



CAREC Customs Cooperation Committee Technical Assistance Inception Workshop

The Revised Kyoto Convention

Baku (Azerbaijan), 7- 9 April 2014

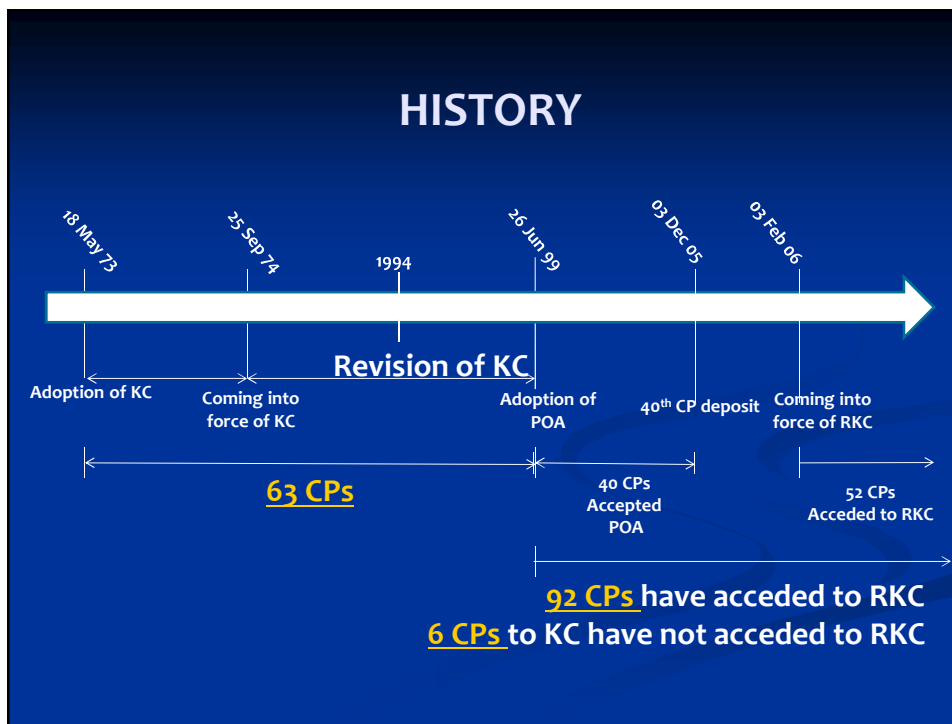
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1

Introduction to the RKC

2

HISTORY



REVISION -Decision (1)

- ❖ Compile all core provisions and principles of general application in the Annexes of the current Kyoto Convention
- ❖ Include these in a single Annex
- ❖ Group similar core procedures and practices of general application into separate Chapters e.g. clearance formalities, security, appeals
- ❖ Incorporate new concepts where necessary

REVISION –Decision (2)

- ❖ Core provisions - provide the key to harmonize and simplify Customs procedures across administrations
- ❖ Core provisions - placed in a single Annex that should be obligatory for accession
- ❖ The provisions in an obligatory Annex should be totally binding, i.e. no reservations should be possible against their implementation

5

REVISED KYOTO CONVENTION

- ❖ Protocol of Amendment adopted by the Council in June 1999 in Brussels



The blueprint for modern, efficient and effective Customs Procedures in the 21st century

- ❖ Currently
 - total 92 Contracting Parties to RKC (as of Feb. 2014)

6

Structure of the RKC

Changes in the structure of the Convention

- ❖ Creation of a General Annex which is
 - obligatory for accession
 - allows no reservations against provisions in the Annex
- ❖ 10 Chapters containing core Customs procedures and practices

7

Structure of the RKC

General Annex

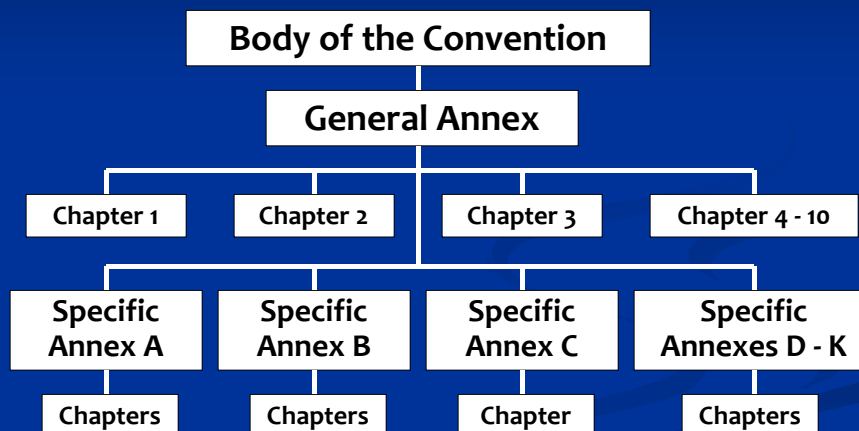
- ❖ Consists of two types of provisions
 - Standards ➡ period for implementation 3 years
 - Transitional Standards ➡ period for implementation 5 years

Specific Annex

- ❖ Consists of two types of provisions
 - Standards
 - Recommended Practices

8

STRUCTURE OF REVISED CONVENTION



9

BODY OF THE CONVENTION

- ❖ PREAMBLE
- ❖ SCOPE
- ❖ STRUCTURE
- ❖ ADMINISTRATION
- ❖ RULES OF ACCESSION
- ❖ RULES FOR AMENDMENT

10

CONDITIONS FOR ACCESSION

Contracting Parties must accept

- a) Body of the Convention
- b) General Annex

Acceptance of Specific Annexes and/or Chapters therein optional and at Contracting Parties' discretion

11

RESERVATIONS TO PROVISIONS IN THE REVISED CONVENTION

- ❖ No reservations permitted to Standards
- ❖ Reservations permitted to Recommended Practices in the Specific Annexes
- ❖ Contracting Parties to review the reservations every 3 years
- ❖ Inform the depositary if reservations are to be continued

12

GENERAL ANNEX

- ❖ Core provisions and definitions of general application to all Customs procedures
- ❖ Core provisions of General Application specified in 10 Chapters
- ❖ Core provisions not repeated in the Specific Annexes

13

PROVISIONS IN THE GENERAL ANNEX

- ❖ General Annex to contain only Standards some of which are Transitional Standards
- ❖ Rule on no reservations to Standards applies to both types
- ❖ Implementation period provided for all Contracting Parties to both types of provisions
- ❖ Transitional Standards have longer implementation period (36 & 60 months)

14

SPECIFIC ANNEXES

- ❖ Cover different aspects of Customs procedures
- ❖ Contain Chapters which deal with specific procedures
- ❖ Acceptance of one or more of the Specific Annexes/Chapter(s) optional
- ❖ Contain Standards and Recommended Practices
- ❖ Rule on no reservations to Standards applies

15

SPECIFIC ANNEXES RESERVATIONS

- ❖ Reservations to Recommended Practices to be notified to WCO
- ❖ Obligation to review reservations

16

GUIDELINES

- ❖ All Annexes and Chapters to be accompanied by implementation Guidelines
- ❖ Guidelines to contain detailed information on implementation of
 - Provisions in the Annexes
 - Simplified procedures
 - Best practices & methods of application
- ❖ Guidelines not a part of the legal text
- ❖ Guidelines to be reviewed and updated to reflect current practices

17

RKC Benefits

18

WCO Research Paper

Benefits of the Revised Kyoto Convention

1. Introduction

The Revised Kyoto Convention (RKC)¹ is an international agreement that provides a set of comprehensive Customs procedures to facilitate legitimate international trade while effecting Customs controls including the protection of Customs revenue and society. It deals with key principles of simplified and harmonized Customs procedures, such as predictability, transparency, due process, maximum use of information technology, and modern Customs techniques (e.g. risk management, pre-arrival information, and post-clearance audit). The RKC was adopted in 1999 and entered into force in February 2006. As of February 2010, the RKC had a total of 66 Contracting Parties, and the WCO estimates that the RKC Contracting Parties cover at least 70 percent of the value of globally traded goods².

The WCO has encouraged its Members to accede to the RKC, believing that more benefits would accrue as a result of early RKC implementation by more economies in a coordinated way (Swedish National Board of Trade, 2008). Therefore, it has been widely recognized that a paper should be developed on the benefits of the RKC as a means of facilitating the national accession processes of non-Contracting Parties.

The arguments on RKC benefits are referred to in many documents produced by the WCO and other organizations, including the WCO leaflet (WCO, 2002), the APEC Guidebook to the RKC (APEC, 2003), and a booklet on the RKC by Jordan Customs (Younis, 2006). In addition, the benefits of the simplified and harmonized Customs procedures embodied by the RKC have been well documented in the context of trade facilitation, in particular in the ongoing WTO negotiations on trade facilitation (Swedish National Board of Trade, 2009; OECD, 2005). Furthermore, many Customs reform and modernization programs have been designed to introduce modern Customs procedures in accordance with the RKC (IMF, 2003; World Bank, 2005). It has also been recognized on many occasions that there are considerable benefits to be derived from RKC accession as well as implementation.

Considering that background, this paper aims to summarize the benefits of both acceding to and implementing the RKC, based on existing literature and evidence. Following this first section, the second section summarizes the benefits related to RKC accession, while the third section focuses on the benefits related to RKC implementation. The fourth section provides the conclusion of this paper.

¹ The revised Kyoto Convention (RKC) is formally named "The International Convention on the Simplification and Harmonization of Customs Procedures (as amended)". The original Kyoto Convention was adopted in 1973 at the WCO Council Sessions in Kyoto, Japan, and entered into force in 1974. The Protocol of Amendment to the 1973 Convention was adopted at the WCO Council Sessions in 1999, and entered into force in February 2006. Further information is available at www.wcoomd.org/home_wco_topics_ftovreviewboxes_tools_and_instruments_ptrevisedkyotocconv.htm

² In terms of 2007 trade statistics excluding intra-EU trade, as estimated by the WCO Secretariat based on WTO Trade Profile (WTO, 2009a) and International Trade Statistics (WTO, 2009b)

❖ Issued in 2010

❖ Comprehensive explanation of RKC Benefits

❖ WCO Public-site

❖ http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/~/_/media/WCO/Public/Global/PDF/Topics/Facilitation/Instruments%20and%20Tools/Conventions/Kyoto%20Convention/BenefitsRKC.ashx

19

Benefits of RKC

Accession & Implementation

20

RKC Accession

- ❖ **Certification of international standards**
- ❖ **Participation to future standard setting**
- ❖ **Preparedness for trade negotiation**
- ❖ **Advantage in CB activities**

21

RKC Implementation

- ❖ **Faster release and lower trade costs**
- ❖ **Increased revenue**
- ❖ **More FDI and economic competitiveness**
- ❖ **Enhanced security**
- ❖ **Establishment of sound base for other international instruments**

22

RKC : Rights and Obligations

23

General Principles

- CP give a general undertaking to apply
 - Standard
 - Transitional Standard
 - Recommended Practice
- ➡ CP remain entirely free to grant greater facilities
- CP have the right to apply all prohibitions and restrictions deriving from their national legislation e.g.
 - public morality or order, public security, public health,
 - protection of patents, trademarks and copyrights
 - those imposed on economic or any other grounds

24

(Article 2 & 3)

Acceptance of Provisions

- General Annex - Obligatory to accept all provisions
- Specific Annex – Free to accept only a limited number of SAs or Chapters therein.
- CP accepting SAs or Chapter(s) therein shall be bound by all the Standards and Recommended Practices **unless** it enters reservation against RP
- CP may withdraw reservation, in whole or in part, at any time.

(Article 12)

25

Implementation of provisions

- Standards: **36** months (GA & SAs)
- Transitional Standards: **60** months (GA)
- Recommended Practices (SAs): **36** months unless reservation entered
- When period mentioned in above is insufficient for CP to implement provisions of GA, CP may request management Committee to extend that period.
- Management Committee may grant such extension (no more than one year)

(Article 13)

26

Management of Convention

- CPs shall be members of the **Management Committee** and have the right to vote

- **Management Committee**
 - shall recommend amendments to Body, GA, SA or incorporation of new chapters to the GA and new SAs
 - may decide to amend Recommended Practices or to incorporate new RPs to the SAs
 - shall consider implementation of provisions of RKC
 - shall review and update the Guidelines
 - shall consider any other issue of relevance to the RKC

27

(Article 6)

Amendments to the Convention

- Article 15 provides for amendment procedures to the Body, GA and SAs as well as incorporation of new Chapters in the GA.

- New SA and New Chapters in SAs are recommended under Article 6 and enter into force under Article 18.

- Article 16 provides for simplified procedures that Management Committee is empowered to decide amendments to Recommended Practices and the incorporation of new RPs.

28

List of Notifications

- Acceptance of SAs or Chapters (Article 8 para 3&4)
 - Denunciation of the Convention (Article 17 para 2)
 - Withdrawal of acceptance of the GA (Article 17 para 5)
 - Withdrawal of acceptance of SAs or Chapters (Article 17 para 4)
 - Reservation on Recommended Practices (Article 12 para 2, Article 16 para 2)
 - Withdrawal of reservation on RPs (Article 12 para 2)
 - Differences between national legislation and RPs (Article 12 para 2)
 - Results of the examination of the possibility of withdrawing any reservation to RPs (Article 12 para 3)
- etc

29

RKC Accession

30

Legal Requirement

- Member of WCO/UN/Others
- Deposit an instrument of accession
- Specify SA you accept
- Signify your intention to be bound by GA
- Declare the territories the accession applies
- Notify any reservation if this is the case

31

Two different processes

Domestic readiness

Improvements in legislation, organization, and operations in order to meet the obligations in the convention

Foreign affairs work

International act of consent to be bound by the Convention by particular action, notably, ratification, acceptance, approval or accession and notification to/through the depository

32

4 Major Stages to accede to RKC (Typical case)

**Stage A : Commitment to Accede RKC
& Gap-Analysis**

**Stage B : Communication among Stake
holders**

Stage C : Legal (Parliament) Works

Stage D : Official Diplomatic Works

33

Stage A : Commitment to Accede RKC & Gap Analysis

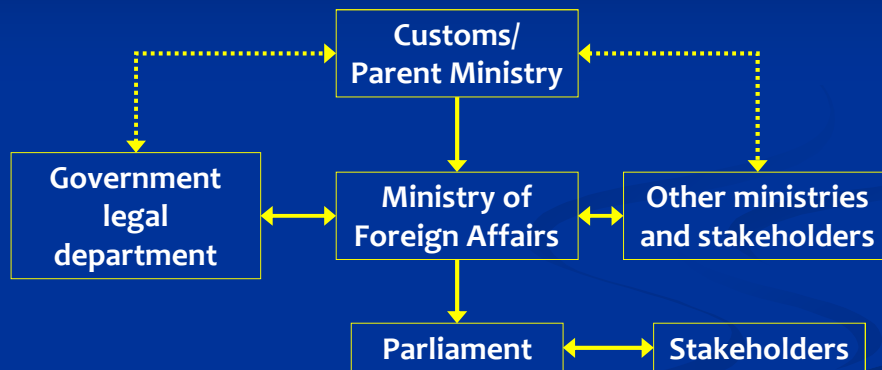
Appendix 2 to
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COMPARISON OF PROVISION OF THE GENERAL ANNEX VS-N-VIS NATIONAL LEGISLATION

No.	Text	Type of provision	Covered by national legislation		Follow-up Action, if required	priority	Possible implementation		
			Customs law	Other (e.g. Regulation, Gov. notice, Admin. circular etc)			Imposed later	3 years	5 years
CHAPTER 2 GENERAL PRINCIPLES									
1.1	The definitions "Standard" and "Transitional standards in the Annex shall apply to Customs procedures and practices specified in the Annex and, insofar as applicable, to procedures and practices in the Specific Annexes	Standard							
1.2	The conditions to be fulfilled and Customs formalities to be accomplished for procedures and practices in the Annex and in the Specific Annexes shall be specified in national legislation and shall be as simple as possible.	Standard							
1.3	The Customs shall initiate 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.	Standard							
CHAPTER 3 CLEARANCE AND OTHER CUSTOMS FORMALITIES									

4.

Stage B : Communication among Stakeholders



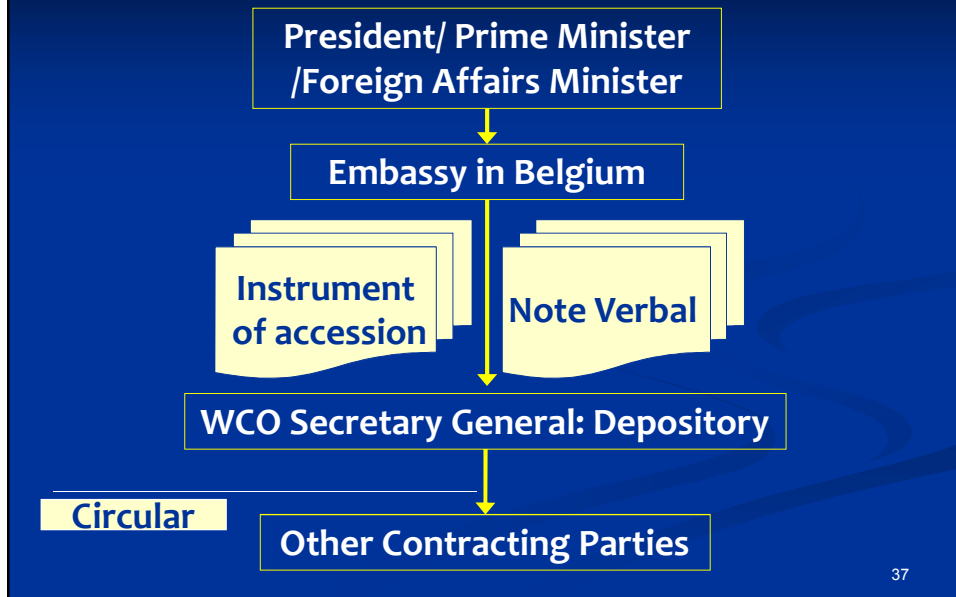
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Stage C : Legal works

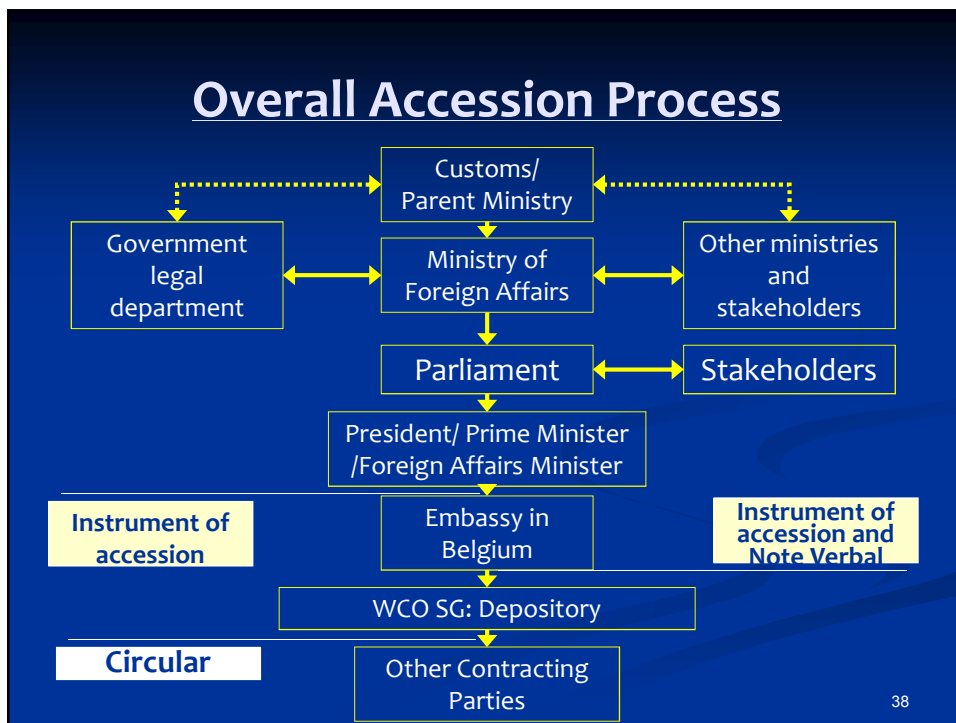
- Official Translation ?
- Formulation of reform package?
- Reform of the legislations, regulations, Customs instructions and/or organization?
- Implementation plan?

36

Stage D : Formal Diplomatic Works



Overall Accession Process



Thank you for your kind attention

**For more information, please visit
the WCO Web site: www.wcoomd.org**

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