



National Workshop on

The Revised Kyoto Convention

General Annex

Ashgabat, Turkmenistan, 27-31 March 2017

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Structure of the RKC

- ❖ The body obligatory for the accession
- ❖ One General Annex which is obligatory for accession
- ❖ 10 Chapters containing core Customs procedures and practices

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

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)**

Content of GA (Details)

- Chap 1 General Principles
- Chap 2 Definition
- Chap 3 Clearance & Customs Formalities
 - Competent Customs Offices
 - The Declarant
 - Persons entitled to act as a declarant
 - Responsibilities of the declarant
 - The Goods Declaration
 - Goods declaration format and contents
 - Documents supporting the Goods declaration
 - Lodgement, registration and checking of the declaration
 - Special procedures for authorized persons
 - Examination of Goods
 - Time required for examination of goods
 - Presence of the declarant of examination of goods
 - Sampling by the Customs
 - Errors
 - Release of Goods
- Chap 4 Duties & Taxes
 - Assessment, collection and payment of Duties & Taxes
 - Deferred payment of Duties and Taxes
 - Repayment of duties and taxes
- Chap 5 Security
- Chap 6 Customs Control
- Chap 7 Application of Information Technology
- Chap 8 Relationship between Customs & Third Parties
- Chap 9 Information, Decisions & Rulings supplied by Customs
 - Information of General application
 - Information of a specific nature
 - Decisions and Rulings
- Chap 10 Appeals in Customs Matters
 - Right of Appeal
 - Form and Ground of Appeal
 - Consideration of Appeal

Chapter 1: General Principles

■ S1.1

The definition, standards and transitional standards in GA shall apply to Customs procedures and practices specified in GA, and insofar as applicable, Customs procedures and practices in the SA.

■ S1.2

The conditions to be fulfilled and Customs formalities to be accomplished for Customs procedures and practices in GA and SA shall be specified in national legislation.

■ S1.3

The Customs shall institute and maintain formal consultative relationships with trade.



Chapter 2: Definitions

Appeal	Customs law	Goods declaration
Assessment of duties & taxes	Customs office	Import duties & taxes
Audit based control	Customs territory	Mutual Administrative Assistance
Checking the goods declaration	Decision	Omission
Clearance	Declarant	Person
Customs	Due date	Release of goods
Customs control	Duties & taxes	Repayment
Customs duties	Export duties & taxes	Security
Customs formalities	Examination of goods	Third party

Chapter 3: Clearance & Other Customs Formalities

- 1. Establishment of Customs Offices
- 2. Rights and responsibility of the declarant
- 3. The Goods Declaration (format/contents and supporting document)
- 4. Lodgement, registration and checking of the declaration
- 5. Amendment or withdrawal of the Goods declaration
- 6. Checking the Goods declaration
- 7. Special procedures for authorised persons
- 8. Examination and sampling of the Goods
- 9. Errors
- 10. Release of Goods
- 11. Abandonment or destruction of goods

Chapter 4: Duties & taxes

1. General (4.1)
2. Assessment of Duties & Taxes (4.2, 4.3, 4.4, 4.5)
3. Payment of Duties & Taxes (4.6, 4.7, 4.8, 4.9, 4.12)
4. Collection of Duties & Taxes (4.10, 4.11, 4.14)
5. Deferred payment (4.15, 4.16, 4.17)
6. Repayment (4.18, 4.19, 4.20, 4.21, 4.22, 4.23, 4.24)

Chapter 5: Security

1. Cases & Forms of Security (5.1)

- National legislation shall enumerate the cases in which security is required and specify the forms of security

2. Amount of Security (5.2)

- The Customs shall determine the amount of security

3. Choice of forms of Security (5.3)

- Any form of Security acceptable for Customs shall be allowed to provide

4. Waiver of Security (5.4)

- Customs shall not require security when they are satisfied that an obligation to the Customs will be fulfilled, where national legislation provides

Chapter 5: Security

5. General Security (5.5)

- The Customs shall accept a general security in particular, from declarants who regularly declare goods at different offices

6. Amount of Security at most (5.6)

- The amount of security shall be as low as possible and, in respect of the payment of duties, shall not exceed the amount potentially chargeable.


7. Discharge of Security (5.7)

- Security shall be discharged as soon as possible after the Customs are satisfied that the obligations under which the security have been duly fulfilled

Chapter 6: Customs Control

THE REVISED HVOTO CONVENTION

“Customs control shall be limited to that necessary to ensure compliance with the Customs law”
(6.2 of the General Annex)



“Les contrôles douaniers sont limités au minimum nécessaire pour assurer l'application de la législation douanière”
(6.2 de l'Annexe Générale)

LA CONVENTION DE HVOTO REVISEE

2. Risk Management (6.3, 6.4, 6.5)

1. Scope of Customs Control (6.1, 6.2)

THE REVISED HVOTO CONVENTION

“In the application of Customs control, the Customs shall use risk management”
(6.3 of the General Annex)




“Pour l'application des contrôles douaniers, la douane fait appel à la gestion des risques”
(6.3 de l'Annexe Générale)

LA CONVENTION DE HVOTO REVISEE

THE REVISED HVOTO CONVENTION

“Customs control systems shall include audit-based controls”
(6.6 of the General Annex)



“Les systèmes de contrôle de la douane incluent les contrôles par audit”
(6.6 de l'Annexe Générale)

LA CONVENTION DE HVOTO REVISEE

3. Audit Based Control (6.6)

4. C2C cooperation (6.7)

5. C2B cooperation (6.8)

6. Use of IT (6.9, 6.10)

Chapter 7: Application of Information Technology

1. In general (7.1)

- Customs shall apply IT to support Customs operations where it is cost-effective and efficient for the Customs and to the trade. Customs shall specify the conditions for its application

2. Internationally accepted standards (7.2)

- When introducing computer application, the Customs shall use relevant internationally accepted standards

3. Consultation with relevant party (7.3)

- The introduction of IT shall be carried out in consultation with all relevant parties directly affected, to the greatest extent possible

4. Provisions in New or revised national legislation (7.4)

- New or revised national legislation shall provide for:
 - (1) electronic commerce methods as a declaration, (2) authentication method and (3) the right of Customs to retain information for their own use and to exchange such information with other Customs and all other approved parties as appropriate



Chapter 8: Relationship between the Customs & Third Party

1. In general (8.1)

- Person concerned shall have the choice of transacting business with the Customs either directly or by designating a third party to act on their behalf
(Third party) Agent, Broker, carrier, delivery service.....
(Person concerned) importer/exporter, owner of the goods, consignor/consignee, seller/buyer.....

2. Conditions and Liability (8.2. 8.3)

- National legislation shall set out the conditions under which a person may act on behalf of another person in dealing with the Customs and shall lay down the liability of third parties to the Customs for duties and for any irregularities
- Customs transactions where the person concerned elects to do business on his own account shall not be treated less favourably or be subject to more stringent requirements than those Customs transactions which are handled for the person concerned by a third party

Chapter 8: Relationship between the Customs & Third Party

3. Third party right (8.4)

- Third party shall have the same rights as the person who designated him in Customs matters
(ex) access to Automated Customs system Customs information.....

4. Trade Consultation (8.5)

- Customs shall provide for third parties to participate in their formal consultations with the trade
(ex) proposed legal/procedural changes.....

5. Customs decision not to transact business (8.6, 8.7)

- Customs shall specify the circumstances under which they are not prepared to transact business with a third party
(ex) Customs offence, repeated infringement of Customs rules
- Customs shall give written notification to the third party of a decision no to transact business

Chapter 9: Information, Decision and Rulings supplied by Customs

1. Information of general application

- Availability of Information (9.1)

Customs shall ensure all relevant information of general application pertaining to Customs law is readily available to any interested person

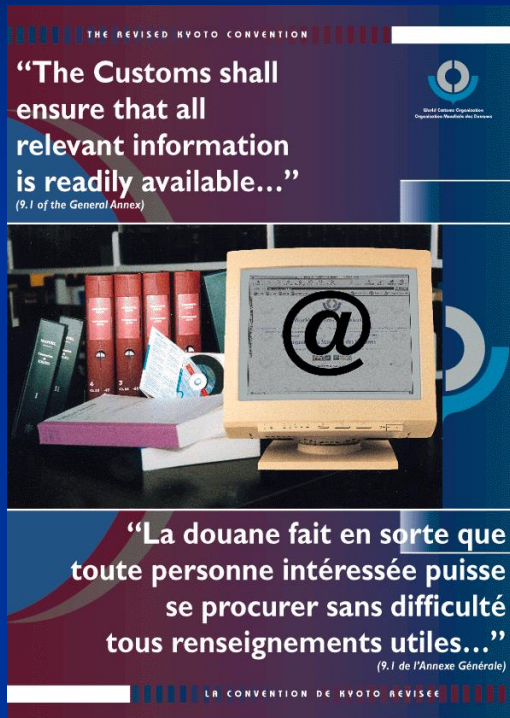
(ex) Publication, at Customs offices, ships, aircraft, embassies.....

- Update of Information (9.2)

When available information must be amended due to changes in Customs law, administrative arrangements, Customs shall make the revised information readily available sufficiently in advance of the entry into force of the changes

- Use of Information Technology (9.3)

Customs shall use IT to enhance the provision of information



Chapter 9: Information, Decision and Rulings supplied by Customs

2. Specific information, decision and binding rule

- Information relating to specific matters (9.4)

Upon request, Customs shall provide information relating to the specific matters raised by interested person

(ex) classification, rate of duties, origin, valuation, procedures.....

- Supplementary Information (9.5)

Customs shall also supply information relevant to the specific request

- Confidentiality of Information (9.6)

Customs shall not divulge details of a private or confidential nature affecting the Customs or third parties unless such disclosure is required or authorized by national legislation

(ex) confidential info, commercially sensitive info from trade.....

Chapter 9: Information, Decision and Rulings supplied by Customs

2. Specific information, decision and binding rule

- Charges (9.7)

When Customs cannot supply information free of charge, any charge shall be limited to the approximate costs of the services rendered

- Appeals against decisions (9.8)

Upon written request, Customs shall notify their decision in writing within a specific period. Where decision is adverse to the person concerned, the reason shall be given and the right to appeal advised.

- Binding rulings (9.9)

Customs shall issue binding rulings upon request, provided that the Customs have all the information they deem necessary

Chapter 10: Appeals in Customs Matters

1. Right of Appeal

- Right of appeal in national legislation (10.1)
National Legislation shall provide for a right of appeal in Customs matters



- A person having a right to be an appellant (10.2)
Any person who is directly affected by a decision or omission of the Customs shall have a right of appeal.
- Informing reason of the decision/omission (10.3)
A Person directly affected by a decision or omission of the Customs shall be given, after having made a request to the Customs, the reasons for such decision or omission.

This may or may not result in an appeal.



A kind of pre-condition for appeal

Chapter 10: Appeals in Customs Matters

1. Right of Appeal

- Appeal to Customs (10.4)

National Legislation shall provide right of an initial appeal to Customs

- Appeal to independent body (10.5)

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

(ex) Administrative court, Customs court, arbitration.....

- Appeal to judicial authority (10.6)

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

(Note) Many administration allow this appeal at any stage in the overall process.

Chapter 10: Appeals in Customs Matters

2. Forms & Grounds of appeal

- Form of appeal (10.7)

An appeal shall be lodged in writing and shall state the grounds on which it is being made.

- Time period for appeal (10.8)

A time limit shall be fixed for the lodgement of an appeal against a Customs decision and it shall be sufficient.

- Evidence for appeal procedure (10.9)

Customs shall not require supporting documents as a matter of course.

- Decision on appeal (10.10)

Customs shall give its ruling on appeal and written notice, asap.

- Informing Decision on Appeal (10.11)

Where an appeal to Customs is dismissed, written notice including advice the right to lodge further appeal shall be set out.

Implementation of the decision on appeal (10.12)

Where an appeal is allowed, Customs shall put their decision or the ruling of the independent or judicial authority in to effect asap, except in cases where Customs appeal against the ruling.

Thank you for your kind attention

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