDES AND INDUSTRIAL CHEMICALS)
1. If representatives from the Jamaica Customs suspects that an import requires a PCA import licence and the importer cannot produce the import licence then the agency would inform PCA (by phone) to send an Inspector
2. The importer may also be sent to PCA for Pesticides and Pharmaceutical Division for industrial chemicals in the event that Customs is certain that the import requires a PCA import licence.
4. PROPOSED METHODS AND PROCEDURES - IMPORT LICENSING

This chapter outlines the steps involved in the proposed system for import licensing for pesticides. The proposed system takes into account the need for communication between PCA users and importers/brokers with the use of electronic messaging systems. The proposed system will conform to the various user groups within the PCA and the privileges of each user group.

IMPORTER APPLIES VIA PCA TRADE SYSTEM WEBSITE
1. The importer will login to application via a web browser and complete an application form 4
2. The System will:
   a. Generate the application date
   b. Search for and display user TRN
   c. Search for and display corresponding item tariff code
   d. Upon submission of application generate an application tracking number
3. Email sent to the Inspector group indicating that an application was submitted for processing.

INSPECTION BY INSPECTOR GROUP
1. An inspector logs in and vets applications that are submitted
2. The inspector assigns a hold, inspector pass/fail status to the application
3. If the status is pass/fail the application is sent to the registrar group.

INSPECTION IN BY REGISTRAR GROUP
1. A registrar logs in and reviews the application
2. The registrar assigns a hold, registrar pass/fail status to the application
3. Once the status is registrar pass/fail the system sends an email to the importer stating that pre-approval has been granted to order goods.

SUBMISSION OF INVOICE
1. Once the importer has ordered goods, then the invoice must be submitted (fax allowed) to the PCA to calculate applicable fees
2. The inspector will first vet the invoice to ensure consistency of items ordered with items approved.

CALCULATION OF FEES BY ACCOUNTING GROUP
1. The accounting officer will, upon verification of the invoice by the inspectors, submit the CIF or FOB value of pesticides in the invoice
2. The system will then calculate the import licence fee.

APPLICATION OF IMPORT LICENCE FEE WAIVER
1. The system will automatically apply waiver to certain application based on specific criteria such as the importer TRN and the quantity of goods to be imported
2. The Senior Accountant will be able to maintain the required criteria via the application.

VERIFICATION OF FEES BY SENIOR ACCOUNTING STAFF
1. Senior accounting staff logs into application and verifies the import licence fees and waivers granted
2. Upon verification the importer will be notified of the cost of the import licence.
PAYMENT OF IMPORT LICENCE FEES
1. The importer will log into application and view applications that require payment
2. The importer has the option to pay for import licence via the application using a credit card
3. The importer may also visit the MOH office and pay import licence fee
4. Once import licence application fee is paid the application is now a valid import licence.

PRINTING OF IMPORT LICENCE
1. Inspector can now print the import licence.

APPLICATION VIA C78 BROKER APPLICATION
Import licence application can be triggered via the C78 Broker Application. Steps are as follows:
1. The Broker creates a C78 Entry on behalf of the importer using the C78 Broker Application
2. The C78 system will then notify the broker if a PCA import licence is required for importing an item based on the tariff classification
3. This information entered on the C78 entry will then be passed electronically to the PCA Trade System.

5. PROPOSED METHODS AND PROTOCOLS - NOTIFICATION PESTICIDES AND BANNED OR SEVERELY RESTRICTED CHEMICALS

It is being proposed to implement the following solution for improving the current PCA notification process. In summary the proposed steps will involve:
1. Customs Broker completes and submits C78 entry declaration
2. C78 Error Analysis identifies PCA sensitive HS Codes and informs broker that “This consignment may require a Pesticide Control Authority inspection”
3. Customs Supervisor assigns passed status to entry declaration
4. Electronic Notification sent to PCA
5. PCA Inspector indicates whether interested or not interested in examination
   i. If interested then message is changed to “This consignment must be inspected by the Pesticides Control Authority”
   ii. If not interested then message is changed to “This consignment does not require a PCA inspection”
   iii. Otherwise the default message is not changed
6. Customs cashiering system prints default or edited PCA message as apart of C78 entry endorsement once payment is made.

SUMMARY OF IMPROVEMENTS

The proposed notification system will allow PCA:
1. To receive an electronic notification for PCA sensitive imports
2. To have access to relevant shared data on PCA sensitive imports
3. To utilize electronic records of previous analysis results to assist with the future imports of similar criteria
4. To intervene in the import process in a more timely and effective manner.
User Operational Impacts
The users will access the system using a web browser on their computers. (The pages will be designed to support Netscape Navigator/Communicator Versions 6.0 and higher, and Microsoft Internet Explorer Versions 5.0 and higher). Access to the application will be available via login name and password. The application will provide a facility for reviewing and updating import notifications. The PCA inspector will be required to maintain an online database consisting of the HS code ranges for items that require PCA inspection when being imported. PCA and Customs broker will be notified when specified conditions are detected. This will also provide an effective communication mechanism for the broker and Jamaica Customs as to whether a consignment will have to undergo PCA inspection.

Timing

Notification Process
PCA and Customs broker will be automatically notified when specified conditions are detected. Once a C78 entry is passed by the Customs Supervisor, and if this entry requires a Pesticides Control Authority check based on the PCA sensitive checks, a message would be sent to the Customs Broker and PCA Officer. A default message would be tagged to this entry. This message would indicate the items that may require PCA checks at the point of release. This message to PCA will constitute the import inspection notification. PCA modifications to this import inspection notification shall immediately update the Jamaica Customs database.
The import inspection notification shall be printed as part of the Customs New Cash Remittance System and EPayment endorsements at the point where import duty payments are made.

1. PCA Inspector (using PCA Trade System)
   i. Retrieves notification based
      a. Importer Number
      b. Import date range
      c. Import notification status
   ii. Completes examination sheet to indicate whether interested or not interested in examination
      a. If the PCA inspector indicates that the shipment should be inspected before the import is released, the message printed on the receipt will read “This consignment must be inspected by the Pesticides Control Authority”
      b. If the PCA inspector determines that the shipment does not have to be inspected (before the import is released), the message printed on the receipt read, “This consignment does not require a Pesticides Control Authority inspection”

2. Customs Cashier (using Customs New Cash Remittance System at Customs House)
   i. Prints default or edited PCA message as apart of C78 entry endorsement once payment is made

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1 Maintenance will involve: adding, deleting and modifying import sensitive items. That is, tariff codes of items that require PCA inspection when being imported.
REPORTS

The PCA user will be allowed to generate the following reports:

1. Number of import licences issued over a specific period
2. Notifications per importer over a period
   a. Importer name, TRN and Date range as header information
   b. Item description, tariff code, entry number, statistical unit, net weight, CIF, consignor value and notification status
3. Notifications per tariff over a period
   a. Date and tariff range as header information
   b. Importer name, TRN, item description, tariff code, entry number, statistical unit, net weight, CIF value, consignor and notification status
4. Notifications per status over a period
   a. Date range and status as header information
   b. Importer name, TRN, item description, tariff code, entry number, statistical unit, net weight, CIF value, consignor and notification status

The system will rely on the master records to execute relevant business processes. These master records include:

1. List of registered pesticides
2. List of internal users and privileges
3. List of registered importers of pesticides
4. List of importers who qualify for waiver on import licence fee.
5. List of Harmonized System Codes of interest to PCA
FLOW CHART FOR IMPORT LICENSING

1. Importer completes and submits application form online.
2. The inspector vets application and assigns status.
3. Registrar reviews application and applies a status.
4. Importer notified.
5. Application status rejected.
6. Importer notified.
7. Importer places order to supplier and then submits the invoice to PCA.
8. Inspector vets the invoice.
9. Invoice approved?
   - Yes: Importer notified pre-approved.
   - No: No licence.
10. Importer pays licence fees.
11. System calculates licence fee.
   - Yes: Licence fee waived?
     - Yes: Licence printed.
     - No: No licence.
   - No: Licence collected.
12. End.
Jamaica's Experience

C78 Import Entry
6. PROCESSING C78 SYSTEM FOR PCA SENSITIVE ENTRIES

Based on the criteria defined using the Master Maintenance, once it is established that a C78 entry is sensitive to PCA inspection, (has HS Codes related to restricted or banned chemicals) a default message will be attached to this C78 entry.

Relevant information from the sensitive C78 entry will be posted to the PCA Server to facilitate PCA Officer Message Edits.

FLOW CHART FOR C78 PROCESSING FOR PCA SENSITIVE ENTRIES

START \(\rightarrow\) CUSTOM BROKER PREPARES C78 AND SUBMITS TO CUSTOMS \(\rightarrow\) DOES SUPERVISOR PASS THIS ENTRY? \(\rightarrow\) ENTRY MATCH INSPECTION CRITERIA? \(\rightarrow\) GET RELEVANT DATA FOR THIS C78 ENTRY

- PREPARE XML FOR PC
- POST XML TO APPLICATION SERVER
- IS THE TRANSACTION-STATUS 0 (SUCCESS)?
  - YES \(\rightarrow\) POPULATE PCA INSTRUCTIONS FOR CNCA TO ENDORSE THE MESSAGE WITH THE VALUE OF POST FLAG FROM ABOVE
  - YES \(\rightarrow\) SET POST FLAG TO Y
- SET POST FLAG TO N
- SEND EMAIL TO THE BROKER INDICATING POSSIBILITY OF CHECKS

END
The shaded portion in the figure above shows the C78 process for entries that may require PCA inspection. The following section describes the steps involved in this process.

**STEPS**

i. Once the Supervisor passes a C78 entry, and if the information on this entry makes it susceptible to PCA checks at the port, relevant C78 entry information will be retrieved for the entries sensitive to PCA checks.

ii. This information will be converted into XML format. XML Design phase of the Design Phase of the project will indicate the sample fields that will be required in this XML.

iii. A database table would be created on the Customs servers to store instructions specific to PCA for each entry. This table will be named PCA instructions. Once an entry is found sensitive to PCA checks, the PCA instructions table will be populated with the default message and to indicate if the post was successful.

iv. The Customs Broker is sent a notification indicating the same instructions that were populated in the PCA instructions table.

**PCA OFFICER MESSAGE EDITS**

PCA Officer will be able to edit the default message associated with a C78 entry that requires PCA inspection at the examination ports. The PCA Officer will be able to pick up from a list of remarks maintained as a part of Remarks Maintenance screen above.

As a part of this option, PCA officers will be able to view the C78 entry details relevant to make an appropriate decision.

**FLOW CHART FOR PCA OFFICER MESSAGE**

![Flow Chart](chart.png)