

INTRODUCTION

For the last four years a specialist Working Party of the World Customs Organisation (WCO) has been at work on a radical revision of the 1974 International Convention on the Simplification and Harmonisation of Customs Procedures - generally known as the Kyoto Convention.

That Convention was drafted at a time when commercial and official international trade procedures were still being repositioned in line with the change from port-to-port to door-to-door logistics inherent in multimodal, especially containerized, transport systems. The personal computer was a scarce novelty, the global express industry was in its infancy and facilitation was regarded by most Customs as a set of concessions at the direct expense of control.

Twenty years later automation, even before the arrival of Internet, had transformed business practice and opened the way to Customs techniques which have attained new standards of overall efficiency through a seamless amalgam of improved control with increased facilitation. Globalisation and liberalisation were forcing the pace and stretching the scope of change. Governments realised that Customs had to serve legitimate traders as well as suppress fraudsters.

The WCO saw the revision of the Kyoto instrument, to meet and advance facilitation principles, as a major corporate responsibility and responded accordingly. The texts of a revised Convention were approved by the WCO Council in June 1999 and are now open for signature. The full text of the revised Convention can be seen on the WCO website – www.wcoomd.org .

The opportunity has been taken to stiffen the whole structure of the Convention. The 1974 version was permissive, providing, as a rule, that Customs “should” or “may”. The new texts focus on “Customs shall” with evident gains in force and authority. Another acknowledged weakness of the 1974 document was that countries could become signatories by accepting just one of the 31 Annexes. The revised Convention groups all the main facilitation provisions in a single General Annex, which has to be accepted and implemented, as a whole by every signatory.

This Occasional Paper presents that General Annex as a focal example of the Convention’s practical benefits for the international trading community, especially in terms of the early, free expansion of global delivery services. It also identifies some urgent measures to assist and ensure its widespread and successful adoption and implementation.

The full Convention consists of a formal Preamble, the legal text, setting out the obligations and rights of signatories, the General Annex of 10 Chapters, containing Standards which have to be applied by all signatories, and 10 Specific Annexes, dealing with limited applications, which are optional. The Convention is also enhanced by a set of Guidelines, which explain the purpose of each Chapter, illustrate the operational environment and suggest likely future developments.

One particularly valuable provision is that for a Management Committee, composed of signatories, but with facilities for qualified observer attendance, which will meet at least annually to review the Convention and Guidelines so that they can be kept closely in step with all significant changes in commercial and official practice.

What can business gain from this international instrument? The summary answer is a substantial, permanent improvement in Customs efficiency and facilitation, particularly in the many countries where these aspects of Customs practice have fallen far behind national economic needs or modern international trading requirements.

Reference to the General Annex will produce several very concrete examples.

The background to Customs-trade relations is notably improved. Customs must institute and maintain formal consultative arrangements. All relevant information of general application pertaining to Customs law has to be readily available to any interested person. Customs have to issue binding rulings and notify their decisions in disputes within a stipulated period. When an appeal to Customs is dismissed the appellant has the right to lodge a further appeal to an authority independent of Customs.

Automation is not merely recognised but promoted. Customs shall use such technology to support their operations wherever this is cost effective and efficient for themselves and the trade. Signatories shall ensure that new or revised legislation provides e-commerce methods as an alternative to paper-based requirements and electronic as well as paper-based authentication procedures. Customs shall use relevant international standards. When introducing electronic applications they must consult with all relevant parties.

Prompt - preferably immediate - release of goods by Customs is essential for modern trading practices, supported by time-sensitive delivery services. The Annex provides that national legislation shall enable the lodging and registering or checking of the goods declaration prior to arrival. If goods must be inspected by other authorities, Customs shall ensure that the inspections are co-ordinated and, if possible, carried out at the same time. If an offence is alleged, Customs shall not wait for the completion of formalities before they release the goods, provided that there is no requirement for forfeiture and that there is security for payment of taxes, duties and possible penalties.

National legislation shall specify a minimum value and/or a minimum amount of duties and taxes below which no duties and taxes will be collected

Any sensible manager, adding together, even these few example of some 121 General Annex Standards, will see the far-reaching benefits to his international operations once the bulk of the world's Customs services are obliged to meet such commitments.

How will the revised Convention come into force? The first requirement is agreement to the new texts of at least 40 signatories. Beyond that number, there are another hundred or so WCO members.

Much has to be done, therefore, to bring the Convention into play, and the influence of the world trade community, in individual countries and with intergovernmental organisations, such as WTO, G7 the EU and FTAA, will be an essential element in ultimate success.

The benefits will more than justify the effort. The accession of such massive economies as China and Russia would bring their Customs services fully behind their international trade expansion.

Accession by much smaller countries, where existing Customs practices may be potent, if largely unrecognised obstacles to trade and inward investment, will provide them with a clearly defined, comprehensive set of modern Customs procedures, to their own and the general trading benefit.

The effects of the revised Kyoto will extend beyond the Convention itself and its immediate applications. Once this firm and ample procedural foundation is well and truly laid, innovative businesses and Customs services will certainly build on a great many future extensions.

The revised Convention provides the elements and rules for sound procedures, giving Customs a fair and workmanlike blend of improved control with better facilitation. The IECC believes the way is now open for proposals to assemble some of these principle elements into precisely defined Premium Procedures, stipulating, for example, the exact data requirements, expressed in the standard terms emerging from recent G7. work on Customs information needs.

The Guidelines, also, can over time, be up-dated and refined into a basic textbook of good Customs practice.

Politically, the knock-on effects of a satisfactory take-up of the revised Convention can be highly significant. This Occasional Paper appears in the wake of the WTO Ministerial Conference in Seattle, at which there was a broad commercial hope and expectation that trade facilitation, with a serious programme of Customs modernisation, would be part of a new negotiating round.

That immediate prospect has disappeared, but Kyoto provides the best possible tool box for anyone seeking to sustain support for the all-important element of Customs procedural reform during relative WTO inactivity in the next year or so.

There is, for example, an established obligation, standing over from the Uruguay Round, for the WTO to start work on liberalisation of services. One of the principal preliminary steps under this heading will be to establish the specificity of global delivery services, blending multimodal transport with origin-destination logistical management, offering status reporting, monitoring and interrogation facilities at all stages of the transaction.

These services, now an integral part of world-wide supply, production and marketing operations, cannot offer a full and satisfactory range of facilities in any country where Customs procedures and practices enforce serious delays and uncertainties. In looking at their liberalisation, therefore, WTO members will have to consider related facilitation needs. At that point the revised Kyoto texts will provide invaluable source material for proposed remedial action.

This position will be strongly reinforced when the WTO returns to serious discussion over the full liberalisation front. The revised Convention presents an established set of modern Customs practices, built up after years of careful examination by business observers as well as Customs delegates within the WCO. Nobody will want to waste government or business time in reinventing the Customs reform wheel. Instead, sensible negotiators will see a clear obligation - and advantage - in focusing all detailed WTO interventions on the new Kyoto provisions.

In supporting Kyoto, therefore, world business can make a large down payment towards any extra benefits to be derived from subsequent and parallel WTO rule making.

How can business organise this essential and urgent support?

A list of signatories to the existing Convention is set out in an Annex to this Paper. Acceptance by at least 40 of these states is a preliminary essential. Once this initial process is complete the revised Convention goes on the open market for accession.

Large companies often have their own lines of communication with politicians, government departments and the media. These should be used to the full, first to secure news of government intentions and the precise state of play in any move towards acceptance, and then to press for early, positive action. Such enquiries might cover not only the state in which company headquarters are situated, but also any other country in which the company carries on significant commercial activity, with associated tax payments and employment.

Almost every business of any size belongs to, and can call on the services of, a trade association and/or a Chamber of Commerce. It is most important to use the considerable leverage that such bodies can exercise in support of Kyoto.

An early enquiry about their present plans in that direction, followed by a request for appropriate entries on relevant committee agendas, could be a useful stimulant to action. An obvious requirement is the provision and promotion of a statement, on the lines of this Introduction, setting out the general aims and benefits of the Convention and interpreting these with specific reference to the commercial sector or community concerned and represented.

The IECC is very willing to place its own contacts, experience and information at the disposal of any other trade body which thinks these may be helpful in making and pursuing its own case for Kyoto.

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GENERAL ANNEX

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CHAPTER 1

GENERAL PRINCIPLES

1.1. Standard

The Definitions, Standards and Transitional Standards in this Annex shall apply to Customs procedures and practices specified in this Annex and, insofar as applicable, to procedures and practices in the Specific Annexes.

1.2. Standard

The conditions to be fulfilled and Customs formalities to be accomplished for procedures and practices in this Annex and in the Specific Annexes shall be specified in national legislation and shall be as simple as possible.

1.3. Standard

The Customs shall institute and maintain formal consultative relationships with the trade to increase co-operation and facilitate participation in establishing the most effective methods of working commensurate with national provisions and international agreements.

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CHAPTER 2

DEFINITIONS

For the purposes of the Annexes to this Convention :

- E1./ F23. “**appeal**” means the act by which a person who is directly affected by a decision or omission of the Customs and who considers himself to be aggrieved thereby seeks redress before a competent authority;
- E2./ F19. “**assessment of duties and taxes**” means the determination of the amount of duties and taxes payable;
- E3./ F4. “**audit-based control**” means measures by which the Customs satisfy themselves as to the accuracy and authenticity of declarations through the examination of the relevant books, records, business systems and commercial data held by persons concerned;
- E4./ F15. “**checking the Goods declaration**” means the action taken by the Customs to satisfy themselves that the Goods declaration is correctly made out and that the supporting documents required fulfil the prescribed conditions;
- E5./ F9. “**clearance**” means the accomplishment of the Customs formalities necessary to allow goods to enter home use, to be exported or to be placed under another Customs procedure;
- E6./ F10. “**Customs**” means the Government Service which is responsible for the administration of Customs law and the collection of duties and taxes and which also has the responsibility for the application of other laws and regulations relating to the importation, exportation, movement or storage of goods;
- E7./ F3. “**Customs control**” means measures applied by the Customs to ensure compliance with Customs law;
- E8./ F11. “**Customs duties**” means the duties laid down in the Customs tariff to which goods are liable on entering or leaving the Customs territory;
- E9./ F16. “**Customs formalities**” means all the operations which must be carried out by the persons concerned and by the Customs in order to comply with the Customs law;
- E10./ F18. “**Customs law**” means the statutory and regulatory provisions relating to the importation, exportation, movement or storage of goods, the administration and enforcement of which are specifically charged to the Customs, and any regulations made by the Customs under their statutory powers;

- E11./ **“Customs office”** means the Customs administrative unit competent for the
F2. performance of Customs formalities, and the premises or other areas approved for that purpose by the competent authorities;
- E12./ **“Customs territory”** means the territory in which the Customs law of a Contracting
F25. Party applies;
- E13./ **“decision”** means the individual act by which the Customs decide upon a matter
F6. relating to Customs law;
- E14./ **“declarant”** means any person who makes a Goods declaration or in whose name
F7. such a declaration is made;
- E15./ **“due date”** means the date when payment of duties and taxes is due;
F5.
- E16./ **“duties and taxes”** means import duties and taxes and/or export duties and taxes;
F12.
- E17./ **“examination of goods”** means the physical inspection of goods by the Customs to
F27. satisfy themselves that the nature, origin, condition, quantity and value of the goods are in accordance with the particulars furnished in the Goods declaration;
- E18./ **“export duties and taxes”** means Customs duties and all other duties, taxes or
F13. charges which are collected on or in connection with the exportation of goods, but not including any charges which are limited in amount to the approximate cost of services rendered or collected by the Customs on behalf of another national authority;
- E19./ **“Goods declaration”** means a statement made in the manner prescribed by the
F8. Customs, by which the persons concerned indicate the Customs procedure to be applied to the goods and furnish the particulars which the Customs require for its application;
- E20./ **“import duties and taxes”** means Customs duties and all other duties, taxes or
F14. charges which are collected on or in connection with the importation of goods, but not including any charges which are limited in amount to the approximate cost of services rendered or collected by the Customs on behalf of another national authority;
- E21./ **“mutual administrative assistance”** means actions of a Customs administration on
F1. behalf of or in collaboration with another Customs administration for the proper application of Customs law and for the prevention, investigation and repression of Customs offences;
- E22./ **“omission”** means the failure to act or give a decision required of the Customs by
F21. Customs law within a reasonable time on a matter duly submitted to them;
- E23./ **“person”** means both natural and legal persons, unless the context otherwise
F22. requires;

- E24./ **“release of goods”** means the action by the Customs to permit goods undergoing
F20. clearance to be placed at the disposal of the persons concerned;
- E25./ **“repayment”** means the refund, in whole or in part, of duties and taxes paid on goods
F24. and the remission, in whole or in part, of duties and taxes where payment has not been made;
- E26./ **“security”** means that which ensures to the satisfaction of the Customs that an
F17. obligation to the Customs will be fulfilled. Security is described as “general” when it ensures that the obligations arising from several operations will be fulfilled;
- E27./ **“third party”** means any person who deals directly with the Customs, for and on behalf
F26. of another person, relating to the importation, exportation, movement or storage of goods.

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CHAPTER 3

CLEARANCE AND OTHER CUSTOMS FORMALITIES

Competent Customs offices

3.1. Standard

The Customs shall designate the Customs offices at which goods may be produced or cleared. In determining the competence and location of these offices and their hours of business, the factors to be taken into account shall include in particular the requirements of the trade.

3.2. Standard

At the request of the person concerned and for reasons deemed valid by the Customs, the latter shall, subject to the availability of resources, perform the functions laid down for the purposes of a Customs procedure and practice outside the designated hours of business or away from Customs offices. Any expenses chargeable by the Customs shall be limited to the approximate cost of the services rendered.

3.3. Standard

Where Customs offices are located at a common border crossing, the Customs administrations concerned shall correlate the business hours and the competence of those offices.

3.4. Transitional Standard

At common border crossings, the Customs administrations concerned shall, whenever possible, operate joint controls.

3.5. Transitional Standard

Where the Customs intend to establish a new Customs office or to convert an existing one at a common border crossing, they shall, wherever possible, co-operate with the neighbouring Customs to establish a juxtaposed Customs office to facilitate joint controls.

The declarant

(a) Persons entitled to act as declarant

3.6. Standard

National legislation shall specify the conditions under which a person is entitled to act as declarant.

3.7. Standard

Any person having the right to dispose of the goods shall be entitled to act as declarant.

(b) Responsibilities of the declarant

3.8. Standard

The declarant shall be held responsible to the Customs for the accuracy of the particulars given in the Goods declaration and the payment of the duties and taxes.

(c) Rights of the declarant

3.9. Standard

Before lodging the Goods declaration the declarant shall be allowed, under such conditions as may be laid down by the Customs :

- (a) to inspect the goods; and
- (b) to draw samples.

3.10. Standard

The Customs shall not require a separate Goods declaration in respect of samples allowed to be drawn under Customs supervision, provided that such samples are included in the Goods declaration concerning the relevant consignment.

The Goods declaration

(a) Goods declaration format and contents

3.11. Standard

The contents of the Goods declaration shall be prescribed by the Customs. The paper format of the Goods declaration shall conform to the UN-layout key.

For automated Customs clearance processes, the format of the electronically lodged Goods declaration shall be based on international standards for electronic information exchange as prescribed in the Customs Co-operation Council Recommendations on information technology.

3.12. Standard

The Customs shall limit the data required in the Goods declaration to only such particulars as are deemed necessary for the assessment and collection of duties and taxes, the compilation of statistics and the application of Customs law.

3.13. Standard

Where, for reasons deemed valid by the Customs, the declarant does not have all the information required to make the Goods declaration, a provisional or incomplete Goods declaration shall be allowed to be lodged, provided that it contains the particulars deemed necessary by the Customs and that the declarant undertakes to complete it within a specified period.

3.14. Standard

If the Customs register a provisional or incomplete Goods declaration, the tariff treatment to be accorded to the goods shall not be different from that which would have been accorded had a complete and correct Goods declaration been lodged in the first instance.

The release of the goods shall not be delayed provided that any security required has been furnished to ensure collection of any applicable duties and taxes.

3.15. Standard

The Customs shall require the lodgement of the original Goods declaration and only the minimum number of copies necessary.

(b) Documents supporting the Goods declaration

3.16. Standard

In support of the Goods declaration the Customs shall require only those documents necessary to permit control of the operation and to ensure that all requirements relating to the application of Customs law have been complied with.

3.17. Standard

Where certain supporting documents cannot be lodged with the Goods declaration for reasons deemed valid by the Customs, they shall allow production of those documents within a specified period.

3.18. Transitional Standard

The Customs shall permit the lodgement of supporting documents by electronic means.

3.19. Standard

The Customs shall not require a translation of the particulars of supporting documents except when necessary to permit processing of the Goods declaration.

Lodgement, registration and checking of the Goods declaration

3.20. Standard

The Customs shall permit the lodging of the Goods declaration at any designated Customs office.

3.21. Transitional Standard

The Customs shall permit the lodging of the Goods declaration by electronic means.

3.22. Standard

The Goods declaration shall be lodged during the hours designated by the Customs.

3.23. Standard

Where national legislation lays down a time limit for lodging the Goods declaration, the time allowed shall be sufficient to enable the declarant to complete the Goods declaration and to obtain the supporting documents required.

3.24. Standard

At the request of the declarant and for reasons deemed valid by the Customs, the latter shall extend the time limit prescribed for lodging the Goods declaration.

3.25. Standard

National legislation shall make provision for the lodging and registering or checking of the Goods declaration and supporting documents prior to the arrival of the goods.

3.26. Standard

When the Customs cannot register the Goods declaration, they shall state the reasons to the declarant.

3.27. Standard

The Customs shall permit the declarant to amend the Goods declaration that has already been lodged, provided that when the request is received they have not begun to check the Goods declaration or to examine the goods.

3.28. Transitional Standard

The Customs shall permit the declarant to amend the Goods declaration if a request is received after checking of the Goods declaration has commenced, if the reasons given by the declarant are deemed valid by the Customs.

3.29. Transitional Standard

The declarant shall be allowed to withdraw the Goods declaration and apply for another Customs procedure, provided that the request to do so is made to the Customs before the goods have been released and that the reasons are deemed valid by the Customs.

3.30. Standard

Checking the Goods declaration shall be effected at the same time or as soon as possible after the Goods declaration is registered.

3.31. Standard

For the purpose of checking the Goods declaration, the Customs shall take only such action as they deem essential to ensure compliance with Customs law.

Special procedures for authorized persons

3.32. Transitional Standard

For authorized persons who meet criteria specified by the Customs, including having an appropriate record of compliance with Customs requirements and a satisfactory system for managing their commercial records, the Customs shall provide for :

- release of the goods on the provision of the minimum information necessary to identify the goods and permit the subsequent completion of the final Goods declaration;

- clearance of the goods at the declarant's premises or another place authorized by the Customs;
- and, in addition, to the extent possible, other special procedures such as :
- allowing a single Goods declaration for all imports or exports in a given period where goods are imported or exported frequently by the same person;
 - use of the authorized persons' commercial records to self-assess their duty and tax liability and, where appropriate, to ensure compliance with other Customs requirements;
 - allowing the lodgement of the Goods declaration by means of an entry in the records of the authorized person to be supported subsequently by a supplementary Goods declaration.

Examination of the goods

(a) Time required for examination of goods

3.33. Standard

When the Customs decide that goods declared shall be examined, this examination shall take place as soon as possible after the Goods declaration has been registered.

3.34. Standard

When scheduling examinations, priority shall be given to the examination of live animals and perishable goods and to other goods which the Customs accept are urgently required.

3.35. Transitional Standard

If the goods must be inspected by other competent authorities and the Customs also schedules an examination, the Customs shall ensure that the inspections are co-ordinated and, if possible, carried out at the same time.

(b) Presence of the declarant at examination of goods

3.36. Standard

The Customs shall consider requests by the declarant to be present or to be represented at the examination of the goods. Such requests shall be granted unless exceptional circumstances exist.

3.37. Standard

If the Customs deem it useful, they shall require the declarant to be present or to be represented at the examination of the goods to give them any assistance necessary to facilitate the examination.

(c) Sampling by the Customs

3.38. Standard

Samples shall be taken only where deemed necessary by the Customs to establish the tariff description and/or value of goods declared or to ensure the application of other provisions of national legislation. Samples drawn shall be as small as possible.

Errors

3.39. Standard

The Customs shall not impose substantial penalties for errors where they are satisfied that such errors are inadvertent and that there has been no fraudulent intent or gross negligence. Where they consider it necessary to discourage a repetition of such errors, a penalty may be imposed but shall be no greater than is necessary for this purpose.

Release of goods

3.40. Standard

Goods declared shall be released as soon as the Customs have examined them or decided not to examine them, provided that :

- no offence has been found;
- the import or export licence or any other documents required have been acquired;
- all permits relating to the procedure concerned have been acquired; and
- any duties and taxes have been paid or that appropriate action has been taken to ensure their collection.

3.41. Standard

If the Customs are satisfied that the declarant will subsequently accomplish all the formalities in respect of clearance they shall release the goods, provided that the declarant produces a commercial or official document giving the main particulars of the consignment concerned and acceptable to the Customs, and that security, where required, has been furnished to ensure collection of any applicable duties and taxes.

3.42. Standard

When the Customs decide that they require laboratory analysis of samples, detailed technical documents or expert advice, they shall release the goods before the results of such examination are known, provided that any security required has been furnished and provided they are satisfied that the goods are not subject to prohibitions or restrictions.

3.43. Standard

When an offence has been detected, the Customs shall not wait for the completion of administrative or legal action before they release the goods, provided that the goods are not liable to confiscation or forfeiture or to be needed as evidence at some later stage and that the declarant pays the duties and taxes and furnishes security to ensure collection of any additional duties and taxes and of any penalties which may be imposed.

Abandonment or destruction of goods

3.44. Standard

When goods have not yet been released for home use or when they have been placed under another Customs procedure, and provided that no offence has been detected, the person concerned shall not be required to pay the duties and taxes or shall be entitled to repayment thereof :

- when, at his request, such goods are abandoned to the Revenue or destroyed or rendered commercially valueless under Customs control, as the Customs may decide. Any costs involved shall be borne by the person concerned;
- when such goods are destroyed or irrecoverably lost by accident or force majeure, provided that such destruction or loss is duly established to the satisfaction of the Customs;
- on shortages due to the nature of the goods when such shortages are duly established to the satisfaction of the Customs.

Any waste or scrap remaining after destruction shall be liable, if taken into home use or exported, to the duties and taxes that would be applicable to such waste or scrap imported or exported in that state.

3.45. Transitional Standard

When the Customs sell goods which have not been declared within the time allowed or could not be released although no offence has been discovered, the proceeds of the sale, after deduction of any duties and taxes and all other charges and expenses incurred, shall be made over to those persons entitled to receive them or, when this is not possible, held at their disposal for a specified period.

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CHAPTER 4

DUTIES AND TAXES

A. ASSESSMENT, COLLECTION AND PAYMENT OF DUTIES AND TAXES

4.1. Standard

National legislation shall define the circumstances when liability to duties and taxes is incurred.

4.2. Standard

The time period within which the applicable duties and taxes are assessed shall be stipulated in national legislation. The assessment shall follow as soon as possible after the Goods declaration is lodged or the liability is otherwise incurred.

4.3. Standard

The factors on which the assessment of duties and taxes is based and the conditions under which they are determined shall be specified in national legislation.

4.4. Standard

The rates of duties and taxes shall be set out in official publications.

4.5. Standard

National legislation shall specify the point in time to be taken into consideration for the purpose of determining the rates of duties and taxes.

4.6. Standard

National legislation shall specify the methods that may be used to pay the duties and taxes.

4.7. Standard

National legislation shall specify the person(s) responsible for the payment of duties and taxes.

4.8. Standard

National legislation shall determine the due date and the place where payment is to be made.

4.9. Standard

When national legislation specifies that the due date may be after the release of the goods, that date shall be at least ten days after the release. No interest shall be charged for the period between the date of release and the due date.

4.10. Standard

National legislation shall specify the period within which the Customs may take legal action to collect duties and taxes not paid by the due date.

4.11. Standard

National legislation shall determine the rate of interest chargeable on amounts of duties and taxes that have not been paid by the due date and the conditions of application of such interest.

4.12. Standard

When the duties and taxes have been paid, a receipt constituting proof of payment shall be issued to the payer, unless there is other evidence constituting proof of payment.

4.13. Transitional Standard

National legislation shall specify a minimum value and/or a minimum amount of duties and taxes below which no duties and taxes will be collected.

4.14. Standard

If the Customs find that errors in the Goods declaration or in the assessment of the duties and taxes will cause or have caused the collection or recovery of an amount of duties and taxes less than that legally chargeable, they shall correct the errors and collect the amount underpaid. However, if the amount involved is less than the minimum amount specified in national legislation, the Customs shall not collect or recover that amount.

B. DEFERRED PAYMENT OF DUTIES AND TAXES

4.15. Standard

Where national legislation provides for the deferred payment of duties and taxes, it shall specify the conditions under which such facility is allowed.

4.16. Standard

Deferred payment shall be allowed without interest charges to the extent possible.

4.17. Standard

The period for deferred payment of duties and taxes shall be at least fourteen days.

C. REPAYMENT OF DUTIES AND TAXES

4.18. Standard

Repayment shall be granted where it is established that duties and taxes have been overcharged as a result of an error in their assessment.

4.19. Standard

Repayment shall be granted in respect of imported or exported goods which are found to have been defective or otherwise not in accordance with the agreed specifications at the time of importation or exportation and are returned either to the supplier or to another person designated by the supplier, subject to the following conditions :

- the goods have not been worked, repaired or used in the country of importation, and are re-exported within a reasonable time;
- the goods have not been worked, repaired or used in the country to which they were exported, and are re-imported within a reasonable time.

Use of the goods shall, however, not hinder the repayment if such use was indispensable to discover the defects or other circumstances which caused the re-exportation or re-importation of the goods.

As an alternative to re-exportation or re-importation, the goods may be abandoned to the Revenue or destroyed or rendered commercially valueless under Customs control, as the Customs may decide. Such abandonment or destruction shall not entail any cost to the Revenue.

4.20. Transitional Standard

Where permission is given by the Customs for goods originally declared for a Customs procedure with payment of duties and taxes to be placed under another Customs procedure, repayment shall be made of any duties and taxes charged in excess of the amount due under the new procedure.

4.21. Standard

Decisions on claims for repayment shall be reached, and notified in writing to the persons concerned, without undue delay, and repayment of amounts overcharged shall be made as soon as possible after the verification of claims.

4.22. Standard

Where it is established by the Customs that the overcharge is a result of an error on the part of the Customs in assessing the duties and taxes, repayment shall be made as a matter of priority.

4.23. Standard

Where time limits are fixed beyond which claims for repayment will not be accepted, such limits shall be of sufficient duration to take account of the differing circumstances pertaining to each type of case in which repayment may be granted.

4.24. Standard

Repayment shall not be granted if the amount involved is less than the minimum amount specified in national legislation.

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CHAPTER 5

SECURITY

5.1. Standard

National legislation shall enumerate the cases in which security is required and shall specify the forms in which security is to be provided.

5.2. Standard

The Customs shall determine the amount of security.

5.3. Standard

Any person required to provide security shall be allowed to choose any form of security provided that it is acceptable to the Customs.

5.4. Standard

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

5.5. Standard

When security is required to ensure that the obligations arising from a Customs procedure will be fulfilled, the Customs shall accept a general security, in particular from declarants who regularly declare goods at different offices in the Customs territory.

5.6. Standard

Where security is required, the amount of security to be provided shall be as low as possible and, in respect of the payment of duties and taxes, shall not exceed the amount potentially chargeable.

5.7. Standard

Where security has been furnished, it shall be discharged as soon as possible after the Customs are satisfied that the obligations under which the security was required have been duly fulfilled.

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CHAPTER 6

CUSTOMS CONTROL

6.1. Standard

All goods, including means of transport, which enter or leave the Customs territory, regardless of whether they are liable to duties and taxes, shall be subject to Customs control.

6.2. Standard

Customs control shall be limited to that necessary to ensure compliance with the Customs law.

6.3. Standard

In the application of Customs control, the Customs shall use risk management.

6.4. Standard

The Customs shall use risk analysis to determine which persons and which goods, including means of transport, should be examined and the extent of the examination.

6.5. Standard

The Customs shall adopt a compliance measurement strategy to support risk management.

6.6. Standard

Customs control systems shall include audit-based controls.

6.7. Standard

The Customs shall seek to co-operate with other Customs administrations and seek to conclude mutual administrative assistance agreements to enhance Customs control.

6.8. Standard

The Customs shall seek to co-operate with the trade and seek to conclude Memoranda of Understanding to enhance Customs control.

6.9. Transitional Standard

The Customs shall use information technology and electronic commerce to the greatest possible extent to enhance Customs control.

6.10. Standard

The Customs shall evaluate traders' commercial systems where those systems have an impact on Customs operations to ensure compliance with Customs requirements.

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CHAPTER 7

APPLICATION OF INFORMATION TECHNOLOGY

7.1. Standard

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

7.2. Standard

When introducing computer applications, the Customs shall use relevant internationally accepted standards.

7.3. Standard

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

7.4. Standard

New or revised national legislation shall provide for :

- electronic commerce methods as an alternative to paper-based documentary requirements;
- electronic as well as paper-based authentication methods;
- the right of the Customs to retain information for their own use and, as appropriate, to exchange such information with other Customs administrations and all other legally approved parties by means of electronic commerce techniques.

* * *

CHAPTER 8

RELATIONSHIP BETWEEN THE CUSTOMS AND THIRD PARTIES

8.1. Standard

Persons concerned shall have the choice of transacting business with the Customs either directly or by designating a third party to act on their behalf.

8.2. Standard

National legislation shall set out the conditions under which a person may act for and on behalf of another person in dealing with the Customs and shall lay down the liability of third parties to the Customs for duties and taxes and for any irregularities.

8.3. Standard

The Customs transactions where the person concerned elects to do business on his own account shall not be treated less favourably or be subject to more stringent requirements than those Customs transactions which are handled for the person concerned by a third party.

8.4. Standard

A person designated as a third party shall have the same rights as the person who designated him in those matters related to transacting business with the Customs.

8.5. Standard

The Customs shall provide for third parties to participate in their formal consultations with the trade.

8.6. Standard

The Customs shall specify the circumstances under which they are not prepared to transact business with a third party.

8.7. Standard

The Customs shall give written notification to the third party of a decision not to transact business.

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CHAPTER 9

INFORMATION, DECISIONS AND RULINGS SUPPLIED BY THE CUSTOMS

A. INFORMATION OF GENERAL APPLICATION

9.1. Standard

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

9.2. Standard

When information that has been made available must be amended due to changes in Customs law, administrative arrangements or requirements, the Customs shall make the revised information readily available sufficiently in advance of the entry into force of the changes to enable interested persons to take account of them, unless advance notice is precluded.

9.3. Transitional Standard

The Customs shall use information technology to enhance the provision of information.

B. INFORMATION OF A SPECIFIC NATURE

9.4. Standard

At the request of the interested person, the Customs shall provide, as quickly and as accurately as possible, information relating to the specific matters raised by the interested person and pertaining to Customs law.

9.5. Standard

The Customs shall supply not only the information specifically requested but also any other pertinent information which they consider the interested person should be made aware of.

9.6. Standard

When the Customs supply information, they shall ensure that they do not divulge details of a private or confidential nature affecting the Customs or third parties unless such disclosure is required or authorized by national legislation.

9.7. Standard

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

C. DECISIONS AND RULINGS

9.8. Standard

At the written request of the person concerned, the Customs shall notify their decision in writing within a period specified in national legislation. Where the decision is adverse to the person concerned, the reasons shall be given and the right of appeal advised.

9.9. Standard

The Customs shall issue binding rulings at the request of the interested person, provided that the Customs have all the information they deem necessary.

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CHAPTER 10

APPEALS IN CUSTOMS MATTERS

A. RIGHT OF APPEAL

10.1. Standard

National legislation shall provide for a right of appeal in Customs matters.

10.2. Standard

Any person who is directly affected by a decision or omission of the Customs shall have a right of appeal.

10.3. Standard

The person directly affected by a decision or omission of the Customs shall be given, after having made a request to the Customs, the reasons for such decision or omission within a period specified in national legislation. This may or may not result in an appeal.

10.4. Standard

National legislation shall provide for the right of an initial appeal to the Customs.

10.5. Standard

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

10.6. Standard

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

B. FORM AND GROUNDS OF APPEAL

10.7. Standard

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

10.8. Standard

A time limit shall be fixed for the lodgement of an appeal against a decision of the Customs and it shall be such as to allow the appellant sufficient time to study the contested decision and to prepare an appeal.

10.9. Standard

Where an appeal is to the Customs they shall not, as a matter of course, require that any supporting evidence be lodged together with the appeal but shall, in appropriate circumstances, allow a reasonable time for the lodgement of such evidence.

C. CONSIDERATION OF APPEAL

10.10. Standard

The Customs shall give its ruling upon an appeal and written notice thereof to the appellant as soon as possible.

10.11. Standard

Where an appeal to the Customs is dismissed, the Customs shall set out the reasons therefor in writing and shall advise the appellant of his right to lodge any further appeal with an administrative or independent authority and of any time limit for the lodgement of such appeal.

10.12. Standard

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

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CONTRACTING PARTIES TO THE KYOTO CONVENTION

ALGERIA	LESOTHO
AUSTRALIA	LUXEMBOURG
AUSTRIA	MALAYSIA
BELGIUM	MALAWI
BOTSWANA	MOROCCO
BULGARIA	NETHERLANDS
BURUNDI	NEW ZEALAND
CAMEROON	NIGERIA
CANADA	NORWAY
CHINA	PAKISTAN
CONGO (Dem. Rep. of)	POLAND
COTE D'IVOIRE	PORTUGAL
CROATIA	RWANDA
CUBA	SAUDI ARABIA
CYPRUS	SENEGAL
CZECH REPUBLIC	SLOVAKIA
DENMARK	SLOVENIA
FINLAND	SOUTH AFRICA
FRANCE	SPAIN
GAMBIA	SRI LANKA
GERMANY	SWEDEN
GREECE	SWITZERLAND
HUNGARY	TURKEY
INDIA	UGANDA
IRELAND	UNITED KINGDOM
ISRAEL	UNITED STATES
ITALY	VIETNAM
JAPAN	ZAMBIA
KENYA	ZIMBABWE
KOREA (Rep. of)	EUROPEAN COMMUNITY
LATVIA	

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