

Regional Customs Cooperation for the East and Central Asian Region

Issues Paper¹

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I. BACKGROUND

1. The Customs Cooperation Committee (CCC) in its First Meeting in Urumqi PRC on 20-21 August endorsed a Common Action Plan (CAP) and institutional arrangements for its implementation. Two Working Groups were constituted to develop and execute work programs for specific components of the CAP. A Task Force on the implementation of pilot programs for development of border posts was suggested.

2. The objective of the Working Group Meeting to be held on 21-25 April 2003 in Almaty is to develop and agree on detailed work programs and implementation schedules for the CAP among the eight participating DMCs.

II. ISSUES

A Harmonization and Simplification of Customs Documentation and Procedures

3. The procedures for customs clearance, border crossing operations, and transit within the region are complicated, and have yet to conform to international standards and best practices such as those prescribed by the Revised Kyoto Convention, which represents the way towards modern customs procedures that meet the current demands of international trade.

4. The main reason for the lack of harmonization of customs procedures and is continued reliance on traditional systems that were instituted for an economic and trading environment that no longer exists.

5. However, the DMCs use declaration forms that are variants of the Single Administrative Document (introduced in 1988 by the European Community to be used for all import, export and transit procedures), are generally in UN format, and are similar though not identical. Only minor changes in documentation are thus required rather than major introduction of new ones. The concerns relate to support documents that are not in UN format, the standardization of which is the responsibility of other agencies. A single standard format with identical forms and layouts will have the advantage of replication at each border, and utility as a transit document. An agreement to mutually accept declarations would further reduce border delays by eliminating the transposition process and avoiding revaluations.

6. The lack of simple harmonized procedures results in a cumbersome process that inhibits trade flows between the countries. Regulations are complex, requirements not clear, and information not available. The objective of regional customs cooperation in this area is thus to streamline procedures among the eight DMCs by simplifying and harmonizing them. In addition, to facilitate trade, requirements must also be effectively communicated in order to raise compliance levels. This stems from a reexamination of the role of modern Customs administrations as one of achieving compliance, leading to programs of "informed" compliance in which they assist traders to follow rules by informing them of those rules and regulations.

7. The degree of harmonization depends on individual countries' efforts to revise their customs laws and procedures according to the WTO Agreements and the Revised Kyoto Convention. Concerted customs policy reforms among the DMCs will accelerate the process of harmonization and simplification as in the case of Kyrgyz Republic and Tajikistan. Regional cooperation can also help accelerate the reform process through joint training and sharing of country experiences to (i) deepen their understanding of international best practices and (ii)

learn from each others' reform experiences. Given the similarity in procedures, proposals for change to achieve compliance with international standards must be addressed regionally rather than on a national basis.

8. The work program in this area will mainly consist of joint training seminars aimed at (i) sharing country experiences and pushing for customs reforms by making detailed comparisons of individual countries' customs laws and procedures vis-à-vis the recommendations contained in the Revised Kyoto Convention and identifying any additional legal changes that may be required; and (ii) raising awareness about modern customs concepts such as risk management, audit-based control, and other ICT-supported systems. [The concepts of performance standards, final clearance issues may be addressed later.]

9. The focus of the discussion at the Working Group Meeting may include:

- stock-taking of existing multilateral initiatives and how they match national initiatives;
- identification of areas of synergy and optimum value added through a regional effort;
- issues and regulatory impediments to compliance with WTO Agreements and the Revised Kyoto Convention;
- means leading to increased customs integrity, particularly transparency.

B. Development of Simplified Transit System

10. Among the customs procedures in the region, transit is crucial because of the landlocked nature of most DMCs. Although certain transport documents, convoys, and temporary bonds are used to avoid the diversion of transit goods to the local market, there are no systematic transit arrangements. A regional transit system is therefore important for most of these economies. The DMCs need to introduce one and develop a detailed work program to overcome various obstacles to establishing such a system.

11. There are different transit systems being used in various parts of the world, each with its own guarantee mechanism and IT infrastructure for effective operation.² The earliest and most universal one, the TIR Customs transit system, is built on the basic philosophy of having a succession of national Customs transit operations linked by a standard set or file of data (TIR Carnet) and an international guarantee chain. The DMCs except for PRC are contracting parties to the TIR Convention and some have already established affiliated national associations that have issued TIR Carnets.

12. To facilitate the flow of transit goods and eventually introduce a regional transit system, the DMCs must work together to overcome the following constraints: (i) lack of a guarantee or insurance mechanism for transit goods, (ii) lack of mutual recognition of customs control procedures (including customs seals and stamps), (iii) lack of adequate IT infrastructure for a transit system.

13. The Working Group meeting may discuss the following issues in an effort to examine individual DMC's regulatory and infrastructure constraints to the adoption of transit arrangements, and identify joint efforts accordingly:

² See Appendix 1 for a summary of the existing transit systems.

- simplification, standardization, and mutual recognition of customs control procedures/documentation for transit (including customs seals and stamps);
- consultation with banks and insurance companies (or international agencies providing such services) to determine the feasibility of establishing mutually recognized guarantee services (identified by the TRACECA as a major constraint in the region).
- use of the transit under bond system (TIR Carnet) and removal of arbitrary transit fees and convoy charges;
- examining the experiences with other transit systems;
- infrastructure constraints (both transport as well as customs) at key border crossing points;
- basic IT support such as modalities/protocols for communication and exchange of information between border-control agencies;
- joint effort to meet the requirements for adopting the Common Transit Procedural System (such as transit visa, unified transit fees and tariffs, and non-discriminatory licensing system)
- sharing of lessons learned from the TIR transit operations already established with Kazakhstan, Kyrgyz Republic, and Uzbekistan and Tajikistan;
- upgrading transport systems to multi-modal means; and
- opening the market to international freight forwarding companies.

C. Development of Border Posts and Facilities

14. The primary constraint to the realization of benefits from recent investments in primary border crossings are border control zone procedures. Transiting a border involves going through different organizations, submitting numerous documents, paying, obtaining stamps, then repeating the process on the other side – contributing to long waiting time, heavy workload, large number and complexity of transactions. Such procedures are founded on the old centralized-control Customs model rather than a trade-facilitating one.

15. The secondary constraints are poor design of border facilities, and uncoordinated activities of border agencies. There is a need for border agencies to work together rather than in isolation, and the possibility of one-stop processing through a single-window facility must be considered. The single window facility provides one entrance for the submission and handling of all data and documents related to the release and clearance of a transaction. Because of its pivotal enforcement role at borders, Customs is best suited as the entrance point, although cooperation and coordination between border agencies would be the essential ingredient.

16. Joint processing is the ultimate in the one-stop concept, whereby all processing is undertaken by both countries at a single location. This can be done in either of 3 ways – country of entry processing, juxtaposed facilities, or a single common site. Development of joint border processing requires a high degree of harmonization of customs documentation and procedures (aligned with international standards) and mutual recognition of customs procedures and agreement to allow the performance of functions in each other's country. These require legal force through adequate national legislation and regional agreement on joint controls. This combination of requirements make this activity one of the most challenging ones among the six areas for regional customs cooperation, since it is a most direct embodiment of regional cooperation. Efforts towards joint border processing can also be an instrument for accelerating

harmonization of customs documentation and procedures on a wider scale, as has happened in many parts of the world.

17. The Working Group Meeting gives an opportunity to examine the legislative requirements for introducing joint border procedures, and agree on the border sites where joint border processing can be pilot tested. The work program may include an assessment of various joint border processing modalities in order to propose recommendations for pilot testing taking into account the participating countries' legal framework. The assessment will build on TRACECA's feasibility studies on joint border processing. Issues to be discussed during the Meeting may include:

- agreement on the conceptual model and jurisdiction
- selection of particular border posts for pilot testing (possibly on one border post between Kazakhstan-PRC and one between Kazakhstan-Kyrgyz Republic) and assessing the infrastructure needs and design parameters,
- development of procedures (e.g., inland clearance, advance exchange of information, convoy systems, international zones, traffic prioritization), protocols, and legislative requirements;
- agreement on a coordination mechanism among the DMC customs authorities participating in the joint border processing initiative for the management, operation, and maintenance of facilities;
- feasibility of integrating procedures of all border agencies;
- development of performance criteria.

D. ICT for Customs Modernization

18. Adequate IT infrastructure not only facilitates trade through automation, but also fundamentally changes the concept of customs service through various IT-enabled customs techniques such as risk management and real-time information sharing with relevant agencies within and across national borders. However, most of the DMCs under this initiative do not have adequate IT infrastructure to support the application of modern customs techniques or allow data sharing. Several DMCs are currently embarking on modernization efforts by undertaking needs assessment and developing an open and cost-effective customs modernization plan according to their respective economic circumstances. Careful selection of IT architecture with an open network system is the most crucial step for the (i) introduction of a full declaration processing system, (ii) introduction of modern customs techniques such as risk management, (iii) sharing of information by supporting "electronic data interchange" (or a national data transfer system as recommended by the TRACECA), and (iv) establishment of a regional intelligence system for combating drug-trafficking, gun-smuggling and other illegal transactions.

19. **IT Development.** To help DMCs identify the most suitable and cost-effective option for customs modernization, the work program may include (i) determination of IT requirements, (ii) comparative study of available IT systems, (iii) dissemination of the study and sharing of country experiences through regional training seminars; (iv) upgrade of existing systems to include intelligence/risk assessment, direct trader input, and online bank transfer systems. The scope of the comparative study includes assessments of

- the range of modern customs services and techniques supported by each software package (e.g., ASYCUDA etc.), computerized clearance and operational capability, compatibility for data exchange, comparison with world standards;
- flexibility of each IT option in terms of supporting the migration, replacement, re-use, or relocation of existing facilities;
- technical support services available with each system;
- comparative costs and benefits of different systems, including potential costs to adapt to new customs practices in line with the WTO Agreements and the Revised Kyoto Convention;
- best options from a regional perspective (i.e., potential to establish a common IT platform and standards, and its support for single-window or one-stop solutions to expedite customs transactions; data sharing, and regional intelligence system);
- impact of customs modernization on various stakeholders particularly private enterprises, trading community, and customs service providers (customs brokers, freight forwarders, banking institutions, insurance companies, etc.) with a focus on capabilities for traders to file customs declarations directly either through direct trader input (DTI) or the web.

20. **Data sharing.** The work program may include (i) initiating bilateral or regional agreements for sharing of trade and customs data including the adoption of international standards for trade data compilation and joint recognition of customs declarations. The recent agreement between the Kazakhstan-PRC on customs data exchange could serve as an example for other DMCs, (ii) assessing the technical (protocols and mechanisms) and legal requirements, and consulting with the private sector to determine the scope of data sharing, introduction of common standards for trade and customs data compilation and establishment of data transfer protocols.

21. **Development of Risk Management and Post-entry Audit.** Introduction of these modern customs techniques requires not only adequate IT infrastructure but also strong partnership with the trade community, especially since a comprehensive database must be built. Customs administrations must make procedures transparent so that traders will be encouraged to practice informed compliance and self-regulation. Only through such a partnership can customs administrations rely on the IT-enabled risk management and post-entry audit systems with great confidence. Regional cooperation in data sharing can assist in meeting preconditions for risk management, such as the establishment of risk profiling to separate high-risk consignments/cargo shipments from low risk ones. The work program will assess current practices in risk management and readiness of individual countries in the following aspects:

- enabling IT infrastructure (both software and hardware), including development of computerized models to analyze consignments/cargo shipments for risk profiling with a feedback mechanism, and maintenance of a comprehensive database;
- adopting risk-based post-transit and post-entry compliance audits according to risk profile of the shipments;
- consultation with the private sector and trade community to strengthen self-compliance and self-regulation and constantly update risk profiles and improve the reliability of risk management;
- data sharing arrangements;
- establishment of risk management benchmarks according to international best practices so as to eventually harmonize risk management practices in the region (international best practices may include provisions and models recommended by WCO, WTO, and International Chamber of Commerce guidelines, agreements).

22. **Development of a Regional Intelligence System.** Illegal cross-border transactions such as drug trafficking and gun smuggling are recognized as a major regional issue. A regional intelligence system aimed at sharing of trade and intelligence information among the customs and law enforcement agencies across borders can help effectively combat illicit trade. The program may include

- an assessment of national intelligence systems as building blocs for a proposed regional intelligence system; with individual countries' efforts to analyze the nature and extent of illicit trade as essential to the establishment of a regional intelligence system;
- an assessment of the existing regional intelligence systems (including those under the administration of the WCO), including capacities, effectiveness, equipment, intelligence sources, and adaptability;
- agreement among the member countries that country-specific customs modernization efforts take into account the application of risk management, data sharing, and establishment a regional intelligence system
- evaluation of the potential to develop specialist units that can cooperate on a regional basis;
- examination of the data security concerns inhibiting data exchange;
- training of customs officers in tracking and tracing; and
- identifying possibilities for coordination with express delivery carriers.

E. Cross-cutting Issues

23. The Working Group meeting gives an opportunity to look for means to ensure political commitments, reach consensus to involve the private sector in regional customs cooperation, and establish consultation mechanisms to integrate customs cooperation with other regional cooperation efforts such as in transportation. Potential issues to be discussed are the following

- regional effort should also include a surveillance mechanism to ensure that policy commitments are carried out (surveillance of course can be done by external people)
- cross reference and integration with other sector efforts (such as transport and shipping) are also very important when talking about regional customs operations (most CARs use TIR although they may not operate many *carnet*-equipped trucks)
- there is also a need to have dialogues between customs and business community. Perhaps CCC should consider organizing private sector forums
- CCC should set up a clear and long-term vision for regional customs cooperation effort. Perhaps such a vision could be drafted for the second CCC meeting.

ATA System (WCO adopted the Customs Convention on the ATA Carnet for the Temporary Admission of Goods of 1961)

1. Permits free movement of goods across frontiers and their temporary admission into a Customs territory with relief from duties and taxes.
2. Goods are under cover of a single document known as the ATA Carnet that is secured by an international guarantee system.
3. The internationally valid security is established by national associations that are approved by Customs and are affiliated with an international guaranteeing chain administered by the International Bureau of Chambers of Commerce.
4. The seals affixed or the identification of the goods by a Customs office of a Contracting Party can be recognized by the Customs offices of other Contracting Parties through which the goods must pass.

Common transit (used for the movement of goods between 15 EC member states, based on the Common Transit Convention of 1987)

1. Temporarily suspends duties and taxes that are applicable to goods at import.

Community transit (based on the Community customs code, Community Customs law and applies to the following):

1. Movements of non-Community goods for which Customs duties and other charges at import are at stake - this is external Community transit.
2. Where Community goods are placed under common transit procedure and are subject to specific Community measures in relation to their export, then the Community external regime also applies to them.
3. Movements of Community goods which have to pass through the territory of a third country - this is the internal Community transit. By placing the goods under internal Community transit their Community status is demonstrated and duties and other charges are not required when they reenter the Community.

The common and Community transit systems have been reorganized to improve their interoperability. Guarantees are based on the risk involved in the actual transport and may be individual or comprehensive. Individual guarantee can be furnished by cash deposit, having a guarantor, or using a set of guarantee vouchers. A comprehensive guarantee covers a certain number of transit operations.

TIR (based on the Customs Convention on the International Transport of Goods under cover of TIR Carnets, 1975)

1. Goods must travel in Customs secure vehicles and containers.
2. Throughout the journey, duties and taxes at risk must be covered by an internationally valid guarantee.
3. Goods must be accompanied by an internationally accepted Customs document (TIR Carnet) opened in the country of departure and serving as a Customs control document in the countries of departure, transit and destination.
4. Customs control measures (e.g. seals affixed) taken in the country of departure should be accepted by all countries of transit and destination.
5. Access to the TIR procedure for national associations to issue TIR Carnets, and natural and legal persons to utilize TIR Carnets, shall be authorized by competent national authorities.

New Computerized Transit System

1. Serves as a tool to manage and control the transit system, based on the use of advanced computer systems and the electronic processing of data.
2. Used for both external and internal Community transit and common transit in situations where they are currently carried out using the Single Administrative Document.