



Implementing the WTO Valuation System

The Philippine Experience

Bienvenido Alano

President, Center for Economic Policy Research

Philippines

The views expressed in this paper are the views of the author and do not necessarily reflect the views or policies of the Asian Development Bank (ADB), or its Board of Directors, or the governments they represent. ADB does not guarantee the accuracy of the data included in this paper and accepts no responsibility for any consequences of their use.



Background

- 1. Tax Computerization Program completed in 1999**
 - funded by the World Bank
 - technical assistance from UNCTAD
 - led to the development and implementation of ACOS which uses ASYCUDA++ as the backbone
- 2. Philippine accession to the WTO in 1995**
 - mandated the adoption of the WTO Valuation System
 - provided for a 5-year transition period
- 3. A strong protectionist lobby created a political environment that was not receptive to change in the direction contemplated by the political decision to accede**



The Challenge

To make the transition from a system of valuation that is:

- **Notional**
- **Based on minimum values**
- **Focuses on individual transactions**
- **Resolves all issues at the border prior to release of the shipment**

To the WTO System that is:

- **Positive**
- **Outlaws minimum and other arbitrary values**
- **Account-based**
- **Resolves issues at post release and in an audit mode**



The Strategy

- **Engage a full-time multidisciplinary consulting team to help develop and implement a transition plan**
- **Create a task force within the Philippine Bureau of Customs that would interface with the consulting team at both the policy and technical levels**
- **Train and orient core members of the task force so that:**
 - ✓ **they could take an active part in identifying implementation issues and formulating solutions for them**
 - ✓ **they could assume ownership over the agreed solutions**
 - ✓ **they could champion the implementation of these solutions**

**COMMISSIONER
OF CUSTOMS**

STEERING COMMITTEE
Chairman: Deputy Commissioner, AOCG

TECHNICAL WORKING GROUP
Chairman: Director, Import and Assessment Service

PROJECT MANAGEMENT TEAM
Head: Principal Consultant

**Systems and
Procedures Expert**

**Organizational
Development Expert**

Training Expert

**Advocacy
Specialist**

**Risk Management
Specialist**

**Data Management
Assistant**

TECHNICAL ASSISTANCE TEAM
Head: Director, IAS

**Legislation
Committee**

**Organization and
Training Committee**

MIS Committee

**Assessment
Committee**

**Risk Management
Committee**



Functions of the Technical Working Group

- **undertake research**
- **draft the necessary legislation and shepherd its approval**
- **formulate policy decisions**
- **identify organizational and procedural changes**
- **formulate a comprehensive program to implement the Agreement within the timeline imposed**



The Tasks

- **Build Capacity**
- **Amend Legislation**
- **Formulate New Systems and Procedures**
- **Design and Operationalize**
 - ✓ **Post Entry Audit Scheme**
 - ✓ **Risk Management System**
 - ✓ **Compliance Program**
- **Undertake Public Information and Advocacy**



Capacity Building

- **Members of the TWG at the middle management and technical levels were trained as trainers for echo training sessions to front line personnel in various ports of entry**
- **Courses for different skill levels were designed in accordance with a training plan**
- **To ensure training quality, comprehensive training materials were developed for each course**
- **A phased training schedule covering all ports of entry nationwide was implemented for:**
 - ✓ frontline assessment and support personnel of the Bureau of Customs
 - ✓ customs brokers
 - ✓ Importer and industry associations



Legislative Amendments

- **The Technical Working Group drafted a legislative bill amending the Tariff and Customs Code of the Philippines and supported the approval process with technical inputs**

- **Among the major provisions:**
 - ✓ **The WTO Valuation Agreement**
 - ✓ **Audit provisions**
 - ✓ **Penalties**



The Compliance Program

Objectives

- **Help make importers customs compliant, particularly the large revenue contributors**
- **Widen coverage of the program to eventually include those who contribute 80% of total revenue**
- **Build database of importer profiles**
- **Give incentives for compliance**
- **Apply these incentives using risk management principles**
- **Optimize the use of IT**



Risk Management Areas

Voluntary Compliance

SGL Applicants Criteria:

1. Belongs to reliable importer classification (intel)

1. Importations
 - in/out quota
 - rate of duty
 - preferences
2. Large revenue contributor
3. Regular importer
4. Manufacturer
5. Broker

SGL Users

Random Selection

Enforced Compliance

For Analysis by the Trade Information and Risk Analysis Office (TIRAO):

1. Those tagged by ValScreen & endorsed for audit by the collector
2. Analyze entries by commodity, TH, value (using ACOS database)

Computerized analysis of appraiser sections

Intel Operations



The Super Green Lane (SGL)

- **Gives incentives to compliant, low-risk importers**
- **Prioritizes large revenue contributors**
- **Allows electronic declaration through EDI**
- **Shipments released with minimum scrutiny**
- **Random physical examination during off-loading at importer's premises**
- **Will be redesigned in light of increasing PEA capability**



Risk Management Areas

Voluntary Compliance

SGL Applicants Criteria:

1. Belongs to reliable importer classification (intel)

1. Importations
 - in/out quota
 - rate of duty
 - preferences
2. Large revenue contributor
3. Regular importer
4. Manufacturer
5. Broker

SGL Users

Random Selection

Enforced Compliance

For Analysis by the Trade Information and Risk Analysis Office (TIRAO):

1. Those tagged by ValScreen & endorsed for audit by the collector

2. Analyze entries by commodity, TH, value (using ACOS database)

Computerized analysis of appraiser sections

Intel Operations



Valuation Control at the Border

- **The Valuation Screen**
 - ✓ Database of test values
 - ✓ Establishes a value range for each item
 - ✓ Automatically tags declarations falling outside the range

- **The Valuation and Classification Review Committee – determines whether a valuation or classification issue exists for tagged declarations**



Risk Management Areas

Voluntary Compliance

SGL Applicants Criteria:

1. Belongs to reliable importer classification (intel)

1. Importations
 - in/out quota
 - rate of duty
 - preferences
2. Large revenue contributor
3. Regular importer
4. Manufacturer
5. Broker

SGL Users

Random Selection

Enforced Compliance

For Analysis by the Trade Information and Risk Analysis Office (TIRAO):

1. Those tagged by ValScreen & endorsed for audit by the collector
2. Analyze entries by commodity, TH, value (using ACOS database)

Computerized analysis of appraiser sections

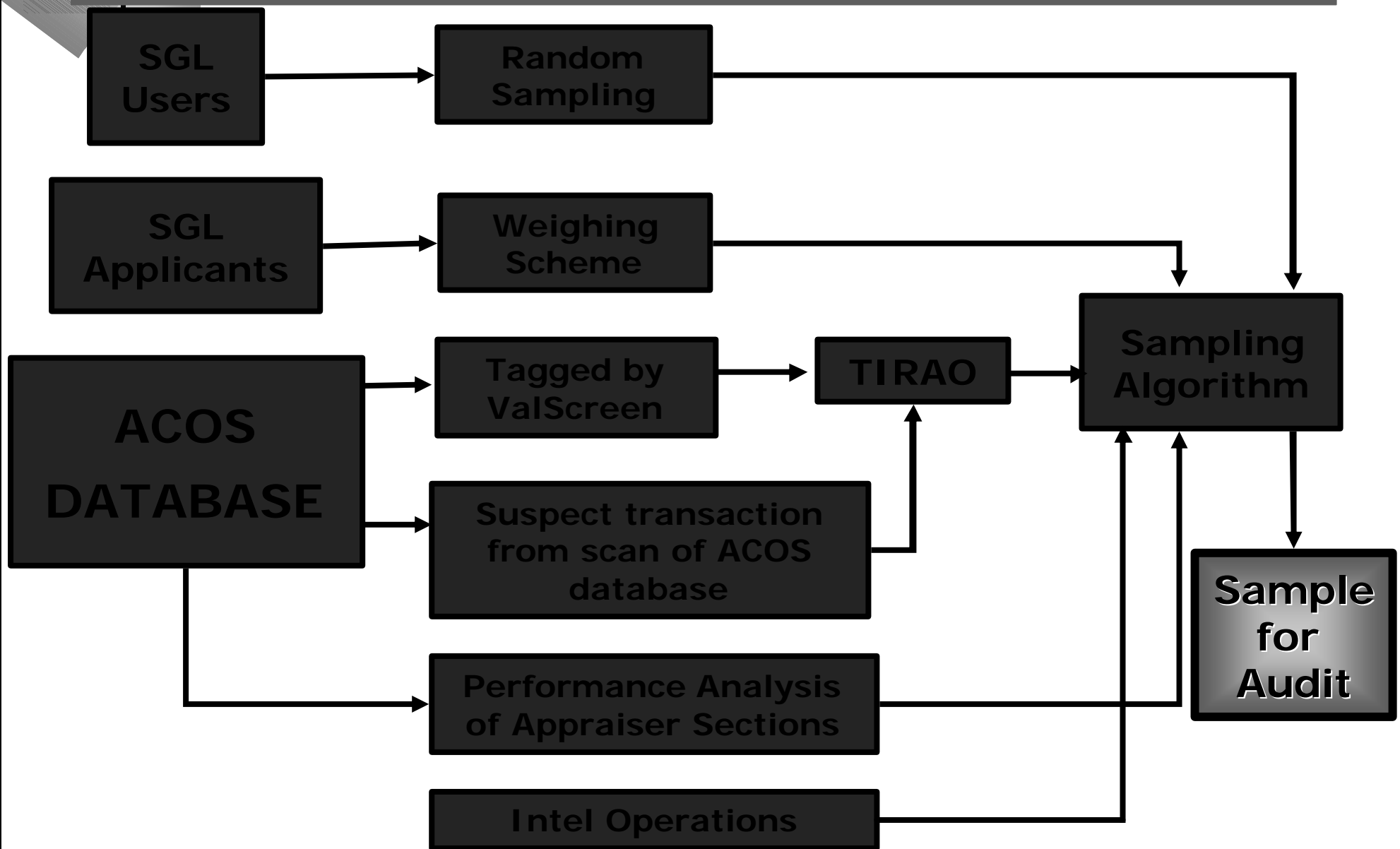
Intel Operations



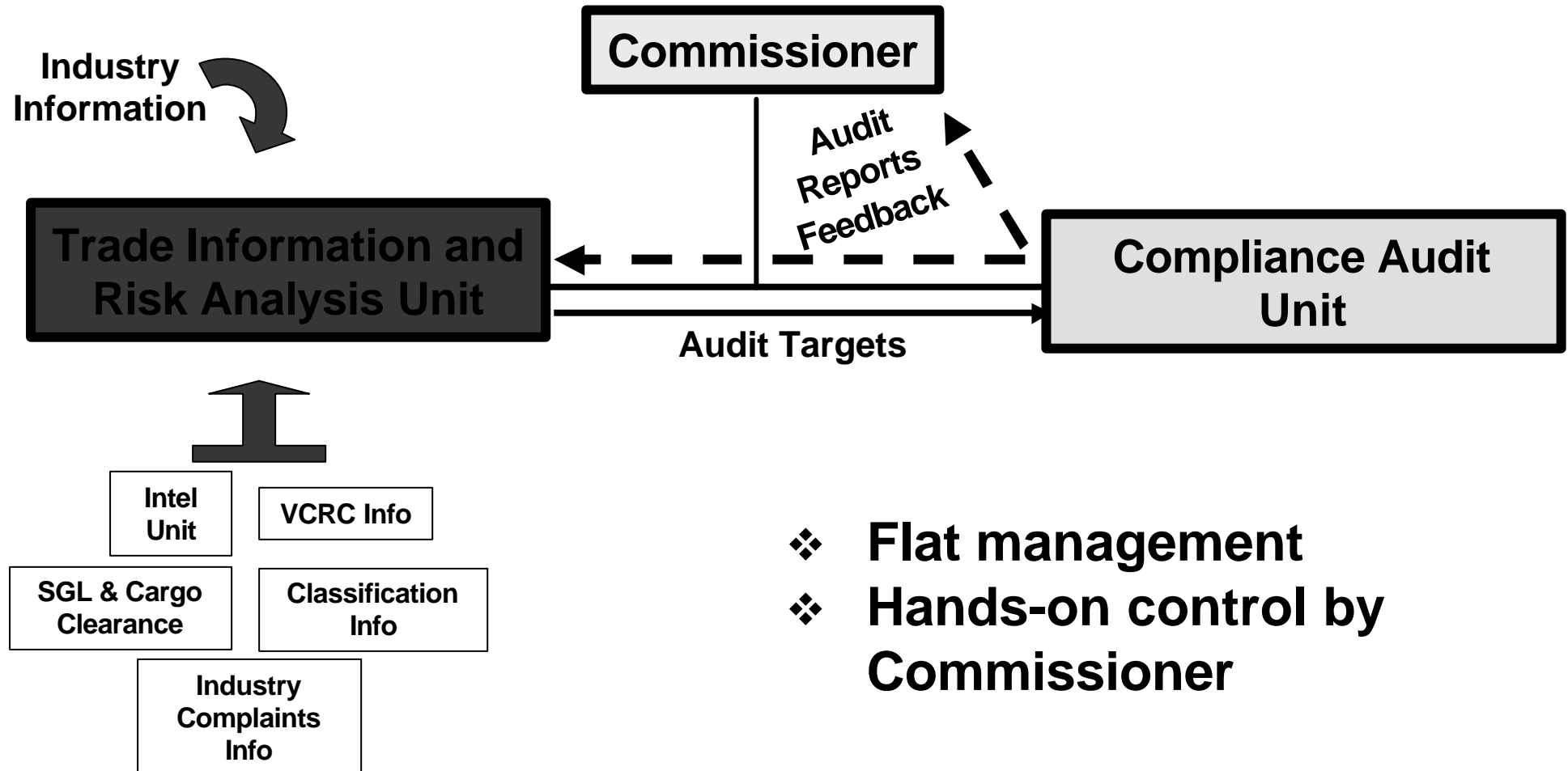
Performance Analysis

- **Management of tool for tracking performance of front line appraiser sections**
- **Uses of software that:**
 - ✓ Establishes trends
 - ✓ Identifies exceptions
 - ✓ Traces their cause
- **Output predicts revenue performance based on historical trends**

Sampling Methodology



The Post-Entry Audit Process: Organization and Information Flow





PEA Procedures

- A. Profiling and Information Analysis**
- B. Audit Notification**
- C. Audit Preparation/Audit Plan**
- D. Pre-Audit Conference with Auditee**
- E. Field Audit**
- F. Exit Conference**
- G. Report of Audit Findings**



A. Profiling and Information Analysis

- **Gathering information - Customs data and other sources**
- **Profiling company's activities**
- **Identifying risk shipments**
- **Sampling of exceptions reports**
- **Reviewing past BOC decisions**
- **Report to Commissioner**



B. Audit Notification

- **Basis and Purpose**
- **Date and Time**
- **Members**
- **Documents/Records Required**
- **Tour/Walk-Through**



C. Audit Preparation/Audit Plan

- **Customized**
- **Generates information on:**
 - ✓ **order process flow**
 - ✓ **financial flow**
- **Seeks to verify of correctness of import declaration**



D. Pre-Audit Conference

- **Introduction**
- **Written Authority**
- **Purpose, date, length**
- **Documents**
- **Walk-through**



E. Audit Proper

- **Review of records and documents**
- **Interview of responsible personnel**
- **Check on valuation, adjustments, descriptions, quantity, country of origin, preferential rates**
- **Check on systems and procedures, particularly control measures taken to ensure accuracy and integrity of customs declaration**



F. Exit Conference

- **Audit Findings**
- **Areas of Improvement**
- **Underpayment**
- **Comment by Company**



G. Audit Report

- **Final Audit Report and Recommendation (FARR)**
- **For Commissioner's approval**
- **Forward official copy to auditee**



What if the Audit Team discovers errors in Auditee's Records?

- **Recommend improvement**
- **Discuss specific errors**
- **Adjustments**



Penalties Imposed for Underpayment

➤ **Negligence**

- ✓ punishable by a fine equivalent to not less than one-half (1/2) but not more than 2 times the revenue loss.

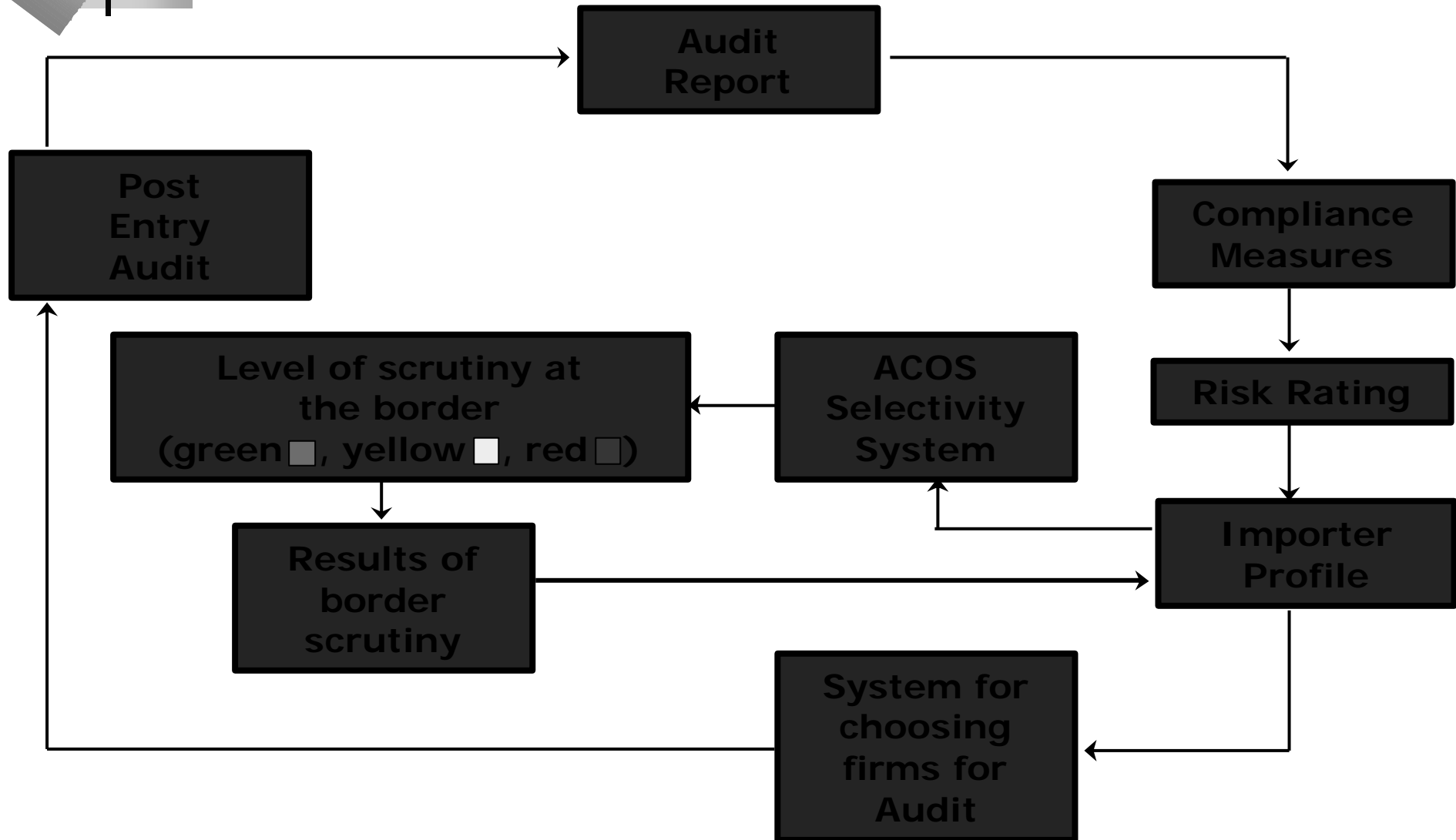
➤ **Gross Negligence**

- ✓ punishable by a fine equivalent to not less than 2 ½ but not more than 4 times the revenue loss.

➤ **Fraud**

- ✓ punishable by a fine equivalent to not less than 5 times but not more than 8 times the revenue loss; and
- ✓ imprisonment of not less than 2 years but not more than 8 years.

Continuous Refinement The Feedback Loop





Further Challenges

- **Put systems and institutions in place and make them fully operational**
- **Continue skills development**
- **Enhance IT applications**
- **Address resource constraints**
- **Improve personnel pay levels**
- **Adjust to periodic changes in leadership**
- **Strengthen partnerships with other agencies and the private sector**