



Technical Assistance Consultant's Report

Project Number: 36027
November 2005

REG-6058: Trade Facilitation and Customs Cooperation Strategy Paper

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Asian Development Bank

PREFACE

Trade facilitation has become a term synonymous with global trade liberalization. It is one of the few areas in the current Doha Round of multilateral trade negotiations where some progress has been made and where both developed and developing countries have worked together to develop joint approaches. The reform and modernization of customs procedures is seen as a core component of trade facilitation and many countries have focused on their customs administrations as part of economic and trade reforms.

The East and Central Asian region is becoming increasingly significant as the link between European and Asian markets, resurrecting the "Silk Road" as a key dynamic in the global trading environment. It is therefore important that countries within this region provide the optimum environment for trade to flourish. This objective has been recognized by governments in the region in a variety of ways, not least being the formation of the Central Asia Regional Economic Cooperation (CAREC) Program as a strategic initiative to drive economic and trade reforms.

The desire to achieve best practice in relation to trade facilitation, not only with respect to customs administration but more broadly, is reflected in CAREC's current work program and in the context of this strategy paper that seeks to maintain the momentum for reform and achieve sustainability of the successes.

The paper is not intended to be a static document. It has been drafted to be flexible, to change with circumstances, and in that respect has been crafted to assist in the development of a framework or environment within which ongoing trade facilitation reforms can take place.

The drafting of the paper has at times been a quite complex process and necessitated consideration of a number of competing approaches. Its completion is due in no small part to the assistance and suggestions offered by several people. In particular, I wish to acknowledge the guidance provided by Mr. Jeffrey Liang, Principal Trade Economist, Asian Development Bank, and Dr. David Widdowson, Chief Executive Officer, Centre for Customs and Excise Studies at the University of Canberra. Their contributions have been significant and I thank them.

I hope this paper assists CAREC participants in achieving their reform and modernization goals and provide it for their consideration.

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GLOSSARY

ADB	Asian Development Bank
Annex D	An Annex to the WTO July Package that explains how the negotiations on trade facilitation will take place
APEC	Asia-Pacific Economic Cooperation
Article V	GATT Article dealing with freedom of transit for goods
Article VIII	GATT Article dealing with fees and formalities connected with importation and exportation
Article X	GATT Article requiring all trade regulations to be clearly published and fairly administered
CAREC	Central Asia Regional Economic Cooperation
CCC	Customs Cooperation Committee of CAREC
Common Action Plan	An agreed action plan to progress the initiatives of the RTFCCP
Contracting Party	Countries that are party to a convention through signature, ratification or accession
Doha Round	The current round of multilateral trade negotiations that were launched at the 4 th WTO Ministerial Conference held in Doha, Qatar in November 2001
Gap Analysis	A technique used to determine whether national legislation and administrative processes are compliant with a proposal or agreement
GATT	General Agreement on Tariffs and Trade
July Package	The agreed work program for achieving a negotiated outcome on the Doha Round
Member	A member of the WTO
OECD	Organization for Economic Cooperation and Development
PRC	People's Republic of China
RILO	WCO Regional Intelligence Liaison Office
RTFCCP	Regional Trade Facilitation and Customs Cooperation Program of CAREC members
Situation analysis	A technique used to determine how national legislation and administrative practices are relevant to a proposal or agreement
TIR	Transport Internationaux Routiers (International Road Transport)
TRACECA	Transport Corridor Europe-Caucasus-Asia
UAIS	Unified Automated Information Systems
UNCTAD	United Nations Conference on Trade and Development

UNEDIFACT	United Nations Electronic Data Interchange For Administration Commerce and Transport
WCO	World Customs Organization
WTO	World Trade Organization
XML	Extensible Markup Language

TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY	5
	A. Background	5
	B. Objectives of the Strategy Paper	5
	C. The Approach to Reform – Creating an Institutional Framework	5
	D. The Proposed Regional Strategy	6
	E. Proposed Implementation Approach	7
II.	INTRODUCTION.....	7
III.	INTERNATIONAL DEVELOPMENTS.....	9
	A. Overview	9
	B. WTO	9
	C. WCO	11
IV.	WTO AND WCO REQUIREMENTS AS BENCHMARKS	13
	A. Overview	13
	B. Rationale	13
	C. Application to the RTFCCP Common Action Plan	14
V.	PROGRESS UNDER THE RTFCCP ACTION PLAN	16
	A. Background	16
	B. Progress against Elements of the Action Plan	16
VI.	COMPARATIVE ANALYSIS.....	21
	A. Overview	21
	B. Issue Identification	21
	C. Situation Analysis	24
	D. Gap Analysis	25
VII.	PROPOSED REFORM FRAMEWORK.....	27
	A. Existing Strategies and Mechanisms	27
	B. Principles of a Regional Strategy	27
	C. Elements of a Regional Strategy	29
VIII.	IMPLEMENTATION STRATEGY	32
	A. Engaging Relevant Stakeholders	32
	B. Pilot Project Approach	35
	C. Maximizing Regional Relationships	35
	D. The Way Forward	35
	E. Conclusion	36
APPENDIX 1.	ANNEX D OF THE “JULY PACKAGE”	37
APPENDIX 2.	GATT ARTICLE V.....	39
APPENDIX 3.	GATT ARTICLE VIII.....	41
APPENDIX 4.	GATT ARTICLE X.....	43
APPENDIX 5.	SITUATION ANALYSIS MATRIX	44
APPENDIX 6.	GAP ANALYSIS MATRIX	62

I. EXECUTIVE SUMMARY

A. Background

1. One of the key objectives of the Central Asia Regional Economic Cooperation (CAREC) Program is to promote concerted customs reform and modernization as part of its trade facilitation agenda. With that objective in mind, a Common Action Plan was developed under the Regional Trade Facilitation and Customs Cooperation Program (RTFCCP) which has evolved, in light of changing priorities and pragmatism of the program, to focus on the following areas:

- (i) Customs automation,
- (ii) Risk management and post-entry audit,
- (iii) Joint customs control and one-stop services,
- (iv) Regional transit development,
- (v) Harmonization of customs procedures,
- (vi) Data exchanges, and
- (vii) Capacity building and knowledge sharing.

2. Good progress has been achieved by particular CAREC participating countries against the areas outlined in the Action Plan, and collectively through bilateral initiatives and regional forums and training events. But it has also been recognized that continued progress will ultimately depend on a more structured approach to reform that takes account of international best practice.

B. Objectives of the Strategy Paper

3. The practical objective of this paper is to develop and articulate strategies and implementation plans for trade facilitation and customs cooperation within and among CAREC participants.

4. The broader and perhaps more strategic outcome that is pursued by this paper is an approach that supports sustainable reform of customs and related processes. To achieve that sustainability, the paper examines the key international developments on trade facilitation and looks at how they can be applied in the specific customs and trade environments of East and Central Asia. While acknowledging the fact that the majority of projects undertaken under the agreed work program will be implemented at the level of individual countries, the paper also seeks to emphasize the importance of “regionalizing” positive results to achieve broader reform.

C. The Approach to Reform – Creating an Institutional Framework

5. The paper suggests a structured approach to ongoing reform in the areas of trade facilitation and customs cooperation in the region. Rather than focusing separately on individual items in the Action Plan, the paper adopts an approach that examines the overall Action Plan against the objective benchmark of WTO and WCO trade facilitation and customs modernization activity. The particular advantage of this approach is that it highlights regional gaps in reform which impact on sustainability. It is also effective in providing an assessment of relative progress as opposed to individual project progress and therefore assists in prioritization of items under the work program.

6. The fact is that a specific project under the Action Plan could be proceeding very well and meeting all its milestones and yet when applied to the region as a whole, could be unsustainable or in conflict with the broader customs and trade environment. The proposed

approach adopts a more strategic perspective while acknowledging the successes in individual and/or bilateral initiatives.

7. More specifically, a five-step process is suggested for achieving continued and sustainable progress in trade facilitation and customs cooperation. Therefore, the process graduates from establishing a contemporary context for the Common Action Plan and nominating an objective benchmark, to the development of an institutional framework and associated strategies/implementation plans. This approach is intended to provide a robust framework for ongoing reform within the region as a whole while at the same time recognizing that individual countries will be at differing stages of development.

8. The five-step process can be described as:

- (i) Establishing benchmarks for reform
 - While there is a variety of international activity being undertaken by a range of organizations and customs administrations, the common denominator is a desire to meet WTO requirements and/or the requirements of the WCO's Revised Convention on the Simplification and Harmonization of Customs Procedures.
- (ii) Current Progress under the Common Action Plan
 - This is a "stocktake" of progress within the region measured against the Common Action Plan to establish a "baseline" of reform that can be more broadly assessed against the identified benchmarks.
- (iii) Comparative Analysis
 - Situation and gap analysis is undertaken to examine the reform baseline referred to above against the benchmarks. This is then summarized in a comparative matrix that highlights current progress and discloses residual 'gaps' in reform that could be pursued as part of an ongoing work program.
- (iv) Strategies
 - The proposed strategies cover a number of components including coordination and consultation, verification and regionalization, broadening the scope of the work program, legal frameworks, data-sharing, border posts and facilities, transit, compliance management, change management, skills development and trade security.
- (v) Implementation
 - The central theme of this component is communication and a suggested new coordination structure for reform.

9. The outcome of this strategic approach is an ongoing measure of progress against international best practice for both individual countries and the region as a whole that is sufficiently flexible to cater for amendments to the Common Action Plan over time.

D. The Proposed Regional Strategy

10. The proposed regional strategy is, in effect, a two-tiered approach to achieving sustainable reform within and among CAREC participating countries. The first tier comprises the application of three principles to any existing or proposed item of the Action Plan:

- (i) Coordination and Consultation – the identification and engagement of private sector and government stakeholders in the reform process;

- (ii) Verification and Regionalization – the assessment of existing and future initiatives against the benchmarks and agreed priorities in the Action Plan followed by an assessment of the initiative’s potential to be “regionalized”;
- (iii) Scope Broadening – an assessment of the potential for initiatives to be broadened beyond customs administrations to involve additional private and public sector participants.

11. The second tier highlights those core elements that will need to be effectively implemented to achieve broad sustainability of the reforms for CAREC participating countries. These elements have been identified as:

- (i) Enabling Legislative Frameworks – many of which have already been implemented in the region at a primary (Customs Code) level but may not have been implemented at a secondary or operational level;
- (ii) Data-sharing – this includes not only the exchange of data for processing of customs declaration or risk profiling purposes but also in the context of information campaign to inform the public and traders of their responsibilities;
- (iii) Border Posts and Facilities – the need to engage other relevant agencies, elimination of duplication and development of new operating procedures;
- (iv) Transit – including mutual recognition and harmonized procedures, in particular through promotion of procedures entailed in the TIR Transit System;
- (v) Compliance Management – developing capacity among customs administrations to identify risk early, acknowledge good compliance and shift from physical inspection at the border to post-entry audit;
- (vi) Change Management – implementing a structured approach to managing the changes from reform initiatives across both government and industry;
- (vii) Skills Development – the appropriate training and ongoing development of staff;
- (viii) Managing Emerging Issues – ensuring that emerging issues such as the effective implementation of the WCO Framework of Standards to Secure and Facilitate Trade is taken account of and incorporated into the Action Plan.

E. Proposed Implementation Approach

12. Coordination and consultation is central to the proposed implementation approach. A specific structure for managing the implementation of reforms is therefore suggested with key elements as follows:

- (i) Establish a Working Group within individual CAREC participating countries to explore and develop opportunities for broadening the trade facilitation agenda;
- (ii) Re-examine regional priorities by undertaking trade facilitation and customs modernization needs analyses against the agreed benchmark and initiatives identified in the Action Plan;
- (iii) Determine the level at which each project should progress, i.e. national, bilateral or regional. For those projects that are to be progressed at a national or bilateral level, develop a clear regionalization strategy to ensure that the region as a whole will ultimately benefit from the project outcomes;
- (iv) Task appropriate working groups with overseeing the implementation of identified regional, bilateral and national strategies, including the identification, analysis and appropriate consideration of stakeholder issues;
- (v) Develop regional initiatives that support the successful implementation of Action Plan outcomes, including a regional change management program, compliance management manual and skills development program. This will maximize the likelihood of effective implementation of reform and modernization initiatives, and support regional uniformity of practice.

II. INTRODUCTION

13. The purpose of this paper is to develop and articulate a strategy and implementation plan for trade facilitation and customs cooperation within and among the members of Central Asia Regional Economic Cooperation (CAREC)¹.

14. The strategy paper acknowledges the significant progress achieved to date under the Regional Trade Facilitation and Customs Cooperation Program (RTFCCP) and suggests a way forward in relation to the key areas specified in the Common Action Plan, i.e.:

- (i) Customs Automation;
- (ii) Risk Management and Post-Entry Audit;
- (iii) Joint Customs Control and One-Stop Services;
- (iv) Regional Transit Development;
- (v) Harmonization of Customs Procedures; and
- (vi) Data Exchanges

15. The strategy paper presents a trade facilitation and customs cooperation framework and implementation road map that brings together all of the key stakeholders involved in international trade including relevant government agencies and the private sector. Based on internationally recognised benchmarks, the strategy will provide valuable guidance to CAREC members as they progress their reform initiatives and can be tailored to the individual circumstances of particular countries.

16. By instituting a broad framework for members to progress their various trade facilitation and customs cooperation initiatives we provide an integrated strategy that will help the region achieve sustainable reform. This will serve to benefit both government and industry in reducing the cost of regulation, improving trade security and streamlining the movement of internationally traded goods.

¹ CAREC membership comprises Azerbaijan; Kazakhstan; Kyrgyz Republic; Mongolia; People's Republic of China; Tajikistan; Turkmenistan; Uzbekistan and more recently Afghanistan and Russia as observers.

III. INTERNATIONAL DEVELOPMENTS

A. Overview

17. Trade facilitation now forms part of the work programs of number of international organizations and customs administrations. International organizations that are focusing on trade facilitation and customs cooperation include the World Trade Organization (WTO), the Organization for Economic Cooperation and Development (OECD), the World Customs Organization (WCO), Asia-Pacific Economic Cooperation (APEC), the European Bank for Reconstruction and Development (EBRD), International Monetary Fund (IMF), Islamic Development Bank, United Nations Development Programme (UNDP) and the Asian Development Bank (ADB) itself.

18. It is important to acknowledge this activity and the impetus it provides to reform and modernization. However, it is possible to discern a common thread in the nature of the activity that can assist in the determination of an international benchmark for trade and customs reform. That common thread is a desire on the part of individual countries and specific customs administrations to meet WTO requirements and/or the requirements of the WCO's Revised Convention on the Simplification and Harmonization of Customs Procedures.

19. When international trade facilitation is discussed, it is usually addressed in terms of reform of customs and associated procedures relating to cross-border trade, since such requirements are generally recognised as potentially costly and time-consuming processes which have a significant impact on the movement of internationally traded goods. The benefits from reforming customs and related processes accrue not only to government and those who participate directly in the international trading process, but also flow through to the economy of the country undertaking the reforms.

20. Accepting that WTO and WCO requirements form the basis of much of the reform and modernization activity that is taking place globally it is logical to examine those requirements as a potential benchmark for reform activity in the Central and East Asian region. It can then be utilized to validate progress under the Common Action Plan, measure that progress, and formulate strategies to achieve CAREC objectives.

B. WTO²

21. In November 2001, Ministers of WTO Members met in Doha, Qatar to launch a new 'round' or series of trade negotiations in international trade. This conference resulted in a mandate to undertake multilateral trade negotiations in accordance with the work program specified in the Ministerial Declaration, known as the *Doha Declaration*. The Doha Round of trade negotiations is also called the *Development Round* for the emphasis it places on the rights and concessions for developing countries.

22. The Doha Declaration includes the following decision relating to trade facilitation:

23. Recognizing the case for further expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that session on modalities of negotiations. In the period until the Fifth Session, the Council for Trade in Goods shall review and as appropriate, clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 and identify the trade facilitation needs

² This section draws on the *WTO Trade Facilitation Negotiations Support Guide*, which was prepared by the Centre for Customs and Excise Studies for and on behalf of the World Bank (since published by the WTO as document TN/TF/W/51)

and priorities of members, in particular developing and least-developed countries. We commit ourselves to ensuring adequate technical assistance and support for capacity building in this area.³

GATT Trade Facilitation Articles

The Articles referred to in the Doha Declaration relate to Freedom of Transit (Article V), Fees and Formalities connected with Importation and Exportation (Article VIII) and Publication and Administration of Trade Regulations (Article X).

1. Annex D of the July package: the basis for negotiations

24. Following discussions in July 2004, the General Council agreed to adopt the *July Package* that will now guide the next phase of the WTO Doha Round negotiations. It includes the following reference to trade facilitation:

Trade Facilitation: taking note of the work done on trade facilitation by the Council for Trade in Goods under the mandate in paragraph 27 of the Doha Ministerial Declaration and the work carried out under the auspices of the General Council both prior to the Fifth Ministerial Conference and after its conclusion, the General Council decides by explicit consensus to commence negotiations on the basis of the modalities set out in Annex D to this document.⁴

25. Through this agreement, the General Council of the WTO has reaffirmed the Ministerial Declarations and Decisions adopted at Doha and the full commitment of Members to giving effect to them.

26. Annex D of the July Package (see Appendix 1) establishes the modalities for negotiations on trade facilitation, clarifies issues contained in paragraph 27 of the Doha Declaration and takes into account some of the major concerns of developing countries. In this respect it recognises the need for “special and differential treatment” beyond the granting of transition periods, taking into account countries’ implementation capacities.

27. A Negotiating Group on Trade Facilitation was subsequently established and meets regularly according to a negotiating timetable established by them. The clarification and improvement of Articles V, VIII and X of the GATT 1994 is the first issue to be addressed under the negotiations. The text of these Articles is shown at Appendix 2 (Article V), Appendix 3 (Article VIII), and Appendix 4 (Article X).

28. For individual Members, the priority issues relating to trade facilitation are heavily influenced by the perspective of the country concerned. For example, if a country is land-locked, the focus of trade facilitation is likely to be on the need for an efficient and effective transport mechanism that services its trade, regardless of distance and the number of borders to be crossed.

29. The various considerations that come into play with trade facilitation have been rationalized for the purposes of the current round of WTO negotiations, with discussions aiming to “clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including

³ Paragraph 27 of the Doha Ministerial Declaration, adopted on 14 November 2001

⁴ Paragraph (g) of the decision adopted by the General Council of the WTO on 1 August 2004

goods in transit”.⁵ This relates primarily to Customs activities, including those activities performed by Customs on behalf of, or in cooperation with, other Government agencies.

30. The WTO focus on Articles V, VIII and X therefore includes both the underlying principles of the Articles and areas where the provisions might be improved. In addition, it includes the needs and requirements of developing and least developed Members.

31. Approximately 35 initial proposals have been submitted to date. While the benefits of trade facilitation are recognised by Members, concerns remain over the possible financial, legislative and administrative costs of some of the proposed measures, including the infrastructure investment required to implement modern customs techniques and their potential impact on security, regulation of prohibited imports and exports, and the collection of customs revenue. Indeed, concerns have been raised by developing countries that some proposals go beyond the negotiating mandate and don't provide for adequate “special and differential” treatment or capacity-building support for developing and least-developed countries.

32. It is interesting to note that, at the 25-26 July 2005 meeting of the Negotiating Group on Trade Facilitation, India and the US jointly proposed the establishment of a multilateral mechanism through which Members could exchange customs and trade-related information in order to achieve border efficiency. The paper, which addresses aspects of all three GATT Articles, suggests an information exchange mechanism that is broadly based on the WCO's Common Data Model and could prove an interesting precedent for CAREC investigation of data-sharing amongst border-related administrations.

C. WCO

33. According to the WCO:

Customs plays a critical role not only in meeting the goals of the governments but also in ensuring effective controls that secure revenue, compliance with national laws, ensuring security and protection of society. The efficiency and effectiveness of Customs procedures has a significant influence on the economic competitiveness of nations and in the growth of international trade and the development of the global marketplace.

In a highly competitive world environment, international trade and investment will flow toward efficient, supportive and facilitative locations. At the same time it will rapidly ebb away from locations which are perceived by business as bureaucratic and synonymous with high costs. Customs systems and processes must not be allowed to serve or be perceived as a barrier to international trade and growth.⁶

34. The WCO is a strong supporter of the WTO's work on trade facilitation and acknowledges that, as Customs is only a part of the global trade chain, the WTO work enables trade facilitation issues that go beyond Customs competence, such as cooperation with other border agencies, to be better addressed. The WCO has been an active contributor to WTO trade facilitation work, particularly in relation to raising awareness through regional seminars.

35. The WCO adopts a complementary role to that of the WTO by developing Customs instruments that support WTO rules and to deliver training and technical assistance in support of those instruments. The pre-eminent instrument in support of WTO objectives on trade facilitation is the revised International Convention on the Simplification and

⁵ Annex D of the July Package

⁶ WCO Trade Facilitation and Simplification of Customs Procedures – www.wcoomd.org

Harmonization of Customs Procedures (the Revised Kyoto Convention). This convention, which is discussed in more detail later in this paper, promotes trade facilitation and effective border controls through its legal provisions and administrative guidelines that detail the application of effective and efficient principles and procedures.

36. In essence the WCO sees the relevant GATT articles (V, VIII and X) as establishing the principles of trade facilitation, while WCO instruments such as the Revised Kyoto Convention provide the mechanisms to implement these principles. Specifically, the WCO has publicly stated:

All the legal provisions and the principles in the WCO instruments are compatible with and complimentary to the three GATT Articles. The GATT Articles set out the high principles for trade facilitation, while instruments of the WCO, including the Revised Kyoto Convention, provide the basis and practical guidance and information for the implementation of those high principles.⁷

37. WTO and WCO activity is complementary and can be usefully integrated to provide an effective benchmark for trade facilitation and customs cooperation in the CAREC region. A useful addition to this benchmarking process is the WCO Regional Strategic Plan 2005-2006 for Asia-Pacific which could be utilized as a template by CAREC because of its emphasis on “establishing close cooperation with regional organizations working in the Customs field” and “promoting close cooperation between Members in each region”.

⁷ Intervention by Mr Kunio Mikuriya, Deputy Secretary General, WCO, at the WTO Council for Trade in Goods, 22 – 23 July 2002, Geneva

IV. WTO AND WCO REQUIREMENTS AS BENCHMARKS

A. Overview

38. The WTO Trade Facilitation negotiations that form a key element of the Doha agenda represent the pre-eminent initiatives on trade facilitation at a multilateral level. These negotiations have in turn relied upon and supported the WCO's work on customs reform and modernization as articulated in the Revised Kyoto Convention.

39. As mentioned previously the trade facilitation initiatives being pursued by other international organizations tend to acknowledge and/or rely on the WTO and WCO model.

B. Rationale

40. To be an effective benchmark for reform activity the chosen model must be sufficiently comprehensive to support the development and implementation of an overall strategic framework. This is the case with the WTO trade facilitation approach, coupled with the WCO's Revised Kyoto Convention and guidelines.

41. Given the generally accepted view that the Revised Kyoto Convention provides an effective basis for implementation of the WTO principles, it can be argued that a successful outcome for the Doha negotiations on trade facilitation could result in general endorsement of the Revised Kyoto Convention as the multilateral agreement on trade facilitation, or a close variation thereof. Such an outcome will require all WTO Members to adjust their legislative and administrative frameworks to align themselves with what will then represent internationally agreed trade facilitation requirements.

42. According to the WCO, the Revised Kyoto Convention represents the international blueprint for prudent, innovative customs management, and is designed to maintain the relevance of customs procedures at a time when technological developments are revolutionizing the world of international trade and travel.⁸

43. Essentially, the Convention is intended to promote the achievement of a highly facilitative international travel and trading environment while maintaining appropriate levels of regulatory control across all member administrations. It is designed to provide the underlying conditions and instruments to help contracting parties to achieve a modern customs administration and to make a major contribution to the facilitation of international trade by:

- (i) eliminating divergence between the customs procedures and practices of contracting parties that can hamper international trade and other international exchanges,
- (ii) meeting the needs of both international trade and customs authorities for facilitation, simplification and harmonization of customs procedures and practices,
- (iii) ensuring appropriate standards of customs control,
- (iv) enabling customs authorities to respond to major changes in business and administrative methods and techniques,
- (v) ensuring that the core principles for simplification and harmonization are made obligatory on contracting parties, and

⁸ *Kyoto 2000: The International Convention on the Simplification and Harmonization of Customs procedures (Revised) - Pathway to Efficiency and Effectiveness in the Customs Environment.* WCO, Brussels

- (vi) providing customs authorities with efficient procedures, supported by appropriate and effective control methods.⁹

44. The development of the Convention has incorporated important concepts of contemporary compliance management. These include the application of new technology, the implementation of new philosophies on customs control and a willingness to engage private sector partners in mutually beneficial alliances with customs authorities. Central to the new governing principles of the Convention is a required commitment by customs administrations to provide transparency and predictability for all those involved in aspects of international trade. In addition, administrations are required to:

- (i) commit to adopt the use of risk management techniques,
- (ii) co-operate with other relevant authorities and trade communities,
- (iii) maximise the use of information technology, and
- (iv) implement appropriate international standards.

45. In relation to the concept of customs control, the WCO states:

The principle of Customs control is the proper application of Customs laws and compliance with other legal and regulatory requirements, with maximum facilitation of international trade and travel.

Customs controls should therefore be kept to the minimum necessary to meet the main objectives and should be carried out on a selective basis using risk management techniques to the greatest extent possible.

Application of the principle of Customs controls will allow Customs administrations to:

- (i) focus on high-risk areas and therefore ensure more effective use of available resources;
- (ii) increase ability to detect offences and non-compliant traders and travellers;
- (iii) offer compliant traders and travellers greater facilitation; and
- (iv) expedite trade and travel.¹⁰

C. Application to the RTFCCP Common Action Plan

46. The principles of the Revised Kyoto Convention are directly relevant to RTFCCP objectives and the nature of the CCC Action Plan. The General Annex to the Convention recommends, among other things:

- (i) Standard, simplified procedures;
- (ii) Continuous development and improvement of customs control techniques;
- (iii) Maximum use of IT; and
- (iv) Partnership approach between customs and trade.

47. In this regard, the Convention applies the following key elements:

- (i) Maximum use of automated systems;
- (ii) Risk management techniques including risk assessment and selectivity of controls;
- (iii) Use of pre-arrival information to drive programs of selectivity;
- (iv) Coordinated interventions with other agencies;
- (v) Making information on customs requirements, laws, rules and regulations readily available;
- (vi) Providing a system of appeals in customs matters; and
- (vii) Formal consultative relationships with the trade.

⁹ World Customs Organization (1999) International Convention on the Harmonization and Simplification of Customs Procedures (as amended), General Annex, Standard 6.2, Brussels, known as the revised Kyoto Convention

¹⁰ Revised Kyoto Convention, Ch.6, p.9

48. Since Customs represents only one part of the global trade chain (a fact that is recognized by CAREC), the WTO work enables trade facilitation issues that are beyond Customs competence, such as cooperation with other border agencies, to be more effectively addressed. Furthermore, strategies pursued under the auspices of the WTO trade facilitation agenda have a particular likelihood of attracting capacity-building resources due to the associated 'developing country' agenda.

49. With GATT Articles V, VIII and X providing CAREC with the foundation of a Trade Facilitation and Customs Cooperation Strategy and the Revised Kyoto Convention representing the blueprint, for its construction, what is required is its application to the particular circumstances of CAREC members and the development and implementation of associated strategies.

50. The suggested methodology for doing so is to develop an overarching reform framework that is robust in its foundation but flexible enough to cater for changes in the reform agenda over time. Thus, it is necessary to determine how much progress has already been achieved, and identify the gaps between progress to date and what remains to be achieved in terms of the identified benchmarks.

V. PROGRESS UNDER THE RTFCCP ACTION PLAN

A. Background

51. The RTFCCP is a component of the broader CAREC Program, with the objectives of:
- (i) Promoting concerted customs reforms and modernization; and
 - (ii) Supporting an integrated trade facilitation approach through inter-agency cooperation and partnership with the private sector.
52. The RTFCCP has been coordinated by the Customs Cooperation Committee (CCC) in recognition of the country-driven process of the Program. The CCC endorsed a Common Action Plan at its first meeting in Urumqi, PRC in August 2002 with the following elements:
- (i) Simplification and Harmonization of Customs Procedures (expert group chaired by the PRC);
 - (ii) Development of Border Posts and Facilities (expert group chaired by Kazakhstan);
 - (iii) Development of Simplified Transit Systems¹¹ (expert group chaired by the Kyrgyz Republic);
 - (iv) Data Sharing and ICT for Customs Operations (expert group chaired by Uzbekistan);
 - (v) Development of Risk-Management and Post-Entry Audit (chaired by the PRC);
 - (vi) Development of a Regional Intelligence System¹²; and
 - (vii) Capacity-Building for Regional Customs Organizations
53. Implementation of the Program has been based on promotion of bilateral initiatives such as bilateral agreements and pilot programs, and country-specific customs modernization efforts. This approach to implementation has been designed to take account of differing levels of development and regulatory circumstances between various CAREC members.
54. The development of Program elements and the monitoring of progress are conducted by the Customs Cooperation Committee through its annual meetings and through various other regional and in-country activities.

B. Progress against Elements of the Action Plan

1. Simplification and Harmonization of Customs Procedures

55. Progress is being achieved at a national level through individual countries' development of legal frameworks that are consistent with the stated requirements of the Revised Kyoto Convention. The PRC has had a modern Customs Code in place for some years, and legal revisions have more recently been completed and adopted within new Customs Codes by Kazakhstan (May 2003), the Kyrgyz Republic (July 2004) and Tajikistan (November 2004) and substantial progress has also been achieved by Azerbaijan, Mongolia, Turkmenistan and Uzbekistan in relation to their Customs Codes.
56. The national revision of customs legal frameworks has been complemented at a regional level by the organization of a range of training and discussion forums on the WTO Agreements and the Revised Kyoto Convention.
57. The simplification and harmonization of customs procedures is justifiably regarded as a core element of the modernization process being pursued under the Program because it

¹¹ As mentioned in the Introduction this has been rationalized to focus on promotion of the TIR Convention and support for bilateral initiatives

¹² This was removed from the Common Action Plan in 2003

underpins all other elements of the Action Plan. For example, any individual, bilateral and regional initiatives in areas such as risk management, joint customs control and customs automation require effective and efficient customs procedures to facilitate their objectives.

58. Of significance, the PRC recently proposed the harmonization of data on cargo manifests and the mutual recognition of customs inspections and related seals/stamps as specific initiatives that provide a practical linkage between simplified and harmonized procedures on the one hand, and simplified transit systems and data-sharing on the other. This is a good example of an initiative that is both 'tactical' in the sense of dealing with a specific customs issue and 'strategic' in terms of its potential cross-linkages and broader regional perspective.

2. Development of Border Posts and Facilities

59. Members recognise that the successful implementation of joint border processing requires, as a pre-condition, a willingness to achieve, and an acceptance of the need to share jurisdiction and harmonize the respective customs legal frameworks. This element of the Action Plan illustrates exactly why the simplification and harmonization of customs procedures represents the first step in effective reform and modernization.

60. By definition, this element of the Action Plan is essentially bilateral in nature, but is significantly enhanced by an ability to rely on a regional framework of customs processes and data-sharing. It is pleasing to note that Kazakhstan and the Kyrgyz Republic have successfully pilot-tested and implemented joint border processing at the Akzhol-Kordai crossing-point with a corresponding reduction in resources and clearance time.¹³ Kazakhstan and the Kyrgyz Republic are now extending the joint border processing arrangements to the Aktilek-Karasuu crossing-point, and Mongolia and the PRC are currently considering a proposal to pilot-test joint border processing arrangements at the Dayan-Huanshanjiu crossing-point.

61. In recognition of the achievements of Kazakhstan and the Kyrgyz Republic, and to promote those outcomes regionally, a seminar on *Trade Facilitation and One-Stop Service* was held in Bangkok on 27-29 July 2005 in conjunction with Royal Thai Customs and the WCO. WCO Deputy Secretary-General in his keynote speech stated:

Best practice in Customs is often developed at a regional level where geographical proximity provides a natural basis for closer partnership between Customs administrations. While Central Asian countries have started to espouse the concept of joint border management through networking and a pilot-project, the Thai Customs and its neighbours have been making remarkable progress towards a one-stop service, thereby contributing to regional market integration. For this reason, the WCO encourages inter-regional exchange of experience and best practice to promote Customs modernization at the regional level.....It is naturally vital to base regional Customs cooperation on international standards that are designed to secure and facilitate the movement of goods in the international trade supply chain, thus supporting integration of regional markets into the global economy.

62. The strategy implicit in the bilateral implementation of joint border processing between Kazakhstan and the Kyrgyz Republic is that, having established the approach bilaterally, it can be leveraged to other border crossing points and to new bilateral initiatives between other CAREC members. The implementation of joint border processing throughout the CAREC region will pave the way (when coupled with harmonization of legal, business and data requirements) to achieving the longer term goal of a regional 'single-window' or 'one-stop' system.

¹³ Presentation by Deputy Chairman Mr. Baurzhan Abdishev at the Bangkok Seminar on 27-29 July 2005

63. It is, however, acknowledged that in order to implement joint border processing on a regional basis, it will firstly be necessary to negotiate a number of bilateral agreements that deal with issues of jurisdiction and the application of regulatory requirements. A harmonized legal framework and associated customs procedures based on the Revised Kyoto Convention will greatly facilitate this initiative.

64. A positive contribution to this element of the Action Plan has been the number of bilateral agreements that have already been established between various CAREC members, for example, the transit agreement between Kazakhstan and the Kyrgyz Republic; the transit agreement between the Kyrgyz Republic and Tajikistan; a data-sharing agreement between the Kyrgyz Republic and the PRC; an agreement on mutual administrative assistance and cooperation between Azerbaijan and the PRC; and a similar agreement between the PRC and Uzbekistan.

3. Regional Transit Development

65. The development of simplified transit systems has been recognised by CAREC members as a priority initiative since the inception of the CCC in 2002. The successful implementation of simplified transit processes is imperative to overcome the potential trading disadvantages of being land-locked for most member countries. Streamlined and harmonized transit systems will not only facilitate intra-regional trade, but will also facilitate the integration of the region as a whole into the global economy.

66. The issue of customs transit has been a major focus in regional meetings to date and it is reasonable to assume that it will continue to be so in future meetings. In distinction to joint border processing, transit must ultimately be dealt with as a regional rather than bilateral issue, although the negotiation of bilateral transit agreements such as those between the Kyrgyz Republic and each of Kazakhstan and Tajikistan are important catalysts for achieving a harmonized, cross-regional outcome.

67. A two-pronged strategy to develop simplified transit systems within the region has been adopted by the CCC. The first part of the strategy is based around accession to the TIR Convention and examines specific implementation issues for both the region and individual members. The second part of the strategy, and a medium to long-term objective, is the introduction of a regional transit arrangement that is accepted and adopted by all CCC members.

68. The preconditions for implementing this element of the Action Plan include not only accession to the TIR Convention¹⁴ but also the development of the necessary legal, administrative and physical infrastructure to support a regional transit system.

69. Inherent in implementation of the TIR Convention is the development of insurance and financial guarantees to support transit processes. Effective implementation of this element of the Action Plan is therefore also contingent on engagement of the private sector in its development, and effective change management processes will need to be instituted and carefully managed. The multi-dimensional aspects of this element of the modernization process, including cross-sectoral dependencies, imply that a longer timeframe will be required for full regional implementation than other aspects of the Action Plan.

70. However, while full implementation may be a longer term proposition, many of the supporting factors such as accession, legal frameworks and mutual recognition arrangements can be developed and put in place in the shorter term as part of activities being undertaken under other elements of the Action Plan.

¹⁴ All CCC member countries have acceded to the TIR Convention with the exception of the PRC.

4. Data Sharing and ICT for Customs Operations

71. This element of the Action Plan incorporates two separate but related issues and this has been recognised in the specific activities that have been undertaken by CCC Members. It is generally understood that automation of customs and related international trade processes through the appropriate application of information and communications technology is a key component of trade facilitation and an effective means of reducing the potential for corruption.

72. There are important timing considerations in the development and implementation of ICT for customs operations. In this context 'timing considerations' includes the need to firstly re-engineer laws and business processes before applying ICT to them. A failure to initially focus on business processes will simply result in automating redundant or inefficient procedures and ultimately a costly failure. This principle is well understood and acknowledged by CCC members.¹⁵ Once again this assists to put into perspective the relative priorities between separate elements of the Action Plan.

73. One aspect to be noted in relation to data-sharing and ICT for customs operations is that development and implementation of particular initiatives has the potential to impact at several different levels at once, that is, at a national, bilateral and regional level. This leverage effect is dependent upon the scope of the initiative and its planned implementation. In other words, if the initiative is based on international standards and developed in accordance with harmonized regional requirements it will achieve a broader outcome than if it simply focuses on the needs of the individual country to the exclusion of regional objectives.

74. This principle has been recognised in efforts to obtain broad CAREC agreement on ICT issues, including the scope of customs data to be exchanged among regional customs administrations and a common ICT format for that data exchange. It is probable that data elements used for information exchange throughout the region will be based on the WCO Common Data Model and the format will be XML (Extensible Markup Language).

75. A similar approach to that adopted for previous elements of the Action Plan has been utilized in relation to data-sharing and ICT for customs operations, that is, information sharing, subsequent establishment of the necessary legal and procedural foundations followed by a pilot project. To this end, a regional forum on Trade Facilitation and Customs Modernization was held in Singapore on 26-28 January 2005 to address issues and challenges in the development of unified automated information systems (UAIS). Furthermore, a Regional Customs Modernization and Infrastructure Development Project was approved by the ADB in November 2004 to assist the Kyrgyz Republic and Tajikistan implement a UAIS.

76. Other members are progressing their own development and implementation of UAIS based on 'master plans' for customs automation prepared by the Kyrgyz Republic and Tajikistan based on their own experiences. It is also noted that a regional forum is planned for December 2005 in Korea to share that country's e-governance solutions and best practices.

77. The challenge for broader adoption of UAIS is ensuring that individual and/or bilateral ICT developments occur consistently. One way of achieving broader consistency without sacrificing progress within individual member countries is by ensuring that any data-sharing or ICT initiatives adopt a common benchmark(s). This strategy paper suggests that the

¹⁵ Protocol of Missions in the ICT Working Group, Seminar on Trade Facilitation and Customs Modernization, 4-8 August 2003, Issyk-Kul, Kyrgyz Republic

benchmark for Customs ICT applications, at least as far as functional requirements are concerned should be the Revised Kyoto Convention and its associated guidelines. In relation to data-sharing it should be the WCO Common Data Model.

5. Development of Risk Management, Post-Entry Audit, and Customs Intelligence

78. A central tenet of modern customs administration is the use of risk management, post-entry audit and customs intelligence as a means of balancing control and facilitation and for managing increasing workload with static or decreasing resources. It emphasises identification and intervention in relation to high-risk cargo and the unimpeded flow of low-risk cargo. Customs clearance is further facilitated by reducing levels of real-time inspection in favour of post-entry auditing and other forms of contemporary compliance management.

79. The strategies adopted by members for the development of risk management, post-entry audit and customs intelligence have essentially focused on education and awareness. Most recently a regional seminar on Risk Management and Post-Clearance Audit was held in Shenzhen, PRC. Country assessments have also been conducted in the Kyrgyz Republic and Uzbekistan to analyse specific needs in the context of risk management and post-entry audit.

80. While it is widely accepted that a good understanding of compliance management, including the underlying principles of risk management, is important in reform and modernization of customs management and administration, it is often assumed that adequate ICT is a pre-condition for its implementation. That is not the case, and the practical implementation of the principles of risk management can be effectively achieved without the support of automated systems. In other words, automated systems facilitate the risk management process, but are not essential to its introduction.

81. The major adjuncts to the adoption of risk management are facilitative legislation and business processes that support streamlined clearance and post-transaction audit, and which empower customs officers to undertake effective compliance activities. As such, this element of the Action Plan can be implemented in parallel with simplification and harmonization of customs procedures. As customs-related law and procedures become progressively more sophisticated in line with national and regional ICT developments, this process can be further streamlined through automation via electronic profiling and data management.

6. Capacity-Building for Regional Customs Organizations

82. This element of the Action Plan provides a foundation for each of the preceding five elements. In that sense, it represents a facilitative mechanism that contributes to the achievement of each of the other program elements.

83. While training and information sharing have been tangible mechanisms for capacity-building in the region, perhaps the most effective mechanism for progressing work program objectives has been the more intangible mechanism of working relationships between CCC members and the institutional frameworks that have been established to coordinate and manage the trade facilitation and customs cooperation program. These institutional mechanisms remain a success factor in the development and implementation of RTFCCP and the CCC Action Plan and should continue to be nurtured.

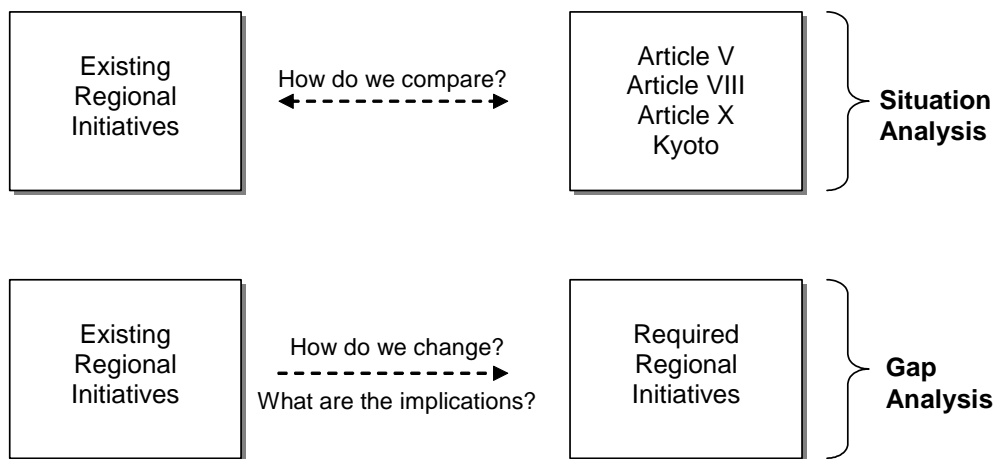
VI. COMPARATIVE ANALYSIS

A. Overview

84. In order to determine the most appropriate way forward, it is necessary to compare the current regional situation, including existing initiatives that are being progressed under the Action Plan, with the benchmark provisions of the relevant GATT Articles and revised Kyoto Convention. The results are distilled in a situation analysis matrix and gap analysis matrix which are set out at Appendix 5 and 6 of this Paper.

85. This allows an assessment of the status of the various regional initiatives to be made, and an identification of the actions necessary to achieve alignment with the identified benchmarks. This involves two techniques: *situation analysis* and *gap analysis*, as depicted in the following diagram.¹⁶

Figure 1 Situation and Gap Analyses



86. The purpose of the situation analysis is to determine whether the way in which the region is progressing its reform and modernization initiatives is in accordance with the provisions of the international benchmarks. If so, they meet the requirements of the benchmarks, and if not, then the differences become the subject of the gap analysis.

B. Issue Identification

87. In relation to WTO initiatives, the situation analysis is limited to those issues that may arise from Articles V, VIII and X. In the same way, when undertaking the gap analysis, the focus of assessment is on the implications of achieving compliance with the provisions of those particular Articles of GATT. Similarly, the situation and gap analyses compare existing regional initiatives against the principles and standards of the Revised Kyoto Convention.

88. Identification of the issues is assisted by the fact that the WTO Council for Trade in Goods has already undertaken some significant research in relation to trade facilitation matters. The research draws on the work and views of many other intergovernmental organizations and the international business community.

¹⁶ This section draws on the publications *WTO Trade Facilitation Negotiations Support Guide*, which was prepared by the Centre for Customs and Excise Studies for and on behalf of the World Bank (since published by the WTO as document TN/TF/W/51) and *The Revised Kyoto Convention: A Pathway to Accession*, which was prepared by the Centre for Customs and Excise Studies for and on behalf of the APEC Sub-Committee on Customs Procedures (SCCP)

89. As well as identifying some of the more generic issues, it is also important to identify any specific matters that may be of concern from the region's perspective. For example, unlike many regions, CAREC members include a significant proportion of landlocked countries, and consequently transit has emerged as a key issue for the region.

90. Kyoto requires Contracting Parties to demonstrate that their national legislation, which includes Customs law, complies with the principles laid down in the Convention. In this regard, the Convention views national legislation in a very broad sense. It is not necessary for Customs and other relevant laws to spell out in detail each and every Standard in the revised Convention. On the contrary, it is sufficient to be able to demonstrate that within the region's regulatory framework, there are provisions that give effect to the various obligations of the Convention. Thus, it is possible to demonstrate that the provisions of the revised Convention are covered by regulations, by-laws, operating procedures, rulings, administrative advices or by other means. An overview of provisions of the General Annex to the Revised Kyoto Convention is shown in the table below.

91. When undertaking the gap analysis, it is important to determine what the financial and other resource requirements might be to give effect to a specific proposal and what the corresponding benefits to government and business might be, so that a cost/benefit decision can be made. Potential implementation issues may include legislation, information management, information and communications technology, human resources, organisational and institutional structures, business transaction costs, transport efficiency and so on.

92. This analysis will also facilitate the identification of any regional training, technical assistance and capacity-building needs, which can then be highlighted by individual national negotiators in a manner consistent with the development theme of the trade facilitation negotiations.

OVERVIEW OF KYOTO GENERAL ANNEX

Chapter 1: General Principles

Chapter 2: Definitions

Chapter 3: Clearance/Release and other Customs formalities

There are 45 provisions in this Chapter which is larger than in any other Chapter. Matters addressed are very much central to the business of Customs, from office opening hours to the handling of declarations and documents.

Chapter 4: Duties and Taxes

- A. Assessment, Collection and Payment of Duties and Taxes
- B. Deferred Payment of Duties and Taxes
- C. Repayment of Duties and Taxes

As the headings suggest, this Chapter is about collecting and refunding revenue. Interestingly, the Chapter does not commit a Customs authority to granting the facility of deferred payment of duties and taxes.

Chapter 5: Security

This is a short Chapter that is designed to keep the taking of securities at reasonable levels and therefore ensure that they are not used for punitive purposes.

Chapter 6: Customs Control

Another short Chapter which is designed to limit Customs control to a level necessary to ensure compliance with Customs law.

Chapter 7: Application of Information Technology

While IT is now commonly used by Customs administrations, this Chapter does not insist on its introduction. The obligation to apply IT is qualified by the need to ensure that it is cost-effective and efficient for both Customs and the trade.

Chapter 8: Relationship between the Customs and Third Parties

Provides rules on how to deal with Customs brokers and other service providers.

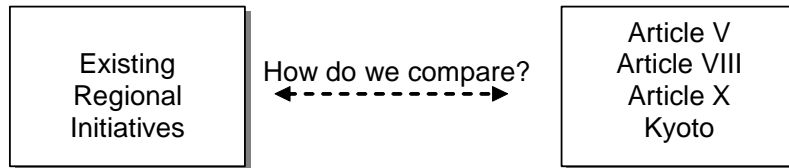
Chapter 9: Information, Decisions and Rulings supplied by the Customs

- D. Information of General Application
- E. Information of a Specific nature
- F. Decisions and Rulings

Chapter 10: Appeals in Customs Matters

- A. Right of Appeal
- B. Form and Grounds for Appeal
- C. Consideration of Appeal

C. Situation Analysis



1. Benchmark Provisions relating to GATT Article V

93. Article V of GATT – *Freedom of Transit* – is broader in scope than the customs transit issues covered by the Revised Kyoto Convention. For example, paragraph 2 of Article V, which regulates the conditions a member may impose on goods transported through its territory by another party to a foreign destination and the obligations imposed by the Article, go beyond the Customs context.

94. The provisions of the General Annex to the Revised Kyoto Convention that are relevant to GATT Article VIII, and which provide for universally applicable principles of simplification and harmonization, apply equally to customs procedures for transit and Chapter 1 of Specific Annex E provides procedures and principles specifically for transit. See particularly, Recommended Practice 5 (specially simplified procedures for authorized consignors and consignees), Standard 6 and Recommended Practice 7 (use of commercial and transport documents), Standard 16 and Recommended Practice 17 and 18 (procedures for sealing and identification of consignments) and Standard 3 (charges and regulations).

2. Benchmark Provisions relating to GATT Article VIII

95. Article VIII of GATT – *Fees and Formalities connected with Importation and Exportation* – also has a wider scope than Customs administrations. For example, paragraph 4 of Article VIII extends the provisions of the article to the fees, charges, formalities and requirements imposed by governmental authorities other than Customs, including those listed at (a) to (h) of that paragraph (consular transactions, quantitative restrictions, licensing, exchange control, statistical services, documents, documentation and certification, analysis and inspection and quarantine, sanitation and fumigation).

96. Standard 3.2 of the General Annex to the Revised Kyoto Convention addresses fees and charges for additional services as does Standard 19 in Chapter 1 of Specific Annex A. The Revised Kyoto Convention deals generally with formalities associated with importation and exportation and incorporates a broad range of standards and recommended practices. In the present context, the most relevant of these are considered to be standardized and minimum requests (Standards 3.11, 3.12, 3.15 and 3.16); minimum intervention and risk management (Standards 6.2, 6.3 – risk management and Standard 3.25 – pre-arrival declaration); separation from release from clearance (Standards 3.40 – 3.43); Audit-based control (Standards 6.6 and 6.10); specially simplified procedures for authorized traders (Standard 3.32); maximum use of information and communication technology (Standard 7.1 and Standards 3.11, 3.18, 6.9 and 9.3); cooperation with other agencies (Standard 3.35 – noting that the benefits of inter-agency coordination can be maximized through the introduction of a Single Window); cooperation with foreign counterparts (Standard 6.7) and penalties for minor breaches (Standard 3.39).

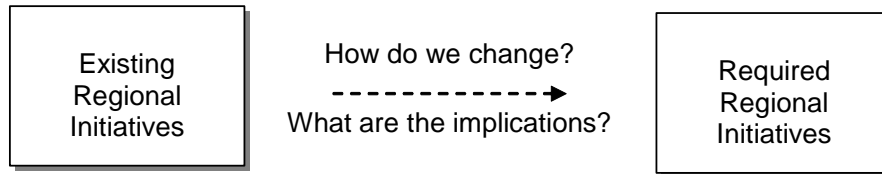
3. Benchmark Provisions relating to GATT Article X

97. Article X of GATT – *Publication and Administration of Trade Regulations* – provides for transparency of trade-related laws, regulations and decisions and the predictability of the application and enforcement of these rules; and review and appeals.

98. Chapter 9 of the General Annex to the Revised Kyoto Convention is the most relevant. The chapter sets out the provisions in three sub-sections in accordance with the nature of the information, that is, information of general application, information of a specific nature and finally, decisions and rulings (including advance rulings).

99. In addition to Chapter 9, there are provisions in the General Annex enhancing the transparency of customs laws and operations (Standards 1.1, 1.2, 1.3, 6.8, 3.6, 3.11 and chapter 8 sets out the provisions for the relationship between customs and third parties such as brokers). Chapter 10 of the General Annex sets out the principles for appeals in customs matters and is composed of three sub-sections: right of appeal; form and grounds of appeal; and consideration of appeal.

D. Gap Analysis



1. Summary of Findings

100. The Gap Analysis Matrix (Appendix 6) builds on the Situation Analysis by examining whether, at the regional level, the initiatives being undertaken under the Action Plan priority areas are adequately addressing international reform and modernization expectations in the Customs context and the broader Government context. It should be noted that where “adequate coverage” appears in the Matrix, it indicates that the Action Plan contains sufficient scope to address the particular issue. It should not however, be read as implying that adequate progress is being made under the initiatives being undertaken¹⁷.

101. This matrix is a useful reference for developing a prioritized work program by focusing on those areas identified as gaps in the reform process when measured against the benchmark and for monitoring ongoing progress.

2. Commentary

102. The positive result that flows from the analysis is the conclusion that significant progress is being made towards the achievement of regional trade facilitation and customs cooperation, and that this progress is consistent with relevant benchmarks. This has been the result of notable progress against each of the Action Plan elements, particularly at an individual country and bilateral level.

103. However, to achieve our objectives of harmonization and sustainability the focus must be broadened to the regional level, and it is apparent that while significant progress has been made by individual CAREC members, the challenge remains to extend those outcomes to the region as a whole.

¹⁷ The gap analysis also doesn't seek to identify new areas that perhaps should be included in the Action Plan such as adoption of the WCO Framework on Supply Chain Security

104. It is noted that there is conspicuous progress through various bilateral agreements between CAREC members, such as the joint border processing initiatives of Kazakhstan/Kyrgyz Republic and Mongolia/PRC, the Kyrgyz Republic/PRC data-sharing agreement and the mutual administrative assistance and cooperation agreements between Azerbaijan/PRC and PRC/Uzbekistan.

105. Similarly, the transit agreements that have been developed between Kazakhstan/Kyrgyz Republic and Kyrgyz Republic/Tajikistan are contributing to the region's achievement of improved trade facilitation and customs cooperation. A regional solution to transit and other issues is, however, currently dependent on the effective consolidation and integration of individual national and bilateral projects.

106. Areas where a truly regional approach could be progressed is to build upon bilateral data-sharing initiatives and utilize the WCO's Common Data Model to extend data-sharing regionally in certain respects. For example, basic customs processing and/or cargo reporting should be uniform throughout the region and a common data approach should be achievable in relation to the customs declaration and cargo report.

107. A similar approach can be adopted towards transit in the region, that is, extending bilateral transit arrangements throughout the region based on the principles contained within the TIR Convention. This would constitute a major step towards a regional free trade area if that was to be pursued by Governments.¹⁸

108. There is also a need to expand the focus of the Common Action Plan to include other government agencies and members of the international trading community. This aspect is discussed in more detail below when implementation plans are dealt with.

109. While there is adequate coverage of the GATT Trade Facilitation Articles in the specific Customs context, a broader Government approach is required, particularly if cargo reforms such as joint border controls are to be extended to the movement of people. This will obviously require close consultation with ministries responsible for immigration.

110. Other areas where a broader approach is required include the following Kyoto Standards/ Transitional Standards:

- 1.1 application of the Kyoto definitions, standards and transitional standards;
- 3.32 compliance management as it relates to authorised persons;
- 3.35 coordination of inspections; and
- 9.3 enhancing the provision of information through the use of IT.

111. In addition, the following Kyoto Standards need addressing from both a Customs and broader Government perspective:

- 6.8 cooperation with the commercial sector; and
- 8.5 participation of third parties in formal trade consultations.

112. Finally, a Customs focus is required in respect of the following Kyoto Standards:

- 1.3 formal consultative relationships with the trade;
- 9.1 provision of information;
- 9.2 provision of information;
- 9.4 provision of information
- 9.5 provision of information.

¹⁸ This possibility was recently canvassed in the article by Craig Steffenson "New Members Scope Momentum" in ADB Review, October 2005.

VII. PROPOSED REFORM FRAMEWORK

A. Existing Strategies and Mechanisms

113. The current strategic approach to regional reform and modernization represents a pragmatic and results-oriented approach in customs cooperation, which reaffirms the importance of complementary region-wide and bilateral initiatives with country-specific support for customs reform and modernization. There is no reason to alter this overall approach, and the preceding analysis affirms its relevance to the implementation of an effective CCC Action Plan.

114. The strategies adopted for individual action plan items generally include the establishment of expert groups under the chairmanship of one of the CCC member administrations, with expert advice provided by subject matter specialists. These expert groups report back to the Regional Heads of Customs Administration Meeting on progress, with the ADB providing the Secretariat. Again, there is no reason to change this mechanism, which is proving to be very effective. Similarly, the general strategy of training and information sharing under each action plan item provides the expert group with a strong foundation for subsequent activity, and should therefore continue.

115. The elements of the existing Common Action Plan are totally relevant to the achievement of regional trade facilitation and customs cooperation. What is required at this stage of regional development is a stocktake on existing initiatives, a clearer focus on regional solutions that have broad agreement and support, and a more structured approach to regional and individual country stakeholder coordination.

B. Principles of a Regional Strategy

1. Coordination and Consultation

116. Issues relating to trade facilitation and more specifically the various elements of the RTFCCP Action Plan affect a broad cross-section of government and the private sector. For example, multiple government agencies will have an interest in the movement of goods, including agencies responsible for health and safety, food inspection, import licensing, tax collection, quality inspection and enforcement. Similarly, there are importers, exporters, carriers, freight forwarders, customs brokers, warehouse operators and so on that will have a direct interest in the outcome of any trade facilitation initiative that is undertaken. All of these groups are stakeholders in the process and need to be engaged effectively in the development and implementation of strategies to improve trade facilitation and to reform and modernise customs processes.

117. In simple terms the relevant stakeholders are going to be those people, groups and institutions that might contribute to or influence the outcome of the RTFCCP Action Plan and specific activities that flow from it. It is therefore critical to have an efficient and effective consultation and communication strategy that recognises that potential influence.

118. As has been recognised by the ADB, trade facilitation involves more than just customs facilitation; it encompasses all elements of the international supply chain, and it is important to recognise that fact when identifying potential stakeholders. Consequently, stakeholders will generally include those government and business entities that are involved in the administration or conduct of international trade. In most countries, trade facilitation involves the ministries of trade, transport and finance as well as the private sector.

119. To facilitate the process of stakeholder identification in the current context, it is useful to study the entire international supply chain and consider those who may be involved at any

point in dealing with the goods and the associated documentation, either from a regulatory or commercial perspective, since the individual elements of the Action Plan represent different aspects of that supply chain as it relates to Central Asian countries. This is even more important in the current security environment where governments need to know who has access to the cargo at any point in time and who may be eligible for “authorised economic operator” status. This also demonstrates another advantage of WCO requirements as a benchmark because regard can be had to the Framework for the Security and Facilitation of the International Trade Supply Chain to guide reforms in relation to the supply chain.

120. To achieve a successful outcome in relation to the RTFCCP Action Plan and more broadly on trade facilitation, four elements must be present:

- (i) A strong political will;
- (ii) A clear strategic plan for implementation;
- (iii) Close cooperation with the business community; and
- (iv) Effective and sustainable projects that further the overall objectives of CAREC

121. The reality is that “business trades, not governments”. A critical aspect for successful implementation of the Action Plan therefore, has to be an acknowledgement that success and sustainability is going to depend in part on each country’s private sector as well as “buy-in” by other government agencies that have a role to play in relation to international trade. As such, it is important that those responsible for developing and implementing the Action Plan have a good understanding of the interests of relevant government agencies and the private sector, and communicate regularly with both insofar as they may be impacted by particular aspects of the Action Plan.

122. Coordination and consultation is also important for practical reasons. Trade facilitation and customs issues can be very technical. It therefore makes sense to engage experts in the consideration and analysis of the various issues that flow from particular activities, including those from the private sector. Furthermore, in the absence of an effective coordination mechanism, individual countries or project teams must attempt to interface with each of the agencies and companies individually. The time spent on such tasks would impact significantly on their ability to achieve an effective outcome that could potentially deliver positive regional outcomes.

2. Verification and Regionalization

123. Recognising the primary strategy of ensuring effective coordination and consultation, the first step for any component of the work program should be the examination of needs analyses that have been undertaken with respect to individual countries within the region and the completion of any that have not yet been finalised. This examination should be performed against the priorities identified in the Common Action Plan. The outcome would be an assessment of whether the particular project can and/or should be progressed at the national, bilateral or regional level. This is to ensure that the highest possible level of progression is pursued in an effort to maximise regional uniformity of practice and achieve sustainability of the reform.

124. Where it is decided to progress a project at a national or bilateral level, a strategy for regionalizing the initiative should be included and itemized in the decision. This strategy is already being adopted in relation to the application of ICT but should be adopted as a general principle for any item on the Work Program.

3. Broadening the Scope

125. There is currently a tendency to limit consideration of the issues to customs administrations. This not only has the effect of limiting potentially useful input to the various initiatives, but also runs the risk of failing to meet international standards. For example, the Revised Kyoto Convention defines “national legislation” to mean laws, regulations and other measures imposed by a competent authority of a Contracting Party and applicable throughout the territory of the Contracting Party concerned, or treaties in force by which that Party is bound¹⁹. Consequently, the requirements of the Convention go beyond customs laws and procedures, and include the legal and administrative responsibilities of other relevant agencies.

126. Similarly, there is a clear expectation in the Convention that the international trading community will be actively involved in consideration of issues that impact on them²⁰.

C. Elements of a Regional Strategy

127. As previously noted, the various elements of the existing Common Action Plan are entirely relevant and should continue, subject to the verification process outlined above. The following commentary introduces proposed additional or supplementary elements, and/or seeks to qualify existing elements of the Plan.

1. Enabling legislative frameworks

128. Progressing the development of enabling legislative frameworks should be undertaken at two levels:

- (i) Regional or bilateral agreements on any joint controls between members sharing a common border; and
- (ii) Adequate national legislation supporting the implementation of joint controls, either primary or secondary.

129. In this regard, it should be noted that problems identified by the international trading community are often not related to primary legislation such as Customs Codes, but secondary legislation and instructions that impact at the operational level. This has the potential to lead to differing interpretations of the regulations by individual officers, thereby creating an environment that lacks transparency and results in governance problems.

130. Another point to note is that the trading community has an expectation that agreements will be promptly and appropriately translated into national legislation. Countries in the region have signed a multitude of bilateral and multilateral agreements, many of which are essentially political and not considered to be binding. In other words it is often regarded as more important to be identified as a signatory to an agreement than actually implementing the principles.

2. Data-sharing

131. Promotion of data-sharing is a major initiative of several member countries. For example, it is noted that two working group sessions have been held to discuss a proposal from Uzbekistan to establish an electronic platform for data exchange among participating countries and the drafting of an agreement to provide the legal basis for the initiative. As the ADB has highlighted already, and as mentioned previously in this paper, it will be important to measure the initiative against the WCO's Common Data Model to achieve consistency and to maintain a potential to regionalize the outcome.

¹⁹ See Article 1 of the Revised Kyoto Convention.

²⁰ See for example Standard 1.3 of the Revised Kyoto Convention.

132. Data-sharing is considered to be crucial for the simplification/harmonization of customs procedures and documentation but at a more administrative level it is also evident that to effectively exchange information on Customs Codes and regulations/procedures, there is a need for member countries to establish communication mechanisms, including websites, in a common language to inform the public and traders of their obligations.

3. Border Posts and Facilities

133. Strategies must address the need to consult with other concerned ministries and departments and the need to reduce the number of agencies involved in clearance processes at the border. Joint processing is principally about placing all the obstacles in one place and then trying to reduce them by eliminating the amount of regulatory duplication. Consequently it is a two stage process – establishment followed by rationalization. Activities of other border organizations are integrated into the processes either directly or on a delegated basis.

134. Recognising that pilot projects have been successfully implemented under this item, it is important to include a regionalization strategy.

135. It would also be useful to include analysis of related frameworks to derive best practice including the EU's TRACECA "Simplification of Border Crossing Procedures" and Article 7 of the International Convention on the Harmonization of Frontier Controls on Goods 1982 (Harmonization Convention) in addition to provisions of the Revised Kyoto Convention.

136. Necessary provisions in any legal framework for joint border processing include establishment of customs facilities, powers and duties of customs officials, immunities and privileges, institutional arrangements, offences and penalties, and associated regulations.

4. Transit

137. Customs transit systems are devised to facilitate to the greatest possible extent the international movement of goods under customs seals, and to provide the required customs security and guarantees. It is essential that any formalities involved are neither too burdensome for the customs officials nor too complex for the transport operators and their agents. A balance needs to be struck between the requirements of customs authorities on one hand and those of the transport operators on the other.

138. Strategies for transit will need to rigorously address issues such as a regional guarantee system, fully harmonized legislation, regional recognition of transit documentation, regionally consistent cross-border procedures, transparency and consistency with the TIR Convention as the best practice model for customs transit.

5. Compliance Management

139. In progressing compliance management strategies, the approach adopted should be one of informed compliance which means that the trading community has access to a clear statement of their rights and responsibilities, to ensure that they are aware of the requirements with which they must comply and in turn, Customs has a responsibility to adhere to these same requirements when dealing with the trader.

140. It has been suggested that the WCO Risk Management Guide should be translated into Russian and disseminated. This could usefully be complemented with a compliance management manual that is appropriately tailored for the region.

6. Change Management

141. While several regional approaches have been adopted in relation to customs technical matters, no such approach has been adopted for the important issue of establishing an effective change management strategy for implementing Action Plan initiatives. This is seen as something of a weakness, as the actual development of a new policy or process is often much simpler to achieve than operational implementation.

142. Another key to sustainability that flows from effective change management is the extension of reforms (and training) to the private sector, including service providers such as brokers and freight forwarders. This recognizes that trade facilitation – whether autonomous, bilateral or regional – will have a reduced impact in the presence of an inefficient private sector that contains high transport costs and weak logistics. The RTFCCP reforms need to be seen and acknowledged as complementary to private sector reforms. Engagement of the private sector in the reform and modernization process mitigates the risk that trade facilitation reforms are not effectively sustained.

7. Skills Development

143. A key element of sustainability of reforms and the future development of customs within the region is the appropriate training and development of staff. Due to the regional nature of many of the modernization and reform programs, it would be prudent to develop broad-based skills development programs at the regional level to enable current and future officers to function better in the customs environment and to equip them to better handle new techniques and IT systems. Such an approach would also further the objective of regional uniformity of practice.

144. For example, the increasing reliance on the use of intelligence as a tool for greater selectivity will increase demand for risk assessment skills. Computer literacy is essential for customs officers as IT becomes integral to regional administrations and as most of the day-to-day operation becomes dependent on computer-based systems. Similarly, as customs places greater reliance on post-release audits, audit skills will be required and information management skills will be increasingly in demand. Finally, language training will be important for the region.

8. Emerging Issues

145. As a general observation and as mentioned above, the various strategies being progressed within the region should also cross-reference the WCO's Framework of Standards to Secure and Facilitate Trade. In this respect, it may be timely to include a regional workshop on the CCC Work Program to explore how to effectively integrate the Framework into the Action Plan and perhaps include specific Work Program items that look to incorporate the Framework as part of existing pilot projects on data-sharing and harmonization of customs procedures.

VIII. IMPLEMENTATION STRATEGY

A. Engaging Relevant Stakeholders

1. Proposed Coordination Structure

146. It is important to recognise that there are a range of governance initiatives in place already within CAREC. The key consideration is that there be decision-making responsibility for the reform framework outlined in this paper including responsibility for approval of the work program and the monitoring of progress.

147. Responsibility for the identification of stakeholders and subsequent liaison with them could be a standing requirement for project teams that are formed to undertake approved elements of the Work Program. In this respect the Central and South Asia Regional Business Roundtable could be utilized for stakeholder identification and subsequent input.

148. It is important that, given the country-specific nature of some of the initiatives and the need to regionalize successful outcomes, there is a coordinated process for managing the broader reform process and reporting to Ministers.

149. One area where there is scope to introduce a new working group arrangement is in relation to the issue of broadening the trade facilitation agenda beyond customs activity to other areas that potentially impact on trade. Several members of CAREC have already embarked upon a wider trade facilitation program and others are contemplating how to engage other agencies and private sector stakeholders that impact on or are impacted by the trade process.

150. It is suggested that individual CAREC participating countries form a working group that will be responsible for identifying and further developing the scope to broaden the current trade facilitation agenda. The creation of such a working group will provide structure to existing work programs and assist in extending the benefits of such projects to the rest of the region. It also acknowledges the different levels of development that exist within the region and provides an “iterative” or gradual process for each CAREC member to achieve broader reform.

151. This working group could allow the participation of relevant government agencies (beyond Customs) and the private sector (perhaps through the Central and South Asia Regional Business Roundtable) in discussions on particular work items or strategic directions and approve specific reform projects that serve to broaden the trade facilitation agenda. It would also be responsible for deciding its terms of reference for endorsement by Ministers and choosing the basis of chairmanship; for example, permanent or on a rotating basis between members of the working group.

152. It is suggested that each customs administration could take the lead role in this working group. The advantage of doing so is to maintain continuity and consistency with other working groups within CAREC and as a mechanism for effective coordination and consultation across the different groups.

153. As the working group matures as a group and in terms of its engagement with other stakeholders it may be appropriate to invite representatives to become part of the working group and attend meetings on a regular basis. During the formative period however, it may be sufficient to invite representatives on an “issues” basis, dependent on the agenda for a particular meeting.

154. The initial meeting of the group should deal primarily with establishment issues including its proposed terms of reference, the role and responsibilities of individual members, communication protocols including response timeframes, a schedule for subsequent meetings of the group and any other administrative matters impacting on the operation of the group. Consideration might also be given to establishing a specific website for communication purposes, which could form part of the ADB's current CAREC website.

155. This initial meeting might also canvass the various issues likely to arise in broadening the current agenda, specific responsibility for those issues, relative priorities among items of the Work Program, and the probable stakeholders across government, business and the community who may be able to contribute to any analysis of the issues. The outcome of this discussion should be an agreed work program that will be reported against at future meetings, including details of necessary consultation requirements and identification of members' responsibilities in relation to liaising with particular stakeholders.

2. Identifying Stakeholder Issues

156. A simple means of undertaking a stakeholder issues analysis is to develop a *Stakeholder Issues Matrix*, which helps to identify the types of issues that may impact on different stakeholders, the type of input that the stakeholders could provide and the potential impact of their contribution on the Action Plan. An outline of a simple stakeholder issues matrix which may be used as a template in this process is shown below:

157. Identifying all relevant stakeholders;
- (i) Identifying the particular matters or type of issues for which their input is being sought;
 - (ii) Reaching agreement on the nature of the input being sought, e.g. is the advice being sought on a technical issue or is it seeking agreement/disagreement to a particular option?
 - (iii) Specifying any deadlines for the response; and
 - (iv) Identifying the member with primary responsibility for consulting with the particular stakeholders.
158. It is then the responsibility of members to:
- (i) Consult with the relevant stakeholders;
 - (ii) Summarise the response received;
 - (iii) Identify the implications of the response for the Action Plan; and
 - (iv) Communicate the outcome

Table 1: Simple Stakeholder Issues Matrix

Stakeholder	Issue	Responsible Member	Response	Implications for Action Plan
Ministry of Health	1. Common data elements for electronic transmission of permits – what are the key requirements of the Ministry? 2. 3. 4.			
Shipping Companies	1. Advance submission of sea manifest information – what impediments currently exist to supplying manifest data prior to arrival? 2. 3. 4.			

159. Effective stakeholder issues analysis requires that the stakeholders in question are sufficiently informed of the nature of the Action Plan item and the issue for which input is being sought, so they can respond meaningfully and promptly.

160. For information of a general nature, an effective communication mechanism is required that will allow potential stakeholders to inform themselves about the current progress of specific initiatives and avail themselves of an opportunity to become engaged in issues that are of interest to them, even though a specific request for input is not forthcoming. Assuming that a *stakeholder network* has been developed from the processes outlined previously, it is a relatively easy task to construct a mail-out list that can be used for the purposes of distributing a newsletter. Alternatively, the website mentioned above could be used for this purpose.

161. Initially, information could be provided on the background to the Action Plan, and an outline of the consultation approach that will be used to obtain input from stakeholders, together with contact details. Regular updates on progress with the initiatives could then be provided to stakeholders following relevant meetings.

162. In respect of issues of a very specific nature, it may not be appropriate to publicise the information as broadly. For example, there will be instances where information is being sought in direct response to a specific issue arising in the context of a particular pilot project. In such cases, the information required by the stakeholder will be quite specific. Similarly, depending upon the nature of the issue, it may be appropriate to limit circulation of the information to a restricted audience. For example, some information may be considered to be politically or commercially sensitive.

163. The results of consultation can then be consolidated into a single position paper which is presented to Ministers for decision. This activity can be further refined into progress reports under each item of the Action Plan. The responsibility for analysing and consolidating the responses should rest with the Secretariat.

B. Pilot Project Approach

164. In seeking to extend the positive national and bilateral outcomes to the regional level, it is reasonable to continue to use a graduated and proportionate approach to reform in recognition of resource constraints and differing levels of development among members. Indeed, building a proper knowledge foundation and applying that in a 'pilot project environment' is proving to be very effective in progressing RTFCCP objectives. In order to maintain a regional focus using this formula, it will be necessary to adhere to the following principles:

- (i) Wherever possible, develop and promote regional frameworks and guidelines for adoption at the national and bilateral level;
- (ii) Provide full support for those regional cooperation activities that have strong country ownership;
- (iii) Provide strong support for those country-specific and bilateral activities with strong regional orientation;
- (iv) Provide ongoing support for regional training and knowledge sharing; and
- (v) Seek to maximise donor coordination.

C. Maximizing Regional Relationships

165. While individual countries can make a significant contribution towards improving regional customs procedures, it is important to develop initiatives at a regional level wherever possible to take account of the interdependencies that flow from the region's situation, particularly its geographic location and the implications of being land-locked.

166. Contacts and networks that are fostered through bilateral and regional agreements can generate mutual understanding of problems and obstacles and can engender the sharing of best practices and positive outcomes among all members. Indeed, this type of exchange is likely to be more relevant and readily accepted within the regional grouping than examples from individual countries that are more advanced and consequently facing different implementation issues.

167. Furthermore, addressing customs and trade-related issues in an autonomous fashion is often less productive than approaching such issues through a cooperative approach with intra-regional trading partners, as the latter approach may create the necessary momentum to overcome specific problems. Dismantling trade barriers among neighbouring countries and leveraging that into regionally beneficial outcomes creates a broader constituency for facilitating trade; and the integration of fragmented markets provides a more viable climate for infrastructure investment and promotes a cycle of integration and growth.

D. The Way Forward

168. Recognizing that the simplification and harmonization of customs procedures represents a core element of the modernization process, and that appropriate coordination and consultation is essential to effectively progress such initiatives, the following implementation strategy is recommended:

- (i) Establish a Working Group within individual CAREC participating countries to examine possibilities for broadening the trade facilitation agenda with a structured approach to regional coordination and consultation with relevant government and business sector stakeholders.
- (ii) Re-examine regional priorities by examining needs analyses against the agreed benchmark and initiatives identified in the Action Plan.
- (iii) Determine the level at which each project should be progressed, i.e. national, bilateral or regional. For those projects that are to be progressed at a

- national or bilateral level, develop a clear regionalization strategy to ensure that the region as a whole will ultimately benefit from the project outcomes.
- (iv) Task the relevant working groups with managing the implementation of identified regional, bilateral and national strategies, including the identification, analysis and appropriate consideration of stakeholder issues.
 - (v) Develop regional initiatives that support the successful implementation of Action Plan outcomes and/or broaden the current agenda, including a regional change management program, compliance management manual and skills development program. This will maximize the likelihood of effective implementation of reform and modernization initiatives, and support regional uniformity of practice.

E. Conclusion

169. The broad regional framework under which members can progress their various trade facilitation and customs cooperation initiatives provides an integrated strategy that will help member countries to progressively move towards a harmonized and sustainable trade facilitation and customs cooperation outcome. This will serve to benefit both government and industry in reducing the cost of regulation, improving trade security and streamlining the movement of internationally traded goods. To ensure the success of the strategy, it will be necessary to establish an effective, structured approach to engaging with other government agencies and the commercial sector.

APPENDIX 1. ANNEX D OF THE “JULY PACKAGE”

MODALITIES FOR NEGOTIATIONS ON TRADE FACILITATION

1. Negotiations shall aim to clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including goods in transit.²¹ Negotiations shall also aim at enhancing technical assistance and support for capacity building in this area. The negotiations shall further aim at provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues.
2. The results of the negotiations shall take fully into account the principle of special and differential treatment for developing and least-developed countries. Members recognize that this principle should extend beyond the granting of traditional transition periods for implementing commitments. In particular, the extent and the timing of entering into commitments shall be related to the implementation capacities of developing and least-developed Members. It is further agreed that those Members would not be obliged to undertake investments in infrastructure projects beyond their means.
3. Least-developed country Members will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.
4. As an integral part of the negotiations, Members shall seek to identify their trade facilitation needs and priorities, particularly those of developing and least-developed countries, and shall also address the concerns of developing and least-developed countries related to cost implications of proposed measures.
5. It is recognized that the provision of technical assistance and support for capacity building is vital for developing and least-developed countries to enable them to fully participate in and benefit from the negotiations. Members, in particular developed countries, therefore commit themselves to adequately ensure such support and assistance during the negotiations.²²
6. Support and assistance should also be provided to help developing and least-developed countries implement the commitments resulting from the negotiations, in accordance with their nature and scope. In this context, it is recognized that negotiations could lead to certain commitments whose implementation would require support for infrastructure development on the part of some Members. In these limited cases, developed-country Members will make every effort to ensure support and assistance directly related to the nature and scope of the commitments in order to allow implementation. It is understood, however, that in cases where required support and assistance for such infrastructure is not forthcoming, and where a developing or least-developed Member continues to lack the necessary capacity, implementation will not be required. While every effort will be made to ensure the necessary support and assistance, it is understood that the commitments by developed countries to provide such support are not open-ended.
7. Members agree to review the effectiveness of the support and assistance provided and its ability to support the implementation of the results of the negotiations.

²¹ It is understood that this is without prejudice to the possible format of the final result of the negotiations and would allow consideration of various forms of outcomes.

²² In connection with this paragraph, Members note that paragraph 38 of the Doha Ministerial Declaration addresses relevant technical assistance and capacity building concerns of Members.

8. In order to make technical assistance and capacity building more effective and operational and to ensure better coherence, Members shall invite relevant international organizations, including the IMF, OECD, UNCTAD, WCO and the World Bank to undertake a collaborative effort in this regard.

9. Due account shall be taken of the relevant work of the WCO and other relevant international organizations in this area.

10. Paragraphs 45-51 of the Doha Ministerial Declaration shall apply to these negotiations. At its first meeting after the July session of the General Council, the Trade Negotiations Committee shall establish a Negotiating Group on Trade Facilitation and appoint its Chair. The first meeting of the Negotiating Group shall agree on a work plan and schedule of meetings.

APPENDIX 2. GATT ARTICLE V

Freedom of Transit

1. Goods (including baggage), and also vessels and other means of transport, shall be deemed to be in transit across the territory of a contracting party when the passage across such territory, with or without trans-shipment, warehousing, breaking bulk, or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of the contracting party across whose territory the traffic passes. Traffic of this nature is termed in this article "traffic in transit".
2. There shall be freedom of transit through the territory of each contracting party, via the routes most convenient for international transit, for traffic in transit to or from the territory of other contracting parties. No distinction shall be made which is based on the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership of goods, of vessels or of other means of transport.
3. Any contracting party may require that traffic in transit through its territory be entered at the proper custom house, but, except in cases of failure to comply with applicable customs laws and regulations, such traffic coming from or going to the territory of other contracting parties shall not be subject to any unnecessary delays or restrictions and shall be exempt from customs duties and from all transit duties or other charges imposed in respect of transit, except charges for transportation or those commensurate with administrative expenses entailed by transit or with the cost of services rendered.
4. All charges and regulations imposed by contracting parties on traffic in transit to or from the territories of other contracting parties shall be reasonable, having regard to the conditions of the traffic.
5. With respect to all charges, regulations and formalities in connection with transit, each contracting party shall accord to traffic in transit to or from the territory of any other contracting party treatment no less favourable than the treatment accorded to traffic in transit to or from any third country.*
6. Each contracting party shall accord to products which have been in transit through the territory of any other contracting party treatment no less favourable than that which would have been accorded to such products had they been transported from their place of origin to their destination without going through the territory of such other contracting party. Any contracting party shall, however, be free to maintain its requirements of direct consignment existing on the date of this Agreement, in respect of any goods in regard to which such direct consignment is a requisite condition of eligibility for entry of the goods at preferential rates of duty or has relation to the contracting party's prescribed method of valuation for duty purposes.
7. The provisions of this Article shall not apply to the operation of aircraft in transit, but shall apply to air transit of goods (including baggage).

***ANNEX I: Ad Article V**

Paragraph 5

With regard to transportation charges, the principle laid down in paragraph 5 refers to like products being transported on the same route under like conditions.

APPENDIX 3. GATT ARTICLE VIII

*Fees and Formalities connected with Importation and Exportation**

1. (a) All fees and charges of whatever character (other than import and export duties and other than taxes within the purview of Article III) imposed by contracting parties on or in connection with importation or exportation shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes.

(b) The contracting parties recognize the need for reducing the number and diversity of fees and charges referred to in subparagraph (a).

(c) The contracting parties also recognize the need for minimizing the incidence and complexity of import and export formalities and for decreasing and simplifying import and export documentation requirements.*

2. A contracting party shall, upon request by another contracting party or by the CONTRACTING PARTIES, review the operation of its laws and regulations in the light of the provisions of this Article.

3. No contracting party shall impose substantial penalties for minor breaches of customs regulations or procedural requirements. In particular, no penalty in respect of any omission or mistake in customs documentation which is easily rectifiable and obviously made without fraudulent intent or gross negligence shall be greater than necessary to serve merely as a warning.

4. The provisions of this Article shall extend to fees, charges, formalities and requirements imposed by governmental authorities in connection with importation and exportation, including those relating to:

- (a) consular transactions, such as consular invoices and certificates;
- (b) quantitative restrictions;
- (c) licensing;
- (d) exchange control;
- (e) statistical services;
- (f) documents, documentation and certification;
- (g) analysis and inspection; and
- (h) quarantine, sanitation and fumigation.

ANNEX I: *Ad Article VIII

1. While Article VIII does not cover the use of multiple rates of exchange as such, paragraphs 1 and 4 condemn the use of exchange taxes or fees as a device for implementing multiple currency practices; if, however, a contracting party is using multiple currency exchange fees for balance of payments reasons with the approval of the International Monetary Fund, the provisions of paragraph 9 (a) of Article XV fully safeguard its position.

2. It would be consistent with paragraph 1 if, on the importation of products from the territory of a contracting party into the territory of another contracting party, the production of certificates of origin should only be required to the extent that is strictly indispensable.

APPENDIX 4. GATT ARTICLE X

Publication and Administration of Trade Regulations

1. Laws, regulations, judicial decisions and administrative rulings of general application, made effective by any contracting party, pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefor, or affecting their sale, distribution, transportation, insurance, warehousing inspection, exhibition, processing, mixing or other use, shall be published promptly in such a manner as to enable governments and traders to become acquainted with them. Agreements affecting international trade policy which are in force between the government or a governmental agency of any contracting party and the government or governmental agency of any other contracting party shall also be published. The provisions of this paragraph shall not require any contracting party to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

2. No measure of general application taken by any contracting party effecting an advance in a rate of duty or other charge on imports under an established and uniform practice, or imposing a new or more burdensome requirement, restriction or prohibition on imports, or on the transfer of payments therefore, shall be enforced before such measure has been officially published.

3. (a) Each contracting party shall administer in a uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings of the kind described in paragraph 1 of this Article.

(b) Each contracting party shall maintain, or institute as soon as practicable, judicial, arbitral or administrative tribunals or procedures for the purpose, *inter alia*, of the prompt review and correction of administrative action relating to customs matters. Such tribunals or procedures shall be independent of the agencies entrusted with administrative enforcement and their decisions shall be implemented by, and shall govern the practice of, such agencies unless an appeal is lodged with a court or tribunal of superior jurisdiction within the time prescribed for appeals to be lodged by importers; *Provided* that the central administration of such agency may take steps to obtain a review of the matter in another proceeding if there is good cause to believe that the decision is inconsistent with established principles of law or the actual facts.

(c) The provisions of subparagraph (b) of this paragraph shall not require the elimination or substitution of procedures in force in the territory of a contracting party on the date of this Agreement which in fact provide for an objective and impartial review of administrative action even though such procedures are not fully or formally independent of the agencies entrusted with administrative enforcement. Any contracting party employing such procedures shall, upon request, furnish the CONTRACTING PARTIES with full information thereon in order that they may determine whether such procedures conform to the requirements of this subparagraph.

APPENDIX 5. SITUATION ANALYSIS MATRIX

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
GATT Article V	Freedom of Transit - refer Appendix 2	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on the WTO • Harmonization of data • Mutual recognition of customs inspections • Mutual recognition of customs seals and stamps • Regional Transit Development: • Study Tour fielded by PRC Customs to consult with relevant organizations on accession procedures • Kazakhstan/Kyrgyz Republic transit agreement • Kyrgyz Republic/Tajikistan transit agreement • CCC regional TIR Convention accession initiative • CCC regional transit system initiative
RKC Specific Annex E; 5 (Recommended Practice)	The Customs should approve persons as authorized consignors and authorized consignees when they are satisfied that the prescribed conditions laid down by the Customs are met	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto
RKC Specific Annex E; 6 (Standard)	Any commercial or transport document setting out clearly the necessary particulars shall be accepted as the descriptive part of the Goods declaration for Customs transit and this acceptance shall be noted on the document	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Harmonization of data • Regional Transit Development • Kazakhstan/Kyrgyz Republic transit agreement • Kyrgyz Republic/Tajikistan transit agreement • CCC regional TIR Convention accession initiative • CCC regional transit system initiative

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
RKC Specific Annex E; 7 (Recommended Practice)	The Customs should accept as the Goods declaration for Customs transit any commercial or transport document for the consignment concerned which meets all the Customs requirements. This acceptance should be noted on the document	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Harmonization of data • Regional Transit Development • Kazakhstan/Kyrgyz Republic transit agreement • Kyrgyz Republic/Tajikistan transit agreement • CCC regional TIR Convention accession initiative • CCC regional transit system initiative
RKC Specific Annex E; 16 (Standard)	Customs seals and fastenings used in the application of Customs transit shall fulfil the minimum requirements laid down in the Appendix to this Chapter	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Mutual recognition of customs inspections • Mutual recognition of customs seals and stamps • Regional Transit Development: • Kazakhstan/Kyrgyz Republic transit agreement • Kyrgyz Republic/Tajikistan transit agreement • CCC regional TIR Convention accession initiative • CCC regional transit system initiative
RKC Specific Annex E; 17 (Recommended Practice)	Customs seals and identification marks affixed by foreign Customs should be accepted for the purposes of the Customs transit operation unless : <ul style="list-style-type: none"> ~ they are considered not to be sufficient; ~ they are not secure; or ~ the Customs proceed to an examination of the goods. When foreign Customs seals and fastenings have been accepted in a Customs territory, they should be afforded the same legal	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Mutual recognition of customs inspections • Mutual recognition of customs seals and stamps • Regional Transit Development: • Kazakhstan/Kyrgyz Republic transit agreement • Kyrgyz Republic/Tajikistan transit agreement • CCC regional TIR Convention accession initiative • CCC regional transit system initiative

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
	protection in that territory as national seals and fastenings	
RKC Specific Annex E; 18 (Recommended Practice)	Where the Customs offices concerned check the Customs seals and fastenings or examine the goods, they should record the results on the transit document	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Mutual recognition of customs inspections • Mutual recognition of customs seals and stamps • Regional Transit Development: • Kazakhstan/Kyrgyz Republic transit agreement • Kyrgyz Republic/Tajikistan transit agreement • CCC regional TIR Convention accession initiative • CCC regional transit system initiative
RKC Specific Annex E; 3 (Standard)	Goods being carried under Customs transit shall not be subject to the payment of duties and taxes, provided the conditions laid down by the Customs are complied with and that any security required has been furnished	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Regional Transit Development: • Kazakhstan/Kyrgyz Republic transit agreement • Kyrgyz Republic/Tajikistan transit agreement • CCC regional TIR Convention accession initiative • CCC regional transit system initiative
GATT Article VIII	Fees and Formalities connected with Importation and Exportation - refer Appendix 3	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on the WTO • Harmonization of data • Mutual recognition of customs inspections • Mutual recognition of customs seals and stamps <p>Development of Border Posts and Facilities:</p> <ul style="list-style-type: none"> • Kazakhstan/Kyrgyz Republic joint border processing pilots • Mongolia/PRC joint border processing proposal

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
		<ul style="list-style-type: none"> • Bilateral agreements between CAREC members • Kyrgyz Republic/PRC data-sharing agreement • Azerbaijan/PRC cooperative agreement • PRC/Uzbekistan cooperative agreement <p>Regional Transit Development:</p> <ul style="list-style-type: none"> • Kazakhstan/Kyrgyz Republic transit agreement • Kyrgyz Republic/Tajikistan transit agreement • CCC regional TIR Convention accession initiative • CCC regional transit system initiative <p>Data Sharing and ICT for Customs Operations:</p> <ul style="list-style-type: none"> • Data exchange proposals • Common ICT format proposals • UAIS proposals • Regional project to support UAIS implementation in Kyrgyz Republic and Tajikistan • UAIS Master Plans • Regional forums <p>Development of Risk-Management, Post-Entry Audit and Customs Intelligence:</p> <ul style="list-style-type: none"> • Regional seminars/education and awareness initiatives • Country assessments in the Kyrgyz Republic and Uzbekistan • CCC focus on strengthening national intelligence systems • Improving participation in RILO through training and technical support <p>Capacity-Building for Regional Customs Organizations:</p> <ul style="list-style-type: none"> • Training and information sharing • Working relationships between CCC members • Institutional frameworks to coordinate the Action Plan
RKC Standard 3.2	At the request of the person concerned and for reasons deemed valid by the Customs, the latter shall, subject to the availability of resources, perform the	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
	functions laid down for the purposes of a Customs procedure and practice outside the designated hours of business or away from Customs offices. Any expenses chargeable by the Customs shall be limited to the approximate cost of the services rendered	<ul style="list-style-type: none"> • Development of Risk-Management, Post-Entry Audit and Customs Intelligence
RKC Specific Annex A; 19 (Standard)	Any expenses chargeable by the Customs in connection with <i>[certain activities]</i> shall be limited to the approximate cost of the services rendered.	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 3.11	The contents of the Goods declaration shall be prescribed by the Customs. The paper format of the Goods declaration shall conform to the UN-layout key. For automated Customs clearance processes, the format of the electronically lodged Goods declaration shall be based on international standards for electronic information exchange as prescribed in the Council IT recommendations	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Harmonization of data Data Sharing and ICT for Customs Operations: <ul style="list-style-type: none"> • Data exchange proposals • Common ICT format proposals • UAIS proposals • Regional project to support UAIS implementation in Kyrgyz Republic and Tajikistan • UAIS Master Plans
RKC Standard 3.12	The Customs shall limit the data required in the Goods declaration to only such particulars as are deemed necessary for the assessment and collection of duties and taxes, the compilation of statistics and the application of Customs law.	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Harmonization of data Data Sharing and ICT for Customs Operations: <ul style="list-style-type: none"> • Data exchange proposals • Common ICT format proposals • UAIS proposals • Regional project to support UAIS implementation in Kyrgyz Republic and Tajikistan • UAIS Master Plans
RKC Standard 3.15	The Customs shall require the lodgement of the original	Simplification and Harmonization of Customs Procedures:

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
	Goods declaration and only the minimum number of copies necessary.	<ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 3.16	In support of the Goods declaration the Customs shall require only those documents necessary to permit control of the operation and to ensure that all requirements relating to the application of Customs law have been complied with.	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Harmonization of data <p>Development of Risk-Management, Post-Entry Audit and Customs Intelligence</p>
RKC Standard 6.2	Customs control shall be limited to that necessary to ensure compliance with the Customs law.	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Mutual recognition of customs inspections • Mutual recognition of customs seals and stamps • Regional Transit Development: • Kazakhstan/Kyrgyz Republic transit agreement • Kyrgyz Republic/Tajikistan transit agreement • CCC regional TIR Convention accession initiative • CCC regional transit system initiative <p>Development of Risk-Management, Post-Entry Audit and Customs Intelligence:</p> <ul style="list-style-type: none"> • Regional seminars/education and awareness initiatives <p>Capacity-Building for Regional Customs Organizations:</p> <ul style="list-style-type: none"> • Training and information sharing
RKC Standard 6.3	In the application of Customs control, the Customs shall use risk management	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto <p>Development of Risk-Management, Post-Entry Audit and Customs Intelligence:</p> <ul style="list-style-type: none"> • Regional seminars/education and awareness initiatives • Country assessments in the Kyrgyz Republic and Uzbekistan

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
		<ul style="list-style-type: none"> • CCC focus on strengthening national intelligence systems • Improving participation in RILO through training and technical support Capacity-Building for Regional Customs Organizations: <ul style="list-style-type: none"> • Training and information sharing
RKC Standard 3.25	National legislation shall make provision for the lodging and registering or checking of the Goods declaration and supporting documents prior to the arrival of the goods.	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto
RKC Standard 3.40	Goods declared shall be released as soon as the Customs have examined them or decided not to examine them, provided that : <ul style="list-style-type: none"> • no offence has been found; • the import or export licence or any other documents required have been acquired; • all permits relating to the procedure concerned have been acquired; and • any duties and taxes have been paid or that appropriate action has been taken to ensure their collection. 	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Mutual recognition of customs inspections Development of Risk-Management, Post-Entry Audit and Customs Intelligence: <ul style="list-style-type: none"> • Regional seminars/education and awareness initiatives
RKC Standard 3.41	If Customs are satisfied that the declarant will subsequently accomplish all the formalities in respect of clearance they shall release the goods, provided that the declarant produces a commercial or official document giving the main particulars of the consignment concerned and acceptable to the Customs, and that security, where required, has been furnished	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto Development of Risk-Management, Post-Entry Audit and Customs Intelligence: <ul style="list-style-type: none"> • Regional seminars/education and awareness initiatives

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
	to ensure collection of any applicable duties and taxes.	
RKC Standard 3.42	When the Customs decide that they require laboratory analysis of samples, detailed technical documents or expert advice, they shall release the goods before the results of such examination are known, provided any security required has been furnished and they are satisfied that the goods are not subject to prohibitions or restrictions.	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto Development of Risk-Management, Post-Entry Audit and Customs Intelligence: <ul style="list-style-type: none"> • Regional seminars/education and awareness initiatives
RKC Standard 3.43	When an offence has been detected, the Customs shall not wait for the completion of administrative or legal action before they release the goods, provided that the goods are not liable to confiscation or forfeiture or to be needed as evidence at some later stage and that the declarant pays the duties and taxes and furnishes security to ensure collection of any additional duties and taxes and of any penalties which may be imposed.	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto
RKC Standard 6.6	Customs control systems shall include audit-based controls.	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto Development of Risk-Management, Post-Entry Audit and Customs Intelligence: <ul style="list-style-type: none"> • Regional seminars/education and awareness initiatives • Country assessments in the Kyrgyz Republic and Uzbekistan
RKC Standard 6.10	The Customs shall evaluate traders' commercial systems where those systems have an impact on Customs operations to ensure compliance with Customs requirements.	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto Development of Risk-Management, Post-Entry Audit and Customs Intelligence: <ul style="list-style-type: none"> • Regional seminars/education and awareness initiatives • Country assessments in the Kyrgyz Republic and Uzbekistan

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
		Entry Audit and Customs Intelligence: <ul style="list-style-type: none"> • Regional seminars/education and awareness initiatives Capacity-Building for Regional Customs Organizations: <ul style="list-style-type: none"> • Training and information sharing
RKC Standard 3.32	3.32. Transitional Standard For authorized persons who meet criteria specified by the Customs, including having an appropriate record of compliance with Customs requirements and a satisfactory system for managing their commercial records, the Customs shall provide for: <ul style="list-style-type: none"> ~ release of the goods on the provision of the minimum information necessary to identify the goods and permit the subsequent completion of the final Goods declaration; ~ clearance of the goods at the declarant's premises or another place authorized by the Customs; and, in addition, to the extent possible, other special procedures 	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Harmonization of data Data Sharing and ICT for Customs Operations <ul style="list-style-type: none"> • UAIS proposals • Regional project to support UAIS implementation in Kyrgyz Republic and Tajikistan • UAIS Master Plans Development of Risk-Management, Post-Entry Audit and Customs Intelligence: <ul style="list-style-type: none"> • Regional seminars/education and awareness initiatives • CCC focus on strengthening national intelligence systems Capacity-Building for Regional Customs Organizations: <ul style="list-style-type: none"> • Training and information sharing
RKC Standard 7.1	The Customs shall apply information technology to support Customs operations, where it is cost-effective and efficient for the Customs and for the trade. The Customs shall specify the conditions for its application.	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Harmonization of data Data Sharing and ICT for Customs Operations: <ul style="list-style-type: none"> • Kyrgyz Republic/PRC data-sharing agreement • Data exchange proposals • Common ICT format proposals • UAIS proposals • Regional project to support UAIS implementation in Kyrgyz Republic

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
		and Tajikistan <ul style="list-style-type: none"> • UAIS Master Plans • Regional forums
RKC Transitional Standard 3.18	The Customs shall permit the lodgement of supporting documents by electronic means.	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Harmonization of data Data Sharing and ICT for Customs Operations: <ul style="list-style-type: none"> • Common ICT format proposals • UAIS proposals • Regional project to support UAIS implementation in Kyrgyz Republic and Tajikistan • UAIS Master Plans • Regional forums
RKC Transitional Standard 6.9	The Customs shall use information technology and electronic commerce to the greatest possible extent to enhance Customs control.	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Kyrgyz Republic/PRC data-sharing agreement Data Sharing and ICT for Customs Operations: <ul style="list-style-type: none"> • Data exchange proposals • Common ICT format proposals • UAIS proposals • Regional project to support UAIS implementation in Kyrgyz Republic and Tajikistan • UAIS Master Plans Development of Risk-Management and Post-Entry Audit
RKC Transitional Standard 9.3	The Customs shall use information technology to enhance the provision of information.	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Kyrgyz Republic/PRC data-sharing agreement Data Sharing and ICT for Customs Operations: <ul style="list-style-type: none"> • Data exchange proposals • Common ICT format proposals

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
		<ul style="list-style-type: none"> • UAIS proposals • Regional project to support UAIS implementation in Kyrgyz Republic and Tajikistan • UAIS Master Plans <p>Development of Risk-Management Post-Entry Audit and Customs Intelligence:</p> <ul style="list-style-type: none"> • CCC focus on strengthening national intelligence systems • Improving participation in RILO through training and technical support
RKC Transitional Standard 3.35	If the goods must be inspected by other competent authorities and the Customs also schedules an examination, the Customs shall ensure that the inspections are co-ordinated and, if possible, carried out at the same time.	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto <p>Development of Border Posts and Facilities:</p> <ul style="list-style-type: none"> • Kazakhstan/Kyrgyz Republic joint border processing pilots • Mongolia/PRC joint border processing proposal
RKC Standard 6.7	The Customs shall seek to co-operate with other Customs administrations and seek to conclude mutual administrative assistance agreements to enhance Customs control.	<p>Simplification and Harmonization of Customs Procedures</p> <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Harmonization of data • Mutual recognition of customs inspections • Mutual recognition of customs seals and stamps <p>Development of Border Posts and Facilities:</p> <ul style="list-style-type: none"> • Kazakhstan/Kyrgyz Republic joint border processing pilots • Mongolia/PRC joint border processing proposal • Bilateral agreements between CAREC members • Kyrgyz Republic/PRC data-sharing agreement • Azerbaijan/PRC cooperative agreement • PRC/Uzbekistan cooperative agreement <p>Regional Transit Development:</p> <ul style="list-style-type: none"> • Kazakhstan/Kyrgyz Republic transit agreement

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
		<ul style="list-style-type: none"> • Kyrgyz Republic/Tajikistan transit agreement • CCC regional TIR Convention accession initiative <p>Data Sharing and ICT for Customs Operations:</p> <ul style="list-style-type: none"> • Data exchange proposals • Regional forums <p>Development of a Regional Intelligence System:</p> <ul style="list-style-type: none"> • Improving participation in RILO through training and technical support <p>Capacity-Building for Regional Customs Organizations:</p> <ul style="list-style-type: none"> • Training and information sharing • Working relationships between CCC members
RKC Standard 3.39	The Customs shall not impose substantial penalties for errors where they are satisfied that such errors are inadvertent and that there has been no fraudulent intent or gross negligence. Where they consider it necessary to discourage a repetition of such errors, a penalty may be imposed but shall be no greater than is necessary for this purpose.	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto <p>Development of Risk-Management, Post-Entry Audit and Customs Intelligence:</p> <ul style="list-style-type: none"> • Regional seminars/education and awareness initiatives
GATT Article X	Publication and Administration of Trade Regulations - refer Appendix 4	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on the WTO <p>Capacity-Building for Regional Customs Organizations:</p> <ul style="list-style-type: none"> • Training and information sharing • Working relationships between CCC members
RKC Standard 1.1	The Definitions, Standards and Transitional Standards in this Annex shall apply to Customs procedures and practices...	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto
RKC Standard 1.2	The conditions to be fulfilled and Customs formalities to be accomplished for	<p>Simplification and Harmonization of Customs Procedures:</p>

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
	procedures and practices in this Annex and in the Specific Annexes shall be specified in national legislation and shall be as simple as possible.	<ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto
RKC Standard 1.3	The Customs shall institute and maintain formal consultative relationships with the trade to increase co-operation and facilitate participation in establishing the most effective methods of working commensurate with national provisions and international agreements.	No specific initiatives apply
RKC Standard 9.1	The Customs shall ensure that all relevant information of general application pertaining to Customs law is readily available to any interested person.	No specific initiatives apply
RKC Standard 9.2	When information that has been made available must be amended due to changes in Customs law, administrative arrangements or requirements, the Customs shall make the revised information readily available sufficiently in advance of the entry into force of the changes to enable interested persons to take account of them, unless advance notice is precluded.	No specific initiatives apply
RKC Transitional Standard 9.3	The Customs shall use information technology to enhance the provision of information.	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks • Training and discussion forums on Kyoto • Kyrgyz Republic/PRC data-sharing agreement <p>Data Sharing and ICT for Customs Operations:</p> <ul style="list-style-type: none"> • Data exchange proposals • Common ICT format proposals • UAIS proposals • Regional project to support UAIS

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
		<p>implementation in Kyrgyz Republic and Tajikistan</p> <ul style="list-style-type: none"> • UAIS Master Plans <p>Development of Risk-Management, Post-Entry Audit and Customs Intelligence</p> <ul style="list-style-type: none"> • CCC focus on strengthening national intelligence systems • Improving participation in RILO through training and technical support
RKC Standard 9.4	At the request of the interested person, the Customs shall provide, as quickly and as accurately as possible, information relating to the specific matters raised by the interested person and pertaining to Customs law.	No specific initiatives apply
RKC Standard 9.5	The Customs shall supply not only the information specifically requested but also any other pertinent information which they consider the interested person should be made aware of	No specific initiatives apply
RKC Standard 9.6	When the Customs supply information, they shall ensure that they do not divulge details of a private or confidential nature affecting the Customs or third parties unless such disclosure is required or authorized by national legislation	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 9.7	When the Customs cannot supply information free of charge, any charge shall be limited to the approximate cost of the services rendered	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 9.8	At the written request of the person concerned, the Customs shall notify their decision in writing within a period specified in national legislation. Where the decision is adverse to the person concerned, the reasons shall be given and	<p>Simplification and Harmonization of Customs Procedures:</p> <ul style="list-style-type: none"> • Development of legal frameworks

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
	the right of appeal advised	
RKC Standard 9.9	The Customs shall issue binding rulings at the request of the interested person, provided that the Customs have all the information they deem necessary	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 6.8	The Customs shall seek to co-operate with the trade and seek to conclude Memoranda of Understanding to enhance Customs control	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 3.6	National legislation shall specify the conditions under which a person is entitled to act as declarant	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 3.11	The contents of the Goods declaration shall be prescribed by the Customs. The paper format of the Goods declaration shall conform to the UN-layout key. For automated Customs clearance processes, the format of the electronically lodged Goods declaration shall be based on international standards for electronic information exchange as prescribed in the Council IT recommendations	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks • Harmonization of data Data Sharing and ICT for Customs Operations: <ul style="list-style-type: none"> • Data exchange proposals • Common ICT format proposals • UAIS proposals • Regional project to support UAIS implementation in Kyrgyz Republic and Tajikistan • UAIS Master Plans
RKC Standard 8.1	Persons concerned shall have the choice of transacting business with the Customs either directly or by designating a third party to act on their behalf	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 8.2	National legislation shall set out the conditions under which a person may act for and on behalf of another person in dealing with the Customs and shall lay down the liability of third parties to the Customs for duties and taxes and for any irregularities	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
RKC Standard 8.3	The Customs transactions where the person concerned elects to do business on his own account shall not be treated less favorably or be subject to more stringent requirements than those Customs transactions which are handled for the person concerned by a third party	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 8.4	A person designated as a third party shall have the same rights as the person who designated him in those matters related to transacting business with the Customs	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 8.5	The Customs shall provide for third parties to participate in their formal consultations with the trade	No specific initiatives apply
RKC Standard 8.6	The Customs shall specify the circumstances under which they are not prepared to transact business with a third party	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 8.7	The Customs shall give written notification to the third party of a decision not to transact business	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 10.1	National legislation shall provide for a right of appeal in Customs matters	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 10.2	Any person who is directly affected by a decision or omission of the Customs shall have a right of appeal	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 10.3	The person directly affected by a decision or omission of the Customs shall be given, after having made a request to the Customs, the reasons for such decision or omission within a period specified in national legislation. This may or may not result in an appeal	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
RKC Standard 10.4	National legislation shall provide for the right of an initial appeal to the Customs	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 10.5	Where an appeal to the Customs is dismissed, the appellant shall have the right of a further appeal to an authority independent of the Customs administration	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 10.6	In the final instance, the appellant shall have the right of appeal to a judicial authority	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 10.7	An appeal shall be lodged in writing and shall state the grounds on which it is being made	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 10.8	A time limit shall be fixed for the lodgement of an appeal against a decision of the Customs and it shall be such as to allow the appellant sufficient time to study the contested decision and to prepare an appeal	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 10.9	Where an appeal is to the Customs they shall not, as a matter of course, require that any supporting evidence be lodged together with the appeal but shall, in appropriate circumstances, allow a reasonable time for the lodgement of such evidence	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 10.10	The Customs shall give its ruling upon an appeal and written notice thereof to the appellant as soon as possible	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks

Benchmark	Benchmark Provisions	Relevant CAREC Priority Areas and Initiatives
RKC Standard 10.11	Where an appeal to the Customs is dismissed, the Customs shall set out the reasons therefor in writing and shall advise the appellant of his right to lodge any further appeal with an administrative or independent authority and of any time limit for the lodgement of such appeal	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks
RKC Standard 10.12	Where an appeal is allowed, the Customs shall put their decision or the ruling of the independent or judicial authority into effect as soon as possible, except in cases where the Customs appeal against the ruling	Simplification and Harmonization of Customs Procedures: <ul style="list-style-type: none"> • Development of legal frameworks

APPENDIX 6. GAP ANALYSIS MATRIX

Benchmark	Relevant CAREC Priority Areas (specific initiatives not shown)	Comment
GATT Article V	Simplification and Harmonization of Customs Procedures Development of Simplified Transit Systems	<ul style="list-style-type: none"> • Adequate coverage • Individual country initiatives being undertaken but this needs to be broadened to achieve a regional approach and lay the groundwork for a potential regional trading arrangement. • Consultation with the private sector should be initiated
GATT Article VIII	Simplification and Harmonization of Customs Procedures Development of Border Posts and Facilities Development of Simplified Transit Systems Data Sharing and ICT for Customs Operations Development of Risk-Management and Post-Entry Audit Capacity-Building for Regional Customs Organizations	<ul style="list-style-type: none"> • Adequate coverage but a broader approach is required • Results of bilateral pilot-testing of joint border control should be examined with a view to potentially regionalizing the outcome • Regional forums on transit should continue as an information exchange mechanism. • Bilateral transit agreements should continue to be pursued but carefully analysed to determine common characteristics that could lead to a regional transit agreement based on the TIR Convention • Individual country modernization assessments and master plans for customs automation need to be benchmarked against WCO ICT Guidelines and Common Data Model to measure consistency. It is also important to assess regional compatibility for potential “hubbing” • Risk management principles must be

Benchmark	Relevant CAREC Priority Areas (specific initiatives not shown)	Comment
		integrated into new customs procedures and customs automation by way of "profiles".
GATT Article X ²³	Simplification and Harmonization of Customs Procedures Capacity-Building for Regional Customs Organizations	<ul style="list-style-type: none"> • Adequate coverage but a broader approach is required • Bilateral agreements on mutual administrative assistance and customs cooperation to be broadened into regional arrangements • Use of the WCO Diagnostic Framework to facilitate reforms in line with benchmark
RKC Standard 1.1	Simplification and Harmonization of Customs Procedures	Adequate coverage but a broader approach is required
RKC Standard 1.2	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 1.3	No specific initiatives apply	Inadequate coverage
RKC Standard 3.2	Simplification and Harmonization of Customs Procedures Development of Risk-Management and Post-Entry Audit	Adequate coverage
RKC Standard 3.6	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 3.11	Simplification and Harmonization of Customs Procedures Data Sharing and ICT for Customs Operations	Adequate coverage
RKC Standard 3.12	Simplification and Harmonization of Customs Procedures Data Sharing and ICT for Customs Operations	Adequate coverage
RKC Standard 3.15	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 3.16	Simplification and Harmonization of Customs Procedures Development of Risk-Management and Post-Entry Audit	Adequate coverage
RKC Trans.	Simplification and Harmonization	Adequate coverage

²³ The standards relevant to Article X are the same or similar to those applying to Article VIII, therefore the comments have not been repeated. Readers should refer to the initial comments under Article VIII.

Benchmark	Relevant CAREC Priority Areas (specific initiatives not shown)	Comment
Standard 3.18	of Customs Procedures Data Sharing and ICT for Customs Operations	
RKC Standard 3.25	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 3.32	Simplification and Harmonization of Customs Procedures Data Sharing and ICT for Customs Operations Development of Risk-Management and Post-Entry Audit Capacity-Building for Regional Customs Organizations	Adequate coverage but a broader approach required
RKC Trans. Standard 3.35	Simplification and Harmonization of Customs Procedures Development of Border Posts and Facilities	Adequate coverage but a broader approach required
RKC Standard 3.39	Simplification and Harmonization of Customs Procedures Development of Risk-Management and Post-Entry Audit	Adequate coverage
RKC Standard 3.40	Simplification and Harmonization of Customs Procedures Development of Risk-Management and Post-Entry Audit	Adequate coverage
RKC Standard 3.41	Simplification and Harmonization of Customs Procedures Development of Risk-Management and Post-Entry Audit	Adequate coverage
RKC Standard 3.42	Simplification and Harmonization of Customs Procedures Development of Risk-Management and Post-Entry Audit	Adequate coverage
RKC Standard 3.43	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 6.2	Simplification and Harmonization of Customs Procedures Development of Simplified Transit Systems Development of Risk-Management and Post-Entry Audit Capacity-Building for Regional Customs Organizations	Adequate coverage

Benchmark	Relevant CAREC Priority Areas (specific initiatives not shown)	Comment
RKC Standard 6.3	Simplification and Harmonization of Customs Procedures Development of Risk-Management and Post-Entry Audit Development of a Regional Intelligence System Capacity-Building for Regional Customs Organizations	Adequate coverage
RKC Standard 6.6	Simplification and Harmonization of Customs Procedures Development of Risk-Management and Post-Entry Audit	Adequate coverage
RKC Standard 6.7	Simplification and Harmonization of Customs Procedures Development of Border Posts and Facilities Development of Simplified Transit Systems Data Sharing and ICT for Customs Operations Development of a Regional Intelligence System Capacity-Building for Regional Customs Organizations	Adequate coverage
RKC Standard 6.8	Simplification and Harmonization of Customs Procedures	Limited coverage in the Customs context; a broader Government approach is also required
RKC Trans. Standard 6.9	Simplification and Harmonization of Customs Procedures Data Sharing and ICT for Customs Operations Simplification and Harmonization of Customs Procedures Development of Risk-Management and Post-Entry Audit	Adequate coverage
RKC Standard 6.10	Simplification and Harmonization of Customs Procedures Development of Risk-Management and Post-Entry Audit Capacity-Building for Regional Customs Organizations	Adequate coverage

Benchmark	Relevant CAREC Priority Areas (specific initiatives not shown)	Comment
RKC Standard 7.1	Simplification and Harmonization of Customs Procedures Data Sharing and ICT for Customs Operations	Adequate coverage
RKC Standard 8.1	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 8.2	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 8.3	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 8.4	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 8.5	No specific initiatives apply	Limited coverage in customs context; broader Government approach is also required
RKC Standard 8.6	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 8.7	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 9.1	No specific initiatives apply	Inadequate coverage
RKC Standard 9.2	No specific initiatives apply	Inadequate coverage
RKC Trans. Standard 9.3	Simplification and Harmonization of Customs Procedures Data Sharing and ICT for Customs Operations Development of Risk-Management and Post-Entry Audit Development of a Regional Intelligence System	Adequate coverage in Customs context; broader government approach required
RKC Standard 9.4	No specific initiatives apply	Inadequate coverage
RKC Standard 9.5	No specific initiatives apply	Inadequate coverage
RKC Standard 9.6	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 9.7	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 9.8	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 9.9	Simplification and Harmonization of Customs Procedures	Adequate coverage

Benchmark	Relevant CAREC Priority Areas (specific initiatives not shown)	Comment
RKC Standard 10.1	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 10.2	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 10.3	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 10.4	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 10.5	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 10.6	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 10.7	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 10.8	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 10.9	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 10.10	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 10.11	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Standard 10.12	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Specific Annex A; 19	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Specific Annex E; 3	Simplification and Harmonization of Customs Procedures Development of Simplified Transit Systems	Adequate coverage
RKC Specific Annex E; 5	Simplification and Harmonization of Customs Procedures	Adequate coverage
RKC Specific Annex E; 6	Simplification and Harmonization of Customs Procedures Development of Simplified Transit Systems	Adequate coverage

Benchmark	Relevant CAREC Priority Areas (specific initiatives not shown)	Comment
RKC Specific Annex E; 7	Simplification and Harmonization of Customs Procedures Development of Simplified Transit Systems	Adequate coverage
RKC Specific Annex E; 16	Simplification and Harmonization of Customs Procedures Development of Simplified Transit Systems	Adequate coverage
RKC Specific Annex E; 17	Simplification and Harmonization of Customs Procedures Development of Simplified Transit Systems	Adequate coverage
RKC Specific Annex E; 18	Simplification and Harmonization of Customs Procedures Development of Simplified Transit Systems	Adequate coverage