



MANAGEMENT  
COMMITTEE  
Revised Kyoto Convention  
15<sup>th</sup> Meeting  
-  
16 - 17 November 2016  
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PO0088E1a

Brussels, 21 October 2016

**REPORT OF THE REVISED KYOTO CONVENTION VIRTUAL WORKING GROUP  
(RKC/VWG)**

**(Item V on the Agenda)**

**I. Background**

1. The Revised Kyoto Convention Management Committee (RKC/MC) is aware that the outcomes of the survey on the need of a potential review/update of the RKC were presented to the 14<sup>th</sup> RKC/MC meeting in October 2015. The outcomes included, among others, the respective position of both Contracting Parties (CPs) and non-CPs with regard to a potential review/update of the RKC and associated review proposals.
2. At the 14<sup>th</sup> RKC/MC Meeting, different views were expressed by delegates on the issue of potential review of the Convention. Some Members were clearly in favour of the review, whereas some others requested for a more cautious view, particularly in view of the lengthy national Parliamentary accession procedures as well as the timing when the RKC is being promoted as the key implementation tool for the WTO Agreement on Trade Facilitation (TFA).
3. Noting differing views, the 14<sup>th</sup> RKC/MC meeting decided to establish a RKC Virtual Working Group (RKC/VWG) of interested Members to explore in further depth how the proposals put forward in replies to the survey as well as the proposals submitted by the International Federation of Red Cross and Red Crescent Societies and the Mauritius Administration, could concretely be moved forward.

**II. Report of the RKC/VWG**

4. As mandated by the RKC/MC, the RKC/VWG examined all the review proposals and suggested respective broad recommendations through its four face-to-face meetings as well as virtual discussions via the WCO CLiKC! Platform. The Terms of Reference of the RKC/VWG that included its members is appended at Annex I to this document.
5. Concluding its work, the RKC/VWG finalized its Report. The Report provides, among others, a preliminary analysis together with respective recommendations for each of review proposals. Furthermore, the Report lists out four options with respective impact analysis that could be considered for a potential review/update of the RKC. The

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first option envisages a comprehensive revision of the Convention, while the second suggests for the review/update of only the RKC Guidelines. In relation to third and fourth options, the Report points out the possibility of updating and/or adding Specific Annexes and 'no action' to be taken, respectively. The Report is reproduced in Annex II hereto.

### **III. RKC Review Procedure**

6. Article 15 of the Convention provides for the amendment procedure with regard to the Body of the Convention, the General Annex (GA) and, the Specific Annexes (SA) and Chapters therein with respective time frame for the amendments to enter into force. Article 6, Paragraph 5 empowered the RKC/MC to recommend to the Contracting Parties incorporation of new chapter (s) in GA and SA to the Convention.
7. As per the above mentioned provisions of the Convention, any amendment concerning the Body and GA of the Convention will affect all CPs, however, amendment (s) concerning any SA or Chapter (s) therein will affect only those CPs who have accepted the respective SA or Chapter (s). Further, the incorporation of any new SA will have no impact on CPs.
8. Additionally, the RKC/MC has a clear mandate to review and update the Guidelines as stated in Article 6 paragraph 5.b of the Convention. Since guidelines are not part of the legally binding text, there is no requirement of any formal ratification or acceptance by CPs.

### **IV. Action Requested**

9. The RKC/MC is invited to:
  - examine the Report of the RKC/VWG, in particular the rationale and the four options concerning potential review/update of the RKC, as indicated therein; and
  - discuss and decide the way forward including whether or not there is a need to initiate a process of revision/amendment of the RKC and the best option (s) to meet the current and emerging needs and expectations of Members.

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## **TERMS OF REFERENCE FOR THE REVISED KYOTO CONVENTION VIRTUAL WORKING GROUP (RKC VWG)**

Facilitators: Ding Ye (China), and Gerard Rodrigues (Australia)

Established: October 2015 by the RKC Management Committee (RKC/MC)

Duration: Until superseded or revoked by the RKC/MC

### **Objective**

The RKC VWG is expected to assess and further explore how to review the RKC and make recommendations to the RKC/MC for potential enhancements.

### **Membership**

1. The virtual working group is composed of the following Members: Australia, China, India, Indonesia, Japan, the Netherlands, Norway, Serbia, South Africa, Switzerland, Togo, Dominican Republic, United Kingdom, the United States of America, Poland, Swaziland and the European Union. The group is open to further interested Contracting Parties and Observers.

### **Mandate**

2. This Group will study and advise the RKC/MC on which part(s) and how the RKC may need to be reviewed/updated to reflect new developments and the changing socio-economic environment. Its responsibilities include the following:
  - To examine the inputs provided by Members in response to the survey questionnaire as well as the proposal submitted by the International Federation of Red Cross and Red Crescent Societies and Mauritius at the 14<sup>th</sup> RKC/MC meeting or any other proposals already submitted by Contracting Parties and Observers as well as any other proposals referred by the RKC/MC or other WCO working bodies; and
  - Taking into account views expressed at the RKC/MC in October 2015 around concerns of procedural nature (parliamentary processes for changes to the General Annex and Specific Annexes countries are bound by) and of international/political dimension (in particular in the context of WTO TFA implementation), to explore options with the least impact of potential changes, wherever possible.

### **Key Deliverables**

3. The Group shall provide recommendations no later than 2 months prior to the 15<sup>th</sup> meeting of the RKC/MC for its consideration.

**Means of Operation**

4. The Group will operate under the leadership of its facilitators.
5. The Group will conduct its meetings in English.
6. The Group will normally work virtually and meet in person as required.
7. The WCO Secretariat will provide the necessary support.

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## **Report of the Revised Kyoto Convention Virtual Working Group Draft (4.10.16)**

### **Background**

The International Convention on the Simplification and Harmonization of Customs procedures (Kyoto Convention) entered into force in 1974. To ensure that it met the current demands of governments and international trade, it was revised, and the Revised Kyoto Convention (RKC) entered into force on February 3, 2006. There have not been any amendments to the RKC since 1999. The only changes made, were introduced into the Guidelines accompanying the legal provisions, which are not a binding part of the Convention.

The proposals to update the RKC were raised in 2009. However, no actions were undertaken in that respect. Since that time, there has been growing awareness amongst Members, that in light of significant changes in the global socio-economic environment, there was a need to canvass Members on what (if any) changes needed to be made to the RKC in order for it to remain relevant and useful in the current environment.

In response to a Members' survey, the 14<sup>th</sup> RKC Management Committee (RKC/MC) Meeting agreed to establish a RKC Virtual Working Group (RKC/VWG) to assess and explore in further depth how the proposals in replies to the survey (issued to all Members on 27 January 2015) and other identified proposals could concretely be moved forward and to make recommendations accordingly.

### **Scope of the work**

The virtual working group is composed of the following Members: Australia, China, India, Indonesia, Japan, the Netherlands, Norway, Serbia, South Africa, Switzerland, Togo, Dominican Republic, the United Kingdom, the United States of America, Poland, Swaziland, the European Union, New Zealand and Turkey.

The agreed mandate for the RKC/VWG was to:-

- Study and advise the RKC/MC on which part(s) of and how the RKC may need to be reviewed/updated to reflect new developments and the changing socio-economic environment.
- Examine and assess the inputs provided by Members in response to the survey questionnaire as well as the proposals submitted by the International Federation of Red Cross and Red Crescent Societies and Mauritius at the 14<sup>th</sup> RKC/MC meeting or any other proposals already submitted by Contracting Parties and Observers as well as any other proposals referred by the RKC MC or other WCO working bodies.
- Take into account views expressed at the RKC/MC in October 2015 around concerns of a procedural nature (parliamentary processes for changes to the General Annex and Specific Annexes countries are bound by) and of international/political dimension (in particular in the context of WTO Agreement on Trade Facilitation (TFA) implementation), and to explore options with the least impact of potential changes, wherever possible.
- Provide recommendations no later than 2 months prior to the 15<sup>th</sup> meeting of the RKC MC for its consideration.

Four face-to-face RKC/VWG meetings were held intersessionally and the CLiKC platform was used to exchange views and comments.

## Analysis/Findings

The RKC/VWG carefully considered each proposal, analysing and assessing each for its relevance, risk and potential benefit(s) for change, drawing on the combined experience and technical knowledge of the Group and in consultation with the WCO Secretariat, as needed.

The attached table (Annex A) is a summary of the analysis and assessment process with recommendations for action.

The table below summarises the analysis and assessment process with recommendations.

|  |    |
|--|----|
| Proposals assessed   | 34 |
| Proposals that are not considered to be adequately covered                                       | 28 |
| Proposals assessed as requiring no further action  | 2  |
| Proposals already submitted or in preparation to be submitted the RKC MC for review and approval | 4  |

## Key Observations

- RKC is focused on goods and the collection of revenue, but the Customs role has evolved in response to the changing global environment and events.
- Members' jurisdiction at borders is changing to include national security, the investigation of complex and organized crime, money laundering, human trafficking and risk associated with travellers.
- The Convention doesn't reflect the role of the modern Customs authority in the protection of the supply chain and doesn't align to the Punta Cana Resolution (2015 Policy Commission's 'WCO Resolution on the Role of Customs in the Security Context').
- The Convention does not adequately address the concept of risk management, technical developments and the value of its use in effective Customs controls while facilitating legitimate trade.
- After the entry into force of the RKC, the WCO has developed a number of tools and instruments to assist members in improving performance in Customs procedures and controls, such as the SAFE Framework of Standards, RKC ICT Guidelines, WCO-UPU Postal Customs Guide, Single Window Compendium, API/PNR Guidelines, Risk Management Compendium, AEO Guidelines in the context of advances in technology and the launch of fight against terrorists
- The current RKC does not adequately reflect the attention given to such newly developed elements, in particular as Customs' role in security. 'Security' is referenced in the RKC, but only in relation to financial issues.
- Definitions are not in conformance with other WCO tools and instruments.
- In order for the RKC to remain relevant for today's Customs administrations, there is a need for revision.
- Where and whenever possible, the significant amount of work in existing WCO tools and instruments is utilised rather than reinventing it.
- Procedural nature, e.g. parliamentary processes for changes to the General Annex and Specific Annexes Members acceded to, and of international/political dimension, particularly in the context of WTO TFA implementation is also noted.

However

- RKC/VWG was reminded of cautious decisions at the 6th RKC/MC Meeting in 2009. Possible amendments to the RKC would, therefore, be limited to critical issues

agreed by Contracting Parties to be crucial in the efforts to keep the RKC relevant and up-to-date.

## Options

The RKC/MC is invited to:-

1. Consider the proposals made in the attached table noting the analysis and rationale underpinning the recommendations, and
2. Consider the following four options as possible ways forward.

- **Option 1 - Comprehensive Revision**

A comprehensive revision of the RKC to include the following three aspects which may necessitate Parliamentary or any other national ratification process:

- Overall structure of the RKC
- Legally binding provisions, Annexes and Guidelines.
- Definitions.

In giving this option the RKC/VWG recognises that it is a considerable task and that for many members will possibly require a lengthy and complex Parliamentary and legal process. Considering this possibility, the RKC/VWG also recommends that the RKC MC ask the Secretariat to conduct an impact analysis to gauge the magnitude of the impact to Members of implementing option. However, so as not to delay the work further the RKC/VWG suggests that the impact assessment is conducted concurrently with the establishment of a new WG which starts work on the identified proposals and researches with assistance from legal advisers how to future proof the convention.

If Option 1 is adopted by the RKC MC the VWG suggests to avoid future revisions having such an impact, that consideration is given to how the construction / structure and format of the Convention, its Annexes and Guidelines could be 'future proofed' to enable the Convention to be kept relevant and up to date, perhaps but not necessarily, under a review cycle similar to that of SAFE, without the need for Parliamentary process. The VWG does not offer any suggestions as to how this could be done as this will require further work and legal advice. However we do suggest researching how other committees and similar organisations manage their legally binding requirements.

### Impact analysis

#### Positives

- Changes quality of Convention i.e. updated, refers to other developments introduced by WCO (SAFE etc) and addresses the challenges of changing environment
- Recognised as an instrument for Modern administration – flagship for WCO
- Implement the WTO TFA
- Greater harmonisation and facilitation of customs procedures – goal of convention

#### Negatives

- Potentially a long, resource intensive and time consuming procedure
- Legislative procedure at national and WCO level required
- No correspondence of terms covered by other international conventions like ATA Convention. (where e.g. meaning of security refers again only to financial aspect)
- 180 WCO members including 104 Contracting Parties of the RKC affected

- **Option 2 - Revise Guidelines only**

- New texts must be covered by the existing legal provisions in the Convention and have a direct link to an existing RKC Article and Standards, Transitional Standards, and Recommended Practices.
- The Guidelines accompanying the legal provisions of the RKC have been amended on several occasions and provide possibilities for further modernization of Customs procedures.
- From a legal perspective, the Guidelines do not form part of the legal text, and are, therefore, not considered to be binding in their own right. They merely give an explanation to the legal provisions in the RKC but may describe possibilities for further modernization of Customs procedures.
- Amendment of just the Guidelines would not require Parliamentary ratification.

However, it should be noted that in some areas, e.g. security would not be possible as there is no corresponding legal provision.

### **Impact analysis**

#### Positives

- Faster method
- No need for Parliamentary (national required) process
- Can be done on regular basis

#### Negatives

- Does not change the quality of the Convention i.e. it is still out of date.
- Loss of credibility and recognition as the instrument of a Modern administration – flagship for WCO.
- Guidelines need to be able to relate to body, and general or specific annexes which for some areas is not possible.

- **Option 3 - Addition and update of Specific Annexes**

Since it is not an obligation for a contracting party to accept any specific annex or any new chapter of a specific annex at the time of its signing, ratifying or acceding to the Convention, it is suggested that adding and updating Specific Annexes be a possible solution for the next step with a view to mitigate the impact of lengthy and complex parliament process,.

### **Impact analysis**

#### Positives

- Concerns only Contracting Parties bound by the provisions of Specific Annex (SPA)
- Addition of one or more annexes is simpler than changing the body and/or General annex

#### Negatives

- Contracting Parties bound by the SPAs will still need to undertake any nationally required procedures – e.g. Parliamentary agreement.
- It is not binding for the rest of the RKC Contracting Parties



- Some of the issues that need to be updated are not covered by a Specific Annex (e.g. Customs role in security) but by General Annex or at all
- Loss of the recognition as an instrument for Modern administration – flagship for WCO

- **Option 4 – No action**

The RKC is the key WCO Instrument for the development and maintenance of an efficient Customs Authority. It is vital that through the WCO, governments and organisations recognise the role of an effective Customs Authority in not only the collection of revenue but also in protecting society and the facilitation of legitimate trade.

If the RKC MC adopts this option and continues to promote the current version of the RKC as their key working instrument, they must accept the risk that this could reflect adversely on the WCO. A document that has not been updated for nearly 20 years does not give the impression of a professional, forward thinking and modern organisation.'

### **Impact analysis**

#### Positives

- No work is requested

#### Negatives

- Does not change the quality of the Convention i.e. it is still out of date.
- Loss of harmonisation and facilitation of customs procedures – goal of convention is not achieved
- Does not address the challenges of changing environment
- Loss of credibility and recognition as the instrument of a Modern administration – flagship for WCO

### **Conclusion**

The VWG has made a number of recommendations in response to members' proposals to amend the RKC which should bring some short and medium term improvements. However, in undertaking the assessment of proposals submitted to the RKC MC, most members of the working group formed the opinion that overall, the extent and scope of amendments recommended at appendix 1, has led the VWG to the conclusion that more work needs to be done to fully assess what further amendments may be needed to ensure the RKC continues to be relevant and meet the needs of modern Border Administrations in the longer term.

To this extent, and acknowledging that it may be outside the TOR and scope, the VWG recommends that the RKC/MC considers a wider and more comprehensive review of the RKC including the legally binding provisions of the Convention.

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Annex to the RKCWWG Report

|   | Proposals  | Current references   | Analysis   | Need for change | Recommendation  |
|---|--|--|--|-----------------|---|
| 1 | <b><i>Emphasize the role of Customs in security</i></b>  | <ul style="list-style-type: none"> <li>Chapter 2, definition E26/F17 of the GA</li> <li>Chapter 5 of the GA</li> </ul> | <p>The GA Chapter 5 on security as well as definition E26/F17 do not address “security” as it is understood in today’s customs environment.</p> <p>Chapter 5 uses the term “security” only to refer to financial security (guarantee).</p> <p>There is no reference in the RKC to security of the supply chain.</p> <p>The Convention doesn’t reflect the role of the modern Customs authority in the protection of the supply chain and doesn’t align to the Punta Cana Resolution.</p> | Yes             | <p>As a general principal, the whole issue of Customs role in security is not addressed at all by the current version of the RKC and we remain of the view that in order for the RKC to remain relevant for today’s Customs administrations a full review of the legally binding provisions of the RKC should be considered.</p> <p>to make distinction between ‘financial security’ and the current understanding and definitions of ‘security’ and Customs’ role in the context of Punta Cana Resolution.</p> |
| 2 | <b><i>SAFE Framework of Standards</i></b>  | N/A  | SAFE was adopted 6 years after the RKC was previously revised. The Convention does not reflect the content of SAFE.  | Yes             | To amend the RKC to reflect the SAFE Standards.   |
| 3 | <b><i>Increase the use of risk management, in particular to balance security and trade facilitation.</i></b> | Chapter 6 of the GA, Standards 6.3, 6.4 and 6.5.   | The Convention does not adequately address the concept of risk management, technical developments and the value of its use in effective customs controls and the facilitation of legitimate trade. SAFE, Risk Compendium and ISCM were adopted after the previous revision of the Convention, therefore it doesn’t include the current practices.  | Yes             | <p>As a general principal, risk management is not adequately addressed by the current version of the RKC and in order for the RKC to remain relevant for today’s Customs administrations it is worthwhile to fully review its legally binding provisions.</p> <p>To amend the RKC to reflect modern</p>   |

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|   |   |  | TFA article (7.4) mentions, for example, “expedite the release of low-risk consignments” and “selectivity criteria”, and these are not stipulated in the RKC GA6.  |     | risk management practices.   |
| 4 | <b>WCO Integrated Supply Chain Management Guidelines.</b> |  | The WCO Integrated Supply Chain Management Guidelines were adopted in 2004 so after the previous revision of the RKC and therefore the convention does not reflect the content of the ISCM Guidelines.   | Yes | To amend the RKC in order to reflect ISCM Guidelines   |
| 5 | <b>Advanced Cargo Information requirements</b>            | Chapter 3 of the General Annex (GA), Standard 3.25 :<br><i>“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.”</i>                | The convention does not adequately address the principle of advanced cargo information. Information provided in advance of the goods arriving at the point of destination. The principle of advanced cargo information is enshrined in the SAFE Framework of Standards Pillar 1 Standard 6.  | Yes | To add a new chapter to the General Annex for Supply Chain Security. To amend the RKC to describe both the principle of advanced cargo information and the differing points in the supply chain where that advanced cargo information may be required. |
| 6 | <b>Authorized Economic Operator (AEO)</b>                 | <ul style="list-style-type: none"> <li>Chapter 3 of the GA, Standard 3.32 :<br/><i>“For authorized persons who meet criteria specified by the Customs, including having an appropriate record of compliance with Customs requirements and a</i></li> </ul> | At its 3rd Meeting (see Doc. PO0017), the RKC/MC expressed its desire not to develop any Guidelines on this subject at this stage.<br>Summary of discussion: The SAFE Framework of Standards comprises the concept of AEO, the key measure of Pillar 2. AEOs who meet certain criteria specified by the Customs, including having an appropriate record of | Yes | To amend the RKC to reflect SAFE AEO programme in order to clearly explain the particularities thereof and information about mutual recognition of AEO programmes.   |

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|   |                                  | <i>satisfactory system for managing their commercial records...”</i> | compliance with Customs requirements and having demonstrated a commitment to supply chain security, should be entitled to participate in simplified and rapid release procedures on the provision of minimum information. The Council has also adopted more detailed AEO implementation Guidelines. This latter document provides basic technical guidance (as to procedures and obligations for Customs and AEOs, validation procedures and mutual recognition) in order to bring about the worldwide implementation of AEO programmes between WCO Members. For its part, the RKC sets out special procedures for authorized persons (Standard 3.32 of the GA). The Group feels that this Standard provides a solid and adequate legal foundation and that the AEO concept is covered by this general provision (AEO being a special case of authorized person). |     |  |
| 7 | <b>Mutual Recognition of AEO</b> | Chapter 7 of GA, 7.4   | 7.4 of GA states that “...to exchange such information with other Customs administration and all other legally approved parties by means of electronic commerce techniques.” One could draw the connection of MRA data exchange to this point (#3). Ideally, there should be more detailed and specific language surrounding MRA of AEO as this is clearly a continuing   | Yes | To amend the RKC to reflect language about MRA and to reference the SAFE AEO Package and relevant MRA guidance enshrined within it.<br><br>To amend the RKC to make reference to the SAFE AEO Package and the MRA UB and the MRA Strategy Guide. |

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|    |   |   | priority and growth sector for most administrations as well as a paramount concern for Trade.   |     |   |
| 8  | <b>Mutual Recognition of Controls</b>   | Chapter 6 of the GA<br>(Proposal to include two new paragraphs in item 6.2.6)         | At its 4th Meeting (see Doc. PO0023), the RKC/MC accepted the insertion of two new paragraphs in item 6.2.6 of the Guidelines to Chapter 6 of the GA (see text of the two paragraphs at Annex II hereto) concerning joint targeting and screening programmes.<br><br>Summary of discussion: The Group feels that the amendments adopted at the 4th Meeting suffice. | No  | No further action.  |
| 9  | <b>Create bases for closer cooperation with other Border Agencies through Coordinated Border Management</b> | <ul style="list-style-type: none"> <li>Chapter 3 of the GA (Standard 3.35)</li> </ul> | The group considered the inclusion of new Guidelines on the Single Window as well as the existence of Standard 3.35 to be sufficient.<br>Reference: Pillar 3 of the SAFE Framework of Standards, Coordinated Border Management Compendium.  | No  | Take no action.   |
| 10 | <b>Single Window</b>  | Chapter 3 (Standards 3.18, 3.21 and 3.35) and/or Chapter 7 (Standard 7.2) of the GA   | 3.35 already provide for joint and coordinated inspection by different agencies, and this is the concept envisaged by SW.<br>3.18 & 3.21 provides for Customs to provide for lodgment of supporting documents and goods declaration by electronic means. But we should provide for lodgment of all information and documents by electronic means. GA 7.2            | Yes | To amend Transitional Standards 3.18 & 3.21 of GA to provide for the lodgment of all information and documents by electronic means and at same point.<br>To amend Standard 7.2 of GA as suggested in analysis.<br>To add a new appendix in the RKC Guidelines which could include all the characteristics and benefits of |

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|    |  |  | <p>ask for customs to use internationally acceptable standards when introducing computer application, for SW, customs shall also make endeavor that other stake holders also use the internationally acceptable standards and there is compatibility between the different IT solutions so that they can talk to each other.</p> <p>No change required in 3.35</p>   |     | <p>introducing a SW containing a reference to related WCO and UN/CEFACT Standards, tools (e.g., WCO Data Model, SAFE Framework of Standards, CBM Compendium, Single Window Compendium), and Recommendations.</p> |
| 11 | <p><b><i>Use of modern tools and technology to support Customs processes (for example non-intrusive inspection, advanced sealing techniques, WCO Data Model)</i></b></p> | <ul style="list-style-type: none"> <li>• Chapter 6 of the GA</li> <li>• Chapter 1 of SA E</li> <li>• Chapter 3 (Standard 3.12) of the GA</li> <li>• Chapter 7 of the GA</li> </ul> | <p>Use of modern tools and technology to support Customs processes – this includes:</p> <ul style="list-style-type: none"> <li>● Non-intrusive inspection (cargo and people)</li> <li>● Advanced sealing techniques</li> <li>● Mobility (smart phones and tablets)</li> <li>● The Internet (of things) – information and data sources</li> <li>● Detection equipment (drugs, cash, explosives and laboratories)</li> <li>● Cybercrime</li> <li>● Forensic tools and services (inspection of devices and auditing tools)</li> <li>● Biometrics</li> <li>● RFID and Barcodes (including readers)</li> <li>● Surveillance (cell phone tracking, CCTV, imaging, night vision, communications and number plate recognition tools)</li> <li>● Risk management processes</li> </ul> | Yes | <p>To amend the RKC to reflect the sense of considerable change in the IT and technology world</p>   |

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|  |  |  | <p>(modelling, gaming and intelligence management tools)</p> <ul style="list-style-type: none"> <li>● Data standards and privacy (PNRGOV, WCO Data Model)</li> <li>● Robotics</li> <li>● Social Media/websites/Blogs and other communications channels/mechanisms</li> <li>● Development of electronic commerce (online shopping, alternate payment mechanisms, de minimis and revenue collection options, and online learning/training)</li> <li>● IT developments <ul style="list-style-type: none"> <li>■ Encryption techniques</li> <li>■ Cloud computing, data centres, outsourcing, and computing power and speed</li> <li>■ Data analytics</li> <li>■ Document management systems</li> <li>■ 3D printing</li> <li>■ Drones</li> <li>■ GPS devices and GPS enabled equipment</li> </ul> </li> </ul> <p>Analysis/points for consideration</p> <ul style="list-style-type: none"> <li>● Chapter 7 Application of Information Technology is at best very simplified and doesn't reflect the major changes that have and are taking place in IT</li> <li>● Chapter 9 also could be updated and refreshed and reflect a more modern</li> </ul> |  |  |
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| 12 | <b>Audit “Support the auditing of electronic declarants records using simplified procedures”</b> | <p>GA Chapter 3, Clearance and other customs formalities—<br/>The declarant</p> <p>GA Chapter 6 Customs control<br/>6.6 standard “Customs control systems shall include <b>audit-based controls</b>”,<br/>6.9 transitional standard “The customs shall use <b>information technology</b> and electronic commerce to the greatest possible extent to enhance customs control”<br/>6.10 standard “The customs shall <b>evaluate traders’ commercial systems</b> where those systems have an impact on customs operations to ensure compliance with customs requirements.”</p> <p>GA Chapter 7, Application of IT</p> | <p>1. Traditionally customs administrations may administer declarants manually. Now with the application of IT, Customs administrations tend to track the records of declarants automatically in the entire customs procedure. The best practice would be declarants set up their own internal systems; customs administrations do regular audit check for evaluation together with the timely electronic records of quality declaration process.</p> <p>2. “The declarant” in GA Chapter 3 includes (a) persons entitled to act as declarant; (b) responsibilities of the declarant; (c) rights of the declarant. However, it doesn’t include how a declarant is overseen. There could be an option to insert one more item under “the declarant” or revise guidelines.</p> <p>3. If you piece all three standards or transitional standards from GA Chapter 6 together, they support the proposal from different angle.</p> <p>4. Is IT application part of simplified procedures or do we need to specify simplified procedures somewhere?<br/>To the RKC VWG’s understanding, IT application does help simplify procedures. There could be an option</p> | <b>Yes</b> | <b>To amend the RKC to reflect current audit principles and practices.</b> |



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|    |                                  |                                     | to insert text in Guidelines.  |     |   |
| 13 | <b>Transit and Transshipment</b> | Specific Annex E (Chapters 1 and 2) | <p>The challenge to reflect international supply chain practice rather than Customs best practice i.e. the increase in trade in intermediary goods and the rise of the hub and spoke model of international goods distribution – the global value chain</p> <ul style="list-style-type: none"> <li>● Review RKC transit/transshipment guidelines and how free zones/hubbing impacts trade</li> <li>● Secure trade lanes – connecting authorized traders between two countries to develop an end-to-end supply chain with Customs using their systems to clear goods</li> <li>● Better use of information [e.g. data model] to risk assess goods and do this risk assessment from a whole of border approach</li> <li>● Using technology [electronic seals, cloud information management] to are elements of emerging technologies that need to be factored into RKC and actually can relate to the items listed</li> <li>● Reflect developments in postal traffic and express consignments</li> </ul> <p>Analysis/points for consideration</p> <ul style="list-style-type: none"> <li>● Growth in trade</li> <li>● Increase in the number of Customs Coop Agreements and Mutual</li> </ul> | Yes | To amend the RKC to reflect current international practices and the changes in international trade and travel in relation to transit and transshipment. |

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|    |   |   | <ul style="list-style-type: none"> <li>● Recognition Agreements</li> <li>● Developing AEO programmes</li> <li>● Lack of information/data for risk assessment and the increased importance of security and therefore risk assessment</li> <li>● Growth of inland ports</li> <li>● Changing international supply chains</li> <li>● WCO Transit Handbook/Guidelines</li> </ul>  |     |   |
| 14 | <b>Travellers (as defined in the RKC)</b> | Specific Annex J, Chapter 1, Standard 6.4 of the GA | <p>The Convention does not adequately address new and emerging developments:</p> <ul style="list-style-type: none"> <li>● Growth in international travel including tourism</li> <li>● E-passports</li> <li>● Non-intrusive inspection (body scanners)</li> <li>● Biometrics</li> <li>● API and PNR</li> <li>● E-gate clearance</li> <li>● The growing linkage between Customs and Immigration agencies</li> <li>● Trusted traveler schemes – creation of separate lanes for accredited low risk pax</li> <li>● Passenger pre-clearance</li> <li>● Growth in migration</li> <li>● Foreign fighters (recruitment, home grown and returning)</li> <li>● Punta Cana resolution of WCO – Customs role in the fight against terrorism</li> <li>● The increasing importance of the</li> </ul> | Yes | To amend the RKC in line with the increasing focus on security in the context of Punta Cana Resolution and the WCO Recommendation on the implementation of API/PNR. |

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|    |   |  | border as a natural intervention point  |  |  |
| 15 | <b>Commentaries of the Body of the Convention</b> | For example, Article 8<br>Article 13<br>Article 17 | <ul style="list-style-type: none"> <li>● The RKC/VWG recommended that all existing resource materials and forums, e.g. booklet, Tool Kit for Quality Implementation Assessment of the RKC, and workshops, could be used for better clarity.</li> <li>● Additionally, CPs can always send queries, if any, to the RKCMC under article 6.5 (e), for further elaboration.</li> </ul>   |  | Since the Secretariat couldn't find the decisions made by previous RKC/MC, it is suggested to raise this issue during the 15 <sup>th</sup> RKC/MC for further instruction. |
| 16 | <b>Relief Consignment</b>                         | Specific Annex J, Chapter 5 and Guidelines         | <p>The article provides a restrictive list of “relief consignments” imported for humanitarian purposes. This leaves out essential items for relief operations, including, computer, information technology and telecommunications equipment. Telecommunications and information technology equipment is often subject to import and use restrictions, and the legal barriers to this importation and use of such equipment in disaster response operations can be even greater than food (International Disaster Relief and Initial Recovery Law Desk Study, 9.2.2.):</p> <p>To facilitate the international transport of goods that have to pass through a number of customs territories, arrangements have also been made under international agreements to apply standard procedures for the treatment of goods carried in customs transit through</p> |  | To amend the RKC to reflect modern requirements concerning relief consignments   |

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|    |                       |  | <p>their territories. The proposal in the “Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance” is that for transiting relief consignments, customs clearance and release could be expedited – in part because they would have no financial liabilities payable to the customs authority for the importation/ transit of the goods or equipment</p> <p>The simplified goods declaration, provisions on for lodgement and checking of the declaration in advance, waiver of any translation requirements, and provisions for a single declaration for all the consignments of the eligible actors arriving at the same time, can make the clearance and/or release process faster.</p> <p>Guidelines to the specific annex J need to be changed accordingly if above amendments are accepted</p> <p>A proposed draft text has been submitted by the UNOCHA.</p> |     |   |
| 18 | <b>De-minimis</b>     | Transitional Standards 4.13 and Standard 4.14 of the GA Guidelines of Chapter 7 GA | A small group has already reviewed and updated/enhanced the related Guidelines.   | Yes | Submit the draft updated Guidelines to the RKCMC for its review and approval. |
| 19 | <b>Postal Traffic</b> | Specific Annex J Chapter 2   | The WCO-UPU Contact Committee has finalized the review/update of the  | Yes | Submit the draft updated Guidelines to the RKCMC for its review and           |

|    |                                    |   | Guidelines  |     | approval.  |
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| 25 | <b>Perishable Goods</b>            | Chapter 3 Standard 3.34                       | In addition to the content of Standard 3.34 of the GA3, TFA article (7.9) stipulates that importers are allowed to arrange for the storage of perishable goods pending their release.   | Yes | To amend the RKC to reflect current international practices concerning perishable goods.                       |
| 26 | <b>Expedited/Express Shipments</b> | Chapter 3 in general                          | TFA article (7.8) mentions “expedited release of air cargo”.  | Yes | To amend the RKC to reflect current international practices concerning expedited/express shipments.            |
| 28 | <b>Audit-based control</b>         | Chapter 6 Standard 6                          | Standard 6 of the GA6 simply says “Customs control systems shall include audit-based controls”. For example, TFA article 7.5 stipulates “Post-clearance Audit” with detailed process.   | Yes | To amend the RKC to reflect current international practices concerning post clearance audit.                   |
| 29 | <b>Opportunity to Comment</b>      | Chapter 1 Standard 3 and Chapter 9 Standard 2 | In addition to the advance notice explained in the Standard 2 of the GA 9, TFA article (2.1) stipulates “provide opportunities ... to traders ... to comment on the proposed introduction or amendment of laws...”. Reference may also be drawn to the SAFE FoS and the Customs-Business Partnership Guidance | Yes | To amend the RKC to reflect current international practices concerning enhanced Customs-Business partnerships. |
| 30 | <b>Use of Internet</b>             | Chapter 9 Standard 3                          | Standard 3 of the GA 9 stipulates use of information technology to enhance the provision of information. TFA1.2 explains the information provided through the internet.   | Yes | To amend the RKC to reflect the modern use of internet as a business tool.                                     |
| 31 | <b>Enquiry Points</b>              | Chapter 9 Standard 4                          | TFA 1.3 encourages members to establish enquiry points for answering enquires.  | Yes | To amend the RKC to stipulate that Contracting Parties should establish enquiry points.                        |
| 32 | <b>Advance Ruling</b>              | Chapter 9 Standard 9                          | Standard 9 of the GA 9 simply requests Customs to issue binding rulings without   | Yes | To amend the RKC to cover the area of “Advance Ruling” with specific   |

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|    |                             |     | specifying contents. Article 3 of the TFA stipulates "Advance Rulings" with regard to tariff classification and origin of goods. In addition, it is encouraged to provide advance rulings such as on customs valuation and requirements for quotas. |     | contents such as tariff classification, origin of goods and customs valuation.  |
| 33 | <b>Average Release Time</b> | N/A | TFA 7.6 encourages members to measure and publish their average release time of goods periodically. WCO Time Release Study is mentioned as a tool to measure.   | Yes | To amend the RKC to stipulate that Contracting Parties should establish and publish their average release time of goods.              |
| 34 | <b>Electronic Payment</b>   | N/A | TFA 7.2 encourages members to adopt procedures allowing the option of electronic payment of duties, taxes, fees etc.<br>Ref: Kyoto ICT Guidelines   | Yes | To amend the RKC to stipulate that Contracting Parties should establish electronic system for the payment of duties, taxes, fees etc. |