

THE TRUSTED NETWORK POWERING GLOBAL SUPPLY CHAINS AND THEIR COMMUNITIES



## Response to the OECD public consultation on “Guidance on Countering Illicit Trade: Transparency in Free Trade Zones”

Submitted on behalf of the GTPA board  
and International and Technical Advisory Committee:

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## Introduction

### About the Global Trade Professionals Alliance

GTPA is a Non-for-Profit, Membership based, public company. Membership provides an ecosystem to connect individuals, business, organisations and Governmental bodies with professionals involved in all aspects of international trade.

### Our goal is to bring people and organisations together to:

- build professional capabilities in trade
- advocate the benefits and opportunities of trade
- facilitate networking
- improve the performance and success of companies in global trade
- improve the trade process
- advance international development
- support the development of MSMEs and their access to global supply chains
- build professional capabilities in trade
- empower greater diversity through women-owned engagement in trade

GTPA is the only organisation providing individuals with internationally recognised certification – a standard of professional competence in trade (ISO /IEC 17024) through its Global Trade Professional (GTP) Programme. Certification is available to those individuals evidencing a relevant qualifications and/or experience.

But GTPA is also reaching out to link with tertiary education bodies (“Education Providers”) whose course structures facilitate graduate certification under the GTP Programme - offering a career path for graduates.

Education Providers whose course curriculum has been approved by GTPA under the ISO/IEC 17024 standard are able to offer graduates the additional benefit of GTP certification and the use of the certification post-nominals (cert.GTP, cert.GTM or cert.GTE) in addition to graduate post-nominals. Membership is subject to Continued Professional Development (CPD).

Later this year GTPA will be launching a new international standard for GTPA business members who will be eligible to be certified under ISO 17065 as either a Certified Global Business or a Certified Global Trade Consulting service.



## Background

The benefits of international trade are currently the subject of debate in various contexts, however, it has long been demonstrated that, even with its systemic imperfections which must be acknowledged, trade has been a powerful driver for economic value creation, inclusion and poverty reduction, as well as peace and security.

Trade has, until the peak of the global crisis, grown at rates that exceed the pace of global GDP growth, and thus has also been referenced as a driver of growth of the global economy. In recent years, global supply chains are largely anchored in developing and emerging markets, with large buyers often engaging in trade with communities of suppliers numbering in the thousands or multiple thousands, including micro-enterprises sometimes belonging to local cooperatives.

The GTPA supports initiatives that can empower MSMEs to engage more successfully in international trade and growing the number of MSME exporters and ensuring their international success is increasingly important to most countries future economic growth, and to ensuring quality jobs for future generations.

For MSMEs, this does often mean cheaper and simpler access to international customers by reducing red tape at borders around the world, reducing required paperwork, and allowing for digital rather than physical documentation, among other measures to collectively streamline international trade procedures to help them to grow.

Issues like these are why the GTPA supports the Trade Facilitation Agreement but in particular we also advocate for the prioritisation and delivery of contemporary Single Windows, that will support the digital transformation to paperless trade, and innovation that could in the future dramatically reduce the time and costs incurred by companies in doing business overseas.

The GTPA recognises that whilst Free Trade Zones were originally established to help facilitate trade, with now more than 3,500 globally they have also provided opportunities for individuals and organised criminal groups to benefit with the rise in Illicit Trade. In particular, illicit trade through Free Trade Zones



is an issue of increasing importance to both international trade policy institutions as well as the international business community.

Importantly, up to 15% of global Gross Domestic Product (GDP) is lost each year to illicit trade and according to the World Economic Forum, \$2.2 trillion USD worth of global GDP is lost a year, due to organised crime and corruption.

The GTPA is pleased to provide a response to the OECD public consultation and we commend and endorse the opportunity to provide comment on the OECD Draft Guidance to Counter Illicit Trade: enhancing transparency in Free Trade Zones.

## Introduction

The GTPA believes that the success of implementing the Code of Conduct will largely be driven through collaboration and this requires a coordinated approach between multilateral organisations, government agencies in each country including Trade Promotion Organisations, Customs Agencies, Foreign Affairs Departments and Industry/ Economic Development.

For successful implementation the OECD should consider the following:

- Aim to ensure that there is a balance between increased security requirements and the need to facilitate trade;
- Businesses, especially SMEs, are already facing burdensome border processes, and that additional costly requirements may make their businesses unviable;
- Acknowledge that risks cannot be eliminated, but should be appropriately managed;
- Authorities should work with reliable and trustworthy private sector partners (e.g. shipping and logistics companies), especially in sharing information and intelligence;
- Recognise that utilisation of new technologies that help track the integrity of the supply chain will be helpful, but should also be supported by regular verification process undertaken by both regulators and industry;
- Provide support to lower income countries who require capacity building assistance to implement the reforms sought.

## Endorsement of Transnational Alliance to Combat Illicit Trade (TRACIT) research and policy recommendations

The GTPA endorses the policy recommendations specific to Free Trade Zones laid out in the EIU paper and TRACIT Policy recommendations and the GTPA recommends the OECD consider our below recommendations in light of recommendations put forth by TRACIT as part of the public consultation process:

1. Commit to illicit trade-related treaties
2. Tighten controls on money laundering
3. Eliminate corruption
4. Rationalize tax policies
5. Strengthen the customs environment
6. Strengthen law enforcement efforts
7. Protect Intellectual Property (IP)
8. Enhance interagency cooperation
9. Improve governance of Free Trade Zones



## 10. Report and share statistical data across borders

The GTPA endorses the work of the OECD and organisations such as TRACIT as we believe that building a globally trusted network that also supports social and environmental integrity among suppliers and subcontractors is now increasingly seen as part of a global corporation's responsibility. The issue of tackling Illicit Trade is both of importance to consumers and MSMEs that wish to operate in truly transparent and sustainable supply chains.

The GTPA would like to note that it is important that any policies developed consider the context of global supply chains, the arteries of global commerce that enable trade flows worth tens of trillions annually in merchandise and services trade alone.

These complex ecosystems engage the smallest micro-enterprise to the largest multinational and that the opportunities for international business through Free Trade Zones can be both an opportunity to increase and facilitate trade because they provide faster and simpler business registration for companies, easier and simpler foreign investment processes, easier cross-border movement of goods, faster customs clearance, freer cross-border movement of capital and easier engagement in e-commerce.

Whilst the GTPA endorses policy developments to counter Illicit Trade it is also important that any policy implemented also work to ensure they support MSMEs and do not place additional burden on those organisations that operate that embrace free and fair and transparent trade.

## Recommendations

The GTPA has provided a series of comments against each of the Provisions outlined in the OECD paper as follows:

1. Take measures to encourage FTZ to comply with the "Code of Conduct for Clean Free Trade Zones"

**The GTPA believe that the success of the implementation of the Code of Conduct is going to be reliant on two considerations that will be important for the OECD to address early in the implementation of any Code of Conduct.**

**Firstly, that most FTZs operate in Least Developing Countries (LDCs) who will require financial, technical and resourcing assistance for implementation. Mechanisms should be explored to see how funding initiatives can be prioritised by multilateral organisations such as the OECD, the World Bank or the WTO to provide the relevant long-term assistance to LDCs.**

**Secondly, the multilateral organisations must ensure that the economic and social benefits of complying with the Code of Conduct are clearly demonstrated to each of the jurisdictions where the FTZs exist.**

2. That the legal framework for FTZ established in their territory, or that are otherwise governed under their administrative control.

Provides for the right of competent customs and other law enforcement authorities to require data related to the movement of goods and carry out ex officio checks at any time on goods stored and services conducted in FTZ.

**The GTPA agrees with this requirement and recommends the OECD review the GTPA ISO/IEC 17024 certification scheme for Trade Regulation and Compliance. A competent customs official**



**should be defined as being ISO/IEC 17024 certified in this specialist area. In some jurisdictions this could require a review of Customs authorities internal capabilities and then adequate training provided to Customs officials to ensure they are competent under ISO 17024.**

Allows for customs and other law enforcement authorities to take appropriate actions in the execution of their authorities.

**The GTPA agrees with this requirement but GTPA recommends that the OECD expand on this Provision to define the extent to which customs and law enforcement might take appropriate actions. This can then act as an incentive for compliance with the Code of Conduct.**

Empowers customs and other law enforcement authorities to examine merchandise before or at the time of admission to an FTZ, or at any time thereafter, if the examination is considered necessary to facilitate the proper administration of any law, regulation, or instruction which Customs is authorized to enforce.

**The GTPA agrees with this requirement.**

Empowers customs authorities to impose prohibitions or restrictions on the activities carried out within FTZ, having regard to the nature of the goods in question, their respect of intellectual property laws, or the requirements of customs supervision, or security and safety requirements.

**The GTPA agrees with this requirement but recommends that the OECD expand on this Provision to define the extent to which customs and law enforcement might take appropriate actions and develop processes to allow the business sector and community to inform customs of non-compliant goods or activities. This can then act as an additional incentive for compliance with the Code of Conduct.**

Empowers customs authorities to prohibit persons who do not provide the necessary assurance of compliance with customs provisions from carrying out an activity in an FTZ.

**The GTPA agrees with this requirement and recommends that this is reviewed against the ISO/IEC 17024 certification of global trade professionals as an additional mechanism to review prohibited persons. The GTPA recommends that as well as publishing the results of certified zones that the OECD also make public those prohibited persons.**

Prohibits persons convicted of illegal activities, legal or natural, from operating within the FTZ.

**The GTPA agrees with this requirement and support the TRACIT submission that this should be fine-tuned, to ensure that this Provision specified that convictions must be of a criminal nature and that the scope of the “illegal activity” concept be defined further with a reference to a minimum penalty threshold and or specific type of criminal activity. The GTPA recommends further consultation with TRACIT to define this provision.**

Ensures that the perimeter and entry and exit points of the area of FTZ are subject to customs supervision. Ensures that goods, persons and means of transport entering and leaving the FTZ are subject to controls.

**GTPA agrees with this provision, along with licensing Customs Brokers.**



Ensures that the economic operators that are allowed to operate within FTZ are physically located within the FTZ, and that they communicate to the customs authorities the identity of the clients in their operations. Where the client acts as an agent or representative, then the economic operator should also communicate the identity of the principal (i.e. the person who ultimately owns or controls the agent), to the customs authorities.

**The GTPA agrees with this provision.**

3. Require FTZ authorities to make available aggregated statistical data on goods entering and leaving the Free Trade Zone on the basis of their tariff classification, and information that identifies the owner(s) of goods.

**The GTPA agrees with the recommendation by TRACIT that greater attention to data interoperability is important and GTPA agrees that many jurisdictions systems are not integrated and sometimes transaction are recorded in both a physical and electronic form. The lack of integration in these systems generates great difficulty in analysing data domestically, and even more so when data is exchanged across different jurisdictions analysing mirror data variances.**

**Technology, such as Blockchain, could assist in the sharing of data using a secure mechanism going forward. In the meantime, assistance must be provided to LDC's to ensure that they can develop the relevant technology to store data online. This can be tied to existing work being done by organisations such as the World Bank, International Trade Centre and the Global Trade Alliance to assist LDC's to comply with the WTO Trade Facilitation Agreement.**

4. Promote adoption of this guidance and of the Code of Conduct in their bilateral and multilateral trade agreements.

**The GTPA agrees with this recommendation and recommends that in particular this should also be aligned to the WTO Trade Facilitation Agreement in particular but also where countries are negotiating bilateral mutual recognition agreements regarding AEO status.**

5. Make greater use of international agreements that include provisions for mutual international legal assistance in order to combat illicit trade conducted through FTZ.
  - When entering into new agreements that include such provisions, including multilateral and bilateral trade agreements, Adherents should specifically refer to the need to combat illicit trade conducted through FTZ that have not adopted the Code of Conduct for Free Trade Zones.
  - When administering such agreements, designate the competent authorities and their points of contacts in order to facilitate the communication between and among the responsible authorities of the parties to the agreement in question.

**The GTPA agrees with the TRACIT recommendation, that the current provision is overly complicated and may lead to confusion. The GTPA agrees that there is a need to streamline this provision to ensure that all relevant international agreements, whether trade, customs or criminal justices related are considered to be fully applicable in FTZs, except where their applicability to FTZs is explicitly excluded. The GTPA recommends further consultation with TRACIT.**



6. Encourage international cooperation in the exchange of law enforcement information and consult with appropriate authorities and affected industries in investigations and other legal proceedings concerning specific cases of misuse of FTZ related to illicit trade. This includes such means as:

- Sharing financial and administrative information, spontaneously or upon request, to support the provision of evidence in judicial proceedings, or to ensure and further the effective supervision and control of and the prevention of the misuse of FTZ.
- Making better use of the current arrangements for Customs to Customs cooperation, as required through Customs Mutual Assistance Agreements, for the sharing of information and other necessary communication at the technical level.
- Cooperation and assistance in the development and implementation of policies and practices to counter illicit trade in FTZs, including technical assistance to share and develop improved systems for record keeping by FTZ authorities and economic operators.

**The GTPA recommends that assistance be provided by the multilateral organisations to provide a mechanism for sharing of resources, best practice and technical training to LDCs to improve law enforcement.**

7. Promote awareness amongst the business community (e.g. major intermediaries including shipping agents, freight forwarders, customs brokers and logistics companies) to understand the major risks related to FTZ.

**The GTPA acknowledges that awareness amongst the business community is vital to the implementation of the Code of Conduct, however we believe this needs to go further and include communication to organisations in the downstream supply chain and consumers. This requires effective coordination between the multilateral organisations, NGOs, export/import or international trade associations and the business sector. Organisations such as the GTPA stand by to be a key NGO partner to assist in the development of an effective communications campaign.**

8. Foster public private partnerships to counter illicit trade emanating from FTZ that have not adopted the Code of Conduct for Clean Free Trade Zones. This includes reinforcing efforts to encourage the business community that makes use of FTZs, or that finances operators within FTZ, to refrain from doing business in FTZ that are not certified for compliance with the Code of Conduct for Free Trade Zones.

**The GTPA is not sure whether a PPP is relevant as a financing mechanism. If this refers to a PPP between countries and corporations to collaborate on the implementation and compliance with the Code of Conduct to achieve mutual benefits, then the GTPA supports this provision.**

9. Monitor the activities of FTZ and publish annual indicators that help to evaluate their use to favour illicit trade. Such evaluation should be based on relevant enforcement statistics, including customs detentions and seizures of goods originating, or in provenance from FTZ, and orders to disrupt services performed within FTZ.

**The GTPA supports this Provision as well as ensuring that the results are widely and publicly disseminated.**

10. Conduct targeted operations with respect to shipments originating from FTZ that do not adopt, or are not certified as in compliance with, the Code of Conduct for Clean Free Trade Zones.



**The GTPA supports this Provision and we recommend that the OECD consider a cost impost for companies that do not comply with the Code of Conduct to provide greater incentivisation.**

## **II: Recommends that Adherents ensure the following Code of Conduct for Free Trade Zones and monitor their compliance.**

1. Provide unconditional access to the customs and law enforcement agencies of the jurisdiction where they are established to carry-out unobstructed, ex officio enforcement checks of operators in support of investigations of violations of applicable law.

**The GTPA agrees with this Provision.**

2. Notify customs authorities in advance of any industrial, commercial or service activity taking place in the FTZ.

**The GTPA agrees with this Provision.**

3. Prohibit operators and persons who do not provide the necessary assurance of compliance with the applicable customs provisions from carrying out an activity in the FTZ.

**The GTPA agrees with this Provision and as previously stated above we recommend that those prohibited operators and persons be made public.**

4. Ensure that economic operators active in the FTZ maintain detailed digital records of all shipments of goods entering and leaving the zone, as well as all goods and services produced within it, sufficient to know what is inside the zone at any given time. The digital records shall:
  - Document sales and purchase operations of goods and services within the FTZ, and be provided to the competent customs authority or law enforcement body upon its request.
  - Maintain a complete and accurate record of all commercial transactions to enable full accountability of materials used in production processes that may be reconciled with the volume and value of their commercial transactions. These records should be:
    - I. Maintained for a period of a least four years.
    - II. Made available in a timely manner to the FTZ authority and competent public authorities upon request.
    - III. Maintained in a format as required by the customs or other competent authority, such that it can be used for risk profiling by the competent enforcement authority.

**The GTPA agrees with the above Provision, however we note that compliance in LDCs may prove difficult. As previously recommended we believe that certain LDCs will require support to develop and implement the right technology platforms that will assist with maintaining digital records.**

5. Transmit in a timely manner to public authorities, on simple request by the competent authority in the jurisdiction where the zone is established, any information contained in the digital records.
  - Ensure that economic operators active in the FTZ are required to grant access to their detailed digital records upon request of the FTZ authority, the customs authorities or any other competent public authority in the jurisdiction where the zone is established.



- Appoint a dedicated point of contact with the necessary skills and resources to respond effectively to such requests for information from public authorities, and to lead due diligence and compliance verifications on companies and persons operating within FTZ.

**The GTPA support this Provision with the same concerns outlined in Provision 4 above.**

6. Deter cash payments for any commercial or financial transaction of the economic operators active in the FTZ occurring inside or originating from the FTZ, and for large cash transactions, document the details and report to the customs authority.

**The GTPA suggest that this Provision should incorporate mechanisms to promote and implement alternate avenues for non-cash payment.**

Commission an internationally accredited, independent third-party verification firm to carry out certification that the zone has implemented the Code of Conduct. Such certification shall be performed at least once a year. The accreditation firm should be changed every 3 years. Make public the results of the certification through publication on the OECD website.

**The GTPA supports the above recommendation for an internationally accredited and independent third-party verification certification. The GTPA would like to suggest that any accreditation to the above Code of Conduct includes the requirements for ISO 17065 globally businesses and globally trading consulting services be incorporated into the assessment of an FTZ and the accreditation process.**

**The GTPA would like to note that the cost of adhering to an annual audit could be costly for FTZ operators in LDCs.**

**The results of the certification process should be widely disseminated across public forums including other multilateral organisations, NGOs and business community associations.**

## Conclusion

The GTPA believes that the success of implementing the Code of Conduct will largely be driven through collaboration and this requires a coordinated approach between multilateral organisations, government agencies in each country including Trade Promotion Organisations, Customs Agencies, Foreign Affairs Departments and Industry/ Economic Development. Additionally, the GTPA recommends that collaboration with organisations such as TRACIT will be key, as well as engagement with other NGOs and industry and trade associations and the business community more broadly.

A key to the successful implementation to certify FTZ compliance with the Code of Conduct requires:

1. Building awareness across governments, local authorities, businesses and the wider community
2. Building the right skills and competencies of both customs officials in certain jurisdiction as well as the training of human resources within FTZ
3. The requirement of assistance towards facilitation of dialogue between the relevant stakeholders/parties e.g. between logistics companies and authorities
4. Supporting the development and access to the right technology services and solutions, particularly in LDCs
5. Linkages to existing certification schemes to build the element of trust within a Free Trade Zone



## 6. Mechanisms to drive accountability, enforceability and reward for those that comply

Training of both workers and organisations operating in FTZs should be a priority and any training provided should include:

- An internal review of current internal systems and procedures for compliance with the Code of Conduct and consulting support to set up the required internal procedures and processes to be compliant;
- Development of a training package to be delivered by FTZ operators and employees. This could be tied to ISO 17024 certification for Trade Regulation and Trade Management of employees within the FTZs;
- Development of a training programme to promote awareness amongst the business community operating within the FTZs. This could also be tied to the development of a training programme as part of ISO 17065 certification of consulting services (freight forwarders/ customs brokers) and the certification of Global trading business.
- Further down the track this could be tied to work being done by the GTPA to develop an ISO standard for value chain integrity which could be tailored specifically to FTZs.

### Contributors

#### **Lisa McAuley, CEO**

Lisa McAuley was the former Chief Executive Officer of the Export Council of Australia (ECA) for 5 years and has worked in international trade for over 12 years. As CEO for the ECA Lisa drove the organisations focus on ground-breaking research and advocacy projects that place the global competitiveness of Australian SMEs at the heart of all the ECA's projects.

Lisa's passion for international trade and respected voice in the industry puts her on the AmCham Trade Advisory Group and the Board of Yuluma Holdings.

In the last four years alone Lisa has passionately overseen the development of the ECA leading research and product development initiatives that have benefited Australian companies engaged in International Business.

Prior to joining the ECA, Lisa worked in various Financial Services companies both in London and Australia in marketing and communications and business development roles.

Lisa holds a Bachelor of Economics (Social Sciences) from the University of Sydney.

#### **Tristram Travers, Technical Director**

Tristram Travers is a consultant with over 30 years of management experience in both the public and private sectors, 20 of those in senior leadership positions. In the private sector he led corporate export businesses through high levels of growth and organisational change including twice leading the restructure of companies in financial distress to deliver viable entities. He has passion for developing strategies for business to commercialise ideas, build markets and drive scale. He clearly articulates strategic direction and goals to deliver outcomes in complex environments with multi-stakeholder and multi-business teams.



He came to the public sector with 20 years of experience and understanding of the drivers of the commercial world. He has worked in Austrade in trade development roles both on-shore and off-shore before transitioning to the Department of Industry Innovation and Science. At the Department he led a dynamic team of business advisers providing strategic advice on innovation, international trade and investment, business strategy, R&D, continuous improvement and operational excellence to SMEs.

### **Alexander R. Malaket, CITP, CTFP, Chair - International and Technical Advisory Committee**

Alexander R. Malaket, CITP, CTFP, is President of OPUS Advisory Services International Inc., established in 2001, focusing on international business, trade and investment with a specialism in trade finance/supply chain finance. Alexander has undertaken a range of consultancy assignments, from operational and tactical to technology, to global strategy, and delivered various training programs for clients around the world.

Alexander has researched and authored thought leadership reports, program assessments and reviews, public and international policy reports and has participated in or chaired numerous international initiatives for industry bodies and other institutions.

Mr. Malaket is an internationally recognized expert, contributing regularly to industry publications like Trade Finance Magazine, Trade & Forfeiting Review, Global Trade Review, Cash & Trade Magazine and Trade and Export Finance. Alexander speaks and chairs panels at top-tier conferences and events around the world, and is the author of "Financing Trade and International Supply Chains", Gower/Ashgate Publishing, UK 2014 (now Taylor & Francis, UK).

Alexander holds the designations of Certified International Trade Professional (FITT, Ottawa) and Certified Trade Finance Professional (ICC Academy, Singapore). Mr. Malaket has been nominated, elected or invited to contribute to various organizations in several capacities, including:

- Member of the Board of Advisors, Finance for Impact, France
- Member of the Board of Advisors, Tin Hill Capital, Singapore
- Member of the Board, World Trade Symposium, UK
- Deputy Head of the Executive Committee, International Chamber of Commerce (ICC) Banking Commission, Paris
- Co-Chair of the Academic Committee, ICC Academy (Trade Finance and International Banking), Singapore
- Nominated National Expert, Trade Finance, UN/CEFACT, Geneva
- Member of the Trade, Finance and Development Experts Group, E15 Initiative (World Economic Forum and ICTSD), Geneva
- Delegate for Canada, B20/G20 Consultations for 2015 (Financing Growth Task Force), 2016 (SME Development Task Force), 2017 (Financing and Infrastructure, and SME Cross-Thematic Group Task Forces). Co-Chair, ICC Banking Commission B20/G20 Consultations
- Member of the International Affairs Committee, Canadian Chamber of Commerce, Ottawa
- Member of the Institute of Corporate Directors, Canada
- Member of the Asia Pacific Finance Forum
- Senior Advisor, World SME Forum (US, Turkey)
- Past Member of the Inaugural Board and Executive Committee, World Trade Centre Winnipeg
- Past Member of the Board of Directors and the Board Nominating Committee, FITT Ottawa



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