

**Council for Trade in Goods**

**TRADE FACILITATION  
WORK UNDERTAKEN BY INTERGOVERNMENTAL ORGANIZATIONS**

Background Note by the Secretariat

Revision

- (i) At its informal meeting of 7 June 2000, the Council for Trade in Goods requested the Secretariat to update its background notes (documents G/C/W/80 and G/C/W/80/Add.1) on work already done or being done on the subject of trade facilitation in other international organizations. The present revised note replaces the information contained in those documents.
- (ii) This revised background note outlines in greater detail initiatives on trade facilitation undertaken in some regional and other intergovernmental fora (see Section B). To the extent available, the note also includes information on trade facilitation-related technical assistance activities of the intergovernmental organizations covered.
- (iii) Most of the information in Section A was supplied by the respective intergovernmental organizations, and has been supplemented by other relevant information from official documents and information available on the world-wide-web. The information contained in Section B relies in large part on official documents and information from the world-wide-web.

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A. TRADE FACILITATION WORK UNDERTAKEN BY INTERGOVERNMENTAL ORGANIZATIONS

**1. UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD)**

1.1 UNCTAD became involved in trade facilitation work in 1970 when it was agreed, within the ECE context, on the need for facilitation work to be co-ordinated on a global basis and for the existing technical functions of the United Nations to be strengthened in this area. The regional economic commissions agreed that the United Nations Development Program (UNDP) provided an appropriate framework for an interregional project to be attached to UNCTAD. As the work expanded, it became necessary to separate the UNDP-financed technical assistance activities and the substantive UNCTAD secretariat work. In 1973, UNCTAD and the ECE agreed that UNCTAD would provide secretariat technical expertise on a global basis. In 1975, a separate unit in the secretariat was established called the Special Programme on Trade Facilitation (FALPRO).

1.2 FALPRO (which was subsequently absorbed by the Special Programme on Trade Efficiency - see below) did not report to any of the bodies within UNCTAD's permanent organization structure and was not part of UNCTAD's policy or negotiation work. Its attachment with UNCTAD enabled it to work globally with the regional economic commissions, particularly the UN/ECE, and with the International Trade Centre (ITC). The original terms of reference of FALPRO essentially aimed at ensuring the full participation of developing countries in international trade facilitation work and in dealing with facilitation matters cross-sectorally with other UNCTAD programmes such as the commodity agreements; generalized system of preferences; transport work; harmonization of customs procedures, etc. The means to achieve this were to create representative national facilitation bodies and to arrange training of officials from the countries concerned in order to enable them to carry out trade facilitation work in their own countries and to participate in international meetings.

1.3 In 1992, at the UNCTAD VIII Cartagena Conference,<sup>1</sup> it was agreed that an Expert Working Group on Trade Efficiency be established within UNCTAD. While taking due account of work done in other international organizations, the Group "would seek to support, accelerate and enhance these initiatives...The Group would produce guidelines needed to take concrete steps towards trade efficiency at the national and international levels, especially in developing countries...The culmination of the work of the group would be an international symposium on trade efficiency, which was to be held in 1994."<sup>2</sup> The symposium was to reinforce international discussion on the promotion of harmonized national and regional infrastructures for trade and trade efficiency. At the secretariat level, UNCTAD's work in the context of the inter-secretarial FALPRO was incorporated into the Special Programme for Trade Efficiency (SPTE). In the 1996 re-organization of UNCTAD, SPTE was transformed into the Division of Services Infrastructure for Development and Trade Efficiency (SITE) and trade facilitation activities fall under its Trade Facilitation Section. The objective of SITE is to simplify and harmonize trade procedures world-wide and give governments and traders access to advanced technologies and information networks.

1.4 At the conclusion of UNCTAD X in Bangkok, the Plan of Action<sup>3</sup> of the Bangkok Declaration<sup>4</sup> provides a new mandate for the UNCTAD secretariat, in particular regarding transport, trade facilitation and e-commerce:

“150. UNCTAD’S work should focus on its comparative advantage in the fields of the applied economics of transport, trade facilitation and multimodal transport. UNCTAD

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<sup>1</sup> UNCTAD VIII, held at Cartagena de Indias, Colombia, February 1992.

<sup>2</sup> "The Cartagena Commitment", UNCTAD VIII, February 1992.

<sup>3</sup> Plan of Action (TD/386), Bangkok, February 2000.

<sup>4</sup> Bangkok Declaration: Global Dialogue & Dynamic Engagement (TD/387), Bangkok, February 2000.

must treat problems relating to the provision of, and access to, international transport services as an integral part of international support measures designed to enable the trade and industry of developing countries and particularly the least developed, land-locked and transit developing countries to participate more effectively in the globalization processes.

152. In close co-operation with other relevant international organizations, UNCTAD should continue to undertake studies on the implementation of multimodal transport rules.

156. UNCTAD should contribute to informing international debates on the developmental impact of global information networks addressing, in particular, developing countries' specific problems, such as access to information technology, infrastructure constraints and build-up of human resource capacity".

SITE carries out a wide variety of activities which are described below.<sup>5</sup>

#### United Nations Symposium on Trade Efficiency

1.5 The United Nations International Symposium on Trade Efficiency was held, at Ministerial level, in Columbus, Ohio, in October 1994. The Columbus Ministerial Declaration on Trade Efficiency<sup>6</sup> contains the substantive outcome of the Symposium. The Symposium noted the signing of the Final Act of the Uruguay Round in Marrakesh as "the successful conclusion of years of negotiations on the macro-economic framework required for the emergence of an open, predictable, secure and non-discriminatory trading system. However, efforts made to secure an open trade environment will not bear their full benefits unless the enterprises of all nations can import and export efficiently...[delegates] have gathered to find solutions to these micro-economic issues of international trade".

1.6 The Symposium concluded that "adoption of trade efficiency measures can significantly lower the costs of trade transactions. Estimates place the costs of trade transactions at 7 to 10 per cent of the total value of world trade". The Columbus Ministerial Declaration put forth a set of practical actions, recommendations and guidelines for governments, international and national organizations and enterprises. They addressed six areas which were considered ripe for tangible results for international trade: customs, transport, banking and insurance, information for trade, business practices, and telecommunications. UNCTAD's role, as agreed at the symposium, was to act as the focal point in the implementation of the Declaration, which would require co-ordinated efforts by many national and international bodies, particularly the United Nations. In particular, the symposium called for "coordination with the GATT/WTO and all United Nations regional economic commissions...[as] of particular importance in facilitation of trade".

1.7 The Declaration called for, in the area of customs, "governments, through their customs authorities, to simplify procedures for determining customs value, which can cause significant delays in the clearance of import consignments, through the use of the customs valuation method prescribed in the GATT Agreement, as administered by the Customs Co-operation Council, which is administratively less complex than other methods currently in use in some countries...". In addition, the Declaration called for governments to "avoid as far as possible the use of pre-shipment inspection agencies to carry out customs-related activities. While recourse to such services might be a necessity in certain circumstances, it should be regarded as an interim measure and conducted in conformity with the provisions of the Agreement on Preshipment Inspection annexed to the Marrakesh Agreement...".

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<sup>5</sup> For more information, visit the UNCTAD web site: [www.unctad.org](http://www.unctad.org)

<sup>6</sup> "Columbus Ministerial Declaration on Trade Efficiency", Report of the United Nations International Symposium on Trade Efficiency, TD/SYMP.TE/6, November 1994.

### Trade Point Programme

1.8 UNCTAD's Trade Point Programme was launched in 1992 as part of a larger campaign towards improving trade efficiency. Its main objective is to facilitate the access for small and medium-sized enterprises (SMEs) to international markets, in particular using newly emerging electronic commerce technologies. Through the electronically interconnected network of Trade Points, known as Global Trade Point Network (GTPNet<sup>7</sup>), in many countries of the world, SMEs gain access to the latest information and telecommunication technologies and services, and this enables them to get their products known to potential customers and find business partners in other countries. These services are provided at a reasonable cost, with an overall objective of reducing the risk of exclusion and increasing the participation of SMEs, particularly from developing countries and countries in transition, in international trade.

1.9 Trade points may be government-subsidized; entirely private-sector operations; or mixed public-private ventures. They may be based in such institutions as ministries, trade promotion organizations or universities.

1.10 The Global Trade Point Network, launched at the Columbus Symposium, is an electronic network inter-linking the central web site of the Trade Point Programme and web sites of individual Trade Points. It has recently undergone a substantial renovation in order to keep pace with the most recent market and technological trends. Evidence indicates that the proliferation of new sites and information services on the Internet often does not make it easier for users to find the right information. Nor does it automatically guarantee information providers that they will find customers. UNCTAD Trade Point administrators believe that demand seems to emerge for: (a) quality instead of quantity of information; (b) complete, not rudimentary information; (c) trustworthy information, and (d) user-friendly access to information. The new GTPNet is conceived so as to embrace these trends. The approach chosen is based on a decentralized structure and active involvement of Trade Points with a view to empowering them to eventually become true owners of the system.

1.11 The redesigned Global Trade Point Network, or GTPNet, is a database-driven Internet (with password-protected areas) for providing international traders with up-to-the-minute listings of potential buyers and sellers of products and services and other trade-related information not usually available online. The clients - most of which are small and medium-sized enterprises - access the network through UNCTAD's "trade points", which compile, standardize, centralize and update information on a national or local basis.

1.12 Interactivity and decentralization are the keywords of the new network architecture, which uses state-of-the-art tools for uploading, downloading, automatically updating and searching for information. On the GTPNet, information is shared through central databases, making data retrieval easier and faster. A full text search capability, and customized search tools including user-defined fields for sorting and matching, are available. Electronic trading opportunities are posted for registered clients for an 8-day period before being listed on the publicly accessible part of the site. All the information on each trade point has been formatted into standardized categories and codes, and the trade points in turn periodically verify the data on their member enterprises.

1.13 Three types of information can be found on the GTPNet website:

- General information maintained by UNCTAD, including a list of trade points world-wide, their home pages and status, relevant guidelines and frequently asked questions;

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<sup>7</sup> For more information, visit the GTPNet web site: [www.gtpnet-e.com](http://www.gtpnet-e.com)

- Specific information on individual trade points, providing details on their services and fees, direct business contacts, and national trade regulations, posted by the trade points via online secured forms or automated replication processes; and
- Open areas for the exchange of information, such as electronic trading opportunities or technology developments, and for user feedback, a discussions database, newsletters and special announcements. A knowledge management framework will be set up shortly to make this type of pooling of knowledge, information and experience among trade points even easier.

1.14 There are currently more than 200 trade points in 130 countries, of which 54 are operational<sup>8</sup>. As this number continues to grow, along with the sheer volume of available business information and quantum leaps in information technology, the GTPNet is expected to expand even further.

1.15 The long term objective is for the Trade Points to become self-sustainable and to take the ownership of the GTPNet. The forthcoming VI World Wide Trade Point Meeting that will be held from 6 to 10 November 2000 in Geneva, will be a great opportunity to strengthen and institutionalize the growing community of Trade Points.

#### ASYCUDA<sup>9</sup>

1.16 As concerns technical assistance under the SITE, the ASYCUDA customs software program is the largest technical assistance project in UNCTAD. The core of the program is a computer software program which, since 1985, has been installed in over 80 developing and transition economies throughout the world. It is designed to streamline and reduce customs forms and procedures and is based on and incorporates UN/ECE and WCO Recommendations and Standards, (including those related to the Document Layout Key), codes and other standards. The basic idea is to rid the customs system of outdated procedures, practices and incorporate international practices and standards in order to increase the country's customs revenue through reduced costs and faster clearance. The first program was developed by UNCTAD in 1983 on micro computers. Since then, the program has been updated and revised numerous times to improve capacity and performance. The software can be adjusted to each country's customs valuation methodology and translated into its official language.

1.17 A new improved version of ASYCUDA (ASYCUDA++) offers the traditional core features, i.e. system administration, national configuration, tariff and masterfile maintenance, cargo manifest handling, declaration processing and accounting. In addition, ASYCUDA++ offers to users a number of important new features: one of the most important enhancements is the full implementation of the European Single Administrative Document (SAD). The system also has the technical ability to introduce new declaration formats based on other regional declaration standards. The concept of direct trader input (DTI) offers important advantages to customs and brokers who can now enter a number of declarations locally before establishing the connection to customs to submit them for processing; the concept of direct shipper input (DSI) offers similar advantages to customs and shippers who can now enter the manifest information in their offices and transmit it to customs for processing; external system communication can be done through UN/EDIFACT messages; and a modern and user friendly tariff language has been developed enabling customs to maintain their tariff rules and calculation algorithms without the need to do any programming or recompilation of any part of the system; this language can access all declaration data elements and link them with formulas using standard logical and mathematical functions. A flexible selectivity module provides customs with a powerful tool to significantly accelerate the goods clearance process while at the same time improving its control capacity; it efficiently selects consignments for inspection through selection criteria (including a random rate) which can be maintained at national,

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<sup>8</sup> Information as of 15 July 2000

<sup>9</sup> For more information on ASYCUDA, visit the web-site: [www.asycuda.org](http://www.asycuda.org)

regional and local levels. Full auditability of the transaction files provide an additional tool to tighten the functional security of the system.

#### ASYCUDA and transit issues

1.18 In May 1997, UNCTAD called an expert meeting on the use of information technologies to make transit arrangements more effective. The main objective of this meeting was to provide opportunities to experts to assess information technologies for facilitating transit transport operations, strengthening customs transit control and simplifying customs transit procedures.

1.19 The meeting's recommendations highlight that "UNCTAD should in co-operation with all other interested parties, work towards developing a transit module, in the context of ASYCUDA and ACIS."<sup>10</sup> Furthermore, "the transit module could cover all functions of customs control and transport monitoring of transit goods from the beginning to the completion of the transit operation, including the release of securities where appropriate."

1.20 As a result of the expert meeting, ASYCUDA ++ has been enhanced to include a new module for the management of transit procedures (the MODTRS module). A release of this module was issued for live testing in selected user countries in April 1999 and the fully operational module was included in an upgraded version of the software (version 1.15) and delivered to all the user countries.

1.21 This module handles three transit documents, namely the T1, the TIR carnet and the First Identification Procedure (FIP). It is usable for all the types of transit as defined in the Kyoto Convention covering the movements from the:

- border office of entry to an inland office (Import transit);
- border office of entry to a border office of exit (Through transit);
- inland office to a border office of exit (Export transit);
- inland office to another inland office (Internal transit).

1.22 The three documents are different and present specific features but all apply the following principle: the system allows for data capture by the traders using the DTI module and/or by the customs officers. Upon validation of the document a message is automatically transmitted to the office of destination using the appropriate ASYCUDA software, A++ GATE, (ASYCUDA Global Access to Trade Efficiency), through the national telecommunication network. This message informs the office of destination that a cargo should arrive within a given time period. When the cargo arrives at destination the transit message is retrieved, the transaction is closed and a release message automatically broadcast to the office of departure. This functionality gives customs complete and timely information on all operations.

1.23 The module works satisfactorily on a national scale and it has been recently enhanced by the development of new functions such as the re-routing (change the office of destination). As customs receive in advance complete and timely information on all the operations and there is no need for re-keying at the office of destination, processing delays are tremendously reduced at borders, thus facilitating trade.

1.24 The system is technically designed for permitting future extension to cover the international transit operations (data exchange of messages between countries).

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<sup>10</sup> ACIS stands for "Advance Cargo Information System. An overview of this programme can be found on page 9 of this document.

### Bilateral and regional transit agreements

1.25 Since the mid-1970s UNCTAD has offered technical assistance to help land-locked developing countries and their transit neighbours to intensify their co-operative arrangements for the development of transit infrastructure, institutions and services in order to facilitate faster movement of goods in transit. This assistance is based on the recognition that high transit transport costs are a major disadvantage to landlocked developing countries and economies in transition; moreover, long, unpredictable transit times undermine the competitiveness of many developing countries.

1.26 The Meeting of Governmental Experts from Land-locked and Transit Developing Countries and Representatives of Donor Countries and Financial and Development Institutions, which meets once every two years, has provided a forum for interactive debates and its conclusions and recommendations for action at the national, regional and international levels have been transmitted for review and endorsement by the General Assembly of the United Nations.

1.27 Priority areas of work where achievements have been made include: assistance in negotiating and/or implementing bilateral and regional transit agreements and arrangements; streamlining and harmonizing administrative and customs procedures and documentation; assistance in implementing policies and procedures to reduce transit costs; and assistance in institution building and human resource development in the transit sector.

1.28 Much of UNCTAD's earlier technical assistance support work was concentrated in Africa, but more recently, assistance has been extended to other countries and regions, notably, the newly independent and developing states in Central Asia where, in co-operation with the Economic Co-operation Organization (ECO) a Transit Transport Framework Agreement was adopted (1998). A similar agreement between the People's Republic of China, Mongolia and Russia is currently being negotiated with assistance from UNCTAD. UNCTAD continues to work closely with regional integration groupings (ECOWAS, COMESA, SADC, ECO etc.), which play a major role in promoting regional standards, procedures, documentation and practices designed to facilitate faster movements of goods in transit.<sup>11</sup>

### Transport

1.29 The transport sector has received the most attention of all sectors of economic activity in UNCTAD's trade facilitation work. In particular, UNCTAD promotes the implementation, through advisory services as well as technical assistance and training activities, of the concept of National Trade and Transport Facilitation Committees (NTTFC) along the lines suggested in the UN-ECE/CEFACT Recommendation No.4.<sup>12</sup> These committees bring together representatives of public and private parties concerned with international trade and transport facilitation in a country, i.e. governmental entities, services providers, and transport users. Established as a consultative body, an NTTFC serves as a national forum to establish formalities, procedures and documentation used in international transport and trade; its mandate is to prepare recommendations and advise on domestic and foreign policy matters related to the development of trade and transport through proposals to the institutions concerned and to the executive branch of the government. UNCTAD and the Latin American Association for Integration (ALADI) have signed a Memorandum of Understanding to promote jointly the creation of NTTFCs in

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<sup>11</sup> For more information, see the recent UNCTAD studies on transit transport issues in Africa: "Review of progress in the development of transit transport systems in West and Central Africa" (UNCTAD/LDC/102) of 15 June 1999 and "Review of progress in the development of transit transport systems in Eastern Africa" (UNCTAD/LDC/103) of 15 June 1999.

<sup>12</sup> UN-ECE/CEFACT Recommendation No. 4 "National Trade Facilitation Bodies" (TRADE/CEFACT/1999/11), March 1999, and its supporting document: "Creating an efficient environment for Trade and Transport" (TRADE/CEFACT/2000/8), March 2000.



Latin America. In a particular sub-region these committees can serve as focal points to monitor and co-ordinate regional activities on trade facilitation.

1.30 Other activities in the transport area have concentrated on the increasingly multimodal transport operations of transport services, on the use of different terms of shipment (e.g. cif, fob) with special emphasis on shipping and ports. The latter work is often coordinated with the International Maritime Organization (IMO), which concentrates on technical and safety problems in shipping and ports. The technical assistance focuses on advice, management assistance and training with regard to economics and management of shipping, and shipping companies, including corporate planning and fleet operation. It provides advice on the implementation of conventions negotiated under UNCTAD and on maritime administration and maritime law. With regard to ports, UNCTAD's assistance has concentrated on both the economic and commercial aspects. This includes port operations, administration and organization (including legislation and regulations), financial management, cost control and information systems.

### ACIS

1.31 UNCTAD has developed and is installing a transport management tool called the Advance Cargo Information System, or ACIS. The objective is to counter the high cost of transportation resulting from extended door-to-door transit times. ACIS is a set of computer applications designed to produce management information to address multimodal cargo transit and transport problems. ACIS has four main modules, each tracking cargo on a mode or interface: rail (RailTracker), port (PortTracker), lake/rivers (Lake/RiverTracker) and road (RoadTracker). These modules are linked together through the Backbone Information System which can interface with ASYCUDA. These, in turn, have sub-modules performing different, but inter-related functions, especially with regard to statistics and performance indicators. ACIS provides improved information to help control the operations of individual transport operators and facilitate rational corporate planning. It is also a database facility available to parties registered as having an interest in a consignment and its transportation, providing them with the latest reported location and status of goods and transport equipment. As a long term record of transport movement data, it permits governments and institutions to analyze national, sub-regional and regional problems and investigate alternative investment opportunities in the transport sector.

1.32 ACIS PortTracker and RailTracker modules have been installed in 15 countries and the system is currently being implemented in another five countries. Project documents are presently under negotiation with a number of Far East Asian Countries (Sri Lanka, Mongolia, Vietnam, Thailand), and implementation in Nigeria, Brazil and Lebanon should start in September 2000. Installation in the Port of Bandar-Abbas in the Islamic Republic of Iran, after an international meeting in Tehran, could constitute the first step to an extension to ECO and Arabic countries.

### TRAINFORTRADE<sup>13</sup>

1.33 The TRAINFORTRADE programme aims at strengthening training capacities in developing countries, particularly in the least developed countries (LDCs), in the fields of international trade and trade-related services.

1.34 To intensify the training activities in the field of legal aspects of electronic commerce, especially for developing countries and their SMEs, a new TRAINFORTRADE course on "Legal and regulatory aspects of electronic commerce" is currently under preparation.

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<sup>13</sup> For more information on TRAINFORTRADE, visit the web site: [www.unctad.org/trainfortrade](http://www.unctad.org/trainfortrade)

## **2. UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE (UN/ECE)**

2.1 Work on trade facilitation activities began in the ECE in 1960, following a 1959 initiative from the Nordic countries, when it was decided to set up a Group of Experts to explore ways in which export documents could be simplified and standardized. In 1971, the trade facilitation work was reorganized into the newly established Working Party on the Facilitation of International Trade Procedures, also referred to as Working Party 4 or WP.4. Its activities were concentrated in two areas, each carried out in a group of experts (GE.1 and GE.2):

"the analysis of trade 'formalities' and procedures as embodied in information requirements (whether legal, administrative, commercial or operational) of participants in international trade; and

the development of improved transmission methods (computerized processing and tele-transmission) for trade information which could replace traditional paper documents."

2.2 Participants included representatives from the ECE member governments, representatives from national trade facilitation bodies, major international organizations as well as countries not members of the ECE.<sup>14</sup>

2.3 The work of the two expert groups has been oriented towards the following trade facilitation objectives:

- seeking improvements in trade procedures in order to assist governments and trade participants to be more efficient and effective while also minimizing delays and costs...thus reducing 'artificial' barriers to increased participation in world trade;
- reducing the cost of the paperwork used in trade by seeking, in cooperation with the interests and authorities involved, the reduction, simplification and international harmonization of the information and documents required for foreign trade;
- standardizing the formats (whether electronic or paper) used in transaction information flows for administration, commerce and transport at an international level;
- ensuring that the information flows related to the distribution of goods and services facilitate and do not impede national industrial development or growth in external trade.

2.4 In February 1997, WP.4 was reorganized into the Centre for Facilitation of Procedures and Practices for Administration, Commerce and Transport (CEFACT) by decision of the Committee on the Development of Trade. In March 2000 considering that trade facilitation and electronic business were central to the remit of the UN/ECE and to achieve improved world-wide coordination of trade facilitation, UN/ECE modified the Centre's name into the Centre for Trade Facilitation and Electronic Business (UN/CEFACT) which reflected its new focus<sup>15</sup>. UN/CEFACT reorganized the work of the WP.4 in order to streamline decision-making, leverage collaborative efforts and delegate technical decision to field experts. It works through informal technical groups; allows the full participation of non-ECE countries, interested international organizations and recognized NGOs within its meetings and management structure; and makes use of focal points in interested UN Regional Commissions and an inter-secretariat task force of the ECE, UNCTAD and the ITC. UN/CEFACT also co-operates with private business and other intergovernmental organizations which participate directly in its work.

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<sup>14</sup> Member countries of the United Nations not members of the UN/ECE were entitled to participate in the work of WP.4 under Article 11 of the ECE Terms of Reference.

<sup>15</sup> See website: <http://www.uncefact.org>

2.5 UN/CEFACT has produced 28 UN/ECE Trade Facilitation Recommendations,<sup>16</sup> developed over the past 37 years. Several of these recommendations have been adopted by the International Standards Organization (ISO) as ISO international standards. The first Recommendation was the United Nations Layout Key which essentially establishes a set of rules on how national trade documents should be formulated. Before its implementation, the information on the numerous documents needed for trade was scattered in different places on different forms without any uniform system. Implementation, which intensified in the 1970's, saw the forms printed on the same size of paper with common items of information occupying the same relative position on each form. In the area of trade procedures, the Recommendation 18 "Facilitation measures related to international trade procedures" is to be noted. It covers, *inter alia*, some aspects of customs procedures and pre-shipment inspection. UN/CEFACT is currently reviewing and updating this recommendation. UN/CEFACT has also developed a Compendium of Trade Facilitation Recommendations which is currently under revision and is intended to be used as a reference by those engaged in the process of simplifying, harmonizing and rationalizing trade procedures and practices.

2.6 As a result of the work on the UN Layout Key, the importance of structured trade and business data was recognized. This resulted in the development of standardized codes and data elements for use in both paper and electronic based information exchange. These standards are compiled in a publication called the UN Trade Data Element Directory (UNTDDED), as well as in some Recommendations. Volume I contains definitions of data elements including UN/EDIFACT and is an ISO standard (ISO 7372), which is jointly maintained by the ECE and the ISO central Secretariat. Volume III contains the ECE Recommendations<sup>17</sup>.

#### Electronic Data Interchange (EDI)

2.7 The use of computers to carry out buying and selling between individuals, individuals and companies, and companies and companies, known as electronic commerce, has contributed significantly to facilitating international commerce because it is reducing the amount of paperwork that is related to doing business. This can be done through the Internet, the World Wide Web, E-mail and Electronic Data Interchange (EDI). EDI can be defined as the "structured exchange of data between applications in different companies." A structured message is formatted according to a predefined arrangement of putting the information into a file. On paper, this would be a "form." In EDI, the format used in general is called UN/EDIFACT or the United Nations Electronic Data Interchange for Administration, Commerce and Transport.

2.8 UN/EDIFACT is an international standard for the formatting and sequencing of data for EDI. It was developed through the work of WP.4 to develop an international standard to replace the two regional standards, which had emerged in the United States and in Europe and whose incompatibility with each other was creating difficulties for international trade. The UN/EDIFACT is "a set of standards, directories and guidelines for the electronic interchange of structured data, in particular related to trade in goods or services, between independent computerized systems in different organisations, irrespective of the type of computer or software used". In other words, EDI is used for the automation of data exchange.

2.9 Within the work programme of UN/CEFACT there are activities for the review, monitoring and evaluation of on-going developments in the information technology area in order to incorporate appropriate new technologies, such as those related to Electronic Commerce, into its work. Recommendation 25 (adopted by the UN Economic and Social Council as a UN Recommendation in July 1997) encourages the use of UN/EDIFACT by governments in their administrations and in their EDI

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<sup>16</sup> A complete list of these Recommendations is contained in Annex I to this document. The full texts of the Recommendations can be accessed through the www at <http://www.uncefact.org/>

<sup>17</sup> Volume II contains a User Code List

communications with the private sector. A description of the technical aspects of EDI and UN/EDIFACT is included as Annex II of this note. Recently, in order to take advantage of information technology, UN/CEFACT decided to assess the use of internet technology and new techniques and methodologies to transfer data in line with the work done over the years (UN/CEFACT's Strategy for Electronic Business, document TRADE/CEFACT/2000/21, February 2000).

#### Other work of UN/ECE

2.10 Another area relates to legal issues arising from trade facilitation initiatives and is based on the recognition that the removal of legal impediments is a key requirement to enable global trade to develop and be facilitated. In carrying out its legal work programme, UN/CEFACT liaises with other organizations, particularly the UN Commission on International Trade Law (UNCITRAL) and the International Chamber of Commerce (ICC). In March 2000 the UN/CEFACT Plenary approved a recommendation on the Electronic Commerce Agreement that proposes a model for a contractual approach of electronic commerce operations. This approach takes into consideration the need for a framework of basic provisions to be agreed by business entities combined with the flexibility required to conduct day-to-day commercial transactions.

2.11 The UN/CEFACT International Trade Procedures Working Group (ITPWG) is dedicated to identify, simplify, harmonize and align public and private sector practices, procedures and information flows relating to international trade transactions both in goods and related services. Its key deliverables are:

- development of relevant instruments and recommendations for trade facilitation, and proposals for revision, amendment or abolition of these recommendations, in co-operation with the other working groups;
- evaluation of the state and progress in the implementation of trade facilitation measures; systematic review and monitoring of the implementation of trade facilitation Recommendations; notification to other working groups of constraints identified in the field of international trade procedures;
- contributions in support of and to influence related work in other relevant intergovernmental and non-governmental organizations; and
- provision of relevant know-how, educational and promotional material.

2.12 The UN/CEFACT Business Process Analysis Working Group (BPAWG) is dedicated to the analysis of current business processes, identification of constraints and the development of proposals for appropriate changes to business processes. Its key deliverables are:

- analyses of business processes relevant to the mission and objectives of UN/CEFACT using the common descriptive techniques and methodology agreed within the Centre;
- identification of constraints to more effective business processes;
- proposals, including draft Recommendations, for more effective business processes;
- assistance to other working groups in understanding approved proposals in order to enable them to develop solutions, based on these proposals, for the migration from existing to new business processes.

### 3. WORLD CUSTOMS ORGANIZATION (WCO)

3.1 The World Customs Organization was founded in 1953 as the Customs Co-operation Council (CCC). Established originally by 13 European countries, its membership has expanded to 151 members. All aspects of the WCO's work relate closely to questions of trade facilitation. The WCO's mission is to enhance the efficiency of customs administrations in the areas of compliance with trade regulations, protection of society and revenue collection. The WCO's main activities include:

- examination of the technical aspects of customs systems, as well as the related economic factors, and promotion of communication and co-operation among Members and with other international organizations;
- fostering of human resource development and of improvements in the management and working methods of customs administrations and the sharing of best practices;
- preparation of draft conventions and other legal instruments for the harmonization and uniform application of simplified and effective customs systems and procedures governing the cross-border movement of commodities;
- making recommendations to ensure the uniform interpretation and application of conventions;
- making recommendations for the settlement of disputes concerning the interpretation or application of the conventions;
- furnishing interested governments with information or advice on customs matters;
- promoting co-operation between customs administrations and between customs administrations and the trading community to improve communication and facilitation.

3.2 While not all the aspects of the WCO's work programme can be depicted here, the various legal instruments established and maintained under its auspices are introduced below. Due to the vast amount of material, not all conventions can receive detailed treatment. However, the Kyoto Convention, as the key convention covering customs procedures, and the Istanbul Convention on temporary admission, are described in more detail.

#### International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention) 1973

3.3 The Kyoto Convention, agreed in May 1973, consists of two parts. The first is comprised of 19 Articles setting out the general provisions essential for the implementation of the instrument. The second consists of 31 Annexes (26 of which have entered into force), each devoted to a specific customs procedure.<sup>18</sup> An Annex enters into force when five Contracting Parties have accepted it. Each Annex consists of a set of definitions clarifying the main customs terms used and the rules governing the implementation of the procedure concerned. These provisions take the form either of Standards, whose general application and incorporation in national legislation are considered essential for harmonization and simplification, or the form of Recommended Practices, which are provisions recognized as constituting progress towards the harmonization and simplification of customs procedures, and whose application is considered to be desirable. Both categories of provisions may be accompanied by Notes, intended to indicate ways in which the relevant Standard or Recommended Practice might be applied.

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<sup>18</sup> The term "customs procedure" in the context of the Kyoto Convention is not used in the narrow sense of the treatment assigned to imported goods; it covers all provisions relating to customs activity.

3.4 The Kyoto Convention is open for accession by any State, and by Customs or Economic Unions. Presently, the Kyoto Convention has 59 Contracting Parties. The 31 Annexes are the real instruments of harmonization of customs procedures, since they contain the principles intended to be incorporated in national legislation. At the time of accession to the Convention, a State has to accept at least one Annex. Subsequently, each of the remaining Annexes can be accepted individually. For the purposes of the rights and obligations of a Contracting Party each of the Annexes it has accepted together with the body of the Convention constitutes a single legal instrument. Countries may select Annexes if they want to limit their obligations to those particular sections of their legislation which they wish to modernize or to align with international practice.

3.5 Contracting Parties which are not yet in a position to implement a particular provision of an Annex can enter a reservation in respect of that provision, indicating the differences between the provisions of their national legislation and those of the Standard or Recommended Practice concerned. Disputes regarding the interpretation or application shall be settled through negotiations. Any party may refer a dispute to the Permanent Technical Committee of the WCO which will make recommendations on the settlement of the dispute.

3.6 The Annexes to the Kyoto Convention, A through J, are listed below. More detail is contained in Annex III of this report.

Annex A:	Formalities Prior to the Lodgement of the Goods Declaration
Annex B:	Clearance of Goods for Home Use
Annex C:	Clearance of Goods at Exportation
Annex D:	Origin of Goods
Annex E:	Conditional Release Procedures and Processing Traffic
Annex F:	Special Customs Procedures
Annex G:	Relations between Persons Engaged in International Trade and the Customs administrations
Annex H:	Disputes and Offences
Annex J:	Customs Applications of Computers

#### Revised Kyoto Convention (1999)

3.7 In 1999, the WCO completed a full revision of the 1973 Convention. The goal of the revision work was to provide customs administrations with a modern set of uniform principles for simple, effective and predictable customs procedures that also achieve effective customs control. The revised Convention is intended to be the blueprint for standard and facilitative customs procedures in the 21st century.

3.8 This revision was necessary as a result of the radical changes in trade, transport and administrative techniques since the Convention had originally been adopted. An additional reason was that the Convention had not significantly resulted in the harmonization and simplification of customs procedures world-wide. In the modern international trade environment, the original structure of the Convention and the limited obligations it imposed on administrations to apply the legal provisions ran counter to the goal of simplification and harmonization of customs procedures. Furthermore, the original version of the Convention had only a small number of Contracting Parties to the individual annexes, and additionally, many Contracting Parties had entered reservations to the legal provisions in the annexes that they had accepted.

3.9 The revision was completed in June 1999 when the Council of the World Customs Organization adopted the revised texts along with a Protocol of Amendment which would give effect to the amendments once it entered into force.

3.10 The existing Articles of the Convention and the provisions of its Annexes have been reviewed and updated to ensure that they reflect modern procedures and address the requirements of both the trade and customs administrations. New provisions have been added and the texts now incorporate modern methodologies to provide a balance between the customs functions of control and revenue collection with that of trade facilitation. The use of information technology and risk management techniques have been integrated into the core of the revised Convention. These will ensure that customs are able to carry out their responsibilities more efficiently and effectively, and are able to facilitate the international movement of goods while ensuring full compliance with national laws.

3.11 The key feature of the revised Convention is a new structure consisting of a General Annex and ten Specific Annexes. The General Annex contains the core procedures and practices for clearance of goods that are common to all customs procedures. The General Annex is obligatory for accession and implementation by Contracting Parties. This key Annex contains 10 Chapters and covers areas relating to the clearance of goods, payment of duties and taxes, customs trade co-operation, information to be supplied by customs, and appeals in all customs matters – areas that are of concern both to customs administrations and to the trading community. It also covers customs control including risk management, audit-based controls and mutual administrative assistance between customs administrations and with external organizations, as well as the use of information technology which provides the key to simple procedures while ensuring adequate customs Control.

3.12 No reservations can be entered against the Standards and Transitional Standards of the General Annex. However, in recognizing that many countries may not be able to commit to a number of Standards immediately, the revised Convention provides a transition period for the present and new Contracting Parties to make any necessary changes in their national legislation in order to apply the provisions. Contracting Parties will have a period of up to three years to implement Standards and five years to implement Transitional Standards.

3.13 The revised Convention has 10 Specific Annexes containing a total of 25 Chapters, each dealing with a different customs procedure. Contracting Parties are required to accede to only those Specific Annexes and/or Chapters applied by their administration. As in the General Annex, the Standards are obligatory and binding on Contracting Parties accepting an Annex(es) and/or Chapters, and there is the same transitional period for the application of the Standards. Reservations, however, can be entered against the Recommended Practices in the Specific Annexes.

3.14 A Management Committee which is required to meet at least once every year will administer the revised Convention. This will ensure that the provisions in the Convention are kept up-to-date and, if necessary, revised at appropriate times to meet the needs of customs and trade. The Management Committee is also empowered to extend the time periods for implementation of the provisions of the General Annex and Specific Annexes on request from Contracting Parties.

3.15 The revised Convention contains comprehensive Guidelines for each of the Annexes. It was recognized during the revision process that implementation guidelines for simplified customs procedures were essential if the principles contained in the Convention were to be applied successfully by customs administrations. Guidelines on simplification through the use of effective control techniques and automation, which include examples of best practices, have been developed for each procedure. The Management Committee will regularly update these in order to provide information on new and modern practices, which in the future will become the basis of legal texts in the Annexes to the Convention.

3.16 The revised Convention will be brought into force by a Protocol of Amendment. Forty of the current Contracting Parties will have to accede to the Protocol for it to come into force. As of July 2000, five Contracting Parties have acceded to the Protocol and nine have signed the Protocol subject to ratification. Many other Contracting Parties are carrying out the necessary internal consultations and legislative processes for their accession to the Protocol. The WCO Secretariat is conducting a number of

technical assistance missions and regional seminars to promote the revised Convention and to assist Contracting Parties in their accession.

3.17 The text of the General Annex of the Convention, as well as an index of its Specific Annexes can be found in Annexes III and IV to this document.

Customs Convention on Temporary Admission (Istanbul Convention)

3.18 The Istanbul Convention, which entered into force on 27 November 1993, combines in one legal instrument all existing agreements covering temporary admission of goods into one state or customs union from another, and creates a framework for accommodating future requirements. The Convention also provides for the continuing use of the ATA carnet (*carnet de passage en douane pour l'admission temporaire*) for temporary admission and broadens its application. It currently has 35 Contracting Parties, and another 8 signatories subject to ratification. It is open for accession by any state and customs or economic unions. Since it is expected that for some time not all those implementing the ATA and CPD (*carnet de passage en douane*) carnet scheme will be a Contracting Party to the Istanbul Convention, the WCO Council adopted a Recommendation inviting Contracting Parties to accept ATA and CPD carnet regardless of whether they are issued under the Istanbul Convention or other legal instruments.

3.19 The body of the Convention consists of 34 Articles representing the main principles and provisions essential for the uniform implementation of the instrument, such as scope, administration, accession and amendment procedures. The main provisions foresee that each Contracting Party may require presentation of a document and security for temporary admission; security shall not exceed the amount of import duties and taxes from which the goods are conditionally relieved. General minimum periods for re-exportation of six or twelve months were agreed in specific annexes.

3.20 The Convention has 13 Annexes, of which Annex A (concerning temporary admission papers, ATA and CPD carnets) as well as at least one other Annex have to be accepted by each Contracting Party:

Annex A:	concerning temporary admission papers (ATA carnets and CPD carnets)
Annex B.1:	concerning goods for display or use at exhibitions, fairs, meetings or similar events
Annex B.2:	concerning professional equipment
Annex B.3:	concerning containers, pallets, packings, samples and other goods imported in connection with a commercial operation
Annex B.4:	concerning goods imported in connection with a manufacturing operation
Annex B.5:	concerning goods imported for educational, scientific or cultural purposes
Annex B.6:	concerning travellers' personal effects and goods imported for sports purposes
Annex B.7:	concerning tourist publicity material
Annex B.8:	concerning goods imported as frontier traffic
Annex B.9:	concerning goods imported for humanitarian purposes
Annex C:	concerning means of transport
Annex D:	concerning animals
Annex E:	concerning goods imported with partial relief from import duties and taxes.

3.21 To date, only Annexes A, B.1., B.2, B.5 and B.6. have entered into force. The other Annexes have not yet reached the minimum number of five signatories. Both the provisions of the body and the Annexes are accompanied by explanatory commentaries, which are designed to facilitate implementation of the provisions. More detailed information on the annexes of the Istanbul Convention can be found in Annex V of this document.



3.22 Other instruments dealing exclusively or mainly with temporary admission which are contained in the relevant annexes to the Istanbul Convention will be terminated and replaced for those Contracting Parties who have accepted these annexes.

#### International Convention on the Harmonized Commodity Description and Coding System

3.23 The Harmonized Commodity Description and Coding System (Harmonized System) is an international product nomenclature in force since 1 January 1988. Its main application is for customs purposes such as classification and valuation, but also for the collection of trade statistics, rules of origin and for all kinds of transactions in international trade (transport, insurance etc.) The WTO schedules of almost all Members are based on the Harmonized System, which means that more than 95 per cent of world trade is covered by the Harmonized System. The Harmonized System groups product items in 96 chapters, 1,241 headings and more than 5,000 sub-headings. It provides a legal and logical structure for tariff classification. In order to keep the Harmonized System up to date and to take into account changes in technology and the development of new products, the Convention provides for periodic amendments. Two revisions have taken place (1992 and 1996) and a third set of amendments is to be introduced in 2002.

3.24 The Harmonized System (HS) contributes to the facilitation of international trade by providing a common basis for classification of goods. The HS Convention has 102 Contracting Parties to date, and about 170 countries apply HS-based customs tariffs and trade statistical nomenclatures (October 1998). In order to secure uniform interpretation and application of the legal texts of the HS, the WCO has put in place a number of programmes. These include settling of classification questions and disputes, publishing of classification related information on the internet ([www.wcoomd.org](http://www.wcoomd.org)), development of a classification infrastructure and best practices in developing countries, pre-entry classification information programmes and development of a commodity database (CD-ROM) giving HS classification of more than 200,000 commodities in trade.

#### International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences (Nairobi Convention)

3.25 In the face of increasingly widespread customs offences concerning all countries, the WCO Council in 1974 felt the necessity to go beyond the development and promotion of bilateral and multilateral agreements, which were until then the standard instruments for customs co-operation. The Nairobi Convention was drawn up between 1974 and 1977 to combat customs fraud. It consists of a body and 11 Annexes, one of which has to be accepted at minimum by each Contracting Party. Acceptance with reservations is not permitted (Article 18). As a basic principle, "customs administrations shall afford each other mutual assistance with a view to preventing, investigating, and repressing customs offence". The Convention is based on the concept of reciprocity: a Contracting Party has an obligation to render assistance to another Contracting Party only in so far as both have accepted the same Annex. The Nairobi Convention currently has 34 Contracting Parties. All 11 Annexes are in force (each Annex enters into force after acceptance by at least two Contracting Parties) and are listed in Annex VI of this document. The WCO Council administers the Convention with assistance from the Enforcement Committee.

3.26 In 1996, the WCO updated its 1967 "Model Bilateral Agreement on Mutual Assistance for the Proper Application of Customs Law and for the Prevention, Investigation and Combating of Customs Offences". The model agreement sets out and explains a number of provisions that should be considered when drawing up a bilateral agreement.

#### Other Customs Conventions administered by the WCO

3.27 The following Customs Conventions, details of which can be consulted in Annex VII, were designed to solve certain specific customs problems:

- on the temporary importation of packing;
- on the temporary importation of professional equipment;
- concerning customs facilities for the importation of goods for display or use at exhibitions, fairs, meetings or similar events;
- concerning welfare material for seafarers;
- on the temporary importation of scientific equipment;
- on temporary importation of pedagogic material;
- on the ATA carnet or the temporary admission of goods (ATA Convention);
- on the international transit of goods (ITI Convention);
- on Containers, 1972.<sup>19</sup>

#### Other instruments and programmes

3.28 The WCO has drawn up Recommendations which do not have a binding character. They are intended as tools for improvement of customs techniques by national customs administrations and “they are designed to be accepted by as many States as possible and cover facilities on which a large measure of agreement already exists and lay down precisely the scope of any facilities granted.” WCO Members indicate their acceptance of a recommendation, and have, in certain instances, accepted them with reservations. Recommendations have been issued in five areas, as set out in Annex VIII.

3.29 International Customs Norms, developed by the WCO, are designed to guide customs administrations in addressing certain specific customs issues. Each norm deals with a specific point of customs technique and sets out the fundamental principles to be incorporated in customs legislation or regulation. These norms will be reviewed and incorporated as appropriate in the guidelines of the revised Kyoto Convention. For a list of the existing norms, refer to Annex IX.

3.30 The WCO has developed “Guidelines for consignments for which immediate release is requested” to provide a tool for customs administrations to grant fast clearance while maintaining customs control with regard to consignments that require immediate release. Guidelines are given on the scope of documentation necessary for clearance, on valuation, on conditional and unconditional clearance, and on the differentiation between high- and low-value consignments. The Guidelines have no legal character or binding force. The principles in the new General Annex of the revised Kyoto Convention reflect the same principles contained in these Guidelines. It was recently noted by the WCO that the term “Express Guidelines” was used in normal parlance when referring to these Guidelines, even though they were to be applied for all consignments for which immediate release was requested. It has been agreed to refer to these Guidelines as “Immediate Release Guidelines”. It has also been agreed to review the documentation requirements for the different categories of goods covered by these Guidelines and to take into account the changes in the customs and trade requirements in the years since the Guidelines were adopted. It is expected that these Guidelines will be revised and available for application by the end of 2001.

3.31 The WCO has issued three Resolutions. They concern the abolition of the passenger manifest in respect of passengers arriving or departing by air; customs facilities for tourists; and abolition of control of motor vehicle insurance at frontiers.

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<sup>19</sup> The Customs Convention on Containers, 1972 is a UN/ECE Convention administered with technical input from the WCO.

Integrity of Customs administrations

3.32 The international customs community realized the need to deal effectively with the problem of integrity at the trade/customs interface and the WCO adopted the *Arusha Declaration* in 1993. The Declaration calls for:

- clear and precise customs legislation, moderated import tariffs, limited number of tariff rates, minimum administrative regulation of trade, and standard rules with minimum number of exemptions;
- simple, consistent, non-discretionary and easily accessible customs procedures with possibilities of legal remedies;
- utilization of automated processes;
- appropriate measures in human resource management including rotation of assignments and relocation of staff, proper recruitment, adequate training, and sufficient remuneration;
- more responsibility and accountability of line managers in identifying weakness;
- more effective internal and external audit;
- more loyalty and pride among customs officers;
- clear direction to customs officers on expected behaviour;
- open and transparent relationship with the business community.

3.33 The WCO Secretariat hosted an open discussion on this issue in Brussels in April 1998. The Customs Integrity Forum was attended by heads of customs administrations, relevant international organizations (OECD, ICC, Interpol, Transparency International) and representatives of the business community.

3.34 The recommendations from the Forum were discussed at the annual meeting of the Council of WCO in Morocco in June 1998 and it was decided to establish an Integrity Working Group to develop an Integrity Action Plan to assist Members' to implement the provisions of the *Arusha Declaration* and improve the level of integrity within their administrations. The Working Group has since met three times and has developed a comprehensive Action Plan which was approved by the Council in June 1999.

3.35 As a part of the WCO Integrity Action Plan, the WCO Secretariat, with the assistance of a number of Member administrations, has:

- developed an Integrity Self-Assessment Guide which assists administrations to examine their own systems and procedures and identify areas for improvement;
- developed and piloted an Integrity Workshop to assist Member administrations to design and implement integrity action plans based on their own needs and unique operating environments. To date, workshops have been conducted on a national basis in the Czech Republic, Sri Lanka, Zambia, India and Vietnam and on a regional basis in Japan, Lesotho and Australia;
- drafted a Model Code of Ethics and Conduct which can be used by Members to develop an appropriate code of conduct or alternatively to review and upgrade an existing code;

- established an Integrity Resource Centre that is designed to provide Members with access to a wide range of integrity-related information and resource material.

#### Customs Reform and Modernization Programme

3.36 The Customs Reform and Modernization (CRM) Programme is a comprehensive approach to help improve the overall performance of customs administrations and meet the growing expectations of society, business and governments. The CRM Programme is a collection of management tools available to customs administrations to assist them to better understand the requirements of their changing external and internal environment, and to develop self-assessment abilities and skills to implement a comprehensive and sustainable organizational improvement and change programme.

3.37 The current programme consists of several stages. Firstly an initial mission is undertaken to determine the needs of the administration and its readiness to implement the program. This mission also involves the delivery of the Customs Orientation Package for Policy Makers which explains the role of modern customs administrations and their importance to society, business and government. During the initial mission attention is given to securing the necessary political commitment and financial resources from both the participating government and the private sector. The second stage involves conducting an intensive diagnostic and planning mission which involves assisting key managers of customs to undertake a comprehensive assessment of the current situation and to develop a range of practical and sustainable solutions. The key outcome of this stage is the development of an agreed Implementation Plan. Depending on the nature of the solutions identified during the diagnostic phase further follow-up assistance and evaluation missions may be undertaken. Likewise, depending on the nature of the corrective strategies identified, the WCO can assist Member administrations through the provision of technical assistance in areas of WCO competence or by assisting participating administrations to identify alternative sources of donor support.

3.38 WCO CRM Programmes have been completed in Latvia, Senegal, Uganda, and are currently under implementation in Cuba, Lithuania, Mauritius, Namibia, Sri Lanka and Vietnam and on regional basis in the Southern African Development Community (SADC). The Programme is currently under preparation in Bangladesh and Mongolia.

3.39 The WCO has developed the necessary tools for implementation, trained 150 experienced customs officers to use these tools and maintains a pool of accredited facilitators who support the process of self-assessment in beneficiary countries. The WCO Secretariat is currently reviewing the content of the CRM program to further improve its effectiveness and to ensure it remains relevant to the needs of Member administrations.

#### Other WCO technical assistance activities

3.40 The main objectives of the WCO training and technical assistance programme are:

- to ensure the implementation and uniform application of Customs Conventions, Instruments and Recommendations (e.g. the Single Goods Declaration) developed and administered by the WCO;
- to improve the effectiveness and efficiency of customs administrations in the enforcement of regulations and in the delivery of quality service to the society, to the business community and to government;
- to help Members' customs administrations to reform and modernize their organizations, to employ modern technologies to introduce better management practices and human resource management including training system development, greater transparency in procedures, and improve the integrity of their staff.

3.41 The WCO offers 38 standard training programmes in the fields of Harmonized System, customs valuation, origin of goods, customs procedures, computerization of customs, enforcement, organization and human resources development in customs administrations. The WCO has developed 66 training modules to assist technical training for customs officers. The WCO carries out approximately 250 seminars, training courses and expert missions annually.

#### **4. WORLD BANK**

4.1 Trade Facilitation projects feature in several of the Bank's activities, such as project lending (transport), adjustment lending (customs, quality standards and simplification of procedures), technical assistance loans (customs modernization) and economic and sector work (export promotion and competition). Historically, there have been three phases of World Bank involvement: During the 1980's, most Bank activities concerning trade facilitation had transport facilitation as their goal. The very first transport sector work facilitation took place in Latin America in 1976. In the mid-1980's isolated trade facilitation components, particularly focusing, on governance reform, have been included more and more in structural adjustment loans (Metrology, Standards, Deregulation of Prices). Since 1990, Bank initiatives have explored ways of addressing the wide range of policy and administrative issues involved in trade enhancement, leading, to useful conditionalities in adjustment loans, new types of technical assistance and new types of projects.

4.2 In 1987, the Bank's Transportation Department prepared a general review of projects in transport facilitation and logistics, finding that World Bank lending for non-infrastructure transport operations only accounted for 2 per cent of overall transport lending.

4.3 Major projects since 1977 include: Analysis of Road Transport Industry in Central America (1977); India Containerization Study (1979); Intermodal Transport in Latin America (1982); Logistics Cost Study, Zaire (1990); Philippines Competitiveness Assessment (1992); UDEAC, Regional Policy Reform Program (1993); Lebanon-Revenue Enhancement and Fiscal Management Project (1995); Pakistan Logistics Cost Study (1996); Jordan Economic Reform and Development Loan (1996); Rwanda Commodity Export Diversification Study (1998), Côte d'Ivoire - Agricultural Sector Adjustment Credit (1995), Economic Recovery Credit (1996), Private Sector Development Adjustment Credit (1996), Transport Sector Adjustment/Investment Credit (1998); Nepal - Multimodal Transit and Track Facilitation Project (1986, 1992, 1997); Pakistan -Trade and Transport Facilitation Project (1993, 1996, 1999).<sup>20</sup>

4.4 In collaboration with other partners the World Bank is preparing a project to help six countries in the South East Europe region improve customs procedures (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia and Romania). The program aims to integrate the efforts of the governments, EU, SECI<sup>21</sup> and the World Bank Group for: (a) physical improvements to border crossings, (b) technical assistance to strengthen the customs administrations, (c) computerization of procedures at the border crossings and electronic filing of customs declarations, and (d) improved exchange of information between the border control agencies and the business community, through seminars and the development of Internet web sites ("trade facilitation"). At the regional (i.e. international) level a steering committee has been created to provide a forum for the exchange of experience among the countries, the collective aligning of procedures on EU standards, and the coordination of operating practices at "paired" crossing

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<sup>20</sup> For a detailed description of the Lebanon 1995 and Jordan 1996 programs, see the World Bank presentation at the WTO Trade Facilitation Symposium in March 1998; WTO document G/C/W/115.

<sup>21</sup>The Southeast European Co-operative Initiative (SECI), is a forum in which representatives of the participating states meeting to discuss common regional economic and environmental problems calling for concerted action and developing region-wide plans for dealing with these problems. For additional information, see <http://www.unece.org/seci/seci.htm>.

points. Thereby the Program aims to: (i) reduce costs to trade and transport; (ii) reduce smuggling and corruption at border crossings; and (iii) strengthen regional partnerships and expand regional trade<sup>22</sup>.

4.5 In 1999, the World Bank launched the Global Facilitation Partnership for Transportation and Trade (GFP) to provide a focus and forum for the public and private sectors, who want to bring about lasting, significant improvements in the invisible infrastructure of transport and trade in all interested Bank member countries. It is foreseen that partners will design and undertake specific programs towards meeting this objective, making use of their respective comparative advantage in the subject matter in a co-ordinated fashion. In support of this purpose, the areas of collaboration are expected to include the following: (i) sharing agendas of common interest; (ii) pooling resources and expertise where appropriate; and (iii) sharing knowledge and ideas. The GFP has now 49 members, from both the public and private sectors, and including most of the main international institutions involved in facilitation<sup>23</sup>.

4.6 The World Bank and all GFP Partners agree on pursuing:

- the establishment of a comprehensive Facilitation Audit Framework, combining qualitative assessment with a simplified set of data on efficiency of trade and transport transactions; the corresponding Facilitation Audit Methodology is now being published by the World Bank as the first GFP product, and should become available by end-March 2000;
- The definition of systematic approaches to measurement, based on a set of facilitation indicators on transportation and cross-border processes, to be systematically collected;
- The monitoring and publishing on a regular basis of data on these facilitation indicators;
- Any commonly agreed initiative aiming at promoting trade and transport facilitation programs through education, training, and targeted technical assistance activities.

## **5. INTERNATIONAL MONETARY FUND (IMF)**

5.1 Work of the IMF relating to trade facilitation can take place in a number of contexts: (1) as part of its regular consultations with member countries on their economic policies and developments; (2) as a component of member countries' stabilization programs that are supported by IMF resources; and, most notably, (3) in the form of technical assistance when requested by member countries.

5.2 Technical assistance on trade facilitation can involve both tariff policy and customs administration. On tariff policy, the assistance typically includes assessing the revenue impact of lowering and restructuring tariff rates, the tariffication of quotas, and the removal of other non-tariff barriers; as well as the identification of compensatory revenue measures. On customs administration, the assistance often comprises aligning customs legislation and procedures with international standards and practices such as the WTO Customs Valuation Agreement or the WCO Kyoto Convention; modernizing the customs organization and clearance procedures (including the use of preshipment inspection services); and formulating strategies to create an environment that facilitates the flow of cargo, reduces costs of operations, promotes the transparency of procedures, and increases compliance.

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<sup>22</sup>For additional information on this program, see <http://www.seerecon.org/RegionalInitiatives/ttfse.htm> and <http://www.seerecon.org/RegionalInitiatives/TTFSE/ttfsepid.htm>.

<sup>23</sup>For additional information on the Global Facilitation Partnership for Transportation and Trade, see <http://wbln0018.worldbank.org/twu/gfp.nsf>.

## **6. INTER-AMERICAN DEVELOPMENT BANK (IADB)**

6.1 The Inter-American Development Bank finances technical assistance projects supporting customs modernization and reform in the countries of Latin America and the Caribbean. Over the past decade, the IADB has financed twenty-six projects that deal exclusively with customs modernization. Currently, fourteen projects with IADB financing are underway in 12 countries, plus two regional projects. All of these projects include trade facilitation as one of the main objectives, precisely following the World Customs Organization guidelines. A region-wide technical assistance project was also approved in mid-2000 to support the implementation of trade and business facilitation measures in member countries of the Free Trade Area of the Americas (FTAA). The IADB is also financing the implementation of a quality assurance system, applying the International Organization for Standardization (ISO) standards 9000, in one Latin American country's customs service.

## **7. INTERNATIONAL TRADE CENTRE UNCTAD/WTO (ITC)**

7.1 ITC is a technical cooperation organization that deals with the operational aspects of trade promotion and export development. It complements the research, policy, deliberative and normative work of its parent bodies, WTO and UNCTAD. As such, it does not, therefore, have a proactive role in trade facilitation, but it is concerned with the improvement of the performance of businesses, particularly SMEs, in entering into international trade transactions, within the existing regulatory environment.

7.2 For instance, ITC provides technical assistance for capacity building in developing countries and economies in transition to enable them to implement the WTO Agreements on TBT and SPS. This is done through consultancy missions, training, seminars and the provision of information technology equipment. The focus is on the establishment/strengthening of National Enquiry Points required by these agreements. These NEPs contribute to trade facilitation by providing information on technical regulations/sanitary and phytosanitary measures in their domestic markets to exporters to their countries. They also provide similar information about requirements in export markets to exporters in their countries. ITC publishes handbooks and bulletins on Export Quality Management, some of which provide information about technical requirements in specific countries for specific products.

## **8. INTERNATIONAL MARITIME ORGANIZATION (IMO)**

8.1 The International Maritime Organization, established by a Convention adopted under the auspices of the United Nations in Geneva on 17 March 1948, met for the first time in January 1959. It has currently 158 Member States. The IMO is a specialized agency of the United Nations responsible for improving the safety of international shipping, facilitation of international maritime traffic, prevention of marine pollution from ships, and legal matters, including liability and compensation issues. The adoption of maritime legislation is still IMO's most important concern. Some 40 conventions and protocols and well over 800 codes, recommendations and guidelines have been adopted by the Organization and most of them have been amended on several occasions to ensure that they are kept up to date with changes taking place in world shipping. Since 1960, the IMO has been involved in the facilitation of international maritime traffic.

### Convention on Facilitation of International Maritime Traffic (FAL)

8.2 The Convention on Facilitation of International Maritime Traffic was adopted by IMO in 1965. It has currently 84 Contracting Parties. Its main objectives are to prevent unnecessary delays to ships, passengers and cargoes in maritime traffic; to aid co-operation between governments; and to secure the highest practicable degree of uniformity in formalities, documentary requirements and other procedures. The Convention has been amended several times. More details on the Convention and its amendments are presented in Annex X to this document.

Other IMO work

8.3 Other relevant IMO Conventions related to trade facilitation are the following:

- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf;
- International Convention on the Safety of Life at Sea (SOLAS), 1974;
- International Convention on the Prevention of Pollution from Ships as modified by the Protocol of 1978 (MARPOL 73/78);
- International Convention on Load Lines (LL), 1966;
- Special Trade Passenger Ships Agreement (STP), 1971;
- International Regulations for Preventing Collisions at Sea (COLREG), 1972;
- International Convention for Safe Containers (CSC), 1972
- Athens Convention relating to the Carriage of Passengers and their Luggage by Sea (PAL), 1974;
- Convention on Limitation of Liability for Maritime Claims (LLMC), 1976;
- International Convention on Tonnage Measurement of Ships (TONNAGE), 1969.

8.4 At its fifty-seventh session in November 1986, the Council of IMO considered a proposal, jointly submitted by the governments of Austria, Egypt and Italy, for the preparation, under the auspices of IMO, of a convention on the suppression of unlawful acts against the safety of maritime navigation. The proposal was accompanied by a draft Convention and an Explanatory Note. The Council unanimously agreed that the matter was appropriate for consideration by IMO and deserved urgent action; and it accordingly appointed an Ad Hoc Preparatory Committee with the mandate to prepare, on a priority basis, a draft convention for the suppression of unlawful acts against the safety of navigation, using as the basis of its work the draft convention submitted by the three sponsoring governments.

8.5 In accordance with the decision of the Council, the diplomatic conference was held in Rome from 1 to 10 March 1998. The conference adopted two treaty instruments namely;

- the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;
- the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

8.6 The SOLAS, MARPOL 73/78 and CSC contain rules on several Certificates, without which ships cannot trade and containers cannot be transported.

8.7 With regard to the facilitation of international maritime traffic, a number of technical co-operation activities are currently undertaken. A new set of amendments is considered by the Facilitation Committee and emphasis of that Committee's work is given to the development of provisions for the resolution of stowaway cases, pursuant to resolution A.871(20), Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases, and the use of EDI in Ship's clearance, including the approval of relevant EDIFACT messages and their appropriate Implementation Guides.

8.8 Pursuant to resolutions A.786(19), A.867(20) and A.872(20) as outlined in the ensuing paragraphs, the committee focuses its attention and priority on those matters specified therein.

8.9 The Assembly, at its nineteenth session, adopted Resolution A.786(19), Strategy of ship/port interface, and agreed that the Organization should act as a forum to promote co-ordination between relevant intergovernmental and non-governmental international organizations in consultative status on



matters of concern arising from ship/port interface activities relating to the objectives of the Organization and, in consultation with these bodies, to:

- identify subject areas concerning both ships and ports;
- establish and periodically update the objectives to be achieved with respect to the subject areas so identified;
- make an inventory of the work done and being undertaken by IMO and other intergovernmental and non-governmental international organizations in the subject areas identified;
- evaluate whether the work referred to under (c) meets the objectives set for the subject areas;
- identify subject areas requiring further consideration;
- identify, prioritize and periodically update the needs of the countries with respect to the subject areas; and
- take any action deemed necessary to promote the above areas of activity.

8.10 The Assembly, at its twentieth session, adopted Resolution A.867 (20), combating unsafe practices associated with the trafficking or transport of migrants by sea, and invited governments to co-operate in the interests of safety of life at sea by increasing their efforts to suppress and prevent unsafe practices associated with the trafficking or transport of migrants by sea and by ensuring that effective and prompt action is taken against such unsafe practices. The Assembly further invited governments to develop, as appropriate, agreements and procedures to facilitate co-operation in applying efficient and effective measures to prevent and suppress unsafe practices associated with the trafficking or transport of migrants by sea. The Assembly also invited governments to co-operate in ensuring that, to the maximum extent possible, information on ships believed to be engaged in unsafe practices associated with the trafficking or transport of migrants by sea is collected and disseminated to the Organization and to all governments which may be affected by such unsafe practices.

8.11 The Assembly, at its twentieth session, also adopted resolution A.872(20), Guidelines for the prevention and suppression of the smuggling of drugs, psychotropic substances and precursor chemicals on ships engaged in international maritime traffic and urged member governments to implement the Guidelines without delay, in accordance with the international law of the sea, and to bring them to the attention of harbour masters, shipping companies, shipowners, ship operations, shipmasters and all other parties concerned.

8.12 These Guidelines contain general advice which may provide guidance to shipowners, seafarers and others closely involved with the operation of ships. They are standards whose aim is to assist shipping companies, ships' masters and officers in combating illicit drug trafficking and to recognise some of the symptoms of drug dependence among members of the crew. Based on these standards, shipowners may wish to examine the possibility of adopting or improving procedures aimed at preventing breaches of customs regulations in their ships, especially smuggling of illicit narcotic drugs, psychotropic substances and chemicals essential for drug production. Such procedures will necessarily vary from one ship to another, depending on the routes they serve.

## **9. INTERNATIONAL CIVIL AVIATION ORGANIZATION (ICAO)**

9.1 The basic objective of ICAO in the field of facilitation is to promote productivity, security, compliance and customer service in the context of international border clearance formalities, in

accordance with Article 44 (d) of the *Convention on International Civil Aviation* (Chicago Convention). In order to pursue this objective the facilitation programme of ICAO retains the original strategies of reducing paperwork, standardizing documentation and simplifying procedures, in order to minimize delays for the customers. However, the operating environment has changed, requiring new strategies to meet new goals. In recent years, as traffic volumes outgrew the traditional facilities and clearance methods, the focus of Annex 9 to the Chicago Convention, which contains Standards and Recommended Practices on facilitation of air transport, shifted to inspection techniques based on risk management and assisted by modern technology, with the objectives to increase productivity and reduce congestion in airports. Most recently, responding to the current needs of Contracting States, the programme pursues new priorities. These are to enhance compliance and security, control abuses such as narcotics trafficking and travel document fraud, and to support the growth of international trade and tourism.

9.2 Superior customer service in a secure environment is a key condition for perpetuating the economic health of an air transport system, and is the ultimate objective of the ICAO facilitation programme. In order to achieve this objective the Organization has committed itself to introduce guidelines to Contracting States calculated to reducing congestion in passenger terminals and cargo facilities at international airports by improving the processes by which traffic is cleared through the necessary formalities of inspection authorities such as customs, immigration and quarantine.

9.3 The objective of the Organization for the facilitation of cargo is to meet goals for cargo release time. Some strategies recommended with regard to this objective are: the use of risk analysis in selecting shipments for examination; processing of manifest and entry information in advance; employing information technology to replace manual procedures; and using converge controls and/or co-ordinated inspections.

9.4 Since 1998, ICAO has undertaken substantial revision of Chapters 1 to 4 of Annex 9 which address the clearance of passengers, cargo and aircraft. In order to assist Contracting States with the implementation of provisions of the Annex, the Organization is in the process of preparing a facilitation manual that would offer the user improved comprehension of the Annex. Additionally, technical specifications on machine readable passports have been revised and technical specifications on official travel documents will be released later in 2000. At present, ICAO is revising all of Annex 9, including international Standards and Recommended Practices of Chapter 4 (Cargo).

9.5 ICAO liaises with facilitation contacts of 120 States in order to assist the States on a day-to-day basis with technical advice and guidance.

## **10. ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)**

10.1 While the OECD is not engaged in trade facilitation, *per se*, the OECD, as an intergovernmental organisation with a multidisciplinary dimension, undertakes a number of activities dealing with specific sectoral issues some of which enhance trade efficiency.

### Consumer cross-border transactions, including parcel delivery and customs

10.2 The Committee on Consumer Policy has been examining a number of issues related to consumer cross-border transactions, including parcel delivery and customs. Roundtables were held in June and October 1996 to examine issues that might impact the cost of shipping parcels internationally. At a subsequent roundtable on the simplification of customs clearance procedures (September 1997), organized in cooperation with the World Customs Organization, participants discussed policy approaches for simplified procedures that could benefit consumers as well as customs authorities and businesses. It is important to note that, as electronic commerce expands, the increase in consumer purchases of tangible goods will make it more urgent to resolve existing delivery problems and to streamline customs procedures in order to maintain flexible and efficient distribution channels. Current work on these issues

is, for the moment, focused on fiscal aspects of customs and is being done by OECD's Committee for Fiscal Affairs in consultation with the WCO.

#### Information, Computer and Communications Policy

10.3 The Committee for Information, Computer and Communications Policy (ICCP Committee) works on policy issues related to information and communications technologies and their impacts on the economy and society, including such matters as electronic commerce and the Internet. In May 1997 the Committee's report on Global Information Infrastructure - Global Information Society (GII-GIS) set forth recommendations addressed to governments and international organisations suggesting policy directions to enable the private sector to take the lead in the development and implementation of the GIIGIS. Since then the Committee has taken the lead in the analysis of policy frameworks for electronic commerce, showcased in a series of international meetings in Turkey, Finland (1997), Ottawa (1998) and Paris (1999) which have stressed *inter alia* the policy issues which need to be addressed if electronic commerce is to fulfil its potential to facilitate international trade.

10.4 With respect to telecommunications policy and international commerce, the ICCP Committee's Working Party on Telecommunications and Information Services Policy activities include assessment of the economic effects of changes in communications policies on international trade-related issues. Studies have focused on interconnection and equal access to networks by competing operators; pricing strategies and competition in mobile telephony; policy frameworks and pricing for information infrastructures; and employment changes in the telecommunications industry. Studies were also conducted of the international accounting rates system. More recently the Working Party has examined the Internet access prices, infrastructure indicators, traffic exchange, domain name allocation policies and has studied its potential impact as an alternative to conventional telephone networks. Currently, electronic commerce has been a priority area for the Working Party. In 1999 a Review of Market Openness and Trade in Telecommunications was conducted and a report on leased line developments and pricing Building Infrastructure Capacity for Electronic Commerce was produced. Work on market liberalisation is addressing the issue of encouraging competition in the local loop. The biennial Communications Outlook (next issue early 2001) provides key indicators and policy analysis related to trade aspects.

10.5 The ICCP Committee's Working Party on the Information Economy is studying the software industry, including aspects of trade development and the recent evolution of Intellectual Property Rights related to software. Furthermore the bi-annual Information Technology Outlook (last issue early 2000) provides an overview of trade developments in the IT sector and compiles IT policy profiles, including trade-related policies.

10.6 At the Ministerial Conference in Ottawa in October 1998 referred to above, Ministerial Declarations that establish baseline principles and goals, and provide guidance regarding the OECD's further work, were adopted in three critical areas, i.e. Protection of Privacy on Global Networks, Consumer Protection in the Context of Electronic Commerce, and Authentication for Electronic Commerce. Since the Conference the main landmark achievement has been the preparation by the Committee on Consumer Policy of the OECD Guidelines for Consumer Protection in the Context of Electronic Commerce by the OECD Council in December 1999. Work on Privacy and authentication is conducted by the ICCP Committee's Working Party on Information Security and Privacy. The main achievements with relevance to trade facilitation include the OECD Privacy Policy Statement Generator and the Report on Transborder data Flow contracts.

10.7 The work of the ICCP Committee's Working Party on Indicators for the Information Society is also relevant to trade facilitation. It has recently agreed upon definitions and key indicators for the Information and Communication Technologies sector and is working on the electronic content sector and electronic commerce.

### Regulatory reform

10.8 In general, data requirements, formalities and practices at the border arise from domestic regulations. OECD has been engaged in concerted work on regulatory reform since its 1995 Ministerial Meeting, work which has involved a broad range of analysis and discussion in a number of different OECD committees. In 1998, a series of reviews was initiated Organization-wide of regulatory systems and reform efforts in different OECD countries. In this context, the Trade Committee has been studying the market access effects of domestic regulations (including those for administering trade). The analysis has examined in particular the extent to which countries achieve efficient regulation through the application of six principles: i.e. transparency and openness of decision-making; non-discrimination; avoidance of unnecessary trade restrictiveness; use of international harmonized measures; recognition of other countries' regulatory measures; and application of competition principles from an international perspective. In the review, particular attention is paid to selected sectors such as telecommunication equipment, automobile, electricity and telecommunication services. With respect to the use of international harmonized measures, the Chemicals Committee and the Environment Policy Committee are working for harmonization of national chemical safety policies and instruments and harmonized global control system for trans-boundary movements of wastes.

### International air cargo transportation

10.9 The OECD has been exploring the possibility of liberalising the provision of air cargo services since 1997. Work on this subject covers not only service-market access issues but also several practical hindrances that air-cargo service providers are facing, such as those found in customs procedures and documentation and ground-handling services. In this context, trade facilitation measures, such as simplification of control on cargo in transit, acceleration of customs clearance and documentation simplification, are referred to and advocated in the work. The OECD organised a workshop on Regulatory Reform in International Air Cargo Transportation in July 1999, where almost 100 industry and government representatives exchanged views on market access matters and practical hindrances. The next workshop is to be held in October 2000, and trade facilitation measures might continue to be referred to.

### Integrity and corruption

10.10 Due to increasing concerns that corruption may counteract any trade facilitation efforts, OECD has studied, since 1996, the issue of integrity and corruption from the point of view of both public sector and private sector, emphasizing its adverse effect on national development. Corruption may counteract any trade facilitation efforts. The most significant development in this field is the entry into force of the "Convention on Combating Bribery of Foreign Public Officials in International Business Transactions" in February 1999. Thirty-four countries have signed for the accession. Among them, twenty-one countries have been subject to close monitoring to determine the adequacy of their implementing legislation, and these country review reports have been available to the public on the OECD Internet site.

10.11 Following the "1998 Ministerial Council Recommendation on Improving Ethical Conduct in the Public Service", the report on the implementation of the recommendation, "Trust in Government: Ethics Measures in OECD Countries", was submitted to the OECD Ministerial Council in June 2000. The report presents the first ever comprehensive database of integrity measures in OECD countries and includes an analysis of common trends and good practices. Its aim is to assist in the evaluation of government systems to promote integrity and fight corruption. The report will be published in September 2000.

10.12 The Trade Committee has undertaken in 2000 an analysis of the "Potential Anti-Corruption Effects of WTO Disciplines". In this context, the Committee discussed how trade facilitation provisions

in existing WTO agreements contribute to improving transparency, limiting arbitrariness and thereby reducing the opportunities and motivations for corruption in trade procedures.

## **11. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL)**

10.13 The United Nations Commission on International Trade Law (UNCITRAL) was established by the UN General Assembly in 1966. UNCITRAL's objective is to help reduce or remove obstacles to the flow of trade caused by disparities in national laws governing international trade through furthering the progressive harmonization and unification of the law of international trade. The Commission has since become an important body of the United Nations system in the field of international trade law. It works mainly through the drafting of UN conventions and other legal instruments.

10.14 The Secretariat of UNCITRAL is the International Trade Law Branch of the United Nations Office of Legal Affairs, located in Vienna. In the areas of work relating to trade facilitation the Commission is dealing with the international sale of goods and related transactions; international transport of goods; international commercial arbitration and conciliation; international payments; and electronic commerce.

10.15 For detailed information on the work carried out by UNCITRAL, see Annex XI to this document.

## **B. REGIONAL AND OTHER INTERGOVERNMENTAL TRADE FACILITATION INITIATIVES**

### **1. ASIA-PACIFIC ECONOMIC COOPERATION (APEC)**

1.1 APEC's twenty-one member economies have identified trade facilitation as one of its three priorities, together with trade and investment liberalization, and economic and technical co-operation. A major programme to simplify and harmonize customs procedures in the Asia-Pacific region was launched in 1996 through the Osaka Action Agenda. Customs work is co-ordinated by the Sub-Committee on Customs Procedures (SCCP) reporting to the Committee and Trade and Investment (CTI) and individual APEC Members. A Collective Actions Plan with 12 priority areas was established.

- **Harmonization of Tariff Structure with the HS Convention**  
To ensure consistency of application, certainty and a level playing field for business through the HS Convention, the standard international harmonized system for the classification of goods.
- **Transparency of Customs Procedures, including Information on Customs Laws, Regulations, Administrative Guidelines, Procedures and Rulings**  
To ensure traders have all the pertinent information for business decisions through the provision of accurate, consistent and user-friendly information.
- **Simplification and Harmonization on the Basis of the Kyoto Convention**  
To improve efficiency in customs clearance and the delivery of goods in order to benefit importers, exporters and manufacturers through simplified customs procedures and best practices.
- **Adoption and Support for UN/EDIFACT**  
To use the standard UN electronic messaging format for automated systems, the United Nations/Electronic Data Interchange for Administration, Commerce and Transport, to promote an electronic highway for business.
- **Adoption of the Principles of the WTO Valuation Agreement**

To facilitate administration of the World Trade Organization's Valuation Agreement on standard procedures for valuing goods.

- **Adoption of the Principles of the WTO Intellectual Property (TRIPS) Agreement**  
To implement border enforcement procedures for protecting intellectual property rights.
- **Introduction of Clear Appeals Provision**  
To provide business with an opportunity to challenge potentially erroneous or inequitable customs decisions through mechanisms for transparent, independent and timely appeals.
- **Introduction of an Advance Classification Ruling System**  
To establish simplified procedures for providing classification information prior to importation, thus bringing certainty and predictability to international trading and helping traders to make sound business decisions based on legally binding advice.
- **Provisions for Temporary Importation, e.g. acceding to the A.T.A. Carnet Convention or the Istanbul Convention**  
To help business move goods such as commercial samples, professional equipment, tools of trade and exhibition material across borders with a high degree of certainty as to how these goods will be treated by customs by having standard procedures for admitting goods on a temporary basis.
- **Harmonized APEC Data Elements**  
To develop a comprehensive directory supported in UN/EDIFACT which includes a simplified "core set" of data elements, largely derived from commercially available data, that would satisfy the standard data requirements of the majority of APEC trade transactions and so facilitate the exchange of information and provide a foundation for common forms and electronic commerce.
- **Risk Management Techniques**  
To focus customs enforcement efforts on high-risk goods and travellers and facilitate the movement of low-risk shipments, through a flexible approach tailored to each APEC economy.
- **Guidelines on Express Consignments Clearance**  
To implement principles contained in the *WCO Guidelines on Express Consignment Clearance*, the international standard procedures for clearance of express goods, working in partnership with express industry associations.

1.2 A number of the 12 collective actions agreed upon by *SCCP* have been or would be completely implemented by end-1999 (e.g., tariff nomenclature harmonization and computerization through UN/EDIFACT). All other actions' implementation is scheduled for completion by 2002, except for the three new APEC members. *SCCP* has elevated 'customs integrity' as a new Collective Action Plan (CAP) item. The *SCCP* believes that the Simplification and Harmonization of Customs Procedures initiative has already resulted in significant cost savings for exporters and importers. Among other outcomes, the *SCCP* is promoting risk management techniques, which are being shared by APEC customs administrations, to better target enforcement efforts and facilitate the movement of low-risk shipments and 'paperless trading' in the region. Other achievements include:

- The development of better tools for forging strategic partnerships with the business/private sector and exploring possible partnerships with the private sector to progress the work on its CAPs.
- Advanced work to implement the *SCCP*'s multi-year technical assistance programs of its CAPs in 1999, including:

- A program to implement the WTO Valuation Agreement: Training in the People's Republic of China; Indonesia; Malaysia; Papua New Guinea; the Philippines; Chinese Taipei and Thailand.
  - A program to implement UN/EDIFACT electronic message standards: conducted training for customs officers in Brunei, Indonesia, Mexico and Vietnam.
  - Adoption of TRIPS: Missions were completed in Papua New Guinea and Indonesia.
  - A program for the implementation of Facilities for Temporary Importation: Workshops in the People's Republic of China and Chinese Taipei.
  - Risk Management: two expert missions have been conducted in Indonesia and the Philippines.
- A Virtual Customs Group has been established to share experiences and explore and develop common approaches with the objective of developing a compendium of APEC customs initiatives on Electronic Commerce.
- The issue of "Customs Integrity" has been elevated to a new Collective Action Plan of the Sub-Committee.
- "Paperless Trading" has been elevated to SCCP CAP item, replacing the UN/EDIFACT CAP item.

#### Next Steps

1.3 At the Auckland Summit in 1999, APEC Member economies reiterated their commitment to trade facilitation, and pledged to strengthen the trade facilitation agenda. The SCCP will continue to implement and improve the Collective Action Plans in the areas of customs procedures. Future SCCP work programs include:

- improving direct involvement of the business/private sector in SCCP activities.
- publishing the *2000 Blueprint for APEC Customs Modernization*.
- to keep promoting and facilitating paperless trading.
- develop a proposed work program on "Integrity" which was elevated to CAP status at the end of last year.
- proposed "Best Practices" handbook on Express Consignment Clearance.
- development of an Assessment/Evaluation Approach to measure the implementation of SCCP CAPs and cargo release time.

## **2. ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN)**

2.2 In recognition of the importance of co-operation in customs, ASEAN had put in place a Customs Code of Conduct as far back as 1983. Trade Facilitation efforts within ASEAN intensified in the context of the AFTA initiative. A first significant step was undertaken at the first Directors-General of Customs Meeting in early 1995 where it was agreed to initiate measures to facilitate trade in goods and services within the region, in order to support the implementation of AFTA.

2.3 The *ASEAN Customs Code of Conduct* was then revised in 1995 with the following objectives:

- to facilitate intra-ASEAN trade by simplifying and harmonising trade procedures so as to support the implementation and acceleration of CEPT for AFTA;
- to enhance ASEAN co-operation in customs so as to complement economic co-operation activities in ASEAN;
- to promote the salient principles in the conduct of customs matters in ASEAN;
- to endeavour to harmonise tariff nomenclatures, customs valuation and procedures in ASEAN.

2.4 Cooperation in customs was deepened and broadened further, with the decision made at the Seventh AFTA Council in September 1995, to formulate a legal framework for ASEAN co-operation in customs. The *ASEAN Agreement on Customs* was signed at the First ASEAN Finance Ministers Meeting on 1 March 1997<sup>24</sup>. The Agreement espouses the principles of consistency, availability of access to appeals, simplicity, transparency, efficiency and mutual assistance. Under this Agreement, ASEAN member countries agreed to the following main points:

-- **Tariff Nomenclature**

To use a common tariff nomenclature to make it easier for traders operating in the region. An ASEAN Harmonised Tariff Nomenclature at 8 digit level shall be created based on the Harmonised Commodity Description and Coding Systems (HS) of the World Customs Organisation.

-- **Customs Valuation**

Customs Valuation shall not be used for protective purposes or as barrier to trade. The GATT/WTO Valuation Agreement shall be implemented on an accelerated schedule, and that a common interpretation of the GATT/WTO Valuation Agreement shall be adopted to ensure uniformity and standardised implementation of the Agreement.

-- **Customs Procedures**

To continuously simplify and harmonise customs procedures, so as to ensure the expeditious clearance of products traded in ASEAN. Simplification of procedures is aimed at cutting the time taken and cost of transactions at each customs point. Customs procedures shall be aligned to standards and recommended practices of the Kyoto Convention under the auspices of the World Customs Organisation (WCO).

-- **Information Exchange**

Member States are encouraged to exchange vital information on the prevention and repression of smuggling, trafficking of narcotics and psychotropic substances, and other customs frauds.

-- **Appeals**

Any affected person shall have the right to appeal decisions taken by the customs authorities of Member States, subject to national laws and regulations in each country.

-- **Private Sector Participation**

The private sector is encouraged to co-operate and consult with the ASEAN Directors-General of Customs on ways and means to further enhance intra-ASEAN trade facilitation.

2.5 Whilst the Agreement on Customs provided a legal framework for current work being undertaken within the ASEAN customs fora, an ASEAN Customs Vision 2020 was developed to provide the

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<sup>24</sup> New Member Countries Lao PDR and Myanmar acceded to the Agreement on 23 July 1997, when they were admitted into ASEAN. Cambodia acceded to the Agreement on 30 April 1999.



necessary directions into the 21st Century. In 1997, ASEAN Customs Director-Generals agreed on the following vision for Customs 2020:

“an ASEAN Customs Partnership for World Class Standards and Excellence in efficiency, professionalism and service, and uniformity through harmonised procedures, to promote trade and investment and to protect the health and well-being of the ASEAN community.”

2.6 Further to the Customs Vision 2020, a Policy Implementation and Work Programme (PIWP) for realising the vision was formulated. The PIWP specifies the objectives, activities and outputs planned for the first cycle implementation of the Vision, i.e. the period 1999 to 2004. It consists of the following objectives:

- **Post Clearance Audit**
  - development of a set of ASEAN guidelines on customs audit;
  - implementation of customs post clearance audit in each member country.
- **Cargo Processing**
  - to simplify existing cargo clearance procedures and reduce documentary requirements to the minimum necessary for effective customs enforcement;
  - to integrate international best practices into the overall standard operating procedures in the cargo clearance systems.
- **Customs Valuation**
  - to harmonise customs valuation methods in ASEAN Member Countries through adoption and operation of the WTO Valuation Agreement.
- **Tariff Classification**
  - to promote transparency, consistency and uniformity in the classification of goods within ASEAN Member Countries through the implementation of an ASEAN Harmonised Tariff Nomenclature (AHTN);
  - to facilitate trade through consistent, predictable and assured classification rulings and decisions.
- **Goods in Transit**
  - to facilitate the movement of goods in transit within and through ASEAN Member Countries by the introduction of simplified and harmonised customs procedures and requirements.
- **Automation**
  - to encourage the use of automation for customs cargo processing within ASEAN countries with the objective of improving clearance times and increasing the level of efficiency and effectiveness;
  - to co-ordinate the development of national automated systems so as to ensure compatibility in data requirements for possible future linkage within the region.
- **Enforcement**
  - to improve customs enforcement throughout the region by using risk management techniques together with the latest technical developments and equipment
- **Temporarily Admitted Goods**
  - To simplify and harmonise the customs control of goods under temporary admission in ASEAN Member Countries through simplified and harmonised customs procedures and requirements.

-- **Strategic Planning and Management**

- to encourage the development of strategic plans so as to provide the basis of a unified regional approach to the management and direction of customs activity.

-- **Mutual Assistance**

- to establish a co-operative framework at the regional level for ensuring the effective and prompt exchange of information, in particular, for the prevention, investigation and repression of smuggling, trafficking of narcotics and psychotropic substances, and other customs offences.

-- **Transparency Enhancement**

- to ensure that current methods of information dissemination are enhanced and broadened on a regional basis.

-- **Training and Human Resource Development**

- to develop the human resource of ASEAN member administrations through training programmes, study visits, attachments, courses and seminars so as to successfully implement the first five year cycle of Vision 2020.

-- **Technical Assistance to New Members of ASEAN**

- to provide technical assistance to the customs administrations of Cambodia, Laos, Myanmar and Vietnam where particular needs have been identified.

-- **International Customs Fora**

- to promote awareness, understanding and adoption of international conventions, standards, recommendations, guidelines and best practices relating to customs matters among ASEAN member countries.
- to create a coherent unified approach by ASEAN Member Countries in relevant international fora.

-- **Partnership with the Business Community**

- to strengthen and improve existing relationships and institutions of customs with the business community.
- to lay initial foundation for the realisation of the overall objectives of the Plan of Action on the Business Community to be achieved by the year 2020.

### 3. **THE ASIA-EUROPE MEETING (ASEM)**

3.1 The Asia-Europe Meeting (ASEM) is a gathering of heads-of-government from 10 Asian and the 15 European Union Member states<sup>25</sup> as well as the President of the European Commission. Its objective is to strengthen the political, economic and cultural ties between the two continents. The inaugural ASEM was held in Bangkok in March 1996, and it started a series of initiatives involving both the public and private sectors of all ASEM Countries. At the Second ASEM, held in London in April 1998, a Trade Facilitation Action Plan (TFAP) was adopted. It aims, *inter alia*, at reducing non-tariff barriers (NTBs), increasing transparency and promoting trade opportunities between the two regions while complementing and considering work being carried out in bilateral and multilateral fora. The TFAP identifies seven priority areas for the period of 1998-2000, i.e. customs procedures; standards, testing, certification and accreditation; public procurement; quarantine and SPS procedures; intellectual property rights; mobility of business people; and other trade activities.

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<sup>25</sup> The ten Asian participants are: Brunei Darussalam, China, Indonesia, Japan, Republic of Korea, Malaysia, The Philippines, Singapore, Thailand and Vietnam.

3.2 Although the TFAP is not itself a forum for negotiations, it contributes to the goal of promoting greater trade between Asia and Europe and facilitating and liberalising trade between the two regions. Implementation of TFAP is supervised by the Senior Officials' Meeting on Trade and Investment (SOMTI)<sup>26</sup>.

3.3 At the second Economic Ministers' Meeting (EMM II) in Berlin on 9-10 October 1999, Ministers specifically emphasised the importance of achieving substantive progress and of the need for the TFAP agenda to be more forward-looking, focusing on concrete steps towards implementing its objectives. In urging a more practical approach, Ministers adopted a paper on the Future of TFAP. SOMTI VI (May 2000) recognized that the seminars which took place in the different areas of work of TFAP have enabled the officials to better understand each partner's policies and practices, to agree on a number of best practices. It also adopted a Consolidated and Prioritised List of the Major Generic Trade Barriers among ASEM Partners with a view to reducing and removing them.

3.4 The following priority areas were identified in the TFAP for the period of 1998-2000.

-- **Customs procedures:** In supporting the on-going cooperation between customs authorities, the TFAP will aim at promoting simplification, harmonisation and transparency in customs procedures. This should include inter alia:

- an accelerated alignment and harmonisation of tariff nomenclatures with WTO and WCO standards;
- an accelerated implementation of obligations with respect to customs valuation procedures;
- the promotion of standardised and simplified documentation, including if possible paperless systems;
- the promotion of transparency of customs regulations and procedures;
- the collection and dissemination of information on ASEM partners' respective rules of origin;
- where appropriate, the exploration of possible common positions of ASEM partners in WTO and WCO.

-- **Standards, testing, certification and accreditation:** In supporting and enhancing the ongoing cooperation between standards, testing, certification and accreditation bodies, the TFAP will in particular aim at:

- enhancing the exchange of information among standards bodies and establishing national contact points as appropriate;
- promoting and facilitating the alignment of domestic standards of ASEM partners with international standards;
- promoting simplification and transparency in standards and certification information and procedures, drawing on electronic media where appropriate;
- where appropriate, exploring possible common positions amongst ASEM partners in relation to the work of international standards bodies (such as ISO and IEC);
- where appropriate, preparing for eventual progress towards mutual recognition agreements;
- encouraging co-operation in the promotion of technical and institutional capacity-building relating to standards, testing and certification.

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<sup>26</sup> For further information and documentation on ASEM and the TFAP, consult the following web-sites:  
[http://europa.eu.int/comm/external\\_relations/asem\\_ipap\\_vie/intro/index.htm](http://europa.eu.int/comm/external_relations/asem_ipap_vie/intro/index.htm), and  
[http://europa.eu.int/comm/external\\_relations/asem/intro/index.htm](http://europa.eu.int/comm/external_relations/asem/intro/index.htm)

- **Public procurement:** Considering ongoing work in other fora, the TFAP would aim at promoting transparency in public procurement, in particular through exchanging information on public procurement procedures, statistics and opportunities.
- **Quarantine and SPS procedures:** Considering ongoing work in other fora, the TFAP would inter alia help promote:
  - a simplification and rationalisation in procedures and documentation considering international best practice; and
  - the enhancement of transparency through the timely and accessible availability of information, drawing where appropriate on electronic media.
- **Intellectual property rights:** Considering ongoing work in other fora, the TFAP would promote a broad-ranging dialogue among ASEM partners on IPR-related issues, thus encouraging an enhanced understanding of the application of intellectual property rules in both the public and the business sector.
- **Mobility of business people:** With a view to facilitating direct business-to-business contact between the two regions, the Business Forum shall be requested to examine and report on concerns identified by the business community with respect to formalities for business travel and for temporary stay.
- **Other trade activities:** Taking account of work in other areas, TFAP would inter alia aim at:
  - promoting an exchange of views among partners, in both the public and business sector, on the manner in which market access in the distribution sector can best be enhanced, and
  - creating an ASEM data-base or virtual market-place, providing the business sector with easy access to comprehensive and up-to-date information on legal and administrative trade regimes of ASEM partners, on business opportunities, and on market trends.

#### **4. FREE-TRADE AREA OF THE AMERICAS (FTAA)**

4.1 The FTAA's origins date back to the first Summit of the Americas in Miami in December 1994 where the Heads of State of the 34 democracies in the region agreed to construct a "Free Trade Area of the Americas" (FTAA). The formal negotiations were launched by Leaders at the second Summit of the Americas in Santiago in April 1998 with a commitment to conclude an agreement by 2005. The Summit process engages the member countries in an integrative and co-operative forum to promote economic, social and political development<sup>27</sup>.

4.2 Under the oversight of the Trade Negotiations Committee, 9 Negotiating Groups address the following issues: (i) Market Access; (ii) Investment, (iii) Services, (iv) Government Procurement, (v) Dispute Settlement, (vi) Agriculture, (vii) Intellectual Property Rights, (viii) Subsidies, Antidumping and Countervailing Duties, and (ix) Competition Policy. Moreover, a Consultative Group on Smaller Economies, a Committee on Civil Society, and a Joint Government-Private Sector Committee of Experts on Electronic Commerce were established.

4.3 The Trade Negotiations Committee is regularly convening special meetings of experts on Customs-Related Business Facilitation Measures. Work at these meetings has led to the adoption of 8

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<sup>27</sup> For further information on the FTAA, see <http://www.ftaa-alca.org/>

customs-related Business Facilitation Measures by Trade Ministers in their Declaration at the fifth Ministerial Meeting in Toronto on 4 November 1999. Ministers stated that

“[I]n the area of customs, we agree to implement, beginning on January 1, 2000, the eight specific measures set out in Annex II to this Declaration. These measures will contribute significantly to the conduct of business in the hemisphere by reducing transaction costs and creating a more consistent and predictable business environment.”

4.4 The following Customs-Related Measures, annexed to the Declaration, were agreed:

-- **Temporary Importation / Temporary Admission of Certain Goods Related to Business Travellers:**

Establish new or streamline existing customs procedures for the entry of, and suspension of duties on, promotional documents and other goods related to business travel, whether or not these goods accompany the business traveller.

Primary Elements:

- i. Provide for suspension of customs duties
- ii. Identify promotional documents and other goods that do not require guarantees upon entry
- iii. Establish streamlined procedures for promotional documents and other goods that remain in the country
- iv. Establish an allowable time period for temporary importation/temporary admission
- v. Where possible, minimize the cost and administrative complexity of obtaining guarantees for temporary importation/temporary admission. Where possible, the amount of guarantees required should not exceed the amount of duties otherwise payable
- vi. Under normal circumstances, documentation and approval should be provided upon entry of the business traveller

-- **Express Shipments:**

Develop and implement procedures to expedite express shipments, taking into account the WCO Customs Guidelines for Express Consignments Clearance and the Cancun Memorandum, while maintaining the appropriate control and customs selection.

Primary Elements:

- i. Provide for separate expedited customs processing for express shipments
- ii. Provide for pre-arrival processing of information and data related to express shipments
- iii. Permit submission of a single manifest covering all of the goods in the shipment by the express service company, through electronic or other means
- iv. Where possible, and with the appropriate guarantees, provide for the release of certain goods through submission of minimal documentation and/or deferred payment
- v. In normal circumstances, express shipments should be released by customs authorities within 6 hours of the submission of necessary customs documentation provided the goods have arrived
- vi. In response to requests from express shipment companies, consideration could be given to providing extended hours of service and/or customs processing at premises under the control of the customs authority, at the discretion of customs authorities

-- **Simplified Procedures for Low Value Shipments:**

Establish simplified, streamlined and expedited procedures for low value shipment transactions while maintaining the appropriate customs control and selection.

Primary Elements:

- i. Establish minimal documentation, data and procedural requirements based on value of goods while maintaining the appropriate customs control and selection
- ii. Develop procedures to permit the electronic submission of information

-- **Compatible Electronic Data Interchange (EDI) Systems and Common Data Elements:**

Establish compatible electronic data interchange systems between traders and customs administrations that foster expedited clearance procedures. Develop a core set of data elements required for the administration of national customs regulations and requirements associated with the customs clearance of goods.

Encourage the establishment of compatible electronic data interchange systems between customs administrations that foster increased cooperation and information exchange. Develop parameters for the bilateral or plurilateral exchange of information related to compliance with customs regulations and requirements.

Primary Elements:

- i. Develop electronic systems accessible to the trading community
- ii. Develop capacity for electronic submission and processing of information and data prior to arrival of the shipment
- iii. Develop capacity for customs electronic/automated systems to work in conjunction with risk analysis and targeting
- iv. Work towards developing compatible electronic systems among customs administrations
- v. As an initial phase, identify current data elements used in electronic systems established per elements (i) to (iv) required by each customs administration, including, if feasible, those data elements required to determine admissibility of entries or those required by other agencies
- vi. Work towards developing a set of common data elements for customs clearance of goods

-- **Harmonized Commodity Description and Coding System:**

Apply the 1996 Harmonized Commodity Description and Coding System, at the six digit level.

-- **Customs Information Dissemination/Hemispheric Guide on Customs Procedures:**

Disseminate widely in the most user-friendly manner, basic up-to-date information on customs procedures, laws, regulations, guidelines, and administrative rulings, taking into account the Hemispheric Guide on Customs Procedures prepared by the Working Group on Customs Procedures and Rules of Origin.

Primary Elements:

- i. Update the Hemispheric Guide on Customs Procedures
- ii. Disseminate the updated Hemispheric Guide on Customs Procedures through the FTAA Home Page
- iii. Establish hyperlinks from the FTAA Home Page to national customs administrations' homepages for future updates to the country-specific information contained in the Hemispheric Guide on Customs Procedures

-- **Codes of Conduct for Customs Officials:**

Elaborate and implement national codes of conduct applicable to customs officials, taking into account the Arusha Declaration.

Primary Elements:

- i. Introduction of, or amendment to, national codes of conduct, legislation, policies or regulatory instruments applicable to customs officials with provisions on standards of conduct, conflict of interest, and possible sanctions and disciplinary action
- ii. Review of the 12 elements contained in the WCO Arusha Declaration for assessment of current practices and development of national implementation programs

-- **Risk Analysis/Targeting Methodology:**

Encourage risk management systems used as criteria for required verification activities, while respecting the confidentiality of information. The objective would be to allow for focusing of customs enforcement activities on high-risk goods and travellers while facilitating clearance and movement of low-risk goods.

Primary Elements:

- i. Develop processing and release customs procedures and systems that include risk analysis and targeting to identify high-risk goods, shipments and travellers
- ii. Risk analysis through pre-arrival processing of information and data to identify or target high risk-goods, shipments and travellers that will be subject to inspection and/or other customs procedures

4.5 In addition to these customs related measures, Ministers agreed to take a number of transparency measures in order to “make our procedures and regulations better known and more accessible to the public”<sup>28</sup>.

4.6 Ministers further agreed that business facilitation is an ongoing process. They directed the TNC.

- to supervise the full implementation of these measures by the target date of our next Ministerial meeting;
- to facilitate the provision of technical assistance for implementing the measures, in particular for the smaller economies;
- to review progress and report to us at our next meeting; and
- to identify, consider and recommend additional business facilitation measures, calling on experts as appropriate, and report to us at our next meeting.

4.7 Technical assistance to facilitate implementation of these measures, particularly in smaller economies will be carried out by FTAA countries, as well as the Inter-American Development Bank.

## **5. COMMON MARKET OF THE SOUTH (MERCOSUR)**

5.1 Until 1999 neither a special forum, nor a comprehensive approach on trade facilitation existed among Mercosur member economies. Based on the Treaty of Asuncion (1991) and the Protocol of Ouro

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<sup>28</sup> These transparency measures do not relate directly to transparency as concerns trade procedures. They address mainly publication and dissemination of FTAA documents. The annex can be accessed at <http://www.ftaa-alca.org/ministerials/minisA3e.asp>

Preto (1994), which sketch the principles and the aims of the integration process, a number of Working Groups and Technical Committees were set up in order to foster harmonisation of the rules and procedures that prevailed in each Member State, as well as to draw common regulations. The main Working Groups and Technical Committees involved in trade and customs facilitation are: WG-3 (Technical Barriers), WG-5 (Transport), WG-8 (Agriculture), WG-11 (Health) and TC-2 (Customs-related matters). These bodies are co-ordinated by the Common Market Group (GMC) and the Mercosur Trade Commission (CCM).

5.2 However, based on the 1992 Recife Agreement, common border control points were implemented in 1994. Since then, seven common border points destined to goods control were implemented, five of which are located in Brazilian borders. There are also some common border points destined to tourism control (people and low-value goods) in operation. The implementation of these control points is generally discussed bilaterally, and priority is given to those specific borders that account for significant trade flows. Use of pre-existent customs infrastructure is generally stimulated so as make efficient use of existing resources. In 1997, an "Agreement on Co-operation and Mutual Assistance among Customs Administrations concerning prevention and repression of illicit practices" was concluded and implemented between the four Mercosur member economies. This Agreement supplements the bilateral co-operation that exists between common customs points at borders.

5.3 With the significant increase of trade flows among Member States, rising from US\$ 4 billion in 1991 to US\$ 20 billion in 1998, trade and customs restraints within Mercosur became increasingly visible. To overcome these obstacles, the four Mercosur member States decided to adopt a "package" of measures designed to facilitate commercial transactions. This Decision by the Common Market Council developed into a more consistent and detailed program known as "Plan of Asuncion." This Plan, the implementation of which is still under negotiation, emphasizes

- common regulation of administrative procedures, such as imports licenses, certificates and authorisations issued by member states' public organisms, as well as transparency mechanisms for the adoption of these procedures.
- interconnection of customs administrations database systems concerning import/export operations.
- harmonisation of operational procedures, in order to foster simultaneous intervention by Member States public organisms responsible for goods trade control.
- implementation of a Single Customs Form.
- better performance of the Integrated Borders Control Areas set up by Decision CMC 5/93.

5.4 In addition to the points set out in the Action Plan, directives have been enacted to implement a single freight form, a single request form for temporary export and import of goods, a single value declaration form, a single phytosanitary certificate, common rules for phytosanitary inspections, and a working timetable for integrated borders control areas. In addition, a Mercosur Harmonised Product Description and Coding System Nomenclature (NCM), a directive on mutual recognition and equivalence of control systems have been implemented. Moreover, a new version of a Mercosur Customs Code has been under negotiation since 1996.

## **6. G7 INITIATIVE ON HARMONIZATION AND STANDARDIZATION OF CUSTOMS DATA REQUIREMENTS**

6.1 At the Lyon summit in June 1996, the G7 heads of state and government launched an initiative for the standardization and simplification of customs procedures. The G7 finance ministers and the representative of the European Commission took up this initiative in connection with the preparations for



the 1998 G7 summit in Birmingham, formulated the mandate to the experts and set the year 2000 as a target date. At the Kyushu-Okinawa Summit Meeting of the G7 finance ministers in Japan in July 2000, the results achieved so far were approved and the mandate from the year 1996 was brought up to date. It now reads as follows:

"Regarding customs procedures we endorse our customs experts' report on their efforts to standardise and simplify electronic customs declarations. We urge them to set a timetable for implementation, in which other countries and organisations are invited to participate; take steps to develop "single window" systems to allow traders to report data required by customs and other agencies once to release goods; and to adopt the principles of the use of IT set out in the revised Kyoto Customs Convention."

6.2 Work undertaken addresses the following issues:

-- **Paperless data interchange**

The work undertaken so far under the G7 Initiative, in particular the development of the data sets for the various customs procedures and processes, have been geared exclusively to the requirements of electronic data interchange. No consideration has been given to paper-based procedures. G7 member countries are aiming at common electronic messages (customs declarations for imports and exports) on the basis of the international EDI standard UN/EDIFACT.

-- **Harmonised and standardized data**

Uniform data requirements is a key element of the G 7 Initiative and is crucial to create benefits for the trade. For this reason the G 7 discussions include harmonization of data requirements of the participating countries for import and export, creation of common definitions and standardization of the data content and its format.

-- **Reducing the amount of data**

G 7 countries are also committed to reduce the amount of data required for the clearance of goods. Currently, the data elements contained in the import data set have been reduced from more than 800 to approx. 120. The participating countries have agreed to regard the data sets as maximum data sets in connection with import and export declarations for "ordinary" goods. No country should ask for more information on a routine basis. However, every country has the option of further reducing its data requirements to as few data as they deem necessary for the clearance of these "ordinary" goods. No final definition has yet been achieved on what exactly constitutes "ordinary" goods. However, there seems to be general agreement that goods are not considered to be "ordinary" if, for instance, they fall under prohibitions and restrictions or are subject to special trade policy measures.

-- **Data Interchange and the concept of a "Seamless data flow"**

The G 7 Initiative also follows the concept of a seamless data flow. The idea behind this concept is that the export data requirements and the respective electronic export declaration of all participating countries have the same structure as the import data requirements and the electronic import declaration. This will allow traders to exchange export information more effectively and efficiently, because it can be used as the basis for the import declaration without reformatting. Another aspect of the seamless data flow is also that the trader should be allowed to send the full G7 data set to a participating customs administration regardless of their actual amount of data requirements. The customs administration at the receiving end will take only those data elements that they need for the processing of the Goods declaration and disregard the remaining data elements. This will enable the trader to implement a single interface to customs services using the G7 data sets.

-- **Standardisation of the data requirements of other governmental agencies**

Under the initiative dating from the year 1996, work on standardising the import data required for agriculture and public health has begun in co-operation with other relevant governmental agencies (ministries of health, transport and agriculture). The standardisation of these data could pave the way for "single window" systems so that traders would have to report only once the information needed by the customs and other authorities for clearance. This would not involve any change in the competencies of the various authorities or in authorisation procedures before or after import.

-- **Production of customs prototypes**

Although under the "conclusions of the finance ministers meeting of the Birmingham Summit" all the G 7 countries were obligated to take all possible steps to produce customs prototypes or other procedures by the time of the summit in the year 2000, it emerged that this deadline was too ambitious. Nevertheless, work was begun on the prototypes for testing the standardised data and several countries are already introducing their prototypes. A UK-US prototype was foreseen to be launched in 2000, and a Japanese prototype by 2002.

Present status of the developed data sets

6.3 The data sets needed for the various customs procedures in the G 7 countries have been drawn up. In order that the various procedures may be compared and appraised, the individual data sets have been combined in a comprehensive file. This comprehensive file, the "G7 DATA BASE", is continuously being brought up to date according to the standards of the G 7 working group. The individual data sets have the following names and functions:

*"Cargo report" data set:* Within the area of formalities prior to the lodgement of the Goods declaration, the "cargo report" data set provides the basis for an electronic cargo report using the CUSCAR message. This data set contains currently 55 data elements.

*"Import" data set:* The "import data set" provides the basis for an electronic Goods declaration for imports corresponding to today's single administrative document.. It encompasses both the data elements required for the Goods declaration in the one-step procedure and also those required for a complementary Goods declaration under a two-step procedure. This data set contains currently 125 data elements.

*"Cargo release" data set:* The "cargo release" data set provides the basis for an electronic simplified Goods declaration under a two-step procedure. Under a two-step procedure, customs will release the goods on the grounds of this simplified first step Goods declaration. This data set is a subset of the import data set and contains currently 70 data elements.

*"Export" data set:* The "export" data set provides the basis for the Goods declaration for exports. It is still under discussion whether there will be different data sets for one- and two-step export procedures. The export data set contains currently 97 data elements.

Involvement of the World Customs Organization (WCO), the European Union (EU) and the Asia-Pacific Economic Cooperation (APEC)

6.4 Due to its extensive experience in the development of customs standards and in the harmonization of customs procedures, the WCO has been involved from the outset in this G7 Initiative. In addition, the WCO had initiated and co-ordinated the development of the UN/EDIFACT customs messages. The G7 customs experts are in agreement that the WCO should take over the management of the G7 results (data records and UN/EDIFACT messages) in order to take them beyond the framework of

the G7 into an internationally valid and implemented standard. For this purpose the WCO had previously started its own WCO Common Customs Data Model project, in which the G7 results could be integrated.

6.5 The simplifications sought at G7 level cannot be implemented without changes in the legislation of the G7 countries. For the four G7 countries being member of the EU this will mean changing the EU customs law, which is applicable to all 15 EU members. This requires agreement over the G7 results from all EU customs administrations, but it means at the same time that the G7 results will be implemented in many more countries from the outset. Therefore, the European Commission has been involved in the G7 discussions from the very beginning.

6.6 Moreover, the customs experts have agreed in March 1999 to invite a representative of a similar APEC project to the G7 discussions, in order to ensure that the development of the APEC project can be harmonized and synchronized with that of the G7 initiative, and facilitate dissemination of the G7 results throughout the 20 countries of the Asian-Pacific economic area. It is understood that if all EU and APEC countries implement the G7 proposals, they will be very close to becoming a de facto international standard.

### Outlook

6.7 Work in the area of data harmonisation and EDIFACT mapping has almost been completed for import and export procedures. In view of the fact that EDI standard messages are most efficient in reducing costs for traders and authorities when they are applied as widely as possible, G 7 customs experts have called upon other countries and organisations to participate in the prototypes as well. Mexico, Australia, New Zealand and Singapore have already shown interest in such a participation.

## C. ANNEXES

### ANNEX I: UN/ECE RECOMMENDATIONS

#### **1. *United Nations Layout Key for Trade Documents***

Provides an international basis for the standardization of documents used in international trade and transport, including the visual representation of such documents. The UN Layout Key is intended particularly to serve as a basis for designing aligned series of forms employing a master document in a reprographic one-run method of document preparation; it can also be applied for the layout of visual display presentations in electronic data processing applications.

#### **2. *Location of Codes in Trade Documents***

The text was incorporated into Recommendation No. 1 "United Nations Layout Key for Trade Documents".

#### **3. *ISO Country Code for Representation of Names of Countries***

Known as the "ISO ALPHA-2 Country Code", for use in representing the names of countries, dependencies, and other areas of special geographical interest for purposes of international trade whenever there is a need for a coded alphabetical designation.

#### **4. *National Trade Facilitation Bodies***

Encourages the establishment of national trade facilitation bodies, or other suitable means with balanced private and public sector participation for the implementation of recommendations on the facilitation of international trade procedures.

#### **5. *Abbreviations of INCOTERMS***

Proposes abbreviations of trade terms for acceptance and use by **GOVERNMENTS** and international organizations whenever these terms are referred to in abbreviated form and mutually promote their use in support of a common approach to trade facilitation.

#### **6. *Aligned Invoice Layout Key***

Provides a layout key aligned with the UN Layout Key, for commercial invoices, for international trade. Invoices based on this Recommendation are intended - to the extent possible - to present the required data in such a way that existing documents could be complemented or in certain cases replaced (e.g. customs invoices, consular invoices, declarations of origin, etc.).

#### **7. *Numerical Representation of Dates, Time and Periods of Time***

Establishes a method for a standardized and unambiguous all-numerical designation of a given date, time of day and a given period of time. It applies to all cases where these data are presented as separate entries in numerical form but not when they are part of a plain language text.

#### **8. *Unique Identification Code Methodology (UNIC)***

Establishes a unique consignment reference number with the objective of reducing the number of different references used by parties in international and national trade transactions. It is not intended as a method of product identification.

**9. *Alphabetic Code for the Representation of Currencies***

Encourages the use of the three-letter alphabetic codes of International Standard ISO 4217, "Codes for the representation of currencies and funds", for application in international trade and their use in commercial transactions when currencies are expressed in coded or abbreviated form. The code is designed to be equally suitable for automated or manual applications.

**10. *Codes for the identification of ships***

Encourages the use of the International Maritime Organisation's Ship Identification Number Scheme for the unique identification of ships and the use of only the final seven characters of the IMO number in EDI applications.

**11. *Documentary Aspects of the International Transport of Dangerous Goods***

Sets forth actions to harmonize information requirements and to simplify documentary procedures for the transport of dangerous goods in order to decrease complexity and increase accuracy and efficiency.

**12. *Measures to Facilitate Maritime Transport Documents Procedures***

Aims to simplify and harmonize procedures and documents used by ship-owners, consignees, banks and other parties involved in the maritime transport of goods to evidence the contract of carriage. This Recommendation applies to consignment-based documents evidencing contract or undertaking to carry goods by vessel, and to related procedures. It also applies to multimodal transport, as appropriate.

**13. *Facilitation of Legal Problems in Import Clearance Procedures***

Recommends to **GOVERNMENTS** a series of modifications, which could be introduced into national laws and regulations to permit customs and regulatory bodies to clear imports more efficiently and to benefit from advances in modern information technology.

**14. *Authentication of Trade Documents by means other than signature***

Seeks to encourage the use of electronic data transfer in international trade by recommending that governments review national and international requirements for signatures on international trade documents, in order to eliminate the requirement for paper documents and meeting the requirement of signatures by the authentication guaranteed by the means of transmission. It also recommends examining current commercial documents to identify those where signature could be safely eliminated and promoting the necessary changes in commercial practice.

**15. *Simpler Shipping Marks***

Aims at establishing a standard consignment identifier in the form of a simplified and standardized shipping mark, for marking on packages and for reproduction in documents. It should be used for marking on packages moved internationally by all modes of transport.

**16. *UN/LOCODE - Code for Ports and other Locations***

Aims at providing a list of such locations which are of interest in international trade and transport and whose names need to be quoted in an unambiguous way in data interchange. At the same time establishes coded representations of the names of these locations and gives guidance for their use.

**17. *PAYTERMS - Abbreviations for Terms of Payment***

Provides abbreviations for certain terms of payment, referred to as "PAYTERMS", for use in international commercial trade transactions relating to the provision of goods and/or services.

**18. *Facilitation Measures Related to International Trade Procedures***

Outlines a series of measures related to the movement of goods, presented in groups covering different phases of a common international trade transaction, which on their own would not justify an independent formal recommendation but which governments should consider implementing. Each section describes the application area, outlines the procedures and documents covered, and describes the particular problems for which facilitation measures are needed.

**19. *Codes for Modes of Transport***

Establishes a one-digit numerical code for representing transport modes and provides for a second digit for sub-divisions which might be required. This Recommendation applies to all cases where mode of transport is represented in coded form in international trade documents and where a simple code structure suffices.

**20. *Codes for Units of Measurement used in International Trade***

Provides three character alphabetic and alphanumeric codes for representing units of measurement for length, area, volume/capacity, mass (weight), time and other quantities used in international trade. The codes are intended for use in manual and/or automated systems for the exchange of information between participants in international trade.

**21. *Codes for Types of Cargo, Packages and Packaging Materials***

Establishes a numeric code system to describe the appearance of goods as presented for transport to facilitate identification, recording, handling, and establishing handling tariffs. The recommendation also establishes complementary alphabetic codes to represent the names of packages and provides pictorial symbols to provide a visual association between the codes and the types of packages that they represent.

**22. *Layout Key for Standard Consignment Instructions***

Presents a layout key, based on the UN Layout Key for Trade Documents, for the design of Standard Consignment Instructions intended to convey instructions from either a seller/consignor or a buyer/consignee to a freight forwarder, carrier or his agent, or other provider of services, enabling the movement of goods and associated activities. This Recommendation is relevant to the movement and handling of goods, customs, distribution of documents, allocation of charges and special instructions.

**23. *Freight Cost Code - FCC***

Provides a naming system to be used for the establishment of harmonized descriptions of freight costs and other charges related to the international movement of goods. Further, it specifies a code for the assignment of unambiguous coded representations of those descriptions. This Recommendation applies in all cases where descriptions of freight costs and other charges have to be stated in plain language or in coded form in trade data interchange, be it in paper documents or by electronic means.

**24. *Trade and Transport Status Codes***

Establishes a common code list for the identification of status information on goods, consignments and/or equipment.

**25. *Use of the United Nations Electronic Data Interchange for Administration, Commerce and Transport (UN/EDIFACT)***

Aims at coordinated actions by governments for the introduction of UN/EDIFACT as a single international standard for electronic interchange of data (EDI) between public administrations and private companies of all economic sectors world-wide.

**26. *Commercial use of Interchange Agreements for Electronic Data Interchange***

Promotes the use of interchange agreements between commercial parties using Electronic Data Interchange in connection with international commercial transactions. The Recommendation includes a Model Interchange Agreement for international use that even though designed for bilateral agreements

between two trading partners, the model with adjustments can be implemented in multilateral relationships, such as in a trade community or association.

***27. Preshipment Inspection***

Discourages the practice of preshipment inspection (PSI) in general while supporting the WTO instrument regarding preshipment inspection where such inspections are considered necessary as an interim measure.

***28. Codes for Types of means of transport (under development)***

***29. Codes for Types of Cargo (under development)***

***30. Harmonized Commodity Description and Coding system for the Coding of Goods and Commodities (under development)***

***31. Electronic Commerce Agreement***

Proposes a model for a contractual approach of electronic commerce operations. This approach takes into consideration the need for a framework of basic provisions to be agreed by business entities combined with the flexibility required to conduct day-to-day commercial transactions.

## **ANNEX II: EXPLANATION OF EDI AND UN/EDIFACT**

Electronic Data Interchange (EDI) developed out of the need of public and private organizations to communicate efficiently with each other, and takes advantage of modern information technology. Traditional business communication occurs in two forms: unstructured (e.g. memo and letters) and structured (e.g. business transactions such as purchase orders, despatch advice, invoices, payments). EDI covers the exchange of structured messages, while electronic mail deals with unstructured types of communications. With a structured message, such as a purchase order, the data is formatted according to an agreed standard, thus facilitating the electronic transfer from one computer system to another. Often referred to as application to application communications between computer systems, the intent is to have a "hands off" operation that allows for the exchange of business or administrative data between trading partners.

Recent productivity strategies among the business community, such as Just in Time (JIT) and Quick Response (QR), are efforts to become more efficient. This requires organizations to streamline their operations by eliminating all procedures that do not add value to the business process. A majority of multinational and large regional organizations are implementing EDI and are increasingly requiring all trading partners to be "EDI capable". For international trade, complex document requirements and business relationship would benefit from EDI streamlining. International trade generally involves transportation carriers, freight forwarders, brokers, banks insurers, customs administrations and other government agencies. The data entered by the initiating party is generally required by all other parties involved. EDI allows all parties to exchange this initial data without manual copying or data-entry, thus reducing time and errors.

In an EDI environment, it would not be efficient, or indeed realistic, for everyone to exchange their own versions of a single document (e.g. purchase order). The availability of a library or directory of common messages and message components was recognized as a means to promote a universal technique for exchanging of business data. Until ten years ago, this was achieved by various initiatives at a group, industry and country level. There was an obvious need for an international standard. UN/EDIFACT was developed in this context and now covers a wide range of industry sectors, including purchasing, transport, banking, insurance, product and quality data, materials management, statistics, travel, tourism and leisure, customs, architecture, engineering and construction, health care, social administration and employment.

UN/EDIFACT consists of a comprehensive set of rules and procedures based on the idea of standardizing or coding at all levels of information; every piece of information should be represented by a mnemonic, or a symbol which represents that piece unambiguously. In addition, the order in which the mnemonics are placed must also be standardized. UN/EDIFACT provides these codes and their format. The format is called the EDIFACT syntax, which can be thought of as the electronic equivalent of the United Nations Layout Key. The syntax contains the rules for how UN/EDIFACT messages should be structured and is an ISO standard (ISO 9735). Within this syntax standard, an EDIFACT message is defined as a series of building blocks. Each of these building blocks is standardized and for each type of building block there is a separate, UN/EDIFACT directory which forms part of the UN/EDIFACT standard.

The syntax rules govern the structure of United Nations Standard Messages (UNSM) which is a structured set of data values relating to a business function, organized as a collection of sequenced segments. The segments consist of data elements that, together, define a precise concept. The UNSM is designed to be applicable across business sectors. UN/EDIFACT concerns the message only; the communication method is not part of the standard, thus messages can be sent across both commercial and public networks as well as the Internet. UN/EDIFACT is also independent of hardware and software, just as the recommendations do not define how to write on the paper, using pencil, typewriter, etc. Many such messages have been developed and are contained in the UN/EDIFACT United Nations Standard



Message Directory (UNSM). More than 200 UNSMs are specified in the latest Directory with further messages under development.

The UN/EDIFACT Directory is maintained and developed by the UN/CEFACT EDIFACT Working Group (EWG). The UN/EDIFACT Directories are approved and published following each EWG meeting, in accordance with an approved version/release process. As part of this process, there is a formal audit to ensure the quality of the UN/EDIFACT product. These directories are available for the UN/ECE Trade Facilitation Internet site (<http://www.uncefact.org>) as well as from national, regional and international organizations that support the process, and the ECE Secretariat.

EDIFACT has attempted to solve the problem of trimming the UNSMs to suit the requirements of a particular industry sector. EDI organizations in each region create what are called Message Implementation Guidelines (MIGs) which are put into an EDIFACT message through an Implementation Definition (IMPDEF). These MIGs take a UNSM which is a data model of a certain business transaction in any industry, in any country and between any number of partners and trim it into a model for a specific industry, country and groups of partners

EDI is now used by more than half a million enterprises, administrations and organizations throughout the world and this number is likely to exceed 3 million by 2003.

## ANNEX III: INTERNATIONAL CONVENTION ON THE SIMPLIFICATION AND HARMONIZATION OF CUSTOMS PROCEDURES (KYOTO CONVENTION): REVISED GENERAL ANNEX

### CHAPTER 1

#### GENERAL PRINCIPLES

##### 1.1. Standard

The Definitions, Standards and Transitional Standards in this Annex shall apply to Customs procedures and practices specified in this Annex and, insofar as applicable, to procedures and practices in the Specific Annexes.

##### 1.2. Standard

The conditions to be fulfilled and Customs formalities to be accomplished for procedures and practices in this Annex and in the Specific Annexes shall be specified in national legislation and shall be as simple as possible.

##### 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.

### CHAPTER 2

#### DEFINITIONS

For the purposes of the Annexes to this Convention :

E1./F23.

**“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;

E2./F19.

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

E3./F4.

**“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;

E4./F15.

**“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;

E5./F9.

**“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;

E6./F10.

**“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;

E7./F3.

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

E8./F11.

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

E9./F16.

**“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;

E10./F18.

**“Customs law”** means the statutory and regulatory provisions relating to the importation, exportation, movement or storage of goods, the administration and enforcement of which are specifically charged to the Customs, and any regulations made by the Customs under their statutory powers;

E11./F2.

**“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;

E12./F25.

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

E13./F6.

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

E14./F7.

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

E15./F5.

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

E16./F12.

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

E17./F27.

**“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;

E18./F13.

**“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;

E19./F8.

**“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;

E20./F14.

**“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;

E21./F1.

**“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;

E22./F21.

**“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;

E23./F22.

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

E24./F20.

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

E25./F24.

**“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;

E26./F17.

“**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;

E27./F26.

“**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.

## CHAPTER 3

### CLEARANCE AND OTHER CUSTOMS FORMALITIES

#### Competent Customs offices

##### 3.1. Standard

The Customs shall designate the Customs offices at which goods may be produced or cleared. In determining the competence and location of these offices and their hours of business, the factors to be taken into account shall include in particular the requirements of the trade.

##### 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.

##### 3.3. Standard

Where Customs offices are located at a common border crossing, the Customs administrations concerned shall correlate the business hours and the competence of those offices.

##### 3.4. Transitional Standard

At common border crossings, the Customs administrations concerned shall, whenever possible, operate joint controls.

##### 3.5. Transitional Standard

Where the Customs intend to establish a new Customs office or to convert an existing one at a common border crossing, they shall, wherever possible, co-operate with the neighbouring Customs to establish a juxtaposed Customs office to facilitate joint controls.

#### 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.

*(b) Responsibilities of the declarant*

##### 3.8. Standard

The declarant shall be held responsible to the Customs for the accuracy of the particulars given in the Goods declaration and the payment of the duties and taxes.

*(c) Rights of the declarant*

##### 3.9. Standard

Before lodging the Goods declaration the declarant shall be allowed, under such conditions as may be laid down by the Customs :

(a) to inspect the goods; and

(b) to draw samples.

### **3.10. Standard**

The Customs shall not require a separate Goods declaration in respect of samples allowed to be drawn under Customs supervision, provided that such samples are included in the Goods declaration concerning the relevant consignment.

#### **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.

#### **Lodgement, registration and checking of the Goods declaration**

### **3.20. Standard**

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

### **3.21. Transitional Standard**

The Customs shall permit the lodging of the Goods declaration by electronic means.

### **3.22. Standard**

The Goods declaration shall be lodged during the hours designated by the Customs.

### **3.23. Standard**

Where national legislation lays down a time limit for lodging the Goods declaration, the time allowed shall be sufficient to enable the declarant to complete the Goods declaration and to obtain the supporting documents required.

### **3.24. Standard**

At the request of the declarant and for reasons deemed valid by the Customs, the latter shall extend the time limit prescribed for lodging the Goods declaration.

### **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.

### **3.26. Standard**

When the Customs cannot register the Goods declaration, they shall state the reasons to the declarant.

### **3.27. Standard**

The Customs shall permit the declarant to amend the Goods declaration that has already been lodged, provided that when the request is received they have not begun to check the Goods declaration or to examine the goods.

### **3.28. Transitional Standard**

The Customs shall permit the declarant to amend the Goods declaration if a request is received after checking of the Goods declaration has commenced, if the reasons given by the declarant are deemed valid by the Customs.

### **3.29. Transitional Standard**

The declarant shall be allowed to withdraw the Goods declaration and apply for another Customs procedure, provided that the request to do so is made to the Customs before the goods have been released and that the reasons are deemed valid by the Customs.

### **3.30. Standard**

Checking the Goods declaration shall be effected at the same time or as soon as possible after the Goods declaration is registered.

### **3.31. Standard**

For the purpose of checking the Goods declaration, the Customs shall take only such action as they deem essential to ensure compliance with Customs law.

## **Special procedures for authorized persons**

### **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.

## **Examination of the goods**

### *(a) Time required for examination of goods*

### **3.33. Standard**

When the Customs decide that goods declared shall be examined, this examination shall take place as soon as possible after the Goods declaration has been registered.

**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.

**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.

*(b) Presence of the declarant at examination of goods*

**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.

**3.37. Standard**

If the Customs deem it useful, they shall require the declarant to be present or to be represented at the examination of the goods to give them any assistance necessary to facilitate the examination.

*(c) Sampling by the Customs*

**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.

**Errors**

**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 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.

**Release of goods**

**3.40. Standard**

Goods declared shall be released as soon as the Customs have examined them or decided not to examine them, provided that :

- no offence has been found;
- the import or export licence or any other documents required have been acquired;
- all permits relating to the procedure concerned have been acquired; and
- any duties and taxes have been paid or that appropriate action has been taken to ensure their collection.

**3.41. Standard**

If the Customs are satisfied that the declarant will subsequently accomplish all the formalities in respect of clearance they shall release the goods, provided that the declarant produces a commercial or official document giving the main particulars of the consignment concerned and acceptable to the Customs, and that security, where required, has been furnished to ensure collection of any applicable duties and taxes.

**3.42. Standard**

When the Customs decide that they require laboratory analysis of samples, detailed technical documents or expert advice, they shall release the goods before the results of such examination are known, provided that any security required has been furnished and provided they are satisfied that the goods are not subject to prohibitions or restrictions.

**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.

**Abandonment or destruction of goods**

**3.44. Standard**

When goods have not yet been released for home use or when they have been placed under another

Customs procedure, and provided that no offence has been detected, the person concerned shall not be required to pay the duties and taxes or shall be entitled to repayment thereof :

- when, at his request, such goods are abandoned to the Revenue or destroyed or rendered commercially valueless under Customs control, as the Customs may decide. Any costs involved shall be borne by the person concerned;
- when such goods are destroyed or irrecoverably lost by accident or force majeure, provided that such destruction or loss is duly established to the satisfaction of the Customs;
- on shortages due to the nature of the goods when such shortages are duly established to the satisfaction of the Customs.

Any waste or scrap remaining after destruction shall be liable, if taken into home use or exported, to the duties and taxes that would be applicable to such waste or scrap imported or exported in that state.

#### **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.



## **CHAPTER 4**

### **DUTIES AND TAXES**

#### **A. ASSESSMENT, COLLECTION AND PAYMENT OF DUTIES AND TAXES**

##### **4.1. Standard**

National legislation shall define the circumstances when liability to duties and taxes is incurred.

##### **4.2. Standard**

The time period within which the applicable duties and taxes are assessed shall be stipulated in national legislation. The assessment shall follow as soon as possible after the Goods declaration is lodged or the liability is otherwise incurred.

##### **4.3. Standard**

The factors on which the assessment of duties and taxes is based and the conditions under which they are determined shall be specified in national legislation.

##### **4.4. Standard**

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

##### **4.5. Standard**

National legislation shall specify the point in time to be taken into consideration for the purpose of determining the rates of duties and taxes.

##### **4.6. Standard**

National legislation shall specify the methods that may be used to pay the duties and taxes.

##### **4.7. Standard**

National legislation shall specify the person(s) responsible for the payment of duties and taxes.

##### **4.8. Standard**

National legislation shall determine the due date and the place where payment is to be made.

##### **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.

##### **4.10. Standard**

National legislation shall specify the period within which the Customs may take legal action to collect duties and taxes not paid by the due date.

##### **4.11. Standard**

National legislation shall determine the rate of interest chargeable on amounts of duties and taxes that have not been paid by the due date and the conditions of application of such interest.

##### **4.12. Standard**

When the duties and taxes have been paid, a receipt constituting proof of payment shall be issued to the payer, unless there is other evidence constituting proof of payment.

##### **4.13. Transitional Standard**

National legislation shall specify a minimum value and/or a minimum amount of duties and taxes below which no duties and taxes will be collected.

##### **4.14. Standard**

If the Customs find that errors in the Goods declaration or in the assessment of the duties and taxes will cause or have caused the collection or recovery of an amount of duties and taxes less than that legally chargeable, they shall correct the errors and collect the amount underpaid. However, if the amount involved is less than the minimum amount specified in national legislation, the Customs shall not collect or recover that amount.

#### **B. DEFERRED PAYMENT OF DUTIES AND TAXES**

##### **4.15. Standard**

Where national legislation provides for the deferred payment of duties and taxes, it shall specify the conditions under which such facility is allowed.

**4.16. Standard**

Deferred payment shall be allowed without interest charges to the extent possible.

**4.17. Standard**

The period for deferred payment of duties and taxes shall be at least fourteen days.

**C. REPAYMENT OF DUTIES AND TAXES**

**4.18. Standard**

Repayment shall be granted where it is established that duties and taxes have been overcharged as a result of an error in their assessment.

**4.19. Standard**

Repayment shall be granted in respect of imported or exported goods which are found to have been defective or otherwise not in accordance with the agreed specifications at the time of importation or exportation and are returned either to the supplier or to another person designated by the supplier, subject to the following conditions :

- the goods have not been worked, repaired or used in the country of importation, and are re-exported within a reasonable time;
- the goods have not been worked, repaired or used in the country to which they were exported, and are re-imported within a reasonable time.

- (a) Use of the goods shall, however, not hinder the repayment if such use was indispensable to discover the defects or other circumstances which caused the re-exportation or re-importation of the goods.

As an alternative to re-exportation or re-importation, the goods may be abandoned to the Revenue or destroyed or rendered commercially valueless under Customs control, as the Customs may decide. Such abandonment or destruction shall not entail any cost to the Revenue.

**4.20. Transitional Standard**

(b)

Where permission is given by the Customs for goods originally declared for a Customs procedure with payment of duties and taxes to be placed under another Customs procedure, repayment shall be made of any duties and taxes charged in excess of the amount due under the new procedure.

**4.21. Standard**

(c)

Decisions on claims for repayment shall be reached, and notified in writing to the persons concerned, without undue delay, and repayment of amounts overcharged shall be made as soon as possible after the verification of claims.

**4.22. Standard**

(d)

Where it is established by the Customs that the overcharge is a result of an error on the part of the Customs in assessing the duties and taxes, repayment shall be made as a matter of priority.

**4.23. Standard**

(e)

Where time limits are fixed beyond which claims for repayment will not be accepted, such limits shall be of sufficient duration to take account of the differing circumstances pertaining to each type of case in which repayment may be granted.

**4.24. Standard**

(f)

Repayment shall not be granted if the amount involved is less than the minimum amount specified in national legislation.

## **CHAPTER 5**

### **SECURITY**

#### **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.

## **CHAPTER 6**

### **CUSTOMS CONTROL**

#### **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.

#### **6.2. Standard**

Customs control shall be limited to that necessary to ensure compliance with the Customs law.

#### **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.

#### **6.6. Standard**

Customs control systems shall include audit-based controls.

#### **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.

#### **6.8. Standard**

The Customs shall seek to co-operate with the trade and seek to conclude Memoranda of Understanding to enhance Customs control.

#### **6.9. Transitional Standard**

The Customs shall use information technology and electronic commerce to the greatest possible extent to enhance Customs control.

#### **6.10. Standard**

The Customs shall evaluate traders' commercial systems where those systems have an impact on Customs operations to ensure compliance with Customs requirements.

## **CHAPTER 7**

### **APPLICATION OF INFORMATION TECHNOLOGY**

#### **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.

#### **7.3. Standard**

The introduction of information technology shall be carried out in consultation with all relevant parties directly affected, to the greatest extent possible.

#### **7.4. Standard**

New or revised national legislation shall provide for :

- electronic commerce methods as an alternative to paper-based documentary requirements;
- electronic as well as paper-based authentication methods;
- the right of the Customs to retain information for their own use and, as appropriate, to exchange such information with other Customs

administrations and all other legally approved parties by means of electronic commerce techniques.

## **CHAPTER 8**

### **RELATIONSHIP BETWEEN THE CUSTOMS AND THIRD PARTIES**

#### **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**

1. 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.

#### **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.

2.

#### **8.7. Standard**

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

## **CHAPTER 9**

### **INFORMATION, DECISIONS AND RULINGS SUPPLIED BY THE CUSTOMS**

#### **A. INFORMATION OF GENERAL APPLICATION**

##### **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.

#### **B. INFORMATION OF A SPECIFIC NATURE**

##### **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.

**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.

## **C. DECISIONS AND RULINGS**

### **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.

### **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.

## **CHAPTER 10**

## **APPEALS IN CUSTOMS MATTERS**

### **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**

- (a) 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 as soon as possible, except in cases where the Customs appeal against the ruling.



## **ANNEX IV: INDEX OF SPECIFIC ANNEXES OF THE REVISED KYOTO CONVENTION**

<b>Annex A</b>	<b>Arrival of goods in a Customs territory</b>
Chapter 1	Formalities prior to the lodgement of the Goods declaration
Chapter 2	Temporary storage of goods
<b>Annex B</b>	<b>Importation</b>
Chapter 1	Clearance for home use
Chapter 2	Re-importation in the same state
Chapter 3	Relief from import duties and taxes
<b>Annex C</b>	<b>Exportation</b>
Chapter 1	Outright exportation
<b>Annex D</b>	<b>Customs warehouses and free zones</b>
Chapter 1	Customs warehouses
Chapter 2	Free zones
<b>Annex E</b>	<b>Transit</b>
Chapter 1	Customs transit
Chapter 2	Transshipment
Chapter 3	Carriage of goods coastwise
<b>Annex F</b>	<b>Processing</b>
Chapter 1	Inward processing
Chapter 2	Outward processing
Chapter 3	Drawback
Chapter 4	Processing of goods for home use
<b>Annex G</b>	Temporary admission
Chapter 1	Temporary admission
<b>Annex H</b>	<b>Offences</b>
Chapter 1	Customs offences
<b>Annex J</b>	<b>Special procedures</b>
Chapter 1	Travellers
Chapter 2	Postal traffic
Chapter 3	Means of transport for commercial use
Chapter 4	Stores
Chapter 5	Relief consignments
<b>Annex K</b>	<b>Origin</b>
Chapter 1	Rules of origin
Chapter 2	Documentary evidence of origin
Chapter 3	Control of documentary evidence of origin

## **ANNEX V: THE ANNEXES OF THE WCO ISTANBUL CONVENTION**

### *Annex A. concerning temporary admission papers (ATA carnets and CPD carnets)*

This Annex deals with the international customs documents, *Carnet de Passage en Douane* (CPD) for the temporary importation of motor vehicles and trailers and the ATA carnet for the temporary importation of other goods. The two temporary admission carnets have to be accepted by Contracting Parties to the Istanbul Convention

- in lieu of national customs documents to describe the goods declared for temporary admission; and
- as due security for the payment of import duties and taxes and, to the extent laid down in the Convention, any other sums payable in case of failure to re-export the goods in due course.

### *Annex B.1. concerning goods for display or use at exhibitions, fairs, meetings or similar events*

Annex B.1. deals with the temporary admission of an extremely wide range of goods. What is common to them is that they are for display or use at events of an economic or other nature. The Annex covers two different customs procedures, temporary admission subject to re-exportation and outright importation free of import duties and taxes for certain, clearly defined, goods. Since the latter are either distributed free of charge to the visiting public or consumed, destroyed or used up at the event, the requirement of re-exportation must be waived.

The Annex provides for temporary admission to goods intended for display or demonstration at an event; goods intended for use in connection with the display of foreign products at an event; equipment including interpretation equipment, sound and image recording apparatus and films of an educational, scientific or cultural character. The Annex provides for outright importation free of import duties and taxes to small samples; goods imported solely for demonstration or for the purpose of demonstrating the operation of a foreign machine or apparatus; products of low value used up in constructing, furnishing, or decorating the temporary stand of foreign exhibitors at an event; printed matter, catalogues, trade notices, etc. which are demonstrably publicity material for the foreign goods displayed at an event; files, records, forms and other documents which are imported for use as such at, or in connection with, international meetings, conferences or congresses.

### *Annex B.2. concerning professional equipment*

This Annex deals with the temporary admission of any equipment necessary for the exercise of the calling, trade or profession of a person visiting the territory of another country to perform a specified task. The range of such equipment is comprehensively wide. The Annex provides for temporary admission to professional equipment and component parts imported for repair of professional equipment.

### *Annex B.3. concerning containers, pallets, packings, samples and other goods imported in connection with a commercial operation*

This Annex covers goods which are imported temporarily in connection with a commercial operation but whose importation does not in itself constitute a commercial operation. This means that the goods are not themselves the object of a sale or a purchase. It provides for temporary admission to packings, containers, component parts intended for the repair of containers granted temporary admission, pallets, samples, advertising films, and any other goods imported for any of the purposes listed in the exhaustive list appended to Annex B.3.

### *Annex B.4. concerning goods imported in connection with a manufacturing operation*

This Annex covers goods which are used in the manufacturing process but not goods which are to be processed, such as raw materials. It provides for temporary admission to articles on the basis of which goods are produced such as matrices, moulds, models and similar articles; articles by means of which goods are produced such as measuring, controlling and checking instruments as well as special tools and instruments for use during a manufacturing process.

*Annex B.5. concerning goods imported for educational, scientific or cultural purposes*

This Annex is devoted to promoting scientific research and educational or vocational training. It provides for temporary admission to an extremely wide range of goods:

- (a) goods imported exclusively for educational, scientific or cultural purposes;
- (b) spare parts for scientific equipment and pedagogic material which has been granted temporary admission under (a) above, and tools specially designed for the maintenance checking, gauging or repair of such equipment.

*Annex B.6. concerning travellers' personal effects and goods imported for sports purposes*

This Annex deals with temporary admission facilities for two categories of goods which are closely related but which so far have been treated differently at international level:

- (a) all articles, new or used, which a traveller may reasonably require for his or her personal use during the journey, taking into account all the circumstances of the journey, but excluding any goods imported for commercial purposes;
- (b) sports requisites and other articles for use by travellers in sports contests or demonstrations or for training in the territory of temporary admission.

Travellers as defined in this Annex include tourists, athletes, business travellers, delegates to meeting of international organizations, students, etc.

*Annex B.7. concerning tourist publicity material*

This Annex contributes to promoting international tourism by facilitating the circulation of tourist publicity documents and other material aimed at encouraging the public to visit a foreign country. The Annex covers two different customs procedures. Temporary admission subject to re-exportation for tourist publicity material and outright importation free of import duties and taxes for certain, clearly defined publicity material. This latter material will not be re-exported, either because it is for free distribution or because to require its re-exportation would serve no useful purpose.

*Annex B.8. concerning goods imported as frontier traffic*

This Annex facilitates the conditions of life of the people who live in a frontier zone of a country and who, for various reasons, have to visit the frontier zone in the neighbouring country. It provides for temporary admission to goods carried by frontier zone inhabitants in the performance of their profession or trade; personal or household effects of frontier zone inhabitants imported by them for repair, manufacture or processing; equipment intended for working on land located within the frontier zone of the territory of temporary admission; equipment owned by an official body, imported in connection with a relief operation (fire, etc).

*Annex B.9. concerning goods imported for humanitarian purposes*

This Annex contributes to the efforts made in the interest of humanity by facilitating the importation of urgently needed medical, surgical and laboratory equipment and of relief consignments forwarded as aid to those affected by national disasters and similar catastrophes. Relief consignments include all goods, such as vehicles and other means of transport, blankets, tents, prefabricated houses or other goods of prime necessity. However, the temporary importation of vehicles and other means of transport transporting relief consignments into the country affected, are covered in Annex C.

*Annex C concerning means of transport*

This Annex contributes to the international movement of goods and persons by providing for temporary admission facilities for the means of transport used for their carriage. It covers any water, air, road or rail means of transport which are used for commercial, industrial or private purposes.

*Annex D concerning animals*

This Annex was prepared in recognition of the many and diversified functions animals are called upon to perform in the modern society. It provides for temporary admission to live animals of any species. The exhaustive list appended to the Annex lists the purposes for which animals may be temporarily imported.

*Annex E concerning goods imported with partial relief from import duties and taxes*

This Annex constitutes an exception to the main rule under the Istanbul Convention according to which temporary admission shall be granted with a total relief from import duties and taxes. It covers all goods which are imported only temporarily but which do not fulfil the conditions necessary for granting a total relief from import duties and taxes. Since temporary admission under this Annex always entails the payment of at least a part of the import duties and taxes applicable, the customs document and security should be similar to those normally required in connection with clearance for home use. Thus there is no obligation to accept temporary admission papers (ATA and CPD carnets).

**ANNEX VI: THE ANNEXES OF THE WCO NAIROBI CONVENTION**

Annex I:	Assistance by a customs administration on its own initiative
Annex II:	Assistance, on request, in the assessment of import taxes or export duties and taxes
Annex III:	Assistance, on request, relating to controls
Annex IV:	Assistance, on request, relating to surveillance
Annex V:	Enquiries and notifications, on request, on behalf of another Contracting Party
Annex VI:	Appearance by customs officials before a court or tribunal abroad
Annex VII:	Presence of customs officials of one Contracting party in the territory of another Contracting Party
Annex VIII:	Participation in investigations abroad
Annex IX:	Pooling of information
Annex X:	Assistance in action against the smuggling of narcotic drugs and psychotropic substances
Annex XI:	Assistance in action against the smuggling of works of art, antiques and other cultural property

## ANNEX VII: OTHER WCO CONVENTIONS

The Conventions and Recommendations presented here were designed to solve certain specific customs problems. A number of these earlier instruments are referred to by certain provisions of the Annexes to the Kyoto Convention. These provisions also urge Contracting Parties to the Kyoto Convention to accede to the other earlier Conventions.

1. *Customs Convention on the temporary importation of packings*

This Convention meets a wish frequently expressed by representatives of international trade for the extension of temporary duty free, important procedures to packings. The Contracting Parties undertake to grant temporary admission to packings, subject to the conditions specified in the Convention, and to accept an undertaking to re-export the packings in lieu of security wherever the customs authorities deem this possible. This Convention will be terminated and replaced by Annex B.3. of the Istanbul Convention

2. *Customs Convention on the temporary importation of professional equipment:*

This Convention is designed to facilitate the international exchange of specialized skills and techniques by the introduction of general rules on the temporary duty-free importation of professional equipment. It has three Annexes, one relating to equipment for the pressor for sound and television broadcasting, one to cinematographic equipment and the third to other professional equipment. The Convention will be terminated and replaced by Annex B.2. of the Istanbul Convention

3. *Customs Convention concerning customs facilities for the importation of goods for display or use at exhibitions, fairs, meetings or similar events*

The purpose of this Convention is to facilitate the display of goods at exhibitions, fairs, meetings or similar events of a commercial, technical, religious, educational, scientific, cultural or charitable nature. It deals, in particular, with the temporary admission of goods and equipment for display or use at an event, the waiving of import duties in respect of certain goods (small samples, printed matter, catalogues, etc.), and the simplification of formalities on importation and re-exportation. This Convention will be terminated and replaced by Annex B.1. of the Istanbul Convention

4. *Customs Convention concerning welfare material for seafarers*

This Convention was drawn up by the Council on the initiative of and in consultation with the International Labour Organization. Its aim is to promote the welfare of seafarers on ships engaged in international maritime traffic. Contracting Parties undertake to grant facilities in respect of welfare material for use on board foreign ships and, unless a reservation is entered in this respect, to welfare material for use in welfare establishments ashore. This Convention will be terminated and replaced by Annex B.5. of the Istanbul Convention

5. *Customs Convention on the temporary importation of scientific equipment*

This Convention helps to materialize the principle of the "free flow of ideas" which has been advocated and promoted by UNESCO for more than twenty years. It removes certain difficulties encountered in the implementation of the 1950 Florence Agreement and supplements, with regard to scientific equipment the professional equipment Convention and the fairs and exhibitions Convention which were also drawn up by the Council in co-operation with UNESCO. The Contracting Parties undertake to grant temporary admission, free of duties and taxes, to instruments, apparatus, machines or

accessories therefor which are to be used for purposes of scientific research or education by "approved institutions" and to reduce the attendant customs formalities. This Convention will be terminated and replaced by Annex B.5. of the Istanbul Convention

6. *Customs Convention on temporary importation of pedagogic material*

This Convention is designed primarily to supplement, in the field of educational material, the Scientific Equipment Convention. It rounds off the work done by the WCO, in co-operation with UNESCO, in connection with the temporary importation of educational, scientific and cultural material. Under the Convention the Contracting Parties undertake to grant and facilitate the temporary admission, free of import duties and taxes, of pedagogic material which complies with the prescribed conditions (and with certain optional conditions which may be imposed by each Contracting Party). A non-limitative list of pedagogic material is annexed to and forms an integral part of the Convention. This Convention will be terminated and replaced by Annex B.5. of the Istanbul Convention

7. *Customs Convention on the ATA carnet or the temporary admission of goods (ATA Convention)*

On 1 March 1956 the Council adopted the Customs Convention regarding ECS carnets for commercial samples, which was designed to facilitate the temporary importation of commercial samples duty-free. In view of the success of the ECS carnet, in 1961 the Permanent Technical Committee established the Customs Convention on the ATA carnet for the temporary admission of goods. This carnet can be used not only for commercial samples but also for goods temporarily imported under

- other international Conventions concerning temporary admission to which the State concerned is a Contracting Party (e.g. Conventions on professional equipment, on exhibitions and fairs, etc.);
- national regulations on temporary admission.

The ATA Convention seeks to eliminate the two main difficulties encountered whenever goods are temporarily imported, namely the need to make out a customs declaration on a national form and the necessity of furnishing security for the payment of the customs duties and other taxes chargeable in case of failure to re-export. This double aim is achieved by the ATA carnet which is an international customs document issued and guaranteed by associations approved by the customs and affiliated to an international chain (e.g. Chambers of Commerce). Some years ago, it was decided that the ATA carnet should replace the ECS carnet, in view of the latter's limited scope. This replacement has continued progressively and now only one international document is in use for temporary duty-free admission operations. The ATA Convention will be terminated and replaced by Annex A of the Istanbul Convention

8. *Customs Convention on the international transit of goods (ITI Convention) (not in force)*

This Convention was prepared to deal with emerging patterns in international traffic, particularly the wide spread use of intermodal freight containers. The basic aim of the Convention is to provide the customs with the possibility of carrying out their essential controls without creating transport delays, thus permitting transport operators to enjoy fully the advantages of the through-transport concept.

9. *Customs Convention on containers*

The Convention has two main objectives. First, it provides for temporary importation of containers, free of import duties and taxes, and free of import prohibitions and restrictions if re-exported within three months from the date of importation; such temporary admission of containers shall be granted without the production of customs documents being required on their importation and re-exportation and without the furnishing of a form of security (Articles 3-11).

Secondly, the convention provides for approval of Containers for transport under customs seal. Containers approved by a Contracting Party as complying with the relevant provisions laid down in the Convention shall be accepted by other Contracting Parties for any system of international carriage involving such sealing. The Convention also lays down standards for the construction of containers.



## **ANNEX VIII: WCO RECOMMENDATIONS**

### *1. Recommendations concerning co-operation between administrations*

- a. Recommendation concerning the treatment at an international level of customs technical questions, (30 November 1956)
- b. Recommendation on the communication of information concerning the customs status of goods, (22 May 1963)
- c. Recommendation to facilitate the temporary exportation of goods sent from one country of manufacture, processing or repair in another, (3 December 1963)
- d. Recommendation concerning the technical co-operation in customs matters, (18 June 1981)

### *2. Recommendations concerning duty reliefs, repayments and remission*

- a. Recommendation concerning the repayment or remission of duties on goods refused by the importer as not conforming to contract, (28 November 1957)
- b. Recommendation concerning tax-free shops, (16 June 1960)
- c. Recommendation concerning the repayment or remission of import duties and taxes on goods destroyed or lost, (5 December 1962)
- d. Recommendation concerning the free admission of removable articles imported on transfer of residence, (5 December 1962)
- e. Recommendation concerning the refund of import duties and taxes on shortages, (5 December 1962)
- f. Recommendation concerning reimported goods, (6 June 1967)
- g. Recommendation concerning the free admission of gift consignments (11 June 1968)
- h. Recommendation to expedite the forwarding of relief consignments in the event of disasters (8 June 1970)
- i. Recommendation on the customs treatment of products imported for testing, (5 June 1972)

### *3. Recommendations concerning transport, travel and tourism*

- a. Recommendation concerning the use of temporary importation papers in respect of radio and television vans, (1 December 1955)
- b. Recommendation on the temporary admission of radio and television vans, (9 June 1977)
- c. Recommendation on the temporary admission of radio and television production and broadcasting equipment, (13 June 1985)

- d. Recommendation concerning the customs treatment of provisions carried in restaurant cars, Pullman cars, sleeping cars and similar cars on international express trains, (16 June 1960)
  - e. Recommendation concerning the customs treatment of registered baggage carried by rail, (5 June 1962, amended on 21 June 1988)
  - f. Recommendation concerning customs sealing systems in connection with the international transport of goods, (11 June 1968)
  - g. Recommendation concerning the application of a flat rate assessment system to goods sent in small consignments to private individuals or carried in travellers' baggage (flat rate assessment), (11 June 1968)
  - h. Recommendation for a simplified customs control, based on the dual channel system, of passengers arriving by air, (8 June 1971)
  - i. Recommendation for a simplified customs control, based on the dual channel system, of passengers arriving by sea, (5 June 1972)
  - j. Recommendation concerning lighters carried by lash or similar-type vessels (5 June 1992)
  - k. Recommendation concerning measures to facilitate the application of the ITI Convention, (18 May 1973)
  - l. Recommendation concerning the temporary admission of special equipment carried in vehicles used for in connection with the transport of radio-active materials, (9 June 1977)
  - m. Recommendation concerning the establishment of links between customs transit systems, (16 June 1982)
  - n. Recommendation concerning the acceptance of ATA carnets in connection with temporary admission, (25 June 1992)
  - o. Recommendation concerning the acceptance of CPD carnets in connection with temporary admission, (25 June 1992)
4. *Recommendations concerning information technology*
- a. The use of world wide web sites by Customs administrations (26 June 1999)
  - b. The use of the WCO data mapping guide for customs UN/EDIFACT me995
  - c. Adherence to standards in relation to data requirements for advance passenger information (API) (6 July 1993)
  - d) The use of codes for the representation of data elements (22 May 1984)
  - e) the transmission and authentication of customs information which is processed by computer (16 June 1981)

- f) The use of the UN/EDIFACT rules for electronic data interchange
- g) The use of the united nations trade data elements directory (UNTDDED)
- h) The use of the CCC/IATA data interchange standards

5. *Other recommendations*

- a. Recommendation on samples to be regarded as being of negligible value within the meaning of the international convention to facilitate the importation of commercial samples and advertising materials, (30 November 1956)
- b. Recommendation concerning the adoption of a layout key for the goods declaration (outwards), (1 June 1965)
- c. Recommendation concerning the right of appeal in customs matters, (6 June 1967)
- d. Recommendation concerning the adoption of a standard form of certificate of origin, (16 January 1973)
- e. Recommendation concerning customs requirements regarding commercial invoices, (16 May 1979)
- f. Recommendation concerning the single goods declaration, (26 June 1990)
- g. Recommendation concerning the use of the glossary of international customs terms, (6. July 1993)

## **ANNEX IX: OVERVIEW OF WCO INTERNATIONAL CUSTOMS NORMS**

1. Right of Appeal in customs matters
2. Clearance of goods for home use. The declarant and the declaration of goods
3. Information concerning the tariff classification of goods, supplied by and binding on the customs administration (tariff information)
4. Payment or remission of import duties and taxes on goods destroyed or lost
5. Repayment or remission of import duties and taxes on goods believed to be contained in a consignment which, after clearance, is found not to have contained those goods at the time of importation (Repayment of import duties and taxes on shortages)
6. Free admission of removable articles imported by a natural person on transfer of residence from one country to another (Free admission of removable articles)
7. Temporary admission procedure
8. Customs warehousing procedure
9. Customs transit of imported goods
10. Drawback
11. Facilities granted in respect of re-imported goods, other than goods under the temporary exportation procedure (Re-imported goods)

## **ANNEX X: DETAILED OVERVIEW OF THE IMO CONVENTION ON FACILITATION OF INTERNATIONAL MARITIME TRAFFIC (FAL) AND ITS AMENDMENTS**

The FAL Convention contains measures to facilitate the arrival, stay and departure of ships of coastal and non-coastal Contracting States by simplifying and reducing to a minimum the formalities, documentary requirements and procedures. These include all documents pertaining to the ship and its passengers, baggage, crew, cargo and mail, which are required by Customs, Immigration, Health, and other public authorities.

The Annex to the Convention contains provisions relating to the arrival, stay and departure of ships and persons, health and quarantine, and sanitary measures for plants and animals. These provisions are divided into Standards and Recommended Practices, and the documents, which should be required by governments, are listed. Countries that cannot comply with standards should inform the IMO of the differences between its own practices and the standards in question. One of the most important standards of the Convention is Standard 2.1, which lists 8 documents which public authorities can demand of a ship and recommends the maximum information and number of copies which should be required. IMO has developed six of these documents. These are IMO general declaration, cargo declaration, ship's stores declaration, crew's effects declaration, crew list, passenger list. Two more forms have been developed recently. These are the Multimodal Dangerous Goods Form, which may be used as a combined transport document and container packing certificate for the multinational transport of dangerous goods; and Dangerous Goods Manifest.

The Convention has been amended several times. Since 1973, the 'tacit acceptance' procedure is in force, allowing for an easier update of the Convention. The 1986 amendments were designed primarily to reduce 'red tape' and in particular to enable automatic data processing techniques to be used in shipping documentation. The 1987 amendments simplify the documentation required by ships including crew lists, and also facilitate the movement of ships engaged in disaster relief work and similar activities. The 1990 amendments revise several recommended practices and add others dealing with drug trafficking and the problems of the disabled and elderly. They encourage the establishment of national facilitation Committees and also cover stowaways and traffic flow arrangements. The 1992 amendments concern the Annex to the Convention and deal with the following subjects: electronic data processing/electronic data interchange (EDP/EDI), private gift packages and trade samples, consular formalities and fees, submission of pre-import information, clearance of specialized equipment, AND falsified documents. The 1993 amendments (to the Annex to the Convention) deal with unmanifested parcels and the handling of stowaways.

The 1996 amendments have entered into force on 1 May 1997. The amendments affect standards and recommended practices contained in the Annex and deal with the following subjects: the Passenger List; the establishment of national maritime transport facilitation committees; the developments of procedures, including electronic data interchange (EDI), to allow for the submission of advance information to enable the use of selectivity techniques to facilitate customs clearance and the declaration of the personal effect of cruise passenger. New standards have been added concerning inadmissible persons; the obligations of shipowners to transport persons; and co-operation between governments and shipowners to establish the validity of passports and visas. A new recommended practice has been added on immigration pre-arrival clearance.

The 1999 amendments, adopted on 9 September 1999, deal with the combating of illicit drug trafficking; arrival, stay and departure of ships, passengers, crews and cargo; and the use of electronic data interchange (EDI) for ship clearance purposes. The amendments are due to enter into force on 1 January 2001 under tacit acceptance.

### **Other tasks of IMO and international co-operation**

In order to assure widespread implementation of its Conventions and other legal instruments, IMO has developed a technical co-operation programme, which is designed to assist **GOVERNMENTS**, which lack the technical knowledge, and resources that are needed to operate a shipping industry successfully. The IMO entertains consultative relationships with other UN agencies, such as the UN/ECE/IAEA and ICAO, as well as with intergovernmental organizations such as the WCO and the OECD. Among non-governmental organizations, which work on facilitation-related issues, the IMO co-operates with the IAPH, ISO, ICC, BIMCO, and IRU.

## **ANNEX XI: OVERVIEW OF UNCITRAL WORK RELEVANT TO TRADE FACILITATION**

### **A. Conventions**

#### **1. International sale of goods and related transactions**

*Convention on the Limitation Period in the International Sale of Goods (New York, 1974).*

This Convention establishes uniform rules governing the period of time within which legal proceedings arising from an international sales contract must be commenced. It has been amended by a Protocol adopted in 1980 when the *United Nations Sales Convention* (see below) was adopted. Both the original Convention and the Convention as amended entered into force on 1 August 1988. There are currently 24 States parties to the Convention, of which 17 are parties to the Convention as amended.

*United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980)*

This Convention establishes a comprehensive code of legal rules governing the formation of contracts for the international sale of goods, the obligations of the buyer and seller, remedies for breach of contract and other aspects of the contract. The Convention entered into force on 1 January 1988. There are currently 56 States parties to the Convention.

#### **2. International transport of goods**

*United Nations Convention on the Carriage of Goods by Sea, ( 1978) (the "Hamburg Rules")*

This Convention establishes a uniform legal regime governing the rights and obligations of shippers, carriers and consignees under a contract of carriage of goods by sea. It was prepared at the request of developing countries and its adoption by States has been endorsed by such intergovernmental organizations as UNCTAD, Asian-African Legal Consultative Committee and the Organization of American States. The Convention entered into force on 1 November 1992. There are currently 26 States party to the Convention.

*United Nations Convention on the Liability of Operators of Transport Terminals in International Trade*

This Convention sets forth uniform legal rules governing the liability of a terminal operator for loss of and damage to goods involved in international transport while they are in a transport terminal, and for delay by the terminal operator in delivering the goods. The draft Convention was adopted by a diplomatic conference and opened for signature, ratification and accession on 19 April 1991. The Convention will enter into force upon the deposit of 5 instruments of ratification, acceptance, approval or accession. Up to now only 2 instruments of accession have been deposited.

#### **3. International commercial arbitration and conciliation**

*Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958)*

Although the Convention was prepared by the United Nations prior to the existence of UNCITRAL, promotion of the Convention is an integral part of the Commission's programme of work. As its name indicates, it provides for the recognition and enforcement of arbitral awards rendered in foreign countries. At present 121 States are party to it.

#### *4. International Payments*

##### *United Nations Convention on International Bills of Exchange and International Promissory Notes (New York, 1988)*

This Convention provides a comprehensive code of legal rules governing new international instruments for optional use by parties to international commercial transactions. It is designed to overcome the major disparities and uncertainties that currently exist in relation to instruments used for international payments. The Convention applies if the parties use a particular form of a negotiable instrument indicating that the instrument is subject to the UNCITRAL Convention. The Convention was adopted and opened for signature by the General Assembly at its 43rd session in December 1988. 10 ratifications or accessions are necessary for the Convention to come into force. The Convention has been acceded to by 2 States to date.

##### *United Nations Convention on Independent Guarantees and Stand-by Letters of Credit (New York, 1995)*

The Convention was adopted by the General Assembly on 11 December 1995 and is now open for signature and ratification/accession. It is designed to facilitate the use of independent guarantees and stand-by letters of credit, in particular where only one or the other of those instruments may be traditionally in use. The Convention also solidifies recognition of common basic principles and characteristics shared by the independent guarantee and the stand-by letter of credit. The Convention entered into force on 1 January 2000, when 5 parties had deposited instruments of ratification, acceptance, approval or accession.

#### Other instruments developed by UNCITRAL:

##### *1. International sale of goods and related transactions*

##### *UNCITRAL Legal Guide on International Countertrade Transactions*

The purpose of the Legal Guide, adopted in 1992, is to assist parties negotiating international countertrade transactions. It identifies legal issues involved in such transactions and discusses possible contractual solutions.

##### *2. International commercial arbitration and conciliation*

##### *UNCITRAL Arbitration Rules (1976)*

The UNCITRAL Arbitration Rules provide a comprehensive set of procedural rules upon which parties may agree for the conduct of arbitral proceedings arising out of their commercial relationship. The Rules are widely used in many contexts. Recommendations to assist arbitral tribunals and other interested bodies with regard to arbitrations under the UNCITRAL Arbitration Rules (1982).

##### *UNCITRAL Conciliation Rules (1980)*

When parties to a commercial dispute wish to settle their disputes amicably through conciliation, they may agree upon this set of procedural rules to govern the conciliation proceedings. UNCITRAL Model Law on International Commercial Arbitration (1985). The UNCITRAL Model Law is designed to assist States in reforming and modernizing their laws on arbitral procedure so as to take into account the particular features and needs of international commercial arbitration. It was adopted by UNCITRAL in 1985 and has already been enacted into law by a considerable number of jurisdictions from both developed and developing countries.



*UNCITRAL Notes on Organizing Arbitral Proceedings (1996)*

The Notes are designed to assist arbitration practitioners by providing an annotated list of matters on which the arbitral tribunal may wish to formulate decisions during the course of arbitral proceedings. The text, which is in no way binding, may be used whether or not the arbitration is administered by an arbitral institution.

3. *International Payments*

*UNCITRAL Legal Guide on Electronic Funds Transfers*

The Legal Guide, which was published in 1987, identifies the legal issues arising from the transfer of funds by electronic means and discusses possible approaches for dealing with those issues.

*UNCITRAL Model Law on International Credit Transfers (1992)*

The Model Law, adopted in 1992, deals with operations beginning with an instruction by an originator to a bank to place at the disposal of a beneficiary a specified amount of money. It covers such matters as the obligations of a sender of the instruction and of a receiving bank, time of payment of a receiving bank and liability of a bank to its sender or to the originator when the transfer is delayed or other error occurs.

4. *Electronic commerce*

*Recommendation on the Legal Value of Computer Records (1985)*

*UNCITRAL Model Law on Electronic Commerce*

The Model Law, adopted in 1996, is intended to facilitate the use of modern means of communications and storage of information, such as electronic data interchange (EDI), electronic mail and telecopy, with or without the use of such support as the Internet. It is based on the establishment of functional equivalent for paper-based concepts such as "writing", "signature" and "original". By providing standards by which the legal value of electronic messages can be assessed, the Model Law should play a significant role in enhancing the use of paperless communication. In addition to general norms, the Model Law also contains rules for electronic commerce in specific areas, such as carriage of goods. With a view to assisting executive branches of governments, legislative bodies and courts in enacting and interpreting the Model Law, the Commission has produced a *Guide to Enactment of the UNCITRAL Model Law on Electronic Commerce*. Legislation based on the UNCITRAL Model Law on Electronic Commerce has been adopted in Australia, Bermuda, Colombia, France, Hong Kong China, Ireland, Republic of Korea, Singapore, Slovenia, and the Philippines.

*Other products of the work of UNCITRAL include:*

Provisions on a universal unit of account and on adjustment of the limit of liability in international transport conventions (1982);

Uniform Rules on Contract Clauses for an Agreed Sum Due upon Failure of Performance (1983);

*Assistance to countries considering adoption of texts*

On request, the UNCITRAL Secretariat is prepared to give technical assistance and advice to States that may be considering adoption of one of the legal texts prepared by the Commission. Such assistance often involves review of proposed legislation.

*Training in international trade law*

National and regional seminars on international trade law. The Commission has undertaken to organize national and regional seminars and briefing missions on international trade law for the purpose of promoting knowledge about the work of the Commission, primarily in developing countries, with a view to the adoption and use of its texts by those countries.

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