

Council for Trade in Goods

TRADE FACILITATION

Background Note

Revision

Introduction

(i) This background note contains an inventory of delegations' suggestions on the scope for WTO rules in the area of trade facilitation in the context of the Council for Trade in Goods' work programme on this subject. In addition to those categories already contained in the original document G/C/W/132, i.e. "Proposals concerning government mandated information requirements (Section I); "Proposals concerning official procedures" (Section II); and "Proposals concerning transparency and related issues" (Section III), the present Revision 1 contains new sections on "Proposals relating to transport and transit," (Section IV); and "Proposals relating to payment, insurance and other financial requirements," (Section V). A section listing proposals relevant to existing WTO Agreements will be added after the next meeting. The present update also reflects changes in the text of relevant Articles of the General Annex of the proposed revised Kyoto Convention, the drafting of which has been finalized in March 1999. A summary of each proposal made by delegations is reproduced for convenience. Since some proposals have overlapping content, some international instruments are reproduced under several headings.

(ii) The listed proposals are referenced to provisions of international instruments related to the subject-matter to the extent to which such instruments exist. For reasons of space, not all instruments referred to are reproduced in their entirety. The background note is intended to assist delegations in their analysis of the scope for WTO rules in the area of trade facilitation and to help to examine possible gaps in the existing international regulative framework.

(iii) The note specifically takes into account proposals made in the context of the Goods Council's first and second informal meetings on trade facilitation, i.e. (i) on import and export requirements and procedures (28 and 29 September 1998), and (ii) on physical movement of consignments (Transport and Transit) and payment, insurance and other financial requirements affecting cross-border trade in goods (7 December 1998).

(iv) Additional ideas put forward by delegations are listed at the end of this background note in section VI.

(v) The table in the Annex to this document lists the international conventions quoted, including their Contracting Parties.

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I. PROPOSALS CONCERNING GOVERNMENT MANDATED INFORMATION REQUIREMENTS

1. Adoption of International Standards for Import and Export Data

Adoption of International Standards for Import and Export Data¹ (EC, G/C/W/122)

1.1 Agreement to use or accept existing UN/UN-ECE standards, codes and guidelines on trade facilitation² as the basis for Members' regulatory and administrative requirements for import and export documentation and data. It would be necessary (i) to make a clear identification of the standards and codes in question; (ii) to ensure that these standards and codes reflect current business needs and have the in-built flexibility to change as trade practises change; (iii) to consider the need for and scope of any exceptions to the proposed rule.

Compatible Electronic Data Interchange (EDI) Systems (Canada, G/C/W/126)

1.2 Agreement to the increased application of the United Nations Electronic Data Interchange for Administration, Commerce and Transport (EDIFACT) electronic messaging format for automated customs systems. The objectives would be to facilitate increased and rapid exchanges of information between administrations, contribute to cooperative compliance and facilitation activities and provide the trading community with expedited clearance procedures through EDI applications.

International Instruments

1.3. Several international instruments encourage the use and acceptance of international standards, codes and guidelines on trade facilitation, including the EDIFACT messaging format. Existing instruments include:

1.3.1 *International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention)*³

Existing Convention of 1973

Annex J.1. (customs application of computers), Recommended Practice 9:

“Whenever practicable, computer applications implemented by Customs authorities should use internationally accepted standards, especially those adopted by the Council and referred to in the Computerization File.⁴”

¹This proposal relates closely to the proposal on documentation and data requirements arising from international transport (EC, G/C/W/133) which is listed in section IV - “Proposals relating specifically to transport and transit”.

²UN/ECE recommendations as well as information on UN/EDIFACT, etc. can be accessed online at http://www.unicc.org/unece/cefact/cef_main.htm.

³established under the auspices of the Customs Co-operation Council (now WCO), concluded at Kyoto, 18 May 1973, entered into force 25 September 1974, referred to thereafter as ‘Kyoto Convention’.

⁴WCO Recommendations concerning computers recommend the use of the EDIFACT standards and the use of the United Nations Trade Data Element Directory.

Proposed revised Convention⁵

General Annex, Chapter 3 (Clearance formalities), Standard 11:

“The contents of the Goods Declaration shall be described by 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.⁶”

General Annex, Chapter 7 (Application of information technology), Standard 2:

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

1.3.2 *International Convention on the Harmonization of Frontier Controls of Goods*⁷

Article 9:1 (Documents):

“The Contracting Parties shall endeavour to further the use, between themselves and with the competent international bodies, of documents aligned on the United Nations Layout Key.”

1.3.3 *Columbus Ministerial Declaration on Trade Efficiency*

Recommendations to Governments, Section B (Customs), Recommendation 15:

“[Governments, through their Customs authorities, should] enhance Customs controls and facilitate import clearance by considering, on a bilateral (or multilateral) basis, the routine electronic transmission of export data from the country of export to the Customs authority of the importing country, in accordance with the laws and regulations concerning disclosure of information.”

1.3.4 *WCO Recommendations*

-- Use of codes for the representation of data elements, including:

Annex II – Container identification, recommending use of ISO 6347 (freight containers – coding, identification and marking) and the IATA code for the representation of data concerning air freight containers;

Annex III – Dates, recommending use of UN/ECE Recommendation 7 (Numerical representation of dates, time and periods of time), which is based on ISO 2014 (writing of calendar dates in all-numeric form) and ISO 3307 (information exchange – representations of time of the day).

⁵Where references are made to the Kyoto Convention, both the texts of the existing Convention and the proposed text of the revised Convention are referred to; all standards and recommended practices of the General Annex of the revised Convention are quoted in their draft version of November 1998 (Draft version 2), as prepared by the Kyoto Working Group.

⁶These are the WCO Recommendations concerning the use of computers, some of which are listed under I:1.3.4.

⁷Concluded at Geneva, 21 October 1982, entered into force 15 October 1985;

Annex IV – Currencies, recommending use of ISO 4217 (three-letter alphabetic currency code);

Annex V – Country Codes, recommending use of the two-letter alphabetic code ISO 3166, alpha-2;

Annex VI – Description of goods, and tariff or statistical headings, recommending use of the HS Coding system;

Annex VII – Customs procedures, recommending use of the CCC 1-digit code for the representation of customs procedures;

Annex VIII – Units of measurement, recommending use of UN/ECE Recommendation 20 (Codes for units of measurement used in international trade);

Annex IX – Mode of transport, recommending use of UN/ECE Recommendation 19 (codes for modes of transport).

- Use of the UN/EDIFACT rules for electronic data interchange;
- Use of the United Nations Trade Data Directory (UNTDDED);
- Use of WCO Data Mapping Guide for Customs UN/EDIFACT Messages;
- The Single Goods Declaration;

1.3.5 *APEC: Collective Action Plan by the Sub-Committee on Customs Procedures (SCCP)*

“Objective 4:

Adoption and Support for the 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.”

2. Reduction and Harmonization of Data Requirements

Reduction and Harmonisation of Data Sets and Messages (EC, G/C/W/122)

2.1 A multilateral programme could be developed to reduce and harmonize data-sets/messaging as done by G 7 and as recommended eg by Australia in its paper to the WTO Symposium on APEC procedures. The programme could be carried out under WTO auspices in conjunction with other relevant organisations such as WCO and the UN-ECE who have obvious technical expertise to contribute.

2.2 Alternatively, WTO rules or guidelines could be established which dictate in general terms the objectives and parameters of such an exercise, which could then be carried out either under a specialist body, at plurilateral level, or via autonomous national measures, within an agreed timeframe.

2.3 The result should be the adoption of a multilaterally harmonized and reduced maximum data set, with any national exceptions or variations limited as far as possible, applicable to all relevant stages of the trade transaction and tailored to meet the majority of trade transactions and, ultimately, all governmental agency requirements.

2.4 The proposed harmonisation exercise should ensure that data-set requirements

- are reduced and restricted to the very minimum needed for appropriate administrative control, enabling the trader to submit a single data set which would be retained throughout the different stages of the trade transaction;
- are designed for electronic messaging purposes;
- use to the maximum possible extent relevant internationally agreed standards and codes;
- are capable of supplying the needs of other actors in the trade and transport chain so that seamless transfer of data is the norm, and re-keying or variation of data reduced to the minimum;
- be obtainable from commercially available information, to the extent possible for the purpose of proper customs administration, so that traders do not need to develop separate data sets for official purposes;
- cover the majority of international trade transactions.

Harmonization of Import Documents and Data (Canada, G/C/W/126)

2.5 Import documents and data required for release of merchandise should be harmonized, using existing international standards where appropriate. This could include expansion of efforts of like-minded countries (e.g. G-7) to harmonize electronic data elements and electronic data transmission standards.

International Instruments

2.6. The following international instruments are aiming at a reduction of required information, and/or are calling for the harmonization of documents, data sets and standard messages:

2.6.1 *Kyoto Convention*

Existing Convention of 1973

Annex A.1 (Customs formalities prior to the lodgement of the Goods declaration), Standard 11:

“Where the Customs authorities require documentation in respect of the production of the goods to the Customs this shall not be required to contain more than the information necessary to identify the goods and the means of transport.”

Annex B.1 (Clearance for home use); Standard 11:

“(1) Forms for the Goods declaration for home use shall conform to the official model laid down by the competent authorities.

(2) The competent authorities shall require the Goods declaration to provide only such particulars as are deemed necessary for the assessment and collection of import duties and taxes, the compilation of statistics and the application of the other laws and regulations which the Customs are responsible for enforcing.”

Annex B.1 (Clearance for home use); Recommended Practice 25:

“Where goods are imported frequently by the same person, the Customs authorities should allow a single Goods declaration to cover all importations by that person in a given period.”

Annex B.1 (Clearance for home use); Recommended Practice 60:

“If the Customs authorities are satisfied that the declarant will subsequently accomplish all the formalities in respect of clearance for home use they should 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.”

Annex C.1 (Outright exportation); Standard 8:

“(1) Forms for the Goods declaration for outright exportation shall conform to the official model laid down by the Customs authorities.

(2) The Customs authorities shall require only such particulars as are deemed necessary for the assessment and collection of any export duties and taxes chargeable, any repayment of, or exemption from, internal duties and taxes, the compilation of statistics and the application of the other laws and regulations which the Customs are responsible for enforcing.”

Proposed revised Convention

General Annex, Chapter 3 (Clearance formalities), Standard 11:

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

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

General Annex, Chapter 3 (Clearance formalities), Standard 12:

“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.”

2.6.2 *WCO Recommendations*

- Use of the United Nations Trade Data Elements Directory (UNTDDED);
- Use of WCO Data Mapping Guide for Customs UN/EDIFACT Messages;
- The Single Goods Declaration.

2.6.3 *Columbus Ministerial Declaration on Trade Efficiency*

Recommendations to Governments, Section B (Customs), Recommendation 6:

“[Governments, through their Customs authorities, should] examine closely the possibility of speeding up, as much as possible, the process of goods release based on a minimum of essential information. However, they should ensure that all information necessary for proper revenue collection, accounting, and precise statistical reporting is communicated to the Customs authorities.”

2.6.4 APEC: Collective Action Plan by the Sub-Committee on Customs Procedures⁸

Objective 10:

“Harmonized APEC Data Elements⁹

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.”

3. Adoption of Harmonized Documentation Format (EC, G/C/W/122)

3.1 Pending the global use of electronic messaging formats there will still be a need for submission of import and export data in paper form. Multilateral acceptance of the concept and design of the Single Administrative Document (SAD) (based on the UN aligned document system, currently used by over 60 countries and the standard tool used by UNCTAD in its ASYCUDA programme to streamline customs procedures in developing countries) would be a significant international harmonisation measure. Further discussion and possibly reduction of content of the SAD in the light of progress made to reduce and harmonize data sets would need to accompany such multilateral acceptance. Integration into the SAD of elements of the WCO standard for a Single Goods Document (SGD) would also be a useful measure to ensure a product with global acceptability.

International Instruments

3.2 Most existing international instruments do not refer to the concept of a Single Administrative Document, but recommend minimum data requirements and/or aligned documents or document series in conformity with the UN Layout Key. The relevant provisions of these instruments are listed below:

3.2.1 *Kyoto Convention*

Existing Convention of 1973

Annex B.1 (Clearance for home use), Standard 11:¹⁰

“(1) Forms for the Goods declaration for home use shall conform to the official model laid down by the competent authorities.

(2) The competent authorities shall require the Goods declaration to provide only such particulars as are deemed necessary for the assessment and collection of import duties and taxes, the compilation of statistics and the application of the other laws and regulations which the Customs are responsible for enforcing.”

Annex C.1 (Outright exportation), Recommended Practice 9:

“When they are considering revision of present forms or preparation of new forms for the Goods declaration for outright exportation, the customs authorities should use as far as possible the lay-out key in Appendix I in accordance with the Notes in Appendix II.¹¹”

⁸Other initiatives on harmonization of data elements for customs procedures are underway in the G 7, as well as in NAFTA (North American Trade Automation Prototype).

⁹see also WTO document G/C/W/115, p.184

¹⁰Note 2 to Standard 11 suggests that Contracting Parties may use of the a layout key which is in conformity with the UN Layout Key.

¹¹The layout key suggested is in conformity with the UN Layout Key.

Proposed revised Convention

General Annex, Chapter 3 (Clearance formalities), Standard 11, first sentence:

“The contents of the Goods Declaration shall be described by Customs. The paper format of the Goods Declaration shall conform to the UN-layout key.

3.2.2 *UN/ECE Recommendations*¹²

Recommendation 1: United Nations Layout Key for Trade Documents

The United Nations Layout Key for Trade Documents aims at providing an international basis for the standardization of documents used in international trade and transport and for visual display representations 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.

Recommendation 18: Facilitation Measures Related to International Trade Procedures
Group 9- Measures. related to entry and/or transit

9.2 Alignment of Customs import declarations

“National Customs import declarations should be aligned with the United Nations Layout Key, taking into account the aligned layout for Goods declaration for home use specified in Appendix 1 to Annex B.1 of the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto 1973).”

3.2.3 *WCO Recommendation*

-- The Single Goods Declaration.

4. Mutual or Reciprocal Recognition of Documents (Switzerland, Meeting of 28 September 1998)

4.1 Consideration of mutual recognition of comparable documentation, possibly with some tolerance with regard to a limited number of non-comparable documents. For the purpose of allowing traders to submit to the extent possible the same set of documentation to different Member's administrations.

International Instruments

4.2 The concept of mutual recognition of documents has found entry in the following **WCO Recommendations**:

- The Single Goods Declaration;
- Customs Requirements Regarding Commercial Invoices;
- The Adoption of a Standard form of Certificate of Origin.

¹²The full texts of UN/ECE Recommendations, including all background information, can be accessed on the internet at http://www.unicc.org/unece/trade/facil/bdy_rec.htm.

5. Single Window Submission of Information (EC, G/C/W/122)

5.1 Agreement should be sought on the principle that submission of data or other information requirements either at export or import be one time only and to a single agency (normally customs or a trade department), which will then ensure onward transmission of data to other relevant agencies, and interagency coordination thereafter. Such a provision naturally relies on the recognition of an agreed common data set by different government agencies concerned with an export or import transaction, rather than the imposition of unique, non-harmonized alternatives. EDI is also an important element in the functioning of such arrangements. Discussion would be needed on acceptable exceptions that may be necessary to the norm of providing information to one administrative window alone.

International Instruments

5.2 When identifying its scope, it needs to be noted that a “single window” concept seems practical and feasible only in an electronic environment. No international instruments could be found which provide for a single-window approach. However, one useful differentiation could be made between data and information required for the release of the goods and such data and information that is not. For the present the G7 initiative agreed to include the following areas in their Feasibility Study on Other Governmental Departments/Agencies: food, pharmaceutical products, drugs, animal and plant health and quarantine. With this limitation the following WCO/Customs Instruments apply:

5.2.1 Kyoto Convention

Existing Convention of 1973

Annex B.1 (Clearance for home use), Standard 11, paragraph 2:

The competent authorities shall require the Goods declaration to provide only such particulars as are deemed necessary for the assessment and collection of import duties and taxes, the compilation of statistics and the application of the other laws and regulations which the Customs are responsible for enforcing.

Annex C.1 (Outright exportation), Standard 8, paragraph 2;

The Customs authorities shall require only such particulars as are deemed necessary for the assessment and collection of any export duties and taxes chargeable, any repayment of, or exemption from, internal duties and taxes, the compilation of statistics and the application of the other laws and regulations which the Customs are responsible for enforcing.

Proposed revised Convention

General Annex, Chapter 3 (Clearance formalities), Standard 12:

“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.”

6. The Seamless Integrated Transaction (EC, G/C/W/122)

6.1 The seamless integrated transaction (sometimes called the seamless electronic transaction) enables a single submission by the trader of data at export, thus bringing considerable cost and time benefits to his operation. It also permits far more effective governmental control over illegal activities such as systematic under-invoicing through enabling the comparison of export and import data.

6.2 It is likely that seamless integrated transactions will progressively be introduced at a bilateral or regional level irrespective of a WTO-driven data harmonisation exercise. WTO principles (of non-discrimination, rights of access by all companies able to meet certain objective conditions, conditions of participation by third countries etc) could be designed to ensure that the development of such arrangements is both encouraged and guided in the optimum manner.

International Instruments

6.3 Existing instruments that promote a seamless integrated transaction include¹³:

6.3.1 Kyoto Convention

Existing Convention of 1973

Annex J.1 (Customs application of computers); Recommended Practice 8:

Subject to conditions laid down in national legislation, the Contracting Parties should ensure that the Customs authorities have the right to retain information for their own use and, as appropriate, to exchange such information with other Customs administrations and all other interested parties by means of ADP techniques. Similarly, Customs authorities should have access to traders' computer systems for verification/audit purposes.

Proposed revised Convention

General Annex, Chapter 6 (Customs control), Standard 7:

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

General Annex, Chapter 7 (Information technology), Standard 4:

“New or revised national legislation shall provide for:

- electronic commerce methods as an alternative to paper-based documentary requirements;
- electronic as well as other 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.”

6.3.2 Columbus Ministerial Declaration on Trade Efficiency

Recommendations to Governments, Section B (Customs), Recommendation 15:

“Enhance Customs controls and facilitate import clearance by considering, on a bilateral (or multilateral) basis, the routine electronic transmission of export data from the country of

¹³At present, a customs prototype project is being developed between the UK and the US, which will provide for the electronic transmission of minimal data to effect export departure and import clearance at the frontier. This project is intended to facilitate trade by simplifying customs procedures and developing standard data elements to support both import and export requirements. It will also incorporate information sharing between customs administrations, leading to increased levels of compliance and enhance mutual assistance in the enforcement field.

export to the Customs authority of the importing country, in accordance with the laws and regulations concerning disclosure of information.”

II. PROPOSALS CONCERNING OFFICIAL PROCEDURES

1. Avoidance of Unnecessary Procedural Obstacles (EC, G/C/W/122)

1.1 Consideration could be given to making Article VIII :1(c) GATT 1994 fully operational by a provision to expand and elaborate on it: namely a requirement for WTO members to reduce import and export procedures to the absolute minimum necessary to ensure the application of legitimate controls, and to use the least trade restrictive procedures available. Provisions might be necessary to define what would be such legitimate controls and what application of them would constitute the "minimum necessary", taking account of risk based management techniques, individual traders' compliance etc.

1.2 Such a provision would be comparable to existing provisions in eg the TBT Agreement concerning the avoidance of unnecessary technical obstacles. The other EC recommendations on documentation and information requirements at import and export would constitute means to achieve this avoidance of unnecessary procedural obstacles.

International Instruments

1.3 Existing international instruments that require its parties to reduce procedural obstacles to a minimum, include:

1.3.1 Kyoto Convention

Existing Convention of 1973:

Annex A.1 (Customs formalities prior to the lodgement of the Goods declaration), Standard 9:

“Customs control in respect of imported goods shall be reduced to the minimum.”

Annex A.3 (Commercial means of transport), Standard 18:

“Customs control in respect of commercial means of transport before arrival at a designated Customs office or other approved place of call shall be reduced to the minimum necessary to ensure compliance with the laws and regulations which the Customs are responsible for enforcing.”

Annex F.7 (Carriage of goods coastwise), Standard 25:

“Customs control of goods conveyed under the carriage of goods coastwise procedure shall be reduced to the minimum necessary to ensure compliance with the laws and regulations which the Customs are responsible for enforcing.”

Proposed new Convention

General Annex; Chapter 6 (Customs control), Standard 2:

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

General Annex; Chapter 6 (Customs control), Standard 3:

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

1.3.2 *International Convention on the Harmonization of Frontier Controls of Goods*

Article 2 (Aim):

“In order to facilitate the international movement of goods, this Convention aims at reducing the requirements for completing formalities as well as the number and duration of controls, in particular by national and international coordination of control procedures and of their methods of application.”

1.3.3 *UN/ECE Trade Facilitation Recommendations*

Recommendation 18: Facilitation Measures Related to International Trade Procedures

Recommendation 18 outlines a series of measures related to the movement of goods, presented in groups covering different phases of a common international trade transaction. Each section describes the application area, outlines the procedures and documents covered, and describes the particular problems for which facilitation measures are provided.

2. Introduction of Automated Customs Clearance (EC, G/C/W/122)

2.1. members should consider provisions to introduce electronic-based systems progressively as an optional alternative to paper based systems, using the relevant internationally accepted standards such as the UN-EDIFACT. Provisions to ensure that introduction of IT-based systems is carried out in consultation with all affected parties, is used in a coordinated way by all agencies involved in export and import verification or information collection, and for each stage in the trade and transport chain. A comprehensive, « holistic » approach is needed to maximise the benefits of IT based systems. Automation should logically follow, rather than precede other initiatives to simplify and harmonize requirements.

International Instruments

2.2 Existing instruments calling for the application of automated customs clearance:

2.2.1 *Kyoto Convention*

Existing Convention of 1973

Annex J.1 (Customs application of computers), Recommended Practice 7:

“The Customs authorities should review and where appropriate modernize existing manual procedures, documentation and coding practices prior to introducing the use of ADP techniques.”

Annex J.1 (Customs application of computers), Recommended Practice 10:

“Customs authorities should consult with other agencies (both national and international), when systems are being considered, developed or enhanced, with a view to avoiding duplication of effort wherever possible.”

Proposed revised Convention

General Annex: Chapter 7 (Information technology), Standard 1:

“The Customs shall apply information technology to support Customs operations, where it is cost-effective and efficient for the Customs and for the trade.”

General Annex: Chapter 7 (Information technology), Standard 3:

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

General Annex: Chapter 1 (General Principles), Standard 3:

“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.”

2.2.2 *Columbus Ministerial Declaration on Trade Efficiency*

Recommendations to Governments; Section B (Customs), Recommendation 3:

“Maximize the use of information technology to assist Customs in the efficient performance of their duties. Computer applications for the Customs processing of commercial and financial transactions should be developed taking into consideration the experiences of all countries. Consideration should be given where applicable to implementing UNCTAD's programme for Customs computerization and reform, the Automated System for Customs Data (ASYCUDA). Computer interfaces (aimed at using United Nations EDIFACT interchange standards) which allow for the electronic submission of manifests, goods declarations, etc., should be developed and made available to traders;”

2.2.3 *UN/ECE Recommendations:*

Recommendation 18: Facilitation Measures Related to International Trade Procedures

Group 9- Measures related to entry and/or transit

9.4 Acceptance of ADP-produced Customs Goods declarations, etc.

“Customs authorities in importing countries should implement the Recommendation (16 June 1981) of the Customs Co-operation Council concerning the transmission and authentication of Goods declarations which are processed by computer. In consequence, and under conditions to be laid down by the Customs authorities, they should:

1. Allow declarants to use electronic or other automatic means to transmit to the Customs Goods declarations for automatic processing. Such declarations may be transmitted either by direct link between the data processing systems of the Customs and those of the declarant or on magnetic or other ADP media;
2. Accept that Goods declarations which are transmitted by electronic or other automatic means to Customs be authenticated other than by handwritten signature.”

3. Pre-Arrival Processing, Post Clearance Controls and Audit (EC, G/C/W/122)

3.1 WTO provisions should be conceived that integrate the revised Kyoto Convention in order to promote, progressively, the universal introduction of modern concepts such as Pre-arrival Processing, Post Clearance Controls and Audit, and guide their development in a trade enhancing and equitable manner. Trade issues that should be addressed in such a set of provisions would include : the definition and scope of such systems, the eligibility of traders to benefit from them (to ensure that not only major companies but all traders able to comply with objective competence and compliance benchmarks would qualify); how to ensure their application for all control purposes (the benefits of audit based controls are negated if they apply only for eg duty calculation purposes, while origin verification, licensing, or statistical returns remained subject to transaction based clearance) ; and how to ensure the flexibilities needed for customs administrations to operate according to local circumstances. Elaboration of the scope of audit procedures could also be considered : UN-ECE with WCO are currently developing recommendations in this area that could be drawn upon.

International Instruments

3.2 International instruments that provide for introduction concepts such as Pre-arrival Processing, Post Clearance Controls and Audit, include:

3.2.1 Kyoto Convention

Existing Convention of 1973

Annex J.1 (Customs application of computers), Recommended Practice 12:

“For the purposes of Customs control, Customs authorities should use administrative assistance arrangements to facilitate the audit of commercial ADP systems located in other States.”

Annex J.1 (Customs application of computers), Recommended Practice 17:

“The Customs authorities should consider incorporating Customs selectivity criteria in Customs ADP systems, in particular, to facilitate the identification of Goods declarations for checking or of consignments for examination.”

Annex B.1 (Clearance for home use), Recommended Practice 24:

“The declarant should be authorized to lodge a Goods declaration for home use at a competent Customs office before the goods arrive at that office.”

Proposed revised Convention¹⁴

¹⁴During the third meeting of the Kyoto Working Group, it was decided to develop general guidelines covering all aspects of customs control. These guidelines, which are expected to be adopted by the WCO in April 1999, are set to contain a comprehensive overview of best practices and issues which a control programme of any modern customs administration should address. *Inter alia*, the guidelines will promote (i) a shift from exclusive movement controls to more audit-based controls, e.g. from the introduction of simplified procedures up to the authorization for trader self-assessment; (ii) risk management, (iii) compliance an performance indicators to keep the programme efficient and effective, (iv) customs/trade co-operation, (v) mutual assistance among customs authorities, (vi) use of information technology. The guidelines further emphasize that the implementation of a modern Customs control programme requires continuous support from senior management, sufficient trained, motivated and paid staff and proper legislation, organization and procedures. The content of these guidelines also relates to other proposals of this section; i.e. in section II:2-7, 9, and in section III:4 and 5.

General Annex, Chapter 3 (Clearance formalities), Standard 25:

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

General Annex, Chapter 3 (Clearance formalities), Transitional Standard 32:

“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.;
- allowing the Goods declaration by means of an entry in the records of the authorized person to be supported subsequently by a supplementary Goods declaration.”

General Annex, Chapter 6 (Customs control), Standard 6:

“Customs control systems shall include audit-based controls.”

3.2.2 *Columbus Ministerial Declaration on Trade Efficiency*

Recommendations to Governments; Section B (Customs), Recommendation 5

“Take steps to make available facilities for pre-arrival processing of transactions, which can deliver significant trade facilitation benefits and, with appropriate safeguards, does not compromise in any way the control objectives of Customs. The electronic submission of pre-arrival cargo data further facilitates this process.”

3.2.3 *UN/ECE Recommendations:*

Recommendation 18: Facilitation Measures Related to International Trade Procedures

Group 9- Measures related to entry and/or transit

9.5 Periodic lodgement of import declarations by ADP means

“Importers' forwarders/Customs brokers should investigate the benefits of periodic lodgement of import declarations (including those for goods released from private bonded warehouses) in computer-readable form.”

9.9 Release of goods without submission of transport documents

“National authorities in importing countries should amend regulations, where necessary, in order to permit the release of goods to the importer without the necessity of handing over a bill of lading or any other transport document. Where there is currently a need to use transport documents to meet import regulations, the reasons should be investigated and alternative methods adopted.”

9.13 Deferred duty payment

“National authorities should--where necessary--introduce legislation enabling Customs to allow deferred payment of duty to all persons who provide an adequate guarantee covering the amount of relevant duties and taxes, or who are otherwise acceptable to the Customs.”

9.15 Advance lodgement of Customs declarations

“Custom authorities should study the advantages of authorizing advance lodgement and examination of Customs declarations, without prejudice to relevant provisions for acceptance of such declarations, in order to allow goods to be cleared immediately after arrival at the port, border crossing point, inland depot, or other place of clearance (e.g. importer's premises).”

9.16 Immediate release system

“Customs authorities should study the advantages of immediate release systems for Customs clearance, allowing goods to be taken directly to the importer's premises for immediate disposal against the submission of a simplified Customs document or on the presentation of an administrative or commercial document which permits the identification of the goods in question. Such release should be subject to later submission of a proper declaration, which may be in computer-readable form. The release should not prejudice possible future Customs controls, including periodic controls on the importer's premises of the goods and of the importer's records.”

9.17 Customs control on importer's premises

“To ease bottlenecks, Customs authorities should study the systems whereby approved importers are allowed to bring sealed transport units to their premises under a release note; meanwhile, the Customs declaration is lodged with the importer's local Customs office and the goods can be used if the Customs have not visited the premises for inspection within a specified short period of time.”

9.18 Periodic Customs entry

“Customs authorities should study the advantages of permitting approved importers to clear goods under a partly-completed Import declaration, subsequently to be supplemented by a periodic schedule--which may be in computer-readable form--containing full details of the goods imported within the relevant period.”

4. Authorised Traders (EC, G/C/W/122)

4.1 Consideration should be given to the introduction of measures that would allow companies of all sizes, including SMEs, able to meet objective criteria, to benefit from authorised trader status. The WTO should be prepared to develop the necessary criteria to ensure that systems of authorised traders are WTO-compatible, do not discriminate among traders on the basis of size or origin, and reduce trade barriers to the greatest possible extent.

4.2 Agreement between member governments on the criteria for eligibility, and the nature and extent of benefits to be accorded to authorised traders, while preserving the flexibility needed by customs administrations, would be an important step in facilitating the development between administrations of seamless integrated transactions, which depend on common standards and assumptions.

International Instruments

4.3 Existing provisions addressing the concept of authorized traders include:

4.3.1 Kyoto Convention

Existing Convention of 1973

No provision

Proposed revised Convention

General Annex, Chapter 3 (Clearance formalities), Transitional Standard 32:

“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.”

4.3.2 *UN/ECE Recommendations:*

Recommendation 18: Facilitation Measures Related to International Trade Procedures

Group 9- Measures related to entry and/or transit

9.17 Customs control on importer's premises

“To ease bottlenecks, Customs authorities should study the systems whereby approved importers are allowed to bring sealed transport units to their premises under a release note; meanwhile, the Customs declaration is lodged with the importer's local Customs office and the goods can be used if the Customs have not visited the premises for inspection within a specified short period of time.”

9.18 Periodic Customs entry

“Customs authorities should study the advantages of permitting approved importers to clear goods under a partly-completed Import declaration, subsequently to be supplemented by a periodic schedule--which may be in computer-readable form--containing full details of the goods imported within the relevant period.”

5. Rationalization of Official Interventions at Borders¹⁵

One Stop Clearance (EC, G/C/W/122)

5.1. To complement the proposals concerning coordination of the provision of information to different government agencies, provisions should be considered to ensure, notably at import, that goods are subject only to a single physical intervention, normally by customs on behalf of other agencies. Administrations would ensure, over time, a level of coordination and delegation of controls to customs to enable all verifications (eg health and safety data and certification, sanction controls, IPR verification, import licence checks, export subsidy verification) to be done once only. The overall aim should be to set a norm of such integration, subject to possible exceptions (where customs may not be qualified to carry out specific expert functions), but with the burden of proof clearly lying on the administration seeking to maintain separate or non-harmonized control functions.

Border Agency Coordination (Canada, G/C/W/126)

5.2 WTO Members could consider rules to ensure that the activities and requirements of all agencies present at borders are coordinated in a manner designed to facilitate trade. One such technique is to make maximum use of a data set which has been harmonized across the various border agencies of a country. This "single window" approach also lends itself readily to electronic technology.

International Instruments

5.3 The following international provisions pursue the rationalization of official interventions at borders, as set out in the proposals above. Also included are provisions that address co-operation in the conduct of official procedures by customs authorities at borders. As far as sharing of information is concerned, co-operation issues between customs are addressed under proposals I:6 (Single Window Submission of Information) and I:7 (The Seamless Integrated Transaction):

¹⁵This proposal is closely related to proposals I:6 (Single Window Submission of Information) and I:7 (The Seamless Integrated Transaction) which address cooperation regarding information requirements.

5.3.1 *Kyoto Convention*

Existing Convention of 1973

Annex B.1 (Clearance for home use); Recommended Practice 4:

“Where corresponding Customs offices are located on a common frontier, the Customs authorities of the two countries concerned should, as far as possible, correlate the business hours and the competence of those offices.”

Annex B.1 (Clearance for home use); Recommended Practice 34:

"If the goods must also be inspected by other competent authorities (for the purpose of applying veterinary, health, phytopathological, etc., controls) the Customs should, where practicable, perform their examination at the same time.”

Annex C.1 (Outright exportation); Standard 5:

Where corresponding Customs offices are located on a common frontier, the Customs authorities of the countries concerned shall as far as possible correlate the business hours and the competence of those offices.

Proposed revised Convention

General Annex; Chapter 3 (Clearance formalities); Standard 3:

“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.”

General Annex; Chapter 3 (Clearance formalities); Transitional Standard 4:

“At common border crossings, the customs administrations concerned shall, whenever possible, operate joint controls.”

General Annex; Chapter 3 (Clearance formalities); Transitional Standard 5:

“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.”

General Annex; Chapter 3 (Clearance formalities), Transitional Standard 35:

“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.”

5.3.2 *International Convention on the Harmonization of Frontier Controls of Goods*

Article 4 (Co-ordination of controls):

“The Contracting parties shall undertake, to the extent possible, to organize in a harmonized manner the intervention of the Customs service and the other control services.”

Annex 1 (Harmonization of Customs Controls and other Controls):

Article 1: (Principles)

1. As the Customs are present at all frontiers and as their interventions are of a general nature, other controls shall, as far as possible, be organized in a harmonized manner with Customs controls.
2. In application of this principle, it is possible if appropriate to carry out all or part of these controls elsewhere than at the frontier, provided that the procedures used contribute to facilitate the international movement of goods.

Article 2:

1. The Customs shall be kept fully informed of the requirements prescribed by laws or regulations which may lead to the operation of controls other than Customs controls.
2. When it is found other controls are necessary, the Customs shall ensure that the services concerned are informed and shall cooperate with them.

Article 3 (Organization of Controls):

1. When several controls have to be carried out at the same place, the competent services shall make all appropriate arrangements to carry them out simultaneously, if possible, or with the minimum delay. They shall endeavour to coordinate their requirements as to documents and information.
2. In particular, the competent services shall make all appropriate arrangements for the necessary personnel and facilities to be available at the place where the controls are carried out.
3. The Customs may, through explicit delegation of powers by the competent services, carry out on their behalf all or part of the controls of which these services are responsible. In this case, these services will see to it that the necessary means be furnished to Customs.

Article 4 (Result of Controls):

1. In all matters dealt with by this Convention, control services and Customs shall exchange all relevant information as soon as possible so as to ensure that controls are efficient.
2. On the basis of the results of the controls carried out, the competent service shall decide on the subsequent treatment of the goods, and if necessary, shall inform the services responsible for other controls. On the basis of this decision Customs shall subject the goods to the appropriate Customs procedure.

The Convention also contains annexes on Medico-Sanitary Inspection (Annex 2); Veterinary Inspection (Annex 3); Phytosanitary Inspection (Annex 4), Control of Compliance with Technical Standards (Annex 5); Quality Control (Annex 6) which set out particular procedures for these inspections.

5.3.3 *Columbus Ministerial Declaration on Trade Efficiency*

Recommendations to Governments, Section B (Customs), Recommendation 7:

“[Governments, through their Customs authorities, should] rationalize the cargo clearance process, which frequently requires the intervention of several government agencies in addition to Customs, through coordinated interventions by the agencies concerned or by investing responsibility for all cargo clearance activities in one single authority, i.e. Customs.”

6. Remote Filing and Simplified Clearance Procedures (EC, G/C/W/122)

6.1 Consideration of WTO provisions whereby facilities allowing for the filing of customs and other documents at a location different from the port of export or arrival of the goods, and clearance of goods at other places than the customs office, would be established by Members as an option for traders, based on the relevant provisions in the revised Kyoto Convention.

International Instruments

6.2 At present, no international instruments contain mandates to provide for remote filing and customs clearance at other places than the customs office. Standards on customs clearance in the existing Kyoto Convention merely allow for such concepts. The revised Kyoto Convention seeks to introduce these concepts to a greater extent.

6.2.1 Kyoto Convention

Existing Convention of 1973

Annex B.1 (Clearance for home use), Standard 3:

“The Customs authorities shall designate the Customs offices at which goods may be cleared for home use. In determining the competence of these offices and their hours of business, the factors to be taken into account shall include the particular requirements of trade and industry.”

Annex C.1 (Outright exportation), Standard 3:

“The Customs authorities shall designate the Customs offices at which goods may be cleared for outright exportation. In determining the competence of these offices and their hours of business, the factors to be taken into account shall include the particular requirements of trade, industry and transport.”

Proposed revised Convention

General Annex, Chapter 3 (Clearance formalities), Standard 1:

“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.”

General Annex, Chapter 3 (Clearance formalities), Standard 2:

“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.”

General Annex, Chapter 3 (Clearance formalities), Standard 20

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

6.2.2 *UN/ECE Recommendations:*

Recommendation 18: Facilitation Measures Related to International Trade Procedures

Group 9- Measures related to entry and/or transit

9.16 Immediate release system

“Customs authorities should study the advantages of immediate release systems for Customs clearance, allowing goods to be taken directly to the importer's premises for immediate disposal against the submission of a simplified Customs document or on the presentation of an administrative or commercial document which permits the identification of the goods in question. Such release should be subject to later submission of a proper declaration, which may be in computer-readable form. The release should not prejudice possible future Customs controls, including periodic controls on the importer's premises of the goods and of the importer's records.”

9.17 Customs control on importer's premises

“To ease bottlenecks, Customs authorities should study the systems whereby approved importers are allowed to bring sealed transport units to their premises under a release note; meanwhile, the Customs declaration is lodged with the importer's local Customs office and the goods can be used if the Customs have not visited the premises for inspection within a specified short period of time.”

6.2.3 *APEC: Collective Action Plan by the Sub-Committee on Customs Procedures (SCCP)*

Objective 3: 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.

7. Release of Goods (Canada, G/C/W/126)

7.1 Goods should be released from the border and customs control as quickly as possible on the basis of presentation and acceptance of appropriate documents and data. Approaches to securing expedited clearance may be premised on:

- the pre-arrival or arrival provision of a minimal level of documentation and data coupled with post-entry accounting and verifications; or
- the pre-arrival or arrival provision of more extensive documentation and data which may not require post-entry accounting and verifications.

7.2 Customs administrations may apply both of these approaches based on the nature of the client's business, its accounting procedures, its compliance performance, etc. The emphasis is placed

on introducing tailored approaches to particular goods and traders that secure the objective of expedited clearance.

International Instruments

7.3 International instruments calling for rapid release of goods include the following:

7.3.1 Kyoto Convention

Existing Convention of 1973

Annex B.1 (Clearance for home use), Standard 15,

“In support of the Goods declaration the Customs authorities shall require only those documents considered necessary by them in order to permit control of the operation and ensure that all requirements relating to the application of relevant restrictions or other regulations have been complied with.”

Annex B.1 (Clearance for home use), Recommended Practice 24:

“The declarant should be authorized to lodge a Goods declaration for home use at a competent Customs office before the goods arrive at that office.”

Proposed revised Convention

General Annex, Chapter 3 (Clearance formalities), Standard 12:

“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.”

General Annex:, Chapter 3 (Clearance formalities), Standard 14, paragraph 2:

“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.”

General Annex, Chapter 3 (Clearance formalities), Standard 25:

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

General Annex, Chapter 3 (Clearance formalities), Standard 31:

“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.”

General Annex, Chapter 3 (Clearance formalities), Transitional Standard 32:

“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."

General Annex, Chapter 3 (Clearance formalities), Standard 33:

"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."

General Annex ; Chapter 3 (Clearance formalities), Standard 41:

"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."

7.3.2 *Columbus Ministerial Declaration on Trade Efficiency*

Recommendations to Governments, Section B (Customs), Recommendation 6

"[Governments, through their Customs authorities, should] examine closely the possibility of speeding up, as much as possible, the process of goods release based on a minimum of essential information. However, they should ensure that all information necessary for proper revenue collection, accounting, and precise statistical reporting is communicated to the Customs authorities."

7.3.3 *UN/ECE Recommendations:*

Recommendation 18: Facilitation Measures Related to International Trade Procedures

Group 9- Measures related to entry and/or transit

9.9 Release of goods without submission of transport documents

"National authorities in importing countries should amend regulations, where necessary, in order to permit the release of goods to the importer without the necessity of handing over a bill of lading or any other transport document. Where there is currently a need to use transport

documents to meet import regulations, the reasons should be investigated and alternative methods adopted.”

9.15 Advance lodgement of Customs declarations

“Customs authorities should study the advantages of authorizing advance lodgement and examination of Customs declarations, without prejudice to relevant provisions for acceptance of such declarations, in order to allow goods to be cleared immediately after arrival at the port, border crossing point, inland depot, or other place of clearance (e.g. importer's premises).”

9.16 Immediate release system

“Customs authorities should study the advantages of immediate release systems for Customs clearance, allowing goods to be taken directly to the importer's premises for immediate disposal against the submission of a simplified Customs document or on the presentation of an administrative or commercial document which permits the identification of the goods in question. Such release should be subject to later submission of a proper declaration, which may be in computer-readable form. The release should not prejudice possible future Customs controls, including periodic controls on the importer's premises of the goods and of the importer's records.”

9.18 Periodic Customs entry

“Customs authorities should study the advantages of permitting approved importers to clear goods under a partly-completed Import declaration, subsequently to be supplemented by a periodic schedule--which may be in computer-readable form--containing full details of the goods imported within the relevant period.”

8. Clearance Times (EC, G/C/W/122)

8.1 Consideration of setting, as a norm an absolute time limit for routine customs clearance, with suitable flexibility provided both for exceptional circumstances and goods that fall outside the scope of a routine clearance procedure, which would need to be defined.

8.2. Currently, no international instruments exist that provide for *absolute time limits* for customs clearance. Provisions that seek to secure speedy clearance or release of goods are compiled above under II:3, II:4, and II:7.

9. The Use of Risk Assessment Principles (Canada, G/C/W/126)

9.1 Consideration should be given if and how risk assessment principles fall under the scope for WTO rules, since for purposes of inspections at the border and for post-entry verification procedures, risk assessment techniques will provide the greatest degree of facilitation while at the same time providing a highly efficient means of compliance.

9.2 Existing instruments seeking the application of risk assessment principles in customs operations:

9.2.1 *Kyoto Convention*

Existing Convention of 1973

No provision

Proposed revised Convention

General Annex:, Chapter 6 (Customs control), Standard 3:

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

General Annex:, Chapter 6 (Customs control), Standard 4:

“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.”

General Annex:, Chapter 6 (Customs control), Standard 5:

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

9.2.2 *Columbus Ministerial Declaration on Trade Efficiency*

Recommendations to Governments, Section B (Customs), Recommendation 4:

“[Governments, through their Customs authorities, should:] ensure the effective use of scarce manpower resources by means of risk assessment, profiling, selectivity and targeting techniques to identify high-risk consignments for physical examination. The proportion of consignments to be physically examined by Customs should be kept to a minimum consistent with the accomplishment of control objectives.”

9.2.3 *UN/ECE Recommendations:*

Recommendation 18: Facilitation Measures Related to International Trade Procedures

Group 9- Measures related to entry and/or transit

9.11 Selective Customs examination

“Customs authorities should avoid systematic physical examination of goods under clearance. They should carry out selective controls on the basis of the Customs entry, to be complemented by a physical examination of the goods only when required.”

9.2.4 *WCO Recommendations*

-- Good Classification Work Model

9.2.5 *APEC: Collective Action Plan by the Sub-Committee on Customs Procedures*

Objective 11: 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.”

10. Commercial Samples and Goods for Exhibition (Canada, G/C/W/126)

10.1 Simplified and streamlined clearance requirements and procedures for these types of goods are increasingly critical to the timely and effective operations of international business. These procedures considered should secure timely clearance and entry through the introduction of standardized and simplified procedures for such goods that are not destined to enter the economy for commercial purposes, are of negligible value or are to be subsequently exported.

International Instruments

10.2 International Instruments that provide for simplified import requirements for commercial samples and/or goods for exhibition include:

10.2.1 *Convention on Temporary Admission (Istanbul Convention)*¹⁶

Preamble:

“...Resolved to facilitate temporary admission by simplifying and harmonizing procedures, in pursuit of economic, humanitarian, cultural, social or touring objectives...”

Annex B.1. (goods for display or use at exhibitions, fairs, meetings or similar events), Article 6:

“(1) Customs examination and clearance on the importation and re-exportation of goods which are to be, or have been, displayed or used at an event shall, whenever possible and appropriate, be effected at that event.

(2) Each Contracting party shall endeavour, wherever it deems appropriate in view of the importance and size of the event, to establish a Customs office for a reasonable period on the premises of an event held within its territory.”

10.2.2 *Customs Convention on the ATA Carnet for the Temporary Admission of Goods*¹⁷

The ATA Convention regulates the use and issuance of the ATA carnet, under which commercial samples can be temporarily imported (as well as goods temporarily imported under other international conventions concerning temporary admission to which the state concerned is a Contracting party, or under 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 fill out a national customs declaration and the necessity of furnishing security for the payment of the customs duties and other taxes chargeable in case of failure to re-export. The ATA Carnet is an international customs document issued and approved by associations approved by the customs.

10.2.3 *Customs Convention concerning facilities for the importation of goods for display or use at exhibitions, fairs, meetings or similar events*¹⁸

Article 8 (Reduction of formalities to a minimum):

“This Article contains a general undertaking that each Contracting Party will reduce to a minimum the Customs formalities required in connection with the facilities provided for in the Convention and will promptly publish all regulations concerning such formalities.”

¹⁶Concluded at Istanbul, 26 June 1990 ; entered into force 27 November 1993.

¹⁷Concluded at Brussels, 6 December 1961, entered into force 30 July 1963.

¹⁸Concluded at Brussels, 8 June 1961, entered into force 13 July 1962.

Article 10 (Customs Clearance):

“With a view to avoiding the unpacking of goods and delays caused by customs clearance carried out at the frontier, the Convention recommends that, whenever possible and appropriate, customs examination and clearance of goods both on importations and re-exportation should take place at the event at which the goods are to be, or have been displayed or used. Furthermore, in order to reduce the exhibitor’s costs it is recommended that, where they deem appropriate in view of the importance and size of the event, the customs authorities should establish a customs office for a reasonable period within the premises of that event.”

10.2.4 *Kyoto Convention*

Existing Convention of 1973

Annex B.2. (relief from import duties and taxes in respect of goods declared for home use), Standard 14:

“Relief from import duties and taxes and from economic prohibitions or restrictions shall be granted in respect of samples of no commercial value (samples of negligible value within the meaning of the international Convention to facilitate the importation of commercial samples and advertising material; Geneva, 7 November 1952).”

Proposed revised Convention

Specific Annex B – Importation, Chapter 3 (relief from import duties and taxes in respect of goods declared for home use), Recommended Practice 7¹⁹:

“Relief from import duties and taxes and from economic prohibitions and restrictions should be granted in respect of the following goods under the conditions specified, and provided that any other requirements set out in national legislation for such relief are complied with :

[...]

(b) Samples of no commercial value;”

10.2.5 *WCO Recommendation*

-- 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 Material, 30 November 1956, (T2-4101)

10.2.6 *International Convention to facilitate the importation of commercial samples and advertising material*²⁰

Article VII (Simplification of Formalities):

“1. Each Contracting Party shall keep to a minimum the formalities required in connection with the facilities accorded by the present Convention.

¹⁹Draft as of February 1999.

²⁰Concluded at Geneva, 7 November 1952, entry into force 20 November 1955.

2. Each Contracting Party shall publish promptly all regulations introduced in this respect in such a manner as to enable persons concerned to become acquainted with them and to avoid the prejudice which might result from the application of formalities of which they are unaware.”

10.2.7 APEC: *Collective Action Plan by the Sub-Committee on Customs Procedures*

Objective 9: 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.”

11. Express Consignment Clearance (Canada, G/C/W/126)

11.1 WTO Members could promote the widespread implementation of principles contained in the WCO Express Consignment Guidelines, the international standard procedures for clearance of express goods. The objective would be to introduce expedited clearance procedures for these shipments while maintaining appropriate enforcement and targeting activities.

International Instruments

11.2 International instruments providing for expedited clearance of express consignments:

11.2.1 *Kyoto Convention*

Existing Convention of 1973

Annex F.5. concerning urgent consignments, Standard 3:

“Clearance of urgent consignments shall be carried out rapidly as a matter of priority, and Customs control shall be restricted to the minimum necessary to ensure compliance with the laws and regulations which the Customs are responsible for enforcing.”

Annex F.5. concerning urgent consignments, Standard 4:

“When clearing urgent consignments Customs authorities shall take into account such factors as the degree of urgency with which a consignment is needed, the nature and value of the consignment and the particular circumstances relating to it. In any event absolute priority shall be granted to relief consignments.”

Proposed revised Convention

General Annex, Chapter 3 (Clearance Formalities), Standard 34:

“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.”

11.2.2 *WCO Customs Guidelines for the Clearance of Express Consignments*

The WCO *Express Consignment Guidelines* provide a tool for customs administrations to grant fast clearance while maintaining customs control with regard to express consignments.

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.

11.2.3 APEC: Collective Action Plan by the Sub-Committee on Customs Procedures

Objective 12: 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.

III. PROPOSALS CONCERNING TRANSPARENCY AND RELATED ISSUES

1. Access to Information Necessary for Import and Export

Availability of Requirements (Canada, G/C/W/126)

1.1 The public dissemination of and easy access to national laws, regulations and administrative policies and guidelines (e.g. through electronic means) to the international trading community (including references to various governmental requirements which may need to be satisfied depending on the particular goods).

Transparency (Creation of a Single Comprehensive Database) (EC, G/C/W/122)

1.2 Calls have been made accordingly for the creation of a single comprehensive database, accessible by internet, assembling all relevant laws, rules and procedures for import and export. It will be necessary in the WTO discussions to evaluate the most efficient means of ensuring maximum transparency and availability to traders, especially SMEs, by exploiting existing national and international sources, avoiding duplication, and to the extent that more information is needed, to ensure that sufficiently detailed and comprehensive transparency requirements are established.

International Instruments

1.3 The following provisions in international agreements seek to increase access to information necessary for import and export:

1.3.1 *Kyoto Convention*

Existing Convention of 1973

Annex G.1 (Information supplied by the Customs); Standard 3:

“The Customs authorities shall ensure that all relevant information of general application pertaining to the laws and regulations which they are responsible for enforcing is readily available to any interested person.”

Annex G.1 (Information supplied by the Customs); Standard 5:

“At the request of the interested person, the Customs authorities shall provide, as quickly and as accurately as possible, information relating to the specific matters raised by the interested person and pertaining to the laws and regulations which the Customs authorities are responsible for enforcing.”

Annex G.1 (Information supplied by the Customs); Recommended Practice 6:

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

Proposed revised Convention

General Annex, Chapter 9 (Information, decisions and rulings supplied by the Customs), Standard 1:

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

General Annex, Chapter 9 (Information, decisions and rulings supplied by the Customs), Transitional Standard 3:

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

General Annex, Chapter 9 (Information, decisions and rulings supplied by the Customs), Standard 4:

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

General Annex, Chapter 9 (Information, decisions and rulings supplied by the Customs), Standard 5:

“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.”

1.3.2 *APEC: Collective Action Plan by the Sub-Committee on Customs Procedures*

Objective 2: 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.”

2. Advance Rulings (Canada, G/C/W/126)

2.1 International business requires as much certainty as possible in the conduct of international trade. WTO Members should consider the use of rulings, issued in advance of importations, which are binding on the importing authorities provided that the goods and the circumstances at importation are identical to those presented in the ruling request. Rulings could cover the main elements of import requirements, for example, tariff classification and applicable duties and taxes. The Uruguay Round Agreement on Rules of Origin contains provisions for such advance rulings and might serve as a model to apply more generally

International Instruments

2.2 International instruments that have introduced the concept of advance rulings include:

2.2.1 *Kyoto Convention*

Existing Convention of 1973

Annex G.1 (Information supplied by the Customs); Standard 3:

“The Customs authorities shall ensure that all relevant information of general application pertaining to the laws and regulations which they are responsible for enforcing is readily available to any interested person.”

Annex G.1 (Information supplied by the Customs); Standard 5:

“At the request of the interested person, the Customs authorities shall provide, as quickly and as accurately as possible, information relating to the specific matters raised by the interested person and pertaining to the laws and regulations which the Customs authorities are responsible for enforcing.”

Proposed revised Convention

General Annex, Chapter 9 (Information, decisions and rulings supplied by the Customs), Standard 1:

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

General Annex, Chapter 9 (Information, decisions and rulings supplied by the Customs), Standard 4

“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.”

2.2.2 WCO Recommendation concerning a Good Classification Model

This Recommendation provides a framework for improvement of classification work by Customs Administrations. It recommends, *inter alia*, that classification work be carried out “so as to facilitate international trade and investment and to ensure compliance with both fiscal and trade rules or laws with emphasis being placed on the pre-entry and post-clearance stages and not only on the declaration-processing stage.” It further suggests that (i) “details on pre-entry classification information should be included in a centralized database so as to enable checking by others and thus avoiding issuance of conflicting information on the same product by different offices;” and states that (ii) “binding classification information is highly desirable, and ideally should be issued within a prescribed time and should remain valid for a specific period unless found to be incorrect, altered or withdrawn. It further states that it is (iii) “highly desirable that any pre-entry or binding classification information (or ruling) issued to an importer or prospective importer or an exporter should also be published in order to provide guidance to the general public on the classification of similar or related merchandise.”

2.2.3 APEC: Collective Action Plan by the Sub-Committee on Customs Procedures

Objective 8: 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.”

3. Judicial or Administrative Redress, Review and Appeal

Judicial or Administrative Redress, EC; G/C/W/122)

3.1 Supplement GATT Article X :3 and Article VIII :3 with a provision ensuring that tribunals act rapidly enough to preserve commercial interests (eg delivery deadlines, perishable goods), drawing on what has been developed within the Kyoto Convention work. In addition, study the way in which the provisions of Articles VII :3 and X :3 have been implemented by WTO members.

Review and Appeal, (Canada, G/C/W/126)

3.2 WTO Members should consider obligations relating to the ability of importers and exporters to have access to an unbiased administrative appeal process, in the first instance, and then to judicial levels to seek a redetermination of treatment accorded by port of entry officials.

International Instruments

3.3 The following international instruments dealing with customs procedures provide for rules on judicial and administrative redress:

3.3.1 Kyoto Convention

Existing Convention of 1973

Annex H.1 (Appeals in Customs matters), Standard 6:

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

Annex H.1 (Appeals in Customs matters), Standard 7:

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

Annex H.1 (Appeals in Customs matters), Standard 8:

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

Proposed revised Convention

General Annex, Chapter 10 (Appeals in Customs matters), Standard 4:

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

General Annex, Chapter 10 (Appeals in Customs matters), Standard 5:

“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.”

General Annex, Chapter 10 (Appeals in Customs matters), Standard 6:

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

4.3.2 *APEC: Collective Action Plan by the Sub-Committee on Customs Procedures (SCCP)*

Objective 7: 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.”

4. Cooperation Between Trade and Customs/Other Agencies (EC, G/C/W/122)

4.1 Consideration of the scope for WTO rules requiring each Member to set up a systematic mechanism of cooperation on trade facilitation. This could be a sui generis provision or based on adoption of the UN-ECE Recommendation 4 concerning the establishment of national trade facilitation organs.

International Instruments

4.2 The following international instruments foresee institutionalized trade-customs co-operation:

4.2.1 *Kyoto Convention*

Existing Convention of 1973

No provision

Proposed revised Convention

General Annex, Chapter 1 (General Principles), Standard 3:

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

General Annex, Chapter 6 (Customs control), Standard 7:

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

General Annex, Chapter 6 (Customs control), Standard 8:

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

4.2.2 *Columbus Ministerial Declaration on Trade Efficiency*

Recommendations to Governments: Section B (Customs), Recommendation 10

“Take steps to foster a cooperative rather than a confrontational approach to Customs operations. The Memorandum of Understanding (MOU) programme of the Customs Cooperation Council should be used as a vehicle for greater cooperation between Customs authorities and commercial operators.”

4.2.3 *UNECE Trade Facilitation Recommendation 4: National Trade Facilitation Organs*

The Working Party on Facilitation of International Trade Procedures “recommends that the governments of countries Members of the Economic Commission for Europe, in accordance with their national regulations, encourage the implementation of recommendations on facilitation of international trade procedures through setting up national organizations or committees, or by administrative or other suitable means.”

The Working Party “further recommends to the Commission to draw the attention of the Economic and Social Council and the other United Nations Regional Economic Commissions to the desirability of establishing national committees on facilitation of trade procedures, in countries not members of the Economic Commission for Europe, where they do not exist²¹.”

4.2.4 *Columbus Ministerial Declaration on Trade Efficiency*

Recommendations to Governments, Section B (Customs), Recommendation 10:

“Take steps to foster a cooperative rather than a confrontational approach to Customs operations. The Memorandum of Understanding (MOU) programme of the Customs Cooperation Council should be used as a vehicle for greater cooperation between Customs authorities and commercial operators.”

4.2.5 *WCO Declaration on the Further National Development of Memoranda of Understanding Between Customs and the Trading Community Aimed at Co-operation to prevent Drug Smuggling*

The Customs Co-operation Council declares, *inter alia*, “that Members should give urgent consideration to concluding MOUs on a national level with companies and trade associations involved in international commerce, transport and travel, where they have not done so, or to introducing other voluntary co-operative programmes, to further support the joint efforts of Customs and the trade in the fight against drug smuggling.”

5. **Corruption and Integrity Issues (EC, G/C/W/122)**

5.1 Consideration of benchmarking of certain generally agreed standards of performance, so as to give political guidance to administrations as to the direction they should be taking in terms of medium to long term administrative reform. The WCO’s Arusha Declaration and the WCO’s customs reform guidelines could offer such benchmarks. Further consideration could also be given to the valuable observation made by Chile, at the WTO Symposium in March, that the setting of performance indicators, and the establishment of customs’ own missions and management programmes, with unequivocal political support, was a key factor in ensuring effective customs modernisation.

International Instruments

5.2. Existing instruments that address corruption and integrity issues:

5.2.1 *Columbus Ministerial Declaration on Trade Efficiency*

Recommendations to Governments, Section B (Customs), Recommendation 1:

²¹In the annotations to the recommendation, the Working party provides guidelines for establishing such national organizations or committees, and identifies as action areas (i) trade document alignment, as well as (ii) automatic data processing and coding.

In consultation with other interested parties (both governmental and non-governmental, as appropriate), clearly define their corporate objectives for Customs and develop and publish an overall long-term plan which sets out the manner in which it is intended to achieve these objectives;

Recommendations to Governments, Section B (Customs), Recommendation 2:

“[Governments should, through their Customs authorities] urgently examine their existing Customs practices and institute a programme of reform for those procedures that are identified as inefficient or redundant. Reference should be made to existing international conventions on Customs process simplification and harmonization (the Kyoto Convention of the Customs Cooperation Council). This should be undertaken with national trade and transport interests to ensure full coordination of carrier, port and Customs controls.”

Recommendations to Governments, Section B (Customs), Recommendation 11:

“[Governments should, through their Customs authorities] take steps to ensure the highest level of integrity and professional standards within their Customs service. The measures identified by the Customs Cooperation Council in the Arusha Declaration on Integrity in Customs should be implemented. Effective measures are also required to discourage low standards of integrity in the trading community.”

Recommendations to Governments, Section B (Customs), Recommendation 12:

“[Governments should, through their Customs authorities] institute Customs reform programmes aimed at enhancing the efficiency and effectiveness of their Customs services, thereby avoiding as far as possible, for example, the need to use the services 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 (PSI) annexed to the Marrakesh agreement.”

Recommendations to Governments, Section B (Customs), Recommendation 17:

“[Governments should, through their Customs authorities] ensure that Customs are adequately resourced to perform their designated role efficiently, effectively and to a high standard of professional ethics, since a Customs service starved of resources will certainly be an obstacle to trade.”

Recommendations to Governments, Section B (Customs), Recommendation 18:

“[Governments should, through their Customs authorities] offer training (including through scholarships) especially directed to Customs professionals in developing countries for training nationally or abroad in cooperation with the Customs Cooperation Council (CCC) and/or UNCTAD. This training should cover the requirements of international Customs conventions and regional integration, with emphasis on operational aspects.”

5.2.3 WCO Arusha Declaration

The Arusha Declaration (Declaration of the Customs Cooperation Council concerning integrity in Customs, 1993) assigns top priority to the combat of corruption inside customs administrations. In it, the Customs-Cooperation Council (now WCO)

“declares that a top priority for all governments should be to ensure that Customs is free of corruption. This requires a firm commitment at the highest political and administrative levels to maintaining a high standard of integrity throughout the civil service and particularly in the Customs.”

The declaration further states that national Customs integrity programmes must take account a number of key factors, which include, *inter alia*, (i) clear and precise customs legislation; (ii) simple, consistent and easily accessible procedures based on the Kyoto Convention, including a procedure for appealing against decisions of the Customs; (iii) automation; (iv) the establishment of mechanisms for internal control and diversification of tasks; (v) sufficient remuneration of customs officers, (vi) sufficient training; (vii) a Code of Conduct; (viii) and an open relationship between customs and customs brokers.

IV. PROPOSALS RELATING TO TRANSPORT AND TRANSIT

1. Harmonization of Documentation and Data Requirements Arising from International Transport²² (EC, G/C/W/133)

1.1 Adoption of UN-ECE Recommendations 11 and 12 as default standards i.e. the norm in a WTO framework, would go in the direction of reducing and harmonising transport documentation requirements. UN-ECE Recommendation 11 concerns facilitation of the documentary aspects of the transport of dangerous goods, while Recommendation 12 encourages the use of non-negotiable waybills in electronic form.

1.2 UNECE Trade Facilitation Recommendation 11: Documentary Aspects of the Transport of Dangerous Goods²³

“Information requirements:

I. The harmonisation of the overall information requirements of dangerous goods documents between the different modes of transport should be pursued as a matter of priority. This should be carried out according to Chapter 13 of the United Nations Recommendations on the Transport of Dangerous Goods ("Orange Book").

II. The actual data elements required to identify the goods should be standardised throughout the different modes of transport. It is recommended that these should be: Proper Shipping Name, Class Division, UN Number and Packing Group.

III. The single form of words held in the "Orange Book" should be adopted as the text for the legal declaration by all regulations and conventions governing different modes of transport:

"I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labelled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations."

²²This proposal relates closely to the proposal on adoption of international standards for import and export data (EC, G/C/W/122) which is listed in section I – “Proposals concerning government mandated information requirements”.

²³Adopted by the Working Party on Facilitation of International Trade Procedures, Geneva, January 1996, ECE/TRADE/204; the document contains additional background information; the Recommendation can be accessed on the internet at <http://www.unece.org/trade/rec/rec11en.htm>

IV. It should be possible to derive the emergency information from the UN number to ensure that no additional information is required. (Where there is no UN number available this information can be derived from the proper shipping name). The manual entry of additional related information or codes on documents should not be required. As an example transport emergency information can be provided in the form of standard, pre-printed tables for each substance or group of substances, each table bearing as a key reference the UN number for that substance(s). (It should be noted however, that this information is not required for the rail mode).

Data transfer by paper documents or EDI

V. A dangerous goods form supplied for one mode of transport, irrespective of whether it is an EDI message or a paper document, should be valid for subsequent modes of transport in multimodal movement;

VI. Whenever possible, the dangerous goods declaration should be incorporated in, or combined with, an existing transport or cargo handling document;

VII. Where special separate forms are used for dangerous goods forms (including standard forms contained in recommendations, regulations, international conventions and annexes thereto), they should be designed in accordance with the aligned recommended layout contained in this Recommendation;

VIII. Regulations and Conventions should not preclude the transmission of dangerous goods information by electronic data interchange (EDI) and any legal barriers which exist, whether they be national or international, should be removed. Where possible this method of transfer of information should be actively encouraged;

IX. Where special additional documentary requirements exist, such as for radioactive substances or government exemption, regulations and conventions should permit incorporation of the necessary data in the dangerous goods declaration itself, as an optional alternative to a separate document.”

*1.3 UNECE Trade Facilitation Recommendation 12: Measures to Facilitate Maritime Transport Documents Procedures*²⁴

“Recommendations:

Bearing all the above comments in mind it is suggested that the commercial parties should:

- (i) appreciate the advantages and encourage the use of the non-negotiable sea waybill instead of the bill of lading, where goods are not traded in during the course of transit (see paragraphs 10 to 14 and 20);
- (ii) appreciate the disadvantages of using the negotiable bill of lading when not essential to the commercial transaction and consequent disadvantages, cost and risk of achieving release of the goods at destination against a bank letter of indemnity in the absence of an original bill of lading (see paragraph 20);

²⁴Recommendation No. 12/Rev. 1, adopted by the Working Party on Facilitation of International trade Procedures, Geneva, June 1993 *Source:* TRADE/WP.4 /INF.123; the paragraphs referred to in the Recommendations contain additional background information which is not reproduced for reasons of space, but are available on the internet at <http://www.unece.org/trade/rec/rec12en.htm>

(iii) welcome the trend on the part of carriers to refer to the terms and conditions of the contract of carriage (the small print on the reverse of a bill of lading) by reference only (short form/blank back document), noting that such terms and conditions are not negotiable except perhaps in case of a charter and are influenced by the appropriate international conventions (see paragraph 15);

(iv) require a negotiable bill of lading - or its electronic equivalent (see paragraph 27) only in cases where the goods to which it relates are traded in during course of transit, noting the possibilities offered by the registry schemes referred to in paragraph 27, and that this is a development which takes advantage of the benefits offered by EDI and is of sufficient standing to be attractive to both commerce and administration (see paragraph 20);

(v) consider the advisability as an anti-fraud measure of requiring a negotiable paper maritime transport document to be issued in a set of one original (1 X 1) only (see paragraph 17);

In turn administrative authorities should:

(i) appreciate the possibility of administrative needs or mandatory demands (including those in domestic law and/or international conventions) being met by the non-negotiable sea waybill in preference to the negotiable bill of lading (see paragraphs, 19 and 22);

(ii) consider the possibility of developing legislation making possible the replacement of a paper maritime transport by an equivalent electronic message (paragraph 12).

Both the commercial parties and administration authorities should appreciate the advantages, whether concerning paper transport documents or "equivalent electronic messages", of the use of WP.4 Recommendation 8 "Unique Identification Code Methodology (UNIC)" which seeks to simplify trade procedures and give greater security.

2. Integration of Specific Instruments into a WTO Framework of Rules on Trade Facilitation (EC, G/C/W/133)

2.1 The WTO could consider specific instruments that could be made more enforceable by integration into a WTO framework of rules on trade facilitation, for example the IMO's FAL Convention, Annex 9 of the ICAO 1944 Convention on International Civil Aviation, or Montreal Protocol IV of the Warsaw Convention.

2.2 *Convention on Facilitation of International Maritime Traffic (FAL)*

The Convention on Facilitation of International Maritime Traffic was adopted by the IMO in 1965. It has currently 82 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 contains provisions 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. This includes all documents pertaining to the ship and its passengers, baggage, crew, cargo and mail which are required by customs, immigration, health, and other public authorities²⁵.

²⁵More detailed information on the FAL Convention can be found in Annex X to the Secretariat background note G/C/W/80, as well as on the IMO's internet site at www.imo.org/imo/convent/others.htm. Information on the status of contracting parties to the FAL Convention is contained in the Annex to this document.

2.3 *Annex 9 to the ICAO Convention on International Civil Aviation of 1944*

The Standards and Recommended Practices on Facilitation contained in Annex 9 to Convention on Civil Aviation are the outcome of Article 37 of the Convention, which provides, inter alia, that the "International Civil Aviation Organization shall adopt and amend from time to time, as may be necessary, international standards and recommended practices and procedures dealing with . . . customs and immigration procedures . . . and such other matters concerned with the safety, regularity and efficiency of air navigation as may from time to time appear appropriate". The policy with respect to the implementation by States of the Standards and Recommended Practices on Facilitation is strengthened by Article 22 of the Convention, which expresses the obligation accepted by each Contracting State "to adopt all practicable measures, through the issuance of special regulations or otherwise, to facilitate and expedite navigation by aircraft between the territories of Contracting States, and to prevent unnecessary delays to aircraft, crews, passengers, and cargo, especially in the administration of the laws relating to immigration, quarantine, customs and clearance", and by Article 23 of the Convention, which expresses the undertaking of each Contracting State "so far as it may find practicable, to establish customs and immigration procedures affecting international air navigation in accordance with the practices which may be established or recommended from time to time pursuant to this Convention." The presently valid tenth edition became effective on 30 April 1997 and applicable on 31 August 1997. ICAO is currently conducting a major review of Annex 9.

2.4 *Montreal Protocol IV of the Warsaw Convention*

The Montreal Protocol IV of the "Convention for the Unification of Certain Rules Relating to International Carriage by Air" (Warsaw Convention) entered into force in June 1998 and has currently forty parties. The Protocol amends the Convention by providing a set of rules on documentation and liability for air cargo, and by allowing airlines registered in signatory states to replace paper air waybills with electronic records for air cargo. The body text establishes the principle that "any other means which would preserve a record of the carriage to be performed may, with the consent of the consignor, be substituted for the delivery of an air waybill." An overview of parties to the Protocol is contained in the Annex.

V. PROPOSALS RELATING TO PAYMENT, INSURANCE AND OTHER FINANCIAL REQUIREMENTS²⁶

1. Non-Payment & Credit Worthiness (EC, G/C/W/133)

1.1 In the framework of future WTO rules to simplify trade procedures, measures to (i) improve access to credit information, particularly for small and medium sized enterprises and for companies in developing countries, should be developed, possibly by using the UNCTAD's Trade Points Programme as a vehicle for such access; (ii) further development of ISO quality management standards setting norms of satisfactory performance regarding payment delays would also be worth considering. As a major insecurity for exporters selling on open account to unknown buyers is ensuring that consignments are not stolen or diverted en route, the Community would welcome views on (iii) whether WTO Members consider there is scope within WTO to address and improve upon the problem of access to ordinary and commercial insurance, especially for small and medium sized enterprises.

²⁶The EC proposal on banking settlement delays is contained in section VI - proposals relating to WTO Agreements, as it concretely outlines the Communities' ideas in the framework of future work on regulatory issues under the GATS.

2. Late Payment in Commercial Transactions (EC, G/C/W/133)

2.1 Recent surveys carried out in the EU suggest that late payment of commercial debts continues to be a major hindrance to cross border trade, affecting companies' cashflow, profitability and competitiveness, and discouraging potential exporters. Within the EU, proposals are being elaborated²⁷ to penalise companies that habitually settle bills late, through the introduction of a legal right to interest on late payments. It would be of interest to know what similar provisions exist in other WTO Members and whether Members believe this form of domestic regulation, one effect of which would be to provide greater security to international trade, could through WTO be promoted further.

VI. OTHER ISSUES RAISED BY DELEGATIONS

1. A number of issues which are not explicitly covered by the proposals contained in this note have been raised by delegations both in writing as well as orally, which were subsequently not further elaborated on. For reasons of completeness, these issues are reproduced below:

2. Switzerland, in G/C/W/114, proposed that the Goods Council discuss the following issues:

- "The lack of (or the deviation from) international transport rules for all modes of transport, in respect of documentation and technical regulations.
- A general concern of many speakers was the wide range of discretion on the part of officials arising from a lack of precision and transparency in administrative regulations which is also a major source of irregularities and corruption. It appears that the various provisions in the Agreement on Import Licensing Procedures (as well as in Article X of the GATT) with regard to automatic and non-automatic licences, the publication and specification of all fees and charges could be used to examine the various suggestions made and to look into ways and means to improve the situation.
- In a similar vein, the better implementation of internationally agreed messaging protocols - a trade facilitation instrument which often cannot be used because of governmental rules prescribing specific payment methods which do not allow the use of these protocols - could be looked into by the Committee on Import Licensing."

3. The European Communities, in G/C/W/122, flagged the following additional issues:

"The EU recognises that any effort to simplify the international trade transaction should consider the process in its entirety. In addition to the suggestions set out above, WTO members will need to consider how to ensure maximum simplification and harmonisation of data and procedures relevant to cargo transportation and logistics, specific requirements in respect of transport of dangerous goods, freight forwarding, and banking and payments transactions attached to traded goods. Electronic commerce – the introduction of automated systems and EDI-based messaging – is also a key element in simplification of data which has only been referred to briefly."

4. Norway, at the meeting of 28 and 29 September 1998, called for increased standardization of documentation and regulations between the different modes of transport with respect to dangerous goods.

²⁷European Commission Doc 98/0126/final. Proposal for a European Parliament and Council Directive Combatting Late Payment in Commercial Transactions.

ANNEX 1

International Conventions quoted

CONTRACTING PARTIES	Convention on Temporary Admission ¹	Customs Convention on the ATA carnet for the temporary admission of goods ²	Customs Convention concerning facilities for the importation of goods for display or use at exhibitions, fairs, meetings or similar events ³	International Convention to facilitate the importation of commercial samples and advertising material ⁴	International Convention on the Harmonization of Frontier Controls of Goods ⁵	IMO Facilitation Convention ⁶	Montreal Protocol No.4 ⁷	International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention)
MEMBERS								
Angola								
Antigua and Barbuda								
Argentina						X	X	
Australia	X	X	X	X		X	X	X
Austria	X	X	X	X	X	X		X
Bahrain								
Bangladesh								
Barbados						X	X	
Belgium	X	X	X	X	X	X	X	X
Belize								
Benin						X		
Bolivia								
Botswana								X
Brazil						X	X	
Brunei Darussalam								
Bulgaria		X	X					X
Burkina Faso								
Burundi						X		X
Cameroon						X		X
Canada		X		X		X	X	X
Central African Rep.			X					
Chad								
Chile						X	X	

CONTRACTING PARTIES	Convention on Temporary Admission ¹	Customs Convention on the ATA carnet for the temporary admission of goods ²	Customs Convention concerning facilities for the importation of goods for display or use at exhibitions, fairs, meetings or similar events ³	International Convention to facilitate the importation of commercial samples and advertising material ⁴	International Convention on the Harmonization of Frontier Controls of Goods ⁵	IMO Facilitation Convention ⁶	Montreal Protocol No.4 ⁷	International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention)
Colombia						X	X	
Congo								X
Costa Rica								
Côte d'Ivoire		X	X			X		X
Cuba		X	X	X	X	X		X
Cyprus		X	X	X			X	X
Czech Republic	X	X	X	X	X	X		X
Democratic Rep. of the Congo							X	
Denmark	X	X	X	X	X	X	X	X
Djibouti								
Dominica								
Dominican Republic			X			X		
EC	X				X			X
Ecuador						X		
Egypt		X	X	X		X	X	
El Salvador								
Fiji				X		X		
Finland	X	X	X	X	X	X	X	X
France	X	X	X	X	X	X	X	X
Gabon								
Gambia						X		X
Germany	X	X	X	X	X	X		X
Ghana	X			X		X	X	
Greece	X	X	X	X	X	X	X	X
Grenada								
Guatemala							X	
Guinea Bissau								
Guinea, Rep. of				X		X		
Guyana						X		

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Haiti				X				
Honduras							X	
Hong Kong, China	X					X		
Hungary	X	X	X	X	X	X	X	X
Iceland		X	X	X		X		
India		X	X	X		X		X
Indonesia				X				
Ireland	X	X	X	X	X	X	X	X
Israel	X	X	X	X		X	X	
Italy	X	X	X	X	X	X	X	X
Jamaica				X				
Japan		X	X	X				X
Kenya				X				X
Korea		X	X	X		X		X
Kuwait							X	
Lesotho		X	X		X			X
Liechtenstein				X	X			
Luxembourg	X	X	X	X	X	X		X
Macau								
Madagascar			X			X		
Malawi								X
Malaysia		X		X				X
Maldives								
Mali			X					
Malta		X	X	X				
Mauritania								
Mauritius	X	X		X		X	X	
Mexico						X		
Mongolia								
Morocco	X	X	X				X	X

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Mozambique								
Myanmar								
Namibia								
Netherlands	X	X	X	X	X	X	X	X
New Zealand		X	X	X		X		X
Nicaragua								
Niger	X	X	X				X	
Nigeria	X	X		X		X		X
Norway		X	X	X	X	X	X	X
Pakistan	X			X				X
Panama								
Papua New Guinea								
Paraguay								
Peru						X		
Philippines								
Poland	X	X	X	X	X	X		X
Portugal	X	X	X	X	X	X	X	X
Qatar							X	
Romania		X	X	X				
Rwanda				X				X
St. Kitts & Nevis								
St. Lucia								
St. Vincent & Gren.								
Senegal		X				X	X	X
Sierra Leone				X				
Singapore		X		X		X	X	
Slovak Republic		X	X	X	X	X		X
Slovenia		X	X	X	X	X	X	X
Solomon Islands								
South Africa		X	X		X			X

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Spain	X	X	X	X	X	X	X	X
Sri Lanka		X	X	X		X		X
Suriname						X		
Swaziland								
Sweden	X	X	X	X	X	X	X	X
Switzerland	X	X	X	X	X	X	X	X
Tanzania				X				
Thailand		X	X	X		X		
Togo							X	
Trinidad & Tobago		X	X	X		X		
Tunisia		X	X			X		
Turkey	X	X	X	X			X	X
Uganda			X	X				X
United Arab Emirates								
United Kingdom	X	X	X	X	X	X	X	X
United States		X		X		X	X	X
Uruguay						X		
Venezuela							X	
Zambia						X		X
Zimbabwe	X							X
OBSERVERS								
Albania								
Algeria	X		X			X		X
Andorra								
Armenia					X			
Azerbaijan								
Belarus	X	X			X			
Bhutan								
Cambodia								
Cape Verde						X		

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China	X	X				X		X
Croatia		X	X	X	X	X	X	X
Estonia	X				X		X	
Ethiopia							X	
F. Yugoslav Rep. of Macedonia			X				X	
Georgia						X		
Holy See								
Jordan						X		
Kazakstan								
Kyrgyz Republic								
Laos, P.D.R. of								
Latvia						X		
Lithuania	X				X			
Moldova								
Nepal								
Oman							X	
Russian Federation	X	X			X	X		
Saudi Arabia								X
Seychelles						X		
Sudan	X		X					
Taipei, Chinese								
Tonga								
Ukraine						X		
Uzbekistan					X		X	
Vanuatu						X		
Vietnam								X

¹ The following non-WTO Members/Observers are also contracting parties to this Convention: Tajikistan.

² The following non-WTO Members/Observers are also contracting parties to this Convention: Iran, Lebanon.

³ The following non-WTO Members/Observers are also contracting parties to this Convention: Iran, Kampuchea, Lebanon.

⁴ The following non-WTO Members/Observers are also contracting parties to this Convention: Bosnia & Herzegovina, Iran, Yugoslavia.

⁵ The following non-WTO Members/Observers are also contracting parties to this Convention: Bosnia & Herzegovina, Yugoslavia.

⁶ The following non-WTO Members/Observers are also contracting parties to this Convention: Bahamas, Iran, Irak, Liberia, Marshall Islands, Monaco, Syrian Arab Republic, Yemen, Yugoslavia.

⁷ The following non-WTO Members/Observers are also parties to this Protocol: Bosnia & Herzegovina, Yugoslavia
