



MANAGEMENT
COMMITTEE
Revised Kyoto Convention
16th Meeting
-
6 - 7 April 2017
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PO0095E1b

Brussels, 28 February 2017

**REPORT OF THE REVISED KYOTO CONVENTION VIRTUAL WORKING GROUP
(RKCVMG)**

(Item IV on the Agenda)

I. Background

1. The Revised Kyoto Convention Management Committee (RKC/MC) held its 15th Meeting on 16 - 17 November 2016 and discussed, among other issues, the report presented by China on behalf of the RKC Virtual Working Group (RKCVMG). The RKCVMG was established by the RKC/MC during its 14th Meeting 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.
2. Taking into account all the arguments and discussions, including the above mentioned report of the RKCVMG, the following was agreed by the RKC/MC :
 - i) There is a general view amongst delegates that the RKC should be reviewed and updated to ensure that it remains relevant and continues to meet the needs of modern Customs administrations. This should include a review of the Body of the Convention, General Annex, Specific Annexes, and Guidelines.
 - ii) To advance the work on such a review, a Virtual Working Group of interested Members is established with the mandate to map out the process and develop a plan including key objectives, broad approach, tasks, and roadmap. The Virtual Working Group will examine how other international organizations updated their respective conventions. The process will include a detailed impact analysis of conducting a review including associated benefits, challenges and potential solutions.
 - iii) This work stream will deal with the Convention as a whole and will also address the question of whether other WCO tools and instruments can be integrated into or referenced in the Convention.

- iv) The WCO Secretariat will provide administrative support as may be required.
- v) The report of the Virtual Working Group will be submitted to the next RKC/MC meeting for its consideration and endorsement. The next meetings of the RKC/MC can be organized in April 2017 and October/November 2017.

II. Interim Report of the RKC VWG

- 3. As mandated by the RKC/MC and following the suggestion of the December 2016 Policy Commission, the newly established RKC VWG discussed and examined all available relevant documents and suggested recommendations concerning a potential revision of the RKC through its face-to-face meetings as well as virtual discussions via the WCO CLiKC! Platform.
- 4. The December 2016 Policy Commission advocated a dynamic approach to the updating of the RKC, whilst at the same time maintaining its existing legal framework so as not to jeopardize ongoing accession/ratification processes.
- 5. Based on the work done thus far, the RKC VWG developed an Interim Report which includes a roadmap with tasks and steps for its implementation. The Report is reproduced in an Annex to this document.

III. RKC amendment Procedures

- 6. The overall amendment procedure is laid down in articles 6, 15, 16 and 18 of the Convention.
- 7. According to Article 6.5 (a), the Management Committee shall recommend to the Contracting Parties (i) amendments to the Body of this Convention; (ii) amendments to the General Annex, the Specific Annexes and Chapters therein and the incorporation of new Chapters to the General Annex; and (iii) the incorporation of new Specific Annexes and new Chapters to Specific Annexes.
- 8. It may also decide to amend Recommended Practices or to incorporate new Recommended Practices to Specific Annexes or Chapters therein as well as review and update the Guidelines.
- 9. 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 frames for the amendments to enter into force.
- 10. The Article 16 procedure is a simplified procedure which empowers the Management Committee to decide upon the adoption of amendments to Recommended Practices and the incorporation of new Recommended Practices without the Contracting Parties' veto procedure provided for under Article 15. Presumably, therefore, the Article 16 procedure will be preferred for the amendment of Recommended Practices and the incorporation of new Recommended Practices in the Specific Annexes or Chapters.
- 11. As per the abovementioned 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. New Specific Annexes and new Chapters in Specific Annexes are recommended to the Contracting Parties under the provisions of Article 6, paragraph 5. They enter into force as per the provisions of Article 18, paragraph 3.

12. 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 the Guidelines are not part of the legally binding text, there is no requirement of any formal ratification or acceptance by CPs.

IV. Action Requested

13. The RKC/MC is invited to:
- examine the Interim Report of the RKCWWG; and
 - discuss and decide the way forward including whether or not there is a need to initiate a formal 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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Brussels, 24 February 2017

**INTERIM REPORT OF THE VIRTUAL WORKING GROUP
TO THE REVISED KYOTO CONVENTION MANAGEMENT COMMITTEE**

6, 7 April 2017

1. Background

In addition to the Background, what follows is the interim report of the Virtual Working Group along with three annexes that are integral to the report: Annex I - Report made by the previous VWG; Annex II - How other international organizations update and enforce their Conventions; and, Annex III - Procedures for Amendment of the RKC to Enter into Force.

In 1999 the WCO Council adopted revised text to the Kyoto Convention together with the Protocol of Amendments to ensure that the new Revised Kyoto Convention (RKC) reflected modern procedures and addressed the requirements of both trade and Customs administrations of that time. The new structure consisted of a general annex containing the core procedures and practices, covering areas related to the clearance of goods, payment of duties and taxes, Cross-Border cooperation, information to be supplied by Customs and appeals in all Customs matters.

It also covers areas of Customs control, including risk management, audit based controls and mutual administrative assistance between administrations and with external organizations, and the use of ICT. In addition, there are specific annexes dealing with different Customs procedures and guidelines which have been developed for all the annexes of the Convention.

These new provisions were added to provide a balance between the Customs functions of control and revenue collection vs. trade facilitation. The ICT and risk management were included to ensure that Customs is able to carry out their responsibilities more efficiently and effectively, and to facilitate the international movement of goods whilst ensuring full compliance with national laws.

2. Taking stock of the current situation and practices applied by the members

Although the ICT and risk management have been included to strike a balance between control and facilitation it is now crucial to take stock of the current situation and deal with the issue of how to make sure that the RKC continues to reflect not only modern procedures and practices (including the relevant requirements), but also addresses the goal of remaining an up to date, relevant document to guide the WCO and its members in the foreseeable future.

The role of customs administrations has been transformed from their traditional roots of revenue collection to an expanded and more complex role. Customs administrations today apply highly advanced multilayered approaches to secure the integrity of the supply chain for the international movement of goods, to protect the security and safety of citizens, facilitate and expedite trade and promote competitiveness, while at the same time protecting revenue.

The revisions made in 1999 accomplished the goals presented by the requirements and in keeping with the practices and procedures of the time. However, the current version of the RKC does not reflect the safety and security requirements or many of the modern practices of today's expanding global trade.

3. The need to change the existing RKC

In order to reflect and adapt to the evolution in areas such as safety, security, other issues and procedures it is vital that the Contracting Parties to the RKC revise the Convention in order to ensure that modern procedures, standards and practices are applied by Customs Administrations throughout the supply chain to ensure that the RKC has the ability to respond to future developments, expectations and changing requirements of governments and private sector. An updated Convention aligns with changes compatible with the current evolution of Customs in the 21st Century.

4. The conclusion of the 15th RKC/MC (November 2016) relating to the mandate of the new RKC VWG:

Taking into account all the arguments and discussions thus far, including the report of the Revised Kyoto Convention Virtual Working Group (RKC/VWG 21 Oct 2016), the following was agreed by the RKC/MC:

- i. There is a general view amongst delegates that the RKC should be reviewed and updated to ensure that it remains relevant and continues to meet the needs of modern Customs administrations. This should include a review of the Body of the Convention, General Annex, Specific Annexes, and Guidelines.
- ii. To advance the work on such a review, a Virtual Working Group of interested Members is established with the mandate to map out the process and develop a plan including key objectives, broad approach, tasks, and roadmap. The Virtual Working Group will examine how other international organizations updated their respective conventions. The process will include a detailed impact analysis of conducting a review including associated benefits, challenges and potential solutions.
- iii. This work stream will deal with the Convention as a whole and will also address the question of whether other WCO tools and instruments can be integrated into or referenced in the Convention.
- iv. The WCO Secretariat will provide administrative support as may be required.
- v. The report of the Virtual Working Group (VWG) will be submitted to the next RKC/MC meeting for its consideration and endorsement. The next meetings can be organized in April 2017 and October/November 2017.

A new VWG was established with interested members and chaired by the US. The following issues were discussed by the VWG and the recommendations submitted to the RKC/MC for further discussion and decision.

5. Implementation Plan:

5.1 Broad Approach:

A comprehensive review and proposed updates of the RKC could be achieved through the efforts of a Member driven Working Group supported by the WCO Secretariat, which will report to the RKC MC. The Working Group would comprise a Steering Group with issue specific/focused sub-groups as appropriate. The plan would involve several key tasks which could be undertaken concurrently. It is worth noting that this process could also be a way of including NGO's with an interest in trade and facilitation to engage with the WCO in putting forward their vision of Customs in the 21st Century and where the RKC can be used to achieve that goal.

5.2 Key objectives:

- An updated Convention that responds to the future developments, expectations and requirements of governments and private sector to reflect the dynamic, rapid and changing role of Customs
- Mechanisms to “future proof” the Convention to ensure its ongoing currency and relevance while minimizing the need for parliamentary approval, noting that this is subject to individual sovereignty requirements which might differ from country to country.

5.3 Key tasks:

- 5.3.1 Conduct a thorough gaps and needs analysis engaging relevant actors involved in the supply chain, including the private sector and other interested international organizations as appropriate, taking into account the work being carried out in other sectors of the WCO
- 5.3.2 Undertake further research to identify:
 - legislative implications of potential amendments to the RKC to allow for the inclusion of i.e. relevant WCO tools and instruments
 - legal interpretation as appropriate
 - financial implications
 - human resource requirements
- 5.3.3 Update or incorporate Specific Annexes and/or Guidelines to meet the interim needs of Members in keeping with the proposals submitted by them (see Annex 1).
- 5.3.4 If necessary refine the agreed approach, including timelines and updated comprehensive roadmap for progressing.
- 5.3.5 Prepare framework for layout, legislation, communication strategy and draft recommended amendments to the Body of the Convention, General Annex, Specific Annexes, and Guidelines.

5.4 Expected Outcomes and timeframe from the VWG:

By April 2017:

- 5.4.1 Discussion and endorsement of the VWG report and recommendations on the implementation plan.
- 5.4.2 Agreement on the mandate of the Secretariat on various issues.

By November 2017:

Submit final report of the Working Group including updated plan.

6. Benefits and challenges of the recommended implementation plan

6.1 Benefits:

- 6.1.1 Ensures relevance of the Convention in the short term.
- 6.1.2 Supports compliance with the WTO TFA and other relevant developments since the previous revision of the Convention.
- 6.1.3 “Future proofs” the Convention by accommodating regular amendments as required.
- 6.1.4 Complete revision recognizes the dynamic role of Customs and ensures ongoing applicability of the Convention as the WCO's flagship for Customs modernization, including the ability to respond to changes in business and

administrative methods and techniques through the integration of WCO tools and instruments.

6.1.5 Provides assurance to international trade in terms of Customs requirements

6.1.6 A complete revision would ensure that the Convention aligns with most Contracting parties current procedures and practices.

6.2 Challenges:

6.2.1 Complete revision requiring legislative review would be a resource and time consuming procedure.

6.2.2 Complete revision of the Convention could result in some WCO Members having to accede to a revised RKC.

6.2.3 Certain changes to the Convention might require that Contracting Parties need to present an Instrument of Acceptance.

6.2.4 Amending Specific Annexes and Guidelines only would not ensure the Convention's credibility as the WCO's flagship instrument.

7. Recommended mandate to the Secretariat

- 7.1 In support of the preliminary considerations of the VWG it is recommended that the RKC MC requests the Secretariat to carry out in-depth research, taking into account the preliminary research commenced by the VWG (see Annex II), on how other similar international organizations review and monitor the implementation of their respective Conventions to support the VWG in its quest to identify potential suitable solutions for the RKC. The VWG could prepare a precise and detailed mandate in this regard.
- 7.2 To provide legal counsel, at the appropriate time, to recommend a framework that will “future proof” the Convention by accommodating regular changes associated with updated WCO tools and instruments.

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Annex I. Report made by the previous VWG					
	Proposals	Current references	Analysis	Need for change	Recommendation of what should be changed?
I. PRE-CLEARANCE PHASE					
1.1	<i>Emphasize the role of Customs in security</i>	<ul style="list-style-type: none"> Chapter 2, definition E26/F17 of the GA Chapter 5 of the GA 	<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	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. to make distinction between ‘financial security’ and the current understanding and definitions of ‘security’ and Customs’ role in the context of Punta Cana Resolution.
1.2	<i>SAFE Framework of Standards</i>	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.
1.3	<i>Advanced Cargo Information requirements</i>	Chapter 3 of the General Annex (GA), Standard 3.25 : “National legislation shall make provision for the lodging and registering or checking of the Goods declaration and	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.

		supporting documents prior to the arrival of the goods.”			
1.4	Authorized Economic Operator (AEO)	<ul style="list-style-type: none"> Chapter 3 of the GA, Standard 3.32 : “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...” 	<p>At its 3rd Meeting (see Doc. PO0017), the RKC/MC expressed its desire not to develop any Guidelines on this subject at this stage.</p> <p>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 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).</p>	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.
1.5	Advance	Chapter 9 Standard 9	Standard 9 of the GA 9 simply requests	Yes	To amend the RKC to cover the area

	Ruling		Customs to issue binding rulings without 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.		of “Advance Ruling” with specific contents such as tariff classification, origin of goods and customs valuation.
1.6	Increase the use of risk management, in particular to balance security and trade facilitation.	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. 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.	Yes	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. To amend the RKC to reflect modern risk management practices.
II. CLEARANCE PHASE					
2.1	Single Window	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. 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 ask for customs to use internationally acceptable standards when introducing computer application, for SW, customs shall also make endeavor that other	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. To amend Standard 7.2 of GA as suggested in analysis. To add a new appendix in the RKC Guidelines which could include all the characteristics and benefits of introducing a SW containing a reference to related WCO and UN/CEFACT Standards, tools (e.g., WCO Data Model, SAFE Framework

			<p>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>of Standards, CBM Compendium, Single Window Compendium), and Recommendations.</p>
2.2	Relief Consignment	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 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</p>		<p>To amend the RKC to reflect modern requirements concerning relief consignments</p>

			<p>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>		
2.3	Perishable Goods	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.
2.4	Electronic Payment	N/A	<p>TFA 7.2 encourages members to adopt procedures allowing the option of electronic payment of duties, taxes, fees etc.</p> <p>Ref: Kyoto ICT Guidelines</p>	Yes	To amend the RKC to stipulate that Contracting Parties should establish electronic system for the payment of duties, taxes, fees etc.
2.5	Use of modern tools and technology to support Customs processes (for	<ul style="list-style-type: none"> • Chapter 6 of the GA • Chapter 1 of SA E • Chapter 3 (Standard 3.12) of the GA • Chapter 7 of the GA 	<p>Use of modern tools and technology to support Customs processes – this includes:</p> <ul style="list-style-type: none"> ● Non-intrusive inspection (cargo and people) ● Advanced sealing techniques 	Yes	To amend the RKC to reflect the sense of considerable change in the IT and technology world

	<p><i>example non-intrusive inspection, advanced sealing techniques, WCO Data Model)</i></p>		<ul style="list-style-type: none"> ● Mobility (smart phones and tablets) ● The Internet (of things) – information and data sources ● Detection equipment (drugs, cash, explosives and laboratories) ● Cybercrime ● Forensic tools and services (inspection of devices and auditing tools) ● Biometrics ● RFID and Barcodes (including readers) ● Surveillance (cell phone tracking, CCTV, imaging, night vision, communications and number plate recognition tools) ● Risk management processes (modelling, gaming and intelligence management tools) ● Data standards and privacy (PNRGOV, WCO Data Model) ● Robotics ● Social Media/websites/Blogs and other communications channels/mechanisms ● Development of electronic commerce (online shopping, alternate payment mechanisms, de minimis and revenue collection options, and online learning/training) ● IT developments <ul style="list-style-type: none"> ■ Encryption techniques ■ Cloud computing, data centres, outsourcing, and computing power and speed ■ Data analytics ■ Document management 		
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			<ul style="list-style-type: none"> ■ systems ■ 3D printing ■ Drones ■ GPS devices and GPS enabled equipment <p>Analysis/points for consideration</p> <ul style="list-style-type: none"> ● 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 ● Chapter 9 also could be updated and refreshed and reflect a more modern world 		
III. POST-CLEARANCE PHASE					
3.1	Audit-based control	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.
3.2	Audit "Support the auditing of electronic declarants records using simplified procedures"	<p>GA Chapter 3, Clearance and other customs formalities—The declarant</p> <p>GA Chapter 6 Customs control 6.6 standard "Customs control systems shall include <u>audit-based controls</u>",</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	Yes	To amend the RKC to reflect current audit principles and practices.

		<p>6.9 transitional standard “The customs shall use <u>information technology</u> and electronic commerce to the greatest possible extent to enhance customs control”</p> <p>6.10 standard “The customs shall <u>evaluate traders’ commercial systems</u> 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>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? To the RKCWWG’s understanding, IT application does help simplify procedures. There could be an option to insert text in Guidelines.</p>		
<p>IV. CROSS CUTTING</p>					
4.1	WCO Integrated Supply Chain Management Guidelines.		<p>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.</p>	Yes	To amend the RKC in order to reflect ISCM Guidelines
4.2	Mutual Recognition of	Chapter 7 of GA, 7.4	7.4 of GA states that “...to exchange such information with other Customs	Yes	To amend the RKC to reflect language about MRA and to reference

	AEO		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 priority and growth sector for most administrations as well as a paramount concern for Trade.		the SAFE AEO Package and relevant MRA guidance enshrined within it. To amend the RKC to make reference to the SAFE AEO Package and the MRA UB and the MRA Strategy Guide.
4.3	Transit and Transshipment	Specific Annex E (Chapters 1 and 2)	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 <ul style="list-style-type: none"> ● Review RKC transit/transshipment guidelines and how free zones/hubbing impacts trade ● 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 ● Better use of information [e.g. data model] to risk assess goods and do this risk assessment from a whole of border approach ● 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 ● Reflect developments in postal traffic 	Yes	To amend the RKC to reflect current international practices and the changes in international trade and travel in relation to transit and transshipment.

			<p>and express consignments</p> <p>Analysis/points for consideration</p> <ul style="list-style-type: none"> ● Growth in trade ● Increase in the number of Customs Coop Agreements and Mutual Recognition Agreements ● Developing AEO programmes ● Lack of information/data for risk assessment and the increased importance of security and therefore risk assessment ● Growth of inland ports ● Changing international supply chains ● WCO Transit Handbook/Guidelines 		
4.4	<i>Travelers (as defined in the RKC)</i>	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"> ● Growth in international travel including tourism ● E-passports ● Non-intrusive inspection (body scanners) ● Biometrics ● API and PNR ● E-gate clearance ● The growing linkage between Customs and Immigration agencies ● Trusted traveler schemes – creation of separate lanes for accredited low risk pax ● Passenger pre-clearance ● Growth in migration ● Foreign fighters (recruitment, home grown and returning) ● Punta Cana resolution of WCO – Customs role in the fight against 	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.

			terrorism <ul style="list-style-type: none"> ● The increasing importance of the border as a natural intervention point 		
4.5	<i>Expedited/Express Shipments</i>	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.
4.6	<i>Opportunity to Comment</i>	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.
4.7	<i>Use of Internet</i>	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.
4.8	<i>Enquiry Points</i>	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.
4.9	<i>Average Release Time</i>	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.
V. Commentaries of the Body of the Convention					
5.1	<i>Commentaries of the Body of</i>	For example, Article 8 Article 13	<ul style="list-style-type: none"> ● The RKC/VWG recommended that all existing resource materials and 		Since the Secretariat couldn't find the decisions made by previous RKC/MC,

	<i>the Convention</i>	Article 17	<p>forums, e.g. booklet, Tool Kit for Quality Implementation Assessment of the RKC, and workshops, could be used for better clarity.</p> <ul style="list-style-type: none">● Additionally, CPs can always send queries, if any, to the RKCMC under article 6.5 (e), for further elaboration.		<p>it is suggested to raise this issue during the 15th RKC/MC for further instruction.</p>
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Brussels 15 Feb 2017

How other international organizations update and enforce their Conventions

Background

The 15th RKC Management Committee (RKC/MC) Meeting (November 2016) established a new RKC Virtual Working group to carry out a comprehensive review of the Convention (including update/adjustment, addition or deletion of text), taking into account the existing proposals as brought forward by the previous Virtual Working Group. This work takes into consideration the potential impact that the WTO Agreement on Trade Facilitation (WTO TFA) may have on the RKC. The WTO TFA, which just came into force on 22 February 2017, might be regarded as a reflection of the RKC provisions which has a wider remit covering facilitation as well as control but a few TFA measures are not adequately reflected in the RKC.

Recently, there has been a growing momentum of new accessions to the RKC despite the lengthy and complicated parliamentary procedures. This is an acknowledgement of the great benefits that the RKC could bring to the WCO members (the number of RKC Contracting parties have rapidly increased from 66 in 2010 to 108 in February 2017).

The RKC provides a comprehensive package of Customs procedures in the form of Standards, Transitional Standards, Recommended Practices, and Guidelines which were included in one General Annex, 10 Specific Annexes and several detailed Guidelines. The Body of the Convention (relating to the procedures for its adoption, accession/ratification, and administration) and the General Annex are binding on Contracting Parties and form the minimum requirement of the accession. Nonetheless, any Contracting Party can choose which Specific Annexes or Chapters to accept with or without reservation (s). In fact, out of 105 members as of 27 October 2016, there were only 14 Contracting Parties fully acceded to all 25 Chapters of the RKC Specific Annexes while 65 Contracting parties did not officially accept any Specific Annex¹. Besides, a RKC MC establishing under the Article 6 of the Convention who hasn't got a strong enough dispute settlement function thus would not allow a mechanism of monitoring the implementation of the Contracting parties.

The proposals to update the RKC were raised in 2009 as there has been growing awareness amongst Members, that in response to significant changes in the global socio-economic environment, the Customs role has evolved accordingly which needs to be reflected in the RKC. Nowadays, Customs is widely recognized as not only a revenue collection agency of import/export duties but also a leading border agency for trade facilitation and economic, society and security protection. The WCO, as the only international organization of 180 customs members worldwide with the main mission of the development of standards to simplify and harmonize Customs procedures, developed several other instruments to assist members overcoming new and emerging challenges. As a result, after the entry into force of the RKC, the WCO has developed a number of tools and instruments, such as the SAFE Framework of Standards, RKC ICT Guidelines, WCO-UPU Postal Customs Guide, Coordinated Border Management Compendium, Single Window Compendium, API/PNR Guidelines, Risk Management Compendium, AEO Guidelines and associated tools. This has been done with a view to facilitate legitimate trade while addressing new risks and threats such as security as well as to leverage the advances in technology to improve Customs' business processes efficiency.

¹ "Position as regards of ratifications and accessions (as of 27 October 2016) – International Convention on the simplification and harmonization of Customs Procedures – as amended", WCO website: <http://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/conventions/pg0261e1.pdf?la=en>

Questions were raised how the WCO could make sure the effectiveness in application of its various tools and instruments, and how it could best monitor or enforce its International Conventions. The relevance of the Convention to establish the CCC in 1952 has to be considered in this context. Taking a holistic approach, the legal instruments for mutual administrative assistance for the prevention, investigation and repression of customs offences have equally to be taken into consideration?²

Taking into account all the above points, while the RKC VWG is working on mapping out the global supply chain and reflecting how RKC could best facilitate and control the movement of global trade, it would be appropriate also to know how the RKC and the WCO Conventions can be best enforced and updated from time to time to keep them up-to-date. Due to limited resources, the VWG would propose a professional agency to conduct an independent detailed study on how other international organizations are ensuring the implementation and updating their instruments/conventions. This may provide better knowledge on the legal status of the RKC compared with the WTO TFA and other international agreements/conventions in context of public International law as well as the role of the WCO Council and the RKC Management Committee vis-a-vis the WTO and other International organizations and bodies set up their under. This study will provide a good basis on how other international organizations conduct the amendments of their respective Conventions and how they monitor or enforce the implementation among their membership.

Following are some **general information gathered from academic papers** by the VWG to give an overview to the issues from an academic perspective.

² International Convention on mutual administrative assistance for the prevention, investigation and repression of customs offences (Nairobi Convention) and the International Convention on mutual administrative assistance in customs matters (Johannesburg Convention), not yet in force.

I. Overview of Public International Law

1.1. Level of legalization: Hard vs Soft Laws

UN's definition of International Law: "International law defines the legal responsibilities of States in their conduct with each other, and their treatment of individuals within State boundaries. Its domain encompasses a wide range of issues of international concern, such as human rights, disarmament, international crime, refugees, migration, problems of nationality, the treatment of prisoners, the use of force, and the conduct of war, among others. It also regulates the global commons, such as the environment and sustainable development, international waters, outer space, global communications and **world trade**".

In general, all disputes may open to during the implementation of International conventions could be submitted to the UN' International Court of Justice according to the Article 38 of its Statute:

"1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

- a. **international conventions**, whether general or particular, establishing rules expressly recognized by the contesting states;
- b. international custom, as evidence of a general practice accepted as law;
- c. the general principles of law recognized by civilized nations;
- d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto".

In terms of the level of legalization of the International law, Shaffer & Pollack (2011) classified as followed: "international conventions can be viewed as varying across three dimensions: (1) obligation, (2) precision of rules, and (3) delegation to a third-party decision-maker. Taken together, these characteristics can give an agreement a "**harder**" or "**softer**" legal character".

In the analysis of the TFA vis-à-vis the RKC, Has-Michael & Edward (2014) also summarized that: 'Hard law' refers to legally binding obligations that are precise (or can be made precise through adjudication or issuance of detailed regulations) and that delegate authority for interpreting and implementing the law (Abbott & Snidal, 2000)³. On the contrary, 'soft law' refers to rules of conduct which, in principle, have no legally binding force but which may have practical effects (Snyder 1995).⁴ The provisions of the RKC which are in the form of Standards, Transitional Standards and Recommended Practices tend to be general, exhortative and praxis-orientated rather than precise and regulatory. No wonder the RKC may be relegated by some jurists as mere 'soft law'. In addition, the RKC is not furnished with a dispute settlement mechanism which would monitor its implementation, interpret and enforce it.

'Soft law' is often criticized as weak and therefore not easy to implement. Such criticism is, to some extent, probably based on the word 'soft' which may misleadingly give an impression of law that is weak, unreliable, unenforceable, and other negative connotations. The reality, however, is that 'soft law' tends to cope better with diversity and allows greater flexibility for allowing non-state actors (Murphy 2006). This characteristic of 'soft law' is very important in the

³ Abbott, KW & Snidal, D 2000, 'Hard and soft law in international governance', International Organization, vol. 54, no. 3, pp. 421-56

⁴ Snyder, F 1995, 'The effectiveness of EC law', in T Daintith (ed.), Implementing EC law in the United Kingdom: structures for indirect rule, John Wiley, Chichester, West Sussex.

context of international trade facilitation which involves a number of stakeholders including states, the private sector, international organizations, non-governmental organizations, and many others⁵.

According to Has-Michael & Edward, the RKC has elements of 'soft law', also the WTO TFA contains a number of provisions that are typically 'soft law' in nature. Many of them are recommendatory, very general and imprecise, and hardly enforceable to the letter. Therefore, in the context of the TFA versus the RKC, the 'hard law vs. soft law' discourse may not play a big role, for both conventions actually manifest a hybrid of 'hard' and 'soft' legislation.⁶

⇒ **There are different levels of legalization in Public International Law, it is important to know what the level of legalization is of the WCO's Conventions in general as well as of the RKC in particular?**

1.2. The interaction between Hard and Soft Laws

Shaffer & Pollack said law scholars were divided into three types:

- (1) Positivist legal scholars who find that soft law is inferior to hard law but should not be discarded because it can potentially lead to hard law;
- (2) Rationalist scholars who view soft law as a complement to hard law which serves state interests in many contexts, including because the hard-law option is not initially available because of its costs; and
- (3) Constructivist scholars who view soft law as a complement to hard law that can facilitate dialogic and experimentalist transnational and domestic processes which transform norms, understandings, and perceptions of state interests.⁷

And table 1 ⁸ below was a summary of the theories of Hard Law and Soft Law and Their Interaction.

In the face of this ongoing debate about the relative merits of hard and soft law, Shaffer & Pollack said: "Hard law, as an ideal type, refers to legally binding obligations that are precise (or can be made precise through adjudication or the issuance of detailed regulations) and that delegate authority for interpreting and implementing the law. By contrast, the realm of 'soft law' begins once legal arrangements are weakened along one or more of the dimensions of obligation, precision, and delegation. Because international agreements almost invariably exhibit different weaknesses along one or more of these dimensions, they can be viewed in terms of having harder or softer law characteristics. For instance, if an agreement is not formally binding on the parties, it is softer in this first sense. **If a formally binding agreement is vague**, however, it exhibits softer characteristics along the precision dimension because it enables the parties to **exercise almost complete discretion as to its implementation**. Finally, if an agreement fails to provide a monitoring or enforcement mechanism, then the agreement is softer

⁵ Has-Michael W. and Edward K. (2014), "Old wine in new skins: analysis of the TFA vis-à-vis the RKC", World Customs Journal, Volume 8, No.2.

[http://worldcustomsjournal.org/Archives/Volume%208%2C%20Number%202%20\(Sep%202014\)/05%20Wolffgang%20%26%20Kafeero.pdf](http://worldcustomsjournal.org/Archives/Volume%208%2C%20Number%202%20(Sep%202014)/05%20Wolffgang%20%26%20Kafeero.pdf)

⁶ *ibid*

⁷ Gregory C. Shaffer and Mark A. Pollack (2010), "Hard vs. Soft Law: Alternatives, Complements, and Antagonists in International Governance", p.722.

⁸ *Ibid*, p. 723

along this third dimension because there is no third-part to resolve interpretive disputes arising out of the agreement's implementation".⁹

Table 1:
Theories of Hard and Soft Law and Their Interaction

	Strengths and Weaknesses of Hard and Soft Law as Alternatives	Interaction of Hard and Soft Law as Complements	Interaction of Hard and Soft Law as Antagonists
Legal Positivism	Hard law preferable; soft law either problematic or used as stepping stone to hard law.	Soft law, at most, can contribute to development or elaboration of hard law.	Does not address.
Rational Choice Institutionalism	Hard and soft law have different strengths and weaknesses; choice governed by factors such as certainty of state interest, transaction costs of bargaining, indication of credibility of state commitment, and desire for flexibility.	Abbott and Snidal's three pathways: (i) Binding framework agreement leads to greater substantive detail over time; (ii) Plurilateral agreement, membership grows over time; (iii) Nonbinding tools evolve into hard law. ⁴¹	Does not address.
Constructivism	Neither hard nor soft law inherently preferable, but soft law can be particularly helpful in elaborating new and transformative norms.	Soft law can contribute to socialization and normative convergence, paving the way for hard law.	Does not address.

"In sum, where a body of hard law already exists, soft law is often considered to provide a low-cost and flexible way to elaborate and fill in the gaps that form when a standing body of hard law

⁹ Gregory C. Shaffer and Mark A. Pollack (2011), "HARD VERSUS SOFT LAW IN INTERNATIONAL SECURITY", p.1160

encounters new and unforeseen circumstances. Where a body of hard law does not yet exist, on the other hand, states and other actors can use soft-law instruments until these actors develop greater comfort and consensus regarding the merits and advisability of an approach.

Legal scholars thus view hard- and soft-law instruments not only as providing alternative tools for cooperation. They show how these instruments serve as complements in "dynamic processes of legalization," leading to the progressive development of international law over time".¹⁰

⇒ **What is the relationship between the WCO RKC and the WTO TFA in the context of the soft and hard laws?**

1.3. The challenge of the Implementation

With regards of the implementation, Carruthers & Halliday (2009) said a key explanation for the gap between international and domestic lawmaking is "actor mismatch." Those actors who exercise power in the domestic implementation of international agreements are often not present at the international negotiation stage. This problem of implementation-or rather of non-implementation of agreements by actors excluded from the negotiation process-affects not only soft-law understandings but also hard-law agreements, including international treaties and WTO rulings¹¹.

This challenge was also mentioned in the paper by Finger and Schuler (2000) when discussing about the Implementation of Uruguay Round Commitments.¹²

For this reason, the purported advantages of hard law over soft law from legal positivist and rationalist perspectives-including more effective compliance and enforcement procedures-may be less evident in practice than in theory. In fact, socio-legal scholarship calls into question the very concept of "binding" hard law, once one considers implementation as part of the lawmaking process¹³.

Considering a solution to enforce the International laws, O'Connell said: "The international system has some courts, in particular, the International Court of Justice (ICJ). But most, including the ICJ, have only marginal enforcement capacity or none at all. International law has enforcement mechanisms, though not institutionalized ones, with certain clear, practical limits. In addition, states may not wish to use enforcement against another state. Instead, states may prefer to avoid souring good relations by coercing enforcement"¹⁴.

O'Connell suggested that "it may be possible to overcome many of these court-made obstacles to enforcing international law through domestic courts. She notes that, to this end, progress has been made in the area of human rights, especially with respect to war crimes. The author concludes by asserting that, because domestic courts have control over persons and assets, the

¹⁰ Gregory C. Shaffer and Mark A. Pollack (2011), "HARD VERSUS SOFT LAW IN INTERNATIONAL SECURITY", p.1165.

¹¹ TERENCE C. HALLIDAY & BRUCE G. CARRUTHERS, BANKRUPT: GLOBAL LAWMAKING AND SYSTEMIC FINANCIAL CRISIS 422 (2009).

¹² J. Michael Finger and Philip Schuler (2000), "Implementation of Uruguay Round Commitments", p.513.

¹³ Gregory C. Shaffer and Mark A. Pollack (2010), "Hard vs. Soft Law: Alternatives, Complements, and Antagonists in International Governance", pp.742-7433

¹⁴ Marry Ellen O'Connell (1995), "Enforcement and the Success of International Environmental Law", p.57

need for "borrowing" the forum of domestic courts will increase as environmental rules become more directed at those individuals".¹⁵

- ⇒ **The Implementation of International Conventions in general is always challenging not only with soft laws but also with hard laws.**
- ⇒ **This required a holistic study to find out a solution to improve the implementation of WCO Conventions and other instruments such as the SAFE Framework of Standards.**

II. Best practices of the how other IOs monitor their International Conventions:

2.1. The UN

<http://www.un.org/en/sections/what-we-do/uphold-international-law/index.html>

A. Uphold International Law

The UN Charter, in its Preamble, set an objective: "to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained". Ever since, the development of, and respect for international law has been a key part of the work of the Organization. **This work is carried out in many ways - by courts, tribunals, multilateral treaties - and by the Security Council, which can approve peacekeeping missions, impose sanctions, or authorize the use of force** when there is a threat to international peace and security, if it deems this necessary. These powers are given to it by the UN Charter, which is considered an international treaty. As such, it is an instrument of international law, and UN Member States are bound by it. The UN Charter codifies the major principles of international relations, from sovereign equality of States to the prohibition of the use of force in international relations.

B. International Court of Justice

The principal judicial organ of the United Nations is the International Court of Justice (ICJ). This main body of the UN settles legal disputes submitted to it by States in accordance with international law. It also gives advisory opinions on legal questions referred to it from authorized UN organs and specialized agencies. The Court is composed of 15 judges, who are elected for terms of nine years by the General Assembly and the Security Council.

C. Courts and Tribunals

In addition to the International Court of Justice, a wide variety of international courts, international tribunals, ad hoc tribunals and UN-assisted tribunals have varying degrees of relation to the United Nations (such as the tribunals for the former Yugoslavia and Rwanda, the Special Court for Sierra Leone, the Extraordinary Chambers in the Courts of Cambodia and the Special Tribunal for Lebanon). The Mechanism for International Criminal Tribunals (the MICT) was established by the United Nations Security Council on 22 December 2010 to carry out a number of essential functions of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the former Yugoslavia (ICTY), after the completion of their

¹⁵ Marry Ellen O'Connell (1995), "Enforcement and the Success of International Environmental Law", p.1

respective mandates. These are established by (and are Subsidiary Organs of) the Security Council.

D. United Nations Commission on International Trade Law (UNCITRAL)

The United Nations Commission on International Trade Law is a core legal body of the United Nations system in the field of international trade law, with universal membership, specializing in commercial law, with a focus on the modernization and harmonization of rules on international business. The UNCITRAL Secretariat has established a Case Law on UNCITRAL texts (CLOUT) system for collecting and disseminating information on court decisions and arbitral awards relating to the Conventions and Model Laws that have emanated from the work of the Commission.

2.2. Other UN specialised agencies

http://www.un.org/en/aboutun/structure/pdfs/UN_System_Chart_2015_Rev.4_ENG_11x17colour.pdf

There are several international organizations with whom the WCO has a close cooperation such as WHO, WIPO, ICAO, FAO, UPU, and UNESCO who have been considered as specialized agencies of the United Nations.

The WCO is not an UN specialized agency but most of its Conventions (e.g. the HS Convention and the RKC) have provisions which requiring them to be registered with the UN.

⇒ **Question : Is it possible that the WCO may follow the same mechanism of enforcing and implementing of their standards as set out by the UN.**

2.3. The WTO:

https://www.wto.org/english/docs_e/legal_e/04-wto_e.htm

“A large and essential part of members’ work in the WTO is to monitor how the agreements that they have negotiated are being implemented. Transparency is key. They discuss their laws, measures adopted and other issues in the various **councils and committees**, including information that they have pledged to share with each other by notifying the WTO. All WTO members must also undergo periodic **peer review** of their trade policies and practices, each **Trade Policy Review** containing reports by the WTO Secretariat and the country concerned and comments by other members in the meeting. More recently the WTO Secretariat has produced **regular global trade monitoring reports** on how countries are using trade measures overall in response to the changing economic climate”.

Agreement Establishing the World Trade Organization:

“The agreement establishing the World Trade Organization (WTO) calls for a single institutional framework encompassing the GATT, as modified by the Uruguay Round, all agreements and arrangements concluded under its auspices and the complete results of the Uruguay Round. Its structure is headed by a Ministerial Conference meeting at least once every two years. A General Council oversees the operation of the agreement and ministerial decisions on a regular basis. This General Council acts as a **Dispute Settlement Body** and a **Trade Policy Review Mechanism**, which concern themselves with the full range of trade issues covered by the WTO, and has also established

subsidiary bodies such as a Goods Council, a Services Council and a TRIPs Council. The WTO framework ensures a “single undertaking approach” to the results of the Uruguay Round — thus, membership in the WTO entails accepting all the results of the Round without exception”.

E. Trade Policy Review Mechanism

“An agreement confirms the Trade Policy Review Mechanism, introduced at the time of the Mid-term Review, and encourages greater transparency in national trade policy-making. A further Ministerial decision reforms the notification requirements and procedures generally”.

F. Rules and Procedures Governing the Settlement of Disputes

“The dispute settlement system of the GATT is generally considered to be one of the cornerstones of the multilateral trade order. The system has already been strengthened and streamlined as a result of reforms agreed following the Mid-Term Review Ministerial Meeting held in Montreal in December 1988. Disputes currently being dealt with by the Council are subject to these new rules, which include greater automaticity in decisions on the establishment, terms of reference and composition of panels, such that these decisions are no longer dependent upon the consent of the parties to a dispute. The Uruguay Round Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) will further strengthen the existing system significantly, extending the greater automaticity agreed in the Mid-Term Review to the adoption of the panels’ and a new Appellate Body’s findings. Moreover, the DSU will establish an integrated system permitting WTO Members to base their claims on any of the multilateral trade agreements included in the Annexes to the Agreement establishing the WTO. For this purpose, a Dispute Settlement Body (DSB) will exercise the authority of the General Council and the Councils and committees of the covered agreements”.

G. Transparency and trade monitoring

“WTO members monitor how WTO agreements are being implemented by conducting peer reviews of countries’ trade policies — known as Trade Policy Reviews — and through periodic reports on trade measures around the world”.

⇒ **Is it possible for the WCO to establish a peer review mechanism to monitor how WCO Conventions and Instruments are being implemented?**

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Annex I: How other IOs ratify and amend their respective Conventions

I.1. Basel Convention (BC), Rotterdam Convention (RC) vs Stockholm Convention (SC):

<http://www.basel.int/TheConvention/Overview/TextoftheConvention/tabid/1275/Default.aspx>

<http://www.pic.int/TheConvention/Overview/TextoftheConvention/tabid/1048/language/en-US/Default.aspx>

<http://chm.pops.int/TheConvention/Overview/TextoftheConvention/tabid/2232/Default.aspx>

The general provisions for amending the Basel Convention (BC), Rotterdam Convention (RC) and Stockholm Convention (SC) are, respectively: Article 17 BC, Article 21 RC and Article 21 SC. The provisions are similar in terms of who may propose an amendment (a Party), by when it must be transmitted to all Parties to be considered by the next meeting of the Conference of the Parties (6 months in advance), the threshold that needs to be reached for its adoption (consensus or, failing to achieve it, decision by 3/4 majority vote) and its entry into force (following ratification, acceptance or approval by at least 3/4 of the Parties).

So far, **Parties to the BC** have adopted one amendment in 1995 which **to has yet enter into force**. Parties to the RC will consider two amendment proposals to the Convention during the 8th meeting of the COP in April/May 2017.

The conventions also provide for the possibility to amend the annexes to the Convention, but these differ from one to the other. Article 18 BC, one could say, sets out the traditional rule of international law: new annexes or proposals to amend existing annexes are proposed and adopted following the same procedure as for the proposal and adoption of amendments to the Convention; Parties have six months following the notification by the depositary to “opt out” of the amendment and therefore not be bound by it. Failing to do so, the amendment to the annex or the new annex becomes binding on the expiry of the six months deadline.

Under RC, two different procedures are in place pursuant to Article 22: the traditional one (same as under BC) and a special procedure for amendments to Annex III to the Convention. This annex lists the chemicals that are subject to the prior informed consent procedure of the Convention: amendments to the Annex must be adopted by consensus and they are legally binding upon all Parties (no “opt out”).

Under SC, three different procedures are in place pursuant to Article 22: the traditional one (same as under BC) for the adoption of new annexes, one special procedure for amendments to Annexes A, B and C (that list chemicals covered by the Convention: traditional procedure unless the Party is an “opt in” Party i.e. it has, in its instrument of ratification, acceptance approval or accession to the SC declared that, with respect to it, any amendment to Annex A, B or C shall enter into force only upon the deposit of its instrument of ratification, acceptance, approval or accession with respect thereto); and one special procedure for amendments to Annexes D, E and F (that list the information requirements towards the listing of a chemical: adoption by consensus and binding upon all Parties i.e. no “opt out”).

So far, Parties to the BC have adopted new annexes (Annexes VIII and IX) and adopted amendments thereto. Parties to the RC usually consider at each of their COP meeting proposals to amend Annex III, upon recommendation by the Chemicals Review Committee. Parties to the SC also usually consider at each of their COP meeting proposals to amend either Annex A, B or C, upon recommendation by the Persistent Organic Pollutants Review Committee.

II.2. Other Conventions of the UN and the WTO

	Convention	Status and problems	<u>ARTICLES of Entry into force and amendment procedure</u>	Remark
1	United Nations Convention on contracts for the international sale of goods	Entered into force on 1 January 1988	<p><u>Article 91</u></p> <p>Ratification of the convention</p> <p>(1) This Convention is open for signature at the concluding meeting of the United Nations Conference on Contracts for the International Sale of Goods and will remain open for signature by all States at the Headquarters of the United Nations, New York until 30 September 1981.</p> <p>(2) This Convention is subject to ratification, acceptance or approval by the signatory States.</p> <p>(3) This Convention is open for accession by all States which are not signatory States as from the date it is open for signature.</p> <p>(4) Instruments of ratification, acceptance, approval and accession are to be deposited with the Secretary-General of the United Nations.</p> <p><u>Article 99</u></p> <p>Entry into force</p> <p>(1) This Convention enters into force, subject to the</p>	The united Nations convention on Contracts for the international sale of goods is complemented by the United nations convention on the Limitation Period in the international sale of goods, 1974, as amended by a Protocol in 1980 (the Limitation Convention).

			<p>provisions of paragraph (6) of this article, on the first day of the month following the expiration of twelve months after the date of deposit of the tenth instrument of ratification, acceptance, approval or accession, including an instrument which contains a declaration made under article 92.</p> <p>(2) When a State ratifies, accepts, approves or accedes to this Convention after the deposit of the tenth instrument of ratification, acceptance, approval or accession, this Convention, with the exception of the Part excluded, enters into force in respect of that State, subject to the provisions of paragraph (6) of this article, on the first day of the month following the expiration of twelve months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.</p> <p>(3) A State which ratifies, accepts, approves or accedes to this Convention and is a party to either or both the Convention relating to a Uniform Law on the Formation of Contracts for the International Sale of Goods done at The Hague on 1 July 1964 (1964 Hague Formation Convention) and the Convention relating to a Uniform Law on the International Sale of Goods done at The Hague on 1 July 1964 (1964 Hague Sales Convention) shall at the same time denounce, as the case may be, either or both the 1964 Hague Sales Convention and the 1964 Hague Formation Convention by notifying the Government of the Netherlands to that effect.</p> <p>(4) A State party to the 1964 Hague Sales Convention which ratifies, accepts, approves or accedes to the present Convention and declares or has declared under article 92 that it will not be bound by Part II of</p>	
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			<p>this Convention shall at the time of ratification, acceptance, approval or accession denounce the 1964 Hague Sales Convention by notifying the Government of the Netherlands to that effect.</p> <p>(5) A State party to the 1964 Hague Formation Convention which ratifies, accepts, approves or accedes to the present Convention and declares or has declared under article 92 that it will not be bound by Part III of this Convention shall at the time of ratification, acceptance, approval or accession denounce the 1964 Hague Formation Convention by notifying the Government of the Netherlands to that effect.</p> <p>(6) For the purpose of this article, ratifications, acceptances, approvals and accessions in respect of this Convention by States parties to the 1964 Hague Formation Convention or to the 1964 Hague Sales Convention shall not be effective until such denunciations as may be required on the part of those States in respect of the latter two Conventions have themselves become effective. The depositary of this Convention shall consult with the Government of the Netherlands, as the depositary of the 1964 Conventions, so as to ensure necessary coordination in this respect.</p> <p><u>Article 93</u></p> <p>Amendment</p> <p>(1) If a Contracting State has two or more territorial units in which, according to its constitution, different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of</p>	
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			<p>signature, ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them, and may amend its declaration by submitting another declaration at any time.</p> <p>(2) These declarations are to be notified to the depositary and are to state expressly the territorial units to which the Convention extends.</p> <p>(3) If, by virtue of a declaration under this article, this Convention extends to one or more but not all of the territorial units of a Contracting State, and if the place of business of a party is located in that State, this place of business, for the purposes of this Convention, is considered not to be in a Contracting State, unless it is in a territorial unit to which the Convention extends.</p> <p>(4) If a Contracting State makes no declaration under paragraph (1) of this article, the Convention is to extend to all territorial units of that State.</p> <p><u>Article 101</u></p> <p>Denunciation of Convention</p> <p>(1) A Contracting State may denounce this Convention, or Part II or Part III of the Convention, by a formal notification in writing addressed to the depositary.</p> <p>(2) The denunciation takes effect on the first day of the month Following the expiration of twelve months after the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation</p>	
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			takes effect upon the expiration of such longer period after the notification is received by the depositary.	
2	Agreement on implementation of Article VII of the General agreement on Tariffs and trade 1994 (WTO valuation agreement)	Entered into force on 12 April 1979	<p>* Entry into force <u>Article 22</u> <i>National Legislation</i> 1. Each Member shall ensure, not later than the date of application of the provisions of this Agreement for it, the conformity of its laws, regulations and administrative procedures with the provisions of this Agreement. 2. Each Member shall inform the Committee of any changes in its laws and regulations relevant to this Agreement and in the administration of such laws and regulations.</p> <p>* Review and monitoring the implementation GATT <u>Article 23</u> <i>Review</i> The Committee shall review annually the implementation and operation of this Agreement taking into account the objectives thereof. The Committee shall annually inform the Council for Trade in Goods of developments during the period covered by such reviews. <u>Article 24</u> <i>Secretariat</i> This Agreement shall be serviced by the WTO Secretariat except in regard to those responsibilities specifically assigned to the Technical Committee, which will be serviced by the CCC Secretariat</p>	
3	Agreement on Rules of Origin	Comments: Unlike RKC, it provides for	Article 2: Disciplines During the Transition Period Until the work programme for the harmonization of rules of origin set out in Part IV is completed, Members	The agreement sets up a harmonization programme, to be initiated as soon as

		<p>annual review, consultation. Interestingly, it also asks members to provide for their rules, laws and procedures which are related to this agreement. It helps in ascertaining the degree of implementation by the members.</p>	<p>shall ensure that:</p> <p>(a) when they issue administrative determinations of general application, the requirements to be fulfilled are clearly defined. In particular:</p> <p>(i) in cases where the criterion of change of tariff classification is applied, such a rule of origin, and any exceptions to the rule, must clearly specify the subheadings or headings within the tariff nomenclature that are addressed by the rule;</p> <p>(ii) in cases where the ad valorem percentage criterion is applied, the method for calculating this percentage shall also be indicated in the rules of origin;</p> <p>(iii) in cases where the criterion of manufacturing or processing operation is prescribed, the operation that confers origin on the good concerned shall be precisely specified;</p> <p>(b) notwithstanding the measure or instrument of commercial policy to which they are linked, their rules of origin are not used as instruments to pursue trade objectives directly or indirectly;</p> <p>(c) rules of origin shall not themselves create restrictive, distorting, or disruptive effects on international trade. They shall not pose unduly strict requirements or require the fulfilment of a certain condition not related to manufacturing or processing, as a prerequisite for the determination of the country of origin. However, costs not directly related to manufacturing or processing may be included for the purposes of the application of an ad valorem percentage criterion consistent with subparagraph (a);</p> <p>(d) the rules of origin that they apply to imports and exports are not more stringent than the rules of origin they apply to determine whether or not a good is</p>	<p>possible after the completion of the Uruguay Round and to be completed within three years of initiation. It would be based upon a set of principles, including making rules of origin objective, understandable and predictable. The work would be conducted by a Committee on Rules of Origin (CRO) in the WTO and a technical committee (TCRO) under the auspices of the Customs Cooperation Council in Brussels.</p> <p>Much work was done in the CRO and the TCRO and substantial progress has been achieved in the three years foreseen in the Agreement for the completion of the work. However, due to the complexity of the issues the HWP could not be finalized within the foreseen deadline. The CRO continued its work in 2000. In December 2000, the General Council Special Session agreed to set, as the new deadline for completion of the remainder of the work, the Fourth Session of the Ministerial Conference, or at the latest the end of 2001. The negotiating texts are contained in documents G/RO/41 and G/RO/45. Until the completion of the harmonization programme, contracting parties would be expected to ensure that their rules of origin are transparent; that they do not have restricting, distorting or disruptive effects on international trade; that they</p>
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			<p>domestic and shall not discriminate between other Members, irrespective of the affiliation of the manufacturers of the good concerned (2)</p> <p>(e) their rules of origin are administered in a consistent, uniform, impartial and reasonable manner;</p> <p>(f) their rules of origin are based on a positive standard. Rules of origin that state what does not confer origin (negative standard) are permissible as part of a clarification of a positive standard or in individual cases where a positive determination of origin is not necessary;</p> <p>(g) their laws, regulations, judicial decisions and administrative rulings of general application relating to rules of origin are published as if they were subject to, and in accordance with, the provisions of paragraph 1 of Article X of GATT 1994;</p> <p>(h) upon the request of an exporter, importer or any person with a justifiable cause, assessments of the origin they would accord to a good are issued as soon as possible but no later than 150 days(3) after a request for such an assessment provided that all necessary elements have been submitted. Requests for such assessments shall be accepted before trade in the good concerned begins and may be accepted at any later point in time. Such assessments shall remain valid for three years provided that the facts and conditions, including the rules of origin, under which they have been made remain comparable. Provided that the parties concerned are informed in advance, such assessments will no longer be valid when a decision contrary to the assessment is made in a review as referred to in subparagraph (j). Such assessments shall be made publicly available subject to the provisions of subparagraph (k);</p>	<p>are administered in a consistent, uniform, impartial and reasonable manner, and that they are based on a positive standard (in other words, they should state what does confer origin rather than what does not).</p>
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			<p>(i) when introducing changes to their rules of origin or new rules of origin, they shall not apply such changes retroactively as defined in, and without prejudice to, their laws or regulations;</p> <p>(j) any administrative action which they take in relation to the determination of origin is reviewable promptly by judicial, arbitral or administrative tribunals or procedures, independent of the authority issuing the determination, which can effect the modification or reversal of the determination;</p> <p>(k) all information that is by nature confidential or that is provided on a confidential basis for the purpose of the application of rules of origin is treated as strictly confidential by the authorities concerned, which shall not disclose it without the specific permission of the person or government providing such information, except to the extent that it may be required to be disclosed in the context of judicial proceedings.</p> <p>Article 3: Disciplines after the Transition Period</p> <p>Taking into account the aim of all Members to achieve, as a result of the harmonization work programme set out in Part IV, the establishment of harmonized rules of origin, Members shall ensure, upon the implementation of the results of the harmonization work programme, that:</p> <p>(a) they apply rules of origin equally for all purposes as set out in Article 1;</p> <p>(b) under their rules of origin, the country to be determined as the origin of a particular good is either the country where the good has been wholly obtained or, when more than one country is concerned in the production of the good, the country where the last substantial transformation has been carried out;</p> <p>(c) the rules of origin that they apply to imports</p>	
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			<p>and exports are not more stringent than the rules of origin they apply to determine whether or not a good is domestic and shall not discriminate between other Members, irrespective of the affiliation of the manufacturers of the good concerned;</p> <p>(d) the rules of origin are administered in a consistent, uniform, impartial and reasonable manner;</p> <p>(e) their laws, regulations, judicial decisions and administrative rulings of general application relating to rules of origin are published as if they were subject to, and in accordance with, the provisions of paragraph 1 of Article X of GATT 1994;</p> <p>(f) upon the request of an exporter, importer or any person with a justifiable cause, assessments of the origin they would accord to a good are issued as soon as possible but no later than 150 days after a request for such an assessment provided that all necessary elements have been submitted. Requests for such assessments shall be accepted before trade in the good concerned begins and may be accepted at any later point in time. Such assessments shall remain valid for three years provided that the facts and conditions, including the rules of origin, under which they have been made remain comparable. Provided that the parties concerned are informed in advance, such assessments will no longer be valid when a decision contrary to the assessment is made in a review as referred to in subparagraph (h). Such assessments shall be made publicly available subject to the provisions of subparagraph (i);</p> <p>(g) when introducing changes to their rules of origin or new rules of origin, they shall not apply such changes retroactively as defined in, and without prejudice to, their laws or regulations;</p>	
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			<p>(h) any administrative action which they take in relation to the determination of origin is reviewable promptly by judicial, arbitral or administrative tribunals or procedures, independent of the authority issuing the determination, which can affect the modification or reversal of the determination;</p> <p>(i) all information which is by nature confidential or which is provided on a confidential basis for the purpose of the application of rules of origin is treated as strictly confidential by the authorities concerned, which shall not disclose it without the specific permission of the person or government providing such information, except to the extent that it may be required to be disclosed in the context of judicial proceedings.</p> <p>Article 4: Institutions</p> <p>1. There is hereby established a Committee on Rules of Origin (referred to in this Agreement as “the Committee”) composed of the representatives from each of the Members. The Committee shall elect its own Chairman and shall meet as necessary, but not less than once a year, for the purpose of affording Members the opportunity to consult on matters relating to the operation of Parts I, II, III and IV or the furtherance of the objectives set out in these Parts and to carry out such other responsibilities assigned to it under this Agreement or by the Council for Trade in Goods. Where appropriate, the Committee shall request information and advice from the Technical Committee referred to in paragraph 2 on matters related to this Agreement. The Committee may also request such other work from the Technical Committee as it considers appropriate for the furtherance of the above-mentioned objectives of this Agreement. The</p>	
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			<p>WTO Secretariat shall act as the secretariat to the Committee.</p> <p>2. There shall be established a Technical Committee on Rules of Origin (referred to in this Agreement as “the Technical Committee”) under the auspices of the Customs Co-operation Council (CCC) as set out in Annex I. The Technical Committee shall carry out the technical work called for in Part IV and prescribed in Annex I. Where appropriate, the Technical Committee shall request information and advice from the Committee on matters related to this Agreement. The Technical Committee may also request such other work from the Committee as it considers appropriate for the furtherance of the above-mentioned objectives of the Agreement. The CCC Secretariat shall act as the secretariat to the Technical Committee.</p> <p>Article 5: Information and Procedures for Modification and Introduction of New Rules of Origin</p> <p>1. Each Member shall provide to the Secretariat, within 90 days after the date of entry into force of the WTO Agreement for it, its rules of origin, judicial decisions, and administrative rulings of general application relating to rules of origin in effect on that date. If by inadvertence a rule of origin has not been provided, the Member concerned shall provide it immediately after this fact becomes known. Lists of information received and available with the Secretariat shall be circulated to the Members by the Secretariat.</p> <p>2. During the period referred to in Article 2, Members introducing modifications, other than <i>de minimis</i> modifications, to their rules of origin or introducing new rules of origin, which, for the purpose</p>	
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			<p>of this Article, shall include any rule of origin referred to in paragraph 1 and not provided to the Secretariat, shall publish a notice to that effect at least 60 days before the entry into force of the modified or new rule in such a manner as to enable interested parties to become acquainted with the intention to modify a rule of origin or to introduce a new rule of origin, unless exceptional circumstances arise or threaten to arise for a Member. In these exceptional cases, the Member shall publish the modified or new rule as soon as possible.</p> <p>Article 6: Review</p> <p>1. The Committee shall review annually the implementation and operation of Parts II and III of this Agreement having regard to its objectives. The Committee shall annually inform the Council for Trade in Goods of developments during the period covered by such reviews.</p> <p>2. The Committee shall review the provisions of Parts I, II and III and propose amendments as necessary to reflect the results of the harmonization work programme.</p> <p>3. The Committee, in cooperation with the Technical Committee, shall set up a mechanism to consider and propose amendments to the results of the harmonization work programme, taking into account the objectives and principles set out in Article 9. This may include instances where the rules need to be made more operational or need to be updated to take into account new production processes as affected by any technological change.</p> <p>Article 7: Consultation</p> <p>The provisions of Article XXII of GATT 1994, as</p>	
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			elaborated and applied by the Dispute Settlement Understanding, are applicable to this Agreement.	
4	WTO TRIPS	The TRIPS Agreement is Annex 1C of the Marrakesh Agreement Establishing the World Trade Organization, signed in Marrakesh, Morocco on 15 April 1994	<p>Article 65 Transitional Arrangements</p> <p>1. Subject to the provisions of paragraphs 2, 3 and 4, no Member shall be obliged to apply the provisions of this Agreement before the expiry of a general period of one year following the date of entry into force of the WTO Agreement.</p> <p>2. A developing country Member is entitled to delay for a further period of four years the date of application, as defined in paragraph 1, of the provisions of this Agreement other than Articles 3, 4 and 5.</p> <p>3. Any other Member which is in the process of transformation from a centrally-planned into a market, free-enterprise economy and which is undertaking structural reform of its intellectual property system and facing special problems in the preparation and implementation of intellectual property laws and regulations, may also benefit from a period of delay as foreseen in paragraph 2.</p> <p>4. To the extent that a developing country Member is obliged by this Agreement to extend product patent protection to areas of technology not so protectable in its territory on the general date of application of this Agreement for that Member, as defined in paragraph 2, it may delay the application of the provisions on product patents of Section 5 of Part II to such areas of technology for an additional period of five years.</p> <p>5. A Member availing itself of a transitional period under paragraphs 1, 2, 3 or 4 shall ensure that any changes in its laws, regulations and practice made</p>	

			<p>during that period do not result in a lesser degree of consistency with the provisions of this Agreement.</p> <p>Article 66 <i>Least-Developed Country Members</i></p> <p>1. In view of the special needs and requirements of least-developed country Members, their economic, financial and administrative constraints, and their need for flexibility to create a viable technological base, such Members shall not be required to apply the provisions of this Agreement, other than Articles 3, 4 and 5, for a period of 10 years from the date of application as defined under paragraph 1 of Article 65. The Council for TRIPS shall, upon duly motivated request by a least-developed country Member, accord extensions of this period.</p> <p>2. Developed country Members shall provide incentives to enterprises and institutions in their territories for the purpose of promoting and encouraging technology transfer to least-developed country Members in order to enable them to create a sound and viable technological base.</p> <p>Article 71 <i>Review and Amendment</i></p> <p>1. The Council for TRIPS shall review the implementation of this Agreement after the expiration of the transitional period referred to in paragraph 2 of Article 65. The Council shall, having regard to the experience gained in its implementation, review it two years after that date, and at identical intervals thereafter. The Council may also undertake reviews in the light of any relevant new developments which might warrant modification or amendment of this Agreement.</p> <p>2. Amendments merely serving the purpose of adjusting to higher levels of protection of intellectual</p>	
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			property rights achieved, and in force, in other multilateral agreements and accepted under those agreements by all Members of the WTO may be referred to the Ministerial Conference for action in accordance with paragraph 6 of Article X of the WTO Agreement on the basis of a consensus proposal from the Council for TRIPS.	
5	UN Chemical Weapon Convention		<p><u>Article XII. Measures to Redress a Situation and to Ensure Compliance, Including Sanctions</u></p> <p>1. The <u>Conference</u> shall take the necessary measures, as set forth in paragraphs 2, 3 and 4, to ensure compliance with this Convention and to redress and remedy any situation which contravenes the provisions of this Convention. In considering action pursuant to this paragraph, the Conference shall take into account all information and recommendations on the issues submitted by the <u>Executive Council</u>.</p> <p>2. In cases where a <u>State Party</u> has been requested by the Executive Council to take measures to redress a situation raising problems with regard to its compliance, and where the State Party fails to fulfil the request within the specified time, the Conference may, inter alia, upon the recommendation of the Executive Council, restrict or suspend the State Party's rights and privileges under this Convention until it undertakes the necessary action to conform with its obligations under this Convention.</p> <p>3. In cases where serious damage to the object and purpose of this Convention may result from activities prohibited under this Convention, in particular by <u>Article I</u>, the Conference may recommend collective measures to States Parties in conformity with international law.</p>	

			<p>4. The Conference shall, in cases of particular gravity, bring the issue, including relevant information and conclusions, to the attention of the <u>United Nations General Assembly</u> and the <u>United Nations Security Council</u>.</p> <p><u>Article XV. Amendments</u></p> <p>1. Any State Party may propose amendments to this Convention. Any State Party may also propose changes, as specified in paragraph 4, to the <u>Annexes</u> of this Convention. Proposals for amendments shall be subject to the procedures in paragraphs 2 and 3. Proposals for changes, as specified in paragraph 4, shall be subject to the procedures in paragraph 5.</p> <p>2. The text of a proposed amendment shall be submitted to the <u>Director General</u> for circulation to all <u>States Parties</u> and to the Depositary. The proposed amendment shall be considered only by an Amendment Conference. Such an Amendment Conference shall be convened if one third or more of the States Parties notify the Director General not later than 30 days after its circulation that they support further consideration of the proposal. The Amendment Conference shall be held immediately following a regular session of the Conference unless the requesting States Parties ask for an earlier meeting. In no case shall an Amendment Conference be held less than 60 days after the circulation of the proposed amendment.</p> <p>3. Amendments shall enter into force for all</p>	
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			<p>States Parties 30 days after deposit of the instruments of ratification or acceptance by all the States Parties referred to under subparagraph (b) below:</p> <p>(a) When adopted by the Amendment Conference by a positive vote of a majority of all States Parties with no State Party casting a negative vote; and</p> <p>(b) Ratified or accepted by all those States Parties casting a positive vote at the Amendment Conference.</p> <p>4. In order to ensure the viability and the effectiveness of this Convention, provisions in the Annexes shall be subject to changes in accordance with paragraph 5, if proposed changes are related only to matters of an administrative or technical nature. All changes to the <u>Annex on Chemicals</u> shall be made in accordance with paragraph 5. Sections A and C of the <u>Confidentiality Annex</u>, <u>Part X</u> of the <u>Verification Annex</u>, and those definitions in <u>Part I</u> of the <u>Verification Annex</u> which relate exclusively to challenge inspections, shall not be subject to changes in accordance with paragraph.</p> <p>5. Proposed changes referred to in paragraph 4 shall be made in accordance with the following procedures:</p> <p>(a) The text of the proposed changes shall be transmitted together with the necessary information to the Director General. Additional information for the evaluation of the proposal</p>	
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			<p>may be provided by any State Party and the Director General. The Director General shall promptly communicate any such proposals and information to all States Parties, the Executive Council and the Depositary;</p> <p>(b) Not later than 60 days after its receipt, the Director General shall evaluate the proposal to determine all its possible consequences for the provisions of this Convention and its implementation and shall communicate any such information to all States Parties and the <u>Executive Council</u>;</p> <p>(c) The Executive Council shall examine the proposal in the light of all information available to it, including whether the proposal fulfils the requirements of paragraph 4. Not later than 90 days after its receipt, the Executive Council shall notify its recommendation, with appropriate explanations, to all States Parties for consideration. States Parties shall acknowledge receipt within 10 days;</p> <p>(d) If the Executive Council recommends to all States Parties that the proposal be adopted, it shall be considered approved if no State Party objects to it within 90 days after receipt of the recommendation. If the Executive Council recommends that the proposal be rejected, it shall be considered rejected if no State Party objects to the rejection within 90 days after receipt of the recommendation;</p> <p>2.</p>	
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			<p>(e) If a recommendation of the Executive Council does not meet with the acceptance required under subparagraph (d), a decision on the proposal, including whether it fulfils the requirements of paragraph 4, shall be taken as a matter of substance by the <u>Conference</u> at its next session;</p> <p>(f) The Director General shall notify all States Parties and the Depositary of any decision under this paragraph;</p> <p>(g) Changes approved under this procedure shall enter into force for all States Parties 180 days after the date of notification by the Director General of their approval unless another time period is recommended by the Executive Council or decided by the Conference.</p> <p><u>Comments:</u> It may not be possible to have such stringent measures to ensure compliance in our case but some softer version can be thought of. Here also, in amendment procedure, for some category of amendments, even if a member files reservation, there is a window for reconsideration.</p>	
6	United Nations Centre for Trade Facilitation and Electronic	Recommendation and Guidelines on establishing a Single Window to enhance the	<p>Legal</p> <p>Review the legal issues, privacy legislation and data protection laws associated with the implementation of a Single Window, including the submission of information by traders, the exchange of information</p>	<p>Comments:</p> <p>Although the Single Window is soft law, it is fairly implemented by many countries¹⁶. It maybe thanks to WCO Single Window Compendium aiming to</p>

¹⁶ <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.696.1904&rep=rep1&type=pdf>

	Business (UN/CEFACT) Single Window efficient exchange of information between trade and Government Recommendation No. 33	<p>between various governmental authorities and agencies, and issues related to the use of electronic signatures. Note: Exchange of information between governmental authorities or agencies requires an appropriate statutory gateway. Exchange of information between governmental authorities or agencies is often restricted to trader consent, disclosure by order of a court, or in the public interest. Also, data protection legislation may affect the obtaining, use and disclosure of personal data.</p> <p>The Recommendation was developed by the International Trade Procedures Working Group (ITPWG – TBG15) of the UN/CEFACT International Trade and Business Processes Group (TBG). It was formally approved by the UN/CEFACT heads of delegation in September 2004, after an extensive review process by various industry, governmental and international organizations.</p> <p>A draft of the Recommendation (TRADE/CEFACT/2004/MISC.7) had previously been submitted to the 10th UN/CEFACT Plenary session in May 2004.</p>	<p>support capacity building efforts in the context of Single Window planning and implementation projects by providing knowledge of “how to get it done”¹⁷. The Compendium covers from incubation and strategic planning phase, establishment and consolidation phase, and development, implementation, evaluation and feedback phase¹⁸.</p>
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¹⁷ <http://tfig.unece.org/contents/wco-single-window-compendium.htm>

¹⁸ some evidence of evaluation phase such as https://www.unece.org/fileadmin/DAM/cefact/single_window/draft_160905.pdf;
<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.696.1904&rep=rep1&type=pdf>

Annex II: Several Conventions of the WCO

	Convention	Status and problems	ARTICLEs of Entry into force and amendment procedure	Remark
1	Revised Kyoto Convention On Harmonization and Simplification of Customs procedures	<p>Adopted in 1999 and Entered into force on 3 February 2006 (after 7 years since adoption)</p> <p>107 members as of Feb 2017</p>	<p>Article 8 Ratification of the Convention</p> <ol style="list-style-type: none"> 1. Any Member of the Council and any Member of the United Nations or its specialized agencies may become a Contracting Party to this Convention: <ol style="list-style-type: none"> A. by signing it without reservation of ratification; B. by depositing an instrument of ratification after signing it subject to ratification; or C. by acceding to it. 2. This Convention shall be open until 30th June 1974 for signature at the Headquarters of the Council in Brussels by the Members referred to in paragraph 1 of this Article. Thereafter, it shall be open for accession by such Members. 3. Any Contracting Party shall, at the time of signing, ratifying or acceding to this Convention, specify which if any of the Specific Annexes or 	

			<p>Chapters therein it accepts. It may subsequently notify the depositary that it accepts one or more Specific Annexes or Chapters therein.</p> <p>4. Contracting Parties accepting any new Specific Annex or any new Chapter of a Specific Annex shall notify the depositary in accordance with paragraph 3 of this Article.</p> <p>5. (a) Any Customs or Economic Union may become, in accordance with paragraphs 1, 2 and 3 of this Article, a Contracting Party to this Convention. Such Customs or Economic Union shall inform the depositary of its competence with respect to the matters governed by this Convention. Such Customs or Economic Union shall also inform the depositary of any substantial modification in the extent of its competence.</p> <p>(b) A Customs or Economic Union which is a Contracting Party to this Convention shall, for the matters within its competence, exercise in its own name the rights, and fulfil the responsibilities, which the Convention confers on the Members of such a Union which are Contracting Parties to this Convention. In such a case, the Members of such a Union shall not be entitled to individually exercise these rights, including the right to vote.</p> <p style="text-align: center;">Article 9</p>	
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			<ol style="list-style-type: none"> 1. Any Contracting Party which ratifies this Convention or accedes thereto shall be bound by any amendments to this Convention, including the General Annex, which have entered into force at the date of deposit of its instrument of ratification or accession. 2. Any Contracting Party which accepts a Specific Annex or Chapter therein shall be bound by any amendments to the Standards contained in that Specific Annex or Chapter which have entered into force at the date on which it notifies its acceptance to the depositary. Any Contracting Party which accepts a Specific Annex or Chapter therein shall be bound by any amendments to the Recommended Practices contained therein, which have entered into force at the date on which it notifies its acceptance to the depositary, unless it enters reservations against one or more of those Recommended Practices in accordance with Article 12 of this Convention. <p style="text-align: center;">Article 15 Amendments to the Convention</p> <ol style="list-style-type: none"> 1. The text of any amendment recommended to the Contracting Parties by the Management Committee in accordance with Article 6, paragraph 5 (a) (i) and (ii) shall be communicated by the Secretary General of the Council to all Contracting Parties and to those Members of the Council that are not Contracting Parties. 	
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			<p>2. Amendments to the Body of the Convention shall enter into force for all Contracting Parties twelve months after deposit of the instruments of acceptance by those Contracting Parties present at the session of the Management Committee during which the amendments were recommended, provided that no objection is lodged by any of the Contracting Parties within a period of twelve months from the date of communication of such amendments.</p> <p>3. Any recommended amendment to the General Annex or the Specific Annexes or Chapters therein shall be deemed to have been accepted six months after the date the recommended amendment was communicated to Contracting Parties, unless:</p> <p style="padding-left: 40px;">A. there has been an objection by a Contracting Party or, in the case of a Specific Annex or Chapter, by a Contracting Party bound by that Specific Annex or Chapter; or</p> <p style="padding-left: 40px;">B. a Contracting Party informs the Secretary General of the Council that, although it intends to accept the recommended amendment, the conditions necessary for such acceptance are not yet fulfilled.</p>	
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			<p>4. If a Contracting Party sends the Secretary General of the Council a communication as provided for in paragraph 3 (b) of this Article, it may, so long as it has not notified the Secretary General of the Council of its acceptance of the recommended amendment, submit an objection to that amendment within a period of eighteen months following the expiry of the six-month period referred to in paragraph 3 of this Article.</p> <p>5. If an objection to the recommended amendment is notified in accordance with the terms of paragraph 3 (a) or 4 of this Article, the amendment shall be deemed not to have been accepted and shall be of no effect.</p> <p>6. If any Contracting Party has sent a communication in accordance with paragraph 3 (b) of this Article, the amendment shall be deemed to have been accepted on the earlier of the following two dates:</p> <p style="padding-left: 40px;">A. the date by which all the Contracting Parties which sent such communications have notified the Secretary General of the Council of their acceptance of the recommended amendment, provided that, if all the acceptances were notified before the expiry of the period of six months referred to in paragraph 3 of this Article, that date shall be taken to be the date of expiry of the said six-month</p>	
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			<p>period;</p> <p>B. the date of expiry of the eighteen-month period referred to in paragraph 4 of this Article.</p> <p>7. Any amendment to the General Annex or the Specific Annexes or Chapters therein deemed to be accepted shall enter into force either six months after the date on which it was deemed to be accepted or, if a different period is specified in the recommended amendment, on the expiry of that period after the date on which the amendment was deemed to be accepted.</p> <p>8. The Secretary General of the Council shall, as soon as possible, notify the Contracting Parties to this Convention of any objection to the recommended amendment made in accordance with paragraph 3 (a), and of any communication received in accordance with paragraph 3 (b), of this Article. The Secretary General of the Council shall subsequently inform the Contracting Parties whether the Contracting Party or Parties which have sent such a communication raise an objection to the recommended amendment or accept it.</p> <p style="text-align: center;">Article 16</p> <p>1. Notwithstanding the amendment procedure laid down in Article 15 of this Convention, the</p>	
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			<p>Management Committee in accordance with Article 6 may decide to amend any Recommended Practice or to incorporate new Recommended Practices to any Specific Annex or Chapter therein. Each Contracting Party shall be invited by the Secretary General of the Council to participate in the deliberations of the Management Committee. The text of any such amendment or new Recommended Practice so decided upon shall be communicated by the Secretary General of the Council to the Contracting Parties and those Members of the Council that are not Contracting Parties to this Convention.</p> <p>2. Any amendment or incorporation of new Recommended Practices decided upon under paragraph 1 of this Article shall enter into force six months after their communication by the Secretary General of the Council. Each Contracting Party bound by a Specific Annex or Chapter therein forming the subject of such amendments or incorporation of new Recommended Practices shall be deemed to have accepted those amendments or new Recommended Practices unless it enters a reservation under the procedure of Article 12 of this Convention.</p>	
2	Harmonization System	<p>The Convention was Entered into force on 1 January 1988</p> <p>As of June 2016: 154</p>	<p>ARTICLE 8</p> <p>Role of the Council</p> <p>1. The Council shall examine proposals for amendment</p>	<p>Comments: While both RKC and HS convention are from WCO, it is seen that HS gives significant role to Council, which makes amendment</p>

		<p>Contracting parties</p> <p>The Convention has been updated every 5 years</p>	<p>of this Convention, prepared by the Harmonized System Committee, and recommend them to the Contracting Parties under the procedure of Article 16 unless any Council Member which is a Contracting Party to this Convention requests that the proposals or any part thereof be referred to the Committee for re-examination.</p> <p>2. The Explanatory Notes, Classification Opinions, other advice on the interpretation of the Harmonized System and recommendations to secure uniformity in the interpretation and application of the Harmonized System, prepared during a session of the Harmonized System Committee under the provisions of paragraph 1 of Article 7, shall be deemed to be approved by the Council if, not later than the end of the second month following the month during which that session was closed, no Contracting Party to this Convention has notified the Secretary General that it requests that such matter be referred to the Council.</p> <p>3. Where a matter is referred to the Council under the provisions of paragraph 2 of this Article, the Council shall approve such Explanatory Notes, Classification Opinions, other advice or recommendations, unless any Council Member which is a Contracting Party to this Convention requests that they be referred in whole or part to the Committee for re-examination.</p> <p>ARTICLE 13</p> <p>Entry into force</p> <p>1. This Convention shall enter into force on the earliest first of January which falls at least three months after a minimum of seventeen States or Customs or Economic</p>	<p>procedure simpler. But RKC does not give any role to the Council.</p>
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			<p>Unions referred to in Article 11 above have signed it without reservation of ratification or have deposited their instruments of ratification or accession, but not before 1 January 1988.</p> <p>2. For any State or Customs or Economic Union signing without reservation of ratification, ratifying or acceding to this Convention after the minimum number specified in paragraph 1 of this Article is reached, this Convention shall enter into force on the first of January which falls at least twelve months but not more than twenty-four months after it has signed the Convention without reservation of ratification or has deposited its instrument of ratification or accession, unless it specifies an earlier date. However, the date of entry into force under the provisions of this paragraph shall not be earlier than the date of entry into force provided for in paragraph 1 of this Article.</p> <p><u>ARTICLE 16</u></p> <p>Amendment procedure</p> <p>1. The Council may recommend amendments to this Convention to the Contracting Parties.</p> <p>2. Any Contracting Party may notify the Secretary General of an objection to a recommended amendment and may subsequently withdraw such objection within the period specified in paragraph 3 of this Article.</p> <p>3. Any recommended amendment shall be deemed to be accepted six months after the date of its notification by the Secretary General provided that there is no objection outstanding at the end of this period.</p>	
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			<p>4. Accepted amendments shall enter into force for all Contracting Parties on one of the following dates:</p> <p>(a) where the recommended amendment is notified before 1 April, the date shall be the first of January of the second year following the date of such notification,</p> <p>or</p> <p>(b) where the recommended amendment is notified on or after 1 April, the date shall be the first of January of the third year following the date of such notification.</p> <p>5. The statistical nomenclatures of each Contracting Party and its Customs tariff nomenclature or, in the case provided for under paragraph 1 (c) of Article 3, its combined tariff/statistical nomenclature, shall be brought into conformity with the amended Harmonized System on the date specified in paragraph 4 of this Article.</p> <p>6. Any State or Customs or Economic Union signing without reservation of ratification, ratifying or acceding to this Convention shall be deemed to have accepted any amendments thereto which, at the date when it becomes a Contracting Party, have entered into force or have been accepted under the provisions of paragraph 3 of this Article.</p>	
3	International Convention on the A.T.A. Carnet for the temporary admission of goods (A.T.A. Convention)	<p>Entered into force on 30 July 1963</p> <p>63 CPs as of 21 Oct 2013</p>	<p>Final provisions</p> <p>Article 18</p> <p>1. The Contracting Parties shall meet together when necessary in order to consider the operation of the</p>	Comments: The amendment procedure is almost same as in RKC. Here, also there is option to file objection to recommended amendment.

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		<p>Due to the quorum requirement, the CPs cannot make any decision since entering into force.</p>	<p>present Convention and, in particular, in order to consider measures to secure uniformity in the interpretation and application of the present Convention.</p> <p>2. Such meetings shall be convened by the Secretary General of the Council at the request of any Contracting Party. Unless the Contracting Parties otherwise decide, the meetings shall be held at the Headquarters of the Council.</p> <p>3. The Contracting Parties shall lay down the rules of procedure for their meetings. Decisions of the Contracting Parties shall be taken by a majority of not less than two-thirds of the Contracting Parties present at the meeting and voting.</p> <p>4. The Contracting Parties shall not take a decision on any matter unless more than half of them are present.</p> <p>Article 24</p> <p>1. The Contracting Parties meeting in conformity with Article 18 of the present Convention may recommend amendments thereto.</p> <p>2. The text of any amendment so recommended shall be communicated by the Secretary General of the Council to all Contracting Parties, to all other signatory or acceding States, to the Secretary General of the United Nations, to the CONTRACTING PARTIES to the GATT, and to UNESCO.</p> <p>3. Within a period of six months from the date on which the recommended amendment is so communicated, any Contracting Party may inform the Secretary General of</p>	<p>And with a single objection, the recommended amendment will not take effect like in RKC. And, this makes the amending procedure difficult.</p>
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			<p>the Council:</p> <p>(a) that it has an objection to the recommended amendment, or</p> <p>(b) that, although it intends to accept the recommended amendment, the conditions necessary for such acceptance are not yet fulfilled in its country.</p> <p>4. If a Contracting Party sends the Secretary General of the Council a communication as provided for in paragraph 3 (b) of this Article, it may, so long as it has not notified the Secretary General of its acceptance of the recommended amendment, submit an objection to that amendment</p> <p>within a period of nine months following the expiry of the six-month period referred to in paragraph 3 of this Article.</p> <p>5. If an objection to the recommended amendment is stated in accordance with the terms of paragraphs 3 and 4 of this Article, the amendment shall be deemed not to have been accepted and shall be of no effect.</p> <p>6. If no objection to the recommended amendment in accordance with paragraphs 3 and 4 of this Article has been stated, the amendment shall be deemed to have been accepted as from the date specified below:</p> <p>(a) if no Contracting Party has sent a communication in accordance with paragraph 3 (b) of this Article, on the expiry of the period of six months referred to in paragraph 3;</p> <p>(b) if any Contracting Party has sent a communication in</p>	
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			<p>accordance with paragraph 3 (b) of this Article, on the earlier of the following two dates:</p> <p>(i) the date by which all the Contracting Parties which sent such communications have notified the Secretary General of the Council of their acceptance of the recommended amendment, provided that, if all the acceptances were notified before the expiry of the period of six</p> <p>months referred to in paragraph 3 of this Article, that date shall be taken to be the date of expiry of the said six-month period;</p> <p>(ii) The date of expiry of the nine-month period referred to in paragraph 4 of this Article.</p> <p>7. Any amendment deemed to be accepted shall enter into force six months after the date on which it was deemed to be accepted.</p> <p>8. The Secretary General of the Council shall, as soon as possible, notify all Contracting Parties of any objection to the recommended amendment made in accordance with paragraph 3 (a), and of any communication received in accordance with paragraph 3 (b), of this Article. He shall subsequently inform all the Contracting Parties whether the Contracting Party or Parties which have sent such a communication raise an objection to the recommended amendment or accept it.</p> <p>9. Any State ratifying or acceding to the present Convention shall be deemed to have accepted any amendments thereto which have entered into force at the date of deposit of its instrument of ratification or</p>	
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			accession.	
4	CONVENTION On Temporary Admission (Istanbul, 26 June 1990)	Concluded on 26 June 1990, entered into force on 27 November 1993 67 CPs as of 24 Nov 2014	<p>Administrative Committee</p> <p>Article 22</p> <p>1. There shall be established an Administrative Committee to consider the implementation of this Convention, any measures to secure uniformity in the interpretation and application thereof, and any amendments proposed thereto. The Administrative Committee shall decide upon the incorporation of new Annexes to this Convention.</p> <p>2. The Contracting Parties shall be members of the Administrative Committee. The Committee may decide that the competent administration of any Member, State or Customs territory referred to in Article 24 of this Convention which are not Contracting Parties, or representatives of international organizations may, for questions which interest them, attend the sessions of the Committee as observers.</p> <p>3. The Council shall provide the Committee with Secretariat services.</p> <p>4. The Committee shall, on the occasion of every session, elect a Chairman and a Vice-Chairman.</p> <p>5. The competent administrations of the Contracting Parties shall communicate to the Council proposals for amendments to this Convention and the reasons therefore, together with any requests for the inclusion of items on the Agenda of the sessions of the Committee. The Council shall bring them to the attention of the competent administrations of the Contracting Parties</p>	<p>02 recommended amendments were approved by the Administrative Committee of the Istanbul Convention. The amendments came into effect on 3 November 2014</p> <p>(Notification of Amendment is attached</p> <p>Comments: It provides for involvement of Council also. Otherwise, the amendment procedure is almost same as in RKC.</p>

			<p>and of the Members, States or Customs territories referred to in Article 24 of this Convention which are not Contracting Parties.</p> <p>6. The Council shall convene the Committee at a time fixed by the Committee and also at the request of the competent administrations of at least two Contracting Parties. It shall circulate the draft Agenda to the competent administrations of the Contracting Parties and of the Members, States or Customs territories referred to in Article 24 of this Convention which are not Contracting Parties, at least six weeks before the Committee meets.</p> <p>7. On the decision of the Committee, taken by virtue of the provisions of paragraph 2 of this Article, the Council shall invite the competent administrations of the Members, States or Customs territories referred to in Article 24 of this Convention which are not Contracting Parties and the international organizations concerned to be represented by observers at the sessions of the Committee.</p> <p>8. Proposals shall be put to the vote. Each Contracting Party represented at the meeting shall have one vote. Proposals other than proposals for amendments to this Convention shall be adopted by the Committee by a majority of Members present and voting. Proposals for amendments to this Convention shall be adopted by a two-thirds majority of Members present and voting.</p> <p>9. Where Article 24, paragraph 7 of this Convention applies, the Customs or Economic Unions Parties to this Convention shall have, in case of voting, only a number of votes equal to the total votes allotted to their</p>	
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			<p>Members which are Contracting Parties to this Convention.</p> <p>10. Before the closure of its session, the Committee shall adopt a report.</p> <p>11. In the absence of relevant provisions in this Article, the Rules of Procedure of the Council shall be applicable unless the Committee decides otherwise.</p> <p>Rescinding provision</p> <p>Article 27</p> <p>Upon the entry into force of an Annex to this Convention containing a rescinding provision, that Annex shall terminate and replace the Conventions or the provisions of the Conventions which are the subject of the rescinding provision, in relations between the Contracting Parties which have accepted that Annex and are Contracting Parties to such Conventions.</p> <p>Amendment procedure</p> <p>Article 32</p> <p>1. The Administrative Committee, meeting in accordance with Article 22 of this Convention, may recommend amendments to this Convention and its Annexes.</p> <p>1. The text of any amendment so recommended shall be communicated by the depositary to all Contracting Parties to this Convention, to the other signatories and to those Members of the Council that are not Contracting Parties to this Convention.</p>	
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			<p>2. Any recommended amendment communicated in accordance with the preceding paragraph shall enter into force in respect of all Contracting Parties six months after the expiry of a period of twelve months following the date of communication of the recommended amendment if no objection to the recommended amendment has been notified during that period to the depositary by a Contracting Party.</p> <p>4. If an objection to the recommended amendment has been notified to the depositary by a Contracting Party before the expiry of the period of twelve months specified in paragraph 3 of this Article, the amendment shall be deemed not to have been accepted and shall have no effect whatsoever.</p> <p>5. For the purposes of notifying an objection, each Annex shall be taken to be a separate Convention.</p> <p>Acceptance of amendments</p> <p>Article 33</p> <p>1. Any Contracting Party which ratifies this Convention or accedes thereto shall be deemed to have accepted any amendments thereto which have entered into force at the date of deposit of its instrument of ratification or accession.</p> <p>2. Any Contracting Party which accepts an Annex shall be deemed, unless it enters reservations under Article 29 of this Convention, to have accepted any amendments to that Annex which have entered into force at the date on which it notifies its acceptance to the depositary.</p>	
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5	Customs Convention on Containers	The 1972 Convention entered into force on 6 December 1975	<p>Article 21</p> <p>Procedures for amending the present Convention including its Annexes</p> <ol style="list-style-type: none"> 1. Any Contracting Party may propose one or more amendments to the present Convention. The text of any proposed amendment shall be notified to the Customs Cooperation Council which shall communicate it to all Contracting Parties and inform the State referred to in Article 18 which are not Contracting Parties. The Customs Cooperation Council shall also, in accordance with the rules of procedure set out in Annex 7, convene an Administrative Committee. 2. Any amendment proposed in accordance with the preceding paragraph or prepared during the meeting of the Committee and adopted by a two-third majority of those present and voting in the Committee shall be communicated to the Secretary General of the United Nations. 3. The Secretary General of the United Nations shall communicate the amendment to the Contracting Parties for their acceptance, and to the States referred to in Article 18 which are not Contracting Parties for their information. 4. Any proposed amendment communicated in accordance with the preceding paragraph shall be deemed to be accepted if no Contracting Party expressed an objection within a period of 12 months following the date of communication of the proposed amendment by the Secretary General of the United Nations 5. The Secretary General of the United Nations shall, as soon as possible, notify all Contracting 	
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			<p>Parties and the States referred to in Article 18 which are not Contracting Parties whether an objection to the proposed amendment has been expressed. If an objection to the proposed amendment has been communicated to the Secretary General of the United Nations the amendment shall be deemed not to have been accepted and shall be of no effect whatever. If no such objection has been communicated to the Secretary General of the United Nations the amendment shall enter into force for all Contracting Parties three months after the expiry of the period of 12 months referred to in the preceding paragraph, or on such later date as may have been determined by the Administrative Committee at the time of its adoption.</p> <p>Any Contracting Party may, by notification to the Secretary General of the United Nations, request that a conference be convened for the purpose of reviewing the present Convention. The Secretary General of the United Nations shall notify all Contracting Parties of the request and a revision conference shall be convened by the Secretary General of the United Nations if, within a period of four months following the date of notification by the Secretary General of the United Nations, not less than one-third of the Contracting Parties notify him of their concurrence with the request. Such conference shall also be convened by the Secretary General of the United Nations upon notification of a request by the Administrative Committee. The Administrative Committee shall make such a request if agreed to by a majority of those present and voting in the Committee. If a conference is convened in accordance with this</p>	
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			paragraph, the Secretary General of the United Nations shall invite to it all States.	
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Procedures for Amendment of RKC to Enter Into Force

Body of the Convention		Genera Annex, Specific Annex ¹			Addition of SA ²	
Recommendation by Management Committee for Amendment (Approved by a two-thirds majority of Management Committee, Article 6, 5 (a))						
Communicated by Secretary General to ALL Contracting Parties (Article 15, 1)					Domestic Procedures for Acceptance in Each Member	
<div>No Objections within 12 months</div>	<div>Objection by a Contracting Party within 12 months</div>	<div>No Objections within 6 months</div>	<div>Objection By a Contracting Party</div>	<div>Notification by a Contracting Party⁴</div>		<div>NOT Enter Into Force</div> <div>for Members NOT completing acceptance</div>
		<div>Deem to be accepted³</div>	<div>NOT Enter Into Force</div>	<div>Objections within 18 months</div>	<div>No Objections within 18 months</div>	
		<div>6 months or a different period specified in the amendment</div>				
		<div>Period not specified</div>	<div>NOT Enter Into Force</div>	<div>Enter Into Force</div>		
<div>Acceptance by <u>all</u> Contracting Parties <u>present</u> in the Management Committee</div>				<div>Deem to be accepted</div>	<div>NOT Enter Into Force</div>	
<div>12 months</div>				<div>6 months or a different period specified in the amendment</div>		
<div>Enter Into Force</div>				<div>Enter Into Force</div>		

Note 1: Amendments to the General Annex, the Specific Annexes and Chapters therein and the incorporation of new Chapters to the General Annex

Note 2: the incorporation of new Specific Annexes and new Chapters to Specific Annexes

Note 3: The recommended amendment shall be deemed to be accepted. (Article 15, 3)

Note 4: A Contracting Party may inform that although it intends to accept the recommended amendment, the conditions necessary for such acceptance are not yet fulfilled. (Article 15, 3 (b))

As specified above, if only one Contracting Party submit an objection against the amendment, the amendment shall be no effect. Therefore, we should seek consensus of ALL Contracting Parties for make a recommendation of amendment.

If we finally successfully obtain consensus for the amendment, the recommended amendment for General Annexes or Specific Annexes will be deemed to be accepted within 24 months after the amendment is communicated by Secretary to all Contracting Parties.

Then, the amendment will enter into force either 6 months after it is deemed to be accepted or on the expiry of a different period specified in the amendment.

In order to ensure all the Contracting Parties ensure the implementation of the amendment, we should set up the period between acceptance and entering into force long enough.