

Working Paper No. 3

**Transit Development: Strategy and Action Plan
for
Regional Cooperation in East and Central Asia**

(Prepared for 2nd CCC Meeting in Tashkent on 9-11 October 2003)

**Governance, Finance and Trade Division
East and Central Asia Department
Asian Development Bank**

CONTENTS

	Page
I. INTRODUCTION	1
II. MAJOR INTERNATIONAL TRANSIT SYSTEMS: OVERVIEW	3
III. TRANSIT ARRANGEMENTS IN THE REGION: ISSUES AND CHALLENGES	3
A. Transit Arrangements	5
B. Issues and Challenges	7
IV. RECOMMENDATIONS AND PROPOSED ACTIONS	17
A. The Challenges	17
B. Strategy and Action Plan	18
APPENDIXES	
1 MAJOR INTERNATIONAL TRANSIT SYSTEMS	25
2 CURRENT APPLICATION OF THE TIR TRANSIT SYSTEM IN THE REGION	32
3 ACCESSION STATUS TO MAJOR INTERNATIONAL CONVENTIONS	33
4 CUSTOMS LEGAL FRAMEWORKS FOR TRANSIT OF SELECTED DMCS	34
5 DRAFT OVERAL ACTION PLAN FOR CUSTOMS AND TRANSPORT MODERNIZATION	37

I. INTRODUCTION

1. International trade and global integration can play an important role in catalyzing structural reforms, generating growth and reducing poverty. East Asia's development experience amply demonstrates the success of economies that have opened themselves to trade and foreign direct investment and integrated most strongly into the global economy.¹ Trade openness helped them overcome domestic market limitations by providing access to major international markets, respond to pressures for reform in line with the changing development environment, and adopt new technology and know-how through foreign direct investment and other integration channels.

2. However, sound trade policy alone cannot generate sustained trade expansion. Domestic legal frameworks, procedures, and adequate customs and transport infrastructure are equally important in facilitating international trade. The latter is particularly important in a relatively liberal trade policy environment where non-trade barriers such as poor governance and complex and outdated customs and transport procedures become the major obstacles for international trade. This paper addresses one major aspect of trade facilitation issues² in the context of East and Central Asia: transit procedures that govern the movement of goods passing through several countries and territories before reaching its final destination.³

3. International trade and transit facilitation are vital for the economies of the Region because of their relatively small-economy and land-locked nature. To overcome these economic constraints, the majority of the economies are liberalizing trade policy while striving to become a "transit country" to facilitate trade of neighboring countries, as well as simplifying clearance procedures for transit movements within their countries. Currently transit movements in the Region are inhibited by multiple domestic factors and lack of regional cooperation reflecting broad development issues and challenges facing these issues. Major factors inhibiting transit movements include weak legal framework, complex and outdated border procedures and documentation, lack of coordination among the border agencies, lack of mutual recognition of customs control procedures and customs seal and stamps, weak private stakeholders such as transport and trade associations, inadequate transit and guarantee systems, and inadequate customs and transport infrastructure.

4. In view of these constraints and the fact that there is no systematic and viable transit arrangements in the Region, there is an urgent need to improve the existing transit arrangements and explore the possibility of developing a simplified regional transit system suited to the Region. In recent meetings organized under the framework of the Customs Cooperation Committee for East and Central Asia,⁴ delegates recognized **development of**

¹ *Emerging Asia: Changes and Challenges*, Asian Development Bank Publication, 1997.

² Trade facilitation is often defined as "the simplification and harmonization of international trade procedures" and relates to a wide range of activities such as import and export procedures, transport formalities such as permits, payments, insurance and other financial requirements.

³ Broadly transit from customs and transport context includes the movement of goods from the border to the final point of clearance within a country in the case of imports or from the point of origin to the border in the case of exports.

⁴ The Customs Cooperation Committee consists of heads of customs administrations of eight countries from the Region (Azerbaijan, Kazakhstan, Kyrgyz Republic, Mongolia, Peoples Republic of China, Tajikistan, Turkmenistan and Uzbekistan). The CCC is part of a broad institutional framework for economic cooperation for East and Central Asia supported by ADB. The Committee endorsed a seven-point Common Action Plan including transit in August 2002. The recent working group held in April 2003 in Kazakhstan aimed to develop a work program and time-bound schedule to implement the Common Action Plan. Further consultation on transit was held on 4-8 August 2003 in the Kyrgyz Republic. Issues and the proposed Action Pan are available at http://www.adb.org/documents/events/2003/ccc/trade_facilitation_customs_modernization.default.asp.

simplified transit system is a key objective of regional customs cooperation in the Region. Suggested measures include (i) concerted legal and regulatory reforms and accession to major international conventions to establish a harmonized legal basis, (ii) improvement of the international TIR Customs Transit System through enforcement of mutual recognition of each others' customs control procedures and customs seals and stamps, (iii) improvement of information and communication (ICT) infrastructure for transit, (iv) in-depth investigation of the applicability of major regional transit systems, such as the European Unions Common and Community Transit Systems and its associated new computerized transit system as part of effort to develop a regional transit system, (v) closer cooperation with stakeholders, such as trade and transport associations, (vi) greater participation in major international transit forums and (vii) training and institution building.

5. This paper examines transit from a customs and transport perspective identifying major issues and developing proposals for joint action among the countries joining the Regional Cooperation Program of East and Central Asia. It is recognized that a multiplicity of trade facilitation reports have been developed highlighting the transit problems and citing the lack of a regional transit system. However, so far these have not resulted in any significant improvements and almost all the transit constraints that existed five years ago continue today. It is considered that what is required is a clear joint action plan for regional cooperation among the countries. This action plan must be developed in full consultation with the customs and transport stakeholders such customs brokers' and transport associations. This action plan should be a combination of country-specific and regional activities with two complementing each other through (i) country ownership of the regional cooperation activities, and (ii) strong regional orientation of individual country action plans. The paper emphasizes this practical approach in presenting proposals for a development strategy for regional transit, rather than being yet another general report on the issues.

6. The paper recognizes that issues related to transit reflect deep-seated development challenges facing the region. Therefore the search for solutions on transit must be part of a broad and integrated regional strategy for trade facilitation and customs and transport modernization, involving (i) policy, regulatory, and institution reforms, (ii) modernization of customs and transport infrastructure, and (iii) regional cooperation. The strategy and action plan for transit development will be developed within this broad strategic framework.

7. It should be noted that the current regional road transport environment also acts as major constraint to transit movements, such as the difficulty in obtaining road permits, restrictions on access, road tax, insurance tax, and weight and axle loading restrictions. There are similar constraints in the rail and maritime sectors, mainly in relation to pricing structures. This paper complements a separate paper that tackles the physical infrastructure and transport procedure issues to reduce the high cost of transit.

8. Section II gives an overview of international transit systems and the latest developments. Section III describes the existing transit systems in the region and identifies the key issues and challenges, highlighting them in relation to development of an effective transit system for East and Central Asia. Section IV summarizes the major recommendations and proposes a Strategy and Action Plan for the Economic Cooperation Program, supported by ADB and other international financial institutions.

II. MAJOR DEVELOPMENT OF INTERNATIONAL TRANSIT SYSTEMS: OVERVIEW

9. As early as 1921, forty countries signed a Convention and Statute on Freedom of Transit. This Convention defined “traffic in transit” as the passage of persons, goods and means of transport across a territory that is only a portion of a complete journey, beginning and terminating beyond such territory. The Convention sought to facilitate transit by rail or waterway on international routes by eliminating transit dues but allowing for the application of reasonable traffic tariffs. This important principle of exempting transit goods from duties and taxes was subsequently incorporated in the General Agreement on Tariffs and Trade (GATT) of 1947 as Article V on Freedom of Transit.

10. Later, the need to promote the economic development of land-locked states by recognizing their rights of free access to the sea was acknowledged through the adoption of the Convention on Transit Trade of Land-Locked States in 1965. The Convention reinforced this principle that traffic in transit should not be subjected to customs duties or taxes. Given the profile of the Region with its landlocked status, this Convention established important precedents in relation to their trade and transport environment, though the significance of the Convention may not have been apparent for the Region until after the establishment of the Central Asian Republics (CARs) in the early 1990s.

11. Major international customs and transport associations have been spearheading the development of international best practices and detailed transit procedures for the different modes of transportation, such as road, rail and maritime. The World Customs Organization (WCO), a nonprofit inter-government agency established in 1952, has been continually developing a set of general principles and specific guidelines for all aspects of customs procedures and operations and adapting them to an ever-changing development and technology environment. These efforts culminated into an International Convention on the Simplification and Harmonization of Customs Procedures known as Kyoto Convention (1973) and its important revision in 1999, i.e. the Revised Kyoto Convention. The Revised Kyoto Convention calls for WCO member countries to harmonize customs procedures with regard to transit and facilitate goods in transit without imposing import or export duties and taxes. This Revised Kyoto Convention has become an important “benchmark” for customs reform.

12. International transport associations, often in partnership with the United Nations Agencies have sponsored a large number of international transport conventions to promote reliable and efficient cross-border transportation. There are a total of fifty-five such international transportation conventions so far, some of which specifically deal with transit under the different modes of transportation.

13. The most important international convention concerning transit by road is the Transport International Routiers (International Road Transport) Agreement, or TIR Agreement, concluded in 1949 among a small number of European countries under the auspices of the United Nations Economic Commission for Europe (UNECE). This agreement provided a guarantee system that would cover the duties and other charges at risk on goods in transit. Its success led to the creation in 1959 of the Customs Convention on the International Transport of Goods under cover of TIR, also known as the TIR Convention that entered into force in 1960, and was extended to some additional European countries.

14. The 1959 TIR Convention was then subsequently revised in 1975 to reflect new technical methodologies, such as the introduction of containers in transport. It was also adapted to include other modes of transport (e.g. rail, inland waterway and maritime) with road transport

as part of the door-to-door transport movement. This 1975 version of the TIR Convention now has 64 Contracting Parties worldwide, including most of the countries in the Region, and has been the basis for most regional transit systems.⁵

15. The Community and Common Transit System being used by most European countries is the largest regional transit. The establishment of the European Community in 1958 with its rapid economic integration among the members through measures such as common customs tariffs created the need for a specific transit system that could be used among the members of the Community. The Community Transit System was introduced in 1969 to facilitate movement of goods within the customs territory of the Community. With the proliferation of free trade agreements and associations between the European Community and non-Community members, the Community Transit System was extended by the addition of a Common Transit System with adoption of: (i) common transit procedures; and (ii) use of a Single Administrative Document (SAD) for transit movements. This combined transit system now covers movements within the EU and transit to/from countries that are members of the EU, EFTA or the Visegrad⁶ countries, now involving 22 countries with around 20 million transactions per annum.

16. The Community and Common Transit Systems are currently being automated with the introduction of the New Computerized Transit System (NCTS).⁷ This will result in a paperless transaction system and enhanced control of transit movements. The new system is being introduced in phases. As of mid-2003, 27% of total customs offices in the Community were connected to the NCTS, with full connection of the system by mid 2004. The introduction of the NCTS will greatly reduce fraud and the abuse of the transit systems.

17. The World Trade Organization (WTO), which succeeded GATT in 1994, provides a forum for agreeing on rules and procedures that are legally binding for all the WTO member countries. With tariffs coming down in recent decades, the attention of WTO negotiations has shifted towards establishing simplified and transparent customs and transport procedures so as to clear the “red tape” that has become a major barrier for trade in many developing countries. Part of these efforts are intended to facilitate goods in transit by making major international conventions and agreements on transit binding and making them enforceable through the WTO’s dispute settlement mechanism. At the heart of the on-going Doha Round of the WTO negotiations is to establish international rules and procedures for trade facilitation⁸ and make them enforceable. It should be noted that all the countries in the East and Central Asia Region are either already members of WTO or are actively engaged in the application process. Their accession to WTO will greatly facilitate harmonization of the legal framework and procedures governing trade facilitation and transit in particular.

⁵ Countries in East and Central Asia that are signatories of the 1975 TIR Convention are Azerbaijan, Kazakhstan, Kyrgyz Republic, Mongolia, Tajikistan, Turkmenistan and Uzbekistan. A brief description of the TIR Transit System is provided in Appendix 1.

⁶ The European Free Trade Area (EFTA) members are Norway, Switzerland, and Iceland. Visegrad countries are Czech Republic, Hungary, Poland, and Slovak Republic.

⁷ A brief description of the Community and Common Transit Systems and NCTS is provided in Annex 1.

⁸ Trade facilitation is often defined as “the simplification and harmonization of international trade procedures” and relates to a wide range of activities such as import and export procedures, transport formalities such as permits, payments, insurance and other financial requirements.

III. TRANSIT ARRANGEMENTS IN EAST AND CENTRAL ASIA: ISSUES AND CHALLENGES

A. Transit Arrangements

18. The countries in the Region are all at different stages of transition to market economies. Many are still suffering from weak institutional capacity, poor governance, inadequate legal and regulatory framework and poor infrastructure that are the root cause of the ineffectiveness of the existing transit arrangements. Development of regional transit systems requires a sound development environment to minimize political and economic uncertainty so that private traders and transporters can take commercial risks. This has not been the situation in many of the countries. Insurance organizations still consider the Region as high risk, though the perception is changing positively over the last few years. It also requires strong regional cooperation and commitment at high level that has gathered momentum only in recent years, particularly in respect of cooperation among customs administrations. The Customs Cooperation Program sponsored by ADB is an example launched recently.

19. The adverse development environment and weak regional cooperation has resulted in the constraints to the ineffectiveness of the current transit systems: (i) Bilateral and Regional Agreements; (ii) National Transit systems; and (iii) Custom Transit System based on the TIR Convention. This Section briefly describes the existing transit arrangements in the Region.

1. Bilateral and Regional Agreements

20. To foster trade and economic cooperation, the countries in the Region have entered into a large number of regional arrangements, the mandates of which are essentially linked to specific transport corridors. Members of the Economic Cooperation Organization (ECO)⁹ adopted a Transit Transport Framework Agreement on 9 May 1998. ECO focuses largely on transit corridors that radiate from ports on the Indian Ocean. Kazakhstan, Kyrgyz Republic, Tajikistan, and Uzbekistan signed the Tashkent Declaration on 26 March 1998 under the United Nations Special Program for the Economies of Central Asia (SPECA) that coordinates UN technical assistance programs in Central Asia. The Baku Declaration signed to effect the implementation of the expanded Transport-Corridor-Europe-Caucasus-Asia (TRACECA)¹⁰ program, signed on 8 September 1998, includes a Basic Multilateral Agreement on International Transport. TRACECA has been assisting to modernize the physical and regulatory framework for transit along this modern version of the "Silk Route".

21. The Commonwealth of Independent States (CIS)¹¹ Customs Committee addresses the development and regulation of transit transport along the traditional corridors and routes via the Russian Federation. Transit issues relating to the Eastern corridor through PRC are discussed separately between PRC and interested Central Asian countries and formalized through bilateral or trilateral agreements.

22. Within the Eurasian Economic Union that includes Kazakhstan, Kyrgyz Republic, and Tajikistan (as well as the Russian Federation and Belarus), there are agreements and protocols

⁹ Established in 1985 by Iran, Pakistan and Turkey as successor to the Regional Cooperation for Development that was active from 1964 to 1979, it expanded to include Afghanistan, Azerbaijan, Kazakhstan, Kyrgyz Republic, Tajikistan, Turkmenistan, and Uzbekistan.

¹⁰ TRACECA program covers Armenia, Azerbaijan, Bulgaria, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Romania, Tajikistan, Turkey, Turkmenistan, Uzbekistan, and Ukraine.

¹¹ Armenia, Azerbaijan, Georgia, Kyrgyz Republic, Kazakhstan, Moldova, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.

about customs convoy, registration, and other conditions of transit, and monitoring and information exchanges. There are also several bilateral agreements broadly covering customs matters among PRC, Kazakhstan, the Kyrgyz Republic and Tajikistan. In addition, there are also some agreements initiated by IFIs, such as the ADB's Cross Border Framework Agreement, as policy conditions of investment projects and other transit arrangements covering humanitarian aid shipments through the Region, such as that sponsored by the TRACECA Inter-Governmental Commission. However, such aid movements are not liable for duties and taxes and therefore a standard transit mechanism is not applicable.

23. These bilateral and regional agreements are largely ineffective or have limited success as a framework for transit. Most of these agreements tend to serve as political statements and economic intentions, outlining general policy and strategic goals. Most are not enforceable and have not been implemented in full. None of these agreements specifically requires or proposes development of a regional transit, though some allude to the need for such systems. Consequently, these bilateral and regional agreements do not provide a framework for a regional transit system. However, they do support the principle of developing such systems.

2. National Transit Systems

24. Most of the countries have now developed national transit systems that cover movements between the borders and the customs office of departure in the case of exports and border to the customs office of destination for imports. It can also be used for transits between two borders in that country. The national transit system rests on a country's legal framework and is based on two main pillars – customs control and guarantee measures.

25. The customs control measures include the use of designated customs carriers and conveying. The guarantee measures include the provision of collateral in the form of a cash deposit or a bank/insurance guarantee note. These national systems are not used for a significant proportion of such national transit movements because they are generally not attractive to traders and transporters. The reasons for this are predominantly cost-related, as the cost of using designated carriers and obtaining appropriate bank guarantees is high. As a result, a significant proportion of in-country transit movements are either subject to a customs convoy or have to be cleared at the border.

26. It should be noted that these national systems do not extend beyond the state border because there is no regional or international "chain" guarantee system linking these national systems, thus they do not form part of a regional system. A regional transit system requires a chain of guarantee systems whereby the potential duty liability can be recovered by customs in the transit countries if the goods should disappear into the domestic market without payment of those duties. Therefore, the national transit systems are ineffective in facilitating intra-regional trade in the Region. However, it is recognized that these could potentially form the basis of a framework from which a regional transit system could be developed.

3. TIR Customs Transit System

27. The TIR system is the only universal transit system implemented in the Region. It is predominantly used on long-distance transits relating to movements to and from the Region.¹² It is almost never used for shorter distance movements within the CARS and not for transits to or

¹² Major long-distance routes to and from the Region where TIR is normally used: Europe - Central Asia-Europe; Turkey/Iran – Central Asia – Turkey/Iran; Europe/Turkey – Azerbaijan – Europe/Turkey; Iran - Azerbaijan – Iran.

from PRC or Mongolia because PRC has not accessed to the TIR Convention and Mongolia has yet to have its national TIR Carnet¹³ issuing association approved.

28. Except for PRC that has yet to ratify the TIR Convention, the other seven countries in the Region are contracting parties to the TIR Convention¹⁴ but are at different stages of initiating implementation. With under 10,000 TIR Carnets for transit movements per year issued to regional transporters, the overall usage of the TIR system by national carriers is relatively low, compared to the overall volume of cross border movements undertaken by national carriers. However, to this number should be added foreign transporters who transit the region using TIR Carnets issued in their countries and who have tended to dominate the long-distance transport market given their enhanced access to TIR certified equipment and sourcing of imports.¹⁵ In practical terms, the TIR system is used for almost all the long-distance transport movements to and from countries outside the CARs, other than to PRC and the Russia Federation (except when in transit through Russian to/from Europe).

B. Issues and Challenges

29. While **Central Asia is already using the widely accepted TIR Transit System, there is a clear need to consider development of alternatives. Development of a simplified regional transit system is a main agenda item of the Common Action Plan endorsed by the Customs Cooperation Committee for East and Central Asia.** The main reason is that **the TIR system is not a universal “one size fit all” solution.** It is suitable in some situations but is less applicable to others. This is demonstrated by the fact that the Community and Common Transit systems were developed in Europe as an alternative to TIR in relation to regional transit movements within the Community. It is also, in reality, only a road-based transit system and therefore does not readily cover the other transport modes such as rail and maritime unless a major road element is concerned in the overall transit movement.

1. Legal Framework and International Conventions

30. A sound legislative and regulatory is a major requirement for establishing customs transit systems. The existence of several international conventions that have been implemented over the last five decades provides the Region with a benchmark for reaching consensus and reforming Customs Codes and transport regulations. A list of international conventions signed by countries in the Region is shown in Appendix 3. All countries have acceded to or are in the process of ratification of international transit conventions and are reforming customs and legal frameworks consistent with these conventions. A review of the Customs Codes of East and Central Asian countries shows that the issue of customs transit is covered. The national legal frameworks in relation to transit for some of the countries are summarized in Appendix 4.

31. Each country has the basis for a national transit system, generally involving three key elements, similar to the TIR and the Community Transit Systems: (i) sealable compartments on vehicles, (ii) guarantees against duty and tax liability; and (iii) defined customs documentation to support the movements. The problem is that these are national systems and they are not compatible with each other or interlinked to form a regional transit system.

¹³ A TIR Carnet is the transit document used when conveying goods under the TIR Customs Transit System.

¹⁴ See Appendix 2.

¹⁵ Transporters in Europe have better access to modern equipment that is compliant with the TIR requirements on sealable compartments. In addition, they have established contacts with exporters sending goods to the region so can dominate the inward road cargo movements to the region. It should be noted that trade is imbalanced with limited exports from the region by road, so most journeys involve a full load into the Region returning empty or part loaded, thus the access to inward goods is critical giving some commercial advantages to these foreign carriers.

32. The Customs Codes in the CARs and Azerbaijan were inherited from the Customs Codes of the former Soviet Union with some adaptations. In some countries these modified Codes still prevail, whilst in others, such as Kazakhstan and the Kyrgyz Republic, the Codes are or have been modernized. In general, these new codes are similar to the EU Community Codes but have been adapted to reflect the needs of the individual countries. The PRC and Mongolian Customs Codes are specific and not related to either the old Soviet Code or the EU Community Code. Consequently the legal framework differs in each country in relation to transit and the transit requirements.

33. These legislative transit requirements cover the movement solely within the national territory. This may be transit from the entry border to the office of destination, from the office of departure to the border or between two borders. Where there is an office of entry or destination, such requirements tend to be easier to fulfill, because there is probably a resident representative. In the case of international transit across the country, there is rarely a party in the country to furnish the required guarantee. An additional constraint is that meeting these requirements can be expensive and it only covers part of the journey, thus in a simple cross-border movement, two guarantees will be required. In many cases transporters opt for the customs escort system as “the lesser of two evils”.

34. The TIR system in most cases did not require a revision of the national Customs Code. This is because transit was either already addressed in the Code or that International Conventions signed by the country take precedent over national legislation. However, **a new transit system would be unlikely to constitute an international convention and would therefore be subject to national legislation.** Consequently, its implementation could potentially require modifications to current customs codes. **A challenge for any new transit system is compliance with the respective national transit legislation and compatibility between them to minimize additional legislation requirements.**

2. Implementation of the TIR Customs Transit System

35. The implementation of the TIR Customs Transit System requires much more than merely becoming a signatory to the TIR Convention. Before TIR Carnets can be issued it requires (i) establishment of an independent nationally-based international road transport association; (ii) agreements between the Customs and the national association and the International Road Transport Union (IRU), as the system manager; and (iii) the establishment of the guarantee systems for the association and its members. This institutional process has caused delays in implementation of the System. For example, Azerbaijan became a signatory in 1996 but has only recently been able to issue TIR Carnets, and Tajikistan joined the same year but still is not authorized to issue TIR Carnets.

36. The major problems lie in the establishment of the independent international transport associations and of the appropriate guarantees. Following independence, the state carriers dominated the national transport market in the CARs. It has been difficult for private contractors to break into the international transportation market. The main reason for this has been the high cost of entry requirements with modern equipment, substantial working capital and international agency arrangements. Thus, there were few independent carriers to be able to form an association. While some compromises have been made in respect of the requirement for an independent association in some countries, by allowing a state element, such associations have had difficulty forming and are still relatively weak in terms of representation in countries such as the Kyrgyz Republic and Tajikistan. Some of the associations also suffer from instability and poor governance, in one case leading to temporary suspension.

37. Having formed an association, the next step is to develop the chain guarantee. The IRU assists in providing contacts with the international insurance companies. Unfortunately, following the high levels of fraud in transit movements under TIR Carnets to the CARs through Russia in the mid 1990's, insurers perceived the CARs as high-risk countries. The problems in Afghanistan and to a lesser extent in the Fagana Valley and Tajikistan also tended to suggest an additional element of instability. As a result, some countries such as Tajikistan and Turkmenistan were unable to obtain the necessary cover for chain guarantees from the IRU-nominated insurers. These difficulties have only recently been eased as the Region is now perceived to be more secure

38. In addition to the overall insurance cover provided by the national association, individual operators within the association are required to take out cover in respect of their transit liabilities. This is because the first point of claim by customs is the individual operator and it is only if this fails that the claim is transferred to the national association. Such individual cover can be difficult to obtain because the local insurance markets are either non-existent or state monopolies.

39. By the end of 2003, the TIR system is expected to be applicable in all the CARs, Azerbaijan and Mongolia. Clearly, the absence of PRC as a member of the Convention limits its application to movements across that border. However, for long-distance traffic from Europe or Turkey/Iran that have to cross many borders on the way, there are still potential advantages on using the system up to or from the Xinjiang border of PRC. Given the current transport restrictions on entry of foreign vehicles into PRC, the benefits of TIR accession and its implementation in PRC can only be realized with the removal of transport restrictions. However, their accession to the Convention would be an asset to regional transit movements.

40. As indicated the cost for national transporters to use TIR is high. It requires substantial capital investment or leases for modern equipment that is compliant with the TIR certification requirements. This usually involves the purchase of trailers manufactured in Europe, and often also trucks designed to meet EU environmental requirements. The transporter has to be able to give evidence of financial standing and support for membership of the association and to obtain the necessary insurance cover for their operations. Both the membership of the association and the cost of the TIR Carnets are considered by members to be high relative to these countries overall economic strength and are often the subject of complaints. In practical terms, the shorter the distance and less number of border-crossings, the more expensive the TIR system to the transporter in relation to the overall transport cost. It is the combination of the high cost and the current limited transit benefits at the borders, which tends to make TIR less attractive than in other regions with more developed economies. **TIR is not a cost-effective system for short-distance regional movements.**

41. The benefits of operating under the TIR Transit System can potentially be substantial and justify its high cost. A key advantage should be faster border clearance through eliminating the need for examination. In addition, the TIR Carnet should be sufficient documentation for a transit approval without the need for supplementary documentation. There should also be no requirement for customs convoying of TIR vehicles because the duty risk is covered by the guarantee.

42. In practice, these envisaged benefits are compromised by poor customs control procedures and infrastructure and the lack of modern control techniques such as risk management. The main customs-related obstacles are as follows:

- (i) The layout of most border posts precludes the provision of special lanes for TIR vehicles, thus they have to wait in line and have lost advantage in reducing faster transit times compared to non-TIR vehicles;
- (ii) Most Customs still maintain full customs inspection regimes and at some borders undertake examination of TIR vehicles¹⁶, thus requiring breaking of the seal. This is not in response to a perceived risk in relation to that individual load, as permitted by the Convention and often reflects lack of the acceptance of seals of previous Customs;
- (iii) TIR shipments still require a full cargo declaration or a transit declaration in the same way as non-TIR traffic. Transit is treated virtually as if it were an import and then an export;
- (iv) TIR drivers are still required to provide all the support documentation relating to the consignments at each border; and
- (v) Some countries still insist on convoying of TIR, even though no duty risk is present. Convoying is seen as a potential revenue stream by some customs administrations.

43. The TIR Transit System will continue to be the primary long-distance transit system in the short to medium term. A challenge is how to ensure that the TIR Transit System is cost-effective and, more importantly, obtains the benefits in relation to its cost for long-distance transit traffic. In the context of development of a regional transit system it is important to note that the TIR Transit System is governed by an international Convention and is rigid in its application and therefore cannot be adapted to reflect the development circumstances of this Region.

3. Transit through Border-Crossings

44. As indicated in the previous Section, the transit through border-crossings represents a significant non-physical barrier to transit trade. In recent years substantial investment has been undertaken on the development of the major and minor border-crossings throughout the Region. This is an on-going process being supported by ADB and other IFIs and particularly by the individual countries themselves. However, despite this investment the transport industry and other users still complain that border transit speeds and procedures have not changed substantially over the last ten years. The benefits of investments have been compromised or diluted by poor governance, lack of modern customs practices such as risk management and post-entry audit. Clearly, new approaches should be considered that could enhance border performance to justify both existing and future border investment. Facilitation of transit transport requires a two pronged approach that addresses: (i) physical barriers such as lack of traffic separation and inadequate facilities, such as substandard buildings or poor functional layouts and lack of processing equipment; and (ii) non-physical barriers relating to the procedures, the multiplicity of border organizations and the payments, both official and unofficial.

45. From a stakeholder perspective, many of these problems are seen as customs-orientated, thus giving a negative image of customs that is not always justified. The key issue related to transit is the requirement to provide a transit declaration, usually involving the use of a customs broker who is often in a monopoly situation at remote borders or in some countries is not present. The major documentation problem at many borders is the transposition process¹⁷

¹⁶ Inspection means external checks of the vehicle and trailer. Examination means a physical check on the contents of the load compartment.

¹⁷ Transposition process is the rewriting of one customs document to another, such as using the export declaration of country A to fill in an import or transit declaration for country B.

from the exit declaration of the previous country to the entry or transit declaration, usually incurring typographical errors. This results in delays and usually unofficial payments. Transporters are also required to submit all the support documentation (e.g. invoices, packing lists, certificates of origin, contracts) even for traffic transiting through to another country. The documents are checked and entered into the IT system, if present, or into the register or usually both and duly stamped. Unofficial payments for speed in processing and stamping of documents are sometimes demanded.

46. This is then followed by inspection or examination, or at some borders during the documentation checking process. This 100% inspection routine undertaken by customs often duplicates that already undertaken by the Border Police and there is also some duplication in terms of the objectives of these inspections. The inspection routine consists of an external inspection of the truck and its non-load carrying compartments (e.g. cab, fuel tanks, storage lockers). However, this may be followed by an examination routine requiring the opening of the load carrying compartments. At most borders TIR trucks are only inspected but at many other border-crossings customs opening of TIR vehicles for examination, thus breaking the seal, has become routine in contravention of the TIR Convention. This examination process can vary from a simple "tailboard" examination that involves merely opening the rear doors for a visual inspection through to a complete discharge of the consignment(s). Transit times for freight vehicles average 1-2 hours at each side of the crossing. There is no evidence that TIR or transit vehicles are processed faster than those carrying goods destined for home consumption.

47. An effective transit system relies on security of the load in transit such that it arrives at the office of destination in exactly the same condition as it left the office of departure. Any examination increases the risks of compromising this requirement. During the examination process packages are opened, items may be damaged and often "samples" are "retained" by border officials. A key feature of current international transit systems is that the seal remains intact throughout the journey unless there are specific reasons for an examination, such as evidence of seal tampering, damage to the load compartment, or in response to risks identified with a particular transporter or the cargo (i.e. use of risk management system). The system therefore requires all customs authorities involved in the transit to accept the validity of the seal of the customs in the countries of departure or transit. **A challenge for any new transit system is that it would require national customs to recognize and approve the validity of seals from all customs in the participating countries.**

48. There are a number of initiatives being undertaken to harmonize and simplify border-crossing procedures and make them compatible with the bilateral or regional agreements signed by the countries and compliant with standards of the Revised Kyoto Convention. The EU TRACECA program is particularly active in the CARs and ADB has some follow-on initiatives being developed under its Customs Cooperation Program. Substantial assistance programs are also being proposed by both the US Government and the EU Border Management in Central Asia (BOMCA) project that are designed to improve border controls. The recipients are the Border Guard Services to assist in enhanced control and detection in relation to illegal migrants, drugs and weapons.

49. **A challenge for any new transit system is that when being used it must have benefits to stakeholders compared to the processing of vehicles not using an established transit system.** Transit should receive expedited procedures at border-crossings, both in terms of reduced documentation requirements and physical examination. It is recognized that the adoption of any new system will require full consultation with stakeholders because its operation will require the transporters to provide special equipment and guarantees.

Consequently, the benefits obtained by the trade and transporters and customs has to outweigh the additional transport costs.

4. Vehicle Specifications

50. A major issue in relation to the TIR System has been the vehicle certification requirements. Given the rigidity of these requirements, it is likely that only trailers or vehicles manufactured in Europe are likely to be compliant. As indicated, this results in high entry costs for national carriers to participate in the TIR system. This is because there are no truck or trailer manufactures in the Region. While the problems of funding such purchases/leases is high relative to the levels of economic development, such high costs can be justified if that equipment can be used effectively on the long-distance services that have the potential to generate returns. Presently intra-regional border transport operations are dominated by the use of older transport equipment that would be non-compliant for TIR purposes.

51. It is recognized that having sealable road vehicles is likely to be a pre-requisite to any regional transit system, both from a customs perspective and from that of the guarantor. Given the condition of the transport fleets in the region with a predominance of older trucks and trailers, it may be necessary to consider less stringent requirements to those needed for TIR certification. There are significant numbers of units used in current regional trade that, although not TIR certifiable, could be sealable. The alternative of using containers as the sealed unit may be more practical from a vehicle certification perspective but there is also a lack of suitable container-carrying vehicles.

52. **A challenge for any new transit system is to set a level of vehicle certification that is compatible with the transport development circumstances of the Region.** However, the quality requirements must meet certain minimum standards that are acceptable to the various customs authorities and the guarantee bodies. In the case of the EU Community Transit System, there is no requirement for prior certification of individual units but vehicles must be approved as sealable by customs to be able to use the system.

5. Guarantee Mechanism

53. The guarantee system used under national legislation is principally based on an individual or corporate guarantee via a lien¹⁸ on the goods or unit of conveyance, a cash deposit or promissory note. There are potential problems with each of these options:

- (i) The party providing the guarantee may not be the importer or exporter or the transport operator and therefore is not likely to be able to offer the cargo or vehicle as security. The importer/exporter cannot offer the vehicle and the operator cannot offer the cargo, as neither are owners of the said property. Many vehicles or containers are leased and the lessee is not able or permitted to use them as security;
- (ii) Cash deposits are difficult to raise, both in terms of the overall amount and concerns relating to their origin. More importantly, the guarantor lacks the trust that money will be returned as soon as the transit journey is completed. Customs have a reputation for delayed or non-repayment of refunds;
- (iii) The banking sector is immature in most of the Region. The concept of bank guarantees for transit is not widely understood or available. When available, the guarantee is often too expensive and complicated;

¹⁸ A lien is a legal provision to take possession of and hold or sell the goods unless the debt is settled.

- (iv) The transport insurance sector is relatively undeveloped in most of the countries and in other countries is a state monopoly. It should be noted that most transport in the Region carries no accident or damage insurance for the cargo in transit. It is consequently difficult to obtain such transit guarantees from the local insurance companies; and
- (v) Due to the high risks, customs tend to require much higher levels of security in the form of cash or guarantees than what is required in developed countries.

54. The major problem is that these are national requirements and consequently only cover part of the transit. It is difficult and prohibitive to provide different guarantees for each country crossed in the course of a transit. It is also complicated to be based in one country and take out a guarantee in another because of probable lack of security in the other country - i.e. ability of the guarantor to secure the guarantee.

55. It is evident from discussions with stakeholders and the high incidence of customs escort or border clearance that the current national systems are not widely used, suggesting that they are either unattractive, too difficult to meet the conditions, or are not cost-effective. **A challenge for any new transit system is to establish a regional guarantee mechanism** supported by a suitable guarantee organization, bank or insurance company, and making it both affordable and accessible to stakeholders.

6. Customs Convoys¹⁹

56. The incidence of customs convoys in the Region is still high. This is mainly due to the lack of a regional transit system (other than when using TIR) or non-usage of the national transit system. In certain countries, even TIR vehicles are required to customs convoy contrary to Article 23 of the Convention.²⁰ Given the high risks in relation to fraud, particularly transit goods disappearing into the home market without payment of customs duties and taxes, it is understandable that there is pressure by customs to retain the convoy as a means of “control”.

57. Unfortunately, the decision to escort is not based solely on risk management methodologies. It is partly motivated by the need to generate revenue to meet targets in the budget and partly by governance problems. Foreign vehicles in particular are targeted for revenue purposes irrespective of the load being carried and its associated risks. Indeed, some foreign carriers prefer to be escorted to reduce the levels of unofficial payments to other authorities during transit, particularly traffic police and customs officials. There is also evidence that in some countries convoy charges are paid to customs but who then lack the resources to actually provide the convoy service.

58. It is recognized that customs convoys will continue to be required for excise goods, such as alcohol and tobacco, and for cargo particularly susceptible to pilferage, such as electrical goods. In genera, it is difficult to obtain guarantees for such goods due to the high risk. Excise goods are excluded from the TIR Transit System. Thus, there is a need for customs convoy but this should be based on risk assessment rather than routine.

59. The practice of customs convoy increases transport costs significantly and is not in the interests of trade facilitation. **A challenge for a new transit system is to eliminate the need**

¹⁹ Customs conveying is the process of escorting vehicles with customs officers during a transit, either individually or more commonly in “convoys” consisting of several vehicles.

²⁰ Article 23 states “The Customs authorities shall not: require road vehicles or containers to be escorted at the carriers expense on the territory of their country, except in special cases.

for all convoy requirements when traveling under the transit system. The issue of lost of revenue from this source at both official and unofficial levels will need to be addressed. It should be noted that if customs escort a load that is secured by means of a guarantee, but such a practice could potentially make the guarantee invalid. In law cases in other countries, the guarantor successfully argued in law that since customs accompanied the load with consequent responsibility, they then became complicit in the loss and therefore could not be a claimant.

7. Transit Documentation

60. There is no common transit document applicable throughout the region, other than the TIR Carnet. Each country has its own specific documentation for transit either through or within the country. Some countries require a standard import or export declaration, others a simplified variant or provide a separate transit document. A feature of the international transit systems is that they all use a standard document that is acceptable and valid to all the customs authorities for customs control purposes throughout transit – in the case of TIR, the Carnet and in the Community System, the Single Administrative Document (SAD).

61. The CARs and Azerbaijan all use a standard format Customs Declaration for import and export purposes and often for transit. This document is compliant with UN recommended format and is virtually identical to the SAD documentation system used in the EU. Currently, this document's validity is generally limited to national territory, thus requiring it to be copied or "transposed" onto an identical form in the next country at the border crossing. **A challenge for a new transit system will be to agree a standard transit document acceptable to all the countries for the complete transit journey** without the need for transposition at the border. In the case of PRC and Mongolia, language used both on the form and by the Declarant is expected to be an additional issue.

8. Transit System Management

62. Both international and regional transit systems require an institutional structure to manage and control the system. In the case of TIR, the IRU acts as the independent central coordinating authority linking in with each national association and customs administration. The Community System is centrally coordinated linking in with each customs administration. **A challenge for any new regional transit system will be the development of an institution framework to manage and coordinate control of the system.** To be effective each customs organization will need to feel that they are adequately represented to ensure the required level of "ownership" and commitment. Thus, it will be essential to develop high levels of cooperation between the national customs participating in the system. It is important to note that the EU Community System deals with customs as a single entity, as the system is operated for the Community's customs as a whole since duty payments and liabilities are part of the EU's budget rather than to individual national budgets. The situation is different in the Region where each Customs collects for its national budget and such revenue represent a significant proportion of the national budget. Thus, this suggests that the EU Community System could not be directly replicated in the Region without deepened economic integration.

63. The level of cooperation and coordination between the customs administrations has been identified as an issue. The Customs in the CARs are all members of the CIS Customs Organization and Kazakhstan, Kyrgyzstan and Tajikistan are part of the Eurasian Customs Union with Russia and Belarus. There are a number of bilateral and trilateral agreements between the CARs and PRC that relate to Customs and trade issues. **However, there is no specific regional agreement that embraces all of the countries that lays down the**

institutional foundation for development of a regional transit system. The ADB-sponsored Customs Cooperation Committee formed in 2002 highlighted the need for a regional transit system in its Action Plan. This Committee and its working groups are seeking to improve the levels of cooperation and coordination. However, this institutional framework would not be appropriate to function as the management mechanism for a regional transit system, because it is a forum for guiding regional customs cooperation, not responsible for operational management.

64. A key function of the Transit System Management will be to set and monitor the parameters of the system. This will require defining when and to whom the system is applicable, the scope and levels of guarantee, the development and control of the ICT system and the claim procedures. A key requirement would be to monitor the implementation as it is recognized that the risks of fraudulent use of the system are high, especially in the early stages, as evidenced by the experience of the TIR and Community Systems. The potential benefits to be gained by fraudulent transactions are significant, relative to the potential risk of detection or the imposition of sufficiently punitive measures to deter such fraud. Invoice substitution is a particular problem, especially at border-crossings between PRC and the CARs.

9. Rail Transit

65. This paper has concentrated on road transport transit, whereas in volumetric terms rail is the major international transport mode in most of the CARs, Mongolia and the Xinjiang Uygur Autonomous Region of PRC. The general profile of rail traffic is similar to other regions of the world in that it is dominated by large volumes of low-value raw materials, often transported in bulk. However, this is occasionally supplemented by higher value merchandise that is transferred to rail partially because of the lack of an effective transit system or the high cost of road transport (e.g. cargo between Tajikistan and the Russian Federation). There is a growing demand for container movements by train, partly because of the high cost of road transportation. However, as a proportion of overall freight tonnage, container traffic remains low.

66. There are a variety of reasons as to why rail may be less relevant in terms of development of a regional transit system:

- (i) A high proportion of movements are low-value raw materials with either low or no duty liability;
- (ii) The state railways act as the custodian of the cargo during transit and act as implicit guarantors;
- (iii) The risk of duty loss for transit cargo disappearing into the domestic market is considered to be much lower than for individual consignments being transported by road;
- (iv) A transit system would need to apply to all the consignments on the train, otherwise there would be no benefit to individual users; and
- (v) Rail is a low cost low speed transport solution. The application of a transit system would increase the overall transport costs, but the transit speeds would not change appreciably as delays at border-crossings do not represent a significant proportion of overall journey time.

67. Rail is also used for the transportation of certain high-value sensitive shipments, such as alcohol and cigarettes. Such shipments are usually escorted, even when traveling by rail. The reason for their use of the rail mode is because road transport is precluded on the basis of risk and lack of availability of transit insurance cover. It is not envisaged that any new regional

transit system would be extended to cover such items, given that they are barred from existing systems.

68. While the benefits of a regional transit system covering rail movements is considered to be low, any regional transit system should be compatible for rail transit that it could be applied for a multi-modal transport movement that involved a combined road and rail transit movement. This could be particularly beneficial in relation to container movements, especially on block trains.

10. Port and Maritime Transit

69. The Region has two main maritime transport corridors: (i) Baku: Azerbaijan – Turkmenbashi: Turkmenistan; and (ii) Baku: Azerbaijan – Aktau: Kazakhstan. Rail and road ferries and a variety of other types of ships, including tankers, service these routes. Given that the main traffic is rail or bulk cargoes, the potential benefits of a regional transit system for maritime transit are minimal, as indicated in the previous Section. However, there is some road traffic using these ferries, mainly as a transit route between Azerbaijan and the Russian Federation avoiding the dangerous routes through southern Russia. Such movements are predominantly a road transit and therefore would benefit from being included within a regional transit system. As with rail, any new transit system should be suitable for use in connection with a maritime movement being part of the overall transit.

11. ICT for Transit Control

70. It is recognized that the risks associated with transit traffic “disappearing” into the domestic market are significant in most CARs. As indicated, the TIR system was subject to heavy claims that led to its suspension in handling transit movements through Eastern Europe and the Russian Federation for a period of time until new controls were put in place. The EU Community System has encountered similar problems. Both have recognized the need for an ICT system to support their respective transit systems. In the case of TIR, the SafeTIR²¹ system provides electronic notification of the completion of the transit. The NCTS transforms the Community System into a paperless system by using electronic messaging.

71. The current customs procedures in all of the countries in the Region reflect a high degree of “control” philosophy, as would be expected given their historical centralized government structures. **A challenge for any new transit system is likely to have to demonstrate an appropriate level of “control” of the transit movement** while also meeting increased demand for trade facilitation in the Region. It is considered that ICT could facilitate trade and also strengthening the legitimate role of customs control for stopping illicit trade.

72. While all of the Customs in the Region use ICT to a certain extent, there is a significant variation in its application. Only Kazakhstan has an on-line connection between the central server database and selected borders. Azerbaijan, Uzbekistan and PRC have indirect connections between the borders and central servers via the regional offices, but they are not real-time. The Kyrgyz Republic, Mongolia, Tajikistan and Turkmenistan currently have no ICT connections with the borders.

²¹ SafeTIR is the computerized control system for TIR to record the issuing of the Carnets to national associations and individual operators. Its primary function is to advise the TIR system via an electronic message from the customs at the final office of discharge indicating that the goods have completed the arrival procedures.

73. The SafeTIR system supporting the TIR transit system has already been installed and is operational in Azerbaijan, Kazakhstan, Kyrgyz Republic and Uzbekistan. As indicated, this is not an online system and is based on messages from the offices of destination, with no messaging input from the border crossing. It therefore does not have the “tracking control”²² capability of the more comprehensive and complex NCTS. Decisions will be required on the appropriate levels of control required and the technical capacity in meeting this requirement. **A challenge for any new transit system is that it will probably have to either integrate with existing ICT systems or establish itself as a separate complementary system.**

VI. RECOMMENDATIONS AND PROPOSED ACTIONS

A. The Challenges

74. The key challenges in improving transit systems in the East and Central Asia Region were identified in Section III. While these challenges are directly related to the national and TIR transit systems, they are also the key for the development and implementation of a regional transit system. Issues and challenges relating to the strengthening of the national transit systems and the TIR Customs Transit System are summarized as follows:

- (i) Not all the countries have reformed their customs codes and procedures and accessed to the major international conventions, thus the legal framework necessary to support transit movements has not been harmonized in the Region;
- (ii) TIR system is not a universal “one size fit all” solution and not a cost-effective system for short-distance intra-regional movements. The challenge is how to ensure that the TIR System is cost-effective and, more importantly, obtains the benefits expected for long-distance transit.

75. The key challenges in developing a new regional transit system highlighted in Section III can be summarized as follows:

- (i) obtaining customs approval of the validity of seals and stamps;
- (ii) providing appropriate service benefits to traders and transporters when transiting the borders;
- (iii) having vehicle certification levels compatible with the transport development stage of the Region;
- (iv) complying with national transit legislation so as to minimize additional legislation requirements;
- (v) developing a regional chain guarantee mechanism;
- (vi) agreeing a standard transit document acceptable to all the countries for the complete transit journey;
- (vii) determining a transparent system of accessibility as to what “responsible persons” can use the regional transit system;
- (viii) having an ICT control system that can either integrate with existing national ICT systems or as a separate complementary system;
- (ix) creating an institution framework to manage and control the system; and
- (x) reducing substantially the need for convoy requirements without compromising legitimate customs control to combat illicit transit movements;

²² “Tracking control” is the ability to track a vehicle’s movement in transit by means of logging-in its movements periodically along the journey as it passes selected locations. Tracking can be undertaken on the basis of manual records, entries into the IT system or use of GPS systems.

B. Strategy and Action Plan

76. Transit is vital for the region. Without effective transit systems that facilitate trade among themselves and bring goods out of the Region, these economies risk being further marginalized and unable to take advantage of global integration. However, there is no quick fix and easy solution to transit, as most of the transit issues reflect deep-seated development issues and challenges confronting these countries. Therefore the search for transit solutions must be part of a broad and integrated strategy and action plan for trade facilitation and customs and transport modernization involving: (i) policy and regulatory reforms, (ii) customs and transport modernization, and (iii) regional cooperation. The proposed strategic framework and Action Plan is given in Appendix 5. Within this broad strategic framework, this paper proposes a two-pronged approach to address transit issues in the Region:

- (i) **Short-Term Goal** - Improved implementation of the TIR System as the major international transit system operative in the Region in order to make its application fully compliant with the Convention and generate the expected benefits to stakeholders using the system; and
- (ii) **Medium-Term Goal** - Assistance in the development of a new transit system that is essential to facilitate intra-regional trade.

77. Achievement of the short and medium term goals requires modernization of national Customs Codes and accession to major international conventions to achieve a harmonized legal framework. The proposed strategy will enable the Region to address immediate transit issues related to the national transit systems and the TIR Transit System so as to promote trade with the rest of the world, but also tackle more fundamental challenges in the development of a regional transit system. Specific components related to transit in Appendix 5 are described in detail as follows:

1. Reform of the Customs Legal Framework and Accession to International Conventions

78. The customs legal framework consists of the Customs Code as the primary legislation. In the CARs the Customs Codes were mainly inherited from the old Soviet Code. They reflected the needs of a centralized economy and do not reflect the market economies of the CARs and consequently need reforming. There is an on-going process of modernization of these Codes, mainly driven by the need to be compliant with WTO requirements and the proposals in the Revised Kyoto Convention. Major development partners, such as ADB, IMF, The European Commission and USAID, have assisted Customs in this modernization process. Kazakhstan has introduced a new WTO compliant code and the Kyrgyz Republic and Tajikistan are expected to introduce similar modern codes soon. Other countries are in the process of reviewing their Codes. The new Codes being adopted are similar to those in the EU and the new Russian Code and therefore there is an element of harmonization between them that could provide a unified customs legal framework.

79. To accelerate the process of legal reforms, it is recommended that all of the countries in the Region become signatories to the major transport and trade conventions. This will provide an element of harmonization of the legal framework at an international level. This is important as these international conventions usually have precedence over national legislation in most of the countries in the region, thus they enable some harmonization of trade and transport procedures, even though national Customs Codes may differ significantly until all codes are modernized.

Consequently, the need to modernize through the international convention route, as well as via national legislation wherever possible. The key Conventions recommended are as follows:

- (i) Customs Convention on the International Transport of Goods Under Cover of TIR Carnets;
- (ii) Convention on the Contract for the International Carriage of Goods by Road CMR;
- (iii) Customs Convention on the Temporary Importation of Commercial Road Vehicles;
- (iv) Customs Convention on Containers; and
- (v) International Convention on the Harmonization of Frontier Controls of Goods.

These conventions are included in those proposed for accession by the Central and South East Asia Transport and Trade Forum supported by ADB and would assist in harmonizing legislation at international level throughout the Asian region.

80. The priorities on accession from a transit perspective are as follows: (i) PRC accession to the TIR Convention; and (ii) the remaining CARs, Mongolia and PRC to access to the Harmonization of Frontier Controls of Goods Convention. The implementation of these will facilitate the development of transit systems in the Region. PRC has already commenced the TIR accession process but the position on accession to the Harmonization of Frontier Controls of Goods Convention by the remaining countries is not clear. The EU TRACECA program has proposed accession to this Convention as part of its trade facilitation initiative in the CARs. The accession to these Conventions mainly requires country initiatives and political will. International development agencies can assist through capacity building and technical assistance.

2. Improved Implementation of the TIR Transit System

81. Section III highlighted that although the TIR Transit System was the optimum solution for long-distance multi-border crossing transits, it was not generating the expected benefits to traders and transporters to justify its high cost. This is principally because the Convention is not being implemented in full by all of the participating countries. It is therefore proposed that a concrete and practical region program be developed, supported by international development partners, to improve the performance of the TIR system in the Region.

82. While this is a regional problem, it is considered necessary to complement the regional program with country-specific measures. This is because the constraints identified in Section III are similar, but not identical, throughout the Region so imposition of a uniform solution may not be realistic or result in the required improvement. The proposed TIR Enhancement Program could consist of two phases: (i) Needs Assessment; and (ii) Action Plan.

83. The first phase is to identify all the current constraints in each country relating specifically to implementation of the 1975 TIR Convention as signed by that country –i.e., a country-specific approach. In general, there is a good understanding as to the problems but these are not always recorded and there is an inability to resolve these problems internally between the parties concerned. The needs assessment should include, but not be limited to, the following aspects:

- (i) Availability of and issuing of TIR Carnets;
- (ii) Pricing issues in relation to membership of the National Association and certification of equipment;
- (iii) Border Procedures;

- (iv) Incidence of Convoying;
- (v) Pricing and basis of national guarantees;
- (vi) SafeTIR message response times; and
- (vii) Level of operational irregularities.

84. This will require operational research to be undertaken in each country currently either issuing or processing TIR Carnets – all countries except PRC and Mongolia. This should include interviews and/or questionnaires involving the following parties:

- (i) The International Road Transport Union (IRU) in Geneva;
- (ii) UNECE Working Party 30 in Geneva,²³
- (iii) The Customs Administrations;
- (iv) The Nationally-based International Road Transport Association (see Appendix 2);
- (v) The Ministries of Transport; and
- (vi) 1-2 major transport operators per country who regularly use TIR Carnets.

It is also proposed that interviews/questionnaires should be undertaken with selected major foreign transport associations and carriers who regularly have journeys into the Region under TIR, such as transporters from Turkey Iran and Germany, so as to obtain regional and global perspectives.

85. The methodology for undertaking this needs assessment was considered by the Customs Cooperation Committee Working Group at their meeting in Issyk-Kul 4-8 August 2003. It was proposed that each country establish a Task Force to prepare country reports based on a questionnaire being developed by the State Customs Agency of Uzbekistan by October 2003. However, it is considered that this approach should be supplemented by technical assistance in the preparation of the questionnaire and to conduct some of the user interviews, particularly those outside of Region such as with IRU, UNECE and transporters located outside the Region.

86. The results of the needs assessment survey would be compiled into a TIR Implementation Report. The problems identified will be segregated into national and regional issues based on whether the solutions need to be resolved in relation to that specific country or whether there is common ground for a regional approach. This operational research would be specifically limited to the application of TIR and SafeTIR. It would not address other general transport-related issues, such as permit availability and pricing, road tax, any irregular payments made to police and road authorities which also affect the access to and cost of international transport in the region.

87. It is recognized that the IRU, Customs and the National Associations are already attempting to enhance the operational performance of TIR and SafeTIR in the Region and this proposed needs assessment does not seek to override their valuable contribution. However, it is acknowledged that this approach can be a slow process and the objective of the program is to address the issues in a combined regional and country-specific approach. It is also recognized that what happens in one country can have knock-on effects in others and in certain cases this regional approach may yield better results. In summary, this approach will ensure; (i) regional-orientation of the country specific programs; and (ii) country ownership of the regional program.

88. The Working Group proposed consideration of a Forum Meeting in Tashkent in 2004 to discuss the results of the TIR needs assessment. Whilst this remains an option, it is felt that such an approach should not be adopted until the results of the assessment are provided. As

²³ The UNECE Working Party 30 concentrates specifically on the TIR Transit System and its implementation.

indicated, it is expected that the report will highlight both national and regional implementation issues. The resolution of national issues should be addressed through a national program and only those aspects identified as being regional problems would be suitable for discussion at such a forum. An alternative strategy may be to facilitate bilateral discussion to achieve a regional consensus. It is therefore proposed that a decision on such a meeting should await the results of the needs assessment and guidance from the Customs Cooperation Committee.

89. The second phase will commence with the development of national and regional Action Plans to be combined into an overall Action Plan. This will be prepared either at the Forum or in consultation with each customs authority. The draft national/regional plans will be circulated to the IRU, the Customs Task Forces and the National Road Transport Associations for consultation prior to their inclusion in the combined Action Plan.

90. The parties responsible for the implementation of each task will be clearly identified within the National/Regional Action Plan. It will also include a realistic timetable for each task and a performance assessment and reporting mechanism to measure the results of implementation.

91. A key constraint identified in previous studies has been poor implementation of the TIR Convention at borders. During the accession process, training was provided by the IRU to both Customs and the national Road Transport Association. However, training is an on-going process, particularly with the high staff turnover in some of the customs authorities in the Region. It is evident that at many of the borders that the personnel are not fully conversant with the implementation of the TIR Convention, thus there is a need for some additional training. The needs assessment will identify current TIR training mechanisms and propose a training component within the Action Plan.

3. Development of a Regional Transit System

92. The need for a viable regional transit system has been clearly identified both by customs and the trade and transport sector to facilitate intra-regional movements where TIR is not an appropriate economic option. Most countries in the Region have national transit systems but these are limited to national territory, principally due to the lack of a chain guarantee system linking into the adjacent country.

93. These existing national systems potentially represent the “building blocks” for development of a regional transit system. This is because they are already established within the legal framework and have been approved by customs. However, as indicated these systems are not widely used because they are not attractive to traders and transporters for cross-border movements and are not regionally compatible due to the differences in national legislation, thus making direct interfacing difficult.

94. Alternative systems such as the EU Community system are uniform and widely used and are not perceived as complex or expensive by users. While the development environment between the Community region and the Central Asian Region differs significantly, the basic objectives of the Community System and the proposed regional transit system are the same.

95. The recommended program for development of a regional transit system consists of: (i) examining the potential to enhance and combine national transit systems towards a regional system; and (ii) assessing how the Community or TIR system could be adapted to reflect the specific needs and development environment of East and Central Asia.

96. The key components or “pillars” of any regional transit system are expected to be as follows:

- (i) Recognition by Customs for control purposes;
- (ii) Responsible Person;
- (iii) Secure Vehicles;
- (iv) Standard Customs Document;
- (v) A transit guarantee;
- (vi) An institutional framework to manage the system; and
- (vii) An ICT system interface.

All the major international systems, such as the Community and Common Transit System and TIR, have these key components present. In developing a regional transit system, each of these components will need to be addressed.

97. The inclusion of development of a regional transit system within the Customs Cooperation Committees Action Plan and the discussions of the Working Group demonstrate that there is a willingness to mutually recognize any new system for control purposes. A major element is the mutual **recognition of seals and stamps for transit purposes**. The CARs already have this exchange of seals and stamps, as they are recognized in connection with the TIR transit system. There is as yet no exchange between PRC and Mongolia and the CARs, except between Kazakhstan and PRC.

98. The **“Responsible Person”** is the legal party who takes responsibility for the transit movement and who can be held accountable by customs in the event of irregularity. Given the potential high levels of fraud in the Region in relation to import and transit traffic, it is critical that the proposed regional transit system is only open to “responsible” parties. The revisions undertaken by both the TIR and the Community System in recent years included revisions to restrict access to the system so as to combat fraud. Given the need for transparency, it will be important to provide guidelines on who would be considered “responsible persons” in the context of accessibility to use the proposed transit system.

99. **Vehicle sealing requirements** need to be established. The certification requirements of the TIR system would be inappropriate in respect of regional transit, given the fleet profiles of national operators. Under the Community System no certification is required other than customs at the point of departure agreeing that the vehicle can be sealed and affixing that seal. However, given the governance and transparency issues confronting the Region, it is considered that clear guidelines should be provided to transporters on what types of unit will be acceptable for regional transit purposes.

100. **Standardization of documentation** could be achieved by using the standard Customs Declaration used throughout the CARs. This is in UN format and is similar to the SAD document used in the Community Transit System. There is no need to develop a new document specifically for the regional transit system. The key issue is its acceptance by all the countries involved in the transit, thus eliminating the need for transposition of the document at the border – i.e. the document is valid for the complete journey rather than solely for national transit as now. It is recognized that both PRC and Mongolia have different documentation systems. Some separate documentation may be needed for transiting these countries to overcome the language difficulties.

101. **A regional chain guarantee arrangement** that covers the duty and tax liability is an essential component for the regional transit system. This would need to be similar to, but not identical, to that provided under the TIR system for long-distance transits or that required for transits under national systems but with regional linkage. It is recognized that this is probably the most difficult component to develop and will require the major program input.

102. **A transit management system** with an appropriate institutional framework is another major component. Its primary function is monitor the performance of the system and to provide the linkage between the office of departure and the office of destination to join-up the documentation to confirm the successful transit, thus triggering the release of the guarantee. This centralized body can be either an external party, as in the case of IRU as the “manager of the TIR system” or an internal Customs organization as in the case of the Community system.

103. **An ICT system for a regional transit system** needs to be considered at an early stage. While both TIR and the Community systems were developed as a paper-based system without ICT, both have had to introduce ICT to combat fraud and enhance control. Given the emphasis of “control” as a key function of customs in the region and the transit risks, it is considered that an ICT support system will be essential and should be addressed as part of the initial development process.

104. It is clear that some components will be easier to address than others and that the potential to develop a regional transit system will be dependent on certain key components. It is considered therefore that the initial program focus should be on three critical aspects: (i) legal framework; (ii) chain guarantee system; and (iii) ICT support system.

105. The current legal and regulatory system in each country should be examined to clearly establish the requirements of each national system, with particular emphasis on the indicative requirements in respect of each of the components and the synergy between the countries’ requirements. The commonality between the national requirements in respect of the components needs to be identified as a potential basis for a regional system. In parallel, these should be compared with the requirements stipulated in the Community and TIR systems so as to indicate the difference and the implications in respect of those differences. The results of this legislative evaluation can be used to prepare a set of draft requirements for a regional transit system, recognizing both the national and international perspectives.

106. The potential methods of developing a chain guarantee system represents the major program component. It will require detailed consultation between potential guarantee organizations, transporters and the customs. This would commence with a survey to identify the constraints of the current national systems and be followed by discussions with current guarantors as to how their national guarantees could potentially be extended cross-border. This would involve discussions with banks and insurance companies, as well as major traders who might provide guarantees in respect of their cargoes. The objective is to obtain a clear understanding on the potential problems in developing a regional chain guarantee mechanism system and identify potential methods of resolving these constraints and if appropriate how to involve international guarantee organizations such as those supporting the TIR and Community Transit Systems.

107. The ICT component should focus on the proposed role of ICT within the proposed regional transit system, as opposed to technical definition at this stage. For example, should it be a SafeTIR-type system providing ICT connectivity between the Offices of Departure and Destination or a more comprehensive system such as NCTS that contains a tracking

component and is intended as a paperless system? Another important aspect would be connectivity with existing ICT systems in Customs to limit development costs.

108. It is recognized that any regional transit system should be initially based on piloting prior to its introduction throughout the Region. It is considered that Kazakhstan and the Kyrgyz Republic would be potential countries for pilot testing for the following reasons:

- (i) similarities in their new Customs Codes;
- (ii) membership of the Eurasian Customs Union;
- (iii) significant volumes of transit traffic between them and across Kazakhstan.

109. It is recommended that the Customs Cooperation Committee consider early approval of the countries for pilot testing to facilitate its possible implementation in 2004 on a trial basis with selected "responsible persons" on selected transit routes.

MAJOR INTERNATIONAL TRANSIT SYSTEMS

The following sections outline some of the key international transit and transit support systems in current use.

A. TIR Customs Transit System

1. The most important international convention concerning transit by road is the Transport International Routiers (International Road Transport) Agreement, or TIR Agreement, concluded in 1949 among a small number of European countries under the auspices of the United Nations Economic Commission for Europe (UNECE). This agreement provided a guarantee system that would cover the duties and other charges at risk on goods moving in the course of international trade. Its success led to the creation in 1959 of the Customs Convention on the International Transport of Goods under cover of TIR Carnets, also known as the TIR Convention, and covering more countries, that entered into force in 1960.

2. The 1959 TIR Convention was then subsequently revised in 1975 to reflect new technical methodologies, such as the introduction of containers in transport. It was also adapted to include inter-modal movements by rail, inland waterway and maritime mode that included road transport in the door-to-door movement. This 1975 version of the TIR Convention now has 64 Contracting Parties worldwide ¹ and has been the basis for many regional transit systems.

3. The TIR Transit System is based on five principles or “pillars”

- (i) Goods should travel in customs secure vehicles or containers;
- (ii) Throughout the journey, duties and taxes at risk should be covered by an internationally valid guarantee;
- (iii) Goods should be accompanied by an internationally accepted document (TIR Carnet), opened in the country of departure and serving as a customs control document in the countries of departure, transit and destination;
- (iv) Customs control measures taken in the country of departure should be accepted by all countries of transit and destination; and
- (v) Controlled access to the TIR procedure in relation to approved national associations and transport operators.

4. The first principle ensures that only suitable secure forms of transport can be used for such transits. The Convention sets out standards of construction and approval procedures for the load compartments of the road vehicle (i.e. the cargo carrying area of a rigid vehicle or a trailer) or container to ensure there is no access to the interior when secured by customs seal and that any tampering would be clearly visible.

5. The international guarantee system was devised to ensure that customs duties and taxes at risk during transit operations are covered at any point during the transit by a national guaranteeing association. This guaranteeing association has specific agreements with both

¹ Afghanistan, Albania, Algeria, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Indonesia, Iran, Ireland, Israel, Italy, Jordan, Kazakhstan, Kyrgyzstan, Kuwait, Latvia, Lebanon, Lithuania, Luxembourg, Malta, Morocco, Netherlands, Norway, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Former Yugoslav Republic of Macedonia, Tunisia, Turkey, Turkmenistan, Ukraine, United Kingdom, United States of America, Uruguay, Uzbekistan, Yugoslavia, European Economic Community.

Customs and the national road transport associations and guarantees the payment of duties and taxes of both national and foreign carriers under TIR, so providing a succession of national transit movements forming a chain, thus relying on international rather than national guarantees. This chain guarantee system is administered by the International Road Transport Union (IRU) and is backed by several large insurance companies. In the event of an irregularity Customs always commence the claim recovery procedure by making a direct claim from the person liable, usually the transport operator undertaking the transit. This is frequently not successful so customs then claim from the national guaranteeing association who are responsible for settling the claim according to national law and they later claim reimbursement of their expenses from the international guarantee chain.

6. The TIR Carnet is an international Customs Document and forms the administrative backbone of the TIR Transit System and provides proof of the international guarantee in relation to a movement. The Carnet is printed and distributed by the IRU to the national guaranteeing associations who in turn distribute them to transport operators that are members of the national association. The Carnet consists of a series of vouchers and counterfoils, two sets of vouchers and counterfoils per country transited. The Carnet is filled in by the operator and stamped by Customs at the office of departure and remains valid until the arrival at the customs office of destination and is finally stamped by customs confirming its arrival. During the transit, Customs at the entry and exit border posts stamp and tear out their vouchers and counterfoils and match them up for verification purposes.

7. The fourth principle confirms that the countries of transit and destination should accept the customs control measures taken in the country of departure. In general, provided the load compartment is sealed by Customs in the country of departure, no further examination should be required until the office of destination. This does not preclude customs in the transit countries undertaking spot checks based on risk assessment on an exceptional basis. If they do so, they must reseal the load compartment.

8. The last principle controls access to the TIR Transit System. To safeguard the system against fraud, further requirements and obligations on both national associations and their transport members were established. Among others requirements, these included a written agreement between the national association and national Customs providing proof of guarantee coverage for all of their possible liabilities in relation to Customs.

9. The TIR Transit System in the early 1990s began to experience a significant increase in fraud leading to a surge in claims, especially in relation to movements to Eastern European and CIS² countries. The IRU has developed SafeTIR as the computerized control system for TIR to record the issuing of the Carnets to national associations and individual operators. Its primary function is to advise the TIR system via an electronic message from the customs at the final office of discharge indicating that the goods have completed the arrival procedures, thus indicating that the guarantee is not at risk of being used for a claim. The guarantee is not finally released until the copies from office of destination is linked to that of the office of departure – i.e. the release is still undertaken on a paper-based system. Both Customs and the National Associations have access through the SafeTIR system to the database in relation to current or previous transit movements to/from their country.

10. The TIR Transit System created more than 50 years ago has proved to be an effective international transit system, despite some transitional problems in the 1990s, and has played a

² CIS is the Commonwealth of Independent States and includes all the members of the Former Soviet Union except the Baltic States.

key role in the development of facilitating international trade and transport, especially in relation to long-distance multi-border transits. **TIR remains the only universal road transit system.**

B. Community and Common Transit Systems

11. The establishment of the European Community in 1958 with rapid economic integration among the members through measures such as common customs tariffs created the need for a specific transit system that could be used among the members of the Community. The community transit system was introduced in 1969 to facilitate movement of goods within the customs territory of the Community. With the proliferation of free trade agreements and associations between the European Community and non-Community members, the community transit system was extended into a Common Transit System with the adoption of common transit procedures and use of a Single Administrative Document (SAD) for transit movements. This combined transit system now covers movements within the EU and transit to/from EFTA/Visegrad countries³ involving 22 countries – i.e. most of Europe.

12. The community transit system bears similarities to the TIR system, as would be expected as both originated in Europe. It has three main similar principles:

- (i) the load compartment of the vehicle or container must be sealable and secure;
- (ii) throughout the journey, duties and taxes at risk should be covered by a guarantee; and
- (iii) goods should be accompanied by an internationally accepted document, the SAD, opened in the country of departure and serving as a customs control document in the countries of departure, transit and destination.

13. The load compartment of the vehicle or container must be sealable, as in the case of TIR. However it is not required to have to have an approval certificate as in the case of TIR, thus making the system accessible to a greater number and range of vehicles.

14. In contrast to the TIR procedure that is structured on an international guarantee system based on a chain of national guaranteeing associations, the community transit system is based on the appointment of a “Principal”, who indicates that he wishes to carry out a transit operation by making a transit declaration. He is responsible for (a) presentation of the goods intact together with the transit declaration at the office of destination within the prescribed time limit, (b) payment of duties and other charges which may become due when an irregularity occurs, (c) the provision of a guarantee to cover the amount of duties and other charges suspended during the movement of goods.

15. There are two types of guarantees – individual, for a single transport movement covering the full amount of customs duties and charges at stake, or comprehensive, covering a number of movements if strict criteria are met. The guarantee is calculated on the basis of the highest duties and other charges applicable to the goods in the country of departure. Comprehensive guarantees are now fixed to cover the ‘reference amount’, which is the maximum amount of duties and charges at stake in a period of at least one week, based on past transactions and anticipated trends in the trader’s operations. The trader may not exceed this liability for the movements he undertakes, unless he arranges for supplementary guarantee cover. The actual levels of comprehensive guarantee can be reduced to 50% or even to as low as 30% of the reference amount, or waived completely depending on the risks involved, the track record of the

³ The European Free Trade Area (EFTA) members are Norway, Switzerland, and Iceland. Visegrad countries are Czech Republic, Hungary, Poland, and Slovak Republic.

trader (financial standing, experience, cooperation with authorities, control of transport operations).

16. The guarantee is applicable until the end of the procedure, which is when the customs authorities in the country of departure by comparing the information available at the office of departure with that sent back by the office at the office of destination are able to establish that the procedure has been properly concluded. Thus, it is similar to the TIR Transit System of validation between office of departure and office of destination. The recovery procedures for both Community and Common Transit Systems establish if and where the customs debt has occurred, who is liable to pay this debt and which authority in which country should proceed to recover the debt.

17. The transit declaration is in the form of the Single Administrative Document (SAD) and consists of two variants depending on the nature of the transit:

- (i) The T1 or external Community transit document applies to the movement of non-Community goods and is mandatory for the movement within or across the Community of all non-EC goods. The EC/EFTA Convention extends this requirement to the EFTA/Visegrad countries. This is called Common Transit and duties and taxes are suspended for the transit; and
- (ii) The T2 or internal community transit applies to community goods where they are consigned from one point in the Customs territory of the Community to another through the territory of EFTA/Visegrad countries. It also applies to the movement of Community goods that are consigned to, from, or between the non-fiscal areas of the customs territory of the Community.

18. The TIR procedure can only be used in the Community for a transit movement that begins or ends outside the Community, or is effected between two points in the Community through the territory of a third country. For purposes of the TIR procedure, the territory of the Community is considered as forming a single customs territory. Goods may be moved under a single TIR operation across any number of TIR contracting parties but not for an operation solely within the Community. Thus, the TIR and Community systems have separate roles within the region.

19. Following a 1994 report to the EU Court of Auditors and internal EU reports on transit it was identified that there was a need for reform of the Community and Common Transit Systems. The three main areas of reform were as follows:

- (i) Improvements of the quality of the transit legislation giving a clearer basic legal framework, increased harmonization of the Community and Common Transit Systems and better integration of the Community Transit Codes within the overall Community Customs Code;
- (ii) More effective and uniform implementation of rules by increased effort by national administrations to ensure the procedures work and optimization of the operational instruments; and
- (iii) Computerization of the transit procedures through the New Computerized Transit System (NCTS).

20. The Community System was developed to meet a specific application in Western Europe and has since been extended to neighboring countries with which the European Union has special arrangements. There are features about that region that are unique. A key factor is

that the customs duties relate to the “community” as a whole, rather than to the national customs authority that collects it. Because the EU is a single Customs Union, the customs duties collected by national customs is remitted to the EU budget, rather than being retained by that national customs. Thus, **any application of the Community Transit System in another region would not be possible unless a single regional customs union existed. However, it may be possible to develop an equivalent system based on similar principles but require adaptation to be compatible with the Customs and transport environment of that particular region.**

C. New Computerized Transit System

21. As indicated in paragraph 19, a key part of the reform process of both the Community and Common Transit System is its computerization. Based on the use of advanced computer systems and the electronic processing of data, the New Computerized Transit System (NCTS) is a tool to manage and control the transit system. The main objectives of NCTS are as follows: (i) increase the efficiency and effectiveness of transit procedures; (ii) improve the prevention and detection of fraud; and (iii) accelerate transit transactions and offer increased security.

22. NCTS is used for both Community and Common Transit Systems in situations where they are currently carried out using the T1/T2 Declarations. It will eventually be extended to 22 countries linking 3,000 customs offices. There are approximately 20 million transactions a year. As of mid-2003, 27% of total customs offices were connected to the NCTS, with full connection of the systems expected by mid 2004.

23. The NCTS is designed to largely replace the current paper-based system by the use of electronic messaging. NCTS differs from the SafeTIR system in that it is a much more comprehensive system and there are a number of important differences. The first difference is that NCTS is a customs system, as opposed to SafeTIR that is operated by the IRU and approved by Customs. Thus, it is an internal customs system. Secondly, it has a Direct Trader Input (DTI) capability in that the trader or his representative can enter the transit entry declaration data directly into the system. Thirdly, the system generates electronic data on the movement that is available to the various customs organizations involved in the transit and at the final destination and eliminates the need for paper transactions.

24. The basic operation and messaging system is as follows:

- (i) the transit declaration is presented by the trader or his representative in paper or electronic form;
- (ii) a movement reference number is generated. This unique registration number is given by the system to the declaration to identify the movement;
- (iii) the transit document that accompanies the goods from departure to destination is generated by the System;
- (iv) “anticipated arrival record” message is sent by the customs departure office to the nominated customs destination office;
- (v) “anticipated transit record” message sent by the departure office to the declared customs offices of transit to notify them of anticipated border transit;
- (vi) “notification of crossing frontier” message is sent by the actual customs office of transit after having checked the consignment as it transits the border;
- (vii) “arrival advice” message is sent by the actual destination office to the departure office when the goods arrive; and

- (viii) “control results” message is sent by the actual destination office to the departure office after goods have been checked so that guarantee can be released.

25. The above system indicates that the offices of transit and destination have to be nominated before the journey has commenced. However, it is possible to alter both the transit route, and even the final office of destination. The customs on the arrival at the non-nominated border-crossing contacts the office of departure through keying into NCTS requesting the “anticipated transit record” so it can cross-reference the movement with the documents and sends the “notification of crossing frontier” in the same way that if it had been a nominated crossing. If the office of destination changes, then the new office of destination requests the “anticipated arrival record” from the office of departure.

26. It can be seen that the movement is logged through the system to the office of departure. Thus, the office of departure can track the movement up until it receives the final “control results” clearing the transit movement. Thus, it has greater control over the movement than the commercial SafeTIR system.

27. The advantages of NCTS from a Customs perspective are as follows:

- (i) communication and coordination between customs administration involved will improve;
- (ii) repetitive activities, such as data entry, will be performed once saving time and transposition errors;
- (iii) creation of a coherent system to speed up the processing of data;
- (iv) harmonization of operating criteria; and
- (v) availability of a system run directly by customs that provides more reliable common data and better monitoring of movements.

28. In order to implement the NCTS there are certain obligations on customs:

- (i) installation of computer infrastructure , or adjustment of existing facilities, to meet the specific requirements of NCTS, including compatibility with the Common Communications Network;
- (ii) establishment of an organization to keep the computer applications operational;
- (iii) formulation and development of measures to ensure that the NCTS is integrated into the existing procedural and organizational setup; and
- (iv) preparation and implementation of suitable training for customs staff and traders or their representatives.

29. The advantages for the trading community are as follows:

- (i) improved quality of service with less time spent waiting at customs because of the DTI capability;
- (ii) greater flexibility in presenting declarations
- (iii) earlier discharge of the transit procedure and release of the guarantee;
- (iv) reduction in the high cost of the current paper-based system;
- (v) greater clarity and transparency of the transit operation: and
- (vi) potential savings due to pre-entry in country of destination and transit countries.

30. It is important to emphasize that **NCTS is not a transit system in isolation. It is an IT-based system that is specifically linked to the Community and Common Transit System.** Installation of such a complex system is both difficult and expensive and these are the main reasons for its slower than expected implementation. However, there is the necessary commitment by the respective customs for its gradual implementation across the 22 countries. All EC/EFTA countries will be operational by mid 2004 at which time the current paper-based transactions will cease. It should be noted that the NCTS is a precondition of the EU enlargement and the accession countries have to implement the system on joining the EC.

CURRENT APPLICATION OF THE TIR TRANSIT SYSTEM IN THE REGION

Country	Date of Accession	National Association	TIR Carnets issued in 2002 (approx)
Azerbaijan	November 1997	ABADA (Azerbaijan International Road Carriers Association)	1300
Kazakhstan	March 1996	KAZATO (Union of International Road Carriers of the Republic of Kazakhstan)	6400
Kyrgyz Republic	October 1998	KYRGYZ AIA (Kyrgyz International Road Carriers Association)	1250
Mongolia	2002	NARTAM ¹ (National Association of Road Transporters of Mongolia)	-
Tajikistan	March 1997	ABBAT (Tajik Association of International Carriers)	-
Turkmenistan	March 1997	THADA (Turkmen Association of International Road Carriers)	-
Uzbekistan	March 1996	AIRCUZ (Association of International Road Carriers of Uzbekistan)	500

¹ Subject to final approval.

ACCESSION STATUS TO MAJOR INTERNATIONAL CONVENTIONS

№ п/п	International Agreements and Conventions	ECE Reference	Azerbaijan	Kazakhstan	Kyrgyz Republic	Mongolia	Peoples Republic of China	Tajikistan	Turkmenistan	Uzbekistan
1	Convention on Road Traffic (08/11/1968)*	8		X				X	X	X
2	Convention on Road Signs and Signals (08/11/1968)*	10		X				X	X	X
3	Convention on the Contract for the International Carriage of Goods by Road (19/05/1956)*CMR	25		X	X			X	X	X
4	Customs Convention on the Temporary Importation of Commercial Road Vehicles (18/05/1956)*	42			X					X
5	Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (14/11/1975)*	40	X	X	X	X		X	X	X
6	International Convention on the Harmonization of Frontier Controls of Goods (21/10/1982)*	49	X		X					X
7	Customs Convention on Containers (02/12/1972)*	47								X
8	European Agreement supplementing the Convention on Road Traffic (01/05/1971)	11								
9	European Agreement supplementing the Convention on Road Signs and Signals (01/05/1971)	12			X			X	X	X
10	European Agreement concerning the Work of Crews of Vehicles engaged in International Road Traffic (AETR) (01/07/1970)	21	X	X					X	X
11	European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) (30/09/1957)	51	X	X						
12	Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for such Carriage (ATP) (01/09/1970)	55	X	X						X
13	European Agreement on Main International Traffic Arteries (AGR) (15/11/1975)	2	X	X						
14	European Agreement on Main International Railway Lines (AGC) (31/05/1985)	3		C						
15	European Agreement on Important International Combined Transport Lines and Related Installations (AGTC) (01/02/1991)	4		X						

Comments:

* Conventions, recommended by UN ESCAP Resolution 48/11

X Final sign, ratification, joining

C on the stage of the Governmental procedures

Source: ECE, EU TRACECA and ADB Customs Working Group

CUSTOMS LEGAL FRAMEWORK FOR TRANSIT

Summary

A. Azerbaijan

1. The Customs Code covers Transit in Chapter 6, which it defines as the customs conditions when goods are transported between two customs bodies of Azerbaijan or a foreign territory without payment of customs duties and taxes under responsibility of a transport carrier. If the carrier cannot comply with provisions, goods are placed under regulation and transported by Azeri customs authority. A permit is required for transit, and in cases where provisions are not complied with customs duties will have to be paid at the border on entry.

B. Kazakhstan

2. The Customs Code allows customs transit under Chapter 12 - Domestic Customs Transit and Chapter 27 - Transit of Goods. Domestic customs transit means the procedure of transporting goods through the customs territory of Kazakhstan and of a foreign state, under the responsibility of the carrier. These goods shall be admitted for conveyance if a delivery control document is drawn up, and at least one of the measures for ensuring delivery is complied with. This may be either the provision of a guarantee commitment by the consignee, a document ensuring tax payments, conveyance by a customs carrier, or customs escort of goods. Such measures will not apply if goods are transported under international agreements. Customs authorities will use seals and stamps as identification marks on means of transport and shall recognize such marks used by customs of foreign states. Cargo operations and transshipment are allowed.

3. Provisions governing guarantees are given in Chapter 43. A guarantee is allowed in a number of circumstances, including transit. The amount of the guarantee shall not be less than the amount of customs duties and taxes payable. It may be provided in the form of security (e.g. goods and property that are free from third party claims), bank guarantee, deposit of the payable sum with the customs authority, or insurance agreement. When the commitments required by the deposit are fulfilled, the deposit shall be refunded, and shall not entail refund of interest, nor shall the amounts be indexed, and any bank fees shall be recovered prior to the refund.

C. Kyrgyz Republic

4. The Customs Code is undergoing changes. The old Customs Code includes Transit of Goods in Chapter 6, which it defines as the customs regime in which goods may be transferred under customs supervision between two customs bodies of Kyrgyz and through foreign territory without levying customs duties and taxes under responsibility of a carrier. If the carrier cannot guarantee compliance, customs shall place the goods under transit only after the vehicle is duly equipped, or goods are transported by a customs carrier, or escorted. Transit requires the carrier to obtain the prior permission of customs. Customs payments will be imposed if goods are issued without permits, lost, or undelivered to their destination.

5. The draft amended Customs Code renames Chapter 6 as Domestic Customs Transit, which constitutes the customs procedure when the goods under customs control are transported in Kyrgyz customs territory without payment of duties and taxes. It is authorized by

the customs body of departure to the goods carrier or forwarder upon submission of a declaration containing pertinent information. Goods shall be identified with markings, seals, stamps or other means, and marks applied by foreign customs shall be recognized. Customs will ensure that import duties and taxes are paid or the amount of security is determined, and standard routes are followed or goods are escorted when other measures are insufficient. Transshipment and other cargo handling operations may be authorized.

6. The amended Customs Code also provides for Transit in Chapter 22, defined as the customs procedure under which foreign goods are moved under customs control in Kyrgyz customs territory shall be exempt from customs duties and taxes. The customs authority must issue permits. Provisions on domestic customs transit are applicable, e.g. permit issuance procedures, time period of transit, goods identification requirements, measures of observance of legislation, responsibilities of carrier. Transshipment and temporary placement in warehouses may be authorized. The transit procedure is completed upon exportation of the goods outside Kyrgyz customs territory, or upon their placement under other customs procedures. The carrier shall submit a declaration and other documents to the destination office.

7. Chapter 35 deals with Security of Customs Payments, which is provided by the person liable for payments or by another in favor of the person liable. Security is a condition for goods under customs control that require a license. The value depends on the sum of customs payments, interest and/or fines due, and is not required if such a sum is less than 100 times the minimum wage. Security is accepted for all operations of a single person who is engaged in several operations at the same time. It may be in the form of a pledge on the goods and other property, bank guarantee, deposit in customs' account or insurance agreement in some cases. Guarantees can be formalized by a contract between customs and the guarantor, who can be the payer or a third person (e.g. broker, owner of temporary storage or bonded warehouses, duty free shops). Banks, credit and insurance companies providing such guarantees must register with Customs.

D. Mongolia

8. The Customs Law briefly covers Customs Transit procedure in Article 17, defined as goods moving from one customs office to another without payment of duties and taxes, using designated means of transport with a sealed loading compartment. Where necessary, customs may obtain a guarantee of payment of customs duties and taxes.

E. People's Republic of China

9. According to Customs Law of PRC, formalities for import goods shall be completed at the Customs point of entry while those for export goods shall be completed at the Customs point of departure, although if approved by Customs, these may be reversed. Transit goods are those that come from outside the territory and pass through PRC by land. Transport of goods under transit shall comply with control requirements, such as movement along designated routes, escort when necessary, affixing of seals to goods and vehicles, and re-exportation within 6 months. The transit declaration form should be electronically filed.

F. Uzbekistan

10. The Customs Code covers Transit in Article 21, defined as the regime when commodities are conveyed under customs control, between two Uzbek customs bodies and across foreign territory, and no customs duties are levied. In-transit commodities may be

transferred through Uzbek customs territory in any direction if authorized by customs authority. Responsibility for transporting rests on the duly licensed entity that is involved in its conveyance (Article 60), and in cases of non-compliance with the requirements, customs will organize a convoy. The discharge of customs payments may be effected based either on the security of goods and means of transport being transferred (Article 111), or guarantee provided by a third party, or deposit equal to the amount of customs payments, or secured by a bank or other authorized financial/credit establishment.

ACTION PLAN FOR CUSTOMS AND TRANSPORT MODERNIZATION

Strategic Pillar	Action Plan	International Agencies
Policy Support and Institution Reform	<ul style="list-style-type: none"> • Reform of customs and transport legal framework to be compliant with WTO requirements and the Revised Kyoto Convention; • Ratification of the key international conventions related to customs and transport, particularly those addressing transit; • Reform of trade policy¹, including accession to WTO; • Governance reforms and institutional strengthening to improve transparency and efficiency of customs services, including those at border-crossings; • Reform of human resource management to reduce corruption and improve professionalism of the customs service and its officers; • Reform of border agencies aimed at simplifying border procedures and introducing integrated border management systems; • Promotion of private sector development to support customs, particularly the banking and insurance sectors in providing transit guarantees; and • Promotion of private associations that interface with customs, such as the national transport associations, trade and customs brokers' associations. 	ADB, IMF, WB, EU TACIS, USAID, SPECA, UNDP, WCO
Customs & Transport Modernization	<ul style="list-style-type: none"> • Modernization of customs procedures at borders to be compliant with best international practice and relevant international conventions (e.g., TIR, Harmonization of Frontier Controls of Goods and Revised Kyoto Conventions);² • Modernization of border infrastructure to expedite transit movements, such as separate "fast track" lanes for vehicles using established transit systems; • Development of a regional transit system for intra-regional movements with a supporting guarantees and ICT control mechanisms; • Implementation of modern customs practices, such as the introduction of risk management and post-entry audit to expedite clearance processes; • Development of road and rail infrastructure along key regional transport corridors to reduce transit costs by lowering average transit times;³ • Development of harmonized system of road permits, road tax and insurance for transit movements to reduce road transit costs;⁴ • Development of border management ICT system to link all the relevant border agencies to reduce duplication of data collection; • Provision and implementation of modern automated customs clearance systems;⁵ • Provision of special equipments and facilities (including dog training centers) to combat smuggling, drug trafficking and cross-border movement of weapons; and • Development of intelligence systems to support implementation of risk management mechanisms. 	ADB, WB, EBRD, UNDP, EU TACIS-TRACECA, IDB, IRU, WCO National Development Agencies such as USAID, DIFD, KFW, JICA)
Regional Cooperation	<ul style="list-style-type: none"> • Promotion of bilateral and regional agreements on transit; • Promotion of bilateral and regional agreements on recognition of transit documentation, customs seals and stamps; • Enhanced cooperation with international transit bodies, such as UNECE and IRU; 	CCC, ADB, SPECA, WCO, IRU

¹ Trade policy reforms are addressed in a separate paper.

² Partially being addressed by EU TRACECA Project "Harmonization of Border Crossing Procedures" but excludes PRC and Mongolia.

³ This is addressed in a separate paper.

⁴ Partially being addressed by EU TRACECA Project "Unified Policy on Transit Fees and Tariffs" but excludes PRC and Mongolia.

⁵ A separate paper is prepared for this CCC initiative.

⁶ A separate paper is prepared for this CCC initiative.

	<ul style="list-style-type: none">• Measures to enhance regional recognition and enforceability of the TIR Customs Transit System;• Approval of regional transit system, particularly of a regional guarantee system and its pilot testing;• Promotion of data and intelligence-sharing between regional customs organizations to combat illicit trade;• Support for piloting-testing of modern customs practices, such as joint-border processing;⁶• Regional training and policy forum for sharing development experience; and• Support for national coordination and task forces on transit development.	
--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--