



Brussels, 17 September 2014.

ECONOMIC COMPETITIVENESS PACKAGE

THE UPDATE OF ECP TOOLKIT

(Item III. (c) of the Agenda)

I. Background

1. The ECP Action Plan, as endorsed at the Policy Commission in December 2012, requests the Secretariat to publish useful materials for awareness-raising of the ECP. In accordance with the Action Plan, the Secretariat developed the ECP Toolkit with the objective of raising awareness of the links in trade facilitation measures between the WCO instruments and tools and the WTO Trade Facilitation Agreement (TFA).
2. The ECP Toolkit was presented to the 69th Session of the Policy Commission in June 2013. In conclusion, the Policy Commission acknowledged and welcomed the ongoing work in terms of the development of the ECP Toolkit, which would also support the preparation for implementing the TFA. The Policy Commission also concluded that the PTC would be invited to review and improve the ECP. At the PTC in November 2013, Members welcomed the development of the ECP Toolkit and reaffirmed that it would be updated on a regular basis to take into account of Members' views and needs.
3. The ECP Toolkit is a useful resource which shows how the WCO instruments and tools may contribute to economic growth. As part of the package, the WCO has developed the ECP schedule, which categorizes the WCO existing instruments and tools. It has also conducted an additional analysis of the TFA. Based on these existing materials, the ECP Toolkit re-categorizes the information regarding the TFA, the standards or recommended practices of the RKC and other existing WCO instruments and tools, besides containing Members' practices and case studies.
4. The ECP Toolkit clearly shows the breadth of the WCO activities. The RKC and other WCO instruments and tools in the ECP cover all Customs-related measures in the TFA. The ECP Toolkit is a good supporting material for WCO Members to prepare for the appropriate implementation of the TFA obligations.

For reasons of economy, documents are printed in limited number. Delegates are kindly asked to bring their copies to meetings and not to request additional copies.

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II. **Update of the ECP Toolkit**

5. Considering the recent development of WCO tools for trade facilitation and discussion on the TFA, the ECP Toolkit has been updated. In particular, the updated ECP Toolkit includes several new Members' practices collected under the ECP, besides aligning the WCO tools with the analysis of trade facilitation measures in the TFA vis-a-vis the WCO Instruments and tools, as discussed at the WCO WG on the TFA (PT0013). Furthermore, the text of TFA in the Toolkit was replaced with new text (WT/L/931). Annex I to this document summarises contents of the updated ECP Toolkit.

III. **Action required**

6. The PTC is invited to take note of the revised ECP Toolkit.

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ECONOMIC COMPETITIVENESS PACKAGE TOOLKIT

I. Transparency and Predictability

	Topic	WTO TF	RKC ¹	❖ ECP Instruments and Tools ➤ Members Practices/Case Studies
1	Publication and Availability of Information	Art. 1.1-2	GA4,7, 9	❖ Recommendation (1999) on the Use of World Wide Web Sites by Customs Administrations ❖ Revised Arusha Declaration ❖ Recommendation (2001) on the Application of HS Committee Decisions ❖ Single Window Compendium ➤ Australia
2	Enquiry Points	Art. 1.3	GA 7, 9	❖ Recommendation (1999) on the Use of World Wide Web Sites by Customs Administrations ❖ SAFE Framework of Standards ➤ United States
3	Notification	Art. 1.4	GA 9	❖ Recommendation (1999) on the Use of World Wide Web Sites by Customs Administrations
4	Opportunity to Comment and Information before Entry into Force	Art. 2.1.1-1.3	GA 1, 9	❖ SAFE Framework of Standards
5	Consultations	Art. 2.2	GA 1, 7, 9	❖ SAFE Framework of Standards ❖ Revised Arusha Declaration ➤ New Zealand, United Kingdom, United States
6	Advance Rulings	Art. 3	GA 9	❖ Recommendation (1996) on the Introduction of Programmes for Binding Pre-Entry Classification Information ❖ Recommendation (1998) on the Improvement of Tariff Classification Work and Related Infrastructure ❖ Technical Guidelines on Binding Origin Information ❖ Practical Guidelines for Valuation Control ❖ Comparison of the provisions of Article 3 of the WTO TFA with relevant WCO tools ➤ European Union, United Kingdom
7	Appeal Mechanism	Art. 4	GA 10	❖ Revised Arusha Declaration ➤ New Zealand, United States
8	Notification for enhanced controls or inspections	Art. 5.1	GA 6	❖ SAFE Framework of Standards ❖ Risk Management Compendium ❖ Single Window Compendium

¹ When reference is made to the Revised Kyoto Convention (RKC) as a relevant WCO document, this includes both the legal texts and the guidelines. "GA" means General Annex to the RKC and "SA" means Specific Annex.

	Topic	WTO TF	RKC ¹	❖ ECP Instruments and Tools ➤ Members Practices/Case Studies
9	Detention	Art. 5.2	GA 6 SA H 1	❖ Risk Management Compendium ❖ Compendium of Customs Operational Practices for Enforcement and Seizures (COPES)
10	Test Procedure	Art. 5.3	GA 3	❖ Customs Laboratory Guide

II. Modernized Procedures and Formalities

	Topic	WTO TF	RKC	❖ ECP Instruments and Tools ➤ Members Practices/Case Studies
1	Fees and Charges	Art. 6.1-2	GA 3, 9 SA A 1	❖ Revised Arusha Declaration
2	Penalty Disciplines	Art. 6.3	GA 3 SA H 1	
3	Pre-Arrival Processing	Art. 7.1	GA 3	❖ SAFE Framework of Standards ❖ Immediate Release Guidelines ❖ Data Model
4	Electronic Payment	Art. 7.2	GA 7	
5	Separation of Release from Final Determination and Payment of Customs Duties	Art. 7.3	GA 3, 5,7	❖ SAFE Framework of Standards ❖ Immediate Release Guidelines
6	Risk Management	Art. 7.4	GA 6, 7	❖ SAFE Framework of Standards ❖ Risk Management Compendium ❖ CEN ❖ nCEN ➤ Argentina, Jamaica, Japan, Kenya, Korea, Mauritius, United States
7	Post-Clearance Audit	Art. 7.5	GA 6	❖ SAFE Framework of Standards ❖ Post-Clearance Audit Guidelines ❖ Risk Management Compendium ➤ Finland, Ireland, Italy, Peru, Romania, Sweden, Thailand, Turkey
8	Authorized Operators	Art. 7.7	GA 3	❖ SAFE Framework of Standards ❖ SAFE Package ➤ 53 AEO Programmes and 13 Compliance Programmes
9	Expedited Shipments	Art. 7.8	GA 3	❖ Immediate Release Guidelines ❖ Data Model
10	Perishable Goods	Art. 7.9	GA 3	
11	Formalities and Documentation Requirements	Art. 10.1-2	GA 3, 7	❖ Recommendation (2012) on Dematerialization of Supporting Documents ❖ Data Model

	Topic	WTO TF	RKC	❖ ECP Instruments and Tools ➤ Members Practices/Case Studies
12	Pre-Shipment and Post-Shipment Inspections	Art. 10.5	-	❖ Practical Guidelines for Valuation Control
13	Use of Customs Brokers	Art. 10.6	GA 3, 8	
14	Common Border Procedures and Requirements	Art. 10.7	GA 3	
15	Rejected Goods	Art. 10.8	GA 3 SA C 1	
16	Temporary Admission of Goods	Art. 10.9	SA G 1	❖ Istanbul Convention ❖ ATA Convention
17	Inward and Outward Processing	Art. 10.9	SA F 1, 2	➤ European Union
18	Transit	Art. 9bis, Art.11	GA 5 SA E 1, 2	❖ Customs Compendium on a Secure and Efficient Transit System ➤ Practices of 17 Members
19	Free Zones and Customs Warehouses	-	SA D	

III. Use of Information and Communication Technology

	Topic	WTO TF	RKC	❖ ECP Instruments and Tools ➤ Members Practices/Case Studies
1	Use of International Standards	Art. 10.3	GA 3, 7	❖ Data Model ❖ Recommendation (2009) Concerning the Use of the WCO Data Model ❖ Recommendation (1990) Concerning the Use of the UNTDED ❖ Recommendation (1990) Concerning the Use of UN/EDIFACT
2	Single Window	Art. 10.4	GA 3	❖ SAFE Framework of Standards ❖ Single Window Compendium ❖ Single Window Information Store ❖ Data Model

IV. Partnership and Cooperation

	Topic	WTO TF	RKC	❖ ECP Instruments and Tools ➤ Members Practices/Case Studies
1	Border Agency Cooperation	Art. 9	GA 3	<ul style="list-style-type: none"> ❖ SAFE Framework of Standards ❖ Customs Compendium on Integrated Border Management ❖ Data Model ➤ Croatia, Germany, Hong Kong China, New Zealand
2	Customs Cooperation	Art. 12	GA 6	<ul style="list-style-type: none"> ❖ Model Bilateral Agreement ❖ Nairobi Convention ❖ Johannesburg Convention ❖ Guide to the Exchange of Customs Valuation Information ❖ Globally Networked Customs Feasibility Study ❖ CEN ❖ nCEN ❖ CENcomm

V. Performance Measurement Tool

	Topic	WTO TF	RKC	❖ ECP Instruments and Tools ➤ Members Practices/Case Studies
1	Average Release Times	Art. 7.6	-	<ul style="list-style-type: none"> ❖ Time Release Study (TRS) Guide ❖ TRS Online Software ❖ The Customs International Benchmarking Manual ➤ Australia, Cameroon, Japan, Korea, New Zealand, Serbia, Uganda

VI. Miscellaneous

	Topic	WTO TF	RKC	❖ ECP Instruments and Tools ➤ Members Practices/Case Studies
1	Natural Disaster Relief	-	SA J 5	<ul style="list-style-type: none"> ❖ Istanbul Convention ❖ Resolution of the Customs Co-operation Council on the Role of Customs in Natural Disaster Relief ❖ Recommendation of the Customs Co-operation Council to Expedite the Forwarding of Relief Consignments in the Event of Disasters

	Topic	WTO TF	RKC	❖ ECP Instruments and Tools ➤ Members Practices/Case Studies
2	Rules of Origin	-	SA K	❖ Origin Database
3	Customs Technical Terms	-	GA 2	❖ Glossary of International Customs Terms
4	Trade Recovery	-	-	❖ Trade Recovery Guidelines
5	Intellectual Property Rights	-	-	❖ Interface Public-Members (IPM)
6	Informal Trade	-	-	❖ Informal Trade Practices (Research paper)
7	Small and Medium Enterprises	-	-	❖ The Authorized Economic Operator and the Small and Medium Sized Enterprises (AEO and SMEs) FAQ ➤ Canada
8	Integrity	-	-	❖ Revised Arusha Declaration ❖ Integrity Development Guide ❖ Compendium of Integrity Best Practices ❖ Model Code of Ethics and Conduct

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Economic Competitiveness Package Toolkit

**September 2014
World Customs Organization**

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Introduction

1. The efficiency and effectiveness of border procedures can significantly influence and advance economic competitiveness and social development by promoting international trade and investment. Policymakers worldwide have articulated the positive impact that international trade and trade facilitation have on economic recovery and sustainable growth. As the central public sector border agencies, Customs administrations are integral to the smooth movement of goods, conveyances and people across borders.
2. In this regard, the World Customs Organization (WCO) has contributed, through its instruments and tools as well as through technical assistance, to increasing economic competitiveness and growth by Members. In order to reach out to Members and to aim at developing additional instruments and tools in areas where Members seek further guidance, the Secretariat developed the Economic Competitiveness Package (ECP), which was adopted at the 119th/120th Council Sessions in June 2012.
3. The ECP comprises existing WCO instruments and tools which contribute to economic growth and aims at assessing any needs for additional tools. The principles laid down in the Revised Kyoto Convention (RKC) are recognized as the core of the ECP and as the basis of all modern Customs procedures; in addition, the ECP comprises all other tools that strengthen trade facilitation. Consequently, the ECP may provide practical guidance in preparation for the WTO Trade Facilitation Agreement (TFA).
4. With the aim of promoting the implementation of WCO instruments and tools included in the ECP and its further development, the Action Plan for the ECP was adopted at the 68th Session of the Policy Commission in December 2012. The Action Plan consists of 21 actions. Promotion of existing tools and awareness raising activities are significantly important actions to implement and develop the ECP. In this regard, publication of useful materials is important and is defined as a continuous activity of the WCO Secretariat. Furthermore, the Kyoto Communiqué from the international Customs community on the Revised Kyoto Convention and Economic Competitiveness Package (Kyoto Communiqué) produced at the WCO Policy Commission highlights the enhancement of advocacy, at the political level, of the importance of Customs modernization for strengthening national economies through the ECP.
5. The ECP Toolkit is a new useful resource which shows how the WCO instruments and tools may contribute to economic growth. As part of the package, the WCO has developed the ECP schedule, which categorizes the WCO existing instruments and tools. The WCO has also conducted an analysis of the TFA and produced a comparison table between the Articles of TFA and the WCO tools. Based on these existing materials, the ECP Toolkit re-categorizes the information regarding the TFA, the standards or recommended practices of the RKC and other

existing WCO instruments and tools. The ECP Toolkit also contains Members' practices and case studies.

6. The ECP Toolkit clearly shows the breadth of WCO activities. The RKC and other WCO instruments and tools in the ECP cover all Customs-related measures in the TFA. In this regard, the ECP Toolkit is supporting material for WCO Members to prepare the appropriate implementation of the TFA.
7. Members are encouraged to use the ECP Toolkit to develop and implement their policies to enhance economic competitiveness. The Toolkit assists with finding the relevant part of the WTO Trade Facilitation text, RKC standards and available WCO tools according to their own interests.

I. Transparency and Predictability

(1) Publication and Availability of Information

Trade Facilitation Agreement

ARTICLE 1: PUBLICATION AND AVAILABILITY OF INFORMATION

1 Publication

1.1. 1.1 Each Member shall promptly publish the following information in a non-discriminatory and easily accessible manner in order to enable governments, traders, and other interested parties to become acquainted with them:

- a. (a) procedures for importation, exportation, and transit (including port, airport, and other entry-point procedures), and required forms and documents;
- b. (b) applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;
- c. (c) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;
- d. (d) rules for the classification or valuation of products for customs purposes;
- e. (e) laws, regulations, and administrative rulings of general application relating to rules of origin;
- f. (f) import, export or transit restrictions or prohibitions;
- g. (g) penalty provisions for breaches of import, export, or transit formalities;
- h. (h) procedures for appeal or review;
- i. (i) agreements or parts thereof with any country or countries relating to importation, exportation, or transit; and
- j. (j) procedures relating to the administration of tariff quotas.

k. 1.2 Nothing in these provisions shall be construed as requiring the publication or provision of information other than in the language of the Member except as stated in paragraph 2.2.

2 INFORMATION AVAILABLE THROUGH INTERNET

1.2. 2.1 Each Member shall make available, and update to the extent possible and as appropriate, the following through the internet:

- a. (a) a description² of its procedures for importation, exportation, and transit, including procedures for appeal or review, that informs governments, traders, and other interested parties of the practical steps needed for importation, exportation, and transit;
- b. (b) the forms and documents required for importation into, exportation from, or transit through the territory of that Member;
- (c) contact information on its enquiry point(s).

2.2 Whenever practicable, the description referred to in subparagraph 2.1(a) shall also be made available in one of the official languages of the WTO.

1.3.

1.4. 2.3 Members are encouraged to make available further trade-related information through the internet, including relevant trade-related legislation and other items referred to in paragraph 1.1.

Revised Kyoto Convention

❖ General Annex § 4 (Duties and Taxes)

Standard 4.4 specifies that rates of duties and taxes shall be set out in official publications.

RKC Standards

4.4. Standard

The rates of duties and taxes shall be set out in official publications

❖ General Annex § 9 (Information, Decisions and Rulings Supplied by the Customs)

Chapter 9 of the General Annex to the Revised Kyoto Convention is the most relevant Chapter to transparency and predictability. This Chapter sets forth the provisions in three sub-sections in accordance with the nature of the information, i.e. information of general application, information of a specific nature, and decisions and rulings.

RKC Standards

9.1. Standard

The Customs shall ensure that all relevant information of general application pertaining to Customs law is readily available to any interested person.

9.2. Standard

When information that has been made available must be amended due to changes in Customs law, administrative arrangements or requirements, the Customs shall make the revised information readily available sufficiently in advance of the entry into force of the changes to enable interested persons to take account of them, unless advance notice is precluded.

9.3. Transitional Standard

The Customs shall use information technology to enhance the provision of information.

² Each Member has the discretion to state on its website the legal limitations of this description.

❖ **General Annex § 7 (Application of Information Technology)**

The ICT Guidelines (Guidelines on the General Annex, Chapter 7) deal with the use of Customs web sites for publishing information.

Other ECP Instruments and Tools

❖ **Recommendation (1999) on the Use of World Wide Web sites by Customs administrations**

The Recommendation sets out basic information to be made available on Customs web sites, including information for travellers and traders. It also describes contact information of Customs, including email addresses to be made available to the public.

❖ **Revised Arusha Declaration**

Paragraph 3 of the revised Arusha Declaration emphasizes a high degree of certainty and predictability of Customs. It highlights that Customs laws, regulations, procedures and administrative guidelines should be made public.

❖ **Recommendation (2001) on the application of HS Committee Decisions**

The Recommendation asks Members to take all appropriate action to introduce programmes for binding pre-entry classification information.

❖ **Single Window Compendium**

Chapter 2 of Volume 2 of the Single Window Compendium contains an approach for Initial Functional Assessment to systematically collect information about different government agencies dealing with cross-border regulation of trade. Templates contained in this chapter may be used in collating the required procedural, regulatory and compliance information.

Members Practices

TAPIN (Australia) (RKC guideline General Annex 9)

- The Tariff and Precedents Information Network (TAPIN) is an on-line mainframe computer based system. It is an electronic version of the publications used by Customs Officers, Customs Brokers and the general importing community, to ascertain the correct rate of Customs duty payable on imported goods.
- TAPIN is an integral part of the Australian Customs Service (ACS) electronic initiatives scheme. It provides a means by which users across Australia can have fingertip electronic access to all the information they require to assess their Customs liabilities.
- TAPIN is designed to:
 - help users to have a uniform approach towards Tariff interpretation and classification of goods for duty and concessional purposes and towards valuation issues
 - facilitate access to Dumping information.
- TAPIN provides:
 - the latest update of Tariff, Valuation and Dumping publications;
 - a means of obtaining a unique number for each Tariff or Valuation Advice application, which may be quoted on import documents;
 - access to Tariff and Valuation precedents;
 - access to individual Tariff and Valuation Advice databases; and

- an index of goods that are subject to Dumping.
- TAPIN comprises:
 - the Act, the schedules and the supplementary provisions of the working Tariff;
 - the Harmonised System Explanatory Notes;
 - the Schedule of Concessional Instruments;
 - the Australian Customs Tariff Guide;
 - the European Customs Inventory of Chemicals;
 - the Tariff Precedents, Valuation Precedents and Preference Precedents database;
 - the Tariff Advice and Valuation Advice application systems;
 - each individual Broker's Tariff Advice and Valuation Advice database
 - the GATT Valuation Compendium;
 - Volume No 8 of the ACS Manual; and
 - the indices to both the Dumping Commodities Register and the Confidential Instructions.

(2) Enquiry Points

Trade Facilitation Agreement

ARTICLE 1: PUBLICATION AND AVAILABILITY OF INFORMATION

3 ENQUIRY POINTS

3.1 Each Member shall, within its available resources, establish or maintain one or more enquiry points to answer reasonable enquiries of governments, traders, and other interested parties on matters covered by paragraph 1.1 and to provide the required forms and documents referred to in subparagraph 1.1(a).

3.2 Members of a customs union or involved in regional integration may establish or maintain common enquiry points at the regional level to satisfy the requirement of paragraph 3.1 for common procedures.

3.3 Members are encouraged not to require the payment of a fee for answering enquiries and providing required forms and documents. If any, Members shall limit the amount of their fees and charges to the approximate cost of services rendered.

3.4 The enquiry points shall answer enquiries and provide the forms and documents within a reasonable time period set by each Member, which may vary depending on the nature or complexity of the request.

Revised Kyoto Convention

❖ General Annex § 9 (Information, Decisions and Rulings Supplied by the Customs)

Chapter 9 of the General Annex to the Revised Kyoto Convention sets out information of general application. The Guidelines to the Standards cover many aspects of transparency such as quality of information, clarity of information and liability for information provided. They specify the role of enquiry points.

RKC Standards

9.4. Standard

At the request of the interested person, the Customs shall provide, as quickly and as accurately as possible, information relating to the specific matters raised by the interested person and pertaining to Customs law. General Annex/Chapter 9 30.

9.5. Standard

The Customs shall supply not only the information specifically requested but also any other pertinent information which they consider the interested person should be made aware of.

9.6. Standard

When the Customs supply information, they shall ensure that they do not divulge details of a private or confidential nature affecting the Customs or third parties unless such disclosure is required or

RKC Standards

authorized by national legislation.

9.7. Standard

When the Customs cannot supply information free of charge, any charge shall be limited to the approximate cost of the services rendered.

9.8. Standard

At the written request of the person concerned, the Customs shall notify their decision in writing within a period specified in national legislation. Where the decision is adverse to the person concerned, the reasons shall be given and the right of appeal advised.

❖ General Annex § 7 (Application of Information Technology)

The ICT Guidelines (Guidelines on the General Annex, Chapter 7) give detailed guidance on the set up of a Help Desk and its components.

Other ECP Instruments and Tools

❖ Recommendation (1999) on the Use of World Wide Web sites by Customs administrations

This recommendation recommends that contact information of Customs, including email addresses should be made available to the public through the Customs web site.

❖ SAFE Framework of Standards

The Standard 5 of the Pillar 3 of the **SAFE** and the AEO Implementation Guidance do foresee the establishment of a nodal contact point or a service centre with telephone numbers, where appropriate Customs officials can be contacted by the AEO or its agent, in the event of queries or suspected offences.

Members Practices

Centers of Excellence and Expertise (United States)

1. Description of initiative

As part of CBP's efforts to protect U.S. economic competitiveness, CBP is transforming trade processing to find efficiencies for both CBP and the Trade community. Leading the way in these efforts are CBP's Centers, which provides "one-stop processing" for the Trade community using a team of industry-focused CBP experts located virtually nationwide.

In Fiscal Year (FY) 2012, CBP established four industry-specific Centers:

- The Electronics Center in Long Beach, CA;
- The Pharmaceutical, Health & Chemicals Center in New York City;
- The Automotive & Aerospace Center in Detroit; and
- The Petroleum, Natural Gas & Minerals Center in Houston.

In FY 2013, CBP will create six new Centers:

- The Agriculture & Prepared Products Center;
- The Apparel, Footwear & Textiles Center;
- The Base Metals Center;
- The Consumer Products & Mass Merchandising Center;
- The Industrial & Manufacturing Materials Center; and
- The Machinery Center.

The Centers bring all of CBP's trade expertise to bear on a single industry in a strategic virtual location. They are staffed with numerous trade positions using account management principles to authoritatively facilitate trade. Virtual teams of CBP trade disciplines report to the Center, but will not physically move from their current duty locations. Importers are not asked to change their current supply chains. Imports will continue to arrive at the ports that best meet the needs of the trade community. Instead, CBP will leverage technology to link trade personnel from throughout the country by industry sector in order to more efficiently manage resources and effectively segment risk.

The Centers continue CBP efforts to increase uniformity of practices across ports of entry, facilitate the timely resolution of trade compliance issues nationwide, and further strengthen critical agency knowledge on key industry practices.

2. Impact of initiative

The Centers of Excellence and Expertise (Centers) represent CBP's expanded focus on "Trade in the 21st Century," transforming customs procedures to align with modern business. The Centers are virtual organizations that bring all of CBP's trade expertise to bear on a single industry in a strategic location. The Centers serve as a single point of processing for participating importers in a particular industry. By having the Centers focus on industry-specific issues, CBP is able to provide tailored support to unique trading environments. Centers also serve as resources to the broader trade community and to CBP's U.S. government partners. Center personnel answer questions, provide information and develop comprehensive trade facilitation strategies to address uniformity and compliance concerns.

By redirecting work involving participating importers to centralized, industry-specific locations, ports of entry will be able to more effectively focus resources on high-risk shipments and importers that may pose a danger to U.S. border security, harm the health and safety of consumers, or violate U.S. trade laws and intellectual property rights critical to our nation's economic competitiveness. In turn, the approach to trade processing facilitated by the new centers will reduce transaction costs for the trade community, facilitate legitimate trade through risk segmentation, increase agency expertise and deliver greater transparency and uniformity of action within a given industry.

3. Relevant private agencies and industry groups involved in your national or international initiatives/practices

Customs Operations Advisory Committee (COAC), CBP working groups with the trade community

(3) Notification

Trade Facilitation Agreement

ARTICLE 1: PUBLICATION AND AVAILABILITY OF INFORMATION

4. Notification

Each Member shall notify the Committee on Trade Facilitation established under paragraph 1.1 of Article 23 (referred to in this Agreement as the "Committee") of:

- a. (a) the official place(s) where the items in subparagraphs 1.1(a) to (j) have been published;
- b.
- c. (b) the Uniform Resource Locators of website(s) referred to in paragraph 2.1;
and
- d.
- e. (c) the contact information of the enquiry points referred to in paragraph 3.1.

Revised Kyoto Convention

❖ General Annex § 9 (Information, Decisions and Rulings Supplied by the Customs)

Chapter 9 of the General Annex to the Revised Kyoto Convention is the most relevant Chapter to transparency and predictability. This Chapter sets forth the provisions in three sub-sections in accordance with the nature of the information, i.e. information of general application, information of a specific nature, and decisions and rulings.

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9.3. Transitional Standard

The Customs shall use information technology to enhance the provision of information.

Other ECP Instruments and Tools

❖ **Recommendation (1999) on the Use of World Wide Web sites by Customs administrations**

The Recommendation sets out basic information to be made available on Customs web sites, including information for travellers and traders. It also describes contact information of Customs, including email addresses to be made available to the public.

(4) Opportunity to Comment and Information before Entry into Force

Trade Facilitation Agreement

ARTICLE 2: OPPORTUNITY TO COMMENT, INFORMATION BEFORE ENTRY INTO FORCE, AND CONSULTATIONS

1 OPPORTUNITY TO COMMENT AND INFORMATION BEFORE ENTRY INTO FORCE

1.1 Each Member shall, to the extent practicable and in a manner consistent with its domestic law and legal system, provide opportunities and an appropriate time period to traders and other interested parties to comment on the proposed introduction or amendment of laws and regulations of general application related to the movement, release, and clearance of goods, including goods in transit.

1.2 Each Member shall, to the extent practicable and in a manner consistent with its domestic law and legal system, ensure that new or amended laws and regulations of general application related to the movement, release, and clearance of goods, including goods in transit, are published or information on them made otherwise publicly available, as early as possible before their entry into force, in order to enable traders and other interested parties to become acquainted with them.

1.5.

1.6. 1.3 Changes to duty rates or tariff rates, measures that have a relieving effect, measures the effectiveness of which would be undermined as a result of compliance with paragraphs 1.1 or 1.2, measures applied in urgent circumstances, or minor changes to domestic law and legal system are each excluded from paragraphs 1.1 and 1.2.

Revised Kyoto Convention

❖ General Annex § 1 (General Principles)

Standard 1.3 of the General Annex to the Revised Kyoto Convention requires maintaining formal consultative relationships with the trade.

RKC Standards

1.3. Standard

The Customs shall institute and maintain formal consultative relationships with the trade to increase co-operation and facilitate participation in establishing the most effective methods of working commensurate with national provisions and international agreements.

❖ General Annex § 9 (Information, Decisions and Rulings Supplied by the Customs)

Standard 9.2 of the General Annex to the Revised Kyoto Convention requires making revised information available sufficiently in advance of the entry into force.

RKC Standards

9.2. Standard

When information that has been made available must be amended due to changes in Customs law, administrative arrangements or requirements, the Customs shall make the revised information readily available sufficiently in advance of the entry into force of the changes to enable interested persons to take account of them, unless advance notice is precluded.

Other ECP Instruments and Tools

❖ SAFE Framework of Standards

Technical specifications to Standard 6 of Pillar 2 (Facilitation) of the SAFE, foresee that Customs administrations should establish mechanisms to allow for business partners to comment on proposed amendments and modifications that significantly affect their role in securing the supply chain.

(5) Consultations

Trade Facilitation Agreement

ARTICLE 2: OPPORTUNITY TO COMMENT, INFORMATION BEFORE ENTRY INTO FORCE, AND CONSULTATIONS

2 CONSULTATIONS

Each Member shall, as appropriate, provide for regular consultations between its border agencies and traders or other stakeholders located within its territory.

Revised Kyoto Convention

❖ General Annex § 1 (General Principle)

Standard 1.3 of the General Annex to the Revised Kyoto Convention requires maintaining formal consultative relationships with the trade.

RKC Standards

1.3. Standard

The Customs shall institute and maintain formal consultative relationships with the trade to increase co-operation and facilitate participation in establishing the most effective methods of working commensurate with national provisions and international agreements.

❖ General Annex § 7 (Application of Information Technology)

The ICT Guidelines (Guidelines on the General Annex, Chapter 7) give detailed guidance on the set up of a Help Desk and its components.

❖ General Annex § 9 (Information, Decisions and Rulings Supplied by the Customs)

Chapter 9 of the General Annex to the Revised Kyoto Convention sets out rules on information of a specific nature requested from the interested person.

RKC Standards

9.4. Standard

At the request of the interested person, the Customs shall provide, as quickly and as accurately as possible, information relating to the specific matters raised by the interested person and pertaining to Customs law.

9.5. Standard

The Customs shall supply not only the information specifically requested but also any other pertinent information which they consider the interested person should be made aware of.

9.6. Standard

When the Customs supply information, they shall ensure that they do not divulge details of a private or confidential nature affecting the Customs or third parties unless such disclosure is required or authorized by national legislation.

RKC Standards

9.7. Standard

When the Customs cannot supply information free of charge, any charge shall be limited to the approximate cost of the services rendered.

Other ECP Instruments and Tools

❖ SAFE Framework of Standards

Standard 5 of Pillar 2 (Customs-to-Business) of the SAFE Framework states that the Customs administration will regularly update Customs-Business partnership programmes to promote minimum security standards and supply chain security best practices.

❖ Revised Arusha Declaration

The Declaration is the focal point for the WCO's anti-corruption and integrity development effort. It contains specific elements that are designed to improve the efficiency of Member administrations and reduce or eliminate opportunities for corruption.

Members Practices

Bi-Directional Education (United States)

1. Description of initiatives

CBP has forged an unprecedented relationship with industry experts and major trade associations through Bi-Directional Education.

The Bi-Directional Education concept was developed in order to maintain industry expertise to be able to adapt to the ever-changing global trading and economic environment.

From the beginning, CBP has been in constant communication with the appropriate industry stakeholders on all of the initiatives where we have been engaged. We utilize Bi-Directional Education to be able to learn from industry experts about new and growing trade trends. CBP has also gained a better understanding of how the business model works in order to be able to help the trade community meet its bottom line.

CBP also utilizes Bi-Directional Education as an opportunity to explain and clarify government regulations and Customs processes. By doing this, the private sector is able to better grasp how the work CBP does ensures both security and economic competitiveness of our national and global trade.

CBP hosts trade day meetings with the relevant industry partners. We invite different trade associations to bring their members for discussions with CBP Leadership to discuss issues or concerns that they may have with an appropriate area where both CBP and industry partners can educate each other on best practices.

CBP continues to hold educational webinars, and weekly subcommittee and working group calls with our COAC to talk about issues and receive recommendations at the quarterly public COAC meetings. In addition to our interaction with the COAC, CBP conducts outreach at both the

national and local levels to ensure that we receive feedback from all areas of our private sector partnership.

Further to this, CBP periodically sends out surveys to the private sector so that they can continuously give us feedback on the establishment and implementation of new initiatives, enhancements to existing initiatives and systems, and alert us of any potential problems. CBP also constantly receives feedback from the industry by contacting their National Account Managers within the Centers of Excellence and Expertise.

2. Impact of initiatives

Through implementing Bi-Directional Education, we have learned from our participating industry partners what the current patterns of global supply are, and how can we best adapt CBP operations to continue to bolster our economic competitiveness while maintaining security and trade enforcement.

We have also been able to address the increasing challenge of losing key industry knowledge and expertise through attrition, thus preserving and expanding upon the expertise through our collaborative work.

3. Relevant government agencies involved in your national or international initiatives/practices

U.S. Customs and Border Protection (CBP), Consumer Product Safety Commission, U.S. Department of Agriculture, Food and Drug Administration, Animal and Plant Health Inspection Service

4. Relevant private agencies and industry groups involved in your national or international initiatives/practices

All industries involved in importing and exporting (auto, pharmaceuticals, chemicals, base metals and machinery, agriculture, apparel and textiles, electronics, consumer products and mass merchandising) as well as major trade associations. CBP is also required to meet quarterly with the Advisory Committee on Commercial Operations (COAC) which advises the Department of Homeland Security on the commercial operations of CBP and related DHS functions.

5. How often do you interact with Private Sector/Industry Groups?

We engage with some stakeholders on a daily basis, with others monthly or bi monthly through email communication, webinars, conference calls, and in person meetings.

6. How do you keep track of input from the Private Sector/Industry Groups?

1. Surveys to measure the efficacy of initiatives and implementation of policies and regulation
2. Roundtables with industry and CBP leadership
3. Trade Days
4. Webinars
5. Through the COAC
6. Levels of participation within the Centers of Excellence and Expertise (Centers)

Co-Creation (Unites States)

1. Description on initiative

The global supply chain is dynamic and ever-changing. To be able to adapt our Customs processes to be able to deal with up-and-coming, new problems and strategic questions, CBP has established a robust partnership with the trade community. The active collaboration with the trade community through Co-Creation allows us to be able to resolve challenges as they arise.

For CBP, Co-Creation allows us the opportunity to sit side-by-side with our industry partners to come up with innovative solutions to new and evolving global issues. We are also able to enhance our own internal processes so that we are more proactive and resilient when new incidents occur.

In the case of the ACAS pilot, the United States was faced with an event which forever changed the way we process and target high-risk express consignments in the air environment. In order to avoid having to take extreme and drastic measures which would ultimately hinder international trade and the movement of cargo, CBP held a brainstorming session with the appropriate industry partners to be able to come up with an innovative solution which would help meet our security requirements while facilitating the movement of cargo through the supply chain. Through Co-Creation, both CBP and the private sector established an unprecedented collaboration and developed ACAS.

In order to continually advance and enhance the ACAS pilot, CBP holds conferences and webinars, and hosts roundtables and trade days to maintain our collaboration with the trade community after the initial creation of the pilot.

2. Impact of initiative

The concept of Co-Creation has led to the development of the ACAS pilot which helps secure our air cargo industry without negatively impacting the movement of cargo. We currently process almost 85% of air cargo through ACAS.

3. Relevant government agencies involved in your national or international initiatives/practices

U.S. Customs and Border Protection (CBP) (and in the case of Air Cargo Advance Screening, the Transportation Security Administration)

4. Relevant private agencies and industry groups involved in your national or international initiatives/practices

For ACAS: Express Consignment Carriers, Freight Forwarders, Passenger Air Carriers, Heavy All-Cargo Carriers

5. How often do you interact with Private Sector/Industry Groups?

Twice a month via conference calls and once a month face-to-face

6. How do you keep track of input from Private Sector/Industry Groups?

Different ways:

1. We develop documents which require private sector input to better understand their perspective.
2. We developed a list of Frequently Asked Questions to address their various private sector inquiries.
3. We host roundtable meetings to address strategic questions.

TOR of Border Sector Industry Stakeholder Forum (NZ) (RKC guideline General Annex 1)

The Border Sector Industry Stakeholder Forum is a joint border agency/industry forum made up of representatives from key border-related industries and interests and members of agencies that make up the Border Sector Governance Group. The primary focus of the Forum is stakeholder engagement in relation to the four priority work programmes of the border sector agencies.

1. Background

Cabinet agreed in October 2007 that an ongoing Border Sector governance structure be established to provide a mechanism for joint decision making and guidance on:

- Border sector strategy, planning and monitoring;
- Border sector performance;
- Operations and Information Systems (IS) projects with wide ranging border sector implications; and
- Application of a whole of government view to border sector management and operations.

The core membership of the Border Sector Governance Group is:

- Comptroller, New Zealand Customs Service (Chair);
- Secretary, Department of Labour;
- Director-General, Ministry of Agriculture and Forestry;
- Chief Executive, Ministry of Transport;
- Chief Executive, The Department of Internal Affairs;
- Chief Executive, New Zealand Food Safety Authority.

The Border Sector Secretariat supports the work of the Border Sector Governance Group and is hosted within the agency of the Chief Executive that is the Border Sector Governance Group Chair.

Border sector agencies have recognised that there are opportunities to improve the management of the border system by adopting a more cohesive and coherent approach.

Agencies agree that they need to increase their collaboration with each other, stakeholders and other jurisdictions to manage growing trade and travel volumes and risk complexity, and to take advantage of gains from emerging technologies. There are also opportunities for agencies to collaborate further on border operations and information systems development, and to incorporate stakeholders' perspectives. Improved collaboration will increase the border sector's overall effectiveness and efficiency, within the context of existing accountabilities for each agency.

2. Border Sector Governance Framework

The strategic framework for the border sector is set out below:

TOR of Border Sector Industry Stakeholder Forum (NZ) (RKC guideline General Annex 1)

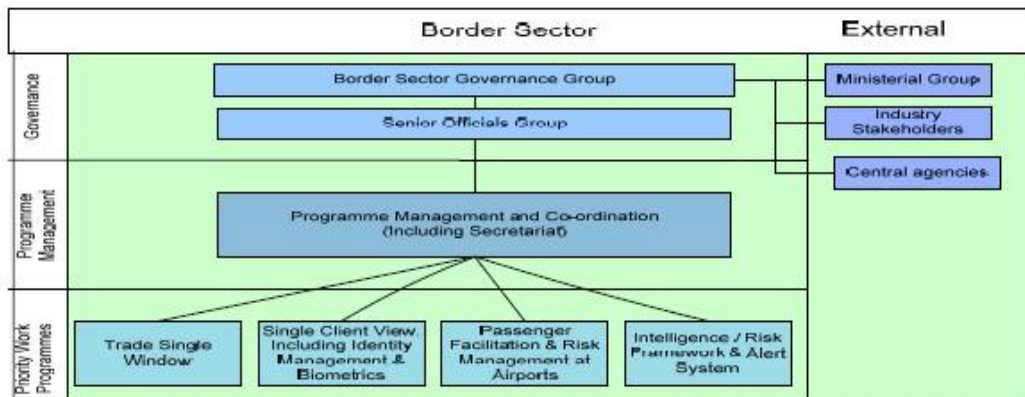
Sector Vision	i) Deliver excellent border management outcomes for New Zealand By thinking and acting as one		
Sector Objective	An integrated and responsive border management system that best serves New Zealand's interests by facilitating trade and travel while managing risk		
Sector Outcomes	Protection New Zealand is protected from goods, organisms and people that pose a risk to our interests	Facilitation New Zealand's economic and social interests are enhanced by facilitating the flow of legitimate trade and travel across the border	Partnership and Responsibility Everybody understands and undertakes their roles for the effective management of the border

Priority Work Programmes

Border sector agencies have identified four priority areas for the sector to deliver on over the next three to five years in order to meet the agreed facilitation, protection and partnership outcomes. The priority work programmes are as follows:

- Trade Single Window
- Passenger facilitation and risk management at airports
- Identity at the border for facilitation, protection & partnership
- A border sector Intelligence / risk framework and alert system.

New Governance Structure



3. Scope

The BSGG Industry Stakeholder Forum (the Forum) is an advisory, not a decision making group. It provides border agencies and key industry stakeholders with an important avenue for ensuring industry and border agency interests and strategic directions are mutually understood and aligned where appropriate and possible.

The Forum's primary focus is on matters relevant to the four priority work programmes which is where the border agencies' common interests primarily lie. In addition, there will be regular

TOR of Border Sector Industry Stakeholder Forum (NZ) (RKC guideline General Annex 1)

stakeholder engagement occurring within each of the priority work programmes.

The Forum will complement existing day-to-day engagement with border agencies. These day-to-day type interactions and project-specific matters will continue to be handled at the operational level.

4. Membership

The membership of the Forum consists of members of the Border Sector Governance Group and representatives from key private sector industries at Chief Executive or Chairman level with an 'at the border' interest. Industry Representative Participants will be invited to join the Forum by the Chair of the Border Sector Governance Group.

A. Industry Representatives

Participants will be invited to join the Forum by the Chair of the Border Sector Governance Group. The list of current participants includes the following industry representatives:

- Co-Chair, Australia - New Zealand Leadership Forum
- Co-Chair, Australia -New Zealand Leadership Forum Common Borders Working Group
- Chief Executive, Auckland International Airport
- Chairman, Airports Association New Zealand
- Chairman, New Zealand Shippers Council Inc
- Executive Director, Board of Airline Representatives New Zealand
- Chief Executive, Business New Zealand
- Chief Executive, Meat Industry Association
- Chief Executive, Fonterra Co-operative Group Ltd
- Chair, Port Companies of New Zealand
- Chairman, New Zealand Pacific Business Council
- President, Custom Brokers & Freight Forwarders Federation of New Zealand
- Chief Executive, Export New Zealand
- Chair, Tomorrow's Cargo Logistics
- Chief Executive, New Zealand Cold Storage Association
- Chief Executive, Tourism New Zealand
- Chief Executive, Air New Zealand
- Secretary, Importers Institute
- President, Federated Farmers of New Zealand

5. BSGG Stakeholder Forum Role

A. The main objectives of the Forum are:

- To create a strategic dialogue between border agencies and industries about at-the border interests and future directions with respect to each of the four priority work programmes.
- To provide a mechanism for industry to provide feedback to the BSGG on how the proposed work programme ought to operate from a stakeholder perspective.
- To provide a forum for raising/addressing sectoral issues of mutual interest.

B. The main roles of the Forum are:

- To engender collaborative border agency–industry stakeholder engagement
- To identify opportunities and avenues for border agency–stakeholder engagement and collaboration
- To consider emerging sectoral developments and issues.

6. Operating parameters

A. Principles

TOR of Border Sector Industry Stakeholder Forum (NZ) (RKC guideline General Annex 1)

- The Forum will be strategically focused, consultative and discussion-oriented in nature.
- The Forum will include sharing information and views on issues raised by any participant. As such, it may challenge thinking as well as provide input and advice to longer-term analyses and considerations affecting the border sector.
- The Forum is not a decision-making forum, and will not focus on operational or administrative matters.

B. Focus for the meetings:

- BSGG progress report on the four work programmes
- Feedback from industry on the work programmes, and how the sector has been operating from an industry stakeholder perspective
- Looking at future trends and matters of common interest.

Any papers for consideration at meetings will be provided at least five working days prior to meetings. Minutes of the meetings will be taken and provided to all participants. Minutes may be discoverable under the Official Information Act. The Chair of the Border Sector Governance Group will chair the Stakeholder Forum.

C. Timeframe

At least two Stakeholder Forums will be held each year at Chief Executives' or Chairman level, with BSGG Chair to revisit this decision as appropriate. It is envisaged that the meetings will be held in April/May and October/November. On occasion the Chairs may convene additional meetings for a particular purpose.

7. Other BSSG Meetings

In addition, stakeholder meetings will be convened through each of the priority work programmes. It will be responsibility of the Chair of each work programme to convene these stakeholder meetings. The Chair of the BSSG may also wish to convene a meeting of the wider group of agencies with a border sector interest (approximately 20 in total), as the need and/or opportunity arises.

UK (RKC guideline General Annex 1)

Introduction

- The main forum for trade consultation in UK Customs matters is the Joint Customs Consultative Committee (JCCC).
- The committee gives the opportunity for Customs to consider representations from 24 member organisations on a face-to-face basis (see annex A for full list). In addition it also has 4 virtual members who receive the meeting papers but generally do not attend meetings.

Representation on the JCCC

- To ensure equity of treatment there are clear and transparent rules for membership of the trade forum which are agreed and adopted by the Committee. The Committee's terms of reference include the following criteria for trade membership.

The aim is to consult with the widest possible spectrum of trade interests and to achieve the highest standards of interests from them. To achieve this, the following criteria for membership are applied. A trade body must be:

- Be a national organisation with a primary interest in the movement of goods and/or people;

UK (RKC guideline General Annex 1)

- Not represent particular (air)ports; and
 - Not solely represent individual company business interests.
- Membership is regularly reviewed to ensure it is meeting the objectives for the group. Following a membership review in 2006 it was felt that certain sectors were under represented. Invitations to join the committee were sent to Community Systems Providers, who control the port inventory systems, the Royal Mail and the Railway Industry.

Format of Meetings

- The JCCC meets 4 times a year. It is chaired by the Director of Customs but between 2005-6 it adopted a system with the trade side chairing alternative meetings. Agenda items can be tabled by anyone on the committee and other representatives from Customs are invited according to the agenda subjects.
- Minutes of the meetings are agreed with the trade members and publicised on the HM Revenue & Customs (HMRC) website. [JCCC web pages](#)

Other trade groups

- In addition to the JCCC, the Committee can agree to set up smaller groups to consult and examine specific projects or issues. These groups are set up by the JCCC and report back to the JCCC.

1. JCCC Sub-groups

These are formed to discuss in-depth technical issues leaving the main JCCC to concentrate on more strategic areas. Each group has clear and specific terms of reference which are agreed by the main JCCC. Some groups are longstanding whilst others are disbanded by the JCCC once they have reported on the specific project. The sub-groups are required to provide minutes to be published on the HMRC website and a summary report for the main JCCC. If a problem cannot be solved at the sub-group level members have the option to escalate the matter to the main JCCC (A list of current sub-groups is at Annex B)

2. JCCC ad-hoc groups

Ad hoc groups can be formed at any time and may only meet once or twice. For example a group was formed to look into improving the JCCC Customs Newsletter and another group to consider service standards. If a subject is of limited interest to the majority of JCCC members a bi-lateral meeting outside the JCCC may be held.

3. JCCC Distribution List

This list uses e-mail to send information papers and consultation papers to a broader range of trade associations and contacts. The list includes all those on the JCCC and over 60 “associates”. Information papers tell recipients of changes in the Customs area that they need to know to comply with their obligations. Consultation papers ask the trade their opinion on proposed changes.

4. JCCC Customs Newsletter

This was first published in December 2003. It provides a summary of the main legislative changes being discussed, an update on projects and items of interests. It is published quarterly on the HMRC website and is sent to the JCCC Distribution List.

5. JCCC Volunteer Panel

- The Volunteer Panel is a small group of trade members who have agreed to quality review Customs leaflets/information sheets. The goal is to ensure that when information is revised and updated Customs and Trade officials have the same understanding of the revised text. The review is carried out electronically by e mail.

US (RKC guideline General Annex 1)

- The relationship between U.S. Customs and Border Protection (CBP) and the trade community is of critical importance to the maintenance of trade facilitation and efficiency and enforcing security at our borders. One organization that helps CBP balance trade and security is the Commercial Operations Advisory Committee (COAC).
- The COAC was mandated in the Omnibus Budget Reconciliation Act of 1987 and operates under the provisions of the Federal Advisory Committee Act (FACA). COAC provides feedback and recommendations on commercial operations of CBP and related DHS and Treasury functions. The committee is comprised of 20 members from industries affected by the commercial operations of CBP, and is chaired by two government Co-Chairs from DHS and the Department of the Treasury. Committee members come from the trade and transportation communities, large, medium and small sized companies, and others who are directly served or affected by CBP and related DHS and Treasury functions.
- COAC members must apply for membership and are selected from representatives of the trade and transportation communities served by CBP. Members serve a 2 year term. This 20 member advisory council meets periodically with CBP officials to discuss CBP's balance of security and trade facilitation. Topics of discussion have included Customs automation, agriculture, Intellectual Property Rights (IPR), Global Supply Chain, harmonization of customs practices and procedures, strategic planning, import safety and Importer security filing among others.

(6) Advance Rulings

Trade Facilitation Agreement

ARTICLE 3: ADVANCE RULINGS

1. Each Member shall issue an advance ruling in a reasonable, time-bound manner to the applicant that has submitted a written request containing all necessary information. If a Member declines to issue an advance ruling, it shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.
2. A Member may decline to issue an advance ruling to the applicant where the question raised in the application:
 - a. (a) is already pending in the applicant's case before any governmental agency, appellate tribunal, or court; or
 - (b) has already been decided by any appellate tribunal or court.
3. The advance ruling shall be valid for a reasonable period of time after its issuance unless the law, facts, or circumstances supporting that ruling have changed.
4. Where the Member revokes, modifies, or invalidates the advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision. Where a Member revokes, modifies, or invalidates advance rulings with retroactive effect, it may only do so where the ruling was based on incomplete, incorrect, false, or misleading information.
5. An advance ruling issued by a Member shall be binding on that Member in respect of the applicant that sought it. The Member may provide that the advance ruling is binding on the applicant.
6. Each Member shall publish, at a minimum:
 - b. (a) the requirements for the application for an advance ruling, including the information to be provided and the format;
 - c. (b) the time period by which it will issue an advance ruling; and
 - (c) the length of time for which the advance ruling is valid.
7. Each Member shall provide, upon written request of an applicant, a review of the advance ruling or the decision to revoke, modify, or invalidate the advance ruling.³
8. Each Member shall endeavour to make publicly available any information on advance rulings which it considers to be of significant interest to other interested parties, taking into account the need to protect commercially confidential information.
9. Definitions and scope:

³ Under this paragraph: (a) a review may, either before or after the ruling has been acted upon, be provided by the official, office, or authority that issued the ruling, a higher or independent administrative authority, or a judicial authority; and (b) a Member is not required to provide the applicant with recourse to paragraph 1 of Article 4.

- d. (a) An advance ruling is a written decision provided by a Member to the applicant prior to the importation of a good covered by the application that sets forth the treatment that the Member shall provide to the good at the time of importation with regard to:
 - i. (i) the good's tariff classification; and
 - ii. (ii) the origin of the good.⁴
- e. (b) In addition to the advance rulings defined in subparagraph (a), Members are encouraged to provide advance rulings on:
 - i. (i) the appropriate method or criteria, and the application thereof, to be used for determining the customs value under a particular set of facts;
 - ii. (ii) the applicability of the Member's requirements for relief or exemption from customs duties;
 - iii. (iii) the application of the Member's requirements for quotas, including tariff quotas; and
 - iv. (iv) any additional matters for which a Member considers it appropriate to issue an advance ruling.
- f. (c) An applicant is an exporter, importer or any person with a justifiable cause or a representative thereof.
- (d) A Member may require that the applicant have legal representation or registration in its territory. To the extent possible, such requirements shall not restrict the categories of persons eligible to apply for advance rulings, with particular consideration for the specific needs of small and medium-sized enterprises. These requirements shall be clear and transparent and not constitute a means of arbitrary or unjustifiable discrimination.

Revised Kyoto Convention

❖ General Annex § 9 (Information, Decisions and Rulings Supplied by the Customs)

Standard 9.9 of the General Annex to the Revised Kyoto Convention sets out binding rulings. The Guidelines to the Standard cover many aspects of binding rulings such as scope, notification, time-limits and use of binding rulings. They specify the details of binding rulings.

RKC Standards

9.9. Standard

The Customs shall issue binding rulings at the request of the interested person, provided that the Customs have all the information they deem necessary.

⁴ It is understood that an advance ruling on the origin of a good may be an assessment of origin for the purposes of the Agreement on Rules of Origin where the ruling meets the requirements of this Agreement and the Agreement on Rules of Origin. Likewise, an assessment of origin under the Agreement on Rules of Origin may be an advance ruling on the origin of a good for the purposes of this Agreement where the ruling meets the requirements of both agreements. Members are not required to establish separate arrangements under this provision in addition to those established pursuant to the Agreement on Rules of Origin in relation to the assessment of origin provided that the requirements of this Article are fulfilled.

Other ECP Instruments and Tools

❖ **Recommendation (1996) on the introduction of programmes for binding pre-entry classification information**

The Recommendation sets out basic principles of programmes for binding pre-entry classification information.

❖ **Recommendation (1998) on the improvement of Tariff Classification work and related infrastructure**

The Recommendation deals with pre-entry classification, including binding classification information.

❖ **Technical Guidelines on Binding Origin Information**

The Guidelines cover all the details of binding origin information.

❖ **Practical Guidelines for Valuation Control**

The Guidelines have general recommended procedures on advance rulings regarding Customs valuation.

❖ **Comparison of the provisions of Article 3 of the WTO TFA with relevant WCO tools**

This document has been produced under the Revenue Package Phase II Action Plan, with the objective of developing a common infrastructure for the provision of advance ruling on classification, origin and valuation.

Members Practices

EBTI System (European Union) (RKC guideline General Annex 9)

- The European Binding Tariff Information (EBTI) Link in Brussels is a central database for the storage of all Binding Tariff Information (BTIs). The objectives of establishing such a link were to comply with Commission Regulations 1715/90 and 3969/90 by making provision for a rapid means of transmission of BTI to the Commission and Member States. Article 4.1 of Implementing Regulation 3796/90 requires that Member States should transmit BTI data using electronic means. The EBTI link became fully operational in the UK in September 1993.
- Member States are not only able to transmit BTI data to the Brussels database, they also have the facility to interrogate the system by one of a number of search criteria or a combination. Interrogating the Brussels database ensures as far as possible that the Member States do not issue divergent BTIs (ie contradicting classification decisions). These would otherwise have to be resolved by lengthy bilateral discussions with other Member States concerned and, in many instances, ultimately discussed in committee, in Brussels. It also enables the European Commission to monitor the BTI decisions for all Member States and ensure that a uniform approach is adopted to classification and all BTI issues.
- In the UK at present, access to this facility is limited to one terminal. However, the Commission produces CD ROMs of the downloaded data and accompanying images, thus allowing wider access to the information. Every member of staff in the Classification Group has access to the CD ROMs via their PC. The CD ROMs are also available to other UK Customs sites.

BERTI (United Kingdom) (RKC guideline General Annex 9)

- The UK Binding Electronic Retrieval of Tariff Information (BERTI) system is a database which racks and manages all correspondence received in the classification group, including the on-line produce of the BTI.
- It was designed to eliminate the keeping of manual records, to eradicate the non duplication of data, and to ensure a uniform and standard approach to classification. BERTI stores all the UK BTI decisions and Liability rulings (i.e. decisions made on behalf of the officer at the port of entry) and has an extensive interrogation and enquiry facility. The system provides comprehensive management information in line with the UKs departmental Charter Standards and local Management Plan targets.
- BERTI is an .in-house. system which went live in March 1997. It is accessed by all classification staff via their PC.

(7) Appeal Mechanism

Trade Facilitation Agreement

ARTICLE 4: PROCEDURES FOR APPEAL OR REVIEW

1.7. 1. Each Member shall provide that any person to whom customs issues an administrative decision⁵ has the right, within its territory, to:

a. (a) an administrative appeal to or review by an administrative authority higher than or independent of the official or office that issued the decision;

and/or

(b) a judicial appeal or review of the decision.

2. The legislation of a Member may require that an administrative appeal or review be initiated prior to a judicial appeal or review.

3. Each Member shall ensure that its procedures for appeal or review are carried out in a non-discriminatory manner.

~~1.8.~~

1.9. 4. Each Member shall ensure that, in a case where the decision on appeal or review under subparagraph 1(a) is not given either:

1.10.

1.11. (a) within set periods as specified in its laws or regulations; or

1.12.

1.13. (b) without undue delay

1.14.

the petitioner has the right to either further appeal to or further review by the administrative authority or the judicial authority or any other recourse to the judicial authority.⁶

5. Each Member shall ensure that the person referred to in paragraph 1 is provided with the reasons for the administrative decision so as to enable such a person to have recourse to procedures for appeal or review where necessary.

6. Each Member is encouraged to make the provisions of this Article applicable to an administrative decision issued by a relevant border agency other than customs.

Revised Kyoto Convention

⁵ An administrative decision in this Article means a decision with a legal effect that affects the rights and obligations of a specific person in an individual case. It shall be understood that an administrative decision in this Article covers an administrative action within the meaning of Article X of the GATT 1994 or failure to take an administrative action or decision as provided for in a Member's domestic law and legal system. For addressing such failure, Members may maintain an alternative administrative mechanism or judicial recourse to direct the customs authority to promptly issue an administrative decision in place of the right to appeal or review under subparagraph 1(a).

⁶ Nothing in this paragraph shall prevent a Member from recognizing administrative silence on appeal or review as a decision in favor of the petitioner in accordance with its laws and regulations.

❖ General Annex § 10 (Appeals in Customs Matters)

Chapter 10 of the General Annex to the Revised Kyoto Convention is about appeals in Customs matters. Detailed guidance is available in the Guidelines to this Chapter, as well as standards.

RKC Standards

A. RIGHT OF APPEAL

10.1. Standard

National legislation shall provide for a right of appeal in Customs matters.

10.2. Standard

Any person who is directly affected by a decision or omission of the Customs shall have a right of appeal.

10.3. Standard

The person directly affected by a decision or omission of the Customs shall be given, after having made a request to the Customs, the reasons for such decision or omission within a period specified in national legislation. This may or may not result in an appeal.

10.4. Standard

National legislation shall provide for the right of an initial appeal to the Customs.

10.5. Standard

Where an appeal to the Customs is dismissed, the appellant shall have the right of a further appeal to an authority independent of the Customs administration.

10.6. Standard

In the final instance, the appellant shall have the right of appeal to a judicial authority.

B. FORM AND GROUNDS OF APPEAL

10.7. Standard

An appeal shall be lodged in writing and shall state the grounds on which it is being made.

10.8. Standard

A time limit shall be fixed for the lodgement of an appeal against a decision of the Customs and it shall be such as to allow the appellant sufficient time to study the contested decision and to prepare an appeal.

10.9. Standard

Where an appeal is to the Customs they shall not, as a matter of course, require that any supporting evidence be lodged together with the appeal but shall, in appropriate circumstances, allow a reasonable time for the lodgement of such evidence.

C. CONSIDERATION OF APPEAL

10.10. Standard

The Customs shall give its ruling upon an appeal and written notice thereof to the appellant as soon as possible.

10.11. Standard

Where an appeal to the Customs is dismissed, the Customs shall set out the reasons therefor in writing and shall advise the appellant of his right to lodge any further appeal with an administrative or independent authority and of any time limit for the lodgement of such appeal.

10.12. Standard

Where an appeal is allowed, the Customs shall put their decision or the ruling of the independent or judicial authority into effect.

Other ECP Instruments and Tools

❖ Revised Arusha Declaration

The Declaration states that Customs procedures should include a procedure for appealing against decisions of the Customs, with the possibility of recourse to independent adjudication of the final instance.

Members Practices

Customs Appeal Authority (New Zealand) (RKC guideline General Annex 10)

1. New Zealand administers Standard 10.5 by way of the Customs Appeal Authority (CAA).
2. The CAA is an independent judicial body established under the Customs and Excise Act 1996 and administered by the Ministry of Justice.
3. It hears appeals against the assessments, decisions, rulings, determinations or directions made under statute by the Chief Executive of the New Zealand Customs Service.
4. The CAA can confirm, reverse, or amend a decision by the Chief Executive of the New Zealand Customs Service.
5. A person can appeal against the decision of the CAA to the High Court. The High Court has jurisdiction over both criminal and civil matters, and deals with cases at first instance or on appeal from other courts and certain tribunals.
6. The CAA is currently composed of one person, appointed by the Governor-General on the recommendation of the Minister of Customs, and the Minister of Justice. However, more than one Authority can be established if required. Hearings are held throughout New Zealand.
7. The CAA provides an easy access, low cost way of appealing decisions of the New Zealand Customs Service's Chief Executive. The CAA is independent of the New Zealand Customs Service, and is able to hear cases "on the papers" without the need for parties to appear.
8. The legal provisions governing the CAA are found in the Customs and Excise Act 1996, Part 16, Customs Appeal Authorities (sections 244 to 274). Part 16 sets out the establishment of the CAA and its proceedings.
9. The Customs and Excise Act 1996 is available on the following website: www.legislation.govt.nz.
10. Recent amendments to the Customs and Excise Act 1996 give further effect to Standard 10.5. The appeal provisions relating to goods that have been seized as forfeit have been changed to allow an appeal to the Chief Executive in the first instance, with a right of appeal to the CAA if not satisfied with the Chief Executive's decision.

United States Court of International Trade (US) (RKC guideline General Annex 10)

- Long before becoming a contracting party to the Original or the Revised Kyoto Convention, the United States had an established appeal process that allowed persons adversely affected by Customs' final administrative decisions to seek review of such decisions, initially from the United States Customs Court and thereafter, its successor, the United States Court of International Trade (USCIT).
- The Customs Court Act of 1980 created the USCIT as a replacement for the 90 year old United States Customs Court. The USCIT hears cases involving international trade matters including appeals and protests filed with various U.S. agencies to include U.S. Customs and Border Protection (CBP). The Customs Court Act of 1980 came about due

to the growing scope and complexity of litigation involving customs and international trade and was aimed at improving the efficiency of the federal court system with regard to international trade litigation.

- USCIT is part of the judicial branch of the United States government, which is completely independent of the executive branch under which CBP and other law enforcement agencies reside. Depending on the nature of the case, appeal action must commence within a specified period of time as provided by statute. See for example, 28 U.S.C. 2636 for the time to seek judicial review of protests.
- The United States Court of Appeals for the Federal Circuit has exclusive jurisdiction over appeals from the USCIT with subsequent appeals being heard by the Supreme Court, the ultimate and final United States court.

(8) Notification for enhanced controls or inspections

Trade Facilitation Agreement

ARTICLE 5: OTHER MEASURES TO ENHANCE IMPARTIALITY, NON-DISCRIMINATION AND TRANSPARENCY

1 NOTIFICATIONS FOR ENHANCED CONTROLS OR INSPECTIONS

Where a Member adopts or maintains a system of issuing notifications or guidance to its concerned authorities for enhancing the level of controls or inspections at the border in respect of foods, beverages, or feedstuffs covered under the notification or guidance for protecting human, animal, or plant life or health within its territory, the following disciplines shall apply to the manner of their issuance, termination, or suspension:

- a. (a) the Member may, as appropriate, issue the notification or guidance based on risk;
- b. (b) the Member may issue the notification or guidance so that it applies uniformly only to those points of entry where the sanitary and phytosanitary conditions on which the notification or guidance are based apply;
- c.(c) the Member shall promptly terminate or suspend the notification or guidance when circumstances giving rise to it no longer exist, or if changed circumstances can be addressed in a less trade-restrictive manner; and
- d. (d) when the Member decides to terminate or suspend the notification or guidance, it shall, as appropriate, promptly publish the announcement of its termination or suspension in a non-discriminatory and easily accessible manner, or inform the exporting Member or the importer.

Revised Kyoto Convention

❖ General Annex § 6 (Customs Control)

Chapter 6 of the General Annex to the Revised Kyoto Convention sets standards on Customs control, risk management and co-operation with other Customs administrations. They do not directly correspond to the import alerts but may help with implementation.

RKC Standards

6.3. Standard

In the application of Customs control, the Customs shall use risk management.

6.4. Standard

The Customs shall use risk analysis to determine which persons and which goods, including means of transport, should be examined and the extent of the examination.

6.7. Standard

The Customs shall seek to co-operate with other Customs administrations and seek to conclude mutual administrative assistance agreements to enhance Customs control.

Other ECP Instruments and Tools

❖ SAFE Framework of Standards

Risk management is a core element of SAFE. Each country that joins the SAFE Framework commits to employing a consistent risk management approach to address security threats.

❖ Risk Management Compendium

The Compendium deals with the systematic application of management procedures and practices which provide Customs with the necessary information to address movements or consignments which present a risk.

❖ Single Window Compendium

A Compendium on a facility that allows parties involved in trade and transport to lodge standardized information and documents with a single entry point to fulfil all import, export and transit-related regulatory requirements.

(9) Detention

Trade Facilitation Agreement

ARTICLE 5: OTHER MEASURES TO ENHANCE IMPARTIALITY, NON-DISCRIMINATION AND TRANSPARENCY

2 Detention

A Member shall promptly inform the carrier or importer in case of detention of goods declared for importation, for inspection by customs or any other competent authority.

Revised Kyoto Convention

❖ General Annex § 3 (Clearance and other Customs Formalities)

Standard 3.36 in the General Annex that says that Customs shall consider requests by the declarant to be present or to be represented at the examination of the goods. Such requests shall be granted unless exceptional circumstances exist.

RKC Standards

3.36. Standard

The Customs shall consider requests by the declarant to be present or to be represented at the examination of the goods. Such requests shall be granted unless exceptional circumstances exist.

❖ General Annex § 6 (Customs Control)

Standard 6.1 of the General Annex to the Revised Kyoto Convention sets out the scope of Customs Control.

RKC Standards

6.1. Standard

All goods, including means of transport, which enter or leave the Customs territory, regardless of whether they are liable to duties and taxes, shall be subject to Customs control.

❖ Specific Annex H § 1 (Customs Offences)

Chapter 1 of Specific Annex H to the Revised Kyoto Convention sets standards on seizure or detention of the goods. It also includes several recommended practices regarding detention, Customs control, risk management and co-operation with other Customs administrations. They do not directly correspond to the import alerts but may help with implementation.

RKC Standards

11. Standard

The Customs shall seize goods and/or means of transport only when :

- they are liable to forfeiture or confiscation; or
- they may be required to be produced as evidence at some later stage in the procedure.

12. Standard

If a Customs offence relates only to part of a consignment, only that part shall be seized or detained,

RKC Standards

provided that the Customs are satisfied that the remainder of the consignment did not serve, directly or indirectly, in the commission of the offence.

13. Standard

When the Customs seize or detain goods and/or means of transport, they shall furnish the person concerned with a document showing :

- the description and quantity of the goods and means of transport seized or detained;
- the reason for the seizure or detention; and
- the nature of the offence.

14. Recommended Practice

The Customs should release seized or detained goods against adequate security, provided that the goods are not subject to any prohibitions or restrictions or needed as evidence at some later stage in the procedure.

15. Recommended Practice

The Customs should release from seizure or detention means of transport that have been used in the commission of a Customs offence where they are satisfied that :

- the means of transport have not been constructed, adapted or altered or fitted in any manner for the purpose of concealing goods; and
- the means of transport are not required to be produced as evidence at some later stage in the procedure; and
- where required, adequate security can be given.

16. Recommended Practice

Means of transport should only be forfeited or confiscated where :

- the owner, operator or person in charge was, at the time, a consenting party or privy to the Customs offence, or had not taken all reasonable steps to prevent the commission of the offence; or
- the means of transport has been specially constructed, adapted or altered or fitted in any manner for the purpose of concealing goods; or
- restoration of the means of transport which has been specially altered or adapted is not possible.

17. Recommended Practice

Unless they are likely to deteriorate quickly or it would, due to their nature, be impracticable for the Customs to store them, seized or detained goods should not be sold or otherwise disposed of by the Customs before they have been definitively condemned as forfeited or confiscated or have been abandoned to the Revenue.

Other ECP Instruments and Tools

❖ Risk Management Compendium

The Compendium deals with the systematic application of management procedures and practices which provide Customs with the necessary information to address movements or consignments which present a risk.

❖ **Compendium of Customs Operational Practices for Enforcement and Seizures (COPES)**

The Compendium is designed to highlight useful Customs operational practices in the area of enforcement and seizures, given their important role as tools for Customs administrations as governments strive to ensure the safety and security of their citizens, as well as to preserve the legitimate global trading system.

(10) Test Procedure

Trade Facilitation Agreement

ARTICLE 5: OTHER MEASURES TO ENHANCE IMPARTIALITY, NON-DISCRIMINATION AND TRANSPARENCY

3 TEST PROCEDURES

3.1 A MEMBER MAY, UPON REQUEST, GRANT AN OPPORTUNITY FOR A SECOND TEST IN CASE THE FIRST TEST RESULT OF A SAMPLE TAKEN UPON ARRIVAL OF GOODS DECLARED FOR IMPORTATION SHOWS AN ADVERSE FINDING.

1.15.

1.16. 3.2 A Member shall either publish, in a non-discriminatory and easily accessible manner, the name and address of any laboratory where the test can be carried out or provide this information to the importer when it is granted the opportunity provided under paragraph 3.1.

1.17.

1.18. 3.3 A Member shall consider the result of the second test, if any, conducted under paragraph 3.1, for the release and clearance of goods and, if appropriate, may accept the results of such test.

Revised Kyoto Convention

❖ General Annex § 3 (Clearance and other Customs Formalities)

Chapter 3 of the General Annex to the Revised Kyoto Convention sets a standard on sampling by the Customs.

RKC Standards

3.38. Standard

Samples shall be taken only where deemed necessary by the Customs to establish the tariff description and/or value of goods declared or to ensure the application of other provisions of national legislation. Samples drawn shall be as small as possible.

Other ECP Instruments and Tools

❖ Customs Laboratory Guide

The Customs Laboratory Guide is primarily meant to be a practical handbook for the establishment or improvement of Customs laboratories in developing countries. The Guide includes the "best practices" covering a variety of laboratory operations.

II. Modernized Procedures and Formalities

(1) Fees and Charges

Trade Facilitation Agreement

ARTICLE 6: DISCIPLINES ON FEES AND CHARGES IMPOSED ON OR IN CONNECTION WITH IMPORTATION AND EXPORTATION AND PENALTIES

1 GENERAL DISCIPLINES ON FEES AND CHARGES IMPOSED ON OR IN CONNECTION WITH IMPORTATION AND EXPORTATION

1.1 The provisions of paragraph 1 shall apply to all fees and charges other than import and export duties and other than taxes within the purview of Article III of GATT 1994 imposed by Members on or in connection with the importation or exportation of goods.

1.2 Information on fees and charges shall be published in accordance with Article 1. This information shall include the fees and charges that will be applied, the reason for such fees and charges, the responsible authority and when and how payment is to be made.

1.3 An adequate time period shall be accorded between the publication of new or amended fees and charges and their entry into force, except in urgent circumstances. Such fees and charges shall not be applied until information on them has been published.

1.4 Each Member shall periodically review its fees and charges with a view to reducing their number and diversity, where practicable.

2 SPECIFIC DISCIPLINES ON FEES AND CHARGES FOR CUSTOMS PROCESSING IMPOSED ON OR IN CONNECTION WITH IMPORTATION AND EXPORTATION

1.19.

1.20. Fees and charges for customs processing:

- i. (i) shall be limited in amount to the approximate cost of the services rendered on or in connection with the specific import or export operation in question; and
- (ii) are not required to be linked to a specific import or export operation provided they are levied for services that are closely connected to the customs processing of goods.

Revised Kyoto Convention

❖ General Annex § 3 (Clearance and other Customs Formalities)

Chapter 3 of the General Annex to the Revised Kyoto Convention sets standards on fees and charges for additional Customs services. Similar provisions are found in Specific Annexes which set forth principles for specific Customs procedures.

RKC Standards

3.2. Standard

At the request of the person concerned and for reasons deemed valid by the Customs, the latter shall, subject to the availability of resources, perform the functions laid down for the purposes of a Customs procedure and practice outside the designated hours of business or away from Customs offices. Any expenses chargeable by the Customs shall be limited to the approximate cost of the services rendered.

3.45. Transitional Standard

When the Customs sell goods which have not been declared within the time allowed or could not be released although no offence has been discovered, the proceeds of the sale, after deduction of any duties and taxes and all other charges and expenses incurred, shall be made over to those persons entitled to receive them or, when this is not possible, held at their disposal for a specified period.

❖ General Annex § 9 (Information, Decisions and Rulings Supplied by the Customs)

Chapter 9 of the General Annex also stipulates that any charges be limited to the approximate cost of the services rendered.

RKC Standards

9.7. Standard

When the Customs cannot supply information free of charge, any charge shall be limited to the approximate cost of the services rendered.

❖ Specific Annex A § 1 (Formalities prior to the lodgement of the Goods declaration)

Chapter 1 of Specific Annex A stipulates that expenses chargeable by Customs shall be limited to the cost of the services rendered.

RKC Standards

19. Standard

Any expenses chargeable by the Customs in connection with :

- accomplishment of Customs formalities prior to the lodgement of the Goods declaration outside the designated hours of business of the Customs;
- unloading goods at a place other than the one approved for unloading; or
- unloading goods outside the designated hours of business of the Customs,

shall be limited to the approximate cost of the services rendered.

Other ECP Instruments and Tools

❖ Revised Arusha Declaration

The Declaration is the focal point for the WCO's anti-corruption and integrity development effort. It contains specific elements that are designed to improve the efficiency of Member administrations and reduce or eliminate opportunities for corruption.

(2) Penalties

Trade Facilitation Agreement

ARTICLE 6: DISCIPLINES ON FEES AND CHARGES IMPOSED ON OR IN CONNECTION WITH IMPORTATION AND EXPORTATION AND PENALTIES

3 Penalty Disciplines

3.1 For the purpose of paragraph 3, the term "penalties" shall mean those imposed by a Member's customs administration for a breach of the Member's customs laws, regulations, or procedural requirements.

3.2 Each Member shall ensure that penalties for a breach of a customs law, regulation, or procedural requirement are imposed only on the person(s) responsible for the breach under its laws.

3.3 The penalty imposed shall depend on the facts and circumstances of the case and shall be commensurate with the degree and severity of the breach.

1.21. 3.4 Each Member shall ensure that it maintains measures to avoid:

- i. (a) conflicts of interest in the assessment and collection of penalties and duties; and
- (b) creating an incentive for the assessment or collection of a penalty that is inconsistent with paragraph 3.3.

3.5 Each Member shall ensure that when a penalty is imposed for a breach of customs laws, regulations, or procedural requirements, an explanation in writing is provided to the person(s) upon whom the penalty is imposed specifying the nature of the breach and the applicable law, regulation or procedure under which the amount or range of penalty for the breach has been prescribed.

3.6 When a person voluntarily discloses to a Member's customs administration the circumstances of a breach of a customs law, regulation, or procedural requirement prior to the discovery of the breach by the customs administration, the Member is encouraged to, where appropriate, consider this fact as a potential mitigating factor when establishing a penalty for that person.

3.7 The provisions of this paragraph shall apply to the penalties on traffic in transit referred to in paragraph 3.1.

Revised Kyoto Convention

❖ General Annex § 3 (Clearance and other Customs Formalities)

Chapter 3 of the General Annex has several standards relating to Customs offences and errors.

RKC Standards

3.39. Standard

The Customs shall not impose substantial penalties for errors where they are satisfied that such errors are inadvertent and that there has been no fraudulent intent or gross negligence. Where they consider

RKC Standards

it necessary to discourage a repetition of such errors, a penalty may be imposed but shall be no greater than is necessary for this purpose.

3.43. Standard

When an offence has been detected, the Customs shall not wait for the completion of administrative or legal action before they release the goods, provided that the goods are not liable to confiscation or forfeiture or to be needed as evidence at some later stage and that the declarant pays the duties and taxes and furnishes security to ensure collection of any additional duties and taxes and of any penalties which may be imposed.

❖ Specific Annex H § 1 (Customs Offences)

Chapter 1 of Specific Annex H sets out detailed rules for administrative settlement of Customs offences.

RKC Standards

Administrative settlement of Customs offences

19. Standard

The Customs shall take the necessary measures to ensure, where applicable, that as soon as possible after a Customs offence is discovered :

- the administrative settlement of the latter is initiated; and
- the person concerned is informed about the terms and conditions of the settlement, the avenues of appeal and the time limits for such appeals.

20. Recommended Practice

Where during clearance of the goods a Customs offence has been discovered which is regarded as of minor importance, it should be possible for the offence to be settled by the Customs office which discovers it.

21. Recommended Practice

Where a traveller is regarded as having committed a Customs offence of minor importance, it should be possible for the offence to be settled without delay by the Customs office which discovers it.

22. Standard

National legislation shall lay down the penalties applicable to each category of Customs offence that can be dealt with by administrative settlement and shall designate the Customs offices competent to apply them.

23. Standard

The severity or the amount of any penalties applied in an administrative settlement of a Customs offence shall depend upon the seriousness or importance of the Customs offence committed and the record of the person concerned in his dealings with the Customs.

24. Standard

Where untrue particulars are furnished in a Goods declaration and the declarant can show that all reasonable steps had been taken to provide accurate and correct information, the Customs shall take that factor into account in considering the imposition of any penalty.

25. Standard

RKC Standards

Where a Customs offence occurs as a result of force majeure or other circumstances beyond the control of the person concerned and there is no question of negligence or fraudulent intent on his part, no penalty shall be applied provided that the facts are duly established to the satisfaction of the Customs.

(3) Pre-Arrival Processing

Trade Facilitation Agreement

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

1 PRE-ARRIVAL PROCESSING

1.22.

1.23. 1.1 Each Member shall adopt or maintain procedures allowing for the submission of import documentation and other required information, including manifests, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival.

1.2 Each Member shall, as appropriate, provide for advance lodging of documents in electronic format for pre-arrival processing of such documents.

Revised Kyoto Convention

❖ General Annex § 3 (Clearance and other Customs Formalities)

Standard 3.25 of the General Annex to the Revised Kyoto Convention covers prior lodgement and registration of the goods declaration. The Guidelines to the standard set out the general application of prior lodgement.

RKC Standards

3.25. Standard

National legislation shall make provision for the lodging and registering or checking of the Goods declaration and supporting documents prior to the arrival of the goods.

❖ General Annex § 7 (Application of Information Technology)

Section 6.4 of the ICT Guidelines (Guidelines to Chapter 7 of the RKC General Annex) provides more detailed information on goods declaration processing (import and export) including pre-arrival/pre-departure processing

Other ECP Instruments and Tools

❖ SAFE Framework of Standards

Technical Specifications for Standards Implementation for Standard 1 (Integrated Supply Chain Management) set out detailed procedures on submission of data, including the import/export goods declaration, cargo declaration and their time limits.

❖ Immediate Release Guidelines

The Guidelines operate on the principle of information being provided by the operator to Customs in advance of the arrival of the goods. They provide categorization of goods. They also identify a set of data that is to be provided for grant of release of goods under these categories, as well as procedures to be followed.

❖ **Data Model**

The WCO Data Model is a set of carefully combined data requirements that are mutually supportive and which will be updated on a regular basis to meet the procedural and legal needs of cross-border regulatory agencies such as Customs, controlling export, import and transit transactions. Data requirements for pre-arrival processing have been covered in the Data Model.

(4) Electronic Payment

Trade Facilitation Agreement

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

2 ELECTRONIC PAYMENT

Each Member shall, to the extent practicable, adopt or maintain procedures allowing the option of electronic payment for duties, taxes, fees, and charges collected by customs incurred upon importation and exportation.

Revised Kyoto Convention

❖ General Annex § 7 (Application of Information Technology)

Standard 7.1 of the General Annex to the Revised Kyoto Convention requires the application of information technology to support Customs operations. Section 6.10 in the RKC ICT Guidelines deals with revenue accounting and covers electronic payment and electronic funds transfer.

RKC Standards

7.1. Standard

The Customs shall apply information technology to support Customs operations, where it is cost-effective and efficient for the Customs and for the trade. The Customs shall specify the conditions for its application.

Other ECP Instruments and Tools

❖ Single Window Compendium

The Single Window Compendium in its last revision makes reference to the TFA Article 7.2 stressing that in order to meet the obligations under the TFA, it is prudent to consider a Single Window approach as electronic payment here refers to all duties, taxes, fees, and charges collected by customs incurred upon importation and exportation.

(5) Separation of Release from Final Determination and Payment of Customs Duties

Trade Facilitation Agreement

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

3 SEPARATION OF RELEASE FROM FINAL DETERMINATION OF CUSTOMS DUTIES, TAXES, FEES AND CHARGES

3.1 Each Member shall adopt or maintain procedures allowing the release of goods prior to the final determination of customs duties, taxes, fees, and charges, if such a determination is not done prior to, or upon arrival, or as rapidly as possible after arrival and provided that all other regulatory requirements have been met.

1.24.

1.25. 3.2 As a condition for such release, a Member may require:

1.26.

a. (a) payment of customs duties, taxes, fees, and charges determined prior to or upon arrival of goods and a guarantee for any amount not yet determined in the form of a surety, a deposit, or another appropriate instrument provided for in its laws and regulations; or

(b) a guarantee in the form of a surety, a deposit, or another appropriate instrument provided for in its laws and regulations.

1.27. 3.3 Such guarantee shall not be greater than the amount the Member requires to ensure payment of customs duties, taxes, fees, and charges ultimately due for the goods covered by the guarantee.

3.4 In cases where an offence requiring imposition of monetary penalties or fines has been detected, a guarantee may be required for the penalties and fines that may be imposed.

3.5 The guarantee as set out in paragraphs 3.2 and 3.4 shall be discharged when it is no longer required.

3.6 Nothing in these provisions shall affect the right of a Member to examine, detain, seize or confiscate or deal with the goods in any manner not otherwise inconsistent with the Member's WTO rights and obligations.

Revised Kyoto Convention

❖ General Annex § 3 (Clearance and other Customs Formalities)

Standards 3.13, 3.14, 3.17, 3.41 and 4.9 of the General Annex to the Revised Kyoto Convention are relevant to separation of release from final determination and payment of duties and taxes.

RKC Standards

3.13. Standard

Where, for reasons deemed valid by the Customs, the declarant does not have all the information required to make the Goods declaration, a provisional or incomplete Goods declaration shall be

RKC Standards

allowed to be lodged, provided that it contains the particulars deemed necessary by the Customs and that the declarant undertakes to complete it within a specified period.

3.14. Standard

If the Customs register a provisional or incomplete Goods declaration, the tariff treatment to be accorded to the goods shall not be different from that which would have been accorded had a complete and correct Goods declaration been lodged in the first instance.

The release of the goods shall not be delayed provided that any security required has been furnished to ensure collection of any applicable duties and taxes.

3.17. Standard

Where certain supporting documents cannot be lodged with the Goods declaration for reasons deemed valid by the Customs, they shall allow production of those documents within a specified period.

4.9. Standard

When national legislation specifies that the due date may be after the release of the goods, that date shall be at least ten days after the release. No interest shall be charged for the period between the date of release and the due date.

❖ General Annex § 5 (Security)

Chapter 5 of the General Annex is about security.

RKC Standards

5.1. Standard

National legislation shall enumerate the cases in which security is required and shall specify the forms in which security is to be provided.

5.2. Standard

The Customs shall determine the amount of security.

5.3. Standard

Any person required to provide security shall be allowed to choose any form of security provided that it is acceptable to the Customs.

5.4. Standard

Where national legislation provides, the Customs shall not require security when they are satisfied that an obligation to the Customs will be fulfilled.

5.5. Standard

When security is required to ensure that the obligations arising from a Customs procedure will be fulfilled, the Customs shall accept a general security, in particular from declarants who regularly declare goods at different offices in the Customs territory.

5.6. Standard

Where security is required, the amount of security to be provided shall be as low as possible and, in respect of the payment of duties and taxes, shall not exceed the amount potentially chargeable.

5.7. Standard

RKC Standards

Where security has been furnished, it shall be discharged as soon as possible after the Customs are satisfied that the obligations under which the security was required have been duly fulfilled.

❖ **General Annex § 7 (Application of Information Technology)**

Section 6.10 of the ICT Guidelines covers details regarding deferred payment and guarantee management.

Other ECP Instruments and Tools

❖ **SAFE Framework of Standards**

The SAFE Framework of Standards harmonizes the advance electronic cargo information requirements on inbound, outbound and transit shipments.

❖ **Immediate Release Guidelines**

The Guidelines operate on the principle of information being provided by the operator to Customs in advance of the arrival of the goods. They provide categorization of goods. They also identify a set of data that is to be provided for grant of release of goods under these categories, as well as procedures to be followed.

(6) Risk Management

Trade Facilitation Agreement

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

4 RISK MANAGEMENT

4.1 Each Member shall, to the extent possible, adopt or maintain a risk management system for customs control.

1.28.

1.29. 4.2 Each Member shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination, or a disguised restriction on international trade.

1.30. 4.3 Each Member shall concentrate customs control and, to the extent possible other relevant border controls, on high-risk consignments and expedite the release of low-risk consignments. A Member also may select, on a random basis, consignments for such controls as part of its risk management.

4.4 Each Member shall base risk management on an assessment of risk through appropriate selectivity criteria. Such selectivity criteria may include, *inter alia*, the Harmonized System code, nature and description of the goods, country of origin, country from which the goods were shipped, value of the goods, compliance record of traders, and type of means of transport.

Revised Kyoto Convention

❖ General Annex § 6 (Customs Control)

Standards 6.3 to 6.5 of the General Annex to the Revised Kyoto Convention set out principles of Customs risk management. The Guidelines to these Standards cover many aspects of risk management, including control method, supporting infrastructure and examples of a Customs control process.

RKC Standards

6.3. Standard

In the application of Customs control, the Customs shall use risk management.

6.4. Standard

The Customs shall use risk analysis to determine which persons and which goods, including means of transport, should be examined and the extent of the examination.

6.5. Standard

The Customs shall adopt a compliance measurement strategy to support risk management.

❖ General Annex § 7 (Application of Information Technology)

Section 6.8 of the ICT Guidelines to RKC Chapter 7 also covers selectivity and risk management from an information management perspective.

Other ECP Instruments and Tools

❖ SAFE Framework of Standards

Risk management is a core element of SAFE. Each country that joins the SAFE Framework commits to employing a consistent risk management approach to address security threats.

❖ Risk Management Compendium

The Compendium deals with the systematic application of management procedures and practices which provide Customs with the necessary information to address movements or consignments which present a risk.

❖ Customs Enforcement Network (CEN)

The Customs Enforcement Network (CEN) is a global depository of non-nominal enforcement-related information with, at its core, a database of seizures and offences covering various areas of Customs' competence. The CEN is essentially an analytical tool enabling users to analyze data on a global level in order to identify trends, prepare risk indicators, and conduct wider risk management.

❖ National Customs Enforcement Network (nCEN)

The national Customs Enforcement Network (nCEN) is a tool for the collection of nominal data on seizures and offences, suspected persons, and business entities on a national level. Much like the CEN, it permits the analysis of seizure data on the national level in order to enable more effective risk management and targeted controls based on specific selectivity criteria.

Case Studies

The following case studies on Risk Management are attached to the Risk Management Compendium (Annex 5).

Members	Case Study
Argentina	Risk management in the Argentina Customs
Jamaica	From traditional to risk-based control approach
Japan	Example of benefits of risk management
Kenya	Organization of the risk management function
Korea	Integrated Risk Management System
Mauritius	Using Risk Assessment and profiling to select for examination of textile fabrics having undergone some working such as hemming or formation of necklines
United States	Risk-based, layered approach to supply chain security

(7) Post-Clearance Audit

Trade Facilitation Agreement

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

5 Post-clearance Audit

5.1 With a view to expediting the release of goods, each Member shall adopt or maintain post-clearance audit to ensure compliance with customs and other related laws and regulations.

5.2 Each Member shall select a person or a consignment for post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each Member shall conduct post-clearance audits in a transparent manner. Where the person is involved in the audit process and conclusive results have been achieved the Member shall, without delay, notify the person whose record is audited of the results, the person's rights and obligations, and the reasons for the results.

5.3 The information obtained in post-clearance audit may be used in further administrative or judicial proceedings.

5.4 Members shall, wherever practicable, use the result of post-clearance audit in applying risk management.

Revised Kyoto Convention

❖ General Annex § 6 (Customs Control)

Standard 6.6 of the General Annex to the Revised Kyoto Convention is about the principle of audit-based control. The Guidelines to Chapter 6 include the details on post-clearance audit and trader self-assessment.

RKC Standards

6.6. Standard

Customs control systems shall include audit-based controls.

Other ECP Instruments and Tools

❖ SAFE Framework of Standards

Risk management is a core element of SAFE. Each country that joins the SAFE Framework commits to employing a consistent risk management approach to address security threats.

❖ Post-Clearance Audit Guidelines

The Guidelines facilitate a process which enables Customs officers to verify, after release and clearance of goods, the accuracy of declarations through the examination of the books, records, business systems and all relevant Customs commercial data held by persons/companies directly or indirectly involved in international trade.

❖ **Risk Management Compendium**

The Compendium deals with the systematic application of management procedures and practices which provide Customs with the necessary information to address movements or consignments which present a risk.

Case Studies

The case studies of Romania, Italy, Ireland, Sweden, Finland, Thailand Peru and Turkey on post-clearance audit are attached to the Post-Clearance Audit Guidelines (Volume 2).

(8) Authorized Operators

Trade Facilitation Agreement

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

7 Trade Facilitation Measures for Authorized Operators

7.1 Each Member shall provide additional trade facilitation measures related to import, export, or transit formalities and procedures, pursuant to paragraph 7.3, to operators who meet specified criteria, hereinafter called authorized operators. Alternatively, a Member may offer such trade facilitation measures through customs procedures generally available to all operators and is not required to establish a separate scheme.

7.2 The specified criteria to qualify as an authorized operator shall be related to compliance, or the risk of non-compliance, with requirements specified in a Member's laws, regulations or procedures.

- (a) Such criteria, which shall be published, may include:
 - a. (i) an appropriate record of compliance with customs and other related laws and regulations;
 - b. (ii) a system of managing records to allow for necessary internal controls;
 - c. (iii) financial solvency, including, where appropriate, provision of a sufficient security or guarantee; and
 - d. (iv) supply chain security.
- (b) Such criteria shall not:
 - e. (i) be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail; and
 - f. (ii) to the extent possible, restrict the participation of small and medium-sized enterprises.

7.3 The trade facilitation measures provided pursuant to paragraph 7.1 shall include at least three of the following measures:⁷

- (a) low documentary and data requirements, as appropriate;
- (b) low rate of physical inspections and examinations, as appropriate;
- (c) rapid release time, as appropriate;
- (d) deferred payment of duties, taxes, fees, and charges;

⁷ A measure listed in subparagraphs 7.3 (a) to (g) will be deemed to be provided to authorized operators if it is generally available to all operators.

- g. (e) use of comprehensive guarantees or reduced guarantees;
 - h. (f) a single customs declaration for all imports or exports in a given period;
- and
- (g) clearance of goods at the premises of the authorized operator or another place authorized by customs.

7.4 Members are encouraged to develop authorized operator schemes on the basis of international standards, where such standards exist, except when such standards would be an inappropriate or ineffective means for the fulfilment of the legitimate objectives pursued.

7.5 In order to enhance the trade facilitation measures provided to operators, Members shall afford to other Members the possibility of negotiating mutual recognition of authorized operator schemes.

7.6 Members shall exchange relevant information within the Committee about authorized operator schemes in force.

Revised Kyoto Convention

❖ General Annex § 3 (Clearance and other Customs Formalities)

Standard 3.32 of the General Annex to the Revised Kyoto Convention is about the principle of special procedures for authorized persons. The Guidelines to the standard cover the details on types of special procedures for such persons and the authorization method.

RKC Standards

3.32. Transitional Standard

For authorized persons who meet criteria specified by the Customs, including having an appropriate record of compliance with Customs requirements and a satisfactory system for managing their commercial records, the Customs shall provide for :

- release of the goods on the provision of the minimum information necessary to identify the goods and permit the subsequent completion of the final Goods declaration;
- clearance of the goods at the declarant's premises or another place authorized by the Customs;
 - and, in addition, to the extent possible, other special procedures such as :
- allowing a single Goods declaration for all imports or exports in a given period where goods are imported or exported frequently by the same person;
- use of the authorized persons' commercial records to self-assess their duty and tax liability and, where appropriate, to ensure compliance with other Customs requirements;
- allowing the lodgement of the Goods declaration by means of an entry in the records of the authorized person to be supported subsequently by a supplementary Goods declaration.

Other ECP Instruments and Tools

❖ SAFE Framework of Standards

The SAFE Framework principally incorporated into its text detailed provisions on the conditions and requirements for Customs and Authorized Economic Operators (AEO), initially developed in a separate document. This addition was driven by the perception that both Customs and its business

partners would benefit from having all SAFE and AEO provisions readily available in a single comprehensive instrument.

❖ **SAFE Package**

The Package includes the SAFE Framework, the Integrated Supply Chain Management Guidelines, AEO Implementation Guidance, the AEO Compendium, Model AEO Appeal Procedures, AEO Benefits: A contribution from the WCO Private Sector Consultative Group, the Guidelines for the Purchase and Deployment of Scanning/NII Equipment, the SAFE Data Element Maintenance Mechanism, the Trade Recovery Guidelines, and FAQ for Small and Medium Enterprises. Guidelines for Developing a Mutual Recognition Arrangement/Agreement (MRA) and an AEO Template have now been added to the Package.

Members Practices

The AEO Compendium (2014 Edition) includes information on 53 AEO Programmes and 13 Compliance Programmes.

(9) Expedited Shipments

Trade Facilitation Agreement

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

8 Expedited Shipments

1.31. 8.1 Each Member shall adopt or maintain procedures allowing for the expedited release of at least those goods entered through air cargo facilities to persons who apply for such treatment, while maintaining customs control.⁸ If a Member employs criteria⁹ limiting who may apply, the Member may, in published criteria, require that the applicant shall, as conditions for qualifying for the application of the treatment described in paragraph 8.2 to its expedited shipments:

1.32.

- a. (a) provide adequate infrastructure and payment of customs expenses related to processing of expedited shipments in cases where the applicant fulfils the Member's requirements for such processing to be performed at a dedicated facility;
- b. (b) submit in advance of the arrival of an expedited shipment the information necessary for the release;
- c. (c) be assessed fees limited in amount to the approximate cost of services rendered in providing the treatment described in paragraph 8.2;
- d. (d) maintain a high degree of control over expedited shipments through the use of internal security, logistics, and tracking technology from pick-up to delivery;
- e. (e) provide expedited shipment from pick-up to delivery;
- f. (f) assume liability for payment of all customs duties, taxes, fees, and charges to the customs authority for the goods;
- g. (g) have a good record of compliance with customs and other related laws and regulations;
- h. (h) comply with other conditions directly related to the effective enforcement of the Member's laws, regulations, and procedural requirements, that specifically relate to providing the treatment described in paragraph 8.2.

1.33. 8.2 Subject to paragraphs 8.1 and 8.3, Members shall:

- a. (a) minimize the documentation required for the release of expedited shipments in accordance with paragraph 1 of Article 10 and, to the extent possible, provide for release based on a single submission of information on certain shipments;
- b. (b) provide for expedited shipments to be released under normal circumstances as rapidly as possible after arrival, provided the information required for release has been submitted;

⁸ In cases where a Member has an existing procedure that provides the treatment in paragraph 8.2, this provision does not require that Member to introduce separate expedited release procedures.

⁹ Such application criteria, if any, shall be in addition to the Member's requirements for operating with respect to all goods or shipments entered through air cargo facilities.

- c. (c) endeavour to apply the treatment in subparagraphs (a) and (b) to shipments of any weight or value recognizing that a Member is permitted to require additional entry procedures, including declarations and supporting documentation and payment of duties and taxes, and to limit such treatment based on the type of good, provided the treatment is not limited to low value goods such as documents; and
- d. (d) provide, to the extent possible, for a *de minimis* shipment value or dutiable amount for which customs duties and taxes will not be collected, aside from certain prescribed goods. Internal taxes, such as value added taxes and excise taxes, applied to imports consistently with Article III of the GATT 1994 are not subject to this provision.

8.3 Nothing in paragraphs 8.1 and 8.2 shall affect the right of a Member to examine, detain, seize, confiscate or refuse entry of goods, or to carry out post-clearance audits, including in connection with the use of risk management systems. Further, nothing in paragraphs 8.1 and 8.2 shall prevent a Member from requiring, as a condition for release, the submission of additional information and the fulfilment of non-automatic licensing requirements.

Revised Kyoto Convention

❖ General Annex § 3 (Clearance and other Customs Formalities)

Chapter 3 of the General Annex to the Revised Kyoto Convention sets a series of standards on clearance of goods and other Customs formalities. The Guidelines to the Chapter provide details of such standards, including establishment of Customs offices, rights and responsibilities of the declarant, the goods declaration, lodgement and registration of the goods declaration and Customs examination and inspection.

Other ECP Instruments and Tools

❖ Immediate Release Guidelines

The Guidelines operate on the principle of information being provided by the operator to Customs in advance of the arrival of the goods. They provide categorization of goods. They also identify a set of data that is to be provided for grant of release of goods under these categories, as well as procedures to be followed.

❖ Data Model

The data requirements for certain categories of goods under the IRG were mapped to the **Data Model**. The results of this mapping have been included in the updated version of the IRG adopted by the PTC in November 2013.

(10) Perishable Goods

Trade Facilitation Agreement

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

9 PERISHABLE GOODS¹⁰

1.34.

1.35. 9.1 With a view to preventing avoidable loss or deterioration of perishable goods, and provided that all regulatory requirements have been met, each Member shall provide for the release of perishable goods:

- a. (a) under normal circumstances within the shortest possible time; and
- (b) in exceptional circumstances where it would be appropriate to do so, outside the business hours of customs and other relevant authorities.

9.2 Each Member shall give appropriate priority to perishable goods when scheduling any examinations that may be required.

9.3 Each Member shall either arrange or allow an importer to arrange for the proper storage of perishable goods pending their release. The Member may require that any storage facilities arranged by the importer have been approved or designated by its relevant authorities. The movement of the goods to those storage facilities, including authorizations for the operator moving the goods, may be subject to the approval, where required, of the relevant authorities. The Member shall, where practicable and consistent with domestic legislation, upon the request of the importer, provide for any procedures necessary for release to take place at those storage facilities.

9.4 In cases of significant delay in the release of perishable goods, and upon written request, the importing Member shall, to the extent practicable, provide a communication on the reasons for the delay.

Revised Kyoto Convention

❖ General Annex § 3 (Clearance and other Customs Formalities)

Standard 3.34 of the General Annex to the Revised Kyoto Convention requires giving priority to the examination of perishable goods.

RKC Standards

3.34. Standard

When scheduling examinations, priority shall be given to the examination of live animals and perishable goods and to other goods which the Customs accept are urgently required.

¹⁰ For the purposes of this provision, perishable goods are goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.

(11) Formalities and Documentation Requirements

Trade Facilitation Agreement

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION, EXPORTATION AND TRANSIT

1 FORMALITIES AND DOCUMENTATION REQUIREMENTS

1.1 With a view to minimizing the incidence and complexity of import, export, and transit formalities and to decreasing and simplifying import, export, and transit documentation requirements and taking into account the legitimate policy objectives and other factors such as changed circumstances, relevant new information, business practices, availability of techniques and technology, international best practices, and inputs from interested parties, each Member shall review such formalities and documentation requirements and, based on the results of the review, ensure, as appropriate, that such formalities and documentation requirements are:

- (a) adopted and/or applied with a view to a rapid release and clearance of goods, particularly perishable goods;
- (b) adopted and/or applied in a manner that aims at reducing the time and cost of compliance for traders and operators;
- (c) the least trade restrictive measure chosen where two or more alternative measures are reasonably available for fulfilling the policy objective or objectives in question; and
- (d) not maintained, including parts thereof, if no longer required.

1.2 The Committee shall develop procedures for the sharing by Members of relevant information and best practices, as appropriate.

2 ACCEPTANCE OF COPIES

1.36. 2.1 Each Member shall, where appropriate, endeavour to accept paper or electronic copies of supporting documents required for import, export, or transit formalities.

1.37. 2.2 Where a government agency of a Member already holds the original of such a document, any other agency of that Member shall accept a paper or electronic copy, where applicable, from the agency holding the original in lieu of the original document.

1.38. 2.3 A Member shall not require an original or copy of export declarations submitted to the customs authorities of the exporting Member as a requirement for importation.¹¹

Revised Kyoto Convention

❖ General Annex § 3 (Clearance and other Customs Formalities)

Chapter 3 of the General Annex to the Revised Kyoto Convention sets a series of standards on clearance of goods and other Customs formalities. The Guidelines to the Chapter provide details of such standards, including establishment of Customs offices, rights and responsibilities of the

¹¹ Nothing in this paragraph precludes a Member from requiring documents such as certificates, permits or licenses as a requirement for the importation of controlled or regulated goods.

declarant, the goods declaration, lodgement and registration of the goods declaration and Customs examination and inspection.

RKC Standards

The Goods declaration

(a) Goods declaration format and contents

3.11. Standard

The contents of the Goods declaration shall be prescribed by the Customs. The paper format of the Goods declaration shall conform to the UN-layout key.

For automated Customs clearance processes, the format of the electronically lodged Goods declaration shall be based on international standards for electronic information exchange as prescribed in the Customs Co-operation Council Recommendations on information technology.

3.12. Standard

The Customs shall limit the data required in the Goods declaration to only such particulars as are deemed necessary for the assessment and collection of duties and taxes, the compilation of statistics and the application of Customs law.

3.13. Standard

Where, for reasons deemed valid by the Customs, the declarant does not have all the information required to make the Goods declaration, a provisional or incomplete Goods declaration shall be allowed to be lodged, provided that it contains the particulars deemed necessary by the Customs and that the declarant undertakes to complete it within a specified period.

3.14. Standard

If the Customs register a provisional or incomplete Goods declaration, the tariff treatment to be accorded to the goods shall not be different from that which would have been accorded had a complete and correct Goods declaration been lodged in the first instance.

The release of the goods shall not be delayed provided that any security required has been furnished to ensure collection of any applicable duties and taxes.

3.15. Standard

The Customs shall require the lodgement of the original Goods declaration and only the minimum number of copies necessary.

(b) Documents supporting the Goods declaration

3.16. Standard

In support of the Goods declaration the Customs shall require only those documents necessary to permit control of the operation and to ensure that all requirements relating to the application of Customs law have been complied with.

3.17. Standard

Where certain supporting documents cannot be lodged with the Goods declaration for reasons deemed valid by the Customs, they shall allow production of those documents within a specified period.

3.18. Transitional Standard

The Customs shall permit the lodgement of supporting documents by electronic means.

3.19. Standard

The Customs shall not require a translation of the particulars of supporting documents except when

necessary to permit processing of the Goods declaration

❖ **General Annex § 7 (Application of Information Technology)**

In line with Standard 7.2 of Chapter 7 of the RKC General Annex on the Application of information technology, the format for electronic lodgment of supporting documents must be based on the same international standards for electronic information exchange as that for the Goods declaration. Customs must apply information technology where this is helpful and cost-effective for both Customs and trade. The Guidelines to Chapter 7 address the use of EDI by Customs in detail.

RKC Standards

7.1. Standard

The Customs shall apply information technology to support Customs operations, where it is cost-effective and efficient for the Customs and for the trade. The Customs shall specify the conditions for its application.

7.2. Standard

When introducing computer applications, the Customs shall use relevant internationally accepted standards.

Other ECP Instruments and Tools

❖ **Recommendation (2012) on the Dematerialization of Supporting Documents**

The Recommendation recommends that Members identify supporting documents that are normally required to accompany the cargo and goods declaration and examine the need for those documents, with a view to eliminating them. It also recommends that they discontinue the requirement of presenting supporting documents in hard copy.

❖ **Data Model**

The WCO Data Model is a set of carefully combined data requirements that are mutually supportive and which will be updated on a regular basis to meet the procedural and legal needs of cross-border regulatory agencies such as Customs, controlling export, import and transit transactions.

(12) Pre-Shipment and Post-Shipment Inspections

Trade Facilitation Agreement

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION, EXPORTATION AND TRANSIT

5 Pre-shipment Inspection

5.1 Members shall not require the use of preshipment inspections in relation to tariff classification and customs valuation.

5.2 Without prejudice to the rights of Members to use other types of preshipment inspection not covered by paragraph 5.1, Members are encouraged not to introduce or apply new requirements regarding their use.¹²

Other ECP Instruments and Tools

❖ Practical Guidelines for Valuation Control

The Guidelines highlight pre-shipment inspection (PSI) as a key challenge and give advice to Customs administrations.

¹² This paragraph refers to preshipment inspections covered by the Agreement on Preshipment Inspection, and does not preclude preshipment inspections for sanitary and phytosanitary purposes.

(13) Use of Customs Brokers

Trade Facilitation Agreement

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION AND TRANSIT

6 Use of Customs Brokers

6.1 Without prejudice to the important policy concerns of some Members that currently maintain a special role for customs brokers, from the entry into force of this Agreement Members shall not introduce the mandatory use of customs brokers.

6.2 Each Member shall notify the Committee and publish its measures on the use of customs brokers. Any subsequent modifications thereof shall be notified and published promptly.

6.3 With regard to the licensing of customs brokers, Members shall apply rules that are transparent and objective.

Revised Kyoto Convention

❖ General Annex § 3 (Clearance and other Customs Formalities)

Chapter 3 of the General Annex to the Revised Kyoto Convention sets out standards regarding the declarant.

RKC Standards

The declarant

(a) Persons entitled to act as declarant

3.6. Standard

National legislation shall specify the conditions under which a person is entitled to act as declarant.

3.7. Standard

Any person having the right to dispose of the goods shall be entitled to act as declarant.

❖ General Annex § 8 (Relationship between the Customs and Third Parties)

Chapter 8 of the General Annex to the Revised Kyoto Convention sets out standards regarding the relationship between Customs and third parties.

RKC Standards

8.1. Standard

Persons concerned shall have the choice of transacting business with the Customs either directly or by designating a third party to act on their behalf.

8.2. Standard

National legislation shall set out the conditions under which a person may act for and on behalf of another person in dealing with the Customs and shall lay down the liability of third parties to the Customs for duties and taxes and for any irregularities.

RKC Standards

8.3. Standard

The Customs transactions where the person concerned elects to do business on his own account shall not be treated less favourably or be subject to more stringent requirements than those Customs transactions which are handled for the person concerned by a third party.

8.4. Standard

A person designated as a third party shall have the same rights as the person who designated him in those matters related to transacting business with the Customs.

8.5. Standard

The Customs shall provide for third parties to participate in their formal consultations with the trade.

8.6. Standard

The Customs shall specify the circumstances under which they are not prepared to transact business with a third party.

8.7. Standard

The Customs shall give written notification to the third party of a decision not to transact business.

(14) Common Border Procedures and Requirements

Trade Facilitation Agreement

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION AND TRANSIT

7 Common Border Procedures and Uniform Documentation Requirements

7.1 Each Member shall, subject to paragraph 7.2, apply common customs procedures and uniform documentation requirements for release and clearance of goods throughout its territory.

1.39.

1.40. 7.2 Nothing in this Article shall prevent a Member from:

- a. (a) differentiating its procedures and documentation requirements based on the nature and type of goods, or their means of transport;
- b. (b) differentiating its procedures and documentation requirements for goods based on risk management;
- c. (c) differentiating its procedures and documentation requirements to provide total or partial exemption from import duties or taxes;
- d. (d) applying electronic filing or processing; or
- (e) differentiating its procedures and documentation requirements in a manner consistent with the Agreement on the Application of Sanitary and Phytosanitary Measures.

Revised Kyoto Convention

❖ General Annex § 3 (Clearance and other Customs Formalities)

RKC Standards

3.11. Standard

The contents of the Goods declaration shall be prescribed by the Customs. The paper format of the Goods declaration shall conform to the UN-layout key.

For automated Customs clearance processes, the format of the electronically lodged Goods declaration shall be based on international standards for electronic information exchange as prescribed in the Customs Co-operation Council Recommendations on information technology.

3.20. Standard

The Customs shall permit the lodging of the Goods declaration at any designated Customs office.

(15) Rejected Goods

Trade Facilitation Agreement

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION AND TRANSIT

8 Rejected Goods

1.41. 8.1 Where goods presented for import are rejected by the competent authority of a Member on account of their failure to meet prescribed sanitary or phytosanitary regulations or technical regulations, the Member shall, subject to and consistent with its laws and regulations, allow the importer to re-consign or to return the rejected goods to the exporter or another person designated by the exporter.

1.42. 8.2 When such an option under paragraph 8.1 is given and the importer fails to exercise it within a reasonable period of time, the competent authority may take a different course of action to deal with such non-compliant goods.

Revised Kyoto Convention

❖ General Annex § 3 (Clearance and other Customs Formalities)

Chapter 3 of the General Annex to the Revised Kyoto Convention sets a series of standards on clearance of goods and other Customs formalities. The Chapter is applicable to procedures to return or re-export rejected goods to the exporter.

❖ Specific Annex C § 1

Chapter 1 of Specific Annex C to the Revised Kyoto Convention is about outright exportation, which is applicable to procedures to return or re-export rejected goods to the exporter.

(16) Temporary Admission of Goods

Trade Facilitation Agreement

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION AND TRANSIT

9 Temporary Admission of Goods and Inward and Outward Processing

9.1 Temporary Admission of Goods

Each Member shall allow, as provided for in its laws and regulations, goods to be brought into its customs territory conditionally relieved, totally or partially, from payment of import duties and taxes if such goods are brought into its customs territory for a specific purpose, are intended for re-exportation within a specific period, and have not undergone any change except normal depreciation and wastage due to the use made of them.

Revised Kyoto Convention

❖ Specific Annex G § 1

Specific Annex G to the Revised Kyoto Convention is all about temporary admission. It covers conditions related to temporary admission, such as identification of the goods, re-exportation and the time-limit for re-exportation. The Guidelines to the Specific Annex deal with the details.

RKC Standards	
	Principle
1. Standard	Temporary admission shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.
Field of application	
2. Standard	National legislation shall enumerate the cases in which temporary admission may be granted.
3. Standard	Goods temporarily admitted shall be afforded total conditional relief from import duties and taxes, except for those cases where national legislation specifies that relief may be only partial.
4. Standard	Temporary admission shall not be limited to goods imported directly from abroad, but shall also be granted for goods already placed under another Customs procedure.
5. Recommended Practice	Temporary admission should be granted without regard to the country of origin of the goods, the country from which they arrived or their country of destination.
6. Standard	Temporarily admitted goods shall be allowed to undergo operations necessary for their preservation during their stay in the Customs territory.
Formalities prior to the granting of temporary admission	

RKC Standards

7. Standard

National legislation shall enumerate the cases in which prior authorization is required for temporary admission and specify the authorities empowered to grant such authorization. Such cases shall be as few as possible.

8. Recommended Practice

The Customs should require that the goods be produced at a particular Customs office only where this will facilitate the temporary admission.

9. Recommended Practice

The Customs should grant temporary admission without a written Goods declaration when there is no doubt about the subsequent re-exportation of the goods.

10. Recommended Practice

Contracting Parties should give careful consideration to the possibility of acceding to international instruments relating to temporary admission that will enable them to accept documents and guarantees issued by international organizations in lieu of national Customs documents and security.

Identification measures

11. Standard

Temporary admission of goods shall be subject to the condition that the Customs are satisfied that they will be able to identify the goods when the temporary admission is terminated.

12. Recommended Practice

For the purpose of identifying goods temporarily admitted, the Customs should take their own identification measures only where commercial means of identification are not sufficient.

Time limit for re-exportation

13. Standard

The Customs shall fix the time limit for temporary admission in each case.

14. Recommended Practice

At the request of the person concerned, and for reasons deemed valid by the Customs, the latter should extend the period initially fixed.

15. Recommended Practice

When the goods granted temporary admission cannot be re-exported as a result of a seizure other than a seizure made at the suit of private persons, the requirement of re-exportation should be suspended for the duration of the seizure.

Transfer of temporary admission

16. Recommended Practice

On request, the Customs should authorize the transfer of the benefit of the temporary admission to any other person, provided that such other person :

- (a) satisfies the conditions laid down; and
- (b) accepts the obligations of the first beneficiary of the temporary admission.

Termination of temporary admission

17. Standard

Provision shall be made to permit temporarily admitted goods to be re-exported through a Customs office other than that through which they were imported.

RKC Standards

18. Standard

Provision shall be made to permit temporarily admitted goods to be re-exported in one or more consignments.

19. Recommended Practice

Provision should be made for suspending or terminating temporary admission by placing the imported goods under another Customs procedure, subject to compliance with the conditions and formalities applicable in each case.

20. Recommended Practice

If prohibitions or restrictions in force at the time of temporary admission are rescinded during the period of validity of the temporary admission document, the Customs should accept a request for termination by clearance for home use.

21. Recommended Practice

If security has been given in the form of a cash deposit, provision should be made for it to be repaid at the office of re-exportation, even if the goods were not imported through that office.

Cases of temporary admission

(a) Total conditional relief from import duties and taxes

22. Recommended Practice

Temporary admission with total conditional relief from duties and taxes should be granted to the goods referred to in the following Annexes to the Convention on Temporary Admission (Istanbul Convention) of 26 June 1990 :

- (1) "Goods for display or use at exhibitions, fairs, meetings or similar events" referred to in Annex B.1.
- (2) "Professional equipment" referred to in Annex B.2.
- (3) "Containers, pallets, packings, samples and other goods imported in connection with a commercial operation" referred to in Annex B.3.
- (4) "Goods imported for educational, scientific or cultural purposes" referred to in Annex B.5.
- (5) "Travellers' personal effects and goods imported for sports purposes" referred to in Annex B.6
- (6) "Tourist publicity material" referred to in Annex B.7.
- (7) "Goods imported as frontier traffic" referred to in Annex B.8.
- (8) "Goods imported for humanitarian purposes" referred to in Annex B.9.
- (9) "Means of transport" referred to in Annex C.
- (10) "Animals" referred to in Annex D.

Other ECP Instruments and Tools

❖ Istanbul Convention

❖ ATA Convention

Both Conventions allow the free movement of goods across frontiers and their temporary admission into a Customs territory with relief from duties and taxes.

(18) Inward and Outward Processing

Trade Facilitation Agreement

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION AND TRANSIT

9 Temporary Admission of Goods and Inward and Outward Processing

9.2 Inward and Outward Processing

- i. (a) Each Member shall allow, as provided for in its laws and regulations, inward and outward processing of goods. Goods allowed for outward processing may be re-imported with total or partial exemption from import duties and taxes in accordance with the Member's laws and regulations.
- ii. (b) For the purposes of this Article, the term "inward processing" means the customs procedure under which certain goods can be brought into a Member's customs territory conditionally relieved, totally or partially, from payment of import duties and taxes, or eligible for duty drawback, on the basis that such goods are intended for manufacturing, processing, or repair and subsequent exportation.

(c) For the purposes of this Article, the term "outward processing" means the customs procedure under which goods which are in free circulation in a Member's customs territory may be temporarily exported for manufacturing, processing, or repair abroad and then re-imported.

Revised Kyoto Convention

❖ Specific Annex F (Processing), §1 and §2

Chapters 1 and 2 of Specific Annex F to the Revised Kyoto Convention describe detailed standards and recommended practices regarding inward processing and outward processing.

RKC Standards
Chapter 1 Inward processing
Definitions
For the purposes of this Chapter : " compensating products " means the products resulting from the manufacturing, processing or repair of goods for which the use of the inward processing procedure is authorized; " equivalent goods " means domestic or imported goods identical in description, quality and technical characteristics to those imported for inward processing which they replace; " inward processing " means the Customs procedure under which certain goods can be brought into a Customs territory conditionally relieved from payment of import duties and taxes, on the basis that such goods are intended for manufacturing, processing or repair and subsequent exportation.
Principle

RKC Standards

1. Standard

Inward processing shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

Field of application

2. Standard

Goods admitted for inward processing shall be afforded total conditional relief from import duties and taxes. However, import duties and taxes may be collected on any products, including waste, deriving from the processing or manufacturing of goods admitted for inward processing that are not exported or treated in such a way as to render them commercially valueless.

3. Standard

Inward processing shall not be limited to goods imported directly from abroad, but shall also be granted for goods already placed under another Customs procedure.

4. Recommended Practice

Inward processing should not be refused solely on the grounds of the country of origin of the goods, the country from which arrived or the country of destination.

5. Standard

The right to import goods for inward processing shall not be limited to the owner of the imported goods.

6. Recommended Practice

When, in the execution of a contract entered into with a person established abroad, the goods to be used are supplied by that person, inward processing should not be refused on the grounds that goods identical in description, quality and technical characteristics are available in the Customs territory of importation.

7. Recommended Practice

The possibility of determining the presence of the imported goods in the compensating products should not be imposed as a necessary condition of inward processing when :

(a) the identity of the goods can be established :

- by submitting the details of the inputs and the process of manufacture of the compensating products; or
- during the processing operations by Customs control;

or

(b) the procedure is terminated by the exportation of products obtained from the treatment of goods identical in description, quality and technical characteristics to those admitted for inward processing.

Placing goods under inward processing

(a) Authorization for inward processing

8. Standard

National legislation shall specify the circumstances in which prior authorization is required for inward processing and the authorities empowered to grant such authorization.

9. Standard

The inward processing authorization shall specify the manner in which operations permitted under inward processing shall be carried out.

10. Recommended Practice

RKC Standards

When an application for inward processing is made after the importation of the goods and meets the criteria for authorization, the authorization should be granted retrospectively.

11. Recommended Practice

Persons who carry out regular inward processing operations should, on request, be granted a general authorization covering such operations.

12. Standard

Where goods admitted for inward processing are to undergo manufacturing or processing, the competent authorities shall fix or agree to the rate of yield of the operation by reference to the actual conditions under which it is effected. The description, quality and quantity of the various compensating products shall be specified upon fixing or agreeing to that rate.

13. Recommended Practice

Where the inward processing operations :

- relate to goods whose characteristics remain reasonably constant;
- are customarily carried out under clearly defined technical conditions; and
- give compensating products of constant quality;

the competent authorities should lay down standard rates of yield applicable to the operations

(b) Identification measures

14. Standard

The requirements relating to the identification of goods for inward processing shall be laid down by the Customs. In carrying this out, due account shall be taken of the nature of the goods, of the operation to be carried out and of the importance of the interests involved.

Stay of the goods in the Customs territory

15. Standard

The Customs shall fix the time limit for inward processing in each case.

16. Recommended Practice

At the request of the person concerned, and for reasons deemed valid by the Customs, the latter should extend the period initially fixed.

17. Recommended Practice

Provision should be made for continuing inward processing in the event of transfer of ownership of the imported goods and the compensating products to a third person, provided that that person assumes the obligations of the person granted the authorization.

18. Recommended Practice

The competent authorities should permit processing operations to be carried out by a person other than the person accorded the facilities for inward processing. Transfer of ownership of the goods admitted for inward processing should not be necessary, provided that the person accorded the inward processing facilities remains responsible to the Customs for compliance with the conditions set out in the authorization for the entire duration of the operations.

19. Standard

Provision shall be made to permit compensating products to be exported through a Customs office other than that through which the goods placed under inward processing were imported.

RKC Standards

Termination of inward processing

(a) Exportation

20. Standard

Provision shall be made to permit inward processing procedures to be terminated by exportation of the compensating products in one or more consignments.

21. Standard

Upon request by the person concerned, the competent authorities shall authorize the re-exportation of the goods in the same state as imported, with termination of inward processing.

(b) Other methods of disposal

22. Recommended Practice

Provision should be made for suspending or terminating inward processing by placing the imported goods or the compensating products under another Customs procedure, subject to compliance with the conditions and formalities applicable in each case.

23. Recommended Practice

National legislation should provide that the amount of import duties and taxes applicable in the case where the compensating products are not exported shall not exceed the amount of import duties and taxes applicable to the imported goods admitted for inward processing.

24. Standard

Provision shall be made for terminating inward processing in respect of goods lost as a consequence of the nature of the goods, insofar as the compensating products are exported, provided that such loss is duly established to the satisfaction of the Customs.

25. Recommended Practice

The products obtained from the treatment of equivalent goods should be deemed to be compensating products for the purposes of this Chapter (setting-off with equivalent goods).

26. Recommended Practice

When setting-off with equivalent goods is allowed, the Customs should permit the exportation of compensating products prior to the importation of goods for inward processing.

Chapter 2 Outward processing

Definitions

For the purposes of this Chapter :

"compensating products" means the products obtained abroad and resulting from the manufacturing, processing or repair of goods for which the use of the outward processing procedure is authorized;

"outward processing" means the Customs procedure under which goods which are in free circulation in a Customs territory may be temporarily exported for manufacturing, processing or repair abroad and then re-imported with total or partial exemption from import duties and taxes.

Principle

1. Standard

RKC Standards

Outward processing shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

Field of application

2. Recommended Practice

Outward processing should not be refused solely on the grounds that the goods are to be manufactured, processed or repaired in a given country.

3. Standard

Temporary exportation of goods for outward processing shall not be restricted to the owner of the goods.

Placing goods under outward processing

(a) Formalities prior to temporary exportation of the goods

4. Standard

National legislation shall enumerate the cases in which prior authorization is required for outward processing and specify the authorities empowered to grant such authorization. Such cases shall be as few as possible.

5. Recommended Practice

Persons who carry out regular outward processing operations should, on request, be granted a general authorization covering such operations.

6. Recommended Practice

The competent authorities should fix a rate of yield for an outward processing operation when they deem it necessary or when it will facilitate the operation. The description, quality and quantity of the various compensating products shall be specified upon fixing that rate.

(b) Identification measures

7. Standard

The requirements relating to the identification of goods for outward processing shall be laid down by the Customs. In carrying this out, due account shall be taken of the nature of the goods, of the operation to be carried out and of the importance of the interests involved.

Stay of the goods outside the Customs territory

8. Standard

The Customs shall fix the time limit for outward processing in each case.

9. Recommended Practice

At the request of the person concerned, and for reasons deemed valid by the Customs, the latter should extend the period initially fixed.

Importation of compensating products

10. Standard

Provision shall be made to permit compensating products to be imported through a Customs office other than that through which the goods were temporarily exported for outward processing.

11. Standard

Provision shall be made to permit compensating products to be imported in one or more consignments.

RKC Standards

12. Standard

Upon request by the person concerned, the competent authorities shall allow goods temporarily exported for outward processing to be re-imported with exemption from import duties and taxes if they are returned in the same state.

This exemption shall not apply to import duties and taxes which have been repaid or remitted in connection with the temporary exportation of the goods for outward processing.

13. Standard

Unless national legislation requires the re-importation of goods temporarily exported for outward processing, provision shall be made for terminating the outward processing by declaring the goods for outright exportation subject to compliance with the conditions and formalities applicable in such case.

Duties and taxes applicable to compensating products

14. Standard

National legislation shall specify the extent of the exemption from import duties and taxes granted when compensating products are taken into home use, and the methods of calculation of that exemption.

15. Standard

The exemption from import duties and taxes provided for in respect of compensating products shall not apply to duties and taxes which have been repaid or remitted in connection with the temporary exportation of the goods for outward processing.

16. Recommended Practice

Where goods temporarily exported for outward processing have been repaired abroad free of charge, provision should be made for them to be re-imported with total exemption from import duties and taxes under the conditions laid down in national legislation.

17. Recommended Practice

The exemption from import duties and taxes should be granted if the compensating products were placed under another Customs procedure prior to being declared for home use.

18. Recommended Practice

The exemption from import duties and taxes should be granted if the ownership of the compensating products is transferred before they are taken into home use.

Members Practices

Outward processing using the replacement system (EU) (RKC guideline Specific Annex F Chapter 2)

- In the European Community the competent authorities permit use of the "replacement system" when the processing operation consists of repairing the goods.
- This system consists of substituting an imported good for a compensating product. It therefore makes it possible to import, instead of the compensating product, another product known as the "replacement product", while retaining the benefits of outward processing.
- The replacement product must normally fall in the same subheading of the Customs tariff (in

the European Community this is referred to as the Combined Nomenclature), be of the same commercial grade or quality and have the same technical characteristics as the temporarily exported goods if the latter had undergone a specified repair (*conditions of equivalence*).

- If the temporarily exported goods were used prior to exportation, the replacement products must also have been used and cannot be new products. Derogations from this rule may be granted if the replacement product was delivered free of charge, either due to a contractual or legal guarantee obligation, or as a result of a manufacturing defect.
- The competent authorities also permit, under conditions set by them, replacement products to be imported prior to exportation of the temporarily exported goods (*prior importation*).
- Prior importation of a replacement product may require provision of security for the amount of the import duties.
- The replacement system cannot be used to improve the technical performance of the goods.
- Use of the replacement system is accepted when it is possible to check compliance with the conditions of equivalence between the replacement products and the compensating products which should have been imported.
- Under the replacement system without prior importation, the time limit is determined taking account of the time required to substitute the temporarily exported goods and to transport the temporarily exported goods and the replacement products.

(18) Transit

Trade Facilitation Agreement

ARTICLE 9: MOVEMENT OF GOODS INTENDED FOR IMPORT UNDER CUSTOMS CONTROL

Each Member shall, to the extent practicable, and provided all regulatory requirements are met, allow goods intended for import to be moved within its territory under customs control from a customs office of entry to another customs office in its territory from where the goods would be released or cleared.

ARTICLE 11: FREEDOM OF TRANSIT

1. Any regulations or formalities in connection with traffic in transit imposed by a Member shall not be:
 - (a) maintained if the circumstances or objectives giving rise to their adoption no longer exist or if the changed circumstances or objectives can be addressed in a reasonably available less trade-restrictive manner;
 - (b) applied in a manner that would constitute a disguised restriction on traffic in transit.
2. Traffic in transit shall not be conditioned upon collection of any fees or charges imposed in respect of transit, except the charges for transportation or those commensurate with administrative expenses entailed by transit or with the cost of services rendered.
3. Members shall not seek, take, or maintain any voluntary restraints or any other similar measures on traffic in transit. This is without prejudice to existing and future national regulations, bilateral or multilateral arrangements related to regulating transport, consistent with WTO rules.
4. Each Member shall accord to products which will be in transit through the territory of any other Member treatment no less favourable than that which would be accorded to such products if they were being transported from their place of origin to their destination without going through the territory of such other Member.
5. Members are encouraged to make available, where practicable, physically separate infrastructure (such as lanes, berths and similar) for traffic in transit.
6. Formalities, documentation requirements, and customs controls in connection with traffic in transit shall not be more burdensome than necessary to:
 - (a) identify the goods; and
 - (b) ensure fulfilment of transit requirements.
7. Once goods have been put under a transit procedure and have been authorized to proceed from the point of origination in a Member's territory, they will not be subject to any customs charges nor unnecessary delays or restrictions until they conclude their transit at the point of destination within the Member's territory.
8. Members shall not apply technical regulations and conformity assessment procedures

within the meaning of the Agreement on Technical Barriers to Trade to goods in transit.

9. Members shall allow and provide for advance filing and processing of transit documentation and data prior to the arrival of goods.
10. Once traffic in transit has reached the customs office where it exits the territory of a Member, that office shall promptly terminate the transit operation if transit requirements have been met.
11. Where a Member requires a guarantee in the form of a surety, deposit or other appropriate monetary or non-monetary¹³ instrument for traffic in transit, such guarantee shall be limited to ensuring that requirements arising from such traffic in transit are fulfilled.
12. Once the Member has determined that its transit requirements have been satisfied, the guarantee shall be discharged without delay.
13. Each Member shall, in a manner consistent with its laws and regulations, allow comprehensive guarantees which include multiple transactions for same operators or renewal of guarantees without discharge for subsequent consignments.
14. Each Member shall make publicly available the relevant information it uses to set the guarantee, including single transaction and, where applicable, multiple transaction guarantee.
15. Each Member may require the use of customs convoys or customs escorts for traffic in transit only in circumstances presenting high risks or when compliance with customs laws and regulations cannot be ensured through the use of guarantees. General rules applicable to customs convoys or customs escorts shall be published in accordance with Article 1.
16. Members shall endeavour to cooperate and coordinate with one another with a view to enhancing freedom of transit. Such cooperation and coordination may include, but is not limited to, an understanding on:
 - (a) charges;
 - (b) formalities and legal requirements; and
 - (c) the practical operation of transit regimes.
17. Each Member shall endeavour to appoint a national transit coordinator to which all enquiries and proposals by other Members relating to the good functioning of transit operations can be addressed.

Revised Kyoto Convention

❖ Specific Annex E § 1 and § 2

Chapters 1 and 2 of Specific Annex E to the Revised Kyoto Convention stipulate principles on Customs transit. They cover procedures such as formalities at the office of departure, Customs seals, formalities en route and termination of Customs transit. The Guidelines to both Chapters deal with the details of such procedures.

¹³ Nothing in this provision shall preclude a Member from maintaining existing procedures whereby the means of transport can be used as a guarantee for traffic in transit.

Chapter 1
Customs transit

Definitions

For the purposes of this Chapter :

"**authorized consignee**" means a person empowered by the Customs to receive goods directly at his premises without having to present them at the office of destination;

"**authorized consignor**" means a person empowered by the Customs to send goods directly from his premises without having to present them at the office of departure;

"**control office**" means the Customs office responsible for one or more "authorized consignors" or "authorized consignees" and, in this respect, performing a special control function for all Customs transit operations;

"**Customs transit**" means the Customs procedure under which goods are transported under Customs control from one Customs office to another;

"**Customs transit operation**" means the transport of goods from an office of departure to an office of destination under Customs transit;

"**office of departure**" means any Customs office at which a Customs transit operation commences;

"**office of destination**" means any Customs office at which a Customs transit operation is terminated;

"**transport-unit**" means :

- (a) containers having an internal volume of one-cubic metre or more, including demountable bodies;
- (b) road vehicles, including trailers and semi-trailers;
- (c) railway coaches or wagons;
- (d) lighters, barges and other vessels; and
- (e) aircraft.

Principle

1. Standard

Customs transit shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

Field of application

2. Standard

The Customs shall allow goods to be transported under Customs transit in their territory :

- (a) from an office of entry to an office of exit;
- (b) from an office of entry to an inland Customs office;
- (c) from an inland Customs office to an office of exit; and
- (d) from one inland Customs office to another inland Customs office.

3. Standard

Goods being carried under Customs transit shall not be subject to the payment of duties and taxes, provided the conditions laid down by the Customs are complied with and that any security required has been furnished.

4. Standard

National legislation shall specify the persons who shall be responsible to the Customs for compliance with the obligations incurred under Customs transit, in particular for ensuring that the goods are produced intact at the office of destination in accordance with the conditions imposed by the Customs.

RKC Standards

5. Recommended Practice

The Customs should approve persons as authorized consignors and authorized consignees when they are satisfied that the prescribed conditions laid down by the Customs are met.

Formalities at the office of departure

(a) Goods declaration for Customs transit

6. Standard

Any commercial or transport document setting out clearly the necessary particulars shall be accepted as the descriptive part of the Goods declaration for Customs transit and this acceptance shall be noted on the document.

7. Recommended Practice

The Customs should accept as the Goods declaration for Customs transit any commercial or transport document for the consignment concerned which meets all the Customs requirements. This acceptance should be noted on the document.

(b) Sealing and identification of consignments

8. Standard

The Customs at the office of departure shall take all necessary action to enable the office of destination to identify the consignment and to detect any unauthorized interference.

9. Recommended Practice

Subject to the provisions of other international conventions, the Customs should not generally require that transport-units be approved in advance for the transport of goods under Customs seal.

10. Standard

When a consignment is conveyed in a transport-unit and Customs sealing is required, the Customs seals shall be affixed to the transport-unit itself provided that the transport-unit is so constructed and equipped that :

- (a) Customs seals can be simply and effectively affixed to it;
- (b) no goods can be removed from or introduced into the sealed part of the transport-unit without leaving visible traces of tampering or without breaking the Customs seal;
- (c) it contains no concealed spaces where goods may be hidden; and
- (d) all spaces capable of holding goods are readily accessible for Customs inspection.

The Customs shall decide whether transport-units are secure for the purposes of Customs transit.

11. Recommended Practice

Where the accompanying documents make it possible unequivocally to identify the goods, the latter should generally be transported without a Customs seal or fastening. However, a Customs seal or fastening may be required :

- where the Customs office of departure considers it necessary in the light of risk management;
- where the Customs transit operation will be facilitated as a whole; or
- where an international agreement so provides.

12. Standard

If a consignment is, in principle, to be conveyed under Customs seal and the transport-unit cannot be effectively sealed, identification shall be assured and unauthorized interference rendered readily detectable by :

- full examination of the goods and recording the results thereof on the transit document;
- affixing Customs seals or fastenings to individual packages;
- a precise description of the goods by reference to samples, plans, sketches, photographs, or

RKC Standards

- similar means, to be attached to the transit document;
- stipulation of a strict routing and strict time limits; or
- Customs escort.

The decision to waive sealing of the transport-unit shall, however, be the prerogative of the Customs alone.

13. Standard

When the Customs fix a time limit for Customs transit, it shall be sufficient for the purposes of the transit operation.

14. Recommended Practice

At the request of the person concerned, and for reasons deemed valid by the Customs, the latter should extend any period initially fixed.

15. Standard

Only when they consider such a measure to be indispensable shall the Customs :

- (a) require goods to follow a prescribed itinerary; or
- (b) require goods to be transported under Customs escort.

Customs seals

16. Standard

Customs seals and fastenings used in the application of Customs transit shall fulfil the minimum requirements laid down in the Appendix to this Chapter.

17. Recommended Practice

Customs seals and identification marks affixed by foreign Customs should be accepted for the purposes of the Customs transit operation unless :

- they are considered not to be sufficient;
- they are not secure; or
- the Customs proceed to an examination of the goods.

When foreign Customs seals and fastenings have been accepted in a Customs territory, they should be afforded the same legal protection in that territory as national seals and fastenings.

18. Recommended Practice

Where the Customs offices concerned check the Customs seals and fastenings or examine the goods, they should record the results on the transit document.

Formalities en route

19. Standard

A change in the office of destination shall be accepted without prior notification except where the Customs have specified that prior approval is necessary.

20. Standard

Transfer of the goods from one means of transport to another shall be allowed without Customs authorization, provided that any Customs seals or fastenings are not broken or interfered with.

21. Recommended Practice

The Customs should allow goods to be transported under Customs transit in a transport-unit carrying other goods at the same time, provided that they are satisfied that the goods under Customs transit can be identified and the other Customs requirements will be met.

RKC Standards

22. Recommended Practice

The Customs should require the person concerned to report accidents or other unforeseen events directly affecting the Customs transit operation promptly to the nearest Customs office or other competent authorities.

Termination of Customs transit

23. Standard

National legislation shall not, in respect of the termination of a Customs transit operation, require more than that the goods and the relevant Goods declaration be presented at the office of destination within any time limit fixed, without the goods having undergone any change and without having been used, and with Customs seals, fastenings or identification marks intact.

24. Standard

As soon as the goods are under its control, the office of destination shall arrange without delay for the termination of the Customs transit operation after having satisfied itself that all conditions have been met.

25. Recommended Practice

Failure to follow a prescribed itinerary or to comply with a prescribed time limit should not entail the collection of any duties and taxes potentially chargeable, provided the Customs are satisfied that all other requirements have been met.

International agreements relating to Customs transit

26. Recommended Practice

Contracting Parties should give careful consideration to the possibility of acceding to international instruments relating to Customs transit. When they are not in a position to accede to such international instruments they should, when drawing up bilateral or multilateral agreements with a view to setting up an international Customs transit procedure, take account therein of Standards and Recommended Practices in the present Chapter.

Specific Annex E Chapter 2 Transshipment

Definition

For the purposes of this Chapter :

"transshipment" means the Customs procedure under which goods are transferred under Customs control from the importing means of transport to the exporting means of transport within the area of one Customs office which is the office of both importation and exportation.

Principles

1. Standard

Transshipment shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

2. Standard

Goods admitted to transshipment shall not be subject to the payment of duties and taxes, provided the conditions laid down by the Customs are complied with.

3. Recommended Practice

RKC Standards

Transshipment should not be refused solely on the grounds of the country of origin of the goods, the country from which they arrived or their country of destination.

Admission to transshipment

(a) Declaration

4. Standard

Only one Goods declaration shall be required for the purposes of transshipment.

5. Standard

Any commercial or transport document setting out clearly the necessary particulars shall be accepted as the descriptive part of the Goods declaration for transshipment and this acceptance shall be noted on the document.

6. Recommended Practice

The Customs should accept as the Goods declaration for transshipment any commercial or transport document for the consignment concerned which meets all the Customs requirements. This acceptance should be noted on the document.

(b) Examination and identification of goods

7. Standard

When the Customs consider it necessary, they shall take action at importation to ensure that the goods to be transhipped will be identifiable at exportation and that unauthorized interference will be readily detectable.

(c) Additional control measures

8. Standard

When the Customs fix a time limit for the exportation of goods declared for transshipment, it shall be sufficient for the purposes of transshipment.

9. Recommended Practice

At the request of the person concerned, and for reasons deemed valid by the Customs, the latter should extend any period initially fixed.

10. Recommended Practice

Failure to comply with a prescribed time limit should not entail the collection of any duties and taxes potentially chargeable, provided the Customs is satisfied that all other requirements have been met.

(d) Authorized operations

11. Recommended Practice

At the request of the person concerned, and subject to such conditions as the Customs may specify, the Customs should as far as possible allow goods in transshipment to undergo operations likely to facilitate their exportation.

Chapter 5 of the RKC General Annex is about security. The RKC covers the same principles as the TFA.

RKC Standards

5.1. Standard

National legislation shall enumerate the cases in which security is required and shall specify the forms in which security is to be provided.

5.2. Standard

The Customs shall determine the amount of security.

5.3. Standard

Any person required to provide security shall be allowed to choose any form of security provided that it is acceptable to the Customs.

5.4. Standard

Where national legislation provides, the Customs shall not require security when they are satisfied that an obligation to the Customs will be fulfilled.

5.5. Standard

When security is required to ensure that the obligations arising from a Customs procedure will be fulfilled, the Customs shall accept a general security, in particular from declarants who regularly declare goods at different offices in the Customs territory.

5.6. Standard

Where security is required, the amount of security to be provided shall be as low as possible and, in respect of the payment of duties and taxes, shall not exceed the amount potentially chargeable.

5.7. Standard

Where security has been furnished, it shall be discharged as soon as possible after the Customs are satisfied that the obligations under which the security was required have been duly fulfilled.

Other ECP Instruments and Tools

❖ Customs Compendium on a Secure and Efficient Transit System

The Compendium provides a valuable reference tool for transit purposes.

Members Practices

Practices of 17 Members (Angola, Argentina, Azerbaijan, Bulgaria, Croatia, Georgia, Hong Kong China, Hungary, Jordan, Kenya, Lithuania, Poland, Senegal, Serbia, Switzerland, the United Kingdom and the United States) are available from the WCO Implementation Guidance on the TFA (Article 11).

(19) Free Zones and Customs Warehouses

Revised Kyoto Convention

❖ Specific Annex D § 1

Specific Annex D to the Revised Kyoto Convention stipulates principles on Customs warehouses and free zones. It deals with essential features of the Customs warehousing procedure and free zone procedure.

RKC Standards
<p style="text-align: center;">Customs warehouses</p> <p style="text-align: center;">Definition</p> <p>For the purpose of this Chapter :</p> <p>"Customs warehousing procedure" means the Customs procedure under which imported goods are stored under Customs control in a designated place (a Customs warehouse) without payment of import duties and taxes.</p>
<p style="text-align: center;">Principle</p> <p>1. Standard</p> <p>The Customs warehousing procedure shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.</p>
<p style="text-align: center;">Classes of Customs warehouses</p> <p>2. Standard</p> <p>National legislation shall provide for Customs warehouses open to any person having the right to dispose of the goods (public Customs warehouses).</p>
<p>3. Standard</p> <p>National legislation shall provide for Customs warehouses to be used solely by specified persons (private Customs warehouses) when this is necessary to meet the special requirements of the trade.</p>
<p style="text-align: center;">Establishment, management and control</p> <p>4. Standard</p> <p>The Customs shall lay down the requirements for the establishment, suitability and management of the Customs warehouses and the arrangements for Customs control.</p> <p>The arrangements for storage of goods in Customs warehouses and for stock-keeping and accounting shall be subject to the approval of the Customs.</p>
<p style="text-align: center;">Admission of goods</p> <p>5. Recommended Practice</p> <p>Storage in public Customs warehouses should be allowed for all kinds of imported goods liable to import duties and taxes or to prohibitions or restrictions other than those imposed on grounds of :</p> <ul style="list-style-type: none">- public morality or order, public security, public hygiene or health, or for veterinary or phytosanitary considerations; or- the protection of patents, trade marks and copyrights, <p>irrespective of quantity, country of origin, country from which arrived or country of destination. Goods which constitute a hazard, which are likely to affect other goods or which require special installations should be accepted only by Customs warehouses specially designed to receive them.</p>

RKC Standards

6. Standard

The Customs shall specify the kinds of goods which may be admitted to private Customs warehouses.

7. Recommended Practice

Admission to Customs warehouses should be allowed for goods which are entitled to repayment of import duties and taxes when exported, so that they may qualify for such repayment immediately, on condition that they are to be subsequently exported.

8. Recommended Practice

Admission to Customs warehouses, with a view to subsequent exportation or other authorized disposal, should be allowed for goods under the temporary admission procedure, the obligations under that procedure thereby being suspended or discharged.

9. Recommended Practice

Admission to Customs warehouses should be allowed for goods intended for exportation that are liable to or have borne internal duties or taxes, in order that they may qualify for exemption from or repayment of such internal duties and taxes, on condition that they are to be subsequently exported.

Authorized operations

10. Standard

Any person entitled to dispose of the warehoused goods shall be allowed, for reasons deemed valid by the Customs :

- (a) to inspect them;
- (b) to take samples, against payment of import duties and taxes wherever applicable;
- (c) to carry out operations necessary for their preservation; and
- (d) to carry out such other normal handling operations as are necessary to improve their packaging or marketable quality or to prepare them for shipment, such as breaking bulk, grouping of packages, sorting and grading, and repacking.

Duration of stay

11. Standard

The Customs shall fix the authorized maximum duration of storage in a Customs warehouse with due regard to the needs of the trade, and in the case of non-perishable goods it shall be not less than one year.

Transfer of ownership

12. Standard

The transfer of ownership of warehoused goods shall be allowed.

Deterioration of goods

13. Standard

Goods deteriorated or spoiled by accident or force majeure while under the Customs warehouse procedure shall be allowed to be declared for home use as if they had been imported in their deteriorated or spoiled state, provided that such deterioration or spoilage is duly established to the satisfaction of the Customs.

Removal of goods

14. Standard

Any person entitled to dispose of the goods shall be authorized to remove all or part of them from one Customs warehouse to another or to place them under another Customs procedure, subject to

RKC Standards

compliance with the conditions and formalities applicable in each case.

15. Standard

National legislation shall specify the procedure to be followed where goods are not removed from the Customs warehouse within the period laid down.

Closure of a Customs warehouse

16. Standard

In the event of the closure of a Customs warehouse, the persons concerned shall be given sufficient time to remove their goods to another Customs warehouse or to place them under another Customs procedure, subject to compliance with the conditions and formalities applicable in each case.

III. Use of Information and Communication Technology

(1) Use of International Standards

Trade Facilitation Agreement

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION, EXPORTATION AND TRANSIT

3 Use of International Standards

1.43. 3.1 Members are encouraged to use relevant international standards or parts thereof as a basis for their import, export, or transit formalities and procedures, except as otherwise provided for in this Agreement.

3.2 Members are encouraged to take part, within the limits of their resources, in the preparation and periodic review of relevant international standards by appropriate international organizations.

3.3 The Committee shall develop procedures for the sharing by Members of relevant information, and best practices, on the implementation of international standards, as appropriate.

The Committee may also invite relevant international organizations to discuss their work on international standards. As appropriate, the Committee may identify specific standards that are of particular value to Members.

Revised Kyoto Convention

❖ General Annex § 3

Standard 3.11 of the General Annex to the Revised Kyoto Convention requires using international standards for automated Customs clearance processes.

RKC Standards

3.11. Standard

The contents of the Goods declaration shall be prescribed by the Customs. The paper format of the Goods declaration shall conform to the UN-layout key.

For automated Customs clearance processes, the format of the electronically lodged Goods declaration shall be based on international standards for electronic information exchange as prescribed in the Customs Co-operation Council Recommendations on information technology.

❖ General Annex § 7 (Application of Information Technology)

Standard 7.2 of the General Annex to the Revised Kyoto Convention requires using international standards to introduce computer applications.

RKC Standards

7.2. Standard

When introducing computer applications, the Customs shall use relevant internationally accepted standards.

Other ECP Instruments and Tools

❖ Data Model

The WCO Data Model is a set of carefully combined data requirements that are mutually supportive and which will be updated on a regular basis to meet the procedural and legal needs of cross-border regulatory agencies such as Customs, controlling export, import and transit transactions.

❖ Recommendation (2009) concerning the use of the WCO Data Model

❖ Recommendation (1990) concerning the use of the UNTDED

❖ Recommendation (1990) concerning the use of UN/EDIFACT

These Recommendations request that Members adopt internationally accepted standards such as the WCO Data model, the UNTDED and the UN/EDIFACT.

(2) Single Window

Trade Facilitation Agreement

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION, EXPORTATION AND TRANSIT

4 Single Window

1.44. 4.1 Members shall endeavour to establish or maintain a single window, enabling traders to submit documentation and/or data requirements for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies. After the examination by the participating authorities or agencies of the documentation and/or data, the results shall be notified to the applicants through the single window in a timely manner.

4.2 In cases where documentation and/or data requirements have already been received through the single window, the same documentation and/or data requirements shall not be requested by participating authorities or agencies except in urgent circumstances and other limited exceptions which are made public.

1.45.

1.46. 4.3 Members shall notify the Committee of the details of operation of the single window.

1.47. 4.4 Members shall, to the extent possible and practicable, use information technology to support the single window.

Revised Kyoto Convention

❖ General Annex § 3 (Clearance and other Customs Formalities)

Chapter 3 of the General Annex to the Revised Kyoto Convention sets a series of standards on clearance of goods and other Customs formalities. The Guidelines to the Chapter provide details of such standards, including establishment of Customs offices, rights and responsibilities of the declarant, the goods declaration, lodgement and registration of the goods declaration and Customs examination and inspection.

Other ECP Instruments and Tools

❖ SAFE Framework of Standards

Standard 5.3 of Section 5 (Coordinated Border Management) of the SAFE Framework states that Governments should develop co-operative arrangements, nationally and internationally, between Customs and other Government agencies involved in international trade in order to facilitate the seamless transfer of international trade data (Single Window environment) and to exchange risk intelligence.

❖ Single Window Compendium

A Compendium on a facility that allows parties involved in trade and transport to lodge standardized information and documents with a single entry point to fulfil all import, export and transit-related regulatory requirements.

❖ **Single Window Information Store**

Single Window Information Store introduces a collection of links that lead to information on Single Window initiatives that are presently under various stages of implementation.

❖ **Data Model**

The WCO Data Model is a set of carefully combined data requirements that are mutually supportive and which will be updated on a regular basis to meet the procedural and legal needs of cross-border regulatory agencies such as Customs, controlling export, import and transit transactions.

IV. Partnership and Cooperation

(1) Border Agency Cooperation

Trade Facilitation Agreement

ARTICLE 8: BORDER AGENCY COOPERATION

1. Each Member shall ensure that its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation, and transit of goods cooperate with one another and coordinate their activities in order to facilitate trade.
2. Each Member shall, to the extent possible and practicable, cooperate on mutually agreed terms with other Members with whom it shares a common border with a view to coordinating procedures at border crossings to facilitate cross-border trade. Such cooperation and coordination may include:
 - i. (a) alignment of working days and hours;
 - ii. (b) alignment of procedures and formalities;
 - iii. (c) development and sharing of common facilities;
 - iv. (d) joint controls;
 - v. (e) establishment of one stop border post control.

Revised Kyoto Convention

❖ General Annex § 3 (Clearance and other Customs Formalities)

Transitional Standard 3.35 lays down the principle of Customs inspection of goods in coordination with other competent authorities. The Guidelines to the standard cover practical aspects of coordinated intervention among border agencies.

RKC Standards

3.35. Transitional Standard

If the goods must be inspected by other competent authorities and the Customs also schedules an examination, the Customs shall ensure that the inspections are co-ordinated and, if possible, carried out at the same time.

Other ECP Instruments and Tools

❖ Safe Framework of Standards

Section 5 of the SAFE Framework sets out standards on Coordinated Border Management. The CBM standards consist of Government Agency Co-ordination, Cross-Border Management and Single Window.

❖ **Customs Compendium on Integrated Border Management**

The Compendium deals with elements to be considered and the necessary steps to be taken when implementing an Integrated Border Management System with a view to facilitating cross-border transactions.

❖ **Data Model**

The WCO Data Model is a set of carefully combined data requirements that are mutually supportive and which will be updated on a regular basis to meet the procedural and legal needs of cross-border regulatory agencies such as Customs, controlling export, import and transit transactions.

Members Practices

Practices of 4 Members (Croatia, Germany, Hong Kong China and New Zealand) are available from the WCO Implementation Guidance on the TFA (Article 8).

(2) Customs Cooperation

Trade Facilitation Agreement

ARTICLE 12: CUSTOMS COOPERATION

1 MEASURES PROMOTING COMPLIANCE AND COOPERATION

1.1 Members agree on the importance of ensuring that traders are aware of their compliance obligations, encouraging voluntary compliance to allow importers to self-correct without penalty in appropriate circumstances, and applying compliance measures to initiate stronger measures for non-compliant traders.¹⁴

1.48. 1.2 Members are encouraged to share information on best practices in managing customs compliance, including through the Committee. Members are encouraged to cooperate in technical guidance or assistance and support for capacity building for the purposes of administering compliance measures and enhancing their effectiveness.

2 EXCHANGE OF INFORMATION

2.1 Upon request and subject to the provisions of this Article, Members shall exchange the information set out in subparagraphs 6.1(b) and/or (c) for the purpose of verifying an import or export declaration in identified cases where there are reasonable grounds to doubt the truth or accuracy of the declaration.

2.2 Each Member shall notify the Committee of the details of its contact point for the exchange of this information.

3 VERIFICATION

A Member shall make a request for information only after it has conducted appropriate verification procedures of an import or export declaration and after it has inspected the available relevant documentation.

4 REQUEST

1.49.

1.50. 4.1 The requesting Member shall provide the requested Member with a written request, through paper or electronic means in a mutually agreed official language of the WTO or other mutually agreed language, including:

- a. (a) the matter at issue including, where appropriate and available, the number identifying the export declaration corresponding to the import declaration in question;
- b.

¹⁴ Such activity has the overall objective of lowering the frequency of non-compliance, and consequently reducing the need for exchange of information in pursuit of enforcement.

- c. (b) the purpose for which the requesting Member is seeking the information or documents, along with the names and contact details of the persons to whom the request relates, if known;
- d.
- e. (c) where required by the requested Member, confirmation¹⁵ of the verification where appropriate;
- f.
- g. (d) the specific information or documents requested;
- h.
- i. (e) the identity of the originating office making the request;
- j.
- k. (f) reference to provisions of the requesting Member's domestic law and legal system that govern the collection, protection, use, disclosure, retention, and disposal of confidential information and personal data.

4.2 If the requesting Member is not in a position to comply with any of the subparagraphs of paragraph 4.1, it shall specify this in the request.

5 PROTECTION AND CONFIDENTIALITY

1.51.

1.52. 5.1 The requesting Member shall, subject to paragraph 5.2:

- a. (a) hold all information or documents provided by the requested Member strictly in confidence and grant at least the same level of such protection and confidentiality as that provided under the domestic law and legal system of the requested Member as described by it under subparagraphs 6.1(b) or (c);
- b.
- (b) provide information or documents only to the customs authorities dealing with the matter at issue and use the information or documents solely for the purpose stated in the request unless the requested Member agrees otherwise in writing;
- (c) not disclose the information or documents without the specific written permission of the requested Member;
- (d) not use any unverified information or documents from the requested Member as the deciding factor towards alleviating the doubt in any given circumstance;
- (e) respect any case-specific conditions set out by the requested Member regarding retention and disposal of confidential information or documents and personal data; and
- (f) upon request, inform the requested Member of any decisions and actions taken on the matter as a result of the information or documents provided.

5.2 A requesting Member may be unable under its domestic law and legal system to comply with any of the subparagraphs of paragraph 5.1. If so, the requesting Member shall specify this in the request.

5.3 The requested Member shall treat any request and verification information received under paragraph 4 with at least the same level of protection and confidentiality accorded by the requested Member to its own similar information.

¹⁵ This may include pertinent information on the verification conducted under paragraph 3. Such information shall be subject to the level of protection and confidentiality specified by the Member conducting the verification.

6 PROVISION OF INFORMATION

1.53.

1.54. 6.1 Subject to the provisions of this Article, the requested Member shall promptly:

- (a) respond in writing, through paper or electronic means;
- a. (b) provide the specific information as set out in the import or export declaration, or the declaration, to the extent it is available, along with a description of the level of protection and confidentiality required of the requesting Member;
- b.
- c. (c) if requested, provide the specific information as set out in the following documents, or the documents, submitted in support of the import or export declaration, to the extent it is available: commercial invoice, packing list, certificate of origin and bill of lading, in the form in which these were filed, whether paper or electronic, along with a description of the level of protection and confidentiality required of the requesting Member;
- d.
- (d) confirm that the documents provided are true copies;
- (e) provide the information or otherwise respond to the request, to the extent possible, within 90 days from the date of the request.

6.2 The requested Member may require, under its domestic law and legal system, an assurance prior to the provision of information that the specific information will not be used as evidence in criminal investigations, judicial proceedings, or in non-customs proceedings without the specific written permission of the requested Member. If the requesting Member is not in a position to comply with this requirement, it should specify this to the requested Member.

7 POSTPONEMENT OR REFUSAL OF A REQUEST

1.55.

1.56. 7.1 A requested Member may postpone or refuse part or all of a request to provide information, and shall inform the requesting Member of the reasons for doing so, where:

1.57.

- a. (a) it would be contrary to the public interest as reflected in the domestic law and legal system of the requested Member;
- b. (b) its domestic law and legal system prevents the release of the information. In such a case it shall provide the requesting Member with a copy of the relevant, specific reference;
- c. (c) the provision of the information would impede law enforcement or otherwise interfere with an on-going administrative or judicial investigation, prosecution or proceeding;
- d. (d) the consent of the importer or exporter is required by its domestic law and legal system that govern the collection, protection, use, disclosure, retention, and disposal of confidential information or personal data and that consent is not given; or
- e.
- f. (e) the request for information is received after the expiration of the legal requirement of the requested Member for the retention of documents.

1.58.

1.59. 7.2 In the circumstances of paragraphs 4.2, 5.2, or 6.2, execution of such a request shall be at the discretion of the requested Member.

1.60.

8 RECIPROCITY

If the requesting Member is of the opinion that it would be unable to comply with a similar request if it was made by the requested Member, or if it has not yet implemented this Article, it shall state that fact in its request. Execution of such a request shall be at the discretion of the requested Member.

9 ADMINISTRATIVE BURDEN

1.61.

1.62. 9.1 The requesting Member shall take into account the associated resource and cost implications for the requested Member in responding to requests for information. The requesting Member shall consider the proportionality between its fiscal interest in pursuing its request and the efforts to be made by the requested Member in providing the information.

a. 9.2 If a requested Member receives an unmanageable number of requests for information or a request for information of unmanageable scope from one or more requesting Member(s) and is unable to meet such requests within a reasonable time, it may request one or more of the requesting Member(s) to prioritize with a view to agreeing on a practical limit within its resource constraints. In the absence of a mutually-agreed approach, the execution of such requests shall be at the discretion of the requested Member based on the results of its own prioritization.

10 LIMITATIONS

b.

c. A requested Member shall not be required to:

d. (a) modify the format of its import or export declarations or procedures;

e.

f. (b) call for documents other than those submitted with the import or export declaration as specified in subparagraph 6.1(c);

g.

h. (c) initiate enquiries to obtain the information;

i.

j. (d) modify the period of retention of such information;

k.

l. (e) introduce paper documentation where electronic format has already been introduced;

m.

n. (f) translate the information;

o.

p. (g) verify the accuracy of the information; or

q.

r. (h) provide information that would prejudice the legitimate commercial interests of particular enterprises, public or private.

11 UNAUTHORIZED USE OR DISCLOSURE

1.63.

1.64. 11.1 In the event of any breach of the conditions of use or disclosure of information exchanged under this Article, the requesting Member that received the information shall

promptly communicate the details of such unauthorized use or disclosure to the requested Member that provided the information and:

- a. (a) take necessary measures to remedy the breach;
 - b.
 - c. (b) take necessary measures to prevent any future breach; and
- (c) notify the requested Member of the measures taken under subparagraphs (a) and (b).

11.2 The requested Member may suspend its obligations to the requesting Member under this Article until the measures set out in paragraph 11.1 have been taken.

12 BILATERAL AND REGIONAL AGREEMENTS

12.1 NOTHING IN THIS ARTICLE SHALL PREVENT A MEMBER FROM ENTERING INTO OR MAINTAINING A BILATERAL, PLURILATERAL, OR REGIONAL AGREEMENT FOR SHARING OR EXCHANGE OF CUSTOMS INFORMATION AND DATA, INCLUDING ON A SECURE AND RAPID BASIS SUCH AS ON AN AUTOMATIC BASIS OR IN ADVANCE OF THE ARRIVAL OF THE CONSIGNMENT.

1.65.

1.66. 12.2 Nothing in this Article shall be construed as altering or affecting a Member's rights or obligations under such bilateral, plurilateral, or regional agreements, or as governing the exchange of customs information and data under such other agreements.

Revised Kyoto Convention

❖ General Annex § 6 (Customs Control)

Standard 6.7 in Chapter 6 of the General Annex to the Revised Kyoto Convention stipulates the principle of mutual administrative assistance between Customs administrations to enhance Customs control.

RKC Standards

6.7. Standard

The Customs shall seek to co-operate with other Customs administrations and seek to conclude mutual administrative assistance agreements to enhance Customs control.

Other WCO Instruments and Tools

❖ Model Bilateral Agreement

The Model Bilateral Agreement constitutes a sound basis for negotiation of bilateral agreements for mutual administrative assistance in Customs matters.

❖ Nairobi Convention

The Convention requires Contracting Parties to afford each other mutual assistance with a view to preventing, investigating and repressing Customs offences.

❖ Johannesburg Convention

The Convention enables Customs administrations to legally exchange information such as personal data and information on consignments in advance of their arrival at destination in order to secure the international trade supply chain.

❖ **Guide to the Exchange of Customs Valuation Information**

The Guide is designed to facilitate the exchange of valuation information among Customs administrations. It consists of (1) a checklist regarding valuation verification actions to be taken by the Customs administration of the importing country before requesting information from the Customs administration of the exporting country and (2) a set of recommended procedures, applicable to the Customs administrations of both the importing and exporting countries, for the exchange of valuation information.

❖ **Globally Networked Customs Feasibility Study**

To make Globally Networked Customs (GNC) a reality, an Ad Hoc Working Group was set up by the WCO to undertake a comprehensive analysis of the potential to rationalize, harmonize and standardize the secure and efficient exchange of information between WCO Members. The GNC Feasibility Study has been produced by the Ad Hoc Working Group and explains how WCO Members can achieve an efficient global approach to the exchange of information that maximizes the benefits implicit in such activity.

❖ **Customs Enforcement Network Global Application (CEN)**

The CEN application was conceived to assist the Customs enforcement community in gathering data and information for intelligence purposes. This module acts as a central depository for enforcement-related information; its success resting squarely on the steady flow of quality data provided by all WCO Members.

❖ **National Customs Enforcement Network Application (nCEN)**

The National Customs Enforcement Network (nCEN) is a system developed by the WCO to assist Customs administrations with the collection and storage of law-enforcement information on the national level, with the additional capability to exchange this information at the regional and international levels.

❖ **Customs Enforcement Network Communication Platform (CENcomm)**

CENcomm is a tool that facilitates the exchange and use of data in a timely, reliable and secure manner with direct access available 24 hours a day. Email management and information storage are just two of its key features.

V. Performance Measurement Tool

(1) Average Release Times

Trade Facilitation Agreement

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

6 Establishment and Publication of Average Release Times

6.1. Members are encouraged to measure and publish their average release time of goods periodically and in a consistent manner, using tools such as, *inter alia*, the WCO Time Release Study.¹⁶

6.2. Members are encouraged to share with the Committee their experiences in measuring average release times, including methodologies used, bottlenecks identified, and any resulting effects on efficiency.

Other ECP Instruments and Tools

❖ TRS Guide (Guide to Measure the Time Required for the Release of Goods)

The TRS Guide provides guidance on how to carry out a study to review border procedures, measuring the average time taken between the arrival of the goods and their release.

❖ TRS Online Software

The software has been developed to create the questionnaires that are used in conjunction with the study and to produce reports indicating the average times and standard deviation for each step in the process of releasing goods.

❖ Customs International Benchmarking Manual

Guidance to Customs for improving their efficiency and effectiveness by comparing procedures or processes with the same or similar procedures or processes carried out by others. This would then assist Customs in identifying and implementing best practice.

¹⁶ Each Member may determine the scope and methodology of such average release time measurement in accordance with its needs and capacity.

Case Studies

The following case studies on the Time Release Survey are attached to the TRS Guide (Appendix 8).

Member	Case Study
Australia	Using TRS to strengthen Customs-Business Partnerships
Cameroon	TRS as a way to identify main structural bottlenecks and the behavioral patterns in a port
Japan	The TRS as a performance tool for Trade Facilitation Measures
Korea	The TRS Methodology using Customs Automated System
New Zealand	Application of the WCO TRS Guide in exportation
Serbia	The TRS Implementation
Uganda	TRS Experience of a Developing and Land Locked Country

VI. Miscellaneous

(1) Natural Disaster Relief

Revised Kyoto Convention

❖ Specific Annex J § 5 (Relief Consignments)

Chapter 5 of Specific Annex J to the Revised Kyoto Convention sets a series of standards on relief consignments. The Guidelines to the Chapter provide details of such standards, including principles to be applied for clearance of relief consignments for export, transit, temporary admission and import.

RKC Standards
<p style="text-align: center;">Relief consignments</p> <p style="text-align: center;">Definition</p> <p>For the purposes of this Chapter :</p> <p>"relief consignments" means :</p> <ul style="list-style-type: none">- goods, including vehicles and other means of transport, foodstuffs, medicaments, clothing, blankets, tents, prefabricated houses, water purifying and water storage items, or other goods of prime necessity, forwarded as aid to those affected by disaster; and- all equipment, vehicles and other means of transport, specially trained animals, provisions, supplies, personal effects and other goods for disaster relief personnel in order to perform their duties and to support them in living and working in the territory of the disaster throughout the duration of their mission. <p style="text-align: center;">Principles</p> <p>1. Standard</p> <p>Clearance of relief consignments shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex</p> <p>2. Standard</p> <p>Clearance of relief consignments for export, transit, temporary admission and import shall be carried out as a matter of priority.</p> <p style="text-align: center;">Field of application</p> <p>3. Standard</p> <p>In the case of relief consignments the Customs shall provide for :</p> <ul style="list-style-type: none">- lodging of a simplified Goods declaration or of a provisional or incomplete Goods declaration subject to completion of the declaration within a specified period;- lodging and registering or checking of the Goods declaration and supporting documents prior to the arrival of the goods, and their release upon arrival;- clearance outside the designated hours of business or away from Customs offices and the waiver of any charges in this respect; and- examination and/or sampling of goods only in exceptional circumstances. <p>4. Recommended Practice</p> <p>Clearance of relief consignments should be granted without regard to the country of origin, the country from which arrived or country of destination.</p>

RKC Standards

5. Recommended Practice

In the case of relief consignments any economic export prohibitions or restrictions and any export duties or taxes otherwise payable should be waived.

6. Recommended Practice

Relief consignments received as gifts by approved organizations for use by or under the control of such organizations, or for distribution free of charge by them or under their control, should be admitted free of import duties and taxes and free of economic import prohibitions or restrictions.

Other ECP Instruments and Tools

❖ **Istanbul Convention**

Annex B.9 (“Concerning Goods Imported for Humanitarian Purposes”) to the Istanbul Convention includes principles on facilities to be applied to a relief consignment in temporary admission.

❖ **Resolution of the Customs Co-operation Council (2011) on the Role of Customs in Natural Disaster Relief**

The Resolution is about a series of strategies for enhancing the role of Customs in natural disaster relief. The Resolution was adopted by the Customs Co-operation Council in 2011.

❖ **Recommendation (1970) to Expedite the Forwarding of Relief Consignments in the Event of Disasters**

The Recommendation recommends facilities to be applied to relief consignments.

(2) Rules of Origin

Revised Kyoto Convention

❖ Specific Annex K (Origin)

Specific Annex K to the Revised Kyoto Convention sets a series of standards on rules of origin, including standards on documentary evidence of origin and control of documentary evidence of origin.

RKC Standards
<p style="text-align: center;">Chapter 1 Rules of origin</p> <p style="text-align: center;">Definitions</p> <p>For the purposes of this Chapter :</p> <p>"country of origin of goods" means the country in which the goods have been produced or manufactured, according to the criteria laid down for the purposes of application of the Customs tariff, of quantitative restrictions or of any other measure related to trade;</p> <p>"rules of origin" means the specific provisions, developed from principles established by national legislation or international agreements ("origin criteria"), applied by a country to determine the origin of goods;</p> <p>"substantial transformation criterion" means the criterion according to which origin is determined by regarding as the country of origin the country in which the last substantial manufacturing or processing, deemed sufficient to give the commodity its essential character, has been carried out.</p> <p style="text-align: center;">Principle</p> <p>1. Standard</p> <p>The rules of origin necessary for the implementation of the measures which the Customs are responsible for applying both at importation and at exportation shall be laid down in accordance with the provisions of this Chapter and, insofar as applicable, by the provisions in the General Annex.</p> <p style="text-align: center;">Rules of origin</p> <p>2. Standard</p> <p>Goods produced wholly in a given country shall be taken as originating in that country. The following only shall be taken to be produced wholly in a given country :</p> <ul style="list-style-type: none">(a) mineral products extracted from its soil, from its territorial waters or from its sea-bed;(b) vegetable products harvested or gathered in that country;(c) live animals born and raised in that country;(d) products obtained from live animals in that country;(e) products obtained from hunting or fishing conducted in that country;(f) products obtained by maritime fishing and other products taken from the sea by a vessel of that country;(g) products obtained aboard a factory ship of that country solely from products of the kind covered by paragraph (f) above;(h) products extracted from marine soil or subsoil outside that country's territorial waters, provided that the country has sole rights to work that soil or subsoil;(ij) scrap and waste from manufacturing and processing operations, and used articles, collected in that country and fit only for the recovery of raw materials;(k) goods produced in that country solely from the products referred to in paragraphs (a) to (ij) above. <p>3. Recommended Practice</p>

RKC Standards

Where two or more countries have taken part in the production of the goods, the origin of the goods should be determined according to the substantial transformation criterion.

4. Recommended Practice

In applying the substantial transformation criterion, use should be made of the International Convention on the Harmonized Commodity Description and Coding System.

5. Recommended Practice

Where the substantial transformation criterion is expressed in terms of the ad valorem percentage rule, the values to be taken into consideration should be :

- for the materials imported, the dutiable value at importation or, in the case of materials of undetermined origin, the first ascertainable price paid for them in the territory of the country in which manufacture took place; and
- for the goods produced, either the ex-works price or the price at exportation, according to the provisions of national legislation.

6. Recommended Practice

Operations which do not contribute or which contribute to only a small extent to the essential characteristics or properties of the goods, and in particular operations confined to one or more of those listed below, should not be regarded as constituting substantial manufacturing or processing :

- (a) operations necessary for the preservation of goods during transportation or storage;
- (b) operations to improve the packaging or the marketable quality of the goods or to prepare them for shipment, such as breaking bulk, grouping of packages, sorting and grading, repacking;
- (c) simple assembly operations;
- (d) mixing of goods of different origin, provided that the characteristics of the resulting product are not essentially different from the characteristics of the goods which have been mixed.

Special cases of qualification for origin

7. Recommended Practice

Accessories, spare parts and tools for use with a machine, appliance, apparatus or vehicle should be deemed to have the same origin as the machine, appliance, apparatus or vehicle, provided that they are imported and normally sold therewith and correspond, in kind and number, to the normal equipment thereof.

8. Recommended Practice

An unassembled or disassembled article which is imported in more than one consignment because it is not feasible, for transport or production reasons, to import it in a single consignment should, if the importer so requests, be treated as one article for the purpose of determining origin.

9. Recommended Practice

For the purpose of determining origin, packings should be deemed to have the same origin as the goods they contain unless the national legislation of the country of importation requires them to be declared separately for tariff purposes, in which case their origin should be determined separately from that of the goods.

10. Recommended Practice

For the purpose of determining the origin of goods, where packings are deemed to have the same origin as the goods, account should be taken, in particular where a percentage method is applied, only of packings in which the goods are ordinarily sold by retail.

11. Standard

RKC Standards

For the purpose of determining the origin of goods, no account shall be taken of the origin of the energy, plant, machinery and tools used in the manufacturing or processing of the goods.

Direct transport rule

12. Recommended Practice

Where provisions requiring the direct transport of goods from the country of origin are laid down, derogations therefrom should be allowed, in particular for geographical reasons (for example, in the case of landlocked countries) and in the case of goods which remain under Customs control in third countries (for example, in the case of goods displayed at fairs or exhibitions or placed in Customs warehouses).

Information concerning rules of origin

13. Standard

Changes in the rules of origin or in the procedures for their application shall enter into force only after sufficient notice has been given to enable the interested persons, both in export markets and in supplying countries, to take account of the new provisions.

Chapter 2 Documentary evidence of origin

Definitions

For the purposes of this Chapter :

"certificate of origin" means a specific form identifying the goods, in which the authority or body empowered to issue it certifies expressly that the goods to which the certificate relates originate in a specific country. This certificate may also include a declaration by the manufacturer, producer, supplier, exporter or other competent person;

"certified declaration of origin" means a "declaration of origin" certified by an authority or body empowered to do so;

"declaration of origin" means an appropriate statement as to the origin of the goods made, in connection with their exportation, by the manufacturer, producer, supplier, exporter or other competent person on the commercial invoice or any other document relating to the goods;

"documentary evidence of origin" means a certificate of origin, a certified declaration of origin or a declaration of origin;

"regional appellation certificate" means a certificate drawn up in accordance with the rules laid down by an authority or approved body, certifying that the goods described therein qualify for a designation specific to the given region (e.g. Champagne, Port wine, Parmesan cheese).

Principle

1. Standard

The requirement, establishment and issue of documentary evidence relating to the origin of goods shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

Requirement of documentary evidence of origin

2. Recommended Practice

Documentary evidence of origin should be required only when it is necessary for the application of preferential Customs duties, of economic or trade measures adopted unilaterally or under bilateral or multilateral agreements or of measures adopted for reasons of health or public order.

3. Recommended Practice

RKC Standards

Documentary evidence of origin should not be required in the following cases :

- (a) goods sent in small consignments addressed to private individuals or carried in travellers' baggage, provided that such importations are of a non-commercial nature and the aggregate value of the importation does not exceed an amount which shall not be less than US\$100;
- (b) commercial consignments the aggregate value of which does not exceed an amount which shall not be less than US\$60;
- (c) goods granted temporary admission;
- (d) goods carried in Customs transit;
- (e) goods accompanied by a regional appellation certificate as well as certain specific goods, where the conditions to be met by the supplying countries under bilateral or multilateral agreements relating to those goods are such that documentary evidence need not be required.

Where several consignments of the kind referred to in (a) or (b) are sent at the same time, by the same means, to the same consignee, by the same consignor, the aggregate value shall be taken to be the total value of those consignments.

4. Recommended Practice

When rules relating to the requirement of documentary evidence of origin have been laid down unilaterally, they should be reviewed at least every three years to ascertain whether they are still appropriate in the light of changes in the economic and commercial conditions under which they were imposed.

5. Recommended Practice

Documentary evidence from the competent authorities of the country of origin should be required only in cases where the Customs of the country of importation have reason to suspect fraud.

Applications and form of the various types of documentary evidence of origin

(a) Certificate of origin

Form and content

6. Recommended Practice

When revising present forms or preparing new forms of certificates of origin, Contracting Parties should use the model form in Appendix I to this Chapter, in accordance with the Notes in Appendix II, and having regard to the Rules in Appendix III.

Contracting Parties which have aligned their forms of certificate of origin on the model form in Appendix I to this Chapter should notify the Secretary General of the Council accordingly.

Languages to be used

7. Recommended Practice

Certificate of origin forms should be printed in the language(s) selected by the country of exportation and, if these languages are neither English nor French, also in English or French.

8. Recommended Practice

Where the certificate of origin is made out in a language that is not a language of the country of importation, the Customs of that country should not require, as a matter of course, a translation of the particulars given in the certificate of origin.

Authorities and other bodies empowered to issue certificates of origin

9. Standard

Contracting Parties accepting this Chapter shall indicate, either in their notification of acceptance or subsequently, the authorities or bodies empowered to issue certificates of origin.

10. Recommended Practice

RKC Standards

Where goods are not imported directly from the country of origin but are forwarded through the territory of a third country, certificates of origin should be allowed to be drawn up by the authorities or bodies empowered to issue such certificates in that third country, on the basis of a certificate of origin previously issued in the country of origin of the goods.

11. Recommended Practice

Authorities or bodies empowered to issue certificates of origin should retain for not less than two years the applications for, or control copies of, the certificates of origin issued by them.

(b) Documentary evidence other than certificates of origin

12. Recommended Practice

Where documentary evidence of origin is required, a declaration of origin should be accepted in the following cases :

(a) goods sent in small consignments addressed to private individuals or carried in travellers' baggage, provided that such importations are of a non-commercial nature and the aggregate value of the importation does not exceed an amount which shall not be less than US\$500;

(b) commercial consignments the aggregate value of which does not exceed an amount which shall not be less than US\$300.

Where several consignments of the kind referred to in (a) or (b) are sent at the same time, by the same means, to the same consignee, by the same consignor, the aggregate value shall be taken to be the total value of those consignments.

Sanctions

13. Standard

Provision shall be made for sanctions against any person who prepares, or causes to be prepared, a document containing false information with a view to obtaining documentary evidence of origin.

Other ECP Instruments and Tools

❖ Origin Database

The database contains preferential trade agreement texts, related rules of origin provisions and specimens of proofs of origin (origin certificates).

(3) Customs Technical Terms

Revised Kyoto Convention

❖ General Annex § 2 (Definitions)

Article 1, Chapter 2 of the General Annex, and each Chapter of the Specific Annexes to the Revised Kyoto Convention, include a series of definitions of terms used in the RKC.

RKC Standards

DEFINITIONS

For the purposes of the Annexes to this Convention :

“**appeal**” means the act by which a person who is directly affected by a decision or omission of the Customs and who considers himself to be aggrieved thereby seeks redress before a competent authority;

“**assessment of duties and taxes**” means the determination of the amount of duties and taxes payable;

“**audit-based control**” means measures by which the Customs satisfy themselves as to the accuracy and authenticity of declarations through the examination of the relevant books, records, business systems and commercial data held by persons concerned;

“**checking the Goods declaration**” means the action taken by the Customs to satisfy themselves that the Goods declaration is correctly made out and that the supporting documents required fulfil the prescribed conditions;

“**clearance**” means the accomplishment of the Customs formalities necessary to allow goods to enter home use, to be exported or to be placed under another Customs procedure;

“**Customs**” means the Government Service which is responsible for the administration of Customs law and the collection of duties and taxes and which also has the responsibility for the application of other laws and regulations relating to the importation, exportation, movement or storage of goods;

“**Customs control**” means measures applied by the Customs to ensure compliance with Customs law;

“**Customs duties**” means the duties laid down in the Customs tariff to which goods are liable on entering or leaving the Customs territory;

“**Customs formalities**” means all the operations which must be carried out by the persons concerned and by the Customs in order to comply with the Customs law;

“**Customs law**” means the statutory and regulatory provisions relating to the importation, exportation, administration and

“**Customs office**” means the Customs administrative unit competent for the performance of Customs formalities, and the premises or other areas approved for that purpose by the competent authorities;

“**Customs territory**” means the territory in which the Customs law of a Contracting Party applies;

“**decision**” means the individual act by which the Customs decide upon a matter relating to Customs law;

“**declarant**” means any person who makes a Goods declaration or in whose name such a declaration is made;

“**due date**” means the date when payment of duties and taxes is due;

“**duties and taxes**” means import duties and taxes and/or export duties and taxes;

“**examination of goods**” means the physical inspection of goods by the Customs to satisfy themselves that the nature, origin, condition, quantity and value of the goods are in accordance with the particulars furnished in the Goods declaration;

“**export duties and taxes**” means Customs duties and all other duties, taxes or charges which are collected on or in connection with the exportation of goods, but not including any charges which are limited in amount to the approximate cost of services rendered or collected by the Customs on behalf of another national authority;

RKC Standards

“**Goods declaration**” means a statement made in the manner prescribed by the Customs, by which the persons concerned indicate the Customs procedure to be applied to the goods and furnish the particulars which the Customs require for its application;

“**import duties and taxes**” means Customs duties and all other duties, taxes or charges which are collected on or in connection with the importation of goods, but not including any charges which are limited in amount to the approximate cost of services rendered or collected by the Customs on behalf of another national authority;

“**mutual administrative assistance**” means actions of a Customs administration on behalf of or in collaboration with another Customs administration for the proper application of Customs law and for the prevention, investigation and repression of Customs offences;

“**omission**” means the failure to act or give a decision required of the Customs by Customs law within a reasonable time on a matter duly submitted to them;

“**person**” means both natural and legal persons, unless the context otherwise requires;

“**release of goods**” means the action by the Customs to permit goods undergoing clearance to be placed at the disposal of the persons concerned;

“**repayment**” means the refund, in whole or in part, of duties and taxes paid on goods and the remission, in whole or in part, of duties and taxes where payment has not been made;

“**security**” means that which ensures to the satisfaction of the Customs that an obligation to the Customs will be fulfilled. Security is described as “general” when it ensures that the obligations arising from several operations will be fulfilled;

“**third party**” means any person who deals directly with the Customs, for and on behalf of another person, relating to the importation, exportation, movement or storage of goods.

Other ECP Instruments and Tools

❖ Glossary of International Customs Terms

The Glossary sets out definitions of certain Customs terms in a single document in order to establish a common Customs terminology.

(4) Trade Recovery

Other ECP Instruments and Tools

❖ Trade Recovery Guidelines

The Guidelines provide guidance on the logical sequence of steps taken prior to and following a disruption, appropriate action by Customs and communication between Customs and businesses to facilitate trade recovery activities.

(5) Intellectual Property Rights (IPR)

Other ECP Instruments and Tools

❖ Interface Public Members (IPM)

IPM is a secure WCO communication tool for the exchange of information between Right Holders and Customs administrations to combat counterfeiting. IPM provides Right Holders with access to the WCO's tools and publications related to combating counterfeiting, including: the 'genuine/fake' database, a compendium of national legislation on intellectual property rights (project), 'counterfeiting' reports by sector (project), etc.

(6) Informal Trade

Other ECP Instruments and Tools

❖ The Informal Economy and Governance (Research Paper)

The research paper provides an overview of the definition of the term "informal" in international trade, as well as an outline of the informal sector in the context of law, economic policy and social practices.

(7) Small and Medium Enterprises (SMEs)

Other ECP Instruments and Tools

❖ The Authorized Economic Operator and the Small and Medium Sized Enterprises (AEO and SMEs) FAQ

The model FAQ for SMEs on AEO programmes provides an overview of the SAFE Framework of Standards and AEO programme, as well as tips to become an AEO.

Members Practices

Business Lens Checklist (Canada)

- The business community in Canada has expressed concerns about the time and expense incurred in understanding and complying with information requirements and administrative obligations (e.g., obtaining the information that explains the requirements, completing and returning forms, and processing and storing data for reporting and auditing purposes). The burden of compliance can divert a business's resources away from productive activities such as innovating, marketing and creating employment.
- This burden is even greater on SMEs, who often lack the resources of larger enterprises and make up the majority of the CBSA's commercial clients. The **CBSA's Business Lens Checklist (BLC)** provides for greater business focus and industry input as the CBSA designs its policies and programmes, and ensures that the concerns of business clients are considered and balanced with border compliance obligations.
- The goal of the BLC is twofold. The first is to focus on the concerns and issues of our commercial clients, in particular SMEs, when assessing the impact of new information requirements and border obligations. The second is to institutionalize a culture of business simplification within the CBSA. The desired outcome of streamlining policies and procedures, and reducing the administrative burden on business, will assist the competitiveness of Canadian businesses in the world market.
- It should be noted that the **Government of Canada (GoC)** has also established a similarly named **Small Business Lens** initiative as part of Red Tape Reduction Action Plan commitments. This initiative, which applies to all GoC Departments and Agencies, aims at cutting red tape stemming from federal regulatory requirements and reducing administrative and compliance burden on business.
- While the CBSA BLC is an internal tool meant to guide the development of CBSA policies and programs, the GoC Small Business Lens requirement must be taken into consideration when developing any regulatory proposals that impact small
- business, that have nationwide cost impacts of over \$1 million annually, or where costs on small businesses are disproportionately high. For further information, please refer to the following link: <http://www.tbs-sct.gc.ca/rtrap-parfa/sbl-lpe-eng.asp>

(8) Integrity

Other ECP Instruments and Tools

❖ Revised Arusha Declaration

The Declaration is the focal point for the WCO's anti-corruption and integrity development effort. It contains specific elements that are designed to improve the efficiency of Member administrations and reduce or eliminate opportunities for corruption.

❖ Integrity Development Guide

The Guide is based on a self-assessment process designed to be a practical tool for Customs administrations. It provides a framework to examine the management, administrative and integrity strategies currently being employed and to identify opportunities for further improvement.

❖ Compendium of Integrity Best Practices

The Compendium consists of best practices on integrity.

❖ Model Code of Ethics and Conduct

The Model Code describes the ethical norms of Customs and sets out the minimum required attitude and behaviour expected of all Customs officers.
