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## Overview of legal arrangements for facilitation of international road transport in ESCAP region



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# Outline

- Key international conventions on transport facilitation and UNESCAP resolution 48/11
- Main subregional agreements on transport facilitation included in UNESCAP region
- Proposed strategies for building effective legal regime for international road transport
- UNESCAP Regional Network of Legal and Technical Experts on Transport Facilitation
- Study on subregional agreements under the Regional Network

International conventions:  
UNESCAP resolution 48/11, adopted in 1992

Recommendation to consider accession to the following  
international conventions facilitating road transport:

- The Convention on Road Traffic, 1968
- The Convention on Road Signs and Signals, 1968
- The Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention), 1975
- The Customs Convention on the Temporary Importation of Commercial Road Vehicles, 1956
- The Customs Convention on Containers, 1972
- The International Convention on the Harmonization of Frontier Controls of Goods, 1982
- The Convention on the Contract for the International Carriage of Goods by Road (CMR), 1956

## Status of accession to international conventions mentioned in UNESCAP resolution 48/11 by CAREC countries

Name of the convention	Number of countries of the region acceded as of 25 February 2015
The Convention on Road Traffic, 1968	8
The Convention on Road Signs and Signals, 1968	8
The Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention), 1975	8
The Customs Convention on the Temporary Importation of Commercial Road Vehicles, 1956	4
The Customs Convention on Containers, 1972	5
The International Convention on the Harmonization of Frontier Controls of Goods, 1982	6
The Convention on the Contract for the International Carriage of Goods by Road (CMR), 1956	7

# Main problems in accession to international conventions and of their implementation

- **Problems in accession:**
  - Concerns relating to cost of adjustment to meet the requirements of the conventions;
  - Perceived difficulties in implementation;
  - Lack of involvement in elaboration and amendment of convention;
  - Perceived costs of participation in UNECE meetings.
- **Problems in implementation:**
  - Lack of territorial continuity of some of the Conventions;
  - Accession to different versions of the same Convention;
  - Lack of harmonization due to non-accession to Protocols.

# Subregional Agreements on Transport Facilitation

- Asia and the Pacific region is wide and diverse, includes subregions with different geographic, economical historical and ethno-cultural background
- A number of frameworks of subregional bodies, entities, initiatives serving for subregional cooperation and integration if their member States
- Development of subregional cooperation includes improvement of transport connectivity within the subregions
- Subregional bodies create their own legal instruments to facilitate transport operations within the particular block
- Agreement is the most common form of a subregional legal instrument

Examples of Subregional Organizations/Initiatives  
and Subregional Agreements on Transport Facilitation  
in the ESCAP Region

# ASEAN



- Member countries:
- Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand, Viet Nam



# ASEAN Agreements on Transport Facilitation

- Selected ASEAN agreements on transport facilitation:
  - Agreement on the Recognition of Domestic Driving Licenses issued by ASEAN Countries, 1985;
  - Agreement on the Recognition of Commercial Vehicle Inspection Certificates for Goods Vehicles and Public Service Vehicles issued by ASEAN Member Countries, 1998;
  - Framework Agreement on the Facilitation of Goods in Transit, 1998;
  - Framework Agreement on Multimodal Transport, 2005; and
  - Framework Agreement on Facilitation of Inter-State Transport, 2009.

# CIS



- ESCAP Member countries also members to CIS:

Azerbaijan, Armenia,  
Kazakhstan, Kyrgyzstan,  
Russian Federation,  
Tajikistan, Turkmenistan  
and Uzbekistan

## Agreements of the Commonwealth of Independent States (CIS), related to Transport Facilitation

- CIS Agreements attempt to establish a common transport area and set up common standards for specific areas related international road transport
- Examples:
  - CIS Agreement on Mutual Cooperation in the Field of International Road Transport of Goods , 2003
  - CIS Agreement on Procedures of Transit through the Territories of the CIS Member States, 1999
  - CIS Agreement on Weights and Dimensions, 1999
  - CIS Agreement on International Weighing Certificate, 2004

# ECO



- Member countries :
- Afghanistan, Azerbaijan, Islamic Republic of Iran, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkey, Turkmenistan, Uzbekistan

## ECO Transit Transport Framework Agreement, 1998

- Aimed to facilitate transit transport and provide necessary facilities, ensure safety and avoid unnecessary delay, and avoid fraud/tax evasion and harmonize administrative affairs
- Composed of forty articles and eight annexes
- Covers transit transport by road, rail, inland waterway, multimodal and access by port
- Participating countries: Afghanistan, Azerbaijan, Islamic Republic of Iran, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkey (all – signed and ratified) and Turkmenistan (signed)

# GMS



- GMS Agreement for Facilitation of Cross-border Transport of Goods and People, 1999
- Contracting Parties: Cambodia, China, Lao PDR, Myanmar, Thailand and Viet Nam

# GMS Agreement for Facilitation of Cross-border Transport of Goods and People, 1999

- Composed of 44 articles, 17 annexes and 3 protocols
- Covers areas related to transport, immigration, customs and quarantine
- Originally signed by Lao PDR, Thailand and Viet Nam
- Later acceded by Cambodia, China and Myanmar
- Main agreement entered into force in 2003
- Annexes and protocols are partly in force

# SCO



- SCO Agreement on Facilitation of International Road Transport, 2014
- Contracting Parties : China, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan, Uzbekistan



# TRACECA

- **TRACECA Agreement, 1998**
  - **Contracting Parties:**  
Armenia, Azerbaijan,  
Bulgaria, Georgia,  
Islamic Republic of Iran  
Kazakhstan, Kyrgyzstan,  
Moldova, Romania,  
Tajikistan, Turkey,  
Ukraine, Uzbekistan



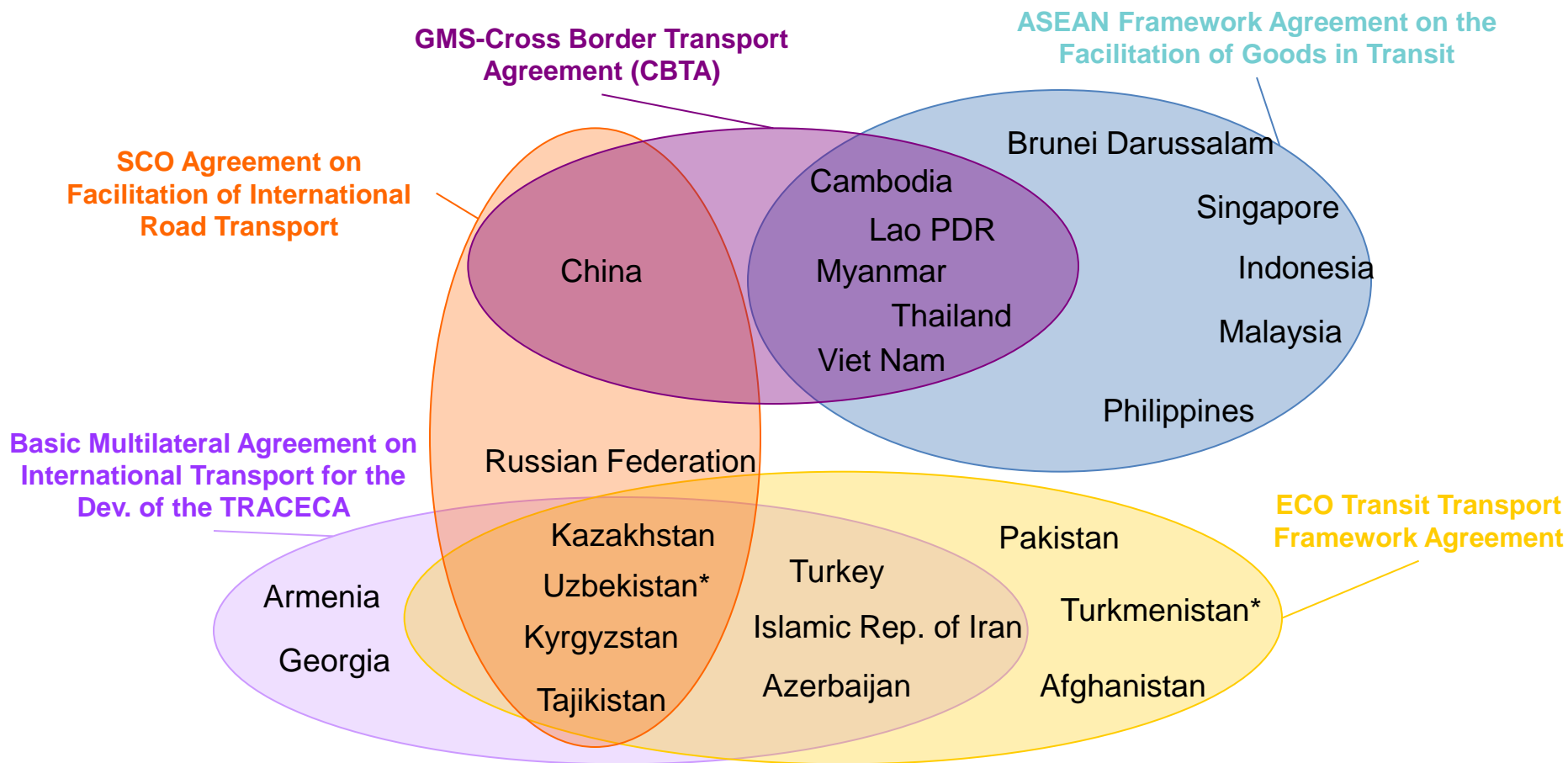
## Basic Multilateral Agreement on International Transport for the Development of the Europe-Caucasus-Asia Corridor (TRACECA), 1998

- Signed in 1998 and entered into force in 2000
- Consists of 16 articles and 4 technical annexes to the agreement
- Participating countries: Azerbaijan, Armenia, Bulgaria, Georgia, Iran (the Islamic Republic of), Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkey, Ukraine and Uzbekistan

## Main factors hindering the efficiency of subregional agreements

- Long time for negotiation and formalities needed for entry into force
- Difficulties in implementation, including need to adjust national legislation
- Overlapping in geographical zone and possible legal conflicts

# Examples of overlapping contracting parties in subregional agreements



# Proposed strategies for building effective legal regime under the Regional Strategic Framework for Facilitation of International Road Transport

- One of the modalities under RSF is building effective legal regime through:
  - Establishment of a regional network of legal experts on transport facilitation
  - Accession to selected international facilitation conventions
  - Subregional agreements
  - Bilateral agreements

# UNESCAP Regional Network of Legal and Technical Experts on Transport Facilitation

## Objectives:

- Exchange information
- Coordinate with each other
- Pinpoint areas of legal conflict between different subregional agreements and their implications
- Suggest solutions to legal conflicts where a country is party to two or more agreements
- Suggest ways to connect countries located in different subregions that are party to different agreements
- Share experiences
- Promote international facilitation conventions and the formulation and implementation of subregional facilitation agreements;
- Assist in the development and improvement of bilateral agreements on international road transport

Comparative Studies on Subregional Agreements on Transport  
Facilitation in the ESCAP Region conducted  
under the Regional Network

# Purpose of the Studies

- Compare the provisions of selected subregional agreements on transport facilitation
- Identify commonalities and differences between the provisions of major subregional agreements, primarily in geographically overlapping countries
- Propose ways to harmonize the provisions of different subregional agreements, especially in geographically overlapping countries
- Propose a common framework for subregional agreements on transport facilitation



# Methodology of the studies

- Main focus of the studies: international road transport of goods
- Conduct study under the Regional Network of Legal and Technical Experts on Transport Facilitation
- Rely on expertise of the Regional Network members
- Allocate national experts from the countries, which are the contracting parties to subregional agreements to prepare different modules of the study
- Secretariat to summarize the findings of the studies, conclusions and recommendations made by national experts and to make final conclusions and recommendations

## Comparative studies conducted by Regional Network members:

- ASEAN AFAFGIT and AFAFIST vs GMS CBTA (overall provisions, provisions on transport)
- ASEAN AFAFGIT and AFAFIST vs GMS CBTA (other facilitation provisions)
- ASEAN AFAMT vs GMS CBTA (provisions on multimodal transport)
- ECO TTFA vs TRACECA
- ECO TTFA vs selected CIS and EURASEC

# Summary comparative table of subregional agreements

Issue	Subregional agreements under the scope of the study						“Weight”
	GMS CBTA	ASEAN agreements	ECO TTFA	TRACECA	SCO	CIS AMCTG (or others as specified)	
Harmonization of traffic rules and regulations, signs and signals	Art 15, 26, Annex 7 GMS CBTA	Article 8 AFAFGIT; Art.8 AFAFIST	Art.14 (ref. to conventions)	Art.7 Basic Agreement			4
Technical requirements (weights and dimensions, axle load, emission standards, etc)	Art 13 GMS CBTA	Art.11 and Protocol 4 AFAFGIT	Art.18 and Annex IV	Art.4 TART(weights and dimensions)	Art 6	CIS Agreement on Weights and Dimensions, 1999	6
Mutual recognition of weighing certificates						CIS Agreement on International Weighing Certificate, 2004	1
Mutual recognition of technical inspection certificates	Art 14 GMS CBTA	Art.12 AFAFGIT, Art.12 AFAFIST	Art. 21	Art.6 TART			4
Motor Vehicle third-party insurance	Art 16 GMS CBTA (ref. to national legislation)	Art.14 and Protocol 5 AFAFGIT, Art.14 AFAFIST+ Protocol 5 AFAFGIT	Art 22 and Annex V		Art.9		4
Mutual recognition of driving licenses	Art 17 GMS CBTA (ref to ASEAN - harmonized)	Art.13 AFAFGIT; Art.13 AFAFIST	Art.20	Art.6 TART	Art.10	Art.10	6
Conditions for transport (carrier liability, etc)	Art 24 and Annex 10 GMS CBTA	AFAMT – for multimodal transport	Art.27 and Annex VI			CIS Convention on International Carriage of Passengers and Luggage, 1997 (passenger operations)	3

## Main conclusions

- SRAs are different in structure and in nature:
  - Comprehensive agreements
  - Agreements covering particular issues
- SRAs contain many similar provisions related to road transport facilitation
- In some cases, their provisions are harmonized and contain no legal conflict
- In some cases, the provisions of SRAs are of declarative nature which impose no concrete obligations
- Difficulties in implementation remains the key issue for SRAs efficiency

# Recommendations for planning subregional agreements

## 1. Assessment of:

- possibility of negotiating SRAs in reasonable time when planning new SRAs
- possibility of subsequent practical implementation of the concluded SRAs
- realistic tasks which can be solved through SRAs which are planned or being negotiated

2. Potential contracting parties should also identify legal issues which can be efficiently settled through bilateral agreements

3. Potential contracting parties can utilize “modular approach” for designing SRAs

4. “Step-by-step” approach to implementation mechanisms

5. The proposed model subregional agreement can be used as the guideline for gradual harmonization towards a regional transport facilitation agreement or as a template to follow while negotiating subregional agreements

# Proposed Model Subregional Agreement on Transport Facilitation

# Proposed model subregional agreement on Transport Facilitation

## Structural elements

- Preamble
- Definitions and abbreviations
- Objectives and purposes, general provisions
- Scope: road transport
- Specific provisions
- Final provisions
- Annexes and protocols

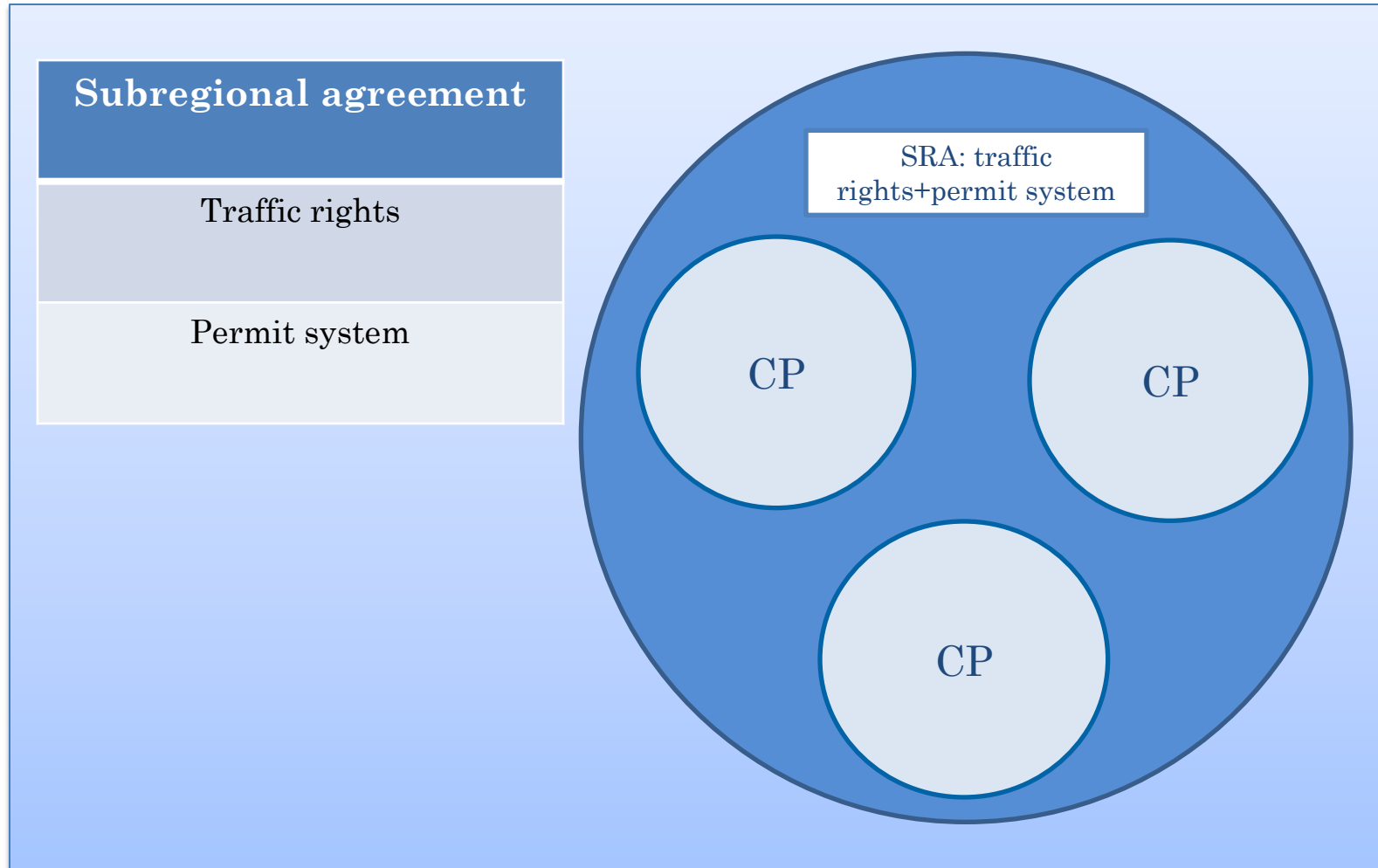
# Proposed model subregional agreement on Transport Facilitation: specific issues

## I. Transport issues

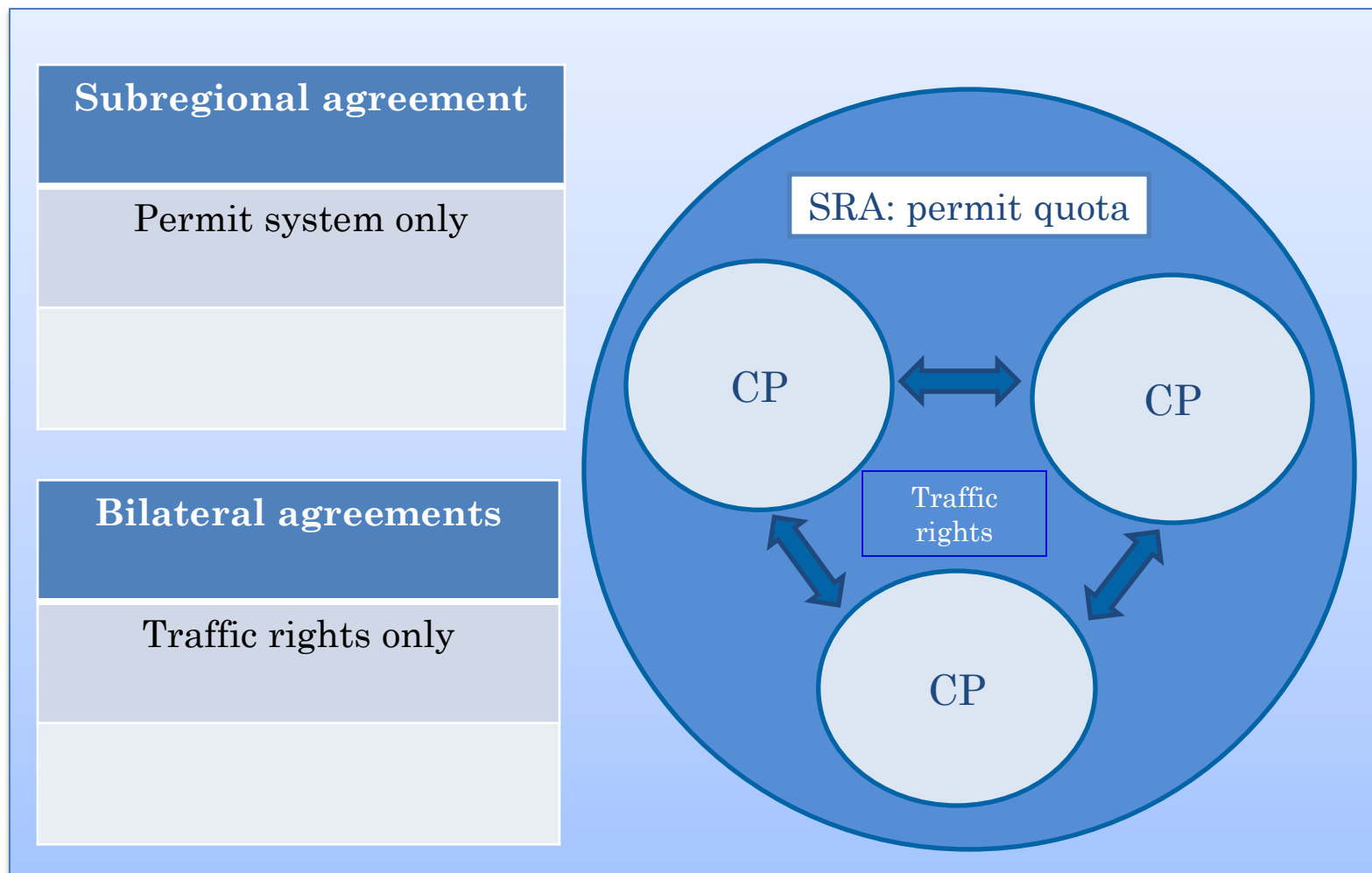
- Road transport permits
  - Traffic rights
  - Designation of routes and border crossings
- ✓ Considering options



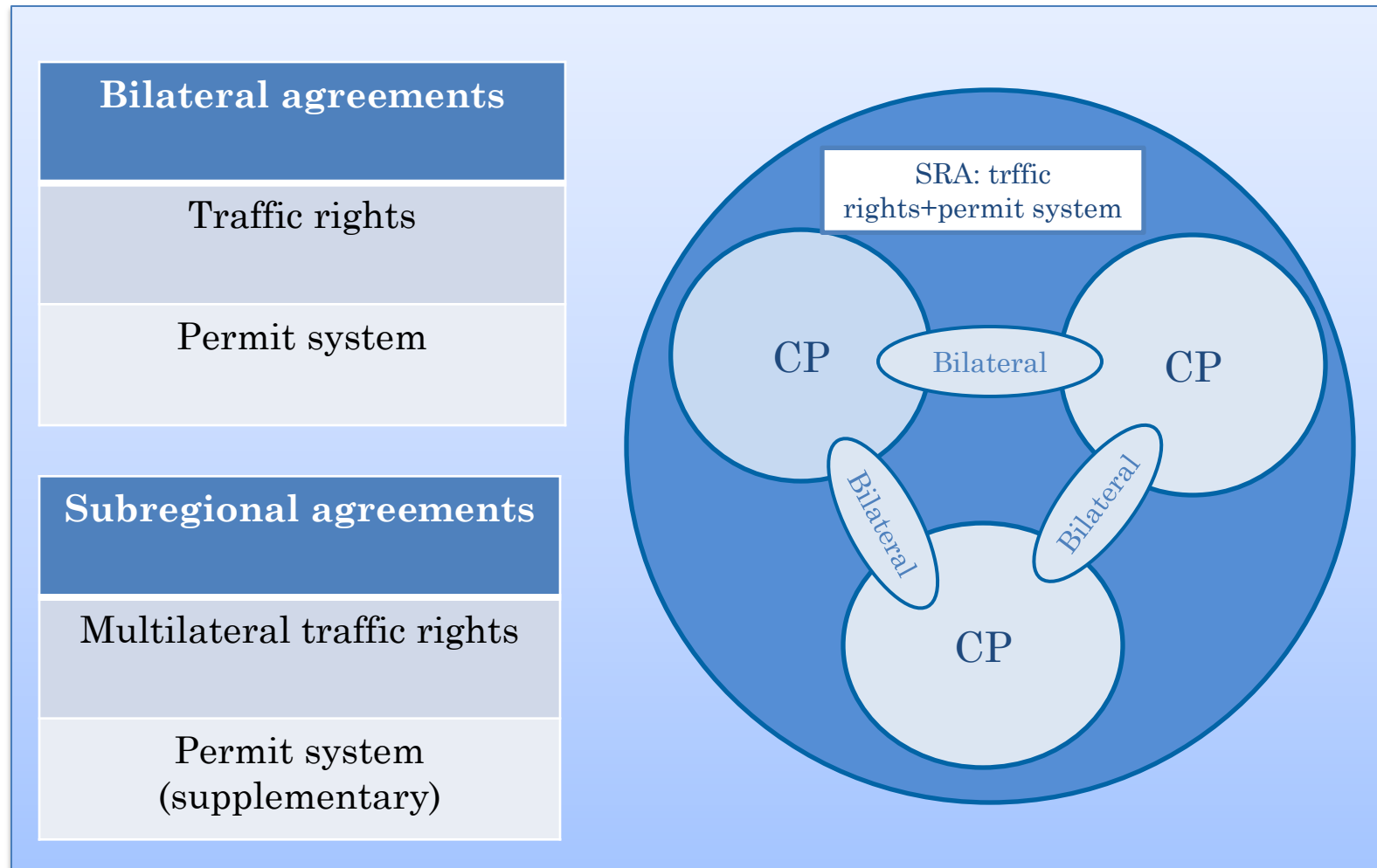
# Road transport permits and traffic rights: subregional agreements only



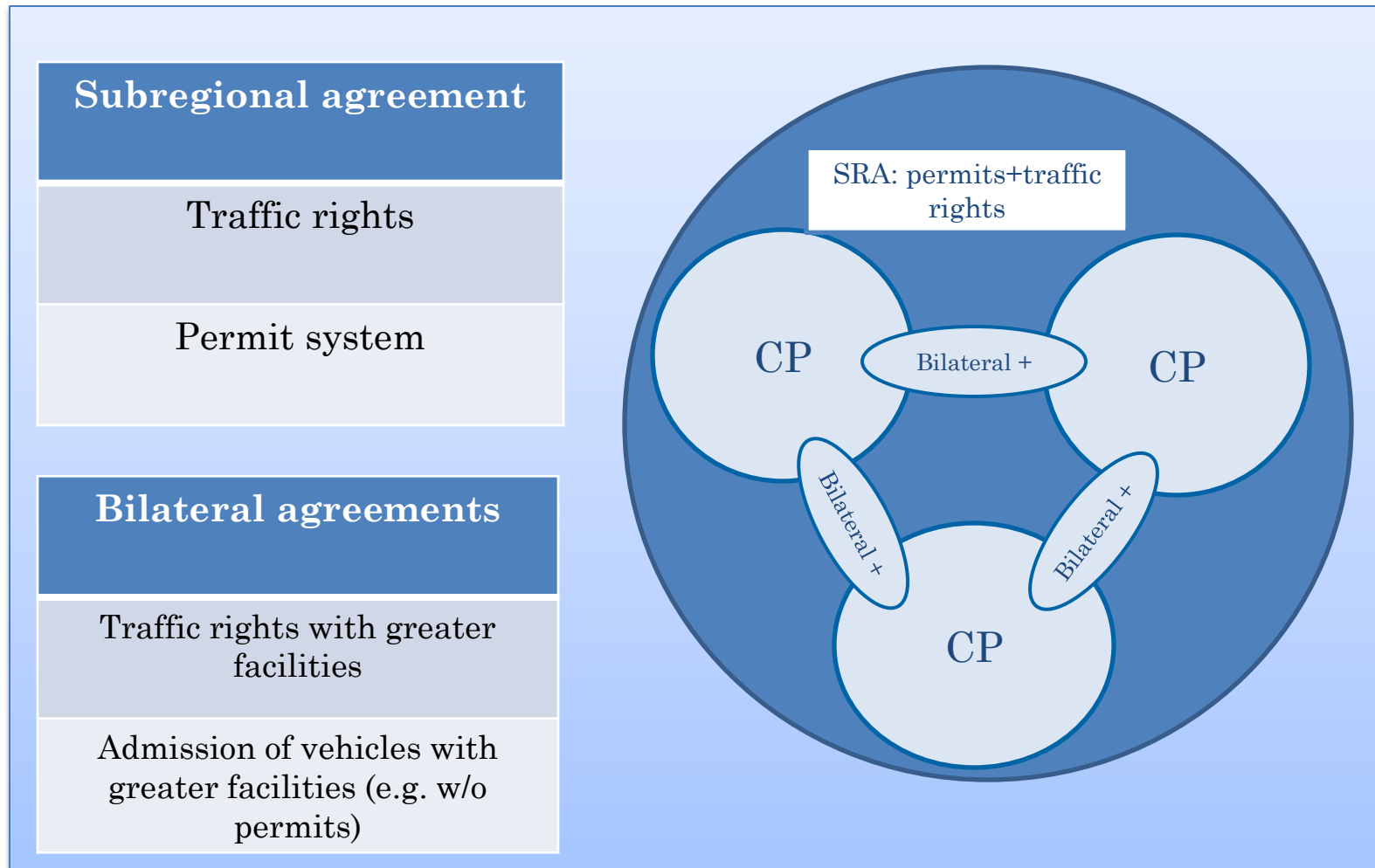
# Subregional permits and bilateral traffic rights



# Bilateral agreements+ supplementary use of subregional agreement (status quo)



# Subregional system + provision of greater facilities at bilateral level (recommended option)



# Proposed model subregional agreement on Transport Facilitation: specific issues

## I. Transport issues (continued):

- Mutual recognition of driving licenses
- Harmonization of requirements for road vehicle documents (registration certificate, technical inspection certificate)
- Harmonization of requirements for weights and dimensions
- Vehicle third-party insurance system
- Carrier licensing (common minimum criteria)
- Provisions for passenger transport
- Provisions for specific categories of goods

# Proposed model subregional agreement on Transport Facilitation: specific issues

## II. Fiscal and Customs issues:

- Charges and other financial obligations
- Temporary importation of vehicles  
(customs duty exemption)
- Harmonization and simplification of  
Customs procedures and formalities
- Customs cooperation

# Proposed model subregional agreement on Transport Facilitation: specific issues

## III. Other facilitation issues:

- Administrative assistance (exchange of information by control authorities, mutual assistance)
- Miscellaneous (establishment of offices, etc)

# Proposed model subregional agreement on Transport Facilitation: specific issues

## IV. Relationship with national legislation:

- Non-discriminatory enforcement of national legislation
- Compliance with national legislation
- Transparency and availability of national legislation
- National provisions for transit fee exemption



# Proposed model subregional agreement on Transport Facilitation

## V. Relationship with other international treaties:

- Harmonization Based on International Legal Instruments
- Reference to other international treaties of the contracting parties
- Provision of greater facilities

# Proposed model subregional agreement on Transport Facilitation

VI. Institutional arrangements, implementation and monitoring mechanisms:

- Inter-Governmental structures
- National structures for implementation and monitoring
- Designation of competent authorities
- Secretariat support
- Dispute settlement arrangements

# Proposed model subregional agreement on Transport Facilitation

## VII. Final provisions:

- Entry into force
- Term of agreement
- Domestic procedures
- Procedure for amendment
- Possibility of accession by other countries (not only from one SRO)
- Procedure for accession by non-signatories
- Suspension
- Denunciation
- Languages and their authenticity

## Issues recommended to be settled by separate subregional agreements

- Facilitation of visas and immigration controls for professional drivers
- Harmonization and simplification of documentation and procedures
- Customs transit procedure
- Facilitation of border-crossing formalities and inspections
- Private law (carrier liability and contractual relationship)

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*Thank you*

[www.unescap.org/our-work/transport](http://www.unescap.org/our-work/transport)

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