



MANAGEMENT
COMMITTEE
Revised Kyoto Convention
29th Meeting
-
30 May – 03 June 2022
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PO0168Ea

Brussels, 29 April 2022.

**POSSIBLE WAY FORWARD ON THE DRAFT WORK PLAN OF THE COMPREHENSIVE
REVIEW OF THE RKC**

("STEP 4" OF THE FOUR-STEP FRAMEWORK)

(Item IV on the Agenda)

SUMMARY

Purpose of the document:

This document aims to determine the way forward considering the existing Work plan and for its potential update in order to complete "Step 4" of the four-step framework of the comprehensive review of the RKC.

Further, it also presents recommendations to be considered by the RKC/MC.

Action required:

The RKC/MC is invited to:

- discuss and decide on the way forward concerning the necessity to update the existing work plan in order to complete "Step 4" of the four-step framework of the comprehensive review of the RKC; and,
- to discuss the recommendations and potentially consider the most appropriate approach, if required.

I. Background

1. Since September 2018, the Working Group on the Comprehensive review of the RKC (WGRKC) held a total of 8 meetings and discussed about 180 proposals concerning the RKC submitted by Members and external stakeholders. Accordingly, the next stages in the RKC review process were discussed at the 5th Meeting of the WGRKC and the 20th Meeting of the RKC/MC.

2. At its 22nd Meeting, the RKC/MC held intensive discussions on the RKC review process and decided to continue the RKC review process under a “four-step framework”¹. It was further decided that review work of Step 2, Step 3 and Step 4 of the four-step framework be considered by the RKC/MC. The 22nd Meeting also decided to extend the timeline until January 2023, at the earliest, as it was necessary to conduct and finalize the RKC review process under the four-step framework.
3. Step 1 of the four-step framework was finalized by the WGRKC at its 8th Meeting held in October 2020 and a final report with the recommendations of the WGRKC was submitted to the 23rd RKC/MC. The 25th Meeting of the RKC/MC completed the “Step 2” process and “Step 3” at its 26th Meeting held in September 2021.
4. Upon conclusion of the 26th RKC/MC Meeting, the Secretariat, based on the agreed template, proceeded with the drafting of preliminary potential draft text. In order to facilitate the discussions on the preliminary Potential Draft Text (PDT) at the 27th RKC/MC Meeting, the Secretariat organized series of intersessional informal consultations virtually as well as via email with the respective proponents and interested Members and Observers of the RKC/MC.
5. “Step 4” commenced at the 27th Meeting of the RKC/MC. The discussions at the 27th Meeting of the RKC/MC were held on the preliminary PDT relating to the General Annex (GA) of the RKC. Given the sensitivity, complexity and importance of “Step 4”, extensive discussions were held for each potential draft text. Due to this reason, discussions on all the planned potential draft text relating to the GA could not be completed.

II. Key Outcomes of the 28th RKC/MC Meeting on the Way Forward concerning the “Step 4” of the four-step framework

6. At its 28th Meeting, the RKC/MC extensively discussed the way forward considering the revised draft Work Plan and additional information provided on estimated cost implications and a possible extension of the contracts of the two RKC review experts (For details, please refer Document PO0163E).
7. The 28th Meeting of the RKC/MC decided to continue the discussion on the revised draft Work Plan and other related aspects at the 29th RKC/MC meeting. Thus, to facilitate the continuation of the discussion, brief outcomes of the 28th Meeting of the RKC/MC are presented below:

Extension of the Work Plan timeline

8. While noting the need for further discussion, the RKC/MC at its 28th Meeting agreed to consider an extension of the timeline of the current Work Plan which ends in March 2023. In particular, the following suggestions were made by Members at the 28th RKC/MC meeting:
 - (a) To consider a shorter extension of the timeline, potentially of about nine (9) or six (6) months.
 - (b) To extend the timeline by eighteen (18) months at the most, as initially proposed by the Secretariat noting that a much shorter and far more realistic timeline could be also considered.

¹ The ‘four-step framework’ is an approach comprising the submission of proposals and development of recommendations as Step 1; assessment of developed recommendations against the RKC, its Guidelines and other existing WCO instruments and tools as Step 2; consideration of developed recommendations against agreed criteria for possible amendment to the RKC as Step 3, and development of potential draft text for amendment proposals in line with Article 6 and 15 of the RKC as Step 4.

9. Concerns were also expressed about the timeline being continuously extended and, taking this into account, suggested addressing the question as to how to deal with the additional new proposals submitted by Members.

Extension of the contracts of the two RKC review experts

10. Acknowledging the great work done by the two experts, consensus on a possible extension of the experts' contracts which expire at the end of June 2022 was not reached at the 28th Meeting of the RKC/MC.
11. Some Members did not support the extension of the contracts, however, some proposed extension of the contracts in line with the duration of the current Work Plan, which ends in March 2023 or for a possible extension of six (6) months.
12. The 28th Meeting of the RKC/MC was informed by the Chairperson to note that the Finance Committee would meet in April 2022, and that, if the discussion was to be deferred to June 2022, then the contracts of the two (2) experts would implicitly come to an end with no extension.

Intersessional discussions

13. The 28th RKC/MC emphasized the need and importance of conducting the informal intersessional discussions in the official WCO languages: English and French. In this connection, it was suggested that interpretation services should be provided if intersessional discussions would take place for the benefit of French-speaking Members. In support of the language issue raised, concerns were also raised whether the intersessional discussions really added value to the review work.
14. Overall, the 28th RKC/MC decided that any items relating to the PDTs referred for intersessional discussion will instead need to take place during a formal RKC/MC meeting. However, it was also suggested that it would be more beneficial to have closed, bilateral and/or plurilateral intersessional meetings to accelerate the work facilitated and driven by proponents and/or Members themselves.

Estimated cost implications

15. At the 28th Meeting of the RKC/MC, the Secretariat clarified that the cost implications foreseen mainly related to two aspects:
 - (a) costs incurred for RKC/MC meetings, each taking place over five days, held in addition to its two (2) regular RKC/MC meetings, each taking place over three days annually prior to the review work; and
 - (b) costs incurred in relation to the two experts.
16. It is estimated that for conducting one formal RKC/MC meeting held over five days, it approximately cost about 28,180 euro, which amounts to 5,636 euro per day.
17. Concerning the costs associated with the additional meetings, should the RKC/MC decide to extend the timeline by one (1) year after March 2023, then the approximate cost would be about 78,905 euro. Consequently, for a nine (9)- or six (6)-month extension, the corresponding cost would be about 59,178 euro and 39,452 euro respectively.
18. With regard to the cost implications relating to the two experts, should the RKC/MC decide to extend their contracts by one (1) year after June 2022, then the total estimated cost would be about 172,800 euro per year (calculated on a monthly estimated remuneration of 7,200 euro per expert). Consequently, for a nine (9)- or six

(6)-month extension, the corresponding cost would be about 129,600 euro (from July 2022 to March 2023) and 86,400 euro (from July to December 2022) respectively.

19. Considering additional clarification provided by the Secretariat, the 28th RKC/MC noted that with regard to the estimated cost implications for the four (4) formal RKC/MC meetings, no additional costs would be incurred if these meetings were planned under the WCO's annual calendar for Council and Committee sessions, and other meetings. However, if interpretation services had to be provided during the intersessional discussions, then additional costs would be incurred in that regard.

Way forward options

20. The 28th RKC/MC Meeting discussed and suggested the following possible options with a starting point of March 2023 (end of the current Work Plan), opposed to April 2022 that was presented by the Secretariat:
 - (a) To do away with the intersessional discussions but to extend the timeline and contracts of the experts, and to hold four (4) formal RKC/MC meetings;
 - (b) Extend the overall timeline, hold four (4) formal RKC/MC meetings annually and extend the experts' contracts. With regard to the intersessional discussions, the appropriate arrangements need to be further discussed;
 - (c) To consider a reasonable extension of the timeline with four (4) formal RKC/MC meetings and to hold focused, bilateral and/or plurilateral intersessional meetings with the provision of interpretation services if required. On the other hand, not to have regular intersessional discussions due to the non-availability of interpretation, and not to extend the contracts of the two experts; or
 - (d) To continue with the current Work Plan which ends in March 2023.
21. The 28th Meeting of the RKC/MC ultimately decided that more time was required to reflect on the different options that were being tabled and suggested returning to the discussion on the draft Work Plan at the 29th RKC/MC meeting.

III. Recommendations

22. Under Step 4 of the "four-step framework", one of the critical stages of the on-going comprehensive review of the RKC pertains to the Negotiation Phase which invokes the amendment process as per Article 6 of the Convention. Thus, it is important for the Contracting Parties (CPs) to the RKC to obtain prior authorization and/or a mandate in order to participate in the Negotiation Phase.
23. Taking the above into consideration, and drawing from the discussions at the 28th RKC/MC, the following recommendations have been made for further consideration by the RKC/MC:
 - (i) After the Consultation phase, proceed to the Negotiation Phase under Step 4 of the four-step framework, focusing only on proposals and PDTs related to those Specific Annexes (SAs) whose CPs have a mandate or do not need a mandate to participate in the Negotiation Phase; or
 - (ii) The RKC/MC concludes the review process after completion of the Consultation Phase mandated under Step 4 of the four-step framework. Subsequently, suspend the review work temporarily by referring all proposals and PDTs that qualified through the Consultation Phase until such a time when all the concerned Members/CPs have obtained the required authorisation and/or mandate to initiate the Negotiation Phase as per Article 6 of the Convention; or

- (iii) Consider all the relevant proposals and PDT that qualified in Step 4 of the four-step framework in the RKC Guidelines and other relevant WCO instruments and tools, as appropriate. Under this recommendation, the existing Body of the Convention and its GA and SAs would remain unchanged. Proposals and PDTs that do not meet a consensus or fall within the relevance and scope of existing RKC could be either referred for future consideration or compiled into a separate reference manual.
24. Subsequently, the timeline for the draft Work Plan would depend on which of the above indicated scenarios, the RKC/MC would choose as the most appropriate way forward.
25. It should be noted that any decision based on the above recommendations does not preclude any CP from making a proposal and invoking the appropriate articles of the Convention to pursue their proposal.

IV. Conclusion

26. The RKC/MC is invited to:
- discuss and decide on the way forward concerning the necessity to update the existing work plan in order to complete “Step 4” of the four-step framework of the comprehensive review of the RKC; and,
 - discuss the recommendations and potentially consider the most appropriate approach, if required.
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