

Q&A Primer

**THE REVISED  
KYOTO  
CONVENTION  
FOR SMES**

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# TABLE OF CONTENTS

Acknowledgments .....	2
Foreword .....	4
Background .....	6
Compliance and Accession .....	11
Benefits and Costs .....	15
Relevance of SAFE Framework .....	29
List of References .....	30
Annex A .....	31
Annex B .....	32

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## Q&A Primer

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## FOREWORD

This Philippine Exporters Confederation, Inc. (PHILEXPORT) primer, the second in this Q&A series, is designed to help facilitate understanding and acceptance of the *International Convention on the Simplification and Harmonization of Customs Procedures*, otherwise known as the *Revised Kyoto Convention* (RKC), as a trade facilitation instrument.

The RKC is considered as the most comprehensive instrument for promoting international trade facilitation in the world today. Its benefits and relevance should be seen in the light of rapid changes in the trading environment that involve phenomenal growth in international cargo volume, global production supply chain networks with just-in-time inventories, technology development (particularly electronic commerce and risk management), a highly competitive business environment, continuing demand for government revenues and increasing focus on security threats.

To cope with the needs of clients within these changes, national Customs authorities have to streamline their regulatory processes, even as simplification is harmonized with related actions from Customs worldwide. The RKC then serves as a best practices guide, promoting trade facilitation while also ensuring that the statutory functions of Customs are not compromised.

Countries have the choice of complying without acceding to the Convention. At first glance, compliance itself can prove to be tedious and resource intensive. But the rate of accession of countries worldwide shows that as of September 18, 2007, 54 economies have accepted the value of the RKC especially within the context of international competitiveness and are willing to bear the cost of implementing required reforms.

In the Philippine context, the RKC rationalizes the computerization of operations and change management at the Bureau of Customs (BOC) and other agencies involved in the international trade process. Aside from simplifying many procedures, exporters agree that electronic-based transactions more importantly lessen the chances for graft and corruption as they deal with Customs. Small and medium enterprises – a vital source of job creation, export and economic development in the Philippines – will enjoy transparency and predictability of rules, equal to larger enterprises, though some capacity building will be required particularly in the use of information technology.

Research work of a group headed by a former Customs commissioner is considered key in the successful implementation of the RKC. Findings from this report were extensively quoted in this primer. The report examined the

gaps or differences between the country's national legislation and customs practices with the RKC, and drafted a national strategy for RKC compliance that aims to immediately implement most of the trade facilitation standards, transitory standards and recommended practices of the RKC, while giving time for the Customs administration to put in place measures that will not erode Customs capacity to effectively enforce their other control objectives. Legislative support will be needed to put a number of reforms in place, including some that may require serious study by stakeholders.

An initial effort toward Philippine compliance and accession to RKC was made by the BOC when it organized the Kyoto Convention Management Team (KCMT) on September 7, 2004. In June 2006, an alliance of government agencies led by the BOC, business and academic groups started work in getting the Philippines on the pathway to RKC compliance and accession. Aside from the BOC, PHILEXPORT and the Export Development Council (EDC), the other members of the group include the Philippine Chamber of Commerce and Industry (PCCI) and the Port Users Confederation (PUC).

A landmark RKC event was the turn-over by BOC Commissioner Napoleon Morales to Undersecretary of the Department of Finance (DOF) Gil Beltran of the private sector letter manifesting support for immediate accession to the RKC. This took place at the RKC Summit Conference held last February 5, 2007 which was well attended by government and private sector representatives. The RKC summit reviewed the findings on Philippine compliance with each individual provision of the Convention and the stakeholders agreed on which provisions to hold reservations.

The advocacy went up to a higher level on February 6, 2007 during the BOC's 105<sup>th</sup> Anniversary, when BOC Com. Morales handed a similar letter of private sector support for RKC accession to Finance Secretary Margarito Teves and Trade Secretary Peter Favila. The two Secretaries eventually endorsed it to President Gloria Macapagal-Arroyo.

Both letters were signed by about 15 business organizations that included PHILEXPORT, PCCI and PUC.

This same group which collaborated on the analysis and strategy formulation will be taking measures to ensure that the national strategy is fully implemented and that the various standards and recommended practices are strictly observed in the conduct of customs operations.

PHILEXPORT hopes this Primer will contribute to improvements in trade facilitation in the country and the region, particularly as a basic reference on discussions towards Philippine accession to RKC.

October 2007

## BACKGROUND

### **What is the Revised Kyoto Convention (RKC) and how did it come about?**

First, we must discuss the World Customs Organization (WCO). The origin of the WCO dates back to 1947 – the same year in which the General Agreement on Tariffs and Trade (GATT) was created – when 13 European governments agreed to set up a study group examining the possibility of establishing one or more inter-European Customs Unions based on the principles of the GATT, the forerunner of the World Trade Organization (WTO). In 1948, the study group set up two committees: an Economic Committee and a Customs Committee. The Economic Committee eventually evolved into the Organization for Economic Co-operation and Development (OECD), while in 1952 the Customs Committee became the Customs Co-operation Council (CCC), with 17 founding members, all of them European. CCC later became WCO in 1994 (Grainger, 2007).

The early efforts of the CCC for simplifying and harmonizing customs procedures culminated in the International Convention on the Simplification and Harmonization of Customs Procedures. This is otherwise known as the Kyoto Convention (KC) which was adopted by the Council in 1973 and entered into force in 1974 (Parayno, 2007).

The review and update of the KC resulted in the revision of the convention to reflect the economic and technological changes and best practices of the members of the WCO. The revised document is known as the Revised Kyoto Convention (RKC). RKC was adopted by 114 customs administrations attending the WCO's 94th Session in June 1999. It came into force on February 3, 2006, three months after India became the 40th signatory to the Protocol of Amendment (Parayno, 2007).

RKC is designed to promote international trade by prescribing modern, simplified and harmonized Customs procedures, as well as standards and best practices. These will enable Customs to respond to major changes in business and administrative methods and techniques. This environment facilitates and reduces the cost of cross-border transactions, fosters administrative transparency and efficiency and enhances trade security. Results are achieved without sacrificing customs objectives of revenue generation and protection of national security, public health and safety, natural resources and the environment.

Customs administrations in Asia Pacific Economic Cooperation (APEC) and the Association of South East Asian Nations (ASEAN) have recognized the importance of such a guidepost and framework, and have committed as a group to reform and modernize their respective administrations along the

standards and recommended practices of the RKC. A guidebook for APEC Economies to assist them to become Contracting Parties to the RKC, entitled *The Revised Kyoto Convention: a Pathway to Accession and Implementation*, was issued. An important component of the guidebook is the examination of the gaps or differences between the country's national legislation and customs practices and the RKC (Parayno, 2007).

According to the Report on the WCO website entitled *Position as Regards Ratifications and Accessions*, there are already 54 contracting parties to the RKC as of September 2007, including major trading partners such as the United States, Japan, the European Community, Canada, Australia, Korea and China.

Annex A outlines this list of RKC contracting parties.

### **What are its main principles?**

In today's highly challenging world, trade and investment will flow towards efficient, supportive and facilitative locations. At the same time it will rapidly ebb away from locations perceived by business as bureaucratic, lacking good governance, and synonymous with high costs. Customs systems and processes must not be allowed to serve or be perceived as a barrier to international trade and growth. In its revised form, the Kyoto Convention is widely regarded as the blueprint for modern and efficient Customs procedures in the 21st century. Once implemented widely, it will provide international commerce with the predictability and efficiency that modern trade requires (WCO, 2006).

The RKC has three parts: the General Annex, Specific Annexes and the body of the agreement. Both the General Annex and the Specific Annexes are divided into Chapters and have detailed guidelines explaining how they are to operate. The body of the RKC discusses the management of the Convention, including its scope, ratification, application, dispute settlement and amendment.

Contracting parties have to accept the Body of Convention and General Annex entirely. The Specific Annexes may, either in whole or per Chapter, be accepted as they may also be rejected or studied further.

The General Annex contains the principles to the Revised Convention and is the nucleus of how a modern Customs administration operates. Its principles for clearance, duties and taxes, guarantees, controls, information technology, relationships with third parties, information and decisions, and appeals are common to every Customs activity worldwide (WCO, 2000).

The General Annex further recommends that a modern customs administration should implement:

- standard, simplified procedures;
- continuous development and improvement of customs control techniques;
- maximum use of information technology; and
- a partnership approach between customs and trade.

The 10 chapters of the General Annex are enumerated below (The Revised Kyoto Convention 2000):

**Chapter 1: General Provisions**

- Implementation of provisions in Annex is to be specified in national legislation and is to be as simple as possible.
- Customs administrations are to work with the trade community to increase cooperation.

**Chapter 2: Definitions**

- Definitions provided from “appeal” to “third party.”

**Chapter 3: Clearance of Goods**

- Goods declarations to only contain information necessary for assessment of duties and taxes, statistical collection, and application of Customs law.
- Declarant will be held responsible to Customs for the accuracy of information in the Goods declaration and the payment of duties and taxes.
- Samples to be drawn as small as possible.
- Customs to not impose substantial penalties for inadvertent errors and errors without evidence of fraud or gross negligence.
- Customs administrations to coordinate operations at common border crossings (transitional standard).
- Customs administrations and other government agencies to coordinate inspections (transitional standard).

**Chapter 4: Duties and Taxes (Assessment, Collection and Payment; Deferred Payment; Repayment)**

- National legislation to specify methods of duty and tax payment.
- When national legislation specifies payment due date may be after release of the goods, that date shall be at least ten days after release. No interest charged between date of release and due date.
- Period for deferred payment of duties to be at least 14 days.
- Repayment to be granted for defective goods or goods not in accordance with specifications at time of importation/exportation and are returned to supplier, if goods have not been worked, repaired or used.
- Repayment decisions to be made without “undue delay.”

**Chapter 5: Security**

- Customs administrations to determine how much security is needed.
- If security is required, amount of security to be “as low as possible,” and, in respect of payment of duties and taxes, is not to exceed the amount potentially chargeable.

**Chapter 6: Customs Control and Risk Management**

- All goods entering or leaving Customs territory are under Customs control.
- In application of Customs control, Customs Administrations to use risk analysis to determine who and what should be examined and the extent of examination.

- Customs administrations to adopt a compliance measurement strategy to support risk management.
- Customs control systems to include audit-based controls.
- Customs administrations to seek to cooperate with the trade and to conclude Memorandum of Understandings to enhance Customs control.
- Customs administrations to use information technology and e-commerce to enhance Customs control (transitional standard).

#### Chapter 7: Use of Information Technology

- New/revised national legislation to provide for: e-commerce alternatives to paper-based documentation requirements; electronic as well as paper-based authentication methods; the right of Customs administrations to retain information and share it with other Customs administrations through e-commerce.
- Customs administrations to develop information technology in consultation with all relevant parties.
- Customs administrations to apply info technology to support operations, when cost-effective and efficient for Customs and the trade.

#### Chapter 8: Relationship Between Customs and Third Parties

- Persons/entities are to have option of doing business with Customs directly or through a third party.
- Third parties to have same rights as parties on whose behalf they act.
- National legislation to set out rules/conditions for third parties – should not be different than rules for persons/entities doing business directly with Customs.

#### Chapter 9: Customs Information, Decisions and Rulings

- Customs law information to be readily available.
- Customs administrations to provide “as quickly and as accurately as possible” specific information requested by an interested party.
- Adverse Customs decisions to provide reasons and to advise of right of appeal.
- Customs administrations to issue binding rulings upon request.

#### Chapter 10: Appeals in Customs Matters

- National legislation to provide for a right of appeal in Customs matters.
- Time limit to apply to requesting an appeal, and Customs administration to respond as soon as possible.
- Customs appeals decisions to be in effect as soon as possible.

### **What are the Specific Annexes?**

The Specific Annexes are divided into Chapters and have detailed guidelines for their implementation. Accession to the complete Specific Annex or to one or more Chapters of an Annex is optional and may be accomplished following accession to the Body and General Annex.

Note too that the Specific Annexes contain both Standards and Recommended Practices. If a contracting party decides to accede to a Specific Annex or a Chapter of a Specific Annex, it is bound to implement any Standards

and any Recommended Practices it contains, other than the Recommended Practices that it has lodged reservations on (APEC Sub-Committee on Customs Procedures, *The RKC: A Pathway to Accession and Implementation*, 2003).

Standards, as mentioned above, refer to provisions that have to be implemented to achieve harmonization and simplification of Customs procedures and practices, while Transitional Standards mean standards in the General Annex for which a longer period for implementation is permitted.

The 10 Chapters of the Specific Annex are enumerated below (WCO web site, <http://www.wcoomd.org/kybodycontent.htm>)

General Annex	Specific Annex
A Arrival of goods in a Customs territory	A1 Formalities prior to the lodgment of the Goods declaration A2 Temporary storage of goods
B Importation	B1 Clearance for home use B2 Re-importation in the same state B3 Relief from import duties and taxes
C Exportation	C1 Outright exportation
D Customs warehouses and free zones	D1 Customs warehouses D2 Free zones
E Transit	E1 Customs transit E2 Transshipment E3 Carriage of goods coastwise
F Processing	F1 Inward processing F2 Outward processing F3 Drawback F4 Processing of goods for home use
G Temporary admission	G1 Temporary admission
H Offences	H1 Customs offences
J Special procedures	J1 Travelers J2 Postal traffic J3 Means of transport for commercial use J4 Stores J5 Relief consignments
K Origin	

## COMPLIANCE AND ACCESSION

### Can the Philippines just comply with RKC without accession?

Yes, the Philippines may comply with the RKC without accession. Being Kyoto-compliant means accepting the responsibility to adopt regulatory policies and practices that conform to and are consistent with principles of the Convention. Compliance may be done at any time by any country, whether or not it accedes to the Convention. The BOC complied with the original Kyoto Convention without accession.

Compliance without accession, however, does not create rights and responsibilities relative to the contracting parties. Acceding to the RKC, for example, will bring the following benefits and advantages:

- protection against passage or issuance of national legislation that are against the principles and provisions of the RKC;
- solid foundation for reforming and strengthening the legislative base that is a very important step in reforming customs and related institutions;
- benchmark for assessing the status of Philippine trade efficiency and competitiveness;
- lead shepherds and technical team of experts can later on lead the reform process;
- foreign companies and countries can express grievance to the RKC Management Committee for customs service that does not properly implement RKC;
- fastest and most effective way of declaring globally that trade and investments are facilitated in the Philippines and that the regulatory environment favorably compare with the best in the world;
- stimulates economic growth in countries and territories that accede to it by providing the basis for modernizing Customs; and
- enables Customs administrations to provide modern and efficient service to their economy, trade and society and to better participate within the international trade environment (Parayno, 2006).

By acceding, the Philippines will be sending a clear message to both the international trade community and governments around the world that the Philippines stands firmly behind customs procedures that facilitate the secure movement of legitimate trade across national borders. Philippine accession is also a manifestation that the public and private sector can truly work together to facilitate trade, since trade and security are not mutually exclusive and will present a significant step forward in the promotion of economic growth, national security, and customs integrity at both the national and international levels (Parayno, 2006).

Note that standards must be implemented within 36 months of ratification, while Transitional Standards have a 60-month implementation period. No reservations are allowed on Standards in the General Annex or Standards in Specific Annexes that Contracting Parties have accepted.

A country acceding to the RKC needs to ensure its national legislation are compliant with the provisions of the Body of the Convention, the Standards of the General Annex, and the Standards of the Specific Annex it accepts, within 36 months from date of accession. In addition, it needs to ensure its national legislation is in compliance with the Transitional Standards contained in the General Annex and the Recommended Practices of the Specific Annex it accepts, within 60 months from date of accession. A country must review, once every three years, those Chapters of Specific Annex or Specific Annexes it did not accept for the purpose of deciding whether to eventually accept them or not.

### **How does RKC relate to other international agreements on trade facilitation?**

After the original Kyoto Convention came into force in 1974, the pattern of and environment for international trade underwent dramatic changes. These came as a result of many developments including increased globalization of trade; rapid growth in international cargo; severe competition for foreign investments; establishment of the WTO and regional trading arrangements such as the APEC and ASEAN Free Trade Area (AFTA); reduction of tariffs and elimination of non-tariff barriers; dynamic growth and development of ICT technology; advancement in e-commerce; and increased focus on trade security. Consequently, with traditional Customs administration practices and procedures becoming regarded as non-tariff barriers, WTO called for simplification and harmonization of Customs procedures as a key to trade facilitation.

At the multilateral level, the WTO Doha Round discussion on trade facilitation covers Articles V, VIII and X on the freedom of transit; simplification of fees and formalities and publication and administration of trade regulations, respectively (GATT 1947). Common themes as suggested by the WCO are: provisions for advance rulings; provisions for appeal procedures; the Single Window concept; use of risk management and post clearance controls; and the use of simplified procedures for suitably authorized persons (WCO 2006b).

While trade tariffs fall under trade negotiators, the collection of duties and administration of tariff measures is governed by customs procedures. These too are bound in the majority of cases by international arrangements.

Meanwhile, at the sectoral level, the WCO "... maintains, supports and promotes international instruments for the harmonization and uniform application of simplified and effective customs systems and procedures" (WCO 2002). Given the lead role that Customs has in controlling national borders, its representing international body, the WCO, plays a prominent role in trade facilitation.

Although the WCO aims to facilitate cooperation among customs administrations, many of its instruments and recommendations are connected to the wider international agreements. The WCO committees are therefore able to exercise considerable influence over the mechanics of trade and customs procedures among its member-countries, including the scope for trade facilitation. The most noteworthy instruments are the Kyoto Convention for Harmonizing Customs Procedures and the WCO's Harmonized Commodity Description and Coding System (HS) for tariff classification.

Unlike the WTO or the WCO, the activities of the United Nations Economic Committee for Europe (UNECE) do not relate to any international legal instruments. However, much of UNECE's work may be unilaterally adopted by nation states or through regional agreements and trading blocs. Thus, UNECE is widely recognized as the global focal point for trade facilitation recommendations, standards and specifications.

In the area of trade facilitation, UNECE has taken on a global remit on behalf of the entire UN through its Centre for Trade Facilitation and Electronic Business (UN/CEFACT). UN/CEFACT was established in 1996, replacing the UNECE Working Party No 4 which was formed in 1960 for the facilitation of international trade procedures. UN/CEFACT now serves as a forum to develop, initiate and consolidate work by other international organizations (e.g. WTO, WCO, OECD, UNCTAD and ISO). In this capacity, it looks after 33 trade facilitation recommendation and range of electronic business standards and technical specifications (UN/CEFACT 2005; UNECE 2005). As such, it owns and manages various document and electronic messaging standards used in international trade transactions, including the UNeDocs and EDIFACT<sup>1</sup> standards.

There are a number of other international bodies with trade facilitation concerns. Most recently, these include the International Standards Organization (ISO), which has developed its ISO/PAS 28000 family of best practice guidelines for implementing supply chain security (Piersall and Williams 2006). Also involved are the International Maritime Organization (IMO), International Chamber of Shipping (ICS), International Road Transport Union (IRU), International Civil Aviation (UNECE 2006) Organization (ICAO) and International Chamber of Commerce (ICC).

Bodies and organizations that have an interest in international development and capacity building also play an important role in shaping the international trade regime. For instance, the World Bank maintains an active transport and trade facilitation program, lending financial resources and intellectual contributions to international trade facilitation initiatives (World Bank 2006). A similar role is played by UNCTAD (UNCTAD 2006), which also

<sup>1</sup> UNeDocs provides a conceptual framework for developing aligned paper-trade documents based on international trade standards and the subsequent development of the electronic equivalents of the paper document. UNeDocs designs documents based on international trade procedures, the United Nations Layout Key (UNLK) and the United Nations Trade Data Elements Directory (UNTDDED), ISO standard 7372. These two definitions, the document layout based on the UNLK and the semantic content of the document based on the UNTDED provide the basis for a later definition of the electronic equivalent of the trade document in UN/EDIFACT or XML format. UN/EDIFACT and XML are today's most widely used electronic business protocols and provide access and connectivity to e-business systems and electronic supply chain management.

developed ASYCUDA – a free electronic customs platform used by many countries, especially with emerging and developing economies (ASYCUDA 2006).

At a more regional level, the activities of these international organizations are mirrored by organizations such as APEC (APEC 2006) and the UN's Economic and Social Division for Asia and the Pacific (UN ESCAP 2004). A global network of practitioners and policymakers is maintained by the Global Facilitation Network for Transport and Trade and the United Nations Trade Facilitation Network of Partners (GFP/UNTF 2006).

In addition to negotiation through multilateral trade instruments like the GATT, trade liberalization and facilitation is sought through the establishment of free trade areas at the bilateral level (Grainger, 2007). Agreements on technical cooperation for trade facilitation are relatively better and easier negotiated and facilitated at this level.

There are, however, limitations posed by the dynamics and statutes implemented at each level. The 2005 study *Approaches for Trade Facilitation Initiatives in WTO and WCO* by the Customs and Tariff Bureau of the Ministry of Japan recommends that to solve the problems, a multi-layered approach, meaning inter-supplementary usage of each approach, is needed. The study arrived at this solution by initially providing a framework for better understanding of how trade facilitation is implemented at each level, before citing instances that offer advantages and disadvantages on a per level approach.

## BENEFITS AND COSTS

### **Why is RKC relevant to the current computerization of Philippine Customs?**

RKC is relevant to the current computerization of Philippine Customs because RKC itself requires Customs to apply information technology to support Customs operations wherever it is cost-effective and efficient for both Customs and the trade. It provides administrations with detailed guidelines on how to apply and implement information technology for the clearance of goods, carriers and persons, thus assisting Customs deal with the demands generated by electronic commerce (WCO, 2000).

Today's Customs administrations have to accommodate modern business practices and the impact e-commerce can have on Customs procedures. This will enable them to keep up with the increased need for swift and efficient clearance of goods.

RKC further answers the global call for professionalism and integrity in all Customs administrations since it serves as the blueprint for modern and efficient Customs procedures in the 21st century. It is considered as key to anti-corruption initiatives by promoting the integrity and professionalism of Customs administrations worldwide and reducing the susceptibility of businesses and citizens to corrupt Customs practices (Parayno, 2006).

The Philippines was not a contracting party to the KC. However, in the various reforms and modernization programs undertaken by the BOC, particularly during the 1992-1998 Customs Reform and Modernization Program, several national legislation were issued and systems and procedures developed. These reforms made many of its Customs operations compliant with major provisions not just of the KC but also with the then being deliberated RKC (Parayno, 2007).

Key accomplishments during the six-year period were as follows:

- implementation of a new Customs processing system called Automated Systems for Customs Data (ASYCUDA);
- physical modernization and improvement of customs facilities;
- introduction of risk analysis and threat assessment procedures in lieu of 100% inspection;
- introduction of paperless, cashless and queueless clearance processes;
- partnerships with business associations to assist in customs processing (e.g. designation of the PCCI as manager of Community Trading Centers); and
- establishment of a Management Information System and Technology group.

In the same years, the 2002 World Economic Forum (WEF) Gartner report also cited significant increase in customs revenue collections and the improved rating of the BOC on transparency and integrity with the public and the international community as major accomplishments of the six-year reform and modernization program (Parayno, 2004).

### **What is the current Philippine position on RKC?**

Philippine Customs has been very receptive of the plan to accede to RKC, while business has endorsed the country's accession to the RKC. The Department of Finance (DOF) and the Department of Trade and Industry (DTI) have endorsed RKC accession to the President following strong recommendation by the BOC and the business community.

The APEC Sub-Committee on Customs Procedures (SCCP), of which the Philippines is a member, agreed to adopt or abide by a number of key international customs, conventions and agreements, thereby ensuring that all 18 Customs Administration follow the same set of international customs guidelines. Its nine-point Collective Action Plan (CAP) called for Simplification and Harmonization on the basis of the RKC. As a result, the BOC organized on September 7, 2004 the KCMT as an initial effort by the Bureau toward Philippine accession and compliance to RKC. Also, the ASEAN Director-General of Customs which includes the Commissioner of the Philippine BOC, in its 14<sup>th</sup> meeting held in Cebu City in November 2005, emphasized the need to align ASEAN Customs practice to the principles and standards of the RKC for trade facilitation and requested its member countries to consider early accession to the RKC and other instruments relating to Customs.

The following dates are important milestones in the advocacy on RKC:

1. RKC Pre-summit – January 30, 2007
2. RKC Summit – February 5, 2007, when BOC endorsed the private sector letter of support for RKC accession to DOF.
3. BOC anniversary – February 6, 2007, when BOC endorsed it again to DTI Sec. Favila and DOF Sec. Teves, which they similarly endorsed to President Arroyo.
4. March 2007 – the EDC issued a resolution approving the RKC workplan.
5. April – May 2007 – the Office of the President legal affairs studied the recommendations and sent the documents to the Department of Foreign Affairs (DFA) for further study.
6. June 14, 2007 – Interagency meeting with DFA/Office for United Nations and International Organizations (UNIO)
7. July-Sept 2007 – the DFA requested concurrence to RKC accession from the Philippine Ports Authority (PPA), BOC, Manila International Airport Authority (MIAA), Philippine Economic Zone Authority (PEZA) and the Department of Agriculture (DA).

As mentioned above, the next step is RKC ratification following the President's signing of the accession instrument and endorsement of the Convention for concurrence of ratification to the Senate in the 14<sup>th</sup> Congress. Simultaneously, the Philippine embassy in Brussels can file the accession

instrument with the WCO so the country will be listed among those which have signed the RKC subject to ratification.

### **How can small and medium enterprises (SMEs) benefit from Philippine accession to RKC?**

RKC compliance will specifically and directly benefit traders and manufacturers with improved facilitation and reduced cost; shippers and transport operators with uniform Customs controls and quicker movement of cargoes; and people and governments with increased border security and enhanced revenue collection efficiency.

The following are some of the specific advantages for SMEs as they conduct their business:

- harmonized customs procedures instead of dealing with 140 disparate national customs procedures;
- reduced time and cost of clearing customs: A WCO analysis demonstrates that inefficient global customs procedures add five to seven percent to the cost of information technology goods traded globally;
- greater understanding of compliance requirements leading to increased transparency and predictability in customs transactions and elimination of discretionary treatment and application of rules and regulations: Unpredictable clearance delays often render perishable or time-sensitive high tech shipments valueless. As a result, companies find themselves forfeiting the goods rather than pay inflated tariffs or any attendant fines. Such experiences lead companies to abandon promising export markets;
- implementation of special procedures for low-risk importers; Through the implementation and use of a risk management program, Customs can determine which goods and traders generally comply with Customs law and thus pose low risk for control purposes. These traders, referred to as “authorized persons” for the purposes of this Convention, can then be approved for special or “fast track” procedures that require little intervention by Customs for the release and clearance of their goods; and
- reduced opportunities for extortion of facilitation/grease payments, thereby paving the smooth transition to increased transparency and automation (Parayno, 2006). With the near completion of Customs’ IT system, electronic lodgment of documents can happen where internet facilities are available. Further, a central database of manifest can then be generated so entries can be accessed no matter where they may have been filed. This set up prepares the stage for an importer or exporter to already deal with a “virtual Customs office”, lessening personal transactions that have been susceptible to “grease payments” that were, and according to many testimonies, are still very rampant.

Additionally under the RKC, there is a standard providing for an advanced lodgment procedure that strikes a balance between the interests of traders and Customs regulation. Customs can process the advanced information and can determine if physical examination of goods will be conducted. If not, goods

can be released upon arrival. While this procedure enables the trading community to dispose of the goods immediately, it also allows Customs to spread its workload. It is a facilitation measure that reduces storage costs for the importers and exporters and gives them more time to organize their post-clearance operations. For Customs, it reduces congestion by enabling documentary controls to be staggered and the examination of the goods, if any, to be better organized. The lead time provided for by this procedure also allows Customs to examine the documents more thoroughly.

Other RKC standards encourage joint inspection by customs and other clearance agencies, minimum data requirements for declarations, abatement procedures and international customs cooperation that could eventually allow the export documents of one country to be the import documents of another country.

### **How ready is the country to accede to RKC?**

A research (Parayno, 2006) shows that the country's national legislation is compliant to 55.38% of the standards, transitory standards and recommended practices contained in the RKC. This means that there are provisions in the national legislation expressly complying with the said standards, transitory standards and recommended practices. However, a significant percentage is still not reflected in the legislation.

Fortunately, only 16.83% of the provisions contained in the RKC require an amendment of our laws. The law is silent on others, but informal practice is largely compliant. Still other provisions of the RKC which may be important for facilitation of trade may have an adverse impact on our country's other objectives such as the collection of revenues, prevention of smuggling and other Customs violations. The RKC is supposed to be the world's best practice in meeting such customs objectives.

Annex B distinguishes Philippine compliance with the General and Specific Annexes as part of the findings of the said research project. Note that the country has to move on General Annex compliance while we can take our time on the Specific Annexes.

As previously mentioned, the findings on Philippine compliance with each individual provision of the Convention were reviewed in the RKC summit and the stakeholders agreed on which provisions to hold reservations.

### **If the country accedes to the RKC, what actions are to be done regarding its provisions on which Philippine law is silent or non-compliant?**

On the specific implementation steps, after deposit of the instrument of accession, an Executive Order must be issued immediately mandating the following:

- Compliance by all concerned government agencies to all standards in the General Annex as well as the accepted standards and recommended practices in the Specific Annexes that are not against or inconsistent with current laws.

- The instruction shall include concerned agencies submitting a list of their existing regulations inconsistent with the RKC and their timetable for aligning their regulations accordingly.

All standards and practices for which national legislation are silent may be particularly annexed in the Executive Order with instructions to the agencies concerned to issue implementing regulations to make clear observance of provisions as part of national legislation.

There are likewise legislative actions that have to be proposed and implemented as follows:

1. Amendment of the Tariff and Customs Code:
  - a. Section 1005 of the TCCP which provides for the following should be amended to comply with Standard 8 of Specific Annex A: Arrival of Goods in a Customs Territory, Chapter 1: Formalities prior to the Lodgement of the Goods Declaration:
 

*“Manifest Required of Vessel from Foreign Port. - Every vessel from a foreign port must have on board a complete manifest of all her cargo.*

All of the cargo intended to be landed at a port in the Philippines must be described in separate manifest for each port of call therein. Each manifest shall include the port of departure and the port of delivery with the marks, numbers, quantity and description of the packages and the names of the consignees thereof. Every vessel from a foreign port must have on board complete manifests of passengers and their baggage, in the prescribed form, setting forth their destination and all particulars required by immigration laws, and every such vessel shall have prepared for presentation to the proper customs official upon arrival in ports of the Philippines a complete list of all sea stores then on board. If the vessel does not carry cargo or passengers, the manifest must show that no cargo or passenger, as the case may be, is carried from the port of departure to the port of destination of the Philippines...”
  - b. Section 1301 of the TCCP which provides as follows need to be amended to comply with Standard 3.24 of the General Annex;
 

“...Imported articles must be entered in the customhouse at the port of entry within thirty (30) days, which shall not be extendible, from the date of discharge of the last package from the vessel or aircraft..”
  - c. Section 1502 of TCCP which provides as follows need to be amended to comply with Standard 3.41 of the General Annex;
 

*“Delivery of Articles Without Production of Bill of Lading. - No collector shall deliver imported articles to any person without the surrender by such person of the bill of lading covering said article, except on written order of the carrier or agent of the importing vessel or aircraft in which case neither the Government nor the Collector shall be held liable for any damages arising from*

wrongful delivery of the articles: Provided, however, That where delivery of articles is made against such written order of the carrier or agent of the importing vessel or aircraft, the Collector may, for customs purposes, require the production of an exact copy of the bill of lading therefore.

- d. Section 1801 of the TCCP which provides as follows need to be amended to comply with Standard 3.24 of the General Annex:  
 “Abandonment, Kinds and Effects of. – An imported article is deemed abandoned under any of the following circumstances:
- When the owner, importer, consignee of the imported article expressly signifies in writing to the Collector of Customs his intention to abandon; or
  - When the owner, importer, consignee or interested party after due notice fail to file an entry within thirty (30) days, which shall not be extendible, from the date of discharge of the last package from the vessel or aircraft, or having filed such entry, fails to claim his importation within fifteen (15) days, which shall not likewise be extendible, from the date of posting of the notice to claim such importation.
- Any person who abandons an article or who fails to claim his importation as provided for in the preceding paragraph shall be deemed to have renounced all his interests and property rights therein.”
- e. Section 3517 of the TCCP which provides as follows need to be amended to comply with Standard 3.19 of the General Annex:  
*“Documents in Foreign Language. - Where a document in a foreign language is presented to customs officers in relation to the carrying out of any duty or the exercise of any power of the Bureau of Customs under this Code, said document in a foreign language must be accompanied with a translation in the official language of this country.”*
- f. The TCCP should be amended to allow for the abatement and/or refund of duties and taxes under the situation provided under Standard 4.19, which provides as follow:  
 “Repayment shall be granted in respect of imported or exported goods which are found to have been defective or otherwise not in accordance with the agreed specifications at the time of importation or exportation and are returned either to the supplier or to another person designated by the supplier, subject to the following conditions:
- The goods have not been worked, repaired or used in the country of importation, and are re-exported within a reasonable time;
  - The goods have not been worked, repaired or used in the country to which they were exported, and are re-imported within a reasonable time.
  - *Use of the goods shall, however, not hinder the repayment if such use was indispensable to discover the defects or*

*other circumstances which caused the re-exportation or re-importation of the goods.*

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

2. Modifications of Other Laws.

- a. In view of Standard 3.7 of the General Annex, Republic Act No. 9280, otherwise known as the “Customs Brokers Act of 2004”, specifically Section 27 thereof which provides as follow need to be amended:
 

“Acts Constituting the Practice of Customs Brokers Profession.  
– Any single act or transaction embraced within the provision of Section 6 hereof shall constitute an act of engaging the practice of customs broker profession. Import and export entry declaration shall be signed only by customs broker under oath based on the covering documents submitted by the importers.”
- b. The National Internal Revenue Code should be amended alongside the TCCP to allow for the abatement and/or refund of duties and taxes under the situation provided under Standard 4.19, as mentioned earlier.
- c. Domestic Shipping Law should be amended to allow for Recommended Practice 4 of Chapter 3: Carriage of Goods Coastwise of Specific Annex E : Transit, which provides as follow:
 

“At the request of the person concerned, and subject to such conditions as the Customs deem necessary, the latter should allow goods to be transported under the carriage of goods coastwise procedure on board a vessel which is to call at a foreign port during its voyage coastwise.”
- d. The Memorandum of Understanding between the Postal Service, the BOC and the CAO-CMO must be amended to be clearly aligned and be compliant with the provisions of Chapter 2, Postal Traffic of Specific Annex J: Special Procedures, taking into consideration the following:
  - Principle of speed must be recognized as paramount in the clearance process.
  - Postal Service must be recognized as a regular channel for conveyance of imports and exports and whatever may be the customs procedure utilized.
  - Define which consignments may be released by the Postal Service directly without Customs intervention and which ones need regular customs processing.
- e. Issue Joint Order Among the Department of Social Welfare and Development (DSWD), DOF and BOC, in order to be compliant with Chapter 5, Relief Consignments of Specific Annex J: Special

Procedures, by providing for the following:

- mandating the priority treatment of relief goods during the period of the emergency
- calling for the observance of the standards and recommended practices and
- putting in place the enabling systems such as release under simplified goods declaration and advance clearance
- institution of controls to prevent abuse such as:
  - i. Accreditation of Relief Organizations
  - ii. Specification of the duration of the Period of the Emergency within which the special procedures may be availed of
  - iii. Procedure and Controls in the transfer from Customs and DSWD
  - iv. Designation of Warehouses where the goods are to be transferred and processed for distribution

3. Adoption of Laws. We do not have any provision in our national legislation to cover the following standards, transitional standards or recommended practices, therefore there is a need to adopt provisions to cover the following:

a. Transitional Standard 3.29 – Withdrawal of Goods Declaration

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

b. Transitional Standard 3.32 – Authorized Persons and Special Procedures

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 special procedures

c. Standard 4.10

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

d. Specific Annex F: Processing, Chapter 3 : Drawback – Standard 4.

The Customs shall not withhold payment of drawback solely because, at the time of importation of the goods for home use, the importer did not state his intention of claiming drawback at exportation. Similarly, exportation shall not be mandatory when such a statement has been made at importation.

e. Specific Annex G : Temporary Admission, Chapter 1 : Temporary Admission:

- *Standard 4*  
Temporary admission shall not be limited to goods imported directly from abroad, but shall also be granted for goods already placed under another Customs procedure.
  - *Standard 6*  
Temporarily admitted goods shall be allowed to undergo operations necessary for their preservation during their stay in the Customs territory.  
Formalities prior to the granting of temporary admission
  - *Standard 11*  
Temporary admission of goods shall be subject to the condition that the Customs are satisfied that they will be able to identify the goods when the temporary admission is terminated.
  - *Recommended Practice 12*  
For the purpose of identifying goods temporarily admitted, the Customs should take their own identification measures only where commercial means of identification are not sufficient.
  - *Recommended Practice 15*  
When the goods granted temporary admission cannot be re-exported as a result of a seizure other than a seizure made at the suit of private persons, the requirement of re-exportation should be suspended for the duration of the seizure.
  - *Recommended Practice 16*  
On request, the Customs should authorize the transfer of the benefit of the temporary admission to any other person, provided that such other person :
    - i. satisfies the conditions laid down; and
    - ii. accepts the obligations of the first beneficiary of the temporary admission.
  - *Standard 17*  
Provision shall be made to permit temporarily admitted goods to be re-exported through a Customs office other than that through which they were imported.
  - *Standard 18*  
Provision shall be made to permit temporarily admitted goods to be re-exported in one or more consignments.
  - *Recommended Practice 20*  
If prohibitions or restrictions in force at the time of temporary admission are rescinded during the period of validity of the temporary admission document, the Customs should accept a request for termination by clearance for home use.
- f. *Specific Annex J : Special Procedure, Chapter 1 – Travellers*
- *Recommended Practice 15*  
Wherever possible, the use of credit cards or bank cards should be acceptable as a means of payment for services rendered by the Customs and for duties and taxes. *Standard 23.*

Non-residents shall be granted temporary admission in respect of their means of transport for private use.

Standard 24.

Fuel carried in the normal tanks of the means of transport for private use shall be admitted free of import duties and taxes.

Standard 25.

The facilities (temporary admission) granted in respect of means of transport for private use shall apply whether the means of transport are owned, rented or borrowed by non-residents and whether they arrive with, before or after the traveller.

Recommended Practice 26

The Customs should not require a Customs document or security for the temporary admission of non-residents' means of transport for private use.

Recommended Practice 27.

Where a Customs document or security is required for the temporary admission of non-residents' means of transport for private use, the Customs should accept standard international documents and securities.

Standard 28

Where it is necessary to lodge a temporary admission declaration for temporary admission of non-residents' means of transport for private use, the time limit for temporary admission shall be fixed by reference to the length of the non-resident's stay in the country, provided that any limit laid down in national legislation is not exceeded.

Standard 29.

At the request of the person concerned, and for reasons deemed valid by the Customs, the latter shall extend the period of temporary admission initially fixed for a non-resident's means of transport for private use, provided that any time limit laid down in national legislation is not exceeded.

Standard 31.

The Customs shall allow non-residents' temporarily admitted goods to be re-exported through a Customs office other than that through which they were imported.

i. Recommended Practice 37

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

ii. Recommended Practice 39

Information concerning the Customs facilities applicable to travellers should be made available in the official language or languages of the country concerned and in any other language deemed to be useful.

g. Specific Annex J: Special Procedures, Chapter 4: Stores

h. Specific Annex K: Origin, Chapter 2: Documentary Evidence of Origin

· Recommended Practice 2

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

· Recommended Practice 3

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

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

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

· Recommended Practice 4

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

· Recommended Practice 6

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

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

- Recommended Practice 8  
Where the certificate of origin is made out in a language that is not a language of the country of importation, the Customs of that country should not require, as a matter of course, a translation of the particulars given in the certificate of origin.
- Recommended Practice 10  
Where goods are not imported directly from the country of origin but are forwarded through the territory of a third country, certificates of origin should be allowed to be drawn up by the authorities or bodies empowered to issue such certificates in that third country, on the basis of a certificate of origin previously issued in the country of origin of the goods.
- Recommended Practice 12  
Where documentary evidence of origin is required, a declaration of origin should be accepted in the following cases:
  - i. goods sent in small consignments addressed to private individuals or carried in travellers' baggage, provided that such importations are of a non-commercial nature and the aggregate value of the importation does not exceed an amount which shall not be less than US\$500;
  - ii. commercial consignments the aggregate value of which does not exceed an amount which shall not be less than US\$300.  
Where several consignments of the kind referred to in (a) or (b) are sent at the same time, by the same means, to the same consignee, by the same consignor, the aggregate value shall be taken to be the total value of those consignments.

In addition to the foregoing, for the sake of consistency and continuity in application, there is a need for a comprehensive amendment of the TCCP to reflect the best practices in customs administration and to institutionalize standards and practices implemented either through various regulations or adopted by years of practice.

There should be more studies made on procedures contained in the following Specific Annexes and Chapters as to whether the country should adopt them or not. If we should decide to adopt, laws must be adopted to comply with the following:

- Specific Annex D: Chapter 1 – Customs Warehouses
- Specific Annex D: Chapter 2 – Guidelines on Free Zones
- Specific Annex F: Chapter 1 – Inward Processing
- Specific Annex F: Chapter 2 – Outward Processing
- Specific Annex F: Chapter 4 – Processing of Goods for Home Use
- Specific Annex J: Chapter 3 – Means of Transport for Commercial Use.

### **What is the cost of Philippine accession to RKC?**

The cost of accession is alignment of policies, procedures and systems, mainly IT implementation and change management. The following outlines a number of specific steps that must be undertaken:

- Preparation of a Manual of Customs Operations structured along the lines of the RKC particularly of the Specific Annexes
  - Instead of reviewing all customs memorandum orders and amending the same to be able to bring into force nationally all the basic rules from the General Annex as well as the accepted Standards and Recommended Practices of the Specific Annexes, a more expedient approach is to develop and maintain a Manual of Customs Operations detailing the regulations, systems and procedures for their implementation.

The Manual must have a section for each of the Specific Annexes of the RKC. It must incorporate in the systems and procedures the various RKC standards and practices accepted as provided in the National Strategy and the Instrument of Accession.

The draft manual initially containing the areas of operation covered by the RKC must be presented to the experts' group (BOC and PUC) to identify other common questions on Customs that must likewise be covered in the Customs Manual.

- Private Sector and Donor Agency Participation in the Manualization of Customs Operations and Compliance
  - The Convention standards and practices to which the country is non-compliant must be prioritized for assignment to private sector groups for the drafting of compliance of enabling systems and implementing regulations. Donor agencies assistance may be sought for those needing the development of systems or expertise for the proper implementation. For example, should Transitory Standard 3.32 on authorized persons and special procedures be recommended and agreed upon for acceptance, a volunteer private sector group must already develop the system and procedure for its implementation even ahead of RKC accession.
- Drafting of Amendatory Laws for those provisions of the RKC that are inconsistent with current laws
- Study and review as well as the formation of the implementation oversight and technical working groups proposed by the consultancy

### **What has the country done to jump start Philippine accession to RKC?**

Recognizing the benefits that will result from accession and compliance with the RKC, the BOC convened the KCMT to undertake the following:

- analyze applicability of RKC provisions to the Philippines, taking into consideration the country's development status and needs;

- determine which Standards, Transitory Standards and recommended practices in the RKC General and Specific Annexes the country's existing national legislation is compliant or not compliant with;
- formulate measures to be undertaken to make Philippine national legislation compliant with said Standards, Transitory Standards and recommended practice; and
- recommend how the Philippines should accede to the RKC (i.e., identify which Specific Annexes should be immediately accepted and those the country should indicate reservations on).

The KCMT, assisted by a multi-sectoral group consisting of representatives of private sector organizations and the academe, has validated that compliance with the provisions of the RKC will deliver the benefits enumerated above.

A national strategy for RKC compliance was thereafter crafted that aims to immediately implement most of the trade facilitation standards, transitory standards and recommended practices of the RKC. At the same time, it gives Customs the opportunity to put in place measures that will not erode Customs capacity to effectively enforce their other control objectives.

The strategy proposed a schedule of acceptance and implementation of the RKC provisions. It proposed the immediate acceptance of the Body of the Convention, the General Annex, eight Specific Annexes consisting of eighteen different chapters, while making an express reservation on 27 recommended practices contained in these chapters of the eight Specific Annexes recommended for acceptance. Furthermore, it proposed that further studies be conducted on 7 Chapters contained in four Specific Annexes.

Also included in the national strategy is a package of measures and proposals. These are needed not only to support the soonest accession of the Philippines to the RKC, but also to ensure quality compliance to most if not all of the modern systems and methods of the convention (Parayno, 2006).

## RELEVANCE OF SAFE FRAMEWORK

### **How does the Framework for Standards to Secure and Facilitate Global Trade (SAFE Framework) relate to RKC?**

Economic prosperity is driven by international trade. However, the global trading system is vulnerable to many risks that would considerably damage the entire global economy. Terrorist attacks are some of them. Thus there is a need for government to control and administer the international movement of goods. Customs administrations are in a unique position to provide increased security to the global supply chain and to contribute to socio-economic development through revenue collection and trade facilitation (WCO, June 2005).

There is a need for a WCO-endorsed strategy to secure the movement of global trade in a way that does not impede but, on the contrary, facilitate movement of that trade. One step in the overall process of strengthening and preparing Customs administrations for the 21st Century involves securing the international trade supply chain. Accordingly, to strengthen and go beyond existing programs and practices, WCO Members have developed a regime that will enhance the security and facilitation of international trade (WCO, 2005).

This regime is referred to as the WCO Framework of Standards to Secure and Facilitate Global Trade. The WCO Framework to secure and facilitate global trade covers the principles and the standards and presents them for adoption as a minimal threshold of what must be done by WCO Members (WCO, 2005).

The WCO presents an appropriate platform for this initiative, with the WCO membership and the participation of 166 Customs administrations representing 99 percent of global trade. Its Customs exercise unique functions and powers that exist nowhere else in government — the authority to inspect cargo and goods shipped into, through and out of a country; refuse entry or exit and expedite entry. As Customs requires information on goods being imported and exported, it can mandate that information be provided in advance and electronically with the appropriate legislation (WCO, 2005).

Note that the Philippines is one of 129 WCO members which, as of February 23, 2006, expressed intent to implement the WCO Framework of Standards to Secure and Facilitate Global Trade.

Given the unique authorities and expertise, Customs can and should play a central role in the security and facilitation of global trade. The RKC has set forth the direction by which Customs administration can be simplified and harmonized to promote and facilitate trade.

## LIST OF REFERENCES

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# ANNEX A

## POSITION AS REGARDS RATIFICATIONS AND ACCESSION

(as at 18 September 2007)

### International Convention on the simplification and harmonization of Customs procedures (as amended)

(Revised Kyoto Convention)

(done at Kyoto on 18 May 1973, amended on 26 June 1999)\*

CONTRACTING PARTIES	Dates of signature subject to ratification (1999-06-26 2000-06-30) or accession	Dates of signature without reservation or of deposit of Instruments of ratification
ALGERIA	-	26-06-1999
AUSTRALIA	18-04-2000	10-010-2000
AUSTRIA	-	30-04-2004
AZERBAIJAN	-	03-02-2006
BELGIUM	-	30-04-2004
BOTSWANA	-	26-06-2006
BULGARIA	-	17-03-2004
CANADA	-	09-11-2000
CHINA	-	15-06-2000
CONGO (Dem. Rep. of the)	15-06-2000	-
CROATIA	-	02-11-2005
CYPRUS	-	25-10-2004
CZECH REPUBLIC	30-06-2000	17-09-2001
DENMARK	-	30-04-2004
ESTONIA	-	28-07-2006
EUROPEAN COMMUNITY	-	30-04-2004
FINLAND	-	30-04-2004
FRANCE	-	22-07-2004
GERMANY	-	30-04-2004
GREECE	-	30-04-2004
HUNGARY	-	29-04-2004
INDIA	-	03-11-2005
IRELAND	-	30-04-2004
ITALY	-	30-04-2004
JAPAN	-	26-06-2001
JORDAN	-	08-12-2006
KOREA	-	19-02-2003
LATVIA	15-06-2000	20-09-2001
LESOTHO	-	15-06-2000
LITHUANIA	-	27-04-2004
LUXEMBOURG	-	26-01-2006
MADAGASCAR	-	27-06-2007
MONGOLIA	-	01-07-2006
MOROCCO	-	16-06-2000
NAMIBIA	-	03-02-2006
NETHERLANDS	-	30-04-2004
NEW ZEALAND	-	07-07-2000
NORWAY	-	09-01-2007
PAKISTAN	-	01-010-2004
POLAND	-	09-07-2004
PORTUGAL	-	15-04-2005
SENEGAL	-	21-03-2006
SERBIA	-	18-09-2007
SLOVAKIA	15-06-2000	19-09-2002
SLOVENIA	-	27-04-2004
SOUTH AFRICA	-	18-05-2004
SPAIN	-	30-04-2004
SRI LANKA	26-06-1999	-
SWEDEN	-	30-04-2004
SWITZERLAND	29-06-2000	26-06-2004
TURKEY	-	03-05-2006
UGANDA	-	27-06-2002
UNITED KINGDOM	-	30-04-2004
UNITED STATES	-	06-12-2005
ZAMBIA	26-06-1999	01-07-2006
ZIMBABWE	26-06-1999	02-010-2003

Number of Contracting Parties: 54

(\*) The revised Kyoto Convention has entered into force on 3 February 2006.

## ANNEX B

### General Annex Gap Analysis

Chapter No.	Subject	Not Applicable	Compliant	Not Applicable
3	Clearance and Other Customs Formalities	3	26	12
4	Duties and Taxes	4	17	5
5	Security	0	5	2
6	Customs Control	0	6	4
7	Application of Information Technology	0	0	4
8	Relationship between Customs and Third Parties	0	3	4
9	Information, Decisions and Rulings Supplied by Customs	0	0	9
10	Appeals in Customs Matters	0	12	0
	TOTAL	7	69	40

### Specific Annex Gap Analysis Summary

Annex Chapter	Title	Not Applicable	Compliant	Not Compliant
A1	Formalities prior to the lodgment of the Goods declaration	1	13	4
A2	Temporary storage of goods	2	10	3
B1	Clearance for home use		1	0
B2	Re-importation in the same state		9	0
C	Outright exportation		1	1
D1	Customs warehouses		7	8
D2	Free zones		14	6
E1	Customs transit	1	9	17
E2	Transshipment		9	1
F1	Inward processing		14	11
F2	Outward processing		17	0
F3	Drawback		2	7
J1	Travelers	2	22	14