

UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE

Regulatory and Procedural Barriers to Trade in Tajikistan

Needs Assessment



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Regulatory and Procedural Barriers to Trade in the Republic of Tajikistan: Needs Assessment



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Foreword

The continuous reductions in tariff and non-tariff barriers to trade and the rise of global supply chains have further increased the importance of trade as an engine of growth, creating new opportunities for investments, job creation and human development. However, for several countries, capitalising on these opportunities is undermined by the lack of adequate regulatory frameworks and remoteness from international maritime routes, which combine to inflate transaction costs and, thereof, erode export competitiveness and dampen entrepreneurship.

This is the case of Tajikistan, which approached the United Nations Economic Commission for Europe (UNECE) following its accession to the World Trade Organization (WTO), with a request to carry out an assessment of the country's regulatory and procedural trade measures. The Government felt that more needed to be done to further simplify, streamline and standardize these measures, so as to ensure the successful implementation of its post-accession plan and achieve full compliance with the requirements of the multilateral trading system.

This study provides the results of the assessment, which was carried out in 2013 using the UNECE evaluation methodology.

The study features a detailed analysis of behind and at-the-borders regulatory and procedural barriers to trade, highlighting their causes, how they interact to undermine the country's export competitiveness and the extent to which these barriers could be addressed through regional cooperation. It also provides practical, action-oriented recommendations, which build on international best practices and UNECE recommendations, norms, standards and guidelines in the areas of trade facilitation and regulatory cooperation. The recommendations draw on extensive discussions with key public and private sector stakeholders to ensure national ownership, relevance and responsiveness to the country's immediate and long-term trade needs and development goals.

I hope that this study will provide an impetus for Tajikistan's future reform and development efforts, and contribute to consolidating a predictable and transparent trading environment that is conducive to achieving more inclusive and diversified economic growth in the region.



Christian Friis Bach
Executive Secretary

United Nations Economic Commission for Europe

Preface

The Executive Committee (EXCOM) of the UNECE recommended at its thirty-fourth session in February 2010 that the Committee on Trade carry out three trade needs assessment studies in selected UNECE member countries and/or sub-regional groupings with economies in transition.

These studies focus on procedural and regulatory barriers to trade in goods, with a view to: assisting countries in their efforts to achieve greater regional and global economic integration; informing donors as to where assistance might be required; and, strengthening policy discussions within the Committee on Trade and its subsidiary bodies on where additional work is required.

This study summarizes the key findings of the third UNECE trade needs assessment, which focuses on the Republic of Tajikistan. It provides a general systemic analysis of regulatory and administrative barriers to trade in the country as well as an in-depth analysis of trade in cotton fibre; the second largest contributor to Tajikistan's exports after aluminium.

A review of trade facilitation and quality assurance development efforts as well as the results of face-to-face interviews with supply chain actors formed the basis of the study. The interviews were conducted in 2013 and targeted: traders operating in strategic export industries identified in consultation with the Government; representatives of trade support institutions; providers of transport and logistics services; and, officials from relevant State agencies.

This study was prepared by the UNECE Trade Policy and Government Cooperation Section in close consultation with public and private sector stakeholders, who were brought together within the context of a National Working Group to act as the UNECE counterpart throughout the assessment. The study takes into account the results of the secretariat's consultative meeting with the Tajik National Advisory Working Group, which was held in Geneva, Switzerland on 7 February 2014 to discuss the key findings and recommendations emerging from the assessment. It also takes into account the Advisory Working Group's written comments, which were submitted to the UNECE in March 2014.

Acknowledgments

This study was prepared by Ms Hana Daoudi under the guidance of Mr Mika Vepsäläinen. The UNECE Secretariat would like to acknowledge the contribution of M-Vector, the national polling institution that carried out the face-to-face interviews with traders, and the following consultants: Mr Parviz Kamoletdinov who conducted face-to-face interviews with State agencies responsible for Standardization, Quality Assurance, Accreditation and Metrology, and Ms Nozigul Khushvakhtova who carried out the Business Process Analysis. The two consultants also summarised the results of the interviews in background reports, which were used for preparing this study.

The Secretariat would also like to acknowledge the contribution of all national stakeholders, who proposed concrete policy recommendations during bilateral consultations in October 2013 and during the consultative meeting in February 2014.

The UNECE would like to thank the international polling institution, SATISCAN Sàrl, that designed an electronic database for compiling the results of the face-to-face interviews with traders, and for conducting the data validation and reconciliation of the results generated from the interviews. Special thanks also go to the Organization for Security and Co-operation in Europe Office in Tajikistan for contributing to the analysis.

The ECE would like to extend its gratitude for Mr Nazriev Saidrahmon, Deputy Minister of Economic Development and Trade of the Republic of Tajikistan, who provided valuable contribution throughout the preparation of this study and ensured broad participation of stakeholders from line Ministries, State agencies and private sector support institutions.

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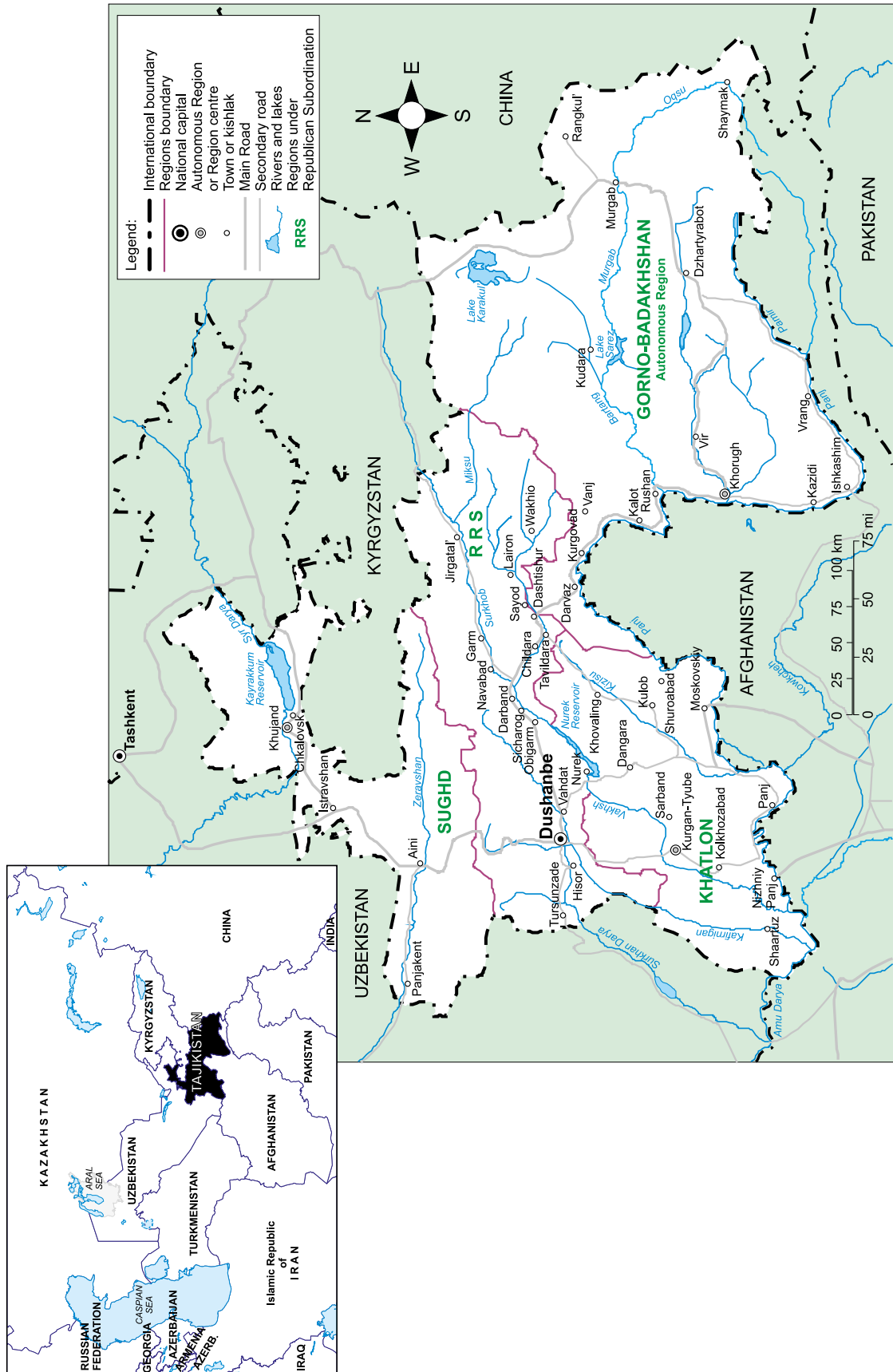
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Abbreviations

ADB	Asian Development Bank
AEO	Authorized Economic Operator
BPA	Business Process Analysis
CAREC	Central Asia Regional Economic Cooperation
CIS	Commonwealth of Independent States
COOMET	Cooperation of National Metrological Institutions
CRO	Common Regulatory Objectives
EXCOM	Executive Committee of the UNECE
GDP	Gross domestic product
GOST	CIS interstate regional standards
HACCP	Hazard Analysis and Critical Point
IAF	International Accreditation Forum
IAS	Inter-regional Association of Standardization
ICT	Information and communication technology
IEC	International Electrotechnical Commission
ILAC	International Laboratory Accreditation Cooperation
IMF	International Monetary Fund
ISO	International Organization for Standardization
OECD	Organisation for Economic Co-operation and Development
OIML	International Organization of Legal Metrology
RIA	Regulatory impact assessment
SAD	Single Administrative Document
SCO	Shanghai Cooperation Organization
SITC	Standard International Trade Classification
SMEs	Small- and medium-sized enterprises
UN/SPECA	United Nations Special Program for the Economies of Central Asia
SPS	Sanitary and Phytosanitary
SQAM	Standardization, quality assurance, accreditation and metrology
SUE SW	State Unitary Enterprise "Single Window Centre"
SW	Single Window
TBT	Agreement on Technical Barriers to Trade
TIR	Transports Internationaux Routiers
TRACECA	Transport Corridor Europe Caucasus Asia
UAIS	Unified Automated Information System
UML	Unified Modelling Language
UN/CEFACT	United Nations Centre for Trade Facilitation and Electronic Business
UNECE	United Nations Economic Commission for Europe
USD	United States dollar
VAT	Value Added Tax
WCO	World Customs Organisation
WTO	World Trade Organization

Map 1. Map of Tajikistan



List of recommendations

I. Trade Facilitation

1. Outstanding needs and recommendations for improving at the border control

Outstanding needs	Recommendations
Establishing a common risk management policy	<ul style="list-style-type: none"> ● Establish a common risk management policy to serve as a reference framework for guiding the implementation of integrated border management. The government could use the WCO Standards to Secure and Facilitate Global Trade (SAFE Framework), which, given its emphasis on trade security, provides important elements for developing such a policy. ● Establish an inter-agency risk management committee to implement the policy.
Reconsidering the existing functions and responsibilities of border control agencies	<ul style="list-style-type: none"> ● Upon establishing the common risk management policy, identify areas that could be benefit from improved coordination and/or integration to ensure successful implementation of integrated border management, based on an in-depth analysis of procedures, processes and requirements at the agency level as well as across agencies. Such an analysis could be conducted using the Business Process Analysis (BPA) developed by the UNECE. ● Based on the results of the analysis, establish a clear definition of the functions and responsibilities of each agency. For example, the government may consider reducing the number of agencies involved in border control, by delegating some types of inspections to the Customs. ● Provide advanced training to staff in border control agencies on ● risk management methods and their implementation.
Facilitating the exchange of information between and across agencies	<ul style="list-style-type: none"> ● Reduce, streamline and simplify the documentary requirements and administrative procedures of each agency (see section 2.3.B and C). ● Once the documentary requirements and administrative procedures are streamlined and standardized, create integrated and shared IT systems (see section 2.3.B and C).
Enshrining the concept of integrated border management in existing legislation	<ul style="list-style-type: none"> ● Consider revising the “Law on State Border” of 1997, which provides the legal foundations for protecting state borders and the mandate of border control agencies. The Law features an emphasis on security concerns.¹ For example amendments could be introduced to establish an emphasis on ensuring safe trade, drawing on the SAFE Framework.
Strengthening border control points with the required resources	<ul style="list-style-type: none"> ● Introduce modern equipment at all border crossing points to reduce the time needed to check cargo. ● Provide advanced training for all staff on modern control techniques and approaches to risk management. ● Consider introducing incentives and performance measures to maximize the impact of training, and ensure that lower ranking and operations staff are the main beneficiaries of training ● Equip all border control points with modern information systems, and train the staff on the use of these systems (see section 2.3).

¹ Article 11 of this law, stipulates the examination of documents for right of entry as well as vehicles and consignments. The law also provides guidelines for border control, which form the basis of detailed procedures that are established by the Ministry of Justice and the Customs Service, and endorsed by the remaining border control agencies to ensure public health and safety and protect the safety of animals, plants and the environment.

2. Outstanding needs and recommendations for improving the legal framework's transparency²

Outstanding needs	Recommendations
Raising awareness among traders on reform measures in the area of trade facilitation	<ul style="list-style-type: none"> Organize mobilization seminars to familiarize traders with trade-related laws, regulations and administrative procedures and their implication for the management of day import-export processes. These seminars should also feature a special focus on soliciting feedback from traders concerning the main enterprise level bottlenecks, which undermine their ability to adhere to the new reform measures.
Reconsidering the existing fee scales for trade documents	<ul style="list-style-type: none"> The fees should be based on the general cost structure and common margins charged to similar services in the country. The price lists must be made available to the public (including online as explained below) for free to ensure transparency and predictability.
Providing traders with reliable, up-to-date information on trade-related regulatory and administrative procedures and their implication for export-import processes	<ul style="list-style-type: none"> Develop the institutional website of all State agencies, so that they could provide up to date information on applicable regulations, procedures and price lists pertinent to their respective areas.³ Develop guidelines and brochures to help traders adhere to related laws, regulations and administrative procedures. Such publications should take into account the specific bottlenecks facing traders in Tajikistan (drawing on, for example, the results of the above-mentioned mobilisation seminar) and provide detailed information on: (i) the steps that traders should undertake to ensure adherence to trade-related regulations and administrative measures; (ii) the State agencies responsible for implementation of these regulations and procedures; and (iii) the support services provided by market support institutions. Consider establishing information centres, in the form of help desks, in key trade support institutions (e.g., including the Chamber of Commerce and Industry and the National Association Small and Medium Business, as well as the association of Customs brokers). Such centres should be equipped with appropriate IT systems to disseminate information on new rules and procedures online and by email. They should be also enabled to carry out regular assessments of traders' needs.
Fostering a broad participatory approach to decisions on trade facilitation	<ul style="list-style-type: none"> Establish a coordinating committee, or a trade facilitation forum, to conduct regular consultations with the private sector representatives concerning the Eurasian CU procedures and documentary requirements. UNECE Recommendations on national trade-facilitation bodies provide guidance and examples of best practices for developing or consolidating such a broad mechanism.⁴

² The term transparency is to be understood as defined under the Millennium Development Goal (MDG) 8 A, which stipulated the development of "an open, rule-based, predictable, non-discriminatory trading and financial system".

³ The Following agencies publish up-to-date information on applicable regulations and procedures on their websites: State Phytosanitary and Plant Quarantine Inspection Service (www.fitosanitariya.tj; www.abt.tj), State Veterinary Service (www.chadamot.tj; www.igozat.tj) and the Customs Service (customs.tj, mmk.tj).

⁴ See Recommendation No.4: "National Trade Facilitation Bodies" (TRADE/CEFACT/1999/11), and its supporting document: "Creating an efficient environment for trade and transport" (TRADE/CEFACT/2000/8).

3. Outstanding needs and recommendations for improving customs clearance

Outstanding needs	Recommendations
Establishing clear distinction between primary laws and secondary regulations for guiding implementation	<ul style="list-style-type: none"> Develop customs operation manuals for staff in the Customs Service and other relevant State agencies to guide the implementation of the new Customs Code and the day-to-day customs clearance operations.
Raising awareness among traders, trade support institutions, as well staff in the public sector about international agreements and best practices in the area of trade facilitation	<ul style="list-style-type: none"> Hold information seminars to familiarise traders, representatives of trade support institutions and staff from line ministries, State agencies on the GATT agreement, SPS, the recent Agreement on Trade Facilitation and other international agreements, with a focus on Tajikistan's rights and obligations under these agreements and their implications for export competitiveness.⁵ Such information seminars can be conducted using the UNECE Trade Facilitation Implementation Guide, which provides background information and explanatory notes on a range of internationally recognized concepts, standards and recommendations for simplifying cross-border trade and for ensuring the successful implementation of the World Trade Organisation (WTO)-administered agreements, including the Agreement on Trade Facilitation.⁶
Creating teams of experts within line Ministries and State agencies capable of implementing reform measures, which seek to ensure adherence to international agreements and best practices in the area of trade facilitation	<ul style="list-style-type: none"> Develop thematic training modules, which take into account the specificities of Tajikistan and are geared to assist: (i) line Ministries and State agencies in implementing international agreements best practices in the area of trade facilitation, (ii) traders in ensuring adherence to these agreements and best practices. Establish a training facility within the Government (e.g., Ministries of Foreign Affairs and/or Ministry of Economic Development and Trade), which uses the above-mentioned training modules to train staff in line Ministries and State agencies as well as traders on the implementation of international agreements and best practices in the area of trade facilitation. In the long-run, consider integrating the training modules into the postgraduate curriculum.
Streamlining and reducing documentary requirements and administrative procedures	<ul style="list-style-type: none"> Remove documents which serve little real purpose and could be eliminated to help streamline the clearance process, as explained in chapter two. Conduct detailed business process analysis within and across the State agencies involved in supporting export and import activities. The analysis should focus on: (i) document flow; (ii) data flow and data harmonisation issues; (iii) and, the regulatory requirements of each SW agency; and (iv) the administrative procedures for issuing trade documents. The UNECE's BPA methodology provides a useful tool for undertaking such analysis. Align all remaining trade documents, including support documents, into a single electronic form. This exercise should be undertaken in each agency, and followed by a similar exercise to assess the possibility of further harmonization among the different documents. Once the documentary requirements are reduced and harmonized, review all administrative procedures and remove all those that prove to be repetitive or unnecessary.

⁵ Following Tajikistan's accession to the WTO, the Ministry of Agriculture conducted a series of awareness seminars during the summer of 2013 on the multilateral trading system with the assistance of the International Trade Centre. The seminars, which saw the participation of representatives from agencies responsible for issuing permits, local government and private sector associations, were geared towards familiarizing traders and market support institutions about GATT Agreement, SPS and TBT and other agreements and their implications for managing import/export activities. Traders also received training on the development of export strategies for improving their competitiveness in international markets.

⁶ The Guide is available in English, Russian, French and Spanish (<http://tfig.unece.org>) and will soon be available in Arabic (thanks to the ITFC and IsDB).

Outstanding needs	Recommendations
Introducing measures to expedite customs clearance	<ul style="list-style-type: none"> ● Consider introducing pre-arrival documentary examination procedure. Under this procedure, the trader could submit a prior import declaration two weeks before the arrival of shipment so that customs could conduct documentary control. Traders provide certified copies of commercial and transport documents accompanying the imported goods a few hours before the shipment arrives at the border crossing point. This procedure has been implemented in several countries (e.g., Belarus) with much success. ● Consider introducing incentives to traders, such as Authorised Economic Operator (AEO) programme. Under this programme, traders who fulfil certain criteria could be accorded a number of benefits, including: exemption from import duties under transit procedure; exemption from physical inspection; and, priority treatment in customs clearance procedures. The SAFE framework provides valuable guidelines for introducing this measure. ● Consider implementing a system for self-assessment and self-declaration, which are commonly conducted as part of trade regulation in most developed countries, to speed up the processing of customs declarations. Introducing these measures requires training the traders on how to use the system. In this respect, the UNESCAP Trade Facilitation Framework provides useful guidelines.⁷
Introducing post-clearance system	<ul style="list-style-type: none"> ● Post-clearance is based on intelligence about an economic operator and therefore concentrates on high risk cargoes. Controls are more systematic and comprehensive, as they involve not only analysis of trade documents, but also accounting books and other records of the economic operator, as opposed to the traditional controls, which are performed randomly. It is recommended that the Tajikistan Customs Services should introduce a post-clearance audit system, as it would allow customs authorities to shift from a purely transaction-based control to a thorough company-oriented control.
Expanding the pool of qualified customs brokers	<ul style="list-style-type: none"> ● Establish a training facility within the Customs Brokers Association and equip it with the required training material as well as expert knowledge through, for example, train-the-trainer course.
Ensuring the implementation of new reform measures	<ul style="list-style-type: none"> ● Conduct an assessment of weaknesses in the existing mechanisms underpinning the implementation of Customs Code provisions on Customs Valuation, and introduce reform measures to address the identified weaknesses. ● Conduct an assessment of weaknesses in the existing mechanisms underpinning the implementation of the VAT refund procedure, and introduce reform measures to address the identified weaknesses. ● Conduct an assessment of weaknesses in the existing mechanisms underpinning the implementation of Law on Licensing Procedure, and introduce reform measures to address the identified weaknesses. ● Conduct an assessment of weaknesses in the existing mechanisms underpinning the implementation of the Law on Foreign Trade Activities, and introduce reform measures to address the identified weaknesses. ● Introduce results-based management systems at the agency level, and results-based evaluation for measuring the performance of staff. ● Consider increasing the salaries of staff at the lower-level staff.
Promoting the development of new payment schemes to facilitate payment of customs duty and taxes	<ul style="list-style-type: none"> ● An example of such schemes is the deferred payment system (or bank direct debit scheme), which is recognized as a valid payment option under the Customs Code.⁸

⁷ The framework is available at: <http://www.unescap.org/publications/detail.asp?id=934>

⁸ This scheme is not available for traders, since the banking sector suffers from insufficient capital and capacity shortfalls. See for example, International Monetary Fund, "Overview of Tajikistan's Financial Sector", 14 February 2013, available at: <http://www.imf.org/external/country/tjk/rr/index.htm> A more detailed account is provided in the IMF Country paper, "Republic of Tajikistan: Financial System Stability Assessment, including Reports on Observance of Standards and Codes on the following topics, Banking Supervision, and Monetary and Financial Policy Transparency", December 2008, available at: <http://www.imf.org/external/pubs/cat/longres.aspx?sk=22534.0>

4. Outstanding needs and recommendations for promoting the use of electronic documents and the SW facility

Outstanding needs	Recommendations
Implementing the law on digital signatures	<ul style="list-style-type: none"> ● Create a system that addresses international best practices with regards to, among others, basic security features and responsibilities and legal obligations of service providers.
Familiarizing the traders with the use of electronic documents	<ul style="list-style-type: none"> ● Provide specific training for traders on the use of electronic documents, and solicit their input in designing electronic documents.
Developing the information systems of all SW State agencies	<ul style="list-style-type: none"> ● Install paperless electronic documentation systems in each agency. ● Provide advanced training for staff on electronic business standards (such as the UNCEFACT eBusiness standards).
Sequencing the implementation of the Single Window	<ul style="list-style-type: none"> ● Focus in the first stage on one type of documents, and expand gradually building on accumulated experience. ● Coordination of SW implementation with other Central Asian countries. This will facilitate data exchange for regional trade/transit in Central Asia in the future.

5. Outstanding needs and recommendations for improving regional cooperation

Outstanding needs	Recommendations
Ensuring the implementation of the TIR Convention	<ul style="list-style-type: none"> ● The Government of Tajikistan should use all means available to all contracting parties to the TIR Convention (e.g., TIR Executive Board and the Administrative Committee for the TIR Convention), in order to address current issues with neighbouring countries. ● If Tajikistan were to join the Customs Union of Belarus, Kazakhstan and the Russian Federation, the Government may need to review the situation regarding the TIR Convention based on the status of the Customs Union at the time of Tajikistan's accession.
Ensuring that trade agreements with regional partners are in line with internationally recognized rules and regulations	<ul style="list-style-type: none"> ● Conduct an assessment to detect areas of inconsistency with : (i) the WCO Revised Kyoto Convention (RKC), which provides a framework for Border Agency Cooperation in quality control and urge Customs administrations to correlate business hours and competences, operate joint controls, and use or establish juxtaposed Customs offices; (ii) the SAFE Framework, which refers to integrated border management through cooperative arrangements across borders with agencies of neighbouring countries; (iii) the WTO Agreement on Trade Facilitation.
Increasing awareness among the logistics service providers and transport operators and traders about these conventions and their benefits	<ul style="list-style-type: none"> ● Organize information mobilization seminars to raise the awareness of traders on the benefits of these conventions. ● Organize advanced training to logistics service providers on the implications of these conventions for their services.
Harmonizing national transport policies with those in China	<ul style="list-style-type: none"> ● Enter into negotiations with China to harmonize legislation on overland transport and transit trade, so that traders would not have to unload and re-load the goods at the Kyrgyz border.

6. Outstanding needs and recommendations for improving inland transport

Outstanding needs	
Reconsidering the relation between the Government and railway management	<ul style="list-style-type: none"> Consider relegating railway management to an independent entity (e.g., parastatal agency), in order to bring the sector in line with international best practices.
Developing the required human resource skills in the Ministry of Transport	<ul style="list-style-type: none"> Provide advanced training to staff in the area of transport management and regulations. Organize information mobilization seminars to raise the awareness of traders on the benefits of these conventions.

7. Outstanding needs and recommendations for improving logistical services

Outstanding needs	
Developing the country's warehouse facilities and regional terminals	<ul style="list-style-type: none"> Equip existing warehouses and regional terminals with modern facilities, and developing new ones.
Developing the country's truck fleets	<ul style="list-style-type: none"> Explore different modes of partnerships, including joint ventures, for developing the trucking industry.
Expanding the range of services provided by logistics service providers	<ul style="list-style-type: none"> Establish advanced training programmes in logistics, especially in integrated logistics and multi-modal transport, supply chain management, innovative technological applications.
Establishing a legal foundation for supporting multi-modal transport services	<ul style="list-style-type: none"> Develop the legal framework for allowing multi-modal transport to be carried out under one contract. Establish the required insurance and credit schemes for supporting multi-modal transport. Provide advanced training to local freight forwarders, with a special focus on multi-modal transport and International Federation of Freight Forwarders Associations (FIATA) related areas.

II. Regulatory and standardization policies

1. Outstanding needs, and recommendations for the general improvement of the SQAM system

Outstanding needs	Recommendations
<p>Preparing a detailed blueprint for guiding the implementation of the institutional reforms envisaged in phase 2 of the Strategy on National Quality Infrastructure Development</p>	<ul style="list-style-type: none"> ● Prepare terms of reference for each of the separate agencies envisaged in the Strategy. The terms of reference need to be in tune with the SQAM legislation, and ensure simultaneous treatment of the organizational and institutional requirements of each agency, support inherent inter-organizational interdependencies, contain a detailed account of the responsibilities and tasks of each agencies and guidelines for implementation. In this respect, the Government may wish to consider the specific recommendations in the areas of technical regulations and conformity assessment provided in sections 3.3 and 3.5. ● Establish the required institutional mechanism for supporting private-sector involvement in SQAM-related decision-making. The Government may also consider including SQAM agencies in the Trade Facilitation Forum, discussed in the previous chapter.
<p>Raising awareness among the public and State agencies on the WTO-administered agreements with direct bearing on SQAM legislation and procedures, as well as on the national SQAM-related reforms</p>	<ul style="list-style-type: none"> ● Hold information seminars to raise awareness among Tajikstandart staff, other State agencies and the business community on the TBT and SPS agreements, with a focus on Tajikistan's rights and obligations under these agreements and their implications for export competitiveness. ● Provide specific training for Tajikstandart staff, government departments, industry and other parties concerned with the importance of technical regulations, standards, conformity assessment and metrology in global trade. ● Organize mobilization seminars to familiarize the Tajikstandart staff, government departments, industry and other concerned parties with the SQAM-related reform and its implications for trade legislation and administrative procedures. ● Prepare training modules on the TBT and SPS agreements and on best practices in standardization, technical regulations, conformity assessment and metrology for future use. It would be useful to integrate these training modules into the postgraduate curriculum of some business schools or universities.
<p>Undertaking the necessary preparations for entering into agreements with non-CIS countries</p>	<ul style="list-style-type: none"> ● Prepare reference guidelines for forging partnerships with relevant national, regional and international SQAM institutions. ● Analyse the legislative and institutional requirements for entering into SQAM-related cooperation agreements with non-CIS countries. As a starting point, the Government might wish to focus on major trading partners such as China.

2. Outstanding needs and recommendations for technical regulation

Outstanding needs	Recommendations
Creating the authorized body for technical regulation	<ul style="list-style-type: none"> ● Design the organizational structures, processes and internal rules for enabling the authorized body to deliver on its mandate. Concrete steps could include: <ul style="list-style-type: none"> – Defining the responsibilities for regulatory action, and the inputs that are required from key stakeholders – Creating sectoral working groups for technical regulation development, as needed – Providing advanced training to members of the working groups on risk management as applied to regulatory work – Developing a reference model to serve as a basis for regulatory activities (e.g., developing regulations, design pre-market controls, devise market surveillance and other post-market controls and involving the business community). ● Establish the required information systems tailored to the authority's recommended organizational structure. ● Create an institutional website that reflects the authority's activities and complementarities with other State agencies.
Strengthening the national TBT enquiry point with additional institutional structures and expertise skills to carry out its mandate	<ul style="list-style-type: none"> ● Establish with clear terms of reference and dedicated staff (including professional translators from Tajik into English). ● Provide the staff with advanced training on: the TBT Agreement and associated notification requirements, referencing standards in regulations and best practice in risk management in regulatory systems. ● Equip the centre with the required information-management system for creating and maintaining a depository of notifications, publications and all other transparency-related provisions stipulated in the TBT Agreement.
Strengthening national capacities in the area of technical regulation development	<ul style="list-style-type: none"> ● Consolidate the Act "On Technical Regulating" with additional provisions for guiding the establishment of sectoral technical committees for standardization and technical regulations. ● Consider international best practices in referencing standards in regulations, using the UNECE Recommendation D on Reference to Standards ● Create sectoral technical committees for developing technical regulations and standards, and equip them with the required internal rules, coordinating mechanisms and expertise. In establishing these committees, priority should be given to the eight sectors identified in the "Programme for the Preparation of Technical Regulations for the period 2013-2014". ● Provide the members of the technical committees with advanced training on the different aspects of the TBT and SPS agreements, Tajikistan's rights and obligations under these agreements, and their implications for the national system of technical regulations. ● Provide the members of the technical committees with advanced training on developing technical regulations and on how this process is linked to developing standards.
Further harmonization of regulations with international standards	<ul style="list-style-type: none"> ● Conduct a systemic review of the legal framework underpinning safety requirements for machinery and equipment and chemical products to identify instances of duplication and excessive requirements and any contradictions with the TBT Agreement. ● Consider using UNECE Recommendation L as a framework for guiding the development of new technical regulations, as well as in bilateral and regional discussions for harmonizing technical regulations and participate in the UNECE Sectoral Initiatives. ● Integrate regulatory impact assessment as an essential methodology in developing technical regulations. ● Implement UNECE Recommendations R "Managing Risk in Regulatory Frameworks" and P "Crisis Management within a Regulatory Framework" for integrating risk-management principles into the design of technical regulations. In this regard, the UNECE publication on <i>Risk Management in Regulatory Frameworks: Towards a Better Management of Risks</i> provides a useful discussion on the practical aspects of implementing this recommendation.⁹

⁹ The recommendations are available at : <http://www.unece.org/trade/wp6/riskmanagement.html>

3. Outstanding needs and recommendations for standardization

Outstanding needs	Recommendations
Creating the authorized body for standardization	<ul style="list-style-type: none"> • Design the organizational structures, processes and internal rules for enabling the authorized body to carry out its mandate. • Consider adopting business models and best practices for generating internal income to sustain own activities. • Establish the required information systems tailored to the authority's recommended organizational structure. • Create an institutional website that reflects the authority's activities and complementarities with other State agencies.
Strengthening national capacities in the area of standard development	<ul style="list-style-type: none"> • Consider including in the new law "On Standardization" some provisions that limit standard-setting activities to the sectoral technical committees. • Establish new sectoral technical committees for developing technical regulations and standards pertaining to the eight priority sectors identified in the "Programme for the Preparation of Technical Regulations for the period 2013-2014". • Simplify standardization procedures, drawing on the TBT Committee Decision on Principles for the Development of International Standards, Guides and Recommendations. This Decision sets out principles and procedures that standardization bodies should observe. • Provide staff with advanced training on the different aspects of the TBT and SPS agreements, Tajikistan's rights and obligations under the two agreements, and the implications for Tajikistan's system of standardization. • Provide staff with advanced training on standard development and on how this process is linked to technical-regulation development. • Provide staff with adequate training on Risk Management principles and best practice and adopt the ISO/IEC 31000 standard on "Risk Management" as a national standard.
Further harmonization of national standards	<ul style="list-style-type: none"> • Conduct a systemic review of national standards, and align them with the principles and requirements of the TBT and SPS agreements.
Supporting Tajikistan's efforts to increase its participate in international standards-setting	<ul style="list-style-type: none"> • Take action to become part of the IEC affiliate country programme which offers a number of advantages including free IEC International Standards for national adoption and training and assistance by the IEC secretariat aimed at making the national standards body more aware of the benefits of using International Standards and more familiar with the work of the IEC • Prepare a long-term strategy for helping the standard-setting agency meet the requirements of ISO membership, review membership of other international and regional standards-setting organizations, based on its industry's needs.

4. Outstanding needs and recommendations: conformity assessment and product certification

Outstanding needs	Recommendations
Establishing a market surveillance council	<ul style="list-style-type: none"> • Develop a national regulation on market surveillance that provides: <ul style="list-style-type: none"> – a general definition of market surveillance; guidelines for market surveillance activities; – clarification of responsibilities; – requirements on cooperation and coordination of sector authorities; – responsibilities of the market surveillance council. • Develop, based on the above, terms of reference and internal rules of the national market-surveillance council.

Outstanding needs	Recommendations
Strengthening the capacities of the new conformity-assessment body with expertise and skills in conformity assessment	<ul style="list-style-type: none"> Organize train-the-trainer activities to develop the skills of trainers, policymakers, accreditation professionals, technical assessors, laboratory personnel, industry personnel and other concerned parties, particularly on issues related to risk management principles and best practice; the ISO/IEC 17000 family of standards. Consider entering into twinning arrangements or mentorship schemes with regional and international agencies.
Simplifying and harmonizing conformity-assessment procedures	<ul style="list-style-type: none"> Simplify and harmonize conformity-assessment procedures, drawing on internationally recognized best practices.
Establishing measures for supporting acceptance of other countries' conformity-assessment results	<ul style="list-style-type: none"> Such options would include: <ul style="list-style-type: none"> the conclusion of an agreement with a conformity-assessment body in another Member State (e.g. accreditation bodies; certification bodies, laboratories); acceptance of the results of conformity-assessment procedures within international product-testing and certification systems of which Tajikistan is a participant; acceptance and non-discriminatory consideration of applications for accreditation from conformity-assessment bodies located in other WTO member countries; acceptance of conformity-assessment results from conformity-assessment bodies recognized by Tajikistan.
Obtaining affiliate membership in ILAC and observer membership in IAF and make full membership a long-term goal	<ul style="list-style-type: none"> Bring the existing accreditation system into line with the ISO/IEC standard 17011 on general requirements for accreditation bodies accrediting conformity assessment bodies. Help the testing and calibration laboratories to meet the quality requirements of ISO/IEC standard 17025 on general requirements for the competence of testing and calibration laboratories. Develop and consolidate partnerships with ILAC and IAF.
Further improving the food safety control system	<ul style="list-style-type: none"> Consider revising the law "On Safety of Food Products" to address unclear definitions and instances that lead to duplication of functions. Create the required institutional control mechanisms: <ul style="list-style-type: none"> Adopt risk-based inspection systems and ISO food safety management standards (ISO 22000); Establish a risk-management system based on the Hazard Analysis Critical Control Point (HACCP) principles.

5. Outstanding needs and recommendations for metrology

Outstanding needs	Recommendations
Further developing the institutional capacities of testing and calibration laboratories and metrological service agencies	<ul style="list-style-type: none"> Develop the capacities of testing and calibration laboratories and metrological service agencies, and consider establishing new ones based on cost-benefit analysis. Such analysis should be based on the country's needs for improving export competitiveness. Provide advanced training to staff in the areas of metrology and legal metrology. Developing the research capacity of metrological laboratories.
Further developing Tajik's system of legal metrology	<ul style="list-style-type: none"> Harmonize legal metrology (including measurement procedures, calibration certificates, language, etc.) with the international requirements based on OIML recommendations. This exercise will help Tajikistan in obtaining full membership in the international organization.
Further developing Tajikistan's measurement system	<ul style="list-style-type: none"> Harmonize the measurement system with the International System of Units (SI), maintained by the Bureau International des Poids et Mesures (BIPM).

Chapter One

Introduction

1.1 Country background

With gross domestic product (GDP) estimated at USD 7.5 billion in 2012, the Republic of Tajikistan is considered among the poorest countries in Central Asia.¹ Growth has been historically impeded by the lack of economic diversification, with the production of hydropower, primary cotton and aluminium providing the main sources of income generation.

Cotton and aluminium also dominate exports, which stood at USD 1.3 billion in 2011.² The two products account for around 80 per cent of total exports, making Tajikistan highly dependent on price fluctuations in the world primary markets. The cotton sector have been heavily indebted over the past few years, and continues to make losses.

These weaknesses have been undermining the economy's ability to create enough resources to finance exports and investments or create adequate jobs for its growing labour force. Hence, the predominance of structural imbalances in the form of trade and budget deficits, high unemployment rates and a chronic saving-investment gap, thereby rendering the country highly dependent on official development assistance and remittances from workers abroad.³

Further undermining the economy's growth is the Tajikistan's landlocked status and remoteness from international maritime routes. This disadvantage is mitigated by the country's strategic location. Contiguous with Afghanistan in the south, China in the east, Kyrgyzstan in the north and Uzbekistan in the north and west, Tajikistan stands at the centre of the fast-growing North-South and East-West trade relations and, could, therefore serve as a bridge for the transit of goods and services between China, Central Asia and South Asian and Middle Eastern countries.

Capitalizing on this strategic location has been at the centre of the Government's trade and economic development efforts. These efforts have involved entering into bilateral and regional cooperation arrangements, developing inland transport infrastructure and establishing free economic zones to attract foreign investment. Most notable have been the establishment of free economic zones (FEZs) to attract investments in technology intensive activities with high value added.

To date, the Government has established FEZs in Sughd (in the north), Dangara (in the south), Panj (along the Afghan border) and in Ishkoshim (also along the Afghan border), where exports and imported goods for export purposes (i.e., for re-exports or production of goods destined for exports) are exempted from internal taxes and customs. In 2013, the Sughd FEZ was operational, with 21 registered companies, and the remaining were at different stages of development.

¹ International Monetary Fund (IMF) World Economic Outlook Database

² State Committee on Statistics of the Republic of Tajikistan

³ International Monetary Fund (IMF) World Economic Outlook Database

The last few years have seen the Government combine industrial development and regional integration efforts with a strive toward linking the economy with global value chains. This orientation found its strongest expression in 2013, when Tajikistan acceded the World Trade Organization (WTO). Preparations for accession have involved comprehensive reforms to remove regulatory and procedural barriers to trade. Reform measures have been designed to (i) align trade-related legislation with the requirements of the WTO-administered multilateral trading system; (ii) simplify, standardize and automate customs clearance procedures; (iii) develop the transport system; and, (iv) modernize the system of standardization, quality assurance, accreditation and metrology (SQAM).

This study assesses the Government's efforts to remove regulatory and procedural barriers to trade, and provides action-oriented recommendations to capitalise on reform achievements to date.

1.2 Methodology

This study combined desk study, whereby recent development strategies, legislation and initiatives were systemically analysed, with face-to-face interviews using the UNECE evaluation methodology. The methodology comprises actor-oriented questionnaires targeting the main stakeholders involved in international trade transactions, with a view to identifying regulatory and procedural measures that may act as barriers to trade. The questionnaires focus on: (i) trade facilitation measures; (ii) quality control systems embodied in standardization policies, technical regulations, quality assurance, accreditation and metrology (SQAM); and (iii) trade-related infrastructure, including transport and logistical support.⁴

The insights emerging from the above mentioned analysis are complemented by a sector-focused assessment, whereby behind and at-the-border regulatory and procedural barriers to exporting cotton fibre were identified using the UNECE/ESCAP Business Process Analysis (BPA) methodology. Below is a brief discussion of the concepts and analytical framework that informed the analysis.

1.2.1 Concepts and terminologies

The concept of "trade facilitation" and the terms covered under "SQAM" are to be understood as follows:

- **Trade facilitation** refers to the extent to which import/export procedures, information and documentation requirements are rationalised, harmonized, simplified, streamlined and automated to reduce the costs associated with international trade, and increase overall efficiency and transparency.
- **Standardization policies** refer to policies and regulations concerned with the specific characteristics of products, such as its size, shape, design, functions and performance, or the way it is labelled or packaged before it is placed in the market. A **Standard** refers to a technical specification approved by a recognised national, regional or international standardization body and made available to the public for repeated or continuous application.
- **Technical regulations** are to be understood pursuant to the Agreement on Technical Barriers to Trade (TBT) as a "document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method".
- **Conformity assessment** is to be understood pursuant to the Agreement on TBT, as involving procedures used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

⁴ The UNECE evaluation methodology is available online at: <http://www.unece.org/tradewelcome/trade-needs-assessment-studies.html>

- Related to conformity assessment is **accreditation**, which refers to independent evaluation of testing and calibration laboratories, management systems, inspection bodies and so on, to confirm compliance with internationally recognized standards and requirements for risk reduction purposes.
- **Metrology**, often referred to as “weights and measures”, is the science of measurement. It involves, among other processes, tool setting and product-verification operations using diverse technologies. Although metrology is perceived as part of conformity assessment systems, it is itself an independent part of a regulatory system. It is therefore important to treat metrology from both perspectives. Metrology is to be distinguished from **legal metrology**, which focuses on ensuring the quality and credibility of measurements used directly in regulation and in areas of commerce. Legal metrology is also concerned with ensuring due diligence in the treatment of traceability and preventing the misuse of the measurements.

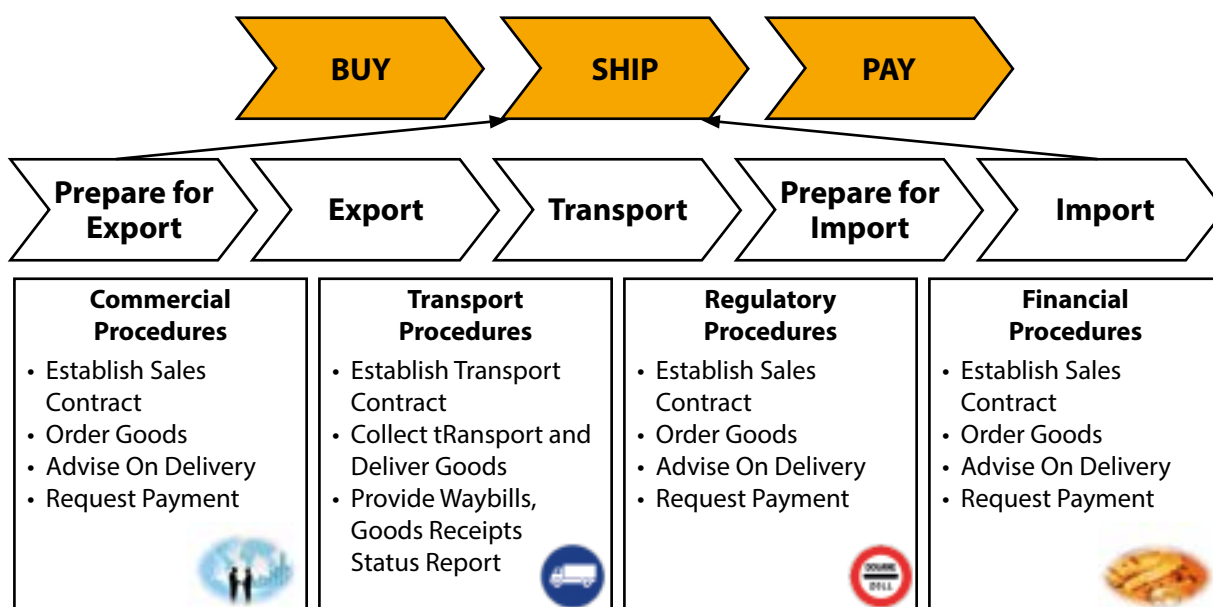
1.2.2 Analytical framework

The analysis of trade facilitation conditions is based on the UNECE Buy-Ship-Pay reference model, which provides a broad conceptualization of international trade transactions as proceeding along **a single process in a supply chain**, rather than a series of fragmented activities spread across different actors. It groups international trade transactions under three main operations, which correspond to the business processes associated with buying, shipping, and paying. The term business process is to be understood as a chain of logically sequenced activities associated with moving goods and related information from buyer to seller to ensure due provision of required services:

- BUY – covering all commercial activities related to the ordering of goods;
- SHIP – covering all of the activities involved in the physical transfer of the goods, including regulatory procedures related to official controls;
- PAY – covering all of the activities involved in payment transactions

As shown in Figure 1.1, these services pertain to the establishment of commercial contracts (commercial procedures), the arrangement of inland and cross-border transportation of goods (transport procedures), the export and import formalities to meet regulatory requirements (regulatory procedures), and the payment for purchased goods (financial procedures).

Figure 1.1 UNECE international supply chain Buy-Ship-Pay reference model



The analysis focuses on identifying capacity shortfalls that impede overall improvement of the end-to-end value chain. The different actors (including government agencies, intermediaries and traders) are examined in terms of their contribution to increasing the efficiency, transparency and predictability of trade, as opposed to their functional excellence.⁵ Similarly, trade documents and procedures are measured against UNECE key principles on trade facilitation, including: transparency, communications, consultations and cooperation; simplification, practicability and efficiency; non-discrimination, consistency, predictability and due process; harmonization, standardization and recognition; and modernization and the use of new technology.⁶

To capture trade facilitation bottlenecks at the sectoral level, the study uses the UNECE/ESCAP Business Process Analysis (BPA) Model.⁷ The model uses the Unified Modelling Language (which includes internationally recognized set of standard graphical notations) for mapping the day-to-day activities associated with the core buy, ship, pay processes, with a view to:

- The quantitative (time/money) and qualitative impact of regulatory and procedural barriers;
- Shortfalls in transport and logistical services, and any potential obstacles to the modernization/development of these services;
- Shortcomings in the country's SQAM infrastructure (internationally accredited testing laboratories, conformity assessment, certification and accreditation bodies, as well as metrology institutions) and related expertise, which create additional costs and delays in export practices;
- Shortfalls in public-private sector consultative mechanisms;
- Key policy issues with direct bearing on the traders' performance;
- Alternative options for addressing the identified regulatory and procedural barriers
- Capacity-building needs of State agencies, traders, transport sector, logistics service providers

The results of the BPA could serve as a basis for the:

- Analysis of data requirements and data flow
- Development of standardized data
- Design of improved export processes
- Design of a prototype single window entry form
- Design of a prototype single window entry system
- Decisions on infrastructure and logistics services development
- Design of appropriate laws and market support institutions

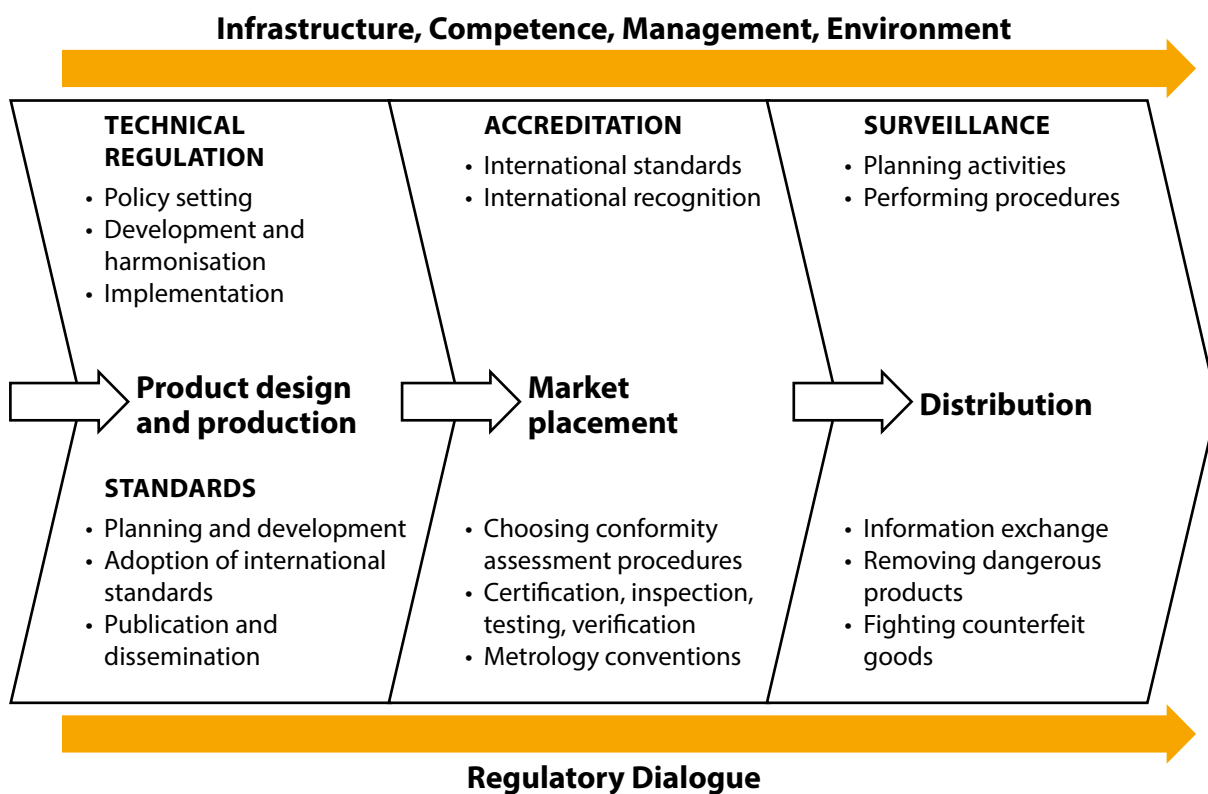
To take the analysis a step further, the study uses the product life cycle approach to identify capacity shortfalls and weaknesses in SQAM systems, since such shortfalls complicate business processes associated with meeting regulatory requirements. As shown in Figure 1.2, this approach assesses the different regulations and institutions that make up the SQAM system in terms of their contribution to the product life cycle, starting from product design, to placing the product on the market and ending with its eventual distribution. Constraints to an improved SQAM regulatory system are conceptualized as stemming from the quality of infrastructure (i.e. testing laboratories), levels of expertise and knowledge of officials (competence), management methodologies, and the overall regulatory environment.

⁵ For a detailed discussion of this Model, see UNECE Recommendation 18 (UNECE, 2001).

⁶ UNECE (2006). *Towards an Integrated Strategy for UN/CEFACT*, Geneva, Switzerland.

⁷ The latest version of the joint UNECE/ESCAP Business Process Analysis Model (2012) is available online at: www.unescap.org/unnext/tools/business_process.asp

Figure 1.2 Product life cycle and regulatory system processes



1.3 Scope of the needs assessment

The study focused on strategic non-resource based sectors operating in the capital city of Dushanbe and the country's second largest city of Khujan. The sectors were selected in consultation with the Ministry of Trade and Economic Development based on their contribution to exports and income growth in general. Listed using the Standard International Trade Classification (SITC) Revision 3 (top level), these sectors include:

- Food and live animals
- Beverages and tobacco
- Chemicals
- Manufactured goods classified chiefly by material
- Machinery and transport equipment
- Miscellaneous manufactured articles.

The stakeholders who participated in the surveying process represent all the actors involved in supply chain activities, including traders, State officials, transport operators, logistics service providers and market support institutions.⁸ These were approached by UNECE regional consultants in 2013 during face-to-face interviews, and are listed below:

⁸ Only transport operators and logistical service providers with extensive services and broad geographic coverage were interviewed.

Traders

60 traders were approached by a national consulting company, M-Vector, during face-to-face interviews using the traders questionnaire. As the survey did not include traders from across the country, the findings should be interpreted as indicative of the main regulatory and procedural barriers to trade.

Ministries and Government agencies

- Ministry of Economic Development and Trade
- Ministry of Foreign Affairs
- Ministry of Transport
- Customs Service
- Tajikstandart
- State Committee for National Security
- State Centre for Sanitary Epidemiological Control under the Ministry of Health.
- State Veterinary Inspection Service under the Ministry of Agriculture.
- State Service for Phyto-sanitary and Quarantine Inspection under the Ministry of Agriculture.

Transport operators, logistics service companies:

- Custom brokers (2)
- Association of customs brokers of Tajikistan
- Freight forwarders (2)
- Truck operators (2)

Market support institutions

- Chamber of Commerce and Industry
- National Association Small and Medium Business

The results emerging from the face-to-face interviews with the above-mentioned stakeholders were analysed and cross-referenced by the secretariat. The secretariat also carried out follow-up face-to-face interviews with the blow stakeholders in October 2013 to gain further clarity over specific issues:

- Ministry of Economic Development and Trade
- Customs Service
- Tajikstandart
- Traders (3)
- Freight forwarders (1)
- Customs brokers (1)

1.4 Outline of the study

The study is divided into four chapters. The introduction in Chapter 1 is followed by an evaluation of trade facilitation conditions in the country in Chapter 2. Chapter 3 looks into institutional bottlenecks facing State agencies involved in the areas of technical regulation, standardization and conformity assessment. The two chapters also identify priority needs and propose practical, action-oriented recommendations for the Government's consideration. Chapter 4 provides concluding remarks and reflections. A thorough analysis of regulatory and procedural barriers to increasing Tajikistan's exports of cotton fibre is provided in the Annex.

Chapter Two

Trade Facilitation Conditions

2.1 Introduction

Tajikistan's landlocked status and remoteness from international maritime routes means that enterprises accrue additional costs, as they have to use the transport facilities of neighbouring countries to participate in international trade. These costs are compounded by complex regulatory and procedural measures, which undermine export competitiveness by creating significant barriers to trade.⁹

To address these barriers the government is implementing comprehensive reform measures, which seek to: (i) align customs regulations with internationally recognized rules; (ii) modernize and automate customs administrative procedures, (iii) strengthen customs points with modern facilities and equipment; and, (iv) foster regional cooperation in the areas of customs and transport.

Achievements to date have involved, among others, the adoption of the Law on Permit System in 2011 for reducing the number of goods subject to import licensing requirements; and a new Tax Code in September 2012 for improving tax handles and reducing the tax burden on traders. The new Tax Code, which came into effect in January 2013, establishes additional tax incentives (e.g. retail sales tax was abolished, threshold amount for registration as a VAT payer was increased) and simplifies administrative procedures (e.g. the number of tax declarations, reports and tax payments was reduced). The Government has also approved a revised "Law On Foreign Trade Activities", which was adopted by the Parliament in August 2012.

The above-mentioned laws crown a series of reforms aimed at modernizing customs operations, which commenced in earnest in 2005 following the adoption of the revised Customs Code of 2004. The revised Code seeks to bring customs regulations and administrative procedures in line with internationally recognized guidelines and principles established in the WTO Agreement on Customs Valuation and the Revised World Customs Organization (WCO) Kyoto Convention on the Harmonization of Customs Procedures.

The new Customs Code entered into force in January 2005, and its implementation has involved : (i) adopting new customs and control procedures that would significantly reduce the number of existing customs regulations and documentary requirements¹⁰; and, (ii) introducing post-clearance audit procedures based on the principles of risk assessment.¹¹ To these reforms should be added, those relating to modernising the system of standardization, technical regulations and conformity assessment, which are discussed in chapter three.

This chapter provides an assessment of reform measures to improve trade facilitation conditions in Tajikistan based on the results of the face-to-face interviews with traders, State agencies, transport operators, logistics service providers and business associations. It identifies behind and at-the-border regulatory and procedural barriers to trade, and proposes action-oriented recommendations for addressing them. Section 2.2 discusses at the border control regulations and procedures. Section 2.3 delves into customs clearance procedures. Section 2.4 looks into transit trade, and is followed, in sections 2.5 and 2.6, by a brief assessment of the country's inland transport infrastructure and logistical services.

⁹ See, for example, the World Bank Doing Business and Logistics Performance Indicators data.

¹⁰ The new code features a special section on customs control (Section IV) and another one on currency and export control (Section V), which incorporate recommendations of the Revised Kyoto Convention and meeting WTO agreements.

¹¹ See articles 433–435.

2.2 At the border control

According to established procedures,¹² cargo transported by vehicles to commercial crossing points is placed under customs control and, in the majority of cases, the procedures associated for internal transit and for escorting the cargo to designated customs control zones are initiated by the Customs offices. Inspection and subsequent customs clearance procedures are carried out in the customs control zones located in regional customs departments at terminals and railway stations.¹³

Efforts to improve the overall efficiency and effectiveness of at the border control procedures have involved the modernization and upgrading of border outposts, the development of human resources and assisting the government in adopting best practices in border management.¹⁴

These efforts entered a new phase in 2010 with the adoption of the principle of integrated border management as the basic tenet of the the National Border Management Strategy for the period up to 2025. The strategy denotes fostering co-ordination and co-operation among border control agencies in a manner that allows for striking a balance between security and trade facilitation concerns, and provides indicators for guiding implementation.¹⁵ The implementation of the strategy has involved the establishment of “one-stop” Border Control Points, whereby all controls are conducted within defined areas with agencies sharing common areas, inspection equipment and office space.

At the time of writing, and pursuant to the Government Resolution No. 155 of April 2012 “On coordination of border control agencies in road border crossing points according to one-stop-shop principle”, the Customs Service was in the process of developing a comprehensive scheme to coordinate cooperation between different border control agencies at main commercial crossing points.

The results of the assessment highlight a number of issues that need to be taken into account when developing this scheme. Traders reported long delays at main border commercial crossing points, and the unreliability of such delays. These delays are mainly explained by the numerous agencies exercising border control, including: Customs Service; the Committee of State Border Protection, which falls under the command of the State Committee for National Security; State Centre for Sanitary Epidemiological Control under the Ministry of Health; State Veterinary Inspection Service under the Ministry of Agriculture; State Service for Phyto-sanitary and Quarantine Inspection under the Ministry of Agriculture; and, the Ministry of Transport. These agencies undertake:

1. Document control
2. Vehicle Control
3. Border, security control
4. Sanitary and epidemiological control
5. Veterinary control
6. Phyto-sanitary and quarantine control
7. Environmental control

¹² Customs Code, article 86.

¹³ A brief account of customs clearance procedures is provided in section 2.2.

¹⁴ For example, within the context of the European Union (EU) funded Border Management Programme for Central Asia (BOMCA), capacity-building activities involved the construction and equipment of three border crossing points in the eastern part of the country along the borders with Afghanistan, and another one on the Tajik-Uzbek border. The programme has also resulted in the renovation and construction of eight border outposts on the Tajik-Afghan border, the construction of a Multi-Agency Dog Training Centre in Dushanbe, the setting up six Drug Profiling Units at railway stations and airports, and the development of a Canine Kennel in Khorogh, and the establishment of training centre for borders' guards in Dushanbe. Further details are available at <http://www.bomca.eu/en/tajikistan.html>. The Organization for Security and Co-operation in Europe (OSCE) field office provides advanced training to border guards, and advice on strategic approaches for guiding border management operations. Further details on these activities are available at <http://www.osce.org/tajikistan>

¹⁵ The strategy was developed with the support of the OSCE

A central issue emerging from the assessment is the lack of proper inter-agency coordination. For example, police guards collect detailed information on the shipment, driver and the vehicle. The same information is collected by other agencies, e.g., vehicle control and customs, causing unnecessary delays. Similarly, both police guards and those responsible for vehicle control check each consignment, including the vehicle and its contents.

The lack of coordination is aggravated by the fact that each agency follows its own procedures. For example, traders reported that they provide separate samples to the State Centre for Sanitary Epidemiological Control; State Veterinary Inspection Service; State Service for Phyto-sanitary and Quarantine Inspection.¹⁶

The difficulties experienced by traders are complicated by the lack of adequate facilities at border control posts. The civil war left these posts in poor conditions, and the budgetary constraints leave insufficient provisions for maintenance. Very few border posts have permanent structures that are suitable for customs operations, and only a few customs posts have proper inspection equipment.

Thus, control takes the form of physical checks, so that delays are inevitable. For example, the average time for examining one freight vehicle carrying goods is half an hour.¹⁷ Moreover, with the exception of two road border posts (at the borders with Kyrgyzstan and Afghanistan), customs clearance is not completed at the frontier posts, even though the Customs Service is represented at the borders. Rather, traders are directed to the nearest rail or road customs clearance offices and stations, or to a site chosen by the importer (or his representative) with the consent of Customs Service.

These capacity shortfalls result in delays which are particularly significant for exporters and importers of fresh food and agricultural products, since they are subject to police control, vehicle control, veterinary, sanitary and phyto-sanitary and quality control, as well as pre-shipment inspection. Moreover, it is sometimes the case that consignments undergo inspections that are not required by law. For example, an exporter of clothes said that his consignments are subject to phyto-sanitary control, even though existing legislation limits phyto-sanitary control to exports and imports of seeds, plants and phyto-genous products. Yet another case is an importer of spare parts for tractors and ploughs, who reported that his consignments are subject to phyto-sanitary control.¹⁸

Another issue raised by traders relates to placing imported goods under customs escorts. A case in point is an importer of spare parts for tractors and ploughs, who said that the escort convoys usually accompany the consignments from the Tajik border to the Customs clearance station in return for a fee of USD 14 per truck. This comes in contrast to WCO standards on customs transit, which denotes that customs escort can only be used when indispensable, where the risks to compliance with Customs law so require. These standards also denote that Customs may provide an escort on request as a special service if it has sufficient resources available and provided it considers the reasons for the request valid.¹⁹ Moreover, the level of charged fees contrasts with the that established under Government Resolution 472 of December 2005 on "Customs Fees Rates for Services Provided by Customs", which sets escort fees at \$2 per 10 km for a 6-vehicle convoy.

¹⁶ The State Service for Phyto-Sanitary and Quarantine Inspection performs its functions in accordance with the Law "On Plant Quarantine" of 2009, which complies with the SPS Agreement. Since 2010, the State Service is a party to the International Plant Protection Convention (IPPC), so that its work is also guided by the standards of this Convention.

¹⁷ Only transport vehicles with Transport Internationaux Routiers (TIR) carnets being able to pass through the border posts promptly.

¹⁸ A more detailed account of the legislation governing these types of control is provided in chapter three.

¹⁹ See E of the Revised Kyoto Convention for Standards and recommended practices for Customs transit procedures.

Customs officials explained that customs escorts are intended as a trade facilitation measure for ensuring delivery of goods by road to the designated customs clearance zones, independently of whether the cargo or the transport route is dangerous or not. They added that the escort services constitute the traders' measure of choice for expediting the movement of goods by road, as it involves low fees and enables traders to realise time savings.²⁰

An immediate step to address these shortfalls would be to create a national risk management policy, which articulates a common conceptualisation of risks and captures the fundamental aspects of risk management as they apply to all border control agencies. Such a conceptualisation should be based on: (i) internationally recognized risk management principles; (ii) clear definition of the functions and responsibilities of individual agencies, administrative structures, risk management systems and resource allocations; and, (iii) a framework for sequencing implementation. This is important for fostering border control cooperation. Indeed, in the absence of such a policy, reform measures to improve risk management, including the establishment of a Single Window facility, will be met with limited success (see section 2.3).

Once a national risk management policy has been established, the Government needs to reconsider the existing functions and responsibilities of border control agencies, as these tend to overlap. Functions and responsibilities should be based on an analysis of procedures, processes and requirements at the agency level as well as across agencies, with the objective of identifying areas that can be simplified through coordination and integration.

In a parallel exercise, the government may consider reducing the number of agencies involved in border control operations and enshrining the concept of integrated border management in existing legislation. Priority should be also given to improving the rule of law, so that shipments are not subjected to unnecessary inspections and control procedures.

Table 2.1 provides a number of recommendations for improving border coordination.²¹

²⁰ Officials noted that Customs escorts should be differentiated from the escort services for dangerous and oversized goods. The latter are mandatory and are provided by regular police (Ministry of Internal Affairs) upon the authorization of the State Service on Transport Surveillance and Regulation under the Ministry of Transport and Communications. It is unclear though why the transport of dangerous goods is protected by escorts as opposed to ensuring that traders use special containers and other equipment. Similarly, it is unclear as to why certain traders resort to escort services to reduce costs.

²¹ In addition, the government should further develop cooperation with regional partners, as discussed in section 2.3.

Table 2.1 Outstanding needs and recommendations for improving at the border control

Outstanding needs	Recommendations
Establishing a common risk management policy	<ul style="list-style-type: none"> ● Establish a common risk management policy to serve as a reference framework for guiding the implementation of integrated border management. The government could use the WCO Standards to Secure and Facilitate Global Trade (SAFE Framework), which, given its emphasis on trade security, provides important elements for developing such a policy. ● Establish an inter-agency risk management committee to implement the policy.
Reconsidering the existing functions and responsibilities of border control agencies	<ul style="list-style-type: none"> ● Upon establishing the common risk management policy, identify areas that could be benefit from improved coordination and/or integration to ensure successful implementation of integrated border management, based on an in-depth analysis of procedures, processes and requirements at the agency level as well as across agencies. Such an analysis could be conducted using the Business Process Analysis (BPA) developed by the UNECE. ● Based on the results of the analysis, establish a clear definition of the functions and responsibilities of each agency. For example, the government may consider reducing the number of agencies involved in border control, by delegating some types of inspections to the Customs. ● Provide advanced training to staff in border control agencies on risk management methods and their implementation.
Facilitating the exchange of information between and across agencies	<ul style="list-style-type: none"> ● Reduce, streamline and simplify the documentary requirements and administrative procedures of each agency (see section 2.3.B and C). ● Once the documentary requirements and administrative procedures are streamlined and standardized, create integrated and shared IT systems (see section 2.3.B and C).
Enshrining the concept of integrated border management in existing legislation	<ul style="list-style-type: none"> ● Consider revising the “Law on State Border” of 1997, which provides the legal foundations for protecting state borders and the mandate of border control agencies. The Law features an emphasis on security concerns.²² For example amendments could be introduced to establish an emphasis on ensuring safe trade, drawing on the SAFE Framework.
Strengthening border control points with the required resources	<ul style="list-style-type: none"> ● Introduce modern equipment at all border crossing points to reduce the time needed to check cargo ● Provide advanced training for all staff on modern control techniques and approaches to risk management. ● Consider introducing incentives and performance measures to maximize the impact of training, and ensure that lower ranking and operations staff are the main beneficiaries of training. ● Equip all border control points with modern information systems, and train the staff on the use of these systems (see section 2.3).

²² Article 11 of this law, stipulates the examination of documents for right of entry as well as vehicles and consignments. The law also provides guidelines for border control, which form the basis of detailed procedures that are established by the Ministry of Justice and the Customs Service, and endorsed by the remaining border control agencies to ensure public health and safety and protect the safety of animals, plants and the environment.

2.3 Customs clearance procedures and documentary requirements

Once the consignments pass all mandatory border controls and the internal customs transit procedure, traders should present the customs declaration and accompanying documents for examination and verification.²³ Efforts to speed up customs clearance are reflected in the Customs Code, which envisages 6 measures to ensure the smooth transport of goods from border crossing points to their destination: (i) securing payment of customs duties by paying cash to the cash desk of the custom office; (ii) securing payment of customs duties by pledging property as security; (iii). Bank guarantee; (iv) transportation of goods by customs carrier; (v) Customs escort of goods; and, (vi) other measures envisaged by international legal acts recognized by the Republic of Tajikistan.²⁴ Traders moving goods by vehicles across the border could choose any of these measures.

Moreover, and as stipulated in the Customs Code, the Customs Service is expected to release the goods no later than two working days from the date of accepting the customs declaration and the submission of other necessary documents and information. This time frame is only applicable if taxes and customs charges are duly paid, including: customs duty (calculated based on customs valuation method), excise tax, value added tax (VAT) and customs charges or user fee (between USD 10 and USD 450, depending on the value of cleared goods).

Customs officials also noted that according to Article 67 of the Customs Code and Order No.199-F of the Customs Service of June 2005 "On the procedure of customs clearance of perishable goods", customs clearance of perishable goods follows a simplified procedure as a matter of priority. The said legislation stipulates that upon authorization of the Customs authorities, perishable goods are delivered to Customs bonded warehouse or the recipient's warehouse, provided the latter is equipped to store such kind of goods under customs control. Once the goods are transported to the warehouse, the trader submits the required information for documentary control.

The Customs Code and the adoption of the above-mentioned order were complemented by targeted efforts to improve customs clearance processes. These efforts commenced shortly after the entrance of the new Customs Code into force, when the Customs Service adopted the concept of risk management and associated principle of risk-based selectivity, as a reference framework for guiding customs operations.²⁵ Detailed rules were also formulated for guiding the establishment of risk management procedures,²⁶ and a special department, the Post-entry Control and Audit Department, was established to act as the focal point for the development and implementation of risk management.

²³ In accordance with the customs code, the clearance of goods may be completed only after veterinary, phytosanitary and any other appropriate inspections have been completed.

²⁴ See article 86 of the Customs Code.

²⁵ See the Customs Service's internal order No. 126 of August 04, 2008, which defines main notions used in the risk management system, and identified main objectives, design concept, management forms and components of risk management system, and the expected outcomes from the implementation of the risk management system.

²⁶ These rules are related to Customs Officials Activity in Risk Profiles Drafting and Consideration, Risk Profiles Application in Customs Control, and their Updating and Cancellation, and were approved by the Order No. 2-f of January 2009. The Rules consist of 9 sections and 17 annexes, which cover: Procedure of Risk Profiles Drafting by Customs Officials; Procedure of Draft Risk Profile Consideration and Approval by the Customs Service; Activities of Customs Officials Exercising Customs Clearance and Customs Control Involving Risk Minimization Measures Consistently with Risk Profiles; Procedure of Risk Profiles Updating and Cancellation Based on Customs Service Departments and Regional Administrations Proposals; Procedure of Drafting, Approval and Distribution to Customs Bodies of Urgent Risk Profiles; Procedure of Drafting, Approval and Distribution to Customs Bodies of Intelligence Reports; Actions of Customs Bodies Officials upon Detection of Special Software Malfunction.

The adoption of risk management was followed by a comprehensive Action Plan for removing regulatory and procedural barriers to trade, as well as a Concept Paper and a programme for establishing a Single Window (SW) facility for export/import and transit procedures by 2015.²⁷ Designed within the context of a participatory approach,²⁸ the programme envisages: (i) centralizing all trade-related procedures and services in a SW facility, which brings together all relevant State agencies shown in box 2.1, and; (ii) ensuring compliance with the Revised Kyoto Convention, the WTO-administered multilateral trading system and internationally recognized best practices.

Box 2.1 Single Window participating agencies

- Chamber of Commerce and Industry
- Service of the State Sanitary and Epidemiological Supervision of the Ministry of Health
- Service of the State Supervision of Pharmaceutical Activities of the Ministry of Health
- State Veterinary Service of Supervision under the Ministry of Agriculture
- Centre for the State Supervision of Veterinary Drugs
- Service of the State Inspection for Phytosanitary and Plant Quarantine under the Ministry of Agriculture
- Agency on Standardization, Metrology, Certification and Trade Inspection under the Government of the Republic of Tajikistan
- Communication Service under the Government of the Republic of Tajikistan
- Ministry of Culture
- State Assay Supervision under the Ministry of Finance

As explained by officials, the SW programme stipulates a phased approach. The first phase focuses on standardizing, simplifying and automating the exchange of information and documentary requirements associated with customs clearance, thereby setting the context for including other agencies, such as logistics service providers, during a subsequent second phase.

The technical specifications of the envisaged SW correspond to UNECE Recommendation 33, whereby all parties involved in pre-clearance, clearance and post clearance formalities, including payment of customs duties and taxes, are interconnected around a single platform, the Single Window Information System (SWIS).²⁹ To be more specific, the platform is designed to provide the following services:

- Information services, including of up-to-date information on normative and legal documents, which will also be made available on the SW system website.
- Communication services, including automated submission and transmission of documents and routes submissions in a timely manner to relevant State agencies for their consideration; online monitoring of requests processing and the status of documents; and, message exchange.
- Statistical services, including the provision of up-to-date statistical data on export and import activities, including volume of trade, main exports and imports, trading partners and so on.

²⁷ The Action Plan was adopted under the Government Decree No.487 of October 2008, while the Concept paper was adopted under the Government Decree No.659 of December 2008. The Government also commissioned an interagency Coordination Committee to develop a Programme for establishing a SW facility. The programme, which was approved under the Government Decree No.222 of May 2010, the envisages the simplification and automation of trade-related administrative procedures during the period 2010-2015.

²⁸ Officially referred to as the "Coordination Committee on the Implementation of the Single Window Programme Related to Foreign Trade and Transit Operations", the comprised senior executives of all government authorities exercising activities related to export/import and transit procedures, and representatives of business community and international organizations. It was established, pursuant to Government Resolution No. 503 of 2 October 2010.

²⁹ See, "General Description of Single Window Information System on Export, Import and Transit Procedures in the Republic of Tajikistan of 2010, which was developed with the support of GIZ.

All participating agencies, commonly referred to as SW agencies, will be electronically linked to the SWIS platform, which will be placed under the Customs Control following the Swedish SW model.³⁰ As explained by Customs officials, requests for permits and authorizations will be submitted via the SWIS by traders in a single entry, and traders will be able to monitor the processing of their requests. Once the data is entered, it is automatically routed to customs information system, which generates risk profiles and provide information about the documentary requirements and the agencies responsible for issuing the documents. The information is reviewed by Customs to ensure due diligence in managing risks, and is then forwarded to other SW agencies responsible for preparing the required trade documents. Once prepared, the electronic trade documents are routed to the Customs information system for final control.

Progress in implementing the Action Plan has involved the creation of a Unified Automated Information System (UAIS) by the Customs Service for simplifying customs procedures and supporting the implementation of risk based management. The UAIS aligns information requirements to the internationally recognized Single Administrative Document (SAD) that was introduced in paper form in 2010, and will be connected with the SWIS platform.

The UAIS has also contributed to simplifying and streamlining the procedures associated with confirming the payment of customs duties, which traders have to complete in order to release their goods from customs. Payment of customs duties is organized in two ways. The first is direct payment through banks, and the introduction of the UAIS has meant that instead of requesting the trader to provide payment conformation letter, the transfer of money to treasury account is confirmed electronically using the system. The second payment method, which is the most common, involves payment in cash at designated "cash desks" in customs offices.

Key achievements have also involved the creation of the SWIS prototype and an autonomous management body, the State Unitary Enterprise "Single Window Centre" (SUE SW) One Stop Shop facility, to operate the SWIS platform and provide the SW services.³¹ The Centre, which is placed under the control of the Customs Service, is assisted by an interagency steering committee, the "Single Window Interagency Coordination Committee" (SWCC), which brings together representatives from relevant State agencies and the business community, so as to ensure broadest possible participation, transparency and responsiveness to emerging needs.

The Committee is engaged in supporting the development of the SW facility through its three inter-agency working groups on : (i) amendments to legislation on electronic documents and digital signature; (ii) development of amendments to the Law on Permit System and development of draft regulations for ministerial/agency procedures; and (iii) data harmonisation. At the time of writing, plans were developed to pilot test the prototype at the SUE SW and at two of SW agencies.

Nevertheless, to the Customs Services, the road ahead is rather challenging. Officials explained that efforts are still underway to roll out the UAIS to all Customs offices, and establish an interface with the SWIS platform so that the two systems could complement each other. There is also the need to speed up the modernization of management information systems of other State agencies. Then there are the challenges associated with ensuring interoperability amongst the numerous information platforms of the SW agencies, and obtaining the trading partners' recognition of online formalities performed in Tajikistan.

The results of the traders' survey point to additional challenges. As shown below, traders drew attention to the lack of accurate, up-to-date information on customs clearance procedures and the cumbersome nature of administrative procedures associated with obtaining trade documents. They lamented spending time and money going to multiple offices and dealing with multiple personnel.

³⁰ Detailed information on the Swedish SW Model is available at: <http://www.tullverket.se/en/startpage.4.4ab1598c11632f3ba9280002814.html>

³¹ The SW SUE was established pursuant to the Government Resolution No. 503 of October 2, 2010.

A. *Lack of accurate, up to date information on customs clearance procedures*

Customs officials said that up-to-date information about customs procedures is available on the Customs Service institutional web-site (www.customs.tj) as well as in the Customs Bulletin (Machallai Gumruk) that is published on a quarterly basis. Traders could also request information from the Customs Service in writing or by phone. These requests are handled by authorized officials, who provide counselling services to traders free of charge.

It is also worth mentioning that an Advisory Board on customs issues was established under the Customs Service, which brings together officials from relevant executive authorities and representatives of the business community.³² The board holds regular sessions at least four times per year, and convenes during emergency sessions as needed to examine problems reported by customs offices and business circles.

Yet, traders reported a limited range of information sources, including the media (newspapers, television and the radio), exhibitions, leaflets and the institutional websites of the State agencies. Only one respondent reported using the Customs Service instructions book, suggesting that the book is not seen by the traders as a reliable source of information.

Traders also noted that available information is outdated, which leaves them in a situation whereby they have to visit the “customs inquiry office” each time they engage in export or import activities. Respondents said they also visit other State agencies, since each has its own procedures. As such, they spend time and money going to multiple offices and dealing with multiple personnel. Such visits are all the more necessary, in view of the constantly shifting procedures. This is especially the case of traders who export/import textiles and tobacco, who said that the procedures tend to change on a monthly basis.

Respondents said that they obtain the information verbally, and that information is provided in writing upon request. They noted that the information is vague and leaves room for interpretation, and that agencies do not provide instructions on the support documents that need to be submitted. As pointed out by a respondent, “even with the written instructions, we do not have all the information”.

Traders added that formal laws and policy documents -- i.e., presidential decrees, laws, government orders, instructions, ministerial memos, and regulations -- are not always made available to public, so that they are not fully aware of recent reform measures. Where published, the laws are not accompanied by guidelines and instructions for implementation. Traders said that they do not fully understand new rules.

As shown in the next section, under such conditions, officials often reject documents, because they are not filled in properly. Custom brokers provided a more detailed account. They said that most of the traders, especially small and medium-sized enterprises are usually at loss, confused about which documents to submit and how to go about preparing them. They are also at loss when it comes to dealing with State agencies, and their relations with officials tend to be tensed. A case in point is an importer of wooden doors and windows, who said that his consignments are usually subjected to sanitary and epidemiological control, when, according to his understanding, existing legislation limits such control to products that pose health risk, such as chemical products, biological agents, growth stimulators, fertilizers, and food products.

Similarly, exporters of clothes and importers of machinery parts and equipment reported that they are required to submit SPS certificates for customs clearance purposes, even though, according to his knowledge, law does not subject these goods to SPS requirements. The said traders saw this procedure as unnecessary, when in fact it is sanctioned by law, since Tajikistan is a party to the The International Plant Protection Convention (IPPC). According to IPPC International Standard for Phytosanitary Measures (ISPM 15), all the wooden packaging materials are decontaminated or subject to heat treatment.

³² This Board was established pursuant to Government Order No. 75-F of 6 May 2008.

A particular concern raised by traders is the lack of clarity over price lists. As shown in table 2.2, while some agencies have established price lists, the lists are not followed rigorously. Others do not seem to have such lists, rendering what can be considered as arbitrary fees. The accumulative amount of fees could reach prohibitive levels, particularly for traders who export/import large volumes. A case in point is an exporter of clothes, who said that he usually pays about USD 1500-USD 1800 in total fees for documents per shipment.

Table 2.2 Charged fees for trade documents (as reported by traders)

Trade document	Agency issuing the document	Costs
Certificate of Origin	Chamber of Commerce and Industry	<ul style="list-style-type: none"> As reported by a respondent, the chamber uses the following fee scale, which depends on the value of the goods: USD 200 if the value of the goods is USD 50,000 or below; \$300 if the value of the goods ranges between USD 50,000 and USD 100,000; and, USD 400 if the value of the goods exceeds USD 100,000. The charged fees reported by traders do not correspond to the established scale. For example, traders with goods worth far less than USD 50,000 reported paying USD 250 (instead of USD 200), and those with goods worth USD 50,000 –100,000 reported paying USD 350, (instead of USD 300). Some reported being fee that are below the established scale (USD 60-100, USD 100-130). Traders of cotton fibre said that they are charged per ton. Respondents to the survey said that they pay USD 0.4 per ton.
SPS certificate	State Service for Phyto-sanitary and Quarantine Inspection under the Ministry of Agriculture	<ul style="list-style-type: none"> The State agency charges USD 41-84, and this amount does not include the costs of laboratory tests, which varies depending on the nature of the product. Laboratory tests for cotton fibre are set at USD 0.42 per ton.³³ Some traders said that they are charged USD 0.21 per ton, and others said that they are charged USD 0.63 per ton.
Quarantine permission	State Service for Phyto-sanitary and Quarantine Inspection under the Ministry of Agriculture	<ul style="list-style-type: none"> According to the “List and pricing of plant quarantine operations performed by the State Service for Phyto-sanitary and Quarantine Inspection” approved by the Ministries of Agriculture, Finance and Economic development and Trade in 2008, the below fees are charged for issuing quarantine permits: <ul style="list-style-type: none"> for one type of product: USD 6 for 2 to 5 types of products: USD 8 for more than 5 types of products: USD 12 Interviewed traders said that fees are charged per wagon. Some reported paying USD 100 per wagon, while others reported paying USD 52 per wagon.
Sanitary certificate of product registration	State Centre for Sanitary Epidemiological Control under the Ministry of Health	<ul style="list-style-type: none"> The fee could reach USD 100, and this amount includes the costs for laboratory tests. Exporters and importers of food pay a much higher fee, because the Centre runs several tests (for each line in the invoice). One respondent said that he pays USD 10 per sample.
Certificate of conformity	Tajikstandart	<ul style="list-style-type: none"> According to Guideline Document of the Republic of Tajikistan No. 50-002 – 2002, the fees for the issuance of certificates of conformity are set according to product type and required laboratory tests Traders reported that they are charged depending on the value of the goods: USD 200, if the value of the goods is less than USD 100,000 and 0.2 per cent of the value of the goods if it exceeds USD 100,000. This fee covers the costs of laboratory tests. Traders of cotton fibre said that they are charged per ton. Some said that they are charged USD 0.21 per ton, and others said that they are charged USD 0.63 per ton. The fee covers the costs of laboratory tests.

³³ As per the procedure for pricing and determining transportation and sales costs related to cotton fibre approved by the Ministry of Economic Development and Trade and the Ministry of Agriculture in 2007.

The problems reported by the survey respondents in accessing and/or understanding trade-related regulations and administrative procedures constitutes a major barrier to trade, as it leaves businesses confused about the content, applicability and predictability of laws and regulations. It also leaves room for discretion at the implementation level, with adverse consequences for transaction costs (see next section).

Publishing up-to-date information on the State agencies' institutional websites while important, is insufficient for ensuring the traders' proper understanding of the implementation of these laws and their implication for export and import processes. State agencies should also consider publishing explanatory manuals and disseminating them to traders through business associations and other means. In other words, there is a need to establish a clear distinction between primary laws and secondary regulations on the one hand and official guidelines for informing implementation on the other hand.³⁴ A case in point is the revised Custom Code of 2004. The Customs Service has not issued procedural instructions to accompany the Code.

Moreover, there is a need for further training. For example, although the government provided advanced training to customs brokers and traders on the application of the new Customs Code, brokers said that they came to understand the Code through trial and error, or following "learning by doing".³⁵

Table 2.3 provides a number of recommendations for consolidating a transparent legal framework.

³⁴ The period since the Customs Code entry into force has seen the adoption of over 100 by-laws, including: 2 Resolutions of Mejlisi Oli, 3 Orders of the President of Tajikistan, 34 Resolution of the Government, 7 joint orders with other agencies, 49 statutory legal acts that are registered in the Ministry of Justice. All these provide legal instruments for guiding the implementation of the Customs Code, but provide limited guidance on the organization of the administrative processes and actual implementation.

³⁵ Pursuant to article 147 of the Customs Code, customs clearance specialists of the customs brokers shall undergo advanced training courses every 2 years.

Table 2.3 Outstanding needs and recommendations for improving the legal framework's transparency³⁶

Outstanding needs	Recommendations
Raising awareness among traders on reform measures in the area of trade facilitation	<ul style="list-style-type: none"> Organize mobilization seminars to familiarize traders with trade-related laws, regulations and administrative procedures and their implication for the management of day import-export processes. These seminars should also feature a special focus on soliciting feedback from traders concerning the main enterprise level bottlenecks, which undermine their ability to adhere to the new reform measures.
Reconsidering the existing fee scales for trade documents	<ul style="list-style-type: none"> The fees should be based on the general cost structure and common margins charged to similar services in the country. The price lists must be made available to the public (including online as explained below) for free to ensure transparency and predictability.
Providing traders with reliable, up-to-date information on trade-related regulatory and administrative procedures and their implication for export-import processes	<ul style="list-style-type: none"> Develop the institutional website of all State agencies, so that they could provide up to date information on applicable regulations, procedures and price lists pertinent to their respective areas. Develop guidelines and brochures to help traders adhere to related laws, regulations and administrative procedures. Such publications should take into account the specific bottlenecks facing traders in Tajikistan (drawing on, for example, the results of the above-mentioned mobilisation seminar) and provide detailed information on: (i) the steps that traders should undertake to ensure adherence to trade-related regulations and administrative measures; (ii) the State agencies responsible for implementation of these regulations and procedures; and (iii) the support services provided by market support institutions. Consider establishing information centres, in the form of help desks, in key trade support institutions (e.g., including the Chamber of Commerce and Industry and the National Association Small and Medium Business, as well as the association of Customs brokers). Such centres should be equipped with appropriate IT systems to disseminate information on new rules and procedures online and by email. They should be also enabled to carry out regular assessments of traders' needs.
Fostering a broad participatory approach to decisions on trade facilitation	<ul style="list-style-type: none"> Establish a coordinating committee, or a trade facilitation forum, to conduct regular consultations with the private sector representatives concerning the CU procedures and documentary requirements. UNECE Recommendations on national trade-facilitation bodies provide guidance and examples of best practices for developing or consolidating such a broad mechanism.³⁷

B. Documentary requirements

Efforts to improve customs clearance have also seen the reduction of information requirements, with the Customs Code limiting the number of documents so that it ranges from 5 to 10, depending on the type of product and customs regime (see box 2.2).

³⁶ The term transparency is to be understood as defined under the Millennium Development Goal (MDG) 8 A, which stipulated the development of "an open, rule-based, predictable, non-discriminatory trading and financial system".

³⁷ See Recommendation No.4: "National Trade Facilitation Bodies" (TRADE/CEFACT/1999/11), and its supporting document: "Creating and efficient environment for trade and transport" (TRADE/CEFACT/2000/8).

Box 2.2 Customs Clearance Documentary requirements in Tajikistan

As established under the Customs Code of Tajikistan (article 131), customs clearance documentary requirements are divided into 5 categories:

- Authorization to represent or act on behalf of a trader or a company, including power of attorney.
- Commercial documents to define the type of goods, customs value, delivery terms, country of origin, and title to goods. These documents include the commercial contract, invoice, certificate of origin or declaration of origin.
- Transit declarations and transport documents, including consignment note (CMR³⁸, TIR Carnet or air waybill, or rail waybill, transit declaration under the procedure of internal customs transit).
- Documents to confirm adherence to restrictions, including licenses, permits, certificates. Such documents are required for certain goods (medical products, telecommunication products, foodstuffs, quarantineable products, products subject to veterinary and phyto-sanitary control, products subject to mandatory certification, dual-use goods and goods according to international export control conventions).
- Documents confirming the payment of customs duties, including bank payment orders, receipts from the Customs cash desks.

Commercial and transport documents accompanying inbound cargo should not be submitted to Customs as part of the clearance process.³⁹

This number is at par with other countries in the region. For example, according to the Doing Business database, 10 documents are required to export from Uzbekistan and 11 are required to import to Uzbekistan; and eight are required to export from, and nine are required for importing from, the Kyrgyz Republic.

The number of documents could be further reduced, since, by comparison, only four documents are required to export from and import to Singapore. Moreover, the results of the survey show that traders are still faced with excessive and cumbersome documentary requirements if the number of support documents requested by the different agencies is taken into account. Respondants said that they have to provide up to 50 documents for each shipment, and noted that this number would exceed 50. This number could more than double, for consolidated shipments, as traders are required to provide a separate set of documents for individual shipments.

The most difficult documents to obtain are those issued by Tajikstandart, particularly conformity certificates for imports of manufactured goods. Obtaining these certificates could take up to two months, owing to the time-consuming laboratory tests, since Tajikstandart checks each and every part of the product against relevant regulatory requirements.

As explained by an importer of machine spare parts, it takes up to three days to establish the list of parts that will be subject to laboratory tests, and the results are released in bits and pieces; first the results for each part (and these are issued separately) and then the results for the entire product. Once all the results are released, and this could involve several weeks, it takes up to three days to obtain the certificate.

Equally difficult to obtain is the certificate of quality for both exports and imports. For importers, obtaining this certificate is particularly difficult for manufactured products, since Tajikstandart tests each and every part of the imported product. For exporters, obtaining the certificate is complicated by excessive documentary requirements. As explained by an exporter of construction material, the company has to submit the results of the tests undertaken by its own laboratory, accompanied by a copy of the certificate of origin, the commercial invoice and the application form. Once the documents are submitted, it takes up to three days to obtain the test report, and the trader has to provide copies of the contract, commercial invoice, the Certificate of Origin and the packing list in order to obtain the certificate.

³⁸ CMR is the abbreviation of the French title of the Convention on the Contract for the International Carriage of Goods by Road. The abbreviation stands for “Convention relative au contrat de transport international de marchandises par route”.

³⁹ In the case of TIR transports, the TIR Carnet also valid TIR carnet provides proof of the existence of a valid international TIR guarantee, thus relieving the TIR Carnet holder from the obligation to pay or deposit customs duties and taxes.

Traders also reported accruing additional costs for temporary storage, noting that they have to retain the products in private warehouses pending the results of the laboratory tests. For importers of food products, the financial costs and delays are further complicated by the fact that they have to provide several samples of each shipment. Separate samples are provided for obtaining quality and conformity assessment certificates and for veterinary, phyto-sanitary and epidemiological inspection.

Yet another difficult to obtain document is the import license, which may take up to at least 4 days. As explained by a tobacco importer, the trader has to first approach the line Ministry in charge of regulating the good(s) in question (e.g., the Ministry of Health and Social Protection of Population and the Ministry of Agriculture) and fill in an application form specifying : (a) the full name, legal status and legal address of the entity; (b) the name and account number of the entity's bank for settlement; (c) the type of activity; and, (d) the requested validity period of the license. The form should be accompanied by the company's bylaws, and a special certificate, issued by an accredited expert, confirming the qualifications of the applicant to carry out the specific activity.

The Ministry would present the request to the Government for decision (the decision is made by the Committee on Licensing which reviews and approves or disapproves the request), before proceeding to accept or reject the trader's request. The ministry would then send an official notification to the trader. Traders reported that their requests are usually accepted. However, the license is only issued upon payment of the license fee in the tune of USD 300.

Traders, including exporters and importers, also reported experiencing difficulties in obtaining health certificates testifying that their products meet sanitary and epidemiological requirements. Again these difficulties were associated with the time-consuming laboratory tests, which could take up to two weeks. In addition, several traders noted that obtaining the certificate of origin is time consuming, and could take up to 3 days.

The results of the survey also show that traders are often required to submit unnecessary documents. For example, traders who benefit from tax exemptions are required to submit the company's bylaws for customs clearance purposes each time they engage in import activities, even though they are not required to do so by law.

Another example was provided by importers of flour. Interviewed traders reported that they have to submit the sales contract to the Ministry of Economy and Trade, which has to clear the contract before it can be registered by the importer's bank. This causes delays, since obtaining the Ministry's approval takes 1 to 2 days. Traders experience such delays even though they are not required to submit the sales contract to the Ministry by law.

Other concerns raised by traders relate to the incomplete implementation of reform measures. A case in point is the transaction passport requirement, imposed to enforce currency regulations. The requirement is aimed at ensuring full prepayment for principal exports (namely, aluminium, tobacco and cotton)⁴⁰ and confining the transfer of foreign currency proceeds from the exports of other goods to a maximum of 120 days.⁴¹ This requirement has been abolished.⁴² Yet, and as shown in the Annex, exporters of cotton fibre said that the procedures associated with this requirement have not been dismantled.

Another example is the import licence requirement. With the adoption of the new Law "On Permitting System" in 2011, the number of goods that are subject to this documentary requirement has been reduced. In addition, and as stipulated in the law "On Foreign Trade Activity", import licensing should be regulated in accordance with WTO rules and disciplines, including through the introduction of automatic licensing.

⁴⁰ See Presidential Decree No. 424 "On Liberalization of Currency and Export Operations and Measures to Ensure the Complete Return of Currency Proceeds" of 24 February 1996.

⁴¹ See Presidential Decree No. 1249 of 13 July 1999, which introduces amendments to Decree No. 424 of 24 February 1996.

⁴² The export transaction passport requirements, including the 0.01 per cent charge, were eliminated in 2007 pursuant to the National Bank of Tajikistan Board Decision No. 37 of 26 January 2007, while the mandatory pre-payment and repatriation of export proceeds requirements was eliminated in 2010 pursuant to the Presidential Decree No. 911 of 26 August repealing Decree No. 424.

Yet another example is the case of an importer of machine spare parts, who said that he has to provide the entire list of documents submitted for the purpose of customs clearance, including: copies of the contract, the commercial invoice, the Certificate of Origin and the packing list. Officials noted that according to Government Resolution No.487 of 2008, documentary requirements for obtaining conformity certificates are limited to the application form, consignment note and the commercial invoice. They also drew attention that pursuant to Government Resolution No.310, of 18 June 2012, machine spare parts are not subject to mandatory certification.

Further complicating export and import processes is a lack of understanding of the reform measures on the traders' part and, in some cases, by their tendency to circumvent the rule of law. For example, the traders complained about the lack of clarity about customs valuation methods, despite the fact that the Customs Code provides clear guidelines on customs valuation, which are in line with article VII of GATT and the Agreement on Implementation of Article VII of GATT (see box 2.3).

Box 2.3 Valuation Methods for Customs Purposes

Article 354 and 360 of the Customs Code of Tajikistan integrates the internationally recognized hierarchy of valuation methods, which involves the following six methods applicable to all goods:

- (i) Transaction value method.
- (ii) Transaction value of identical goods.
- (iii) Transaction value of similar goods.
- (iv) Deductive method.
- (v) Computed method.
- (vi) Residual valuation provision (the fall-back method).

The methods are to be used consecutively. The primary method of valuation is the transaction value which uses the invoice price. Wherever possible this is the method to be used. Only when the transaction value method cannot be used should the other methods be considered. In such cases the customs value is determined by proceeding sequentially through the other methods.

It is only when the value cannot be determined under the provisions of an earlier method in the sequence that the provisions of the next method are invoked, and importers may opt for reversal of the order of application of methods (iv) and (v). In exceptional circumstances it may not be possible to determine the customs value of imported goods under any of the foregoing valuation methods. In such an event, the value may be determined by applying the sixth fall-back method. Article 360 of the Customs Code stipulates that, when applying this method the customs value can also be based on price lists available at customs offices. These lists are prepared by the authorized body on customs affairs using statistical data from the cargo customs declarations, duly filled out using reliable information sources and supported by the necessary documents.

Respondents explained that Customs bases the valuation on reference price lists and do not provide justifications for rejecting the declared value. They also noted that the price set by Customs usually exceeds the value of the products established in the declaration. A case in point is an importer of precious stones from Iran, who reported that the value of the imported product established in the customs declaration was equivalent to USD 5,000. The Customs Service rejected this value and estimated the product in question at around USD 12,000. This price is prohibitively high said the trader, who explained that the price established in the declaration was the fruit of several years of cooperation and lengthy negotiations with the seller. The price offered by the customs would deal a blow to the enterprise's profits.⁴³

Customs officials noted that in the majority of cases, and due to the absence (or unreliability) of the necessary pricing documents confirming the transaction value, the first valuation method cannot be used, so that the customs value is established following the subsequent methods.⁴⁴ They added that it is often the case that traders underestimate the value of goods so as to evade taxes, particularly when goods are imported from

⁴³ Officials from the Customs Service reported that their records do not show any imports of precious stones from Iran.

⁴⁴ The said officials drew attention that all transnational companies use the transaction value method for customs valuation purposes.

countries that are following simplified export procedures. In such cases, the “authenticity” of commercial documents is difficult to establish, and the declared price could be 90 per cent below its real value, so that customs officers have to request additional information from the consignee in order to minimize risks, ensure fair competition and safeguard against revenue losses. The officials added that customs offices have established a price list for determining the customs value of goods and vehicles on the basis of data available to customs offices.

The Customs officials noted that the price list is not mandatory and is used for information and reference purposes. Yet, officials from other agencies reported that the list is mandatory, which contradicts with international best practices and with Tajikistan’s obligations with the WTO. They also proposed amending the Customs Code, so as to ensure that the list can only be used for reference purposes to detect under-invoicing of imports.

The Customs Code also establishes the right to appeal against Customs decisions in case of disagreement over customs value. Article 45 states that any natural or legal person has the right to appeal against Customs administrative decisions and actions (or lack of action), while Article 364 establishes that appeals are without penalty. In addition, and pursuant to Article 56, appeal against customs decisions can be brought before higher administrative authorities or the court. Yet, the majority of interviewed traders reported that they usually have “no choice” but to accept the prices set by Customs. They explained that they do not usually resort to the court, since, in their experience, it usually rules in favour of the Customs Service.

The results of the assessment also highlight a number of procedural barriers. Traders reported long delays in obtaining VAT refund and the majority said that they experience significant difficulties in obtaining the tax exemptions established under the new Tax Code. The legislation, which entered into force in January 2013, exempts imports of agricultural products and equipment, including machinery equipment and spare parts, from VAT and customs duties.⁴⁵

Officials explained that the VAT refund procedure has been streamlined pursuant to article 191 of the Tax Code and Government Resolution No.175 of 2005 “On the procedure of VAT refund from the national budget” (as amended by Government Resolution No.163 dated March 30, 2013). The resolution denotes that upon the request of the taxpayer, the tax office submits the relevant statement to the financial authorities (within the established time frame) for use as the basis for VAT refund purposes.

They drew attention that only a limited segment of traders experience delays in obtaining the tax refunds they are entitled to; namely traders with limited taxable turnover (i.e., whereby less than 70 per cent of their taxable turnover is exempted from taxes). For these traders, the excess of input VAT over the output VAT is carried over to the next three tax periods and is offset against trader’s future tax liabilities (i.e., for the next three periods) or other tax arrears of the VAT taxpayer (including VAT arrears for the previous tax periods). Any remaining amounts are to be refunded from the budget within 30 days upon the expiry of these three tax periods.

Traders also reported submitting documents, which according to their understanding, are not required by law. A case in point is the special certificate testifying that consignments do not contain drugs. This certificate is issued by the Customs Service in return for around USD 30 in fees, and is hand-written, suggesting that it is not an official document. Yet, traders comply, since failure to obtain this certificate risks subjecting consignments to significant delays.⁴⁶

⁴⁵ The list of exempted agricultural products are established in Government Decree No. 489 of 1 October 2007, while the list of technological equipment is established in Government Decision No. 93 of 2 March 2013.

⁴⁶ Officials drew attention that it is often the case that customs control together with the dog service of Drug Control Agency of Tajikistan search for drugs in consignments and vehicles that are moved across the border under export customs regimes. They added that this control is exercised for specific types of goods that are included in the list of risky products, which was established with the support of international experts. The cost of this procedure is included in the customs clearance fee. Thus, no additional fees are charged. Upon completion of the inspection a customs inspection certificate is filled out by officials, which mentions the dog control procedure.

In addition, traders raised the issue of informal payments in Customs and other government agencies as a major concern, even when this issue was not mentioned by the interviewers. These payments can be modest to serve as “tea money” or significant, depending on the value of the shipment. As far as traders are concerned, such payments are meant to provide officials with additional sources of income. Based on interviews with customs brokers, the monthly salary of Customs officers is modest (around USD 204 in average), and falls short of covering all basic living requirements. It is, therefore, understood that many need to supplement their pay by accepting outside payments to overlook violations or expedite clearance.

While the amounts are modest, they act as non-tariff barriers in that they inflate transaction costs accrued by traders. Government officials said that putting an end to informal payments is a key objective of Tajikistan’s anti-corruption strategy.⁴⁷ “Trust lines” have been established in all Customs offices, as a way for encouraging traders to report incidents of informal payments and subversion of control systems. The Government may consider complementing these efforts with an upward revision of pay scales for Customs officials.

Some respondents said that the difficulties experienced by traders could be avoided by using customs brokers for handling the entire customs clearance process.⁴⁸ Traders who rely on brokers said that this helps complete all customs clearance procedures in a short time, including the preparation of documents and the actual clearance of goods. They explained that brokers know the rules and all the State officials and have their “own channels”.

However, only 33 percent of the traders said that they use customs brokers. Those who do not do so said that they cannot afford the high fees charged by the brokers. Others lamented the lack of qualified customs brokers, who could be relied upon. This points to the need for expanding the pool of qualified customs brokers, and promoting their use amongst traders.

To sum up, the concerns raised by traders paint a complex and ambiguous legal framework. New legislation co-exist with old laws, presidential decrees and government decisions, leaving traders at loss regarding the content and applicability of the laws. Indeed, in most cases, traders were unable to refer to the legal basis of the documentary requirements. They also seemed oblivious to the fact that some trade documents are not required by law (e.g., SPS requirements for exports of clothes and imports of machinery parts and equipment, the transaction passport requirement and the import license). All this lends further evidence to the urgent need for consolidating a transparent legal framework along the lines of the recommendations provided in the previous section.

The concerns raised by traders also point to the lack of official guidelines for informing implementation as well as weaknesses in the rule of law. These weaknesses manifest themselves in the arbitrary implementation of regulations and the prevalence of informal payments.

The analysis also lends further evidence to the urgent need to improve inter-agency coordination. As explained in section 2.1, coordination needs to be guided by a common risk management policy, and supported by clearly defined functions and responsibilities of each agency with a view coordinate and/or integrate activities. The point was also made that efforts should also be made to reduce trade documents.

This exercise is important for ensuring the successful implementation of the SW facility. International experiences show that customs automation follows, and does not precede the simplification, standardization and reduction of documentary requirements. Once a decision on the trade documents has been reached, the

⁴⁷ See Tajikistan’s Anti-corruption Strategy 2008 – 2012; Matrix of Measures for implementation of the strategy (www.anticorruption.tj). In 2012 a Working Group was created to develop an anti-corruption strategy for 2013-2020. Detailed reports on the implementation of the strategy are submitted to the Government on an annual basis by the Agency for State Financial Control and Fight against Corruption.

⁴⁸ Most traders use customs brokers for filling in the customs declaration. According to the Customs Code, customs declarations should be filled in by Customs brokers.

government should reduce and simplify administrative procedures. It would be difficult to establish a smooth flow of information and data exchange if the underlying procedures are cumbersome.

In addition, some agencies highlighted the necessity of stepping up capacity building efforts for agricultural development. Officials from the Ministry of Agriculture listed the following capacity building needs for ensuring due fulfilment of the country's obligations under the SPS Agreement:

- Furnishing border veterinary and phytosanitary control points with all the necessary equipment.
- Introduction of identification systems, including information management systems, for animal tracing.
- Developing veterinary and phytosanitary diagnostic laboratories, especially for ensuring product safety.
- Developing the Ministry's risk analysis and management system
- Training, advanced training and retraining of specialists both domestically and at leading international training institutions.

Table 2.4 provides a number of recommendations for the Government's consideration.

Table 2.4 Outstanding needs and recommendations for improving customs clearance

Outstanding needs	Recommendations
Establishing clear distinction between primary laws and secondary regulations for guiding implementation	<ul style="list-style-type: none"> Develop customs operation manuals for staff in the Customs Service and other relevant State agencies to guide the implementation of the new Customs Code and the day-to-day customs clearance operations.
Raising awareness among traders, trade support institutions, as well staff in the public sector about international agreements and best practices in the area of trade facilitation	<ul style="list-style-type: none"> Hold information seminars to familiarise traders, representatives of trade support institutions and staff from line ministries, State agencies on the GATT agreement, SPS, the recent Agreement on Trade Facilitation and other international agreements, with a focus on Tajikistan's rights and obligations under these agreements and their implications for export competitiveness. Such information seminars can be conducted using the UNECE Trade Facilitation Implementation Guide, which provides background information and explanatory notes on a range of internationally recognized concepts, standards and recommendations for simplifying cross-border trade and for ensuring the successful implementation of WTO agreements, including the Agreement on Trade Facilitation.⁴⁹
Creating teams of experts within line Ministries and State agencies capable of implementing reform measures, which seek to ensure adherence to international agreements and best practices in the area of trade facilitation	<ul style="list-style-type: none"> Develop thematic training modules, which take into account the specificities of Tajikistan and are geared to assist: (i) line Ministries and State agencies in implementing international agreements best practices in the area of trade facilitation, (ii) traders in ensuring adherence to these agreements and best practices. Establish a training facility within the Government (e.g., Ministries of Foreign Affairs and/or Ministry of Economic Development and Trade), which uses the above-mentioned training modules to train staff in line Ministries and State agencies as well as traders on the implementation of international agreements and best practices in the area of trade facilitation. In the long-run, consider integrating the training modules into the postgraduate curriculum.
Streamlining and reducing documentary requirements and administrative procedures	<ul style="list-style-type: none"> Remove documents which serve little real purpose and could be eliminated to help streamline the clearance process, as explained in chapter two. Conduct detailed business process analysis within and across the State agencies involved in supporting export and import activities. The analysis should focus on: (i) document flow; (ii) data flow and data harmonisation issues; (iii) and, the regulatory requirements of each SW agency; and (iv) the administrative procedures for issuing trade documents. The UNECE's BPA methodology provides a useful tool for undertaking such analysis. Align all remaining trade documents, including support documents, into a single electronic form. This exercise should be undertaken in each agency, and followed by a similar exercise to assess the possibility of further harmonization among the different documents. Once the documentary requirements are reduced and harmonized, review all administrative procedures and remove all those that prove to be repetitive or unnecessary.

⁴⁹ The Guide is available in English, Russian, French and Spanish (<http://tfig.unece.org>) and will soon be available in Arabic (thanks to the ITFC and IsDB).

Outstanding needs	Recommendations
Introducing measures to expedite customs clearance	<ul style="list-style-type: none"> Consider introducing pre-arrival documentary examination procedure. Under this procedure, the trader could submit a prior import declaration a couple of weeks before the arrival of shipment so that customs could conduct documentary control. Traders provide certified copies of commercial and transport documents accompanying the imported goods a few hours before the shipment arrives at the border crossing point. This procedure has been implemented in several countries (e.g., Belarus) with much success. Consider introducing incentives to traders, such as Authorised Economic Operator (AEO) programme. Under this programme, traders who fulfil certain criteria could be accorded a number of benefits, including: exemption from import duties under transit procedure; exemption from physical inspection; and, priority treatment in customs clearance procedures. The SAFE framework provides valuable guidelines for introducing this measure. Consider implementing a system for self-assessment and self-declaration, which are commonly conducted as part of trade regulation in most developed countries, to speed up the processing of customs declarations. Introducing these measures requires training the traders on how to use the system. In this respect, the UNESCAP Trade Facilitation Framework provides useful guidelines.⁵⁰
Introducing post-clearance system	<ul style="list-style-type: none"> Post-clearance is based on intelligence about an economic operator and therefore concentrates on high risk cargoes. Controls are more systematic and comprehensive, as they involve not only analysis of trade documents, but also accounting books and other records of the economic operator, as opposed to the traditional controls, which are performed randomly. It is recommended that the Tajikistan Customs Services should introduce a post-clearance audit system, as it would allow customs authorities to shift from a purely transaction-based control to a thorough company-oriented control.
Expanding the pool of qualified customs brokers	<ul style="list-style-type: none"> Establish a training facility within the Customs Brokers Association and equip it with the required training material as well as expert knowledge through, for example, train-the-trainer course.
Ensuring the implementation of new reform measures	<ul style="list-style-type: none"> Conduct an assessment of weaknesses in the existing mechanisms underpinning the implementation of Customs Code provisions on Customs Valuation, and introduce reform measures to address the identified weaknesses. Conduct an assessment of weaknesses in the existing mechanisms underpinning the implementation of the VAT refund procedure, and introduce reform measures to address the identified weaknesses. Conduct an assessment of weaknesses in the existing mechanisms underpinning the implementation of Law on Licensing Procedure, and introduce reform measures to address the identified weaknesses. Conduct an assessment of weaknesses in the existing mechanisms underpinning the implementation of the Law on Foreign Trade Activities and other laws, and introduce reform measures to address the identified weaknesses. Introduce results-based management systems at the agency level, and results-based evaluation for measuring the performance of staff. Consider increasing the salaries of staff at the lower-level staff.
Developing new customs payment schemes	<ul style="list-style-type: none"> An example of such schemes is the deferred payment system (or bank direct debit scheme), which is recognized as a valid payment option under the Customs Code.⁵¹

⁵⁰ The framework is available at: <http://www.unescap.org/publications/detail.asp?id=934>

⁵¹ This scheme is not available for traders, since the banking sector suffers from insufficient capital and capacity shortfalls. See for example, International Monetary Fund, "Overview of Tajikistan's Financial Sector", 13 February 2103, available at: <http://www.imf.org/external/country/tjk/rr/index.htm> A more detailed account is provided in the IMF Country paper, "Republic of Tajikistan: Financial System Stability Assessment, including Reports on Observance of Standards and Codes on the following topics, Banking Supervision, and Monetary and Financial Policy Transparency", December 2008, available at: <http://www.imf.org/external/pubs/cat/longres.aspx?sk=22534.0>

C. On the use of electronic documents and the Single Window facility

Customs brokers who prepare electronic customs declarations using the UAIS reported significant gains.⁵² Most notable has been the reduction of the time spent on preparing customs declarations from three hours to three minutes, and safeguarding against mistakes.

Nonetheless, the results of the survey show that customs clearance procedures are still predominantly paper-based. Around 47 percent of the respondents said that they use electronic customs declarations. These reported such benefits as cutting down on bureaucracy and avoiding conflicts with State agencies as the main benefits from using electronic documents.

However, all the respondents said that they still have to submit the customs declaration in paper copy, since the other State agencies, banks and transport operators do not recognize electronic documents. Traders who do not use electronic documents said that they are unfamiliar with this type of documents, and cited the lack of modern management information systems and IT skills as the main impediments to migrating to electronic documents.

Thus, traders are not ready to use electronic documents. At the same time, most of State agencies operate in the absence of modern information and communication technology infrastructure. They also lack skilled professional staff capable of applying internationally recognised best practices and principles. The situation is not helped by resistance to change, evidenced by the low level of introduction and application of automated systems, so that the main document turnover in state bodies remain pre-dominantly paper-based.

To these issues should be added the shortage in electricity supply, especially during winter. For three to six months of the year, most parts of the country outside of Dushanbe receive only a few hours of power each day. In fact, about 70 per cent of the population suffers from extensive electricity shortages during the winter, and in most border posts, electricity supply is unstable and at best provided only for 7–8 hours a day. This sets the limits to automating procedures.

Thus, Tajikistan lacks the required institutional capacity and infrastructure for supporting effective migration to paperless trade and the implementation of SW arrangements. It would be, therefore, prudent to sequence SW implementation by focusing in the first stage on one type of documents only. This is all the more so, because the operationalization of SW facilities is complex, requiring the trust and collaboration of several entities that are not under the same authority; do not carry out the same procedures; and have divergent concerns. Table 2.5 provides a number of recommendations for the Government's consideration.

Table 2.5 Outstanding needs and recommendations for promoting the use of electronic documents and the SW facility

Outstanding needs	Recommendations
Implementing the law on digital signatures	<ul style="list-style-type: none"> • Create a system that addresses international best practices with regards to, among others, basic security features and responsibilities and legal obligations of service providers.
Familiarizing the traders with the use of electronic documents	<ul style="list-style-type: none"> • Provide specific training for traders on the use of electronic documents, and solicit their input in designing electronic documents.
Developing the information systems of all SW State agencies	<ul style="list-style-type: none"> • Install paperless electronic documentation systems in each agency. • Provide advanced training for staff on electronic business standards (such as the UNCEFACT eBusiness standards).

⁵² According to the USAID, which provided targeted assistance to promote the use of electronic documents, the number of customs brokers who use automated systems was 40 by March 2011. See <http://egateg.usaid.gov/resource-library/59>

Outstanding needs	Recommendations
Sequencing the implementation of the Single Window	<ul style="list-style-type: none"> ● Focus in the first stage on one type of documents, and expand gradually building on accumulated experience. ● Coordination of SW implementation with other Central Asian countries. This will facilitate data exchange for regional trade/transit in Central Asia in the future.

2.4 Regional cooperation and transit trade

Tajikistan's landlocked status and distance from international maritime routes have rendered the issue of regional cooperation a permanent fixture of the Government's development agenda. This is reflected in the country's active participation in regional cooperation arrangements. Tajikistan is a member of the Commonwealth of Independent States (CIS); the Eurasian Economic Community (EurAsEC); the Shanghai Cooperation Organization (SCO); the United Nations Special Program for the Economies of Central Asia (SPECA); and, the Central Asia Regional Economic Cooperation Program (CAREC). It has also signed bilateral trade agreements with the Russian Federation (1994); Armenia (1994); the Kyrgyz Republic (1996); Kazakhstan (1996); Uzbekistan (1996); Belarus (1998); and, Ukraine (2001).

Most recently, Tajikistan has initiated dialogue to join the Afghan-Pak Trade Transit Agreement, which is being expanded to include other Central Asian countries, such as Kazakhstan, Kyrgyzstan, Turkmenistan and Uzbekistan. Joining this agreement will enable Tajik traders to use Pakistani sea ports, and provide them with an additional gateway if the proposed international highway between Tajikistan and Afghanistan (through the Wakhan corridor in Afghanistan) is constructed.

In addition, and as shown in table 2.6, Tajikistan has ratified a number of UNECE's international agreements in the areas of border crossing and the transport of dangerous goods and special cargo, including the Transports Internationaux Routiers (TIR) Convention and the SMGS rail transport convention that regulates the transit of goods by rail.

Table 2.6 Tajikistan's participation UNECE Transport Agreements and Conventions⁵³

Area	Convention
Road traffic and road safety	<ul style="list-style-type: none"> ● Road Traffic of 1968 ● Road Signs & Signals of 1968 ● Convention on the Contract for the International Carriage of Goods by Road, 19 May 1956;
Vehicles	<ul style="list-style-type: none"> ● Agreement concerning the establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be fitted and/or be used on Wheeled Vehicles of 1998.
Other Legal Instruments Related to Road Transport	<ul style="list-style-type: none"> ● Work of Crews International Road Transport of 1970 ● Contract for the International Carriage of Goods by Road of 1956
Border crossing facilitation	<ul style="list-style-type: none"> ● TIR Convention of 1975 ● Customs Container Convention of 1972 ● Harmonization of Frontier Controls of Goods of 1982
Dangerous goods and special cargo	<ul style="list-style-type: none"> ● Dangerous Goods by Road of 1957 ● Perishable Foodstuffs of 1970

⁵³ The conventions listed in the table have been ratified by Tajikistan.

Tajikistan is also an active participant in a number of donor-funded regional integration initiatives and transport development projects, which seek to link Central Asian countries with global markets.

For example, since 2000, the Asian Development Bank has been providing targeted technical assistance projects, focusing on: (i) simplification and harmonization of customs documentation; (ii) development of border posts and facilities; (iii) development of simplified transit systems; (iv) data consolidation/information sharing and ICT development for customs operations; (v) development of risk management and post entry audit; (vi) development of a Regional Intelligence System Unit; and (vii) capacity building for regional customs.

Tajikistan is also benefiting from the European Union (EU) funded interregional technical assistance programme, Transport Corridor Europe-Caucasus-Asia (TRACECA)⁵⁴, which was launched in 1993 to establish multi-modal transport corridor of land and sea routes from Europe, crossing the Black Sea, the Caucasus, and the Caspian Sea into Central Asia.⁵⁵ Although progress in the implementation of this programme has been slow, Tajikistan, like other participating countries, has received targeted capacity building efforts directed at harmonizing transport policy and legal frameworks, traffic/cargo safety and environment protection. Tajikistan has already signed and ratified the Agreement on Development of Multimodal Transport TRACECA, which regulates relations between transport organizations, multimodal transport operators, consignors, consignees, other physical and legal persons, acting on behalf of the consignor carrying goods in multimodal services, define rights, obligations and responsibilities of each participant of transport operations.⁵⁶

The results of the assessment shows that the above-mentioned efforts have not been reflected in improved relationships and regional cooperation. Transit trade remains impeded by lengthy procedures, duplication of documentation and processing activities, inconsistent border policies and regulations, and high level of unpredictability given the continuous changes in administrative procedures and regulatory requirements.

A major concern raised by traders relates to the difficult documentary requirements imposed by some transit countries. For example, exporters of flour and rice said that they experience difficulties meeting the quarantine certificate requirements of the transit countries of Kazakhstan and the Russian Federation. Exports of food products, such as dry fruits, fruits, vegetables, and meat products, have to accrue the additional costs of re-testing and quarantine inspection when exporting to the Russian Federation and the EU. Most of the traders fail to meet the quality, SPS and health requirements of these countries, which prevents them from taking full advantage of the harvest season.

Traders also said that shipping goods via Uzbekistan has become difficult, owing to the new transit declaration form that was introduced in 2013. The form requires the trader to provide detailed information, including the price of the goods, weight, intended use, and is quite different from the one issued by the Tajik Customs Service. They added that they have to pay escort fees and present the receipt to the rail authorities. They noted that this requirement is imposed even though the traders do not actually use the escort services.

Yet another difficult documentary requirement is the “particular list of cargo” for goods in transit, which was introduced by Kazakhstan within the context of the Customs Union with Belarus and the Russian Federation. This new document is akin to an extensive packing list, requiring traders to provide information on, among

⁵⁴ The programme covers 13 countries, which are signatories to the “Basic Multilateral Agreement on International Transport for Development of the Europe-the Caucasus-Asia Corridor” (MLA TRACECA). These countries include: Azerbaijan, Armenia, Georgia, Iran, Kazakhstan, Kyrgyzstan, Moldova, Romania, Tajikistan, Turkey, Ukraine and Uzbekistan. For further details, see the programme’s website, at: www.traceca-org.org.

⁵⁵ The TRACECA corridor starts in Eastern Europe (Bulgaria, Romania and Ukraine) and crosses Turkey. The corridor continues, using the transport infrastructure of the Southern Caucasus, and a land connection towards the region from Turkey. A second route crosses the Black Sea to the ports of Samsun, Turkey, and Poti and Batumi in Georgia. This route reaches the railway networks of Turkmenistan and Kazakhstan via Azerbaijan’s Caspian Sea routes that lead to Turkmenbashi, Turkmenistan and Aktau, Kazakhstan. Further on the corridor passes through Uzbekistan, Kyrgyzstan and Tajikistan, reaching the borders of China and Afghanistan.

⁵⁶ The agreement was ratified Azerbaijan, Georgia, Kyrgyzstan and Tajikistan. The text of the agreement is available at: <http://www.traceca-org.org/en/traceca/basic-documents/traceca-agreements/multimodal-agreement/>

others, the price, technical specifications and weight. If the shipment is large, then the trader has to invest up to 5 days to prepare the list. The trader also accrues additional costs in the tune of USD 1500, since the list runs to 60 pages in length (the cost of one page is USD 25).

The complex documentary requirements aside, transit trade is disrupted by the lack of proper enforcement of regional agreements, and mutual acceptance of standardized documentation. For instance, the Kyrgyz Republic is a Contracting Party to the TIR Convention and the Association of International Autotransportation of the Kyrgyz Republic (KYRGYZ AIA), a member of IRU, acts as a national guarantor for all transports under cover of TIR Carnets. In principle, the TIR system allows trucks, which are sealed by the customs in the country of departure, to cross borders without further checks until they reach their final destinations.. However, the Kyrgyz Authority does not always accept the TIR carnet. Trucks transporting transit trade to/from Tajikistan are opened for checks at borders, which delay shipments.

Furthermore, it is often the case that Tajik traders are denied access to the transport facilities of neighbouring countries. Traders said that Uzbekistan closed its border post at the Denau-Tursanzade crossings in 2010. Similarly, the transport of goods via the Uzbek Bekabad border crossing point (BCP) came to a halt in 2011. Border crossing points with Kyrgyzstan also close unpredictably. The best strategy, noted some traders, is to "ask around before you leave", come early in the morning and "be patient".

Traders also reported being subjected to what they described as arbitrary transit fees, such as the railway transit fee imposed by Uzbekistan on all exports destined to Tajikistan. There are also informal payments. Traders said that they pay around USD 100 at each border point along the Sari-Asiya and Charjou routes, and at the passage between Sari-Asiya and Cherneevka. They also noted that the following payments are made en route through Kazakhstan between Chimkent, Karaganda, and Almaty: traffic police require each vehicle carrying less than 20 tons to pay USD 200, while the ecological service demands USD30, with no receipt provided. En route between Jambul and Karaganda drivers are stopped at nine separate check-points at each of which vehicles must pay between USD 75 and USD100. The most taxing charges are those associated with vehicle escorts that are unofficially "required" in Kazakhstan, which could reach as much as USD 300. Similarly traders who transport their goods via Uzbekistan reported that they have to pay an escort fee of USD 250 if the value of the shipment exceeds USD 50,000, even if the goods are not actually accompanied by escorts. Traders also noted that the invoice provided by Customs is handwritten and does not have stamps.

Tajik traders are also subject to high official and non-official fees when shipping their goods through Turkmenistan. For example, for entrance into Turkmenistan, a fee of USD 250 is required and an additional fee of USD 35 is charged for a "transit visa." There are also the police check-points, each of which demand informal payments in the tune of USD 50 to USD 70 per vehicle.

In addition, wagons are withheld by Uzbek Customs at main borders, so that they experience significant delays. Some traders said that their goods are withheld for over a month. Others said that the delays are compounded by losses as a result of theft, as it is often the case that goods are stolen from the wagons, or as a result of damage to goods (and this is the case of perishable goods). To avoid delays, several traders said that they are now transporting their goods via Kazakhstan and Kyrgyzstan. However, according to freight forwarders, re-routing via Kyrgyzstan increases transport costs by up to 80 per cent owing to the poor conditions of the road network.

Yet another concern raised by respondents related to unnecessary restrictions. For example, traders who transport their goods via Kyrgyzstan face the requirement of passing through specified customs posts, and some of these, e.g., Karomyk, create additional costs, owing to irregularities in the application of rules and the problem of informal payments.

Another example is illustrated by the restrictions imposed by the Uzbek Authorities in 2010, which set the free import quota on consumer goods imported from Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and

Afghanistan is set at USD 10. This comes in contrast with the free import quota for products imported from territories of other countries, which, pursuant to the Customs legislation, is set at USD 1000.

Transit trade is also undermined by (i) fragmented regional road transport connections, (ii) aging infrastructure, (iii) outdated border facilities and equipment, and (iv) inefficient customs clearance. It suffices to mention that along the border of Tajikistan there are 27 boundary check points, 17 borders the Republic of Uzbekistan, 5 on the border of Kyrgyzstan, 4 on the border about Afghanistan and 1 on border from the People's Republic of China. These are inadequately equipped. Moreover, and as shown in the next section, the road networks are in poor conditions and transport by rail is complicated by inconsistencies in technical specifications.

The above-mentioned bottlenecks undermine the economic value of Tajikistan's transit routes, and constitute a major obstacle to the expansion of Tajik exports, especially perishable goods. They also pose a significant threat to investment attraction, forcing investors from neighbouring countries to relocate their facilities elsewhere.

The improvement of economic relations between Tajikistan and its neighbouring countries, especially Uzbekistan, is essential for forging Tajikistan's trade and economic links with other Central Asian countries, CIS members, and non-CIS members. Interviewed traders expressed a particular interest in the Uzbek market, especially those involved in the agricultural sector. They explained that removing the existing regulatory and procedural barriers will stimulate increased production of vegetables, fresh and dried fruits, and non-perishables produce, which enjoy a significant demand in Uzbekistan.

It can be emphasised that this needs stronger political will and increased co-ordination, which could be improved by:

1. Establishing a regional framework for facilitating transit trade and cooperation on legislative matters
2. Creating an organizing body for implementing the framework
3. Setting cooperation mechanisms
4. Establishing a common approach to risk management
5. Create a single combined database on the movement of goods and transportation across borders.
6. Creating an ICT interface between regional customs organizations

Implementing existing international conventions for the harmonisation of customs and cross-border procedures, such as the WCO Revised Kyoto Convention and the UNECE TIR and Harmonisation Conventions, could provide direct contribution to addressing regional concerns. These conventions, along with the SAFE Framework, provide a reference framework for guiding transport-related strategies, regulations and procedures as well as discussions with neighbouring countries over transit transport arrangements. Table 2.7 provides a number of recommendations for the Government's consideration.

Table 2.7 Outstanding needs and recommendations for improving regional cooperation

Outstanding needs	Recommendations
Ensuring the implementation of the TIR Convention	<ul style="list-style-type: none"> The Government of Tajikistan should use all means available to all contracting parties to the TIR Convention (e.g., TIR Executive Board and the Administrative Committee for the TIR Convention), in order to address current issues with neighbouring countries. If Tajikistan were to join the Customs Union of Belarus, Kazakhstan and the Russian Federation, the Government may need to review the situation regarding the TIR Convention based on the status of the Customs Union at the time of Tajikistan's accession.
Ensuring that trade agreements with regional partners are in line with internationally recognized rules and regulations	<ul style="list-style-type: none"> Conduct an assessment to detect areas of inconsistency with : (i) the WCO Revised Kyoto Convention (RKC), which provides a framework for Border Agency Cooperation in quality control and urge Customs administrations to correlate business hours and competences, operate joint controls, and use or establish juxtaposed Customs offices; (ii) the SAFE Framework, which refers to integrated border management through cooperative arrangements across borders with agencies of neighbouring countries; (iii) the WTO Agreement on Trade Facilitation.
Increasing awareness among the logistics service providers and transport operators and traders about these conventions and their benefits	<ul style="list-style-type: none"> Organize information mobilization seminars to raise the awareness of traders on the benefits of these conventions. Organize advanced training to logistics service providers on the implications of these conventions for their services.
Harmonizing national transport policies with those in China	<ul style="list-style-type: none"> Enter into negotiations with China to harmonize legislation on inland transport and transit trade, so that traders would not have to unload and re-load the goods at the Kyrgyz border.

2.5 Inland transport infrastructure: rail and road networks

Rail constitutes the most dominant mode of transport for traders, carrying over 90 per cent of inbound and outbound cargo, including both high-volume and low-value commodities, such as building materials, cotton, wheat, and cement. In contrast, road constitutes the most dominant mode of transport for internal freight, carrying over 70 per cent of domestic cargo.⁵⁷

However, both the rail and road network are in poor conditions. The railway system, which consists of around 951 kilometres (km) of tracks, remains divided into the two distinct north and south sections and most of the tracks are in need of repair and renovation. Similarly, around 80 per cent of the roads remain in unmaintainable conditions. Many roads in Dushanbe and Khujand are in poor condition, and roads outside major towns are unpaved and poorly maintained. Access to the south-easternmost region of the country (the Gorno-Badakhshan Autonomous Oblast, GBAO) is even more complex with no railroad and difficult mountain roads. Access to this region is difficult during winter. This region is also particularly vulnerable to natural disasters such as avalanches, landslides or fallen rocks, which render many of its roads inaccessible for extended periods.⁵⁸

The results of the survey highlight the urgent need to develop the country's inland transport infrastructure. Around 40% of the interviewed traders lamented the lack of adequate transport facilities and poor roads. Difficulties differed across towns, mainly according to their location and to the need for transportation and

⁵⁷ The road network is 30,563 km in length, and consists of three main highways, commonly referred to as the Asian Highways, in the northern part (Sugd region), the centre (Dushanbe) and the Southern part (Hatlon region), which are connected through lines in Uzbekistan and Turkmenistan. The first highway stretches from north to south and serves as the gateway to Afghanistan and South Asia, while the second is situated between Uzbekistan in the west and the Kyrgyz Republic in the east. The third highway is the longest, and passes through Dushanbe and ends in Kulma Pass, the gateway to the People's Republic of China.

⁵⁸ See, TRACECA, different reports, available at: <http://www.traceca-org.org/en/countries/tajikistan/>

associated cost. A very low number of traders in Dushanbe reported difficulties with transportation and roads, while they were many to do so in Khujand.

Other complaints raised by traders related to inconsistencies between regional rail tracks in terms of technical specifications. For example, a trader who imports from Iran via Uzbekistan said that the differences in the width of the railroad tracks creates additional costs, as he has to switch wagons. To avoid these costs, the trader has decided to transport his goods by road. However, this creates delays.

Traders also lamented the absence of coordination mechanisms. A case in point is the requirement of unloading the cargo shipped from China via Kyrgyzstan upon arrival to the Kyrgyz border and reloading them to Tajik trucks. This is so because Chinese trucks are not allowed into Tajikistan, and traders who use Chinese cars are subject to a fine in the tune of USD 2000. Several traders said that they opt to pay the fine in order to avoid the delays and damages to the goods, caused by the unloading and reloading of goods.

The development of the rail and road networks has been ranking high on the Government's agenda. For example, Tajikistan intends to complete an ambitious plan to create a modern transportation network by 2025 in order to ultimately end its dependency on Uzbekistan. However, with mountains occupying around 93% of the land, and the Government constantly labouring under significant financial constraints, progress has been slow, leaving the traders with inadequate transport infrastructure.

Thus, infrastructure development efforts are constantly defeated by the country's harsh topography. Even if these efforts come to a successful close, improving the quality of transport systems available for Tajik traders remain a function of the quality of transport facilities in neighbouring countries as well as the effectiveness and efficiency of coordination mechanisms. Both the rail and road networks are structurally linked to those of Uzbekistan, continuing a trend from the pre-independence period. All major trade routes pass through Uzbekistan, including: Sari-Osiya – Denau – Kitob – Shahrizabz – Samarkand – Djizak – Guliston (linking Tajikistan with Kazakhstan); Sari-Osiya – Baysun – Bukhara – Chardzhou (linking Tajikistan with Turkmenistan); Aibek – Toshkoz – Chernovka – Dzhambul – Alma-Ata – Khorgos (linking Tajikistan with China); via Sari-Osiya – Denau – Samarkand – Dzhizak – Guliston – Chernovka (linking Tajikistan with Uzbekistan).

Transit through Uzbekistan is also essential for ensuring Tajikistan's geographic continuity. For example, the only road link between the north and south of the Tajikistan in winter is through Uzbekistan, as is the only rail link. This means that efforts to reduce transport costs facing Tajik exporters should seek to not only develop existing transit routes but also to diversify them by establishing new routes.

Improving the regional transport infrastructure has and continues to form the focus of on-going development efforts. Tajikistan participates in the Euro-Asian Transport Links (EATL) project,⁵⁹ which involves identifying road and rail routes that should be accorded priority treatment by national governments and the donor community for the purpose of boosting trade between the two continents. The below map shows the identified road and rail EATL links through Tajikistan, which are deemed critical for supporting increased trade with China and the EU (Map 1).

⁵⁹ For further are available at: <http://www.unece.org/trans/main/eatl.html>

Map 2. Euro-Asian Transport Links through Tajikistan (road and rail)



Another important donor-funded effort for improving regional transport is the one proceeding within the context of the Asian Development Bank (ADB) Central Asia Regional Economic Cooperation (CAREC) Programme. The programme targets in addition to Tajikistan, Afghanistan, Azerbaijan, People’s Republic of China, Kazakhstan, Kyrgyz Republic, Mongolia, Pakistan, Turkmenistan and Uzbekistan (which constitute ADB members). As shown in table 2.8, it involves the establishment of six transit corridors, four of which run through Tajikistan.

Table 2.8 CAREC corridors

Corridor No.	Name	Coverage	Route in Tajikistan
2	Mediterranean–East Asia	Connects the Caucasus and Mediterranean to East Asia, and covers Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, the Kyrgyz Republic, and the People’s Republic of China	Enters Tajikistan at Nau border crossing point (BCP), and passes through Khujand and Kanibadam and enters Kyrgyz territory at Kara Suu. Tajikistan’s part of the corridor is the shortest of all
3	Russian Federation–Middle East and South Asia	Connects the Russian Federation to the Persian Gulf states. It runs from west and south of Siberian region of the Russian Federation through Afghanistan, Kazakhstan, the Kyrgyz Republic, Tajikistan, Turkmenistan, and Uzbekistan to the Middle East and South Asia	The corridor links Bishkek–Dushanbe–Termez. It enters Tajikistan at the Karamik BCP on the Tajik–Kyrgyz border, and passes through Jirgital–Vahdat–Dushanbe–Tursunzade route in Tajikistan, before entering Uzbekistan at the Saryasia BCP

Corridor No.	Name	Coverage	Route in Tajikistan
5	East Asia–Middle East and South Asia	connects East Asia to the Arabian Sea through Central Asia. The route covers the People’s Republic of China, the Kyrgyz Republic, Tajikistan and Afghanistan	It enters from the Karamik BCP at the Tajik-Kyrgyz border. It passes through Jirgital–Vahdat-Dushanbe and heads directly south towards Kurgan-Tube all the way to the Nijniy Panj BCP.
6	Europe–Middle East and South Asia	includes three routes linking Europe and the Russian Federation to the Arabian Sea port of Karachi and Gwadar or Bandar Abbas in the Persian Gulf	It enters Tajikistan at the Bekabad BCP, passes through Nau-Shahristan-Ayni-Dushanbe-Kurgantuyube and proceeds to the Nijni Pynj BCP to Afghanistan

Source: Asian Development Bank (ADB), CAREC

The programme has generated tangible benefits for Tajik traders. For example, interviewed traders noted that the flow of trade with Kazakhstan, Kyrgyzstan, and China has improved following the restoration and expansion of the Osh – Bishkek highway, which connects Kzil-Art – Saritosh – Dzhirgatal – Garm – Nurobod – Obi-Garm – Faizobod – Dushanbe (Corridor 3). However, they said that reaping the full benefits from this road is undermined by poor safety conditions, since the construction works are still underway. They argued that it would be possible to avoid this dangerous highway if the roads through the Ferghana Valley of Uzbekistan were open to Tajik traders. Similarly, accidents could be avoided if the road between Chernovka – Oibek and Chernovka – Sir-Darya was opened.

Yet another important route is the Kulma-Karakorum road, which provides traders with access to the open sea through the China and Pakistan by connecting Tajikistan’s eastern Murghob district to the Karakorum Highway in China. However, respondents, namely traders who import goods from China, said that the road’s disadvantageous location renders it inaccessible during most part of the winter. Indeed, the road is located some 4,600 meters above sea level in the remote, mountainous Badakhshon province, which still lacks proper roads. The roads connecting Badakhshon to the capital and the rest of country are underdeveloped, so that they are largely closed during winter from October to May.

The past few years has also seen the reconstruction of the 354-kilometer Dushanbe-Khujand-Buston-Chanak toll road, which links Tajikistan’s capital with Uzbekistan through the northern province of Sughd; and the 350 kilometer (km) Dushanbe-Rasht-Jirgatol highway, which links Tajikistan to China and Kazakhstan via Kyrgyzstan. In 2013, construction work was underway to develop the following roads and railways:

- Dushanbe-Kulyab-Khorog-Kulma-Karakorum (border with China).
- Dushanbe-Vakhdad-Saritosh (border with Kyrgyzstan)
- 5 bridges connecting with Afghanistan (Nizhny Pyanj, village Khumrogi, village Ishkashim, Tem, village Ruzvay)
- Kolkhozabad-Dusti-Nizhny Pyanj railway line (border with Afghanistan).
- Dushanbe-Tursunzoda highway, which links Tajikistan with Uzbekistan via the Tajik industrial cities of Hisor Valley and the town of Tursunzoda (Corridor 3).⁶⁰

However, and as previously shown, unless supported by efforts to consolidate regional cooperation mechanisms, Tajik traders will continue to be unable to reap expected benefits. For example, the construction of the road highway connecting Bishkek-Dushanbe-Termez (Corridor 3) has been slow, owing to border tensions. In addition, and as previously mentioned, the transit of goods via the Bekabad BCP (Corridor 6) came to a halt in 2011.

⁶⁰ The Hisor Valley is home to producers of cotton, grain, fruits, and vegetables, while Tursunzoda is home to the aluminium processing and light industries

Improving regional coordination has been at centre of donor funded projects, which feature creative solutions based on international best practices.⁶¹ The needs assessment suggests that it would be useful to accord priority treatment to developing the Tajik railway services, as this could result in immediate benefits. The country has 33 railway stations spread across the three railway lines, which are owned and operated by the State Unitary Enterprise, Rohi Ohani Tojikiston. However, only one mechanized container station, “Aini”, is equipped by all necessary equipment, cargo handling mechanisms, warehouses and wagons. Hence the delays that are compounded by severe shortage in the supply of wagons.

Table 2.9 provides recommendations for the Government’s consideration.

Table 2.9 Outstanding needs and recommendations for improving inland transport

Outstanding needs	Recommendations
Reconsidering the relation between the Government and railway management	<ul style="list-style-type: none"> Consider relegating railway management to an independent entity (e.g., parastatal agency), in order to bring the sector in line with international best practices and.
Developing the required human resource skills in the Ministry of Transport	<ul style="list-style-type: none"> Provide advanced training to staff in the area of transport management and regulations. Organize information mobilization seminars to raise the awareness of traders on the benefits of these conventions.

2.6 Logistical services⁶²

Insufficient storage facilities were mentioned by 28 percent of the traders. Tajikistan’s logistics sector remains ill-equipped to service trade, consisting of 74 temporary warehouses, 6 customs warehouses, 3 free warehouses, and 7 regional cargo terminals for customs clearance. A typical warehouse offers just basic storage services and uses manual labour to move and retrieve goods. Special storage facilities with chiller and freezer services are limited. To address these shortfalls, the Government allocated plots of land in the border areas for the construction of logisitics facilities by the private sector. However, progress in establishing these logisitics remains slow.

Moreover, efforts should focus on expanding and diversifying logistical services. Most of the local logistics service providers offer limited services, and operate in the absence of a legal framework to regulate multi-modal operations. This forces many traders to use the services of international freight forwarders, which are more expensive.

There is also a need to develop the vehicle fleet, which consists of a wide variety of brands, most of which are in a deteriorated condition. The fleet lacks specialized vehicles such as reefer containers and refrigerated trucks.

Table 2.10 provides a list of recommendations for the Government’s consideration.

⁶¹ Detailed information is available at: <http://www.adb.org/projects/search/489>

⁶² This section is based on the research work of TRACECA. See, TRACECA’s institutional website at: <http://www.traceca-org.org/en/countries/tajikistan/>

Table 2.10 Outstanding needs and recommendations for improving logistical services

Outstanding needs	Recommendations
Developing the country's warehouse facilities and regional terminals	<ul style="list-style-type: none"> ● Equipping existing warehouses and regional terminals with modern facilities, and developing new ones.
Developing the country's truck fleets	<ul style="list-style-type: none"> ● Explore different modes of partnerships, including joint ventures, for developing the trucking industry.
Expanding the range of services provided by logistics service providers	<ul style="list-style-type: none"> ● Establish advanced training programmes in logistics, especially in integrated logistics and multi-modal transport, supply chain management, innovative technological applications.
Establishing a legal foundation for supporting multi-modal transport services	<ul style="list-style-type: none"> ● Develop the legal framework for allowing multi-modal transport to be carried out under one contract ● Establish the required insurance and credit schemes for supporting multi-modal transport ● Provide advanced training to local freight forwarders, with a special focus on multi-modal transport and International Federation of Freight Forwarders Associations (FIATA) related areas.

Chapter Three

Regulatory and standardization policies

3.1 Introduction

The previous chapter has shown that Tajik traders not only face problems of competitiveness, trade facilitation, logistics and transportation, but also a complex and time-consuming product-control system, and the need to re-test and re-certify their products from importing countries. The need for modernizing the country's system of standardization, quality assurance, accreditation and metrology (SQAM) to ensure due application of international standards and recognition of conformity assessment results by trade partners is, therefore, evident.

The Tajik SQAM system continues to be held back by institutional and structural weaknesses inherited from the pre-independence period. It is characterized by a heavy concentration of power in the hands of one agency: Tajikstandart.⁶³ This agency implements State policy in the fields of technical regulation, standardization, certification, accreditation and metrology. Supervision over compliance with mandatory requirements established in legal and normative documents is undertaken by the Trade Inspection of Tajikstandart.

Tajikstandart also represents the country in international and regional organizations, and is a correspondent member of the International Organization for Standardization (ISO), and the International Organization of Legal Metrology (OIML). At the regional level, it is a full member of the Commonwealth of Independent States (CIS), Inter-State Council for Standardization, Metrology and Certification, the Euro-Asian Cooperation of National Metrological Institutions (COOMET), the Inter-regional Association of Standardization (IAS) and Special working group on cooperation in the sphere of implementing technical regulations, standards and conformity assessment procedures of the Shanghai Cooperation Organization (SCO).

Reform of the Tajik SQAM system began in 2000. A key objective of reform efforts has been the transformation of the system away from the heavy concentration of powers and the restrictive quality-control regime of mandatory standards inherited from the pre-independence period. Notwithstanding the establishment of 7 (product specific) independent bodies to carry out certification alongside Tajikstandart, and the more than 140 independent accredited laboratories, progress has been slow, owing to financial constraints.

This situation changed in 2008, which saw a new wave of reforms, fuelled by the Government's preparations for accession to the WTO. These efforts gathered more steam in 2010, following the adoption of the Strategy on the National Quality Infrastructure Development for the period 2010-2012.

The Strategy envisages a two-phased reform, with the first focusing on bringing SQAM legislation into line with the WTO-administered Agreements on Technical Barriers to Trade (TBT) and the Application of Sanitary and Phytosanitary Measures (SPS). The second phase, to be implemented in 2013-2019, involves revitalizing the system's basic infrastructure and institutional arrangements.

This chapter assesses the reform efforts to modernize the SQAM system, based on the results of face-to-face interviews with officials from Tajikstandart and an analysis of recently adopted legislation and reform plans. It starts with a brief discussion of the institutional reform as envisaged in the Strategy on National Quality

⁶³ Tajikstandart took on the functions of the former Agency on Standardization, Metrology, Certification and Trade Inspection, which was under the Ministry of Economy and Trade.

Infrastructure Development (section 3.2). This is followed by a detailed discussion of capacity-building needs in the following areas of technical regulation (section 3.3); standardization (section 4); conformity assessment and accreditation (section 3.5); and, metrology (section 3.6). The chapter also makes a number of recommendations for the Government's consideration.

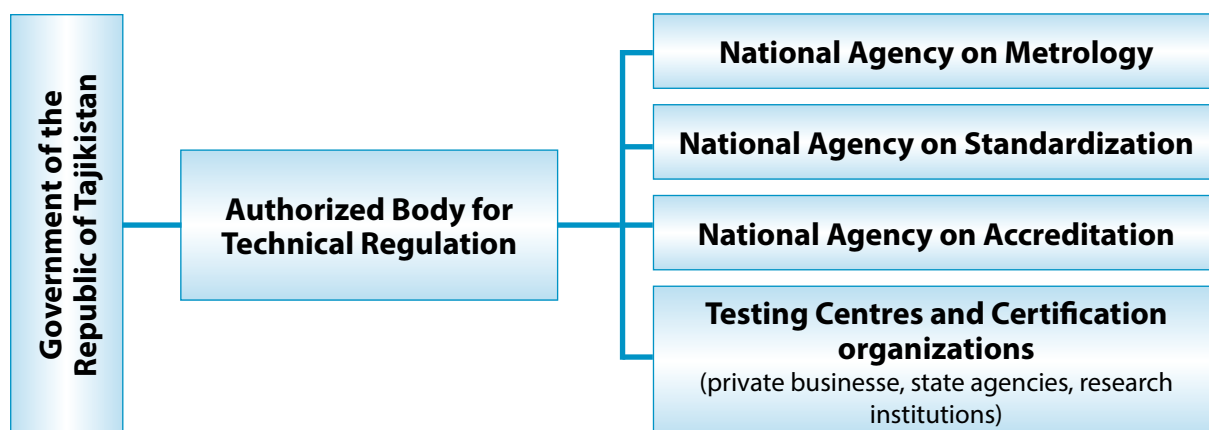
3.2 Tajikistan's revamped SQAM system

According to the National Strategy of Development of the National Quality Infrastructure, the Tajik SQAM system will be strengthened with revamped institutional structures, which establish a clear demarcation between the functions of technical regulations, standardization, conformity assessment, accreditation and metrology.

These functions will be divided and entrusted to separate entities. As shown in figure 3.1, in addition to the Government as the ultimate decision maker, by 2017, the SQAM system will include the following agencies:

1. Authorized body for technical regulation
2. National Agency on Standardization
3. National Agency on Metrology
4. National Agency on Accreditation
5. Testing centres and certification agencies

Figure 3.1 Tajikistan's revamped SQAM system



Under the Strategy, the powers and responsibilities of each agency are as follows:

Authorized Body for Technical Regulation

To implement the State policy in the field of technical regulation and coordinate the activities of the participants of the national quality infrastructure to ensure transparency and sequence, preparation, implementation and revision of technical regulations, to establish rules for the system for ensuring that measurements and rules of work in this area are unified.

National Agency on Standardization

To implement the State policy on standardization, and draw up common rules for standardization, and forms and methods for interaction between members of the national standardization system.

National Agency for Metrology

To implement the State policy in relation to providing measuring instruments, establish rules for the creation, approval, storage and use of units of measure, and carry out the State control of measuring and registration of approved types of measurements.

National Agency on Accreditation

To develop and improve the rules and procedures for accreditation, certification bodies and laboratories.

Testing centres and certification organizations

To test and certify products that are subject to mandatory technical requirements.

In 2013, the Government has not begun the reform efforts associated with modernizing the SQAM system, owing to the lack of financial resources and expertise. Thus, Tajikstandart will continue to act as the authorized agency for managing and implementing SQAM-related national policies, at least for the coming few years. It will also form the nucleus for the revamped SQAM structure. The implication is that the starting point for modernizing this system would be to address Tajikstandart's capacity shortfalls, which are discussed in detail in the remaining sections.

As it sets out to do this, the Government should ensure: simultaneous treatment of the organizational and institutional requirements of each agency; support inherent inter-organizational interdependencies; and, establish a participatory approach to decision-making processes. In so doing, it should be guided by the following parameters:

- Organizational requirements need to be conceived as a function of the substantive issues that fall within the domain of individual agencies;
- Institutional requirements should be defined in broad terms to address both planning and implementation levels and be conceived in the broadest possible terms to cover: internal rules, processes, management information systems, the required expertise skills, instructions for guiding the implementation of regulations and administrative procedures and evaluation criteria;
- Interdependencies with other organizations need to be fostered by creating the required mechanism for cooperation with relevant national, regional and international organizations; and,
- Mechanisms for ensuring a participatory approach to decision making should be designed in a manner that allows for taking into account the needs and concerns of the private sector.

At the same time, the Government might wish to consider addressing a number of cross-cutting issues, so as to be well placed to develop the terms of reference for new agencies according to organizational and institutional requirements. In particular, the reform should feature targeted training to familiarize staff in Tajikstandart and other trade-related State agencies with the WTO-administered agreements and their implications for Tajikistan. Similar training should be provided to the private sector, along with awareness-raising campaigns about the Government's reform efforts and their implications for the trade sector. Training activities need to be complemented by study tours and hands-on training, whereby officials could visit these organizations and participate in practical work and in solving practical problems.

The Government might also wish to consider consolidating the existing bilateral and regional agreements in standardization, technical regulation, conformity assessment and accreditation, so that it includes agreements with countries beyond CIS and its immediate neighbours. At present this reservoir comprises 10 agreements, including 2 regional agreements with the CIS, and the EurAsEC countries, and 8 bilateral agreements, with Azerbaijan, Armenia, Afghanistan, Belarus, Iran (Islamic Republic of), Turkey, Turkmenistan and Ukraine.

These agreements relate to the harmonization of technical regulations, standardization and mutual recognition of certificates of conformity and test reports.⁶⁴ Entering into similar agreements with international trade partners will directly contribute to supporting on-going reform, especially if the agreements include clauses for technical assistance.

The Government might further wish to form strategic partnership arrangements (e.g. exchange programmes, research, launching joint activities, joint investments) with national, regional and international SQAM institutions. In the short term, such partnerships should try to capitalize on existing memberships.

For example, Tajikistan is a correspondent member of ISO and International Organization of Legal Metrology (OIML). New strategic partnerships could be created to further its participation in the two agencies' activities, notably in areas that are important for economic development and trade. Other partnerships could be created by, for example joining the IEC Affiliate Country Programme,

Table 3.1 provides a more detailed account of these general, cross-cutting recommendations, which are meant to assist the Government in setting the context for ensuring the successful implementation of reforms under phase two of the Strategy on National Quality Infrastructure Development. The general recommendations are substantiated, throughout the remainder of the chapter, with specific recommendations for supporting reforms in the areas of technical regulations, standardization, conformity assessment, accreditation and metrology.

Table 3.1 Outstanding needs, and recommendations for the general improvement of the SQAM system

Outstanding needs	Recommendations
Preparing a detailed blueprint for guiding the implementation of the institutional reforms envisaged in phase 2 of the Strategy on National Quality Infrastructure Development	<ul style="list-style-type: none"> ● Prepare terms of reference for each of the separate agencies envisaged in the Strategy. The terms of reference need to be in tune with the SQAM legislation, and ensure simultaneous treatment of the organizational and institutional requirements of each agency, support inherent inter-organizational interdependencies, contain a detailed account of the responsibilities and tasks of each agencies and guidelines for implementation. In this respect, the Government may wish to consider the specific recommendations in the areas of technical regulations and conformity assessment provided in sections 3.3 and 3.5. ● Establish the required institutional mechanism for supporting private-sector involvement in SQAM-related decision-making. The Government may also consider including SQAM agencies in the Trade Facilitation Forum, discussed in the previous chapter.
Raising awareness among the public and State agencies on the WTO-administered agreements with direct bearing on SQAM legislation and procedures, as well as on the national SQAM-related reforms	<ul style="list-style-type: none"> ● Hold information seminars to raise awareness among Tajikstandart staff, other State agencies and the business community on the TBT and SPS agreements, with a focus on Tajikistan's rights and obligations under these agreements and their implications for export competitiveness. ● Provide specific training for Tajikstandart staff, government departments, industry and other parties concerned with the importance of technical regulations, standards, conformity assessment and metrology in global trade. ● Organize mobilization seminars to familiarize the Tajikstandart staff, government departments, industry and other concerned parties with the SQAM-related reform and its implications for trade legislation and administrative procedures. ● Prepare training modules on the TBT and SPS agreements and on best practices in standardization, technical regulations, conformity assessment and metrology for future use. It would be useful to integrate these training modules into the postgraduate curriculum of some business schools or universities.

⁶⁴ For further details on these agreements, see the Government's submission to the WTO Working Party on the Accession of the Republic of Tajikistan, dated 26 October 2011 (document WT/ACC/TJK/23)

Outstanding needs	Recommendations
Undertaking the necessary preparations for entering into agreements with non-CIS countries.	<ul style="list-style-type: none"> ● Prepare reference guidelines for forging partnerships with relevant national, regional and international SQAM institutions. ● Analyse the legislative and institutional requirements for entering into SQAM-related cooperation agreements with non-CIS countries. As a starting point, the Government might wish to focus on major trading partners such as China.

3.3 Technical regulation

Technical regulation is guided by the Law “On Technical Regulating”⁶⁵ of May 2009, which covers products, processes, production, use, storage, transportation, marketing, utilization and safety concerns. The law, which entered into force in January 2010, marked a new phase in the development of Tajikistan’s SQAM system, which until 2009, did not feature technical regulations and relied solely on mandatory standards for ensuring adherence to regulatory requirements concerning the quality and safety of products.

The law provides for a 7-year transitional period for transforming mandatory standards for ensuring product safety (currently considered as temporary technical regulations) into technical regulations. This means that by 2018, all the legal documents (e.g. standards and safety regulations) containing mandatory requirements for products, their development, storage, transportation, marketing and use will be either abolished or replaced by technical regulations. And pursuant to subsequent amendments, the law bases technical-regulation development on internationally recognized best practices concerning the legitimate objectives for technical regulations, and the principles of non-discrimination and proportionality.⁶⁶

At the end of the seven-year period, all temporary technical regulations will cease to be effective. They will be replaced by new technical regulations that, following international best practices, set out regulatory requirements by means of indicative reference to standards only (that is, if the regulations mention the essential technical requirements in the text of the technical regulation) or by spelling out the complete description of the technical requirements in the text.⁶⁷

The application of the new law has involved transforming some of the existing standards (1,000 out of 22,000) into “temporary technical regulations”. These regulations retain mandatory compliance with standards with regard to requirements ensuring product safety,⁶⁸ and will remain in place pending the development of the appropriate (new) technical regulations for making compliance to standards voluntary.

⁶⁵ As defined in the said Law, the term “technical regulating” (техническое регулирование) is to be understood as the legal and normative regulation associated with identification, establishment, application and implementation of mandatory and voluntary requirements for products, services and processes. The term “technical regulation” (технический регламент) is to be understood as the legal document that sets mandatory requirements for products and/or their life-cycle processes. This distinction is in line with the definition given in ISO/IEC Guide 2 “Standardization and Related Activities – General Vocabulary”.

⁶⁶ In 2011, the Law on Technical Regulating was amended to ensure compliance with the TBT Agreement. In particular, reference to “protection of economic interests” under Article 5.1 as one of the objectives of technical regulations was replaced by an emphasis on the “removal of technical barriers to trade” to ensure consistency with the legitimate objectives for technical regulations (Article 2.2 of the TBT Agreement). Article 5.2 of the Act, which was amended to include special emphasis on “proportionality and non-discrimination in international trade” as the basis for developing technical regulations, appeared to have omitted the principles of non-discrimination and proportionality. Article 13.7 of the Act was amended to follow the recommendation of the Code of Good Practice concerning deviations from international standards (Annex 3 of the TBT Agreement). The article reads “International standards shall be used fully or partly as a basis for development of draft technical regulations, except where such application is acknowledged as *ineffective or ineligible* (these terms replace the term impossible) due to climatic geographic, technical and/or technological characteristics of the Republic of Tajikistan, or due to other reasons, or if the Republic of Tajikistan, based on the established procedures, opposed adoption of such international standards, or some of their provisions”. The amendments were adopted by the Parliament on 28 June 2011 under Act No. 726.

⁶⁷ See, the new law “On Technical Regulating”, Article 13.

⁶⁸ The temporary regulations provide complete description of the technical requirements (by reproducing a standard, or excerpts of a standard, in the text of the regulation).

The development of new technical regulations began in 2013, following the Government's approval of the Programme for the Preparation of Technical Regulations for the period 2013-2014. The Programme, which was prepared by Tajikstandart, envisages developing technical regulations in 8 priority sectors, covering:

- Safety of construction materials and products
- Safety of fuel, diesel and fuel oil
- Food-products marking
- Safety of animal feed and feed additives
- Safety of juice products
- Safety of low-voltage equipment
- Safety of gas equipment
- Safety of products designed for children.

By the third quarter of 2013, three draft technical regulations had been developed, in the following areas:

- Safety of construction materials and products
- Safety of fuel, diesel and fuel oil
- Food-products marking.

The drafts were also circulated among relevant State agencies for comments before eventual submission to the Government. Thus, mandatory compliance with standards for ensuring product safety is likely to remain the norm, at least for the coming few years. By 2014, technical regulations were still managed by Tajikstandart, which, according to interviewed officials, lacked expertise knowledge and practical experience in developing technical regulations. Officials also highlighted the paucity of financial resources, pointing out that the agency had organized the development of the draft technical regulations using its own limited resources.

Clear guidelines for implementing the Law are also not available. The guidelines under the Law "On Technical Regulating" allow latitude for interpretation, especially in relation to establishing a "participatory approach", which is conceived as involving stakeholders from the private sector (i.e., representatives of the enterprise sector, research institutions and trade support institutions) and other State agencies.⁶⁹ The law states that technical regulations should be developed by the "executive bodies of State authority of the Republic of Tajikistan", based on "the technical regulations development programme" prepared by the "authorized State body" (i.e. Tajikstandart). The law provides for soliciting the views of relevant stakeholders on draft technical regulations.⁷⁰ However, it leaves the decision to involve these stakeholders to the executive bodies, which "shall have the right to include competent legal entities to development process, on contractual basis (in form of working group)".⁷¹

Thus, when asked to describe the process that culminated into the draft regulations, officials explained that the first step involved creating temporary working groups for each technical regulation. They said that as per the "Programme for Preparation of Technical Regulations", the working groups were set up by the responsible party(ies) (one or two line ministries) and brought together representatives of relevant business associations and other

⁶⁹ See, "Law of the Republic of Tajikistan on Technical Regulating" of May 2009, Article 14, English text, unofficial translation provided by Tajikstandart. No changes were introduced to this article in the amended version of the Law, which was adopted by Parliament on 28 June 2011.

⁷⁰ The Law states that the technical regulation body is to announce the date for the "commencement of the development of draft technical regulations" in its "official publication". The agency is to also publish the draft technical regulations "for the purpose of review" and for obtaining "feedback" from "parties interested in technical regulating". The final draft of the technical regulation, which takes into account received comments, should be prepared by Tajikstandart no later than 90 days after the completion of the draft review for submission, along with related documents, to the Government for approval. See, "Law of the Republic of Tajikistan on Technical Regulating" of May 2009, Article 14, English text, unofficial translation provided by Tajikstandart. No changes were introduced to this article in the amended version of the Act, which was adopted by Parliament on 28 June 2011.

⁷¹ See, the "Law of the Republic of Tajikistan on Technical Regulating" of May 2009, Article 14, English text, unofficial translation provided by Tajikstandart.

State agencies. The working groups drafted technical regulations and circulated them to relevant line ministries and stakeholders for comments. The comments were then discussed during the meetings of the working groups and reflected in the draft technical regulations before submission to the Government for approval.

This contrasts with international best practices, whereby private-sector stakeholders, along with experts and officials from other State agencies, are involved during the early stages of the technical-regulation drafting process, within the context of technical committees. It also contrasts with established guidelines on developing standards.

As shown in the next section, the new law “On Standardization” stresses the participatory approach as a central feature of standard-setting, with technical committees as the vehicle for implementing such an approach. Experience suggests that it would be more effective to assign the tasks of developing standards and technical regulations to sectoral technical committees, which should be established at the beginning of the drafting process.

At the same time, discussions on draft technical regulations are still not based on scientific evidence, since Tajikstandart does not conduct impact assessments. These assessments allow for establishing how a particular technical regulation could affect international trade. In particular, whether it could create unnecessary non-tariff barriers; and whether policy issues at hand might be more adequately addressed through private or non-regulatory arrangements.

The practice of referencing standards in technical regulations should be reviewed and grounded in international best practice, in particular see UNECE Recommendation D on “Reference to Standards” and the Report of the International Conference “Standards and Regulatory Systems”.⁷²

Such assessments are important for integrating a risk-based approach to technical regulations, since they involve subjecting regulatory proposals to careful and robust evidence-based analysis of all possible risks. As noted above, the Government should consider basing more broadly its process of developing technical regulations on best practices provided in: UNECE publication *Risk Management in Regulatory Frameworks: Towards a Better Management of Risks*; UNECE Recommendations R on “Managing Risk in Regulatory Frameworks”; and, UNECE Recommendation P “Crisis Management within a Regulatory Framework”.

These best practices suggest tangible approaches to applying risk management concepts to the decision-making processes and discussions over the design of technical regulations. Tajikistan does not yet have a systemic approach to defining the objectives of each of the draft technical regulations other than the requirement for meeting the key objectives established under the provisions of the new law “On Technical Regulating”. The regulatory objectives established under the law are in conformity with the TBT agreement, particularly the principles of non-discrimination and proportionality, as well as the recommendation of the Code of Good Practice concerning deviations from international standards. However, adhering to these principles does not overcome the inherent challenges associated with conflicting regulatory objectives.

In this regard, the Government might wish to consider using the UNECE *International Model for Technical Harmonization* (UNECE Recommendation L) for guiding discussions on regulatory objectives. Considered as equivalent to the European Union’s “New Approach” for technical harmonization,⁷³ the Model can be used for facilitating national, bilateral and regional discussions for harmonizing technical regulations, including both horizontal (i.e. those that apply to all products) and sector-specific regulations). It provides clear guidelines for arriving at common regulatory objectives (CROs) that address the specific needs of individual regulatory bodies, respect the basic tenets of the TBT Agreement and facilitate the task of specifying pertinent issues in relation to conformity assessment (such as compliance clauses and market-surveillance provisions).

⁷² This recommendation is available at: www.unece.org/fileadmin/DAM/trade/wp6/documents/2013/ReportOfTheConference.pdf

⁷³ However, in line with the EU’s “new Approach”, the Model is applied by Member States of the United Nations on a voluntary basis. The Model is available at: <http://www.unece.org/trade/wp6/recommendations/recommendations.html>

When using a CRO for facilitating bilateral and regional discussions, the participating countries could transpose it, along with any other arrangements, into national technical regulations.⁷⁴ As a rule, a CRO is a document that includes:

- A scope statement
- Product requirements (“essential requirements” in the EU New Approach)
- Reference to standards clause (“presumption of conformity”)
- A compliance clause (“conformity-assessment procedures”)
- Market surveillance and protection clause (“safeguard clause”)
- A list of applicable international standards that fully or partially correspond to regulatory requirements.

The development and implementation of technical regulations and standards should be grounded on internationally recognised risk management principles, which allows for ensuring proportionality between regulatory measures and the different types of risks, including health, safety and environmental risks. These principles need to be adopted in a comprehensive manner and permeate the regulatory process, from the decision on whether or not to regulate, to the development of the regulations in question, and the design of pre-market and post-market controls. In addition, the practice of referencing standards in technical regulations should be reviewed and grounded in international best practice, using UNECE Recommendation D on “Reference to Standards.”⁷⁵

Yet another area requiring immediate attention relates to the provision of up-to-date and reliable information on SQAM-related legislation and procedures. The Government has already established a TBT enquiry point within Tajikstandart. The information on its website (<http://standard.tj/>) is not comprehensive and up to date, and the agency lacks the required information system to consolidate and support the broad dissemination of all the legal documents.⁷⁶ Thus, as the Government should consider housing the national TBT enquiry point within the Ministry and strengthening it with the required information-management systems and personnel.

Table 3.2 provides a number of recommendations for the Government’s consideration.

Table 3.2 Outstanding needs and recommendations for technical regulation

Outstanding needs	Recommendations
Creating the authorized body for technical regulation	<ul style="list-style-type: none"> ● Design the organizational structures, processes and internal rules for enabling the authorized body to deliver on its mandate. Concrete steps could include: <ul style="list-style-type: none"> – Defining the responsibilities for regulatory action, and the inputs that are required from key stakeholders – Creating sectoral working groups for technical regulation development, as needed – Providing advanced training to members of the working groups on risk management as applied to regulatory work – Developing a reference model to serve as a basis for regulatory activities (e.g., developing regulations, design pre-market controls, devise market surveillance and other post-market controls and involving the business community). ● Establish the required information systems tailored to the authority’s recommended organizational structure. ● Create an institutional website that reflects the authority’s activities and complementarities with other State agencies.

⁷⁴ The common regulatory objectives (CROs) are maintained by the UNECE secretariat.

⁷⁵ This recommendation and discussions on its implementation are available at: www.unece.org/fileadmin/DAM/trade/wp6/documents/2013/ReportOfTheConference.pdf

⁷⁶ Tajikstandart maintains the national register of standards, pursuant to Government Resolution No.554 of 2 November 2011 and is a source of data and documentation for the enquiry point (information centre). A draft resolution for the creation and maintenance of a national register of technical regulations will be submitted to the Government in the near future.

Outstanding needs	Recommendations
Strengthening the national TBT enquiry point with additional institutional structures and expertise skills to carry out its mandate	<ul style="list-style-type: none"> ● Establish with clear terms of reference and dedicated staff (including professional translators from Tajik into English) ● Provide the staff with advanced training on: the TBT Agreement and associated notification requirements, referencing standards in regulations and best practice in risk management in regulatory systems. ● Equip the centre with the required information-management system for creating and maintaining a depository of notifications, publications and all other transparency-related provisions stipulated in the TBT Agreement.
Strengthening national capacities in the area of technical regulation development	<ul style="list-style-type: none"> ● Consolidate the Act “On Technical Regulating” with additional provisions for guiding the establishment of sectoral technical committees for standardization and technical regulations. ● Consider international best practices in referencing standards in regulations, using the UNECE Recommendation D on Reference to Standards ● Create sectoral technical committees for developing technical regulations and standards, and equip them with the required internal rules, coordinating mechanisms and expertise. In establishing these committees, priority should be given to the eight sectors identified in the “Programme for the Preparation of Technical Regulations for the period 2013-2014”. Provide the members of technical committees with advanced training on the different aspects of the TBT and SPS agreements, Tajikistan’s rights and obligations under these agreements, and their implications for the national system of technical regulations. ● Provide the members of technical committees with advanced training on developing technical regulations and on how this process is linked to developing standards.
Further harmonizing of regulations with international standards	<ul style="list-style-type: none"> ● Conduct a systemic review of the legal framework underpinning safety requirements for machinery and equipment and chemical products to identify instances of duplication and excessive requirements and any contradictions with the TBT Agreement. ● Consider using UNECE Recommendation L as a framework for guiding the development of new technical regulations, as well as in bilateral and regional discussions for harmonizing technical regulations and participate in the UNECE Sectoral Initiatives ● Integrate regulatory impact assessment as an essential methodology in developing technical regulations. ● Implement UNECE Recommendations R “Managing Risk in Regulatory Frameworks” and P “Crisis Management within a Regulatory Framework” for integrating risk-management principles into the design of technical regulations. In this regard, the UNECE publication on Risk Management in Regulatory Frameworks: Towards a Better Management of Risks provides a useful discussion on the practical aspects of implementing this recommendation.⁷⁷

3.4 Standardization

Tajikistan’s standardization system is at the centre of the ongoing reform effort, guided by the new law “On Standardization”.⁷⁸ The law, which came into effect in 2011, introduced the principle of voluntary compliance with standards,⁷⁹ denoting that compulsory requirements for protecting the life and health of humans, animals and plants must be adopted through normative legal acts.

⁷⁷ The recommendations are available at : <http://www.unece.org/trade/wp6/riskmanagement.html>

⁷⁸ The law “On Standardization of the Republic of Tajikistan” was adopted by Parliament on 29 December 2010 under law No. 668.

⁷⁹ Article 13.1 of the law “On Standardization” states: “Application of standards shall be voluntary. Where the technical regulation makes reference to standard and where compliance with the standard is the only way to achieve conformity with technical regulation, then such standard shall be applied as a technical regulation. Where the technical regulation does not refer to standard and where there is no safety requirement in such a standard, only then the application of this standard shall be voluntary and fulfilment of its requirements shall be non-mandatory”.

The law also sets the context for entrusting the standardization function to a new independent entity. It clearly defines the responsibilities and tasks to be associated with this function, including:

- Preparing programmes for standard development
- Coordinating standard-development activities
- Developing, approving, revising and abolishing State standards
- Maintaining the national register of adopted State standards and standardization documents
- Concluding standardization agreements with international, regional and national organizations.

The law grounds both the guiding principles and objectives of standardization in internationally recognized best practices. As shown in box 3.1, these principles and guidelines correspond to those advanced under the TBT Committee Decision on Principles for the Development of International Standards, Guides and Recommendations.

Box 3.1 Principles and objectives of standardization in Tajikistan

- Transparency of development processes of standards and standardization documents.
- Right to participate in the process of standards development of all interested parties.
- Consensus of all interested parties in the process of development and adoption of standards.
- Harmonization of State standards with international and regional (inter-State) standards.
- Compliance of standardization documents with State standards.
- Access of all interested parties to information on standards.
- Impermissibility of unnecessary barriers to international trade that would exceed the minimum required for fulfilment of objectives of standardization.
- Voluntary selection of standards.
- Mandatory fulfilment of requirements of the standards selected.
- Application of international standards or of their relevant parts, when they exist or when their completion is imminent, as the basis for development of State standards except when such international standards or their relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued by this Law, for instance because of fundamental climatic or geographical factors or fundamental technical problems.
- Taking into account the stage of development of technologies and rules of international and regional organizations for standardization and other relevant international agreements in the process of development of standards.
- Develop requirements of standards based on performance to the extent possible, rather than on design or descriptive characteristics.
- Equal treatment of foreign products and identical or similar domestic products in accordance with international agreements recognized by the Republic of Tajikistan.

Moreover, and consistent with international best practices, the law establishes a participatory approach to standard development, with technical committees stressed as the main vehicle for ensuring the broadest possible engagement of relevant stakeholders. It stipulates that technical committees may “on a parity and voluntary basis, include the representatives of central executive bodies, scientific organizations and institutions, professional unions, public organizations and association of entrepreneurs and consumers, commercial and non-commercial organizations as well as natural persons”. These committees are entrusted with organizing the

⁸⁰ See the new Law “On Standardization”, article 3

development of State standards, examining drafts of documents on standardization and making proposals for the development of new international and regional (inter-State) standards.⁸¹

By 2014, the standardization system was still being coordinated by Tajikstandart, which was in the process of harmonizing national standards. The most substantial progress has been made in harmonizing food standards with international ones, fuelled, since 2009, by Tajikistan's membership in the Codex Alimentarius Commission.⁸²

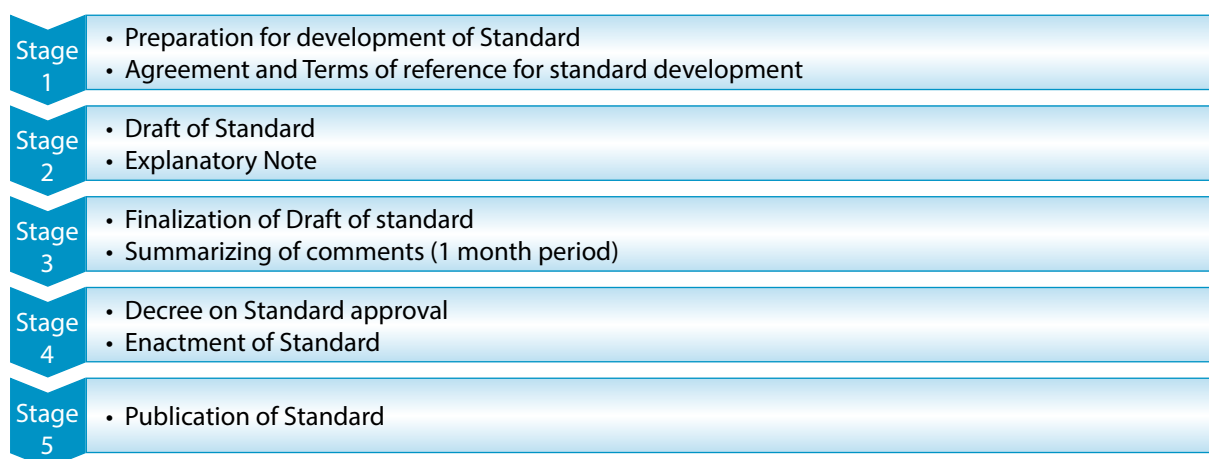
Tajikstandart is also an active participant at UNECE expert meetings of the Specialized Section on Standardization of Dry and Dried Produce. In 2013, it initiated the development of the UNECE standard for persimmon and the UNECE standard for quince. It submitted the draft standards for the two products, which formed the basis for the discussions in the Specialized Section. In addition, the agency spearheaded the adoption of UNECE standards for dried apples and prunes (by way of making reference to them in national standards), and is in the process of adopting UNECE standards for dried apricots.

However, Tajikstandart's ability to capitalize on achievements to date is undermined by a lack of expertise skills. Officials said that the agency has "no experience" in organising the development of standards, even though it does have an established and quite elaborate process. This process begins when a State agency or a company highlights the need for a new standard. If the proposed standard is brought forward by a State agency and is provided for in official strategies or plans, the process is funded by the State. If the process is initiated by the private sector, the costs are covered by the company in question.

As shown in figure 3, once the decision to develop a new standard is taken, Tajikstandart sets the terms of reference for its development. The initiator of the process then submits the draft standard, along with the explanatory note summarizing the key elements of the draft, to Tajikstandart (and if the standard is related to the construction sector, also to the State Committee on Architecture and Construction). Tajikstandart then provides the initiator with its comments within a three-month period, highlighting areas that might require further improvement.

The revised draft is then reviewed by the State inspection bodies, and each body provides its feedback within a period of 10 days. Tajikstandart then has a month to prepare the final draft, along with a summary of the comments received. The final draft of the new standard is approved by Tajikstandart, and the new standard is then published in the journal of *Standards and Quality*.

Figure 3.2 The standard-development process in Tajikistan



⁸¹ See the new Law "On Standardization", articles 9.3-9.4

⁸² Tajikistan became a member of the Commission in February 2009.

The following State agencies are involved in standard development, each attending to its area: the Committee on Architecture and Construction (for standards related to the construction sector); the Ministry of Agriculture (for developing standards related with use natural resources, environmental protection, sanitary and phytosanitary); and, the Ministry of Health and Social Protection of Population (medicines and medical products, medical equipment and safety of life). Not all of the these ministries are well versed in standard setting, especially when it comes to harmonizing national standards with international requirements. Officials added that standard development is fully funded from the public purse, and available resources allow for maintaining only 15 specialists, who are mainly engaged in monitoring compliance with standards (not standard development).

The State agencies' limited experience in standard-setting is not the only factor at play. The private sector, including manufacturers, research and development institutions, also lack experience, thereby setting the limits to reaping the expected benefits from the participatory approach envisaged under the new Act "On Standardization". To date, only two technical committees have been established: (a) on "food products" and (b) on "energy safety, effectiveness of energy use and energy management". Both of these sectors are driven by export-oriented enterprises. The draft standards for persimmon and for quince were prepared by the private sector, and officials reported that a significant number of the State Standards (ST RT), particularly for food and food safety, were developed by companies and then adopted as national standards after being reviewed by the technical committee on food.

It should be noted that the two committees are mainly involved in reviewing drafts, as opposed to developing new standards. The only exception has been the committee that saw the development of the Tajik Halal Food Standard⁸³, which represents the first "homegrown" standard, developed by Tajik experts without the assistance of the international community. Adopted in 2013, the standard represents the culmination of discussions between several stakeholders. These included representatives of the food industry, the Islamic Council, the Ministry of Health, the Committee for Religious Affairs and the Ministry of Agriculture Veterinary Service. They drew on Islamic law and an analysis of similar standards in neighbouring countries. However, it would be difficult to replicate this experience, since its success greatly hinged on the nature of the standard in question, whereby at issue was the application of Islamic law—an area in which Tajikistan has the required institutions and expertise.

Under such conditions, and as explained by officials, the bulk of the State standards (ST RT) were developed by way of "borrowing", guided by national development plans that identify priority sectors. Inter-State CIS standards, along with the national standards of the Russian Federation, and, to a lesser extent, Belarusian national standards, were adopted as national standards without any modification. Tajikstandart's involvement in regional standard-setting processes is also limited. The agency participates in the final discussions of CIS standards, as standards takers, and not standards makers.⁸⁴

This has meant that the national register of normative documents on standardization is dominated by the inter-State CIS standards harmonized with ISO (GOST ISO). These standards represented around 82 per cent of the 22,000 normative documents that made up Tajikistan's national register as of December 2013. The remaining normative documents comprised the national standards of Tajikistan (ST RT) and Tajikistan's technical terms and conditions (TU RT), with the latter exceeding 2000 terms. The national register also shows the following coverage:⁸⁵

⁸³ Halal foods are foods that Muslims are allowed to eat or drink under Islamic Law, with the term "halal" understood as lawful or permissible.

⁸⁴ See International Trade Centre (2007) "Tajikistan: Recommendations for improving the national quality infrastructure".

⁸⁵ The national register is maintained by the National Standards Foundation of the Republic of Tajikistan.

- Engineering processes and products (28%)
- Chemical industry (12%)
- Communication and IT (12%)
- Agriculture (10%)
- Metallurgy (9%)
- Light industry and wood-processing industry (8%)
- Construction (4%)
- Other sectors (17%)

The majority of standards are available only in Russian, which makes them inaccessible both to some Tajik companies and to non-Russian-speaking trading partners. Officials said that the lack of finance has meant that the agency cannot cover the costs associated with the translation of all standards into Tajik, as stipulated in national legislation. This has also meant that the agency charges fees for the provision of standards.⁸⁶ Officials said that small and medium sized enterprises (SMEs), which, as shown in the previous chapter, are struggling to maintain their operations, are provided with the standards free of charge.

While charging fees does not contradict the provisions of the TBT Agreement, Tajikstandart needs to consider international best practice in this area, including, for example: offering local business read-only online subscription with no printing allowed for a low fee, entering into special agreements with professional associations and offering favourable packages for strategic sectors.⁸⁷

These drawbacks undermine the country's ability to deliver on its post-WTO accession commitment to dispense with mandatory standards by 2018. This challenging commitment requires reaching an agreement over compulsory requirements and then establishing voluntary standards that provide the technical solutions for fulfilling these requirements, so that each technical regulation is accompanied by a list of the voluntary standards (which, when met, create a presumption of conformity).

Proceeding along those lines should be guided by a systemic review of national standards. National standards that fail to meet the principles and requirements of the TBT and SPS agreements should either be cancelled or be harmonized with internationally recognized standards. This demanding task could take several years, not least because of the need to translate the international standards into Tajik.

The Government also needs to establish more technical committees, which, as stipulated in the new law "On Standardization", should comprise a broad membership. Efforts should also be made to strengthen existing technical committees with expertise in the area of standard development, and establish new ones, where and as needed, to improve the competitiveness of priority sectors.

Table 3.3 provides a number of recommendations for the Government's consideration.

⁸⁶ Pursuant to the new Language Law of 2009, standards are issued in the official language (i.e., in Tajik).

⁸⁷ See UNECE "Report of the International Conference "Standards and Regulatory Systems", 19 November 2013, www.unece.org/fileadmin/DAM/trade/wp6/documents/2013/ReportOfTheConference.pdf

Table 3.3 Outstanding needs and recommendations for standardization

Outstanding needs	Recommendations
Outstanding needs and recommendations for standardization	<ul style="list-style-type: none"> • Design the organizational structures, processes and internal rules for enabling the authorized body to carry out its mandate. • Consider adopting business models and best practices for generating internal income to sustain own activities • Establish the required information systems tailored to the authority's recommended organizational structure. • Create an institutional website that reflects the authority's activities and complementarities with other State agencies.
Strengthening national capacities in the area of standard development	<ul style="list-style-type: none"> • Consider including in the new law "On Standardization" some provisions that limit standard-setting activities to the sectoral technical committees. • Establish new sectoral technical committees for developing technical regulations and standards pertaining to the eight priority sectors identified in the "Programme for the Preparation of Technical Regulations for the period 2013-2014". • Simplify standardization procedures, drawing on the TBT Committee Decision on Principles for the Development of International Standards, Guides and Recommendations. This Decision sets out principles and procedures that standardization bodies should observe. • Provide staff with advanced training on the different aspects of the TBT and SPS agreements, Tajikistan's rights and obligations under the two agreements, and the implications for Tajikistan's system of standardization. • Provide staff with advanced training on standard development and on how this process is linked to technical-regulation development. • Provide staff with adequate training on Risk Management principles and best practice and adopt the ISO/IEC 31000 standard on "Risk Management" as a national standard.
Further harmonizing national standards	<ul style="list-style-type: none"> • Conduct a systemic review of national standards, and align them with the principles and requirements of the TBT and SPS agreements.
Supporting Tajikistan's efforts to increase its participate in international standards-setting	<ul style="list-style-type: none"> • Take action to become part of the IEC affiliate country programme which offers a number of advantages including free IEC International Standards for national adoption and training and assistance by the IEC secretariat aimed at making the national standards body more aware of the benefits of using International Standards and more familiar with the work of the IEC • Prepare a long-term strategy for helping the standard-setting agency meet the requirements of ISO membership. • Review membership of other international and regional standards-setting organizations, based on its industry's needs.

3.5 Conformity assessment, accreditation and product certification

Conformity assessment, accreditation and product certification are guided by the laws "On Conformity Assessment", "On Consumer Protection", "On Safety of Food Products", "On Consumers' Rights Protection" and the accompanying decrees and regulations. These laws were subjected to substantial revision to bring the conformity-assessment regime into line with the WTO-administered multilateral trade agreements and, thereof, set the context for dispensing with the existing system of mandatory standards.

Achievements to date have involved the adoption of a new law "On Conformity Assessment".⁸⁸ Its entry into force in January 2013 crowned the successive reductions in the number of products subject to mandatory certification, which were implemented over the period 2008-2012.⁸⁹

⁸⁸ The revised law "On Conformity Assessment" was adopted by the Parliament on 2 August 2011 under No. 759.

⁸⁹ Pursuant to resolution No. 486 "On the List of Products (Works, Services) Subject to Mandatory Certification" of 1 October 2008, No. 450 of 2 September 2010 and No. 310 of 18 June 2012. Government Resolution No.310 of 18 June 2012 supersedes Government Resolution 486.

The law establishes a clear demarcation of powers and responsibilities for the three agencies responsible for conformity assessment, accreditation and certification, thereby setting the context for addressing the conflicts of interest that permeate the Tajik conformity-assessment regime. The law also establishes the country's commitment to accepting the results of conformity-assessment procedures of other countries, even where they differ from those of Tajikistan. Imports will no longer be subject to secondary control and examination before placement on the Tajik market. The law also sets the context for simplifying certification procedures according to international best practices. Its entry into force saw the abolishment of the law "On Certification of Goods and Services", which until January 2013 had provided the basis for product-certification procedures.

The following new laws were adopted to ensure compliance with the Agreement on the Application of Sanitary and Phytosanitary Measures, namely:

- "On Safety of Food Products" (adopted in 2012, under law No. 890)
- "On Maintenance of Sanitary and Epidemiologic Safety" (adopted in October 2011, under law No. 468)
- On amendments and addenda to the Law "On Maintenance of Sanitary and Epidemiological Safety" (adopted in December 2011, No.793)
- "On Plant Protection" (adopted in April 2012, under law No. 817)
- "On Plant Quarantine" (adopted in October 2011, under law No. 469).
- On amendments and addenda to the Law "On Plant Quarantine" (adopted in December 2011, No. 787).

In late 2013, efforts were under way to bring the laws "On the Protection of Consumer Rights" (of 9 December 2004) into compliance with the TBT agreement. Efforts were also under way to bring the system of plant protection into compliance with the International Plant Protection Convention (IPPC).

These legal reforms have set the context for modernizing the Tajik conformity-assessment regime, and are underpinned by a number of mutual recognition agreements in the fields of certification, standardization, metrology and accreditation.⁹⁰ Capitalizing on achievements to date requires addressing a number of legal, organizational and capacity-related issues. Most notable are the unclear definitions and gaps in relation to the powers and responsibilities of the authorized agency for conformity assessment. This body is responsible for carrying out "State control over compliance of objects of conformity assessment, which have passed certification or those being subject to mandatory certification or those certified by relevant conformity assessment documents with the requirements of technical regulations and documents related to standardization". This provision may result in subjecting products to secondary control and examination.

The law also states that the conformity-assessment agency is also responsible for the "approval of labour-intensiveness of conformity assessment in a manner provided for in the applicable legislation". As the law does not define what is meant by "the labour-intensiveness of conformity assessment", this provision also runs the risk of creating a situation whereby products are subject to secondary control and examination.⁹¹

Instances of unclear definitions and gaps also cloud the provisions on certification, particularly in relation to the types of certification and the agencies involved. This comes at a time when product certification is carried out by, in addition to the agency responsible for the certification of products and services (Tajikstandart), the Ministry of Agriculture, the Ministry of Health and Social Protection of Population and the State Communications Service.

⁹⁰ A number of bilateral and multilateral agreements in the field of certification, standardization, metrology and accreditation signed with the CIS states (e.g.: with the CIS as of March 13, 1992; Russia as of May 15, 2003; Belarus as of June 12, 2000; Ukraine as of July 6, 2001; Armenia as of December 3, 2002; Azerbaijan as of January 17, 2008; Turkmenistan as of October 13, 2010). Pursuant to these agreements, test reports and conformity certificates are recognized by these countries.

⁹¹ See, the Law "On Conformity Assessment", Article 11.

For example, in the third quarter of 2013, the Ministry of Health and Social Protection of Population was preparing a designated list of food products subject to epidemiological examination, pursuant to the new law “On Providing Sanitary Epidemiological Safety of the Population”. This list may contain additional food items over and above those included in the designated list of products subject to mandatory certification prepared by Tajikstandart.⁹² While distinct from mandatory certification, expanding the list of goods subject to epidemiological examination may create unnecessary trade barriers rendering it important that decisions on additional food items are based on rigorous analysis.

Adding to these instances of unclear definitions and gaps is the absence of a coherent approach to conformity assessment, which strikes a balance between ensuring effective control at the national level and preventing trade barriers. International best practices show that constructing such an approach requires a well-articulated risk-based strategy, which provides a clear definition of types of risks,⁹³ their likelihood of occurrence, the consequence of occurrence, treatment options and review processes.

Tajikstandart has an operational risk assessment procedure that incorporates the above-mentioned elements. However, the procedure is not grounded in a coherent strategy and the law “On Conformity Assessment” does not provide guidelines other than stressing adherence to internationally recognized agreements. In fact, the word “risk” does not even figure in the Law. The absence of such a strategy has undermined the Government’s efforts to reduce the number of products subject to mandatory certification.

The designated list of products subjected to mandatory certification has evolved over years. As of 2014, it covered 57 groups of products listed under the Harmonized System of Eurasian Economic Community, comprising 173 product lines or 1,100 products, the majority of which are food products.

A first step in developing a risk-based approach to conformity assessment would be to adopt ISO 31000 (Risk management - Principles and guidelines), which provides a strong basis for guiding discussions on types of risk and what can be considered as acceptable risk levels, especially if used in conjunction with ISO/IEC 17021 (Requirements for bodies providing audit and certification of management systems) that is already adopted nationally.

The Government might also wish to consider drawing on the EU Global approach to conformity assessment, which provides eight different risk-based modules (covering design and production phases) for guiding the practical work on conformity assessment. Such an approach should be implemented by a separate market surveillance entity, which should be created to assume overall coordination of the functions of control and monitoring that remain fragmented among the various bodies under the revamped SQAM organizational structure. The revamped structure does not feature a separate entity for assuming these functions.

This entity could take the form of a coordinating council, which brings together representatives from sector authorities and line ministries, customs and trade-promotion organizations. It should be guided by a market-surveillance strategy that places the onus on suppliers for ensuring fulfilment of all the regulatory requirements. It should also provide mechanisms to prevent abuse and the creation of unnecessary regulatory and procedural obstacles by inspection bodies and a monitoring and market-control system, which:

⁹² Under the provisions of the Law “On Providing Sanitary Epidemiological Safety of the Population”, foodstuffs are subject to epidemiological examination in accordance with a list established by the Ministry of Health and Social Protection of Population. Article 14 of the Law states that import, trade and the use of products, both domestically produced and imported is allowed only when the sanitary-epidemiological certificate is obtained.

⁹³ As explained in detail in the UNECE publications “Risk Management in Regulatory Frameworks” risks may be rooted in an organization’s activities and stem from inadequate business processes, human error and system failures (i.e. occupational health and safety risks, human resources risks, information technology (IT) risks and infrastructure risks) or have external roots: they come from markets, partners, consumers, regulatory actions, and the natural environment, or the markets:

- allows for capturing deviations from regulatory requirements and dangerous products in a proactive manner
- defines measures for withdrawing dangerous products
- defines the responsibility of suppliers
- defines the types of sanctions that will be imposed on those who fail to fulfil their obligations.

At the same time, conformity-assessment bodies should simplify their certification procedures, strengthen their operations, and raise the competence of their staff to adhere to internationally recognized best practices (see box 3.2).

Box 3.2 Internationally recognized best practices in conformity assessment (ISO reference frameworks)

- ISO/IEC 17067. Conformity assessment (Fundamentals of product certification and guidelines for product certification schemes)
- ISO/IEC 17020. Conformity assessment (Requirements for the operation of various types of bodies performing inspection)
- ISO/IEC 17065. Conformity assessment (Requirements for bodies certifying products, processes and services)
- ISO/IEC 17024. Conformity assessment (General requirements for bodies operating certification of persons)

There is also the need to further develop testing laboratories. In the third quarter of 2013, there were 187 testing laboratories, and 15 certification bodies. The majority lacked the required equipment, qualified staff and effective enforcement capacities.

As previously shown, in addition to issues of competitiveness, logistics and transportation, Tajik exporters face the problem of recognition of certificates. Trading partners do not recognize test reports issued by Tajikistan's testing laboratories, not only because these countries, especially the EU, have more stringent requirements, but also because they do not trust the quality infrastructure of the laboratories and certification bodies.

An immediate measure that Tajikistan could take could be to further develop its partnership with International Laboratory Accreditation Cooperation (ILAC) and the International Accreditation Forum (IAF) so as to capitalize on the benefits provided by these organisations, making full membership a long-term but firm and realistic goal. These organizations offer a system of international agreements that allow accredited certification bodies and laboratories to gain international recognition. This, in turn, promotes mutual recognition of certificates of conformity and test reports.⁹⁴

To gain membership in these two organizations, Tajikistan would need to bring the existing accreditation system into line with the ISO/IEC standard 17011 on general requirements for accreditation bodies accrediting conformity-assessment bodies. This standard provides guidelines for establishing the required managerial systems and accreditation processes, as well as for ensuring the observance of principles of independence and impartiality, and the absence of conflicts of interest.

Testing and calibration laboratories, in turn, should be certified to be in compliance with the quality requirements of ISO/IEC Standard 17025 on general requirements for the competence of testing and calibration laboratories. Officials noted that Tajikstandart introduced ST RT GOST R ISO/IEC 17025 in 2011. In 2013, three

⁹⁴ Officials noted that in order to join international organizations on accreditation Tajikstandart undertakes expert assessments of domestic testing laboratories, certification and accreditation bodies in accordance with international standards adopted as state standards of the country. They added that a Protocol of Intentions of national accreditation bodies of Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan to join ILAC was signed in October 2009 in Bishkek, Kyrgyzstan. They also pointed out that the national accreditation body has sufficient human resources, and that the evaluators and technicians benefit from training services on a continuous basis. For example, in 2013 10 specialists were trained in the country and abroad, where they received international certificates.

of Tajikstandart's food testing laboratories were accredited in line with the requirements of ISO/IEC 17025 international standard, amid plans to accredit another five laboratories during the coming few years.⁹⁵ In order for Tajikistan to participate in mutual recognition agreements under ILAC, dozens of laboratories would need to be complying with the ISO 17025 certification requirements.

Thus, as a priority, it is important to conduct a rigorous review of Tajikstandart and the system of laboratories and centres attached to it, so as to determine those that need to be shut down and those that could benefit from modern equipment and increased expertise skills. This exercise should go hand in hand with improving the accreditation system.

The needs assessment also suggests that food-safety-control system could benefit from further improvement. As a priority, the duplication of functions would need to be addressed. The new law "On Safety of Food Products" could be further improved to address the duplication of functions across the different State bodies involved and ensure harmonization with other laws. The law designates the responsibility for supervising and ensuring control over the quality and safety of food products to the following agencies, with each following its own procedures:

- State Centre for Sanitary Epidemiological Control under the Ministry of Health.
- State Veterinary Inspection Service under the Ministry of Agriculture, for inspecting food products subject to epidemiological examination in accordance with the list issued by the Ministry of Health.
- Service of State inspection under the Ministry of Agriculture for phytosanitation and quarantine of plants.

These agencies are accorded overlapping functions, particularly in relation to developing compulsory regulatory requirements and product certification.⁹⁶ The law also assigns an overarching role to the "the authorized government body on standardization, metrology, certification and trade inspection" for implementing "State policy in the fields of technical regulation, standardization and certification of food products", at a time when work is under way to divide these functions and entrust them to separate agencies.

There is, therefore, a need to modify the law so that it reflects the revamped SQAM organizational structure envisaged in the Strategy of Development of the National Quality Infrastructure, and the law "On Conformity Assessment". Furthermore, the law stipulates the creation of a central "coordination council on food product safety". The council, which was established in December 2012, reports to the Government and brings together representatives of line ministries and authorized departments for the purpose of ensuring "the continuous monitoring of implementation and food products safety assessment, for providing appropriate level of human life and health protection, animal and plant world protection, development of offers and rendering scientific support and expert guidance for decision making and the development of regulations on food safety".

However, beyond this generic statement, the law does not set out the specific tasks and responsibilities of the coordinating council, thereby running the risk of duplicating the functions of other bodies. For example, there seems to be a duplication of functions between the council and the technical committees that develop technical regulations.

Yet another area relates to improving controls over the manufacturing of food ingredients and food products. In late 2013, efforts were under way to develop the capacities of food-testing laboratories and harmonize national legislation with international standards on food safety and quality (i.e. those of Codex Alimentarius). Capitalizing on such steps requires creating the required institutional control mechanisms. This could be done by adopting risk-based inspection systems (see box 3), along with ISO standards for food-safety management (ISO 22000).

⁹⁵ The three laboratories were accredited by the National Accreditation Centre of Kazakhstan, which is a member of ILAC.

⁹⁶ See, the law "On Safety of Food Products", Articles 17-19.

Box 3.3 CODEX Alimentarius reference framework for risk-based food-safety inspection

- Principles for Food Import and Export Inspection and Certification Systems (CAC/GL 20-1995)
- Guidelines for Food Import Control Systems (CAC/GL 47-2003)
- Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems (CAC/GL 26-1997)
- Guidelines on the Judgement of Equivalence of Sanitary Measures (CAC/GL 53-2003)
- Guidelines for the Development of Equivalence Agreements (CAC/GL 34-1999)

The strength of ISO 22000 lies in its having provided a framework of internationally harmonized requirements for ensuring food safety throughout the international supply chain. Adopting this standard would set the context for establishing a risk-management system based on the Hazard Analysis Critical Control Point (HACCP) principles, which were adopted by the Codex Alimentarius Commission as an international standard for the identification and control of hazards to food safety. If effectively implemented, HACCP certification, would not only strengthen the level of food control in the country, but also improve the market access conditions for Tajik exporters.

Table 3.4 provides a number of recommendations for the Government's consideration.

Table 3.4 Outstanding needs and recommendations: conformity assessment and product certification

Outstanding needs	Recommendations
Establishing a market surveillance council	<ul style="list-style-type: none"> • Develop a national regulation on market surveillance that provides: <ul style="list-style-type: none"> – a general definition of market surveillance; guidelines for market surveillance activities; – clarification of responsibilities; – requirements on cooperation and coordination of sector authorities; – responsibilities of the market surveillance council. • Develop, based on the above, terms of reference and internal rules of the national market-surveillance council.
Strengthening the capacities of the new conformity-assessment body with expertise and skills in conformity assessment	<ul style="list-style-type: none"> • Organize train-the-trainer activities to develop the skills of trainers, policymakers, accreditation professionals, technical assessors, laboratory personnel, industry personnel and other concerned parties, particularly on issues related to risk management principles and best practice; the ISO/IEC 17000 family of standards. • Consider entering into twinning arrangements or mentorship schemes with regional and international agencies.
Simplifying and harmonizing conformity-assessment procedures	<ul style="list-style-type: none"> • Simplify and harmonize conformity-assessment procedures, drawing on internationally recognized best practices.
Establishing measures for supporting acceptance of other countries' conformity-assessment results	<p>Such options could include:</p> <ul style="list-style-type: none"> – the conclusion of an agreement with a conformity-assessment body in another Member State (e.g. accreditation bodies; certification bodies, laboratories); – acceptance of the results of conformity-assessment procedures within international product-testing and certification systems of which Tajikistan is a participant; – acceptance and non-discriminatory consideration of applications for accreditation from conformity-assessment bodies located in other WTO member countries; – acceptance of conformity-assessment results from conformity-assessment bodies recognized by Tajikistan.

Outstanding needs	Recommendations
Obtaining affiliate membership in ILAC and observer membership in IAF and make full membership a long-term goal	<ul style="list-style-type: none"> ● Bring the existing accreditation system into line with the ISO/IEC standard 17011 on general requirements for accreditation bodies accrediting conformity assessment bodies. ● Help the testing and calibration laboratories to meet the quality requirements of ISO/IEC standard 17025 on general requirements for the competence of testing and calibration laboratories. ● Develop and consolidate partnerships with ILAC and IAF
Further improving the food safety control system	<ul style="list-style-type: none"> ● Consider revising the law “On Safety of Food Products” to address unclear definitions and instances that lead to duplication of functions. ● Create the required institutional control mechanisms: <ul style="list-style-type: none"> – Adopt risk-based inspection systems and ISO food safety management standards (ISO 22000); – Establish a risk-management system based on the Hazard Analysis Critical Control Point (HACCP) principles.

3.6 Metrology

The Government attaches great importance to improving the general infrastructure for metrology and legal metrology. This area requires immediate action; otherwise, recognition of testing reports by other countries will remain difficult, if not impossible. The Government is also keen on bringing the Law “On Provision of Unified Measurements” of 15 May 1997 into line with the TBT Agreement, and reduce government control over the development of measuring instruments for calibration.

In 2013, Tajikistan had 10 accredited electro-technical measurement laboratories and 40 metrological agencies that provide repair and support services for measurement units. Most of the laboratories and agencies were in need of modern equipment, expertise, staff, and research and development capacity.

Yet another area requiring immediate action involves aligning legal metrology with international requirements. Otherwise, efforts to remove regulatory and procedural barriers to trade would be defeated by strict legal requirements. In addition, the country’s measurement system for testing materials and structural components could benefit from further development. The system remains based on CIS units of measurement,⁹⁷ thereby setting the limits to the development of calibration and metrological traceability.

Table 3.5 provides a number of recommendations for the Government’s consideration.

⁹⁷ The system of legal metrology is based on 250 units of measurement, including the ones of Armenia (1), Austria (1), Belarus (11), China (27), France (2), Germany (8), Iran (1), Italy (1), Japan (7), Kazakhstan (11), Russian Federation (136), South Korea (1), Switzerland (7), Turkey (3), United Kingdom (5), Ukraine (11), USA (9).

Table 3.5 Outstanding needs and recommendations for metrology

Outstanding needs	Recommendations
Further developing the institutional capacities of testing and calibration laboratories and metrological service agencies	<ul style="list-style-type: none"> ● Develop the capacities of testing and calibration laboratories and metrological service agencies, and consider establishing new ones based on cost-benefit analysis. Such analysis should be based on the country's needs for improving export competitiveness. ● Provide advanced training to staff in the areas of metrology and legal metrology. ● Developing the research capacity of metrological laboratories.
Further developing Tajik's system of legal metrology	<ul style="list-style-type: none"> ● Harmonize legal metrology (including measurement procedures, calibration certificates, language, etc.) with the international requirements based on OIML recommendations. This exercise will help Tajikistan in obtaining full membership in the international organization.
Further developing Tajikistan's measurement system	<ul style="list-style-type: none"> ● Harmonize the measurement system with the International System of Units (SI), maintained by the Bureau International des Poids et Mesures (BIPM).

Chapter Four

Concluding remarks

This study is a first step in supporting Tajikistan's efforts to remove regulatory and procedural barriers to trade, and ensure complete fulfilment of its WTO membership commitments. It showed that while Tajikistan has gone a long way in addressing technical and regulatory barriers to trade, there remains room for improvement, and proposed practical, action oriented recommendations for guiding future reforms.

As the implementation of the proposed recommendations requires greater resources than are now available to the Tajik Government and market support institutions, the need for technical and financial support is evident. Moreover, given the broad range of areas that the recommendations address, it would be difficult to implement the proposed measures in a single undertaking. As a follow-up to this assessment, the UNECE will help the Government develop an implementation plan for the medium and longer term that sequences implementation of the recommendations by priority in a manner that is consistent with ongoing reform plans.

These measures need to be complemented by concerted efforts to develop the economy's production and export capacity. Priority should be accorded to assisting SMEs in developing their technological capability - that is their ability to efficiently specialize in technology-intensive activities with high value-added. As it is beyond the scope of this study to propose specific measures, it suffices to mention here that developing such capacities requires adopting a sector-focused development strategy. Such a strategy should ensure synergies between trade, industry, labour and other policies, with a view to creating macro-economic incentives to increase foreign exchange availability, stimulate investments, increase exports and address supply-side constraints at both the enterprise and industry levels. In so doing, the Government may consider adopting a sequenced approach, focusing first on priority sectors, which address the twin objectives of export diversification and poverty reduction.

Yet another issue that needs to be addressed is the level of taxes. The new Tax Code reduced the level of taxes, stipulating: (i) abolition of the 3 per cent retail sales tax (which had previously applied on both imported and domestically manufactured goods); (ii) increase in the threshold for registration of VAT taxpayers from 200,000 Somoni (USD 41,300) to 500,000 Somoni (USD 101,840); (in terms of trade turnover); (iii) 50 per cent reduction of the road tax from January 1, 2015 and full abolishment of this tax from January 1, 2017; (iv) 1 per cent reduction of profit tax as of January 1, 2015 and another 1 per cent reduction as of January 1, 2017 ; (v) tax exemptions to traders; and (vi) since 1 January 2013, 5 percent reduction of TVA for enterprises engaged in production, whole sale and retail activities, marketing and construction.

Yet, enterprises complained that they are heavily taxed, noting the range of taxes they have to pay, including in addition to income tax, road tax, social tax, social tax, and lands tax. Traders said that when combined, these taxes represent around 40 per cent of profits. Some also found that the VAT at 18 per cent is high.

In addition, the tax system continues to be particularly demanding for exporters of cotton, who are subjected to a 10 per cent sales tax irrespective of source of origin. Also subjected to this tax are aluminium exporters, albeit at a much lower rate of 3 per cent. While the said tax represents an important source of budget revenues, it puts the traders at a disadvantage by undermining their export competitiveness at a time when the two products enjoy promising export potential. In this sense, it may create an unnecessary barrier to trade.

Officials explained that companies subjected to cotton fibre and primary aluminium sales tax are mainly suppliers (processing companies) of cotton fibre and primary aluminium, and when such products are exported, traders only pay the tax difference at the exchanged rate taking into account the quality, type and sort of the product which is determined on the basis of prices established as of the date of taxable transaction on London Metal Exchange and Liverpool Cotton Association. They added that the government is examining the possibility of applying single agricultural tax, and the efficiency and feasibility of current taxation procedure for agricultural producers. Based on the results of these assessments, the Government will decide as to whether it should replace sales tax with VAT. Meanwhile, efforts are underway to streamline and simplify the administrative procedures associated with the payment of fibre sales tax, including through the introduction of modern management information systems.

Improving the export competitiveness of Tajikistan's cotton industry: A business process analysis

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Abbreviations

BPA	Business process analysis
CCI	Chamber of Commerce and Industry
CFR	Cost and Freight
CJSC	Closed Joint stock company
FOB	Free on Board
GOST	State Union Standard
CMR	International consignment note
NBT	National Bank of Tajikistan
WIS	Wakefield Inspection Services

A1. Introduction

This annex provides the results of the sector-focused assessment, which identified regulatory and procedural barriers to increasing Tajikistan's exports of cotton fibre using the business process analysis (BPA) described in the first chapter.

Two companies were selected to serve as case studies based on the size of their exports and nature of activities. The companies are located in the Khatlon region in the south, which accounts for 65 per cent Tajikistan's cotton production. The first is involved in growing and ginning along with the production of yarn, and employs around 500 workers, of which 370 are seasonal. The second company is a small private farmer company, which invests in peasant (*dehkan*)⁹⁸ farms and is involved in the production of cotton fibre. The company has its own ginneries, and produces 1,700 tons of cotton fibre per year, of which 90 per cent is exported.

The BPA was carried out in late 2013 by a UNECE national consultant, who visited the two companies and conducted extensive interviews with senior, middle and lower level management. In addition, the consultant carried out face-to-face interviews with custom brokers, who establish sales contracts and handle all the business processes associated with customs clearance on behalf of the companies. The consultant also interviewed officials from the following agencies:

- Customs Service
- Tajikstandart
- State Service for Phyto-sanitary and Quarantine Inspection under the Ministry of Agriculture.
- Closed Joint Stock Company (CJSC) Tajikistan Wakefield Inspection Services (WIS)
- Chamber of Commerce and Industry

The analysis focused on the core business processes associated with the export of the selected product. These processes are shown using:

- Use-case diagrams
- Business process flowcharts (using the Buy-Ship-Pay reference model)
- Time procedure charts

This annex is divided into six sections. The introduction is followed in section two by a description of the scope of the BPA (i.e., the domain of interest). Section three provides a detailed description of the core business processes of the two companies. This is followed, in sections four and five, by a snapshot of the overall time spent and the documentary requirements provided by the two companies to complete the core business processes. Section 6 provides action-oriented recommendations for the government's consideration. The recommendations logically follow from the process diagrams and the analysis.

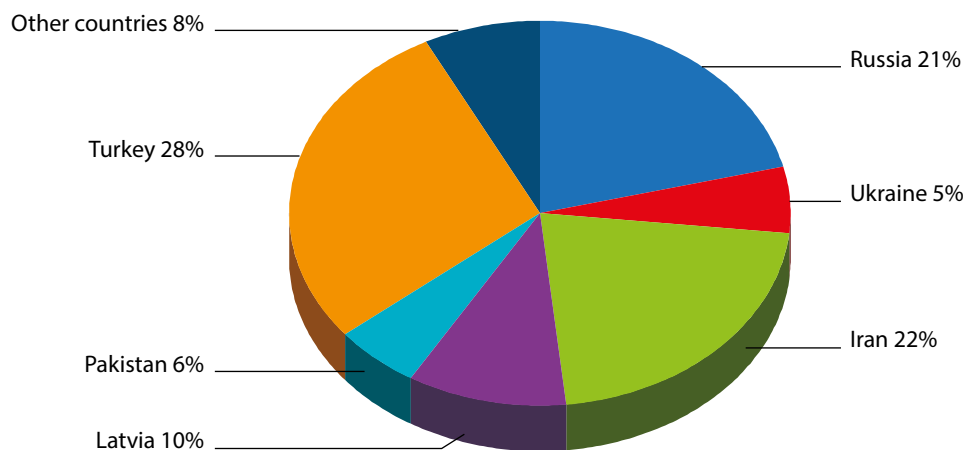
⁹⁸ Prior to Tajikistan's independence, the cotton industry comprised state-owned farms, which grew cotton on large plantations. The industry was restructured after independence in 1991, with the dismantling of state-owned enterprises. The farms were transformed into large enterprises or small private peasant (*dehkan*) farms, which are often organized in collectives and are legally distinct from household plots. See Law No. 48. "On Dehkan Farms".

A2. Domain of interest

A2.1 Product selection

Cotton fibre accounts for 16 per cent of the Tajikistan's total exports, and reached 141,7 thousand tons in 2011, equivalent to USD 224 million or USD 1.555 per ton.⁹⁹ As shown in figure A2.1, Turkey and the Russian Federation constitute the major outlets for this product, followed by Iran, Latvia, Pakistan and Ukraine.

Figure A2.1 Primary export markets for Tajik cotton fibre¹⁰⁰



While the government has launched a concerted effort to stimulate increased specialization in the export of cotton-based textiles,¹⁰¹ it continues to attach great importance to improving the export competitiveness of cotton fibre. This is so because the cotton fibre industry is a major contributor to job creation, and has promising growth potential in view of the country's rich natural endowments of soil and favourable climatic conditions that are suitable for cotton cultivation.¹⁰²

The government considers the removal of regulatory and procedural barriers to trade in cotton fibre as a strategic path to follow. The business process analysis provides a useful tool for removing such barriers. It also captures information requirements and data flows throughout the supply chain, which could be used for informing the implementation of the SW facility.

A2.2 Scope of the business processes analysis

Consistent with the UNECE Buy-Ship-Pay model, the analysis covers business processes associated with:

- Establishing commercial contracts (commercial procedures).
- Arranging inland and cross-border transportation of goods (transport procedures).
- Meeting regulatory requirements (regulatory procedures).
- Arranging for payment (financial procedures).

⁹⁹ Statistical Bulletin (2011) "Foreign Economic Activity in Tajikistan", State Committee on Statistics of the Republic of Tajikistan

¹⁰⁰ Statistical Bulletin (2011) "Foreign Economic Activity in Tajikistan", State Committee on Statistics of the Republic of Tajikistan

¹⁰¹ See, the Programme of Development of Export in the Republic of Tajikistan until 2015, approved by the Government under Resolution No. 299 of 4 July 2006

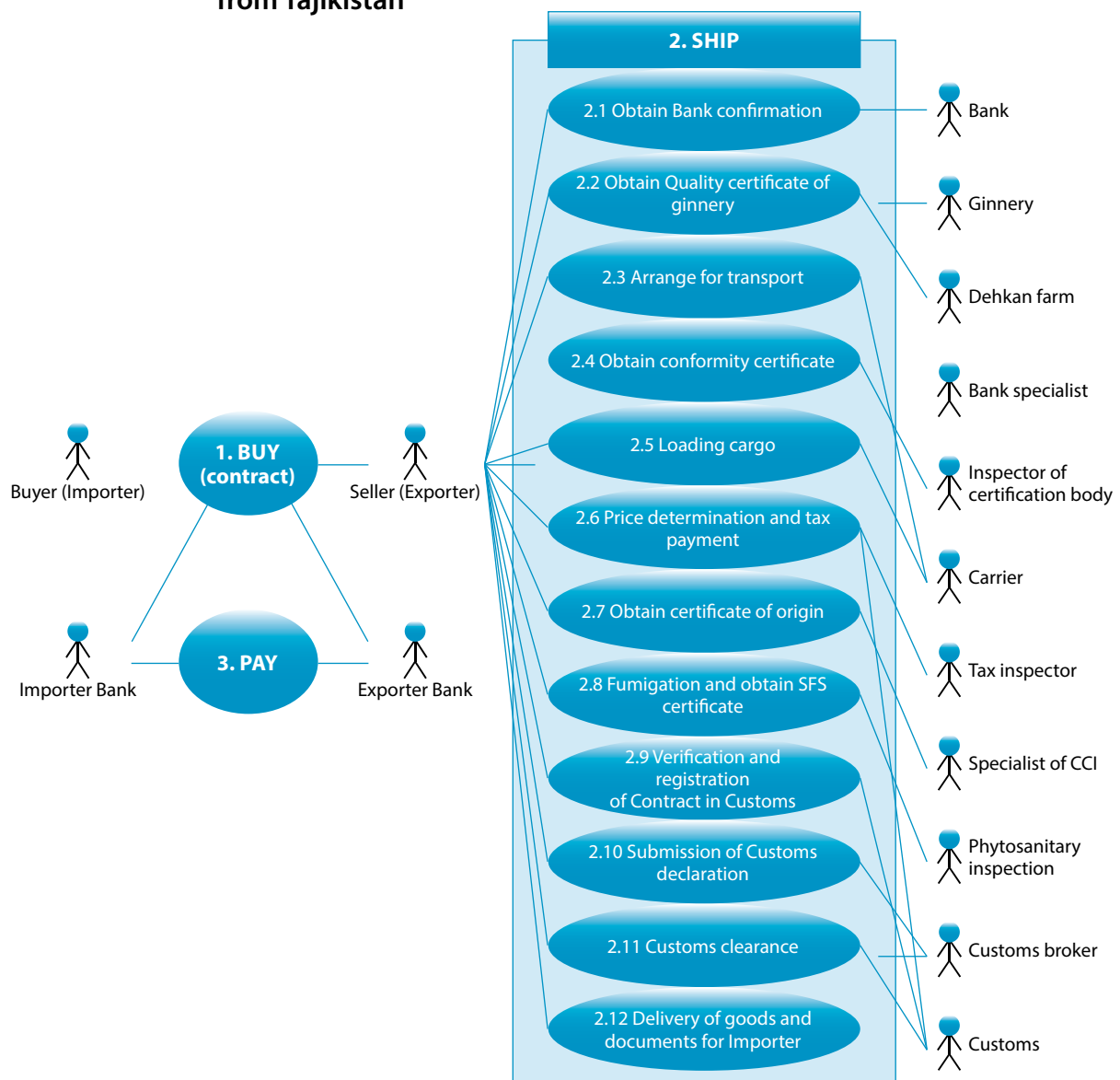
¹⁰² The Government of the Republic of Tajikistan (2007), "The Cotton sector of Tajikistan, new opportunities for international trade", April 2007 ; Food and Agricultural Organization (FAO) (2009) "FAO Crop and Food Security Assessment Mission to Tajikistan: Special Report".

The scope of the analysis was established in discussion with the two companies based on their trade profile, which is provided below:

- Cotton fibre is exported from the Khatlon region in the south.
- Exports are shipped by rail and road.
- The product travels in full standard container load (20-foot).
- Exports are destined to Turkey, Iran and the Russian Federation.
- Cotton fibre is delivered under Cost and Freight (CFR) terms, whereby the seller covers freight costs and clears the goods for export while the buyer assumes losses caused by unforeseen events. Traders prefer these terms because local insurance companies do not provide transport insurance.

Diagram A2.1 applies the use-case diagrams to map core business processes that are carried out by the two companies when exporting cotton fibre from Tajikistan.

Diagram A2.2 Use-case diagram of core business processes for exporting cotton fibre from Tajikistan



The sequence of the processes, particularly loading; obtaining certificate of origin; and, arranging for fumigation and obtaining SPS certificate varies from one trader to another. One of the traders said that he arranges fumigation before loading the goods. In this case the State Service for Phyto-sanitary and Quarantine Inspection under the Ministry of Agriculture visits the warehouse facility at the ginnery and fumigates the products. Arrangements for obtaining the certificate of origin is dealt with separately after loading, and inspectors from the Chamber of Commerce and Industry (CCI) examine the shipment at the terminal after loading.

The other trader said that he deals with the three processes simultaneously after loading the goods, with the inspectors from the CCI and from the State Service for Phyto-sanitary and Quarantine Inspection under the Ministry of Agriculture visiting the terminal. The first fumigates the goods and the second collects samples for conducting laboratory tests, if needed.

Traders said that the sequence of the processes depends on the arrangements made with the Chamber of Commerce and Industry (which issues the certificate of origin), and the State Service for Phyto-sanitary and Quarantine Inspection under the Ministry of Agriculture (which is responsible for fumigation and for issuing the SPS certificate). They noted that there is not a standardised way for handling the two processes.

This discrepancy lends further evidence to some of the problems identified in chapter two. In particular, the need for further training and further instructions for guiding implementation of new primary and secondary laws. It also brings forward the problem of lack of transparency. The agencies in question do not publish the administrative procedures that traders need to follow.

Below is detailed information about the activities carried out by traders under each process.

3.1 Buy (trade procedures)

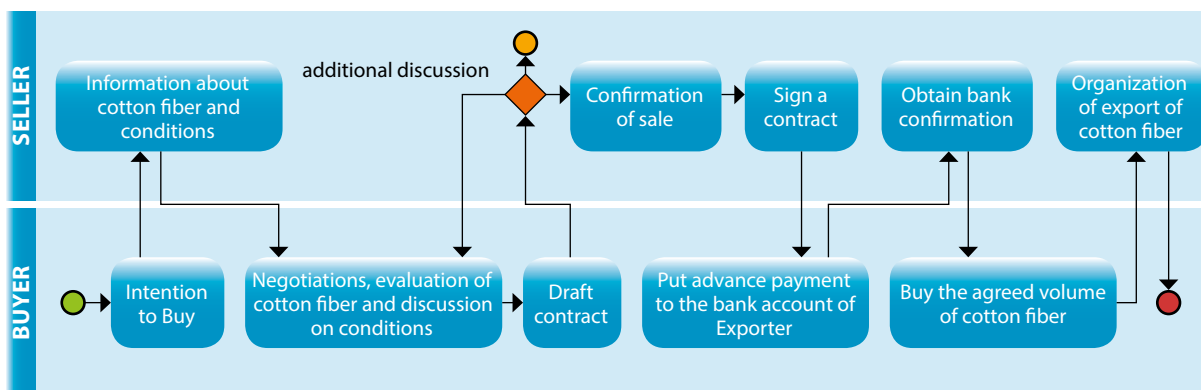
3.1.1 Core business processes – Negotiate and conclude sales contract

As shown in diagram A3.1, the terms of the sales contract are established through direct negotiations between the Tajik exporters¹⁰³ and potential buyers (usually companies involved in the manufacturing of textiles). The conclusion of a contract is a standard procedure based on Inco terms 2000.

However, this process is complicated by the advance payment requirement. Traders explained that this requirement should be included in the sales contract, which makes negotiations difficult. This is especially the case of negotiations with new buyers, who are usually hesitant to pay the full amount of the contract value before receiving the goods.

¹⁰³ It is also worth mentioning that the existing legislation does not impose any conditions on the legal entity of the seller. Investors, cotton producers, trading companies, those involved in ginning activities and third parties acting on behalf of the seller (e.g., customs brokers) can all engage in export activities.

Diagram A3.1 Negotiate and conclude the sales contract and Obtain advance payment confirmation letter from the bank



Name of process area	3.1. Buy (trade procedure)
Name of business process	3.1.1 – Negotiate and conclude the sales contract
Related laws, rules and regulations	<ul style="list-style-type: none"> • Civil Code of the Republic of Tajikistan (2012) • Inco terms 2000 • The minimum export pricing formula, the “methodical”, as approved by the Ministry of Economic Development and Trade and the Ministry of Agriculture in 2008. Previously, the export pricing formula imposed restrictions on the terms of sales (Free on Board, FOB, only). The new methodical enables exporters to use any of the terms of sales under Inco terms 2000. • Government Resolution No. 223 of May 15, 2003 “Regulation on the organization of production, processing and marketing of cotton”. • Law “On Banks and Banking Activity” of 1998
Process participants	<ul style="list-style-type: none"> • Exporter • Importer • Exporter bank • Importer bank
Criteria to begin the business process	<ul style="list-style-type: none"> • Exporter has the required quantity of cotton fibre • Exporter has received the offer from a potential importer. Usually the buyer finds the seller by his own initiative.
Sequence activities	<ul style="list-style-type: none"> • Importer sends a representative to assess the product. • If the importer is satisfied with the quality of the cotton, he negotiates the quantity, delivery conditions and payment arrangements with the exporter, and terms of the contract should adhere to the full advance payment requirement. • The two sides would then sign the contract. • The importer would then deposit the full amount mentioned in the contract in the Seller’s bank account. • The exporter requests and then receives a confirmation of receipt of the payment from the bank. • Exporter prepares for the delivery of goods. If the exporter does not possess the exact quantity mentioned in the contract, he buys cotton fibre from producers.
Output criteria to exit the business process	<ul style="list-style-type: none"> • Importer and Exporter have concluded the sales contract • Confirmation of payment receipt is issued by the exporter’s bank, thereby allowing him to prepare the delivery of goods and the trade documents.
Average time required to complete this business process	<ul style="list-style-type: none"> • Negotiations take up to 5 days in average. • Confirmation of payment receipt is issued by the exporter’s bank in 2-3 hours (from the moment that the request has been made)
Total cost	Costs associated with obtaining the conformation of payment letter: around 0.01 per cent of the contract value (some banks do not charge fees for this service)
Use of output	Execution of documents and preparation of cotton fibre for export

3.2 Ship

3.2.1 Core business processes – Obtain advance payment confirmation letter from the bank

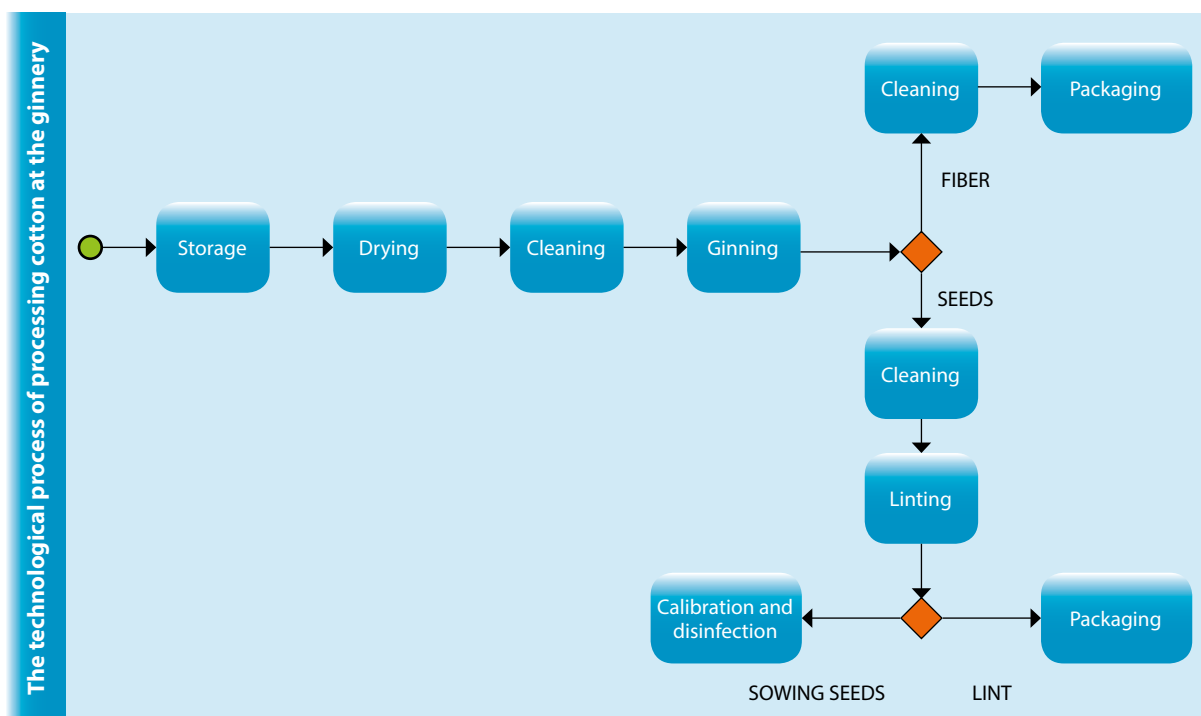
As previously shown, the advance payment requirement creates unnecessary barriers to trade. Traders said that they could only start preparing the goods for exports after obtaining a confirmation of payment letter from their bank, testifying that the full amount of the contract has been transferred to their accounts (see Diagram A3.1). They also complained that some banks charge high fees for issuing this letter, thereby increasing overall transaction costs.

3.2.2 Core business area – Obtain quality certificate from ginnery

Immediately after signing the contract or, in some cases, during negotiations over the terms of sales, the exporter commences the process of obtaining a quality certificate from ginneries, which attests that the cotton fibre is in conformity with GOST standards. This certificate, commonly referred to as a “cotton fibre passport”, is issued by ginneries. As shown in Diagram A3.2, the national system of accreditation for technical competence covers all the activities of the ginneries, including consolidation, drying, cleaning, processing and storage of raw cotton.

Out of the total number of ginneries in the country,¹⁰⁴ only 43 are accredited by Tajikstandart for technical competence. Moreover, only 3 ginneries have testing laboratories that are accredited by Tajikstandart for technical competence and independence, including two in Khatlon and one in the Sugd region. These laboratories issue protocols and test reports, which serve as the basis for issuing the Conformity Certificate. One of these laboratories is owned by a closed joint stock company (Tajikistan-WIS) and is located in the Khatlon region. The remaining laboratories are owned by Tajikstandart.

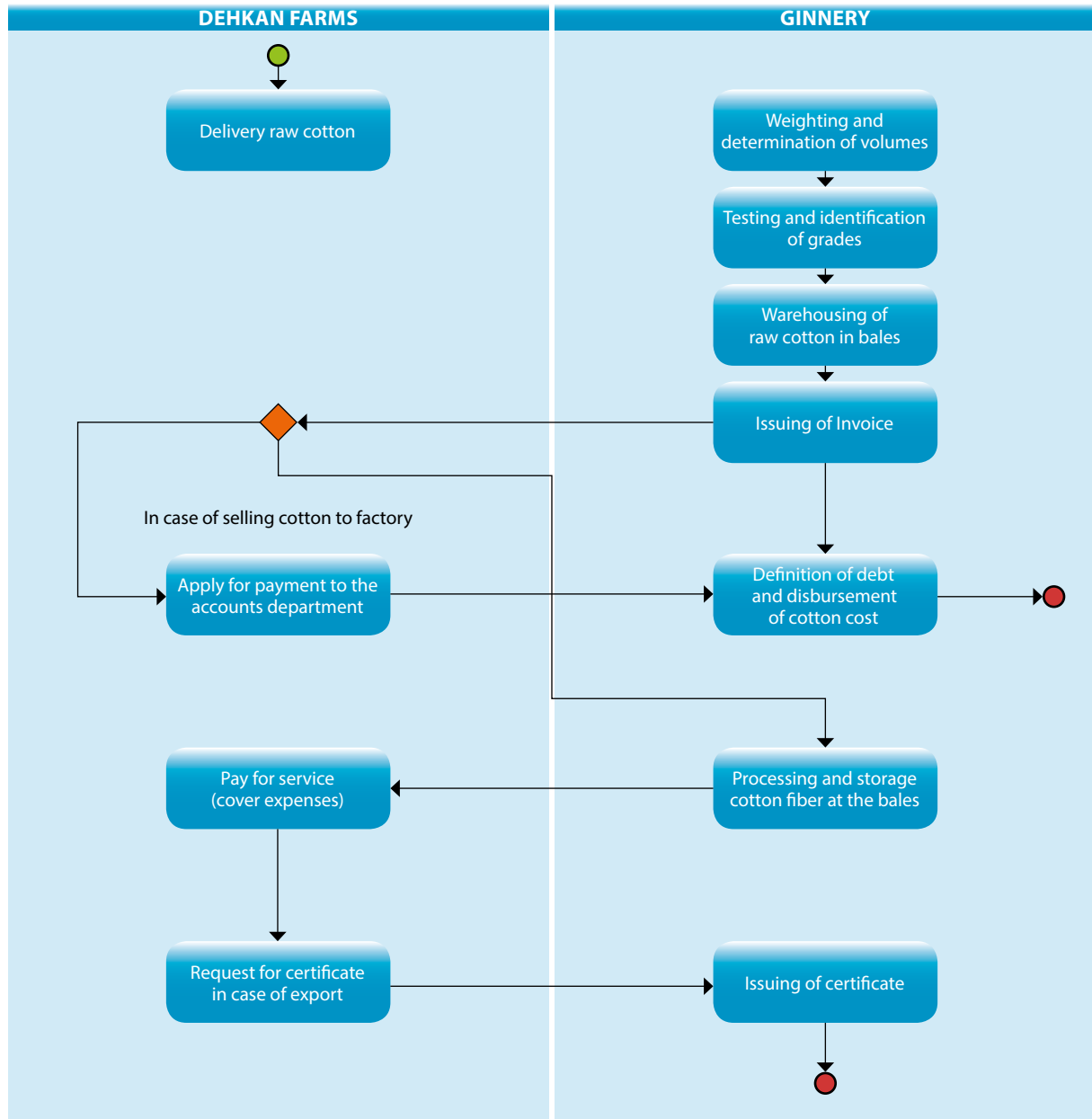
Diagram A3.2 Activities associated with processing raw cotton in ginneries



¹⁰⁴ According to experts, there is 93 ginneries in the country; of which 87 were operational in 2013.

As shown in Diagram A3.3, the certificate is requested by the farmers, who then provide it to the exporter. Exporters did not report experiencing problems in obtaining the certificate on time. However, they noted that ginneries do not have the required facilities for prolonged storage, so that any delay in preparing the necessary documents or in completing the shipping arrangements would result in significant losses in the form of damaged products. The lack of proper storage facilities also forces traders to sell their product at a loss. Traders explained that they are often in a rush to sell their products, so that they accept any offer even if this offer is lower than the actual market price.

Diagram A3.3 Obtain quality certificate from ginnery



Name of process area	3.2 Ship
Name of business process	3.2.2 – Obtain the quality certificate from ginneries
Related laws, rules and regulations	<ul style="list-style-type: none"> Government Resolution No. 223 of 15 May 2003 “Regulation on the organization of production, processing and marketing of cotton”
Process participants	Dehkan farmer Ginnery
Criteria to begin the business process	<ul style="list-style-type: none"> A contract between the ginnery and dehkan farmer (producer) has been concluded. The producer (dehkan farms) either sells the raw cotton to the ginneries or provides the raw cotton for processing and storing (and this is the case for farmers who do not have storage facilities)
Sequence activities	<ul style="list-style-type: none"> The Ginnery weighs the raw cotton to establish its exact volume At the same time, laboratory tests are conducted to determine, among others, the humidity, pollution and grade of raw cotton. Cotton is stored The farmer issues an invoice (Cotton receipt). If the farmer sells raw cotton to ginnery he is paid after taking into account the amount of debt he owes to the ginnery The Ginnery proceeds to carry out primary processing. The ginnery issues the quality certificate The farmer pays for processing and storage in cash or in kind (raw cotton).
Output criteria to exit the business process	Quality certificate (cotton fibre passport) is issued
Average time required to complete this business process	Up to 5 hours (for 3 tons of raw cotton)
Total cost	USD 200-250 per ton of cotton fibre for storage and processing
Use of output	Finding buyers or concluding the sales contract or for preparing export documents

3.2.3 Core business area– Arrange transport

The two companies transport their goods mainly by road. Transport by rail, which is the preferred mode for the two companies, is becoming an increasingly remote option in view of the border tensions with Uzbekistan (Tajikistan’s main transit country).¹⁰⁵ The companies commence preparations for shipping their products immediately after obtaining the quality certificate from the ginnery.

A. Arrange transport by rail

Traders said that shipping the products by rail is complicated by the shortage of railway cars, which causes significant delays. This problem is not experienced in transit stations, where empty railway cars are always available. They also lamented presenting unnecessary support documents, including copies of the sales contract and the conformity certificate.

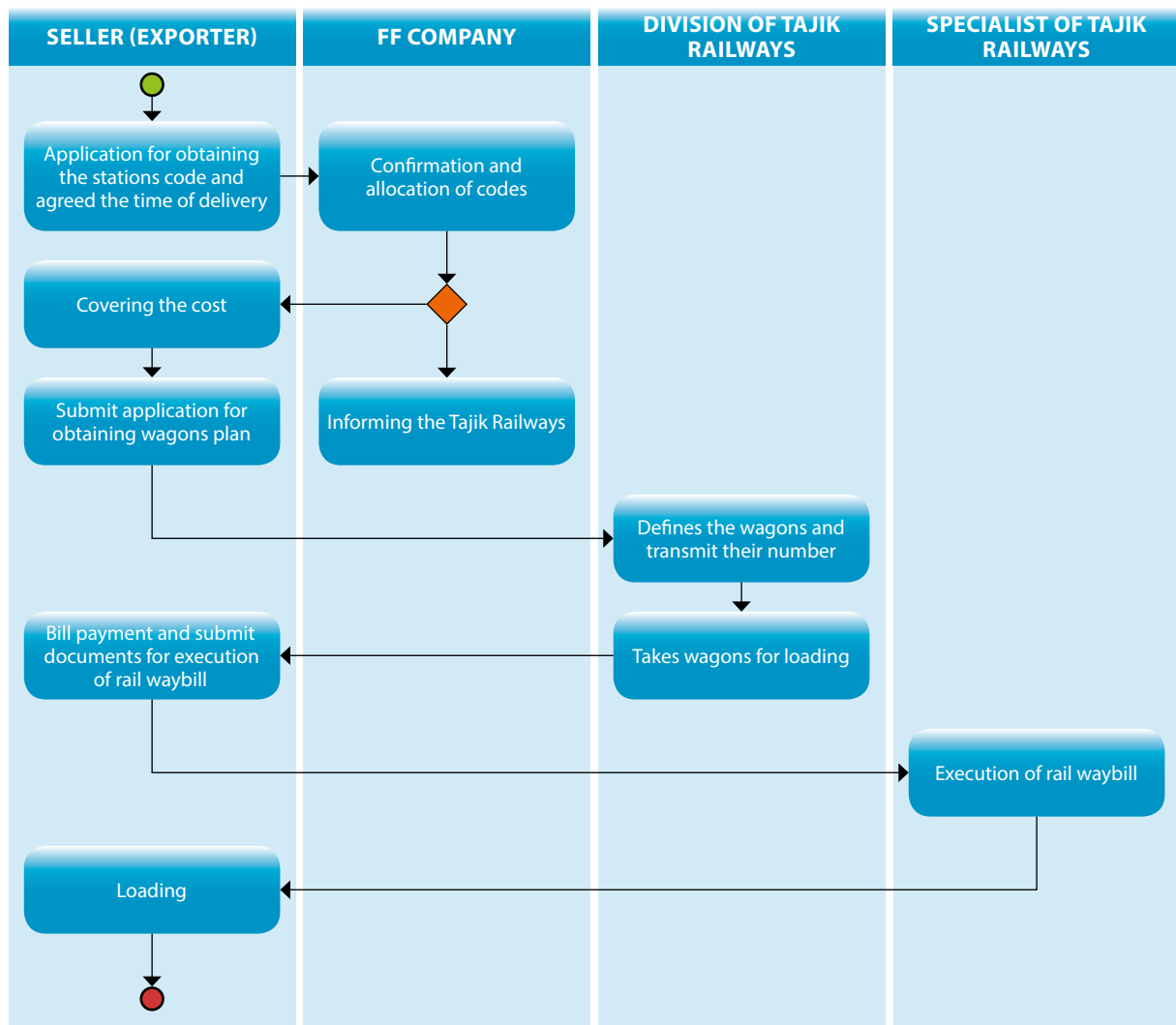
In addition, traders drew attention to the lack of transparency of railway procedures and the problem of informal payments. A case in point is the assignment of empty railway cars to traders. The respondents reported that the decisions by the national railway authority on the quality and number of assigned railway cars seem to be arbitrary, and complained about unnecessary fees, such as those charged for obtaining clean railway cars. They also said that informal payments are often made to speed up the shipping process.

¹⁰⁵ For detailed discussion of this issue, see chapter two.

Yet another concern relates to the quality of railway cars. Traders said that the quality of the cotton fibre suffers during loading, since the railway cars are not equipped with proper cooling systems that allow for controlling the temperature during shipping.¹⁰⁶ The activities undertaken by the two companies to complete this process are mapped in diagram A3.4.

The two companies said that while rail is their preferred transport mode, it is becoming increasingly unreliable. They explained that the border crossing point along the Uzbek Termez region is closed for extended periods, so that they cannot use the Termez - Denau – Dushanbe railroad (goods are shipped to Dushanbe and then moved to final destination). When the borders are not closed, goods are delayed by the shortage of railway cars at the Tajik station.

Diagram A3.4 Arrange transport by rail



¹⁰⁶ It should be noted that when process and packed in bales, cotton fibre is not affected by changes in the temperature, indicating that the degradatation in quality may be also caused by inappropriate packing methods.

Name of process area	3.2 Ship
Name of business process	3.2.3 (A) – Arrange transport by rail
Related laws, rules and regulations	<ul style="list-style-type: none"> Charter of the railway transport of the Republic of Tajikistan as established under Government Resolution No. 244 of 5 June 2002; Agreement on International Goods Transport by Rail; Government Resolution No. 223 of 15 May 15 2003 “Regulation on the organization of production, processing and marketing of cotton”
Process participants	<ul style="list-style-type: none"> Exporter National railway authority- «State Unitary Enterprise «Rohi Ohani Tojikiston» Freight forwarding company
Criteria to begin the business process	The Exporter and Importer concluded the sales contract.
Sequence activities	<ul style="list-style-type: none"> Exporter contacts the freight forwarding company to obtain codes of stations. These codes are issued by the national railway authority, and sold to freight forwarding companies. The request is done by the phone, fax, or email. The Company provides the codes and notifies the Tajik railway authority. Exporter pays the company in return for the codes The Exporter contacts a national railway authority to request rail cars to the intended destination, and pre-schedules dispatch from the railway station The national railway authority confirms availability of railway cars and provides the transportation plan. In some cases, the sales contract and the certificate of conformity should be accompanied by the request for railway cars Exporter presents the required documents (codes invoice and transportation plan) to the Tajik Railway authority to obtain the railway bill of lading Exporter pays the costs, including the costs of renting the railway cars and transportation within territory of Tajikistan Tajik Railways supplies the rail cars and organizes the loading.
Output criteria to exit the business process	Transport arrangements are concluded Railway cars are dispatched to point of departure
Average time required to complete this business process	2-3 weeks
Total cost	Delivery and cleaning of railway cars USD 80-100; USD 15 per ton for transportation to the point of departure; USD 150 for pickup and delivery
Use of output	Loading

B. Arrange transport by road

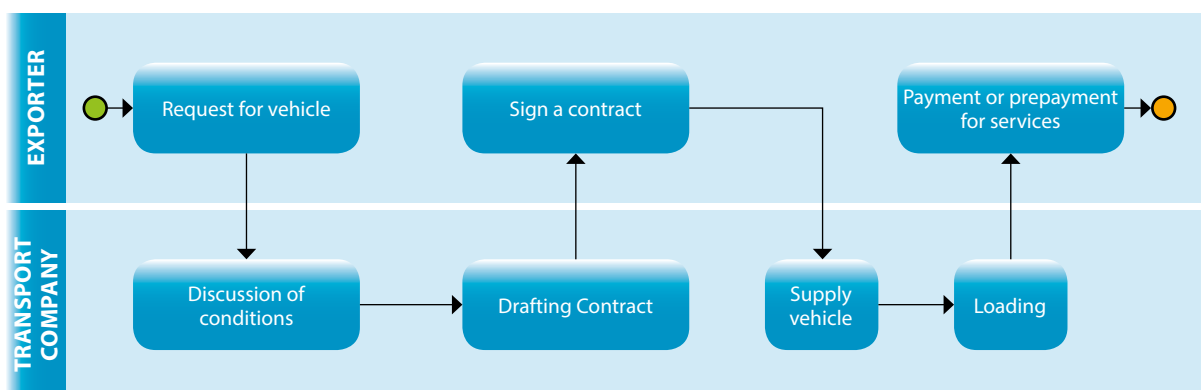
The two companies prefer using foreign vehicles for transporting their goods by road. These charge favourable fees compared to local truck fleets, owing to the large number of empty vehicles waiting for enough outbound cargo. Foreign vehicles are also insured, so that the traders do not have to cover insurance costs.¹⁰⁷

However, traders said that the quality of cotton fibre suffers during loading, since most of the vehicles, including foreign vehicles, are not equipped with proper cooling systems that allow for controlling the temperature during shipping. In addition, transport by road is more expensive than transport by rail. But traders said that they are more than willing to assume the additional costs, in order to ensure timely delivery of goods.

¹⁰⁷ Large companies establish long-term contracts with international transport companies, which arrange the transportation of goods.

The activities undertaken by the two companies to complete this process are provided in diagram A3.5.

Diagram A3.5 Arrange transport by road



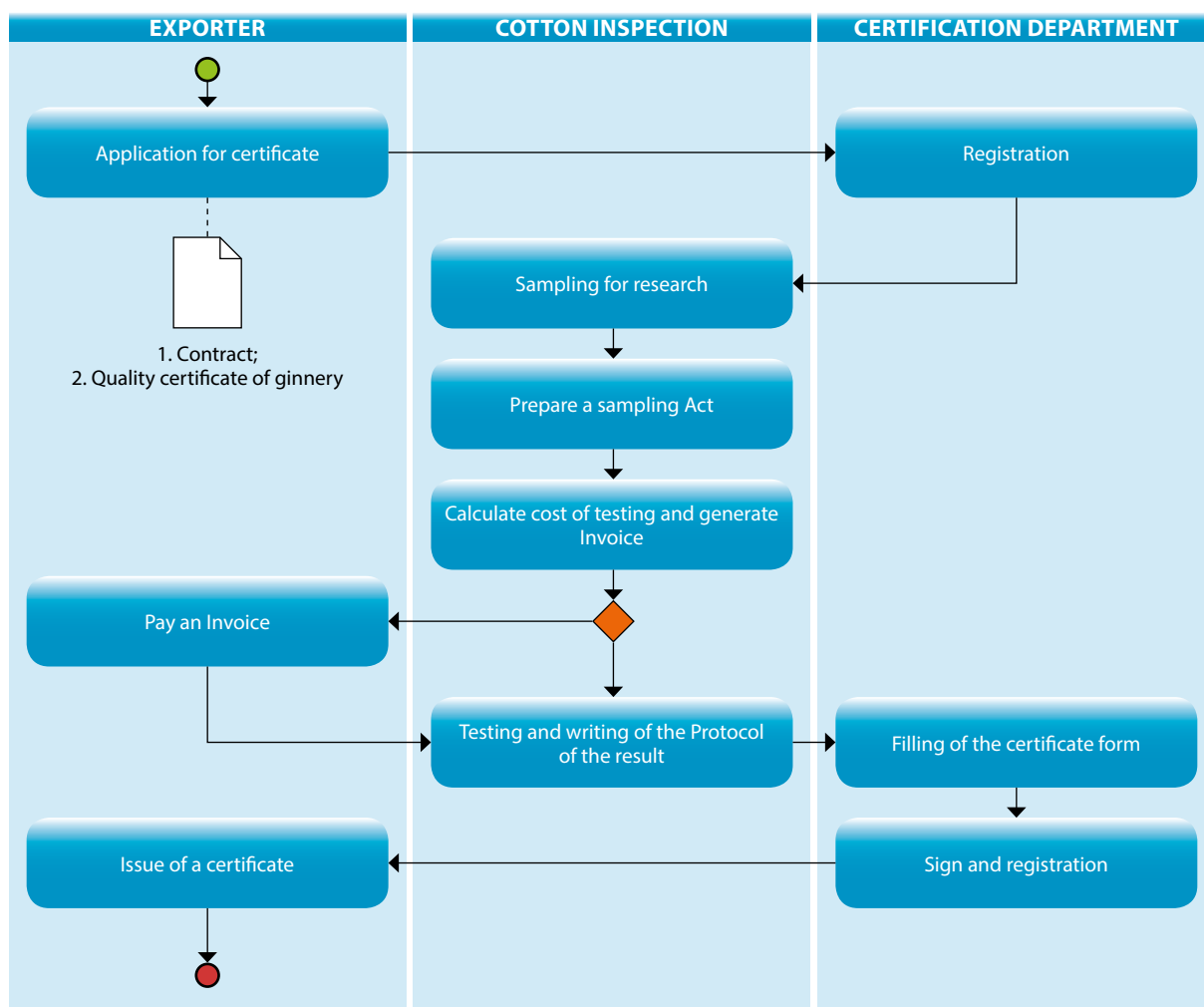
Name of process area	3.2 Ship
Name of business process	3.2.3 (B) – Arrange for transport by road
Related laws, rules and regulations	<ul style="list-style-type: none"> Charter of the road transport of the Republic of Tajikistan (Government Resolution No. 696 of December 30, 2009) Regulation of shipment by road from May 28, 2010. TIR Convention (Tajikistan joined the Convention in 1997) Government Resolution No. 223 of 15 May 15 2003 “Regulation on the organization of production, processing and marketing of cotton”
Process participants	<ul style="list-style-type: none"> Exporter Carrier
Criteria to begin the business process	Sales contract has been established
Sequence activities	<ul style="list-style-type: none"> Exporter finds the vehicle Exporter establishes the (oral or written) contract with the carrier, or approaches terminal administration of the International Association of the Automobile Carriers (ABBAT) to reserve the vehicle. It is worth mentioning that ABBAT is a member of the International Road Transport Union (IRU). Exporter sends the vehicle to the ginnery to load the goods. If the vehicle was reserved through ABBAT, the exporter arranges for the transport of goods from the ginnery to the loading terminal by local vehicles. Exporter or broker prepares the transport documents, including CMR Waybill in 4 copies (one for the exporter, and three for the driver). The Customs broker could also fill in the TIR Carnet on behalf of the exporter.
Output criteria to exit the business process	The terms and conditions for the transportation of goods are established
Average time required to complete this business process	The time varies between several hours and 1 day. Vehicles are booked by Exporter 2 days before loading
Total cost	Delivery (from Khatlon) to the border of Tajikistan: USD 3-4 per 200 kilograms (0.44 kip). The shipping costs vary between USD150-200 per ton. Minimum price for shipping to destination is USD 4500.
Use of output	Loading

3.2.4 Core business area – Obtain conformity certificate

Conformity certificates are issued by Tajikstandart or an independent agency, the closed joint stock company (CJSC) between the Tajik Government and Wakefield Inspection Services, “Tajikistan-WIS”. The company, which certifies around 30 per cent of cotton fibre destined for exports, has modern testing laboratories that allows for certifying products in accordance with the Universal Cotton Grade Standards (UCGS).

The two bodies follow established certification procedures, as defined under existing legislation. The only difference is that Tajikistan-WIS charges higher fees.¹⁰⁸ Diagram A3.6 shows the activities carried out by exporters under this business process.

Diagram A3.6 Obtain conformity certificate



¹⁰⁸ Representatives of the JSC Tajikistan-WIS noted that since the company has invested in improving certification procedures, its fees are naturally higher than those of Tajikstandart. They drew attention that the procedure for obtaining a conformity certificate as defined by law is followed by both certification bodies, and is clear. Producers have, therefore, all the necessary elements to make an informed decision when choosing between the two agencies.

Name of process area	3.2 Ship
Name of business process	3.2.4 – Obtain conformity certificate
Related laws, rules and regulations	<ul style="list-style-type: none"> • Law No. 759 On conformity assessment of 2 September 2011 • Government Resolution No. 223 of 15 May 2003 “Regulation on the organization of production, processing and marketing of cotton” • Customs Code of the Republic of Tajikistan
Process participants	<ul style="list-style-type: none"> • Exporter • Tajikstandart
Criteria to begin the business process	Sales Contract has been established The Quality certificate has been issued by the ginnery ¹¹⁰
Sequence activities	<ul style="list-style-type: none"> • Exporter submits a request to the certifying body, and provides copies of the sales contract. The quality certificate is issued by the ginnery. • The certifying body lodges the request • The exporter provides the sample for testing. • The certification department estimates the costs and issues an invoice for payment • The samples are transferred to the laboratory for testing. • The testing laboratory issues the testing results and submits to the certification department • The responsible staff at the department fills in the Certification form, and registers it in a special book before submitting to the Head of Agency for signature. • Exporter pays for the certificate • Tajikstandart issues the Certificate.
Output criteria to exit the business process	Transport arrangements are concluded Railway cars are dispatched to point of departure
Average time required to complete this business process	According to the legislation, the certificate should be issued in 7 days. The traders said that it takes them up to 3 days to obtain the certificate.
Total cost	The cost of a certificate is calculated: USD 1 per ton in testing fees, and about USD 2 for certificate forms. (Tajikistan-WIS charges USD 3 per ton in testing fees).
Use of output	Certificate required for the purposes of customs clearance, for arranging transport (accompanies the goods), and for tax payment.

3.2.5 Core business area – Obtain confirmation of tax payment

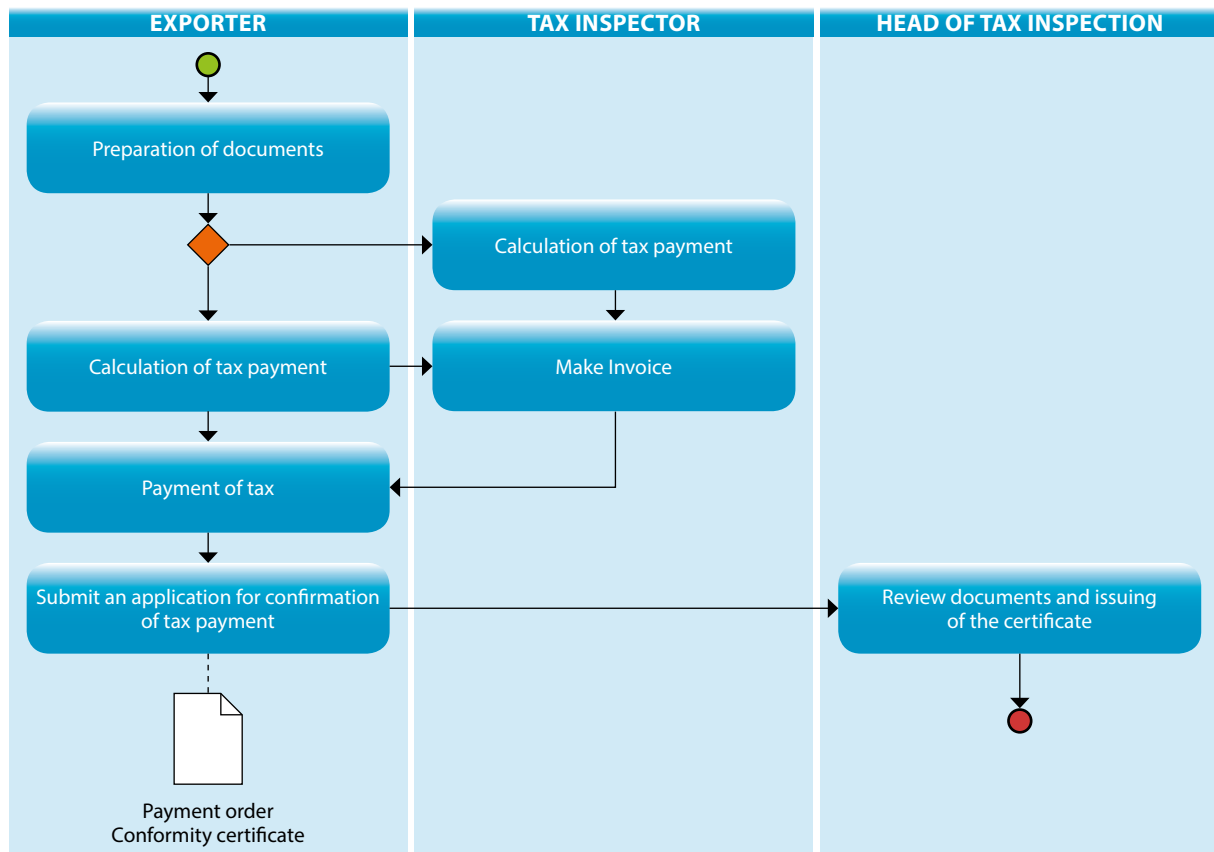
As mentioned in chapter two, cotton fibre exporters are subjected to a 10 percent sales tax irrespective of the source of origin, and traders must obtain confirmation of tax payment for customs clearance purposes. The two traders said that they commence preparations for obtaining the confirmation immediately after obtaining the conformity certificate.

The traders complained that they have to pay the sales tax at the tax authority’s central office in Dushanbe in person. This causes significant delays since the journey from Khatlon (where the traders are located) to Dushanbe may take up to six hours.

¹⁰⁹ Officials noted that this document is not mandatory, and it suffices for the purpose of obtaining the certificate to provide clear information on the net weight of the fibre and the number of bales.

Traders also raised concerns over the calculation of the amount of sales tax. As established under the Tax Code, the amount of sales tax should be calculated according to the spot rate for cotton lint at the Liverpool Stock Exchange, taking into account the quality, type and grade of the cotton fibre. Yet, Government Resolution No. 223 of 15 May 2003 “Regulation on the organization of production, processing and marketing of cotton”, stipulates that the price specified in the sales contract should be calculated on the basis of FOB (free on board) delivery terms. This creates inconsistencies for those traders who transport their goods under incoterms other than FOB.

Diagram A3.7 Obtain confirmation of tax payment



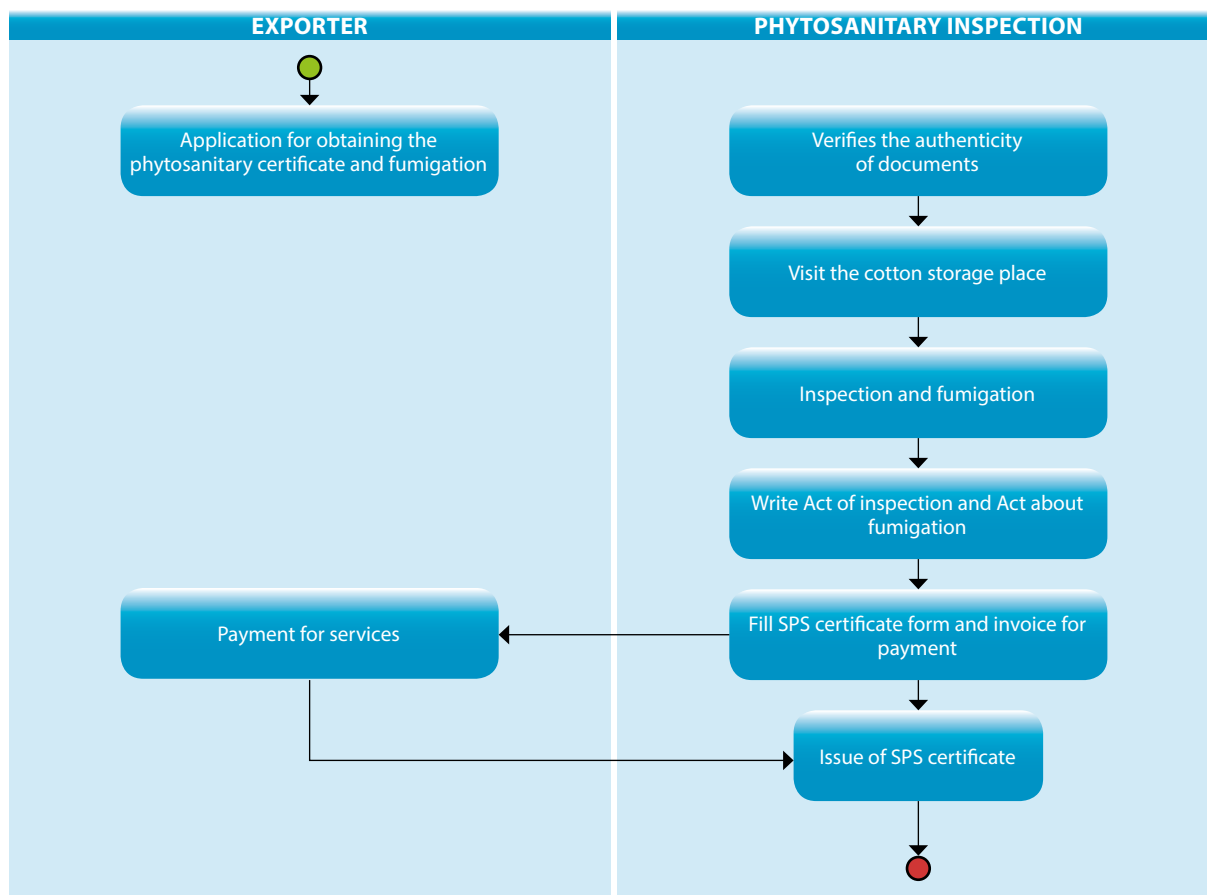
Name of process area	3.2 Ship
Name of business process	3.2.5 – Obtain confirmation of tax payment
Related laws, rules and regulations	<ul style="list-style-type: none"> • Tax Code of the Republic of Tajikistan • Government Resolution No. 223 of 15 May 2003 “Regulation on the organization of production, processing and marketing of cotton” • Customs Code of the Republic of Tajikistan (2004)
Process participants	<ul style="list-style-type: none"> • Exporter • State Tax Inspectorate
Criteria to begin the business process	<ul style="list-style-type: none"> • Sales contract has been established • The conformity certificate has been obtained
Sequence activities	<ul style="list-style-type: none"> • Exporter calculates the amount of tax or submits a request to the State Tax Inspectorate to calculate the amount. State Tax Inspectorate calculates the amount of sales tax on the basis of conformity certificate and provides bill for payment • Exporter pays the tax and obtains a payment order from bank • Exporter submits a request for confirmation of tax payment to the head of the State Tax Inspectorate, and provides the payment order (if the amount of tax was calculated by the exports, he also submits the conformity certificate) • Head of the Tax Inspection reviews the request and support documents and issues a written confirmation of tax payment, which is valid for 2 days.
Output criteria to exit the business process	Confirmation of tax payment is issued
Average time required to complete this business process	1 day
Total cost	No charges
Use of output	Customs clearance

3.2.6 Core business area – Arrange fumigation and obtain SPS certificate (at the warehouse)

In order to obtain the SPS certificate, the trader has to first make the necessary arrangements for fumigation. The procedure involves submitting a request to the State Service for Phyto-sanitary and Quarantine Inspection under the Ministry of Agriculture. The fumigation is conducted at the ginnery’s warehouse facility or at the terminal. The State Service then issues the act of fumigation/disinfection . The SPS certificate is issued based on the fumigation act and act of inspection. The latter is issued after inspection at the terminal. In cases where the inspector suspects infection, the exporter is requested to provide a sample for laboratory tests (and this is not the case of the two companies that participated in the BPA).

Diagram A3.8 captures the activities undertaken by trader under this process in situations where fumigation is implemented at the warehouse facility.

Diagram A3.8 Arrange fumigation and obtain SPS certificate



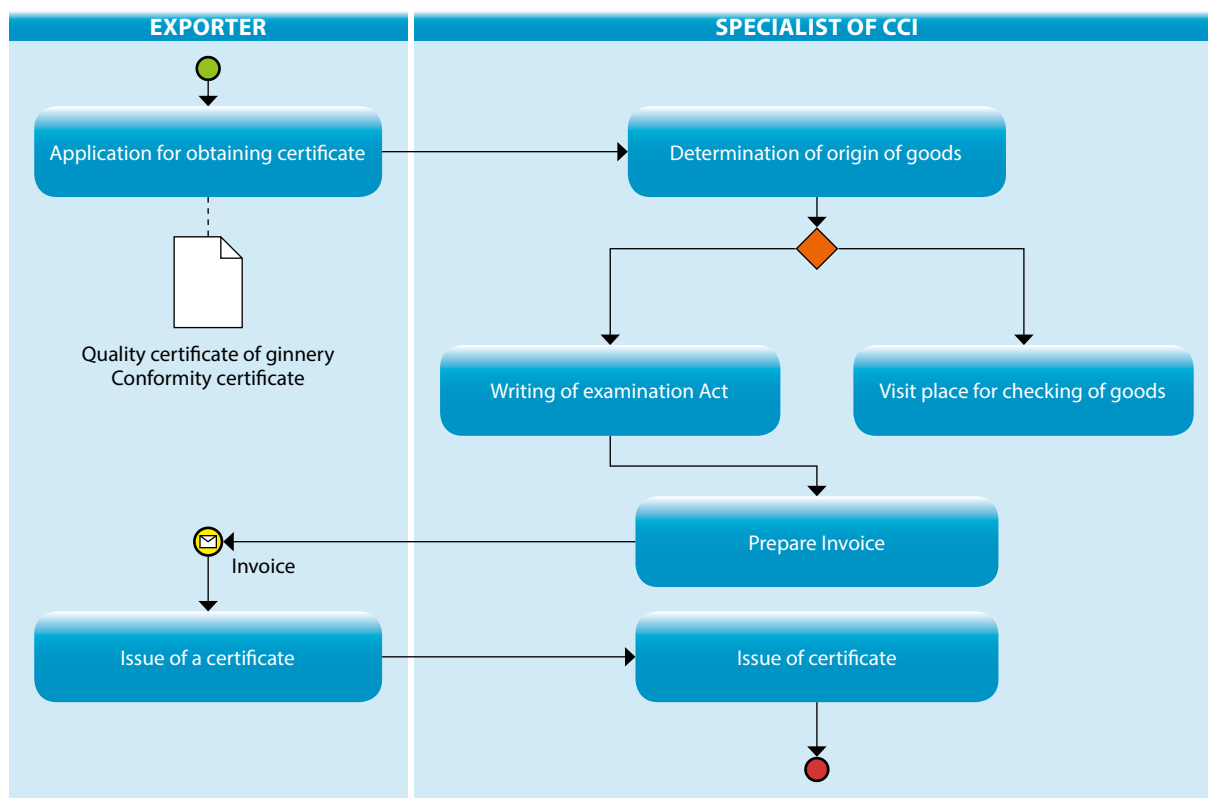
Name of process area	3.2 Ship
Name of business process	3.2.6 – Arrange fumigation and obtain SPS certificate
Related laws, rules and regulations	<ul style="list-style-type: none"> • Law No. 498 of 26 March 2009 “About the plant quarantine”. • Government Resolution No. 223 of 15 May 2003 “Regulation on the organization of production, processing and marketing of cotton” • Government Resolution No. 510 of 2 October 2010 regarding the list of product subjected to mandatory quarantine inspection. • Customs Code
Process participants	<ul style="list-style-type: none"> • Exporter • Phyto-sanitary and quarantine inspector
Criteria to begin the business process	<ul style="list-style-type: none"> • The cotton fibre meets the terms and conditions established under the sales contract, and is ready for shipment.
Sequence activities	<ul style="list-style-type: none"> • The Exporter submits an application to the State Service for Phyto-sanitary and Quarantine Inspection regional office. • The inspector performs documentary control • The inspector carries out the fumigation at warehouse of the ginnery. • Act of disinfection is issued and given to the exporter to certify that the shipment has been fumigated • Based on the results of the visual inspection and the Act of disinfection, the Service for Phyto-sanitary and Quarantine Inspection issues SPS certificate and an invoice for payment. • Exporter makes the payment

Output criteria to exit the business process	Goods are fumigated SPS certificate is issued
Average time required to complete this business process	<ul style="list-style-type: none"> • 2 days, including fumigation, • 3 - 7 days if laboratory tests are conducted
Total cost	<ul style="list-style-type: none"> • The cost of the forms of certificate about USD 1.6 • Fees for inspection quarantine material (1 ton) about USD 0.3. • Cost for disinfection quarantine material is around USD 1 • Fees for laboratory could reach USD 8 per sample
Use of output	Customs clearance

3.2.7 Core business area-Obtain certificate of origin (at the terminal)

Traders said that certificate of origin is issued by the Chamber of Commerce and Industry’s (CCI) central office in Dushanbe, following a standardized procedure. However, some regional offices, such as the one in Sugd (Kujand region), impose heavy documentary requirements compared to the central office. The latter requests only two support documents: quality certificate from the ginnery and the sales contract. In comparison, the CCI in Sugd requires the entire set of support documents submitted for customs clearance purposes.

Diagram A3.9 Obtain the certificate of origin



Name of process area	3.2 Ship
Name of business process	3.2.7 – Obtain the certificate of origin
Related laws, rules and regulations	<ul style="list-style-type: none"> • Customs Code of the Republic of Tajikistan (2012) • Government Resolution No. 223 of 15 May 2003 “Regulation on the organization of production, processing and marketing of cotton” • Agreement on Rules for Determining the Country of Origin of Goods in the CIS, from Nov. 20,2009 • Law No. 603 “On Chamber of Commerce and Industry of the Republic of Tajikistan” (of May 22,1998)
Process participants	<ul style="list-style-type: none"> • Exporter • Chamber of Commerce and Industry
Criteria to begin the business process	<ul style="list-style-type: none"> • Cotton fibre has been loaded
Sequence activities	<ul style="list-style-type: none"> • Exporter submits the application form along with the required support documents to the CCI. <ul style="list-style-type: none"> – Form “ST-1” for goods destined to CIS (the form is in Russian). – Form “A” for goods destined to the non-CIS countries (the form is in English) • CCI examines the documents submitted by the traders and determines the source of origin. If he deems that the documents do not allow for proper identification of source of origin, he visits the terminal and inspects the goods. • Based on the results of inspection, CCI export prepares the laboratory test reports “Act of examination” and issues an invoice for payment • The exporter pays, and provides the CCI with a confirmation of payment receipt • The CCI issues the certificate of origin
Output criteria to exit the business process	The certificate of origin is issued
Average time required to complete this business process	1-3 days according to legislation Actual time reported by the two companies is 1 day
Total cost	Around USD 57 for the certificate 1 hour - USD 11 (3 cars – 1 hour) for Expert inspection
Use of output	Customs clearance

3.2.8 Core business area – Arrange customs clearance

Exporters said that with the introduction of the UAIS, the clearance of goods takes one day from the moment of submitting the properly filled trade documents required by law. However, the process of obtaining the required trade documents could take several days in view of the complicated administrative procedures. These procedures are associated with the differentiated treatment that the law accords to the export of cotton fibre, which is considered as a strategic product for revenue generation.

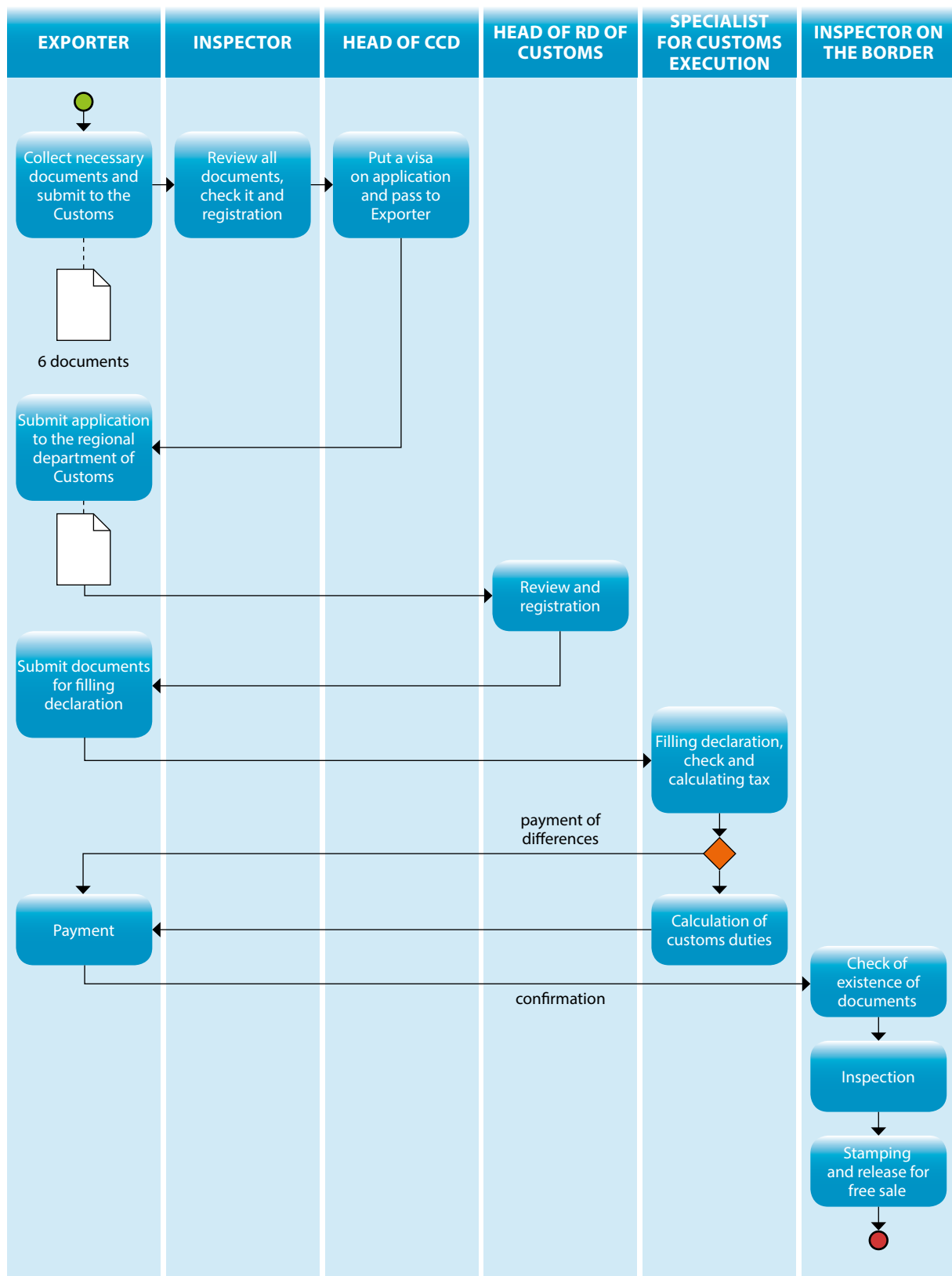
The export of cotton fibre is subjected to certain documentary requirements that come in addition to those imposed on other products. The trade documents, along with administrative procedures for obtaining them, are specified under Government Resolution No. 223 of 15 May 2003 “Regulation on the organization of production, processing and marketing of cotton” and are listed below.

- a) The list of documents for the export of cotton fibre comprises:
 1. Sales Contract
 2. Bank confirmation on receipt advance payment;
 3. Confirmation of Tax Inspection for payment of sales tax
 4. Conformity certificate
 5. Phytosanitary certificate
 6. Certificate of Origin
- b) Customs clearance can only be completed after the full payment of the sales tax
- c) The sales contract, confirmation of tax payment and advance payment must be registered with Customs
- d) The Customs duties are charged as fixed amounts depending on the value of goods. The fixed amounts are established under Government Resolution № of 2 December 2005:
 - Below USD 5001: USD 10
 - USD 5001 to USD 10001: USD 20
 - 10001 to 50001 - USD 70
 - from 50,001 to 100,001 - USD 150
 - from 100,001 to 500,001 - USD 400
 - from 500001 to 10000001 - USD 800
 - from 10000001 and more - USD 900
- e) Payment of customs duties is made through the banking system.

Traders explained that obtaining the trade documents is complicated, because the amount of sales tax should be recalculated during customs clearance to take into account the Liverpool Stock Exchange spot rate at that moment in time. This causes significant delays for traders from the Khatlon region, since the payment of the sales tax can only be made at the tax central office in Dushanbe, and the trader has to make the payment in person. Traders have to travel to Dushanbe, in a journey that may take up to six hours, in order to pay the sales tax and obtain a new conformation of tax payment.

Once the conformation of tax payment is received, the exporter has to register the confirmation of tax payment (along with the sales contract and the advance payment confirmation letter) with the Customs Service. It should be noted that the trader has to register these documents with both the central office in Dushanbe as well as with the regional and district offices. Traders said that these delays could be avoided if the Government moves the tax payment procedure forward, so that it is implemented after customs clearance (at the time of loading).

Diagram A3.10 Arrange customs clearance



Name of process area	3.2 Ship
Name of business process	3.2.8 – Customs Clearance
Related laws, rules and regulations	<ul style="list-style-type: none"> • Customs Code • Government Resolution No. 223 of 15 from May 2003 “Regulation on the organization of production, processing and marketing of cotton”
Process participants	<ul style="list-style-type: none"> • Exporter • Customs Service central office (Department of Customs Control) • Inspector responsible for customs clearance
Criteria to begin the business process	<ul style="list-style-type: none"> • The exporter has obtained all the necessary documentary requirements for customs clearance
Sequence activities	<ul style="list-style-type: none"> • Exporter submits all trade documents for registration with the Customs central office (Department of customs control). • Inspector of Department examines the documents, and registers them in a special notebook and counter signs the documents. • Head of the Department accepts the documents and then passes them over to the Exporter • Exporter fills in a form to register all the documents with the regional office, and attach all the documents that were registered with the central office. The documents are then registered with the regional office (which takes time). • Exporter then submits the registered documents to the customs broker, who operates from an office near the terminal. The customs broker fills in the Customs declaration, recalculates taxes (which were previously calculated by the tax authorities) and customs duties. • In case of discrepancy between the amount of tax calculated by the tax authorities and the one calculated by the customs broker, exporter pays the difference and submits the conformation of payment receipt from the tax authority. • The exporter pays customs duties and submits the Customs declaration (in electronic form) along with the confirmation of payment and other documents for customs clearance • Customs inspector examines the documents, and inspects the vehicle and cargo • If all the documents are well in order, Customs inspector stamps the customs declaration and logs it into the Customs Service UAIS system.
Output criteria to exit the business process	Customs declaration is issued
Average time required to complete this business process	Up to 2 days (without registration with customs offices, which takes 2 days)
Total cost	Customs fees – USD 450 per 60 tons. Filling of customs declaration: around USD 13, including USD 8 for the empty form
Use of output	Clearing the goods

3.3. Pay

As previously mentioned, the existing legislation does not impose any conditions on the terms of trade for exporting cotton fibre. The traders can use any of the terms established under inco terms 2000. However, they have to adhere to the advance payment requirement, which has to be reflected in the sales contract and fulfilled during the early stages of the exporting process (buy stage). Thus the exporter claims the payment for the goods upfront. To settle the contract, the two parties sign a letter testifying the mutual settlement of the transaction according to the sales contract. This letter is signed after the exporter sends all the necessary documentary requirements to importer.

A4. Export documents

The number of documents required for exporting of cotton fibre from Tajikistan could exceed 25 documents, including key and support documents. Key documents include those required for customs clearance and transport purposes.

As previously mentioned, the exporter is expected to present the following six documents for customs clearance:

1. Sales Contract
2. Bank confirmation on receipt of advance payment;
3. Confirmation of Tax Inspection for payment of sales tax
4. Conformity certificate
5. Phytosanitary certificate
6. Certificate of Origins

Another 2 documents are required for transport. Traders who use national carriers said that they should provide the below four documents (see table A4.1), while foreign carriers are only required to provide a permit to enter and exit the territory of Tajikistan along with the weight certificate.

Table A4.1 List of documentary requirements for local carriers

Document	Time required for obtaining the document	Cost (USD)	Issuing Authority
License for cargo transportation	1 month	560	Ministry of transport
Certificate of approval to the "international road shipping"	10-15 minutes	600-2000 entrance fee; and 8000 bank guarantee	Association of International Automobile Carriers of Tajikistan.
TIR CARNET	10-15 minutes	200	Association of International Automobile Carriers of Tajikistan.
Permits for entry, exit and transit	10-15 minutes	10	Customs
Weight certificate for vehicle	Issued at the border, immediately after weighing the vehicle (10-15 min)	2	Customs

As shown in table A.4.2, the total number of documents is 25 documents, due to repetitive submission of documents. The number of documents could exceed 25, when taking into account the repetitive submission of documents to both the central and regional offices of Customs and the Chamber of Commerce and Industry.

At the same time, all the documents are issued in paper form, with the exception of the customs declaration. It should be noted that traders should still submit the customs declaration in paper form, since other agencies do not have automated systems yet.

Table A4.2 List of trade documents for exporting cotton fibre from Tajikistan

Document	Required or owned by	Issued / filled by	Input in process	Comments, Descriptions
1. Key Documents according to the Customs Code and Government Resolution № 223 (customs clearance for Export from Tajikistan is not possible without them)				
Export Customs Declaration	Customs Service	Customs / Broker	SHIP process (completing customs clearance).	
Sales Contract or Commercial invoice	Customs clearance in Tajikistan and for transit countries	Exporter/Importer	SHIP process	Need for customs clearance in Tajikistan and for transit countries
		Exporter/Importer		
Certificate of Origin ST-1 Certificate for CIS Countries A - type Certificate for other international	Customs	Chamber of Commerce	SHIP process (for Customs and need also identification in Importer country)	Need for customs and need also identification in Importer country
Confirmation on payment of the sales tax	Customs clearance in Tajikistan	Tax inspection (Tax committee)	SHIP process	for Tajik Customs
Certificate of Conformity	Tax Inspection, Customs, Exporter	Agency «Tajikstandart» and WIS	SHIP process	Need for Customs Clearance and for Importer (WIS)
Phytosanitary Certificate	Customs clearance in Tajikistan / Exporter	Phytosanitary inspection	SHIP process (for Customs Clearance)	Need for customs clearance in Tajikistan and for transit countries
Confirmation advance payment	Customs clearance in Tajikistan	BANK	SHIP process (for Customs Clearance)	for Tajik Customs
Transport documents for shipping				
Consignment note SMGS for Railways CMR for Road Transport	Customs, Transit	Exporter / Operator	SHIP process	Need for customs clearance in Tajikistan and for transit countries
TIR Carnet	Customs, Transit	Association of International Automobile Carriers of Tajikistan	SHIP process	Need for customs clearance in Tajikistan and for transit countries
2. Additional documents not requested by Customs Code (to support good delivery and transit)				
Packing List	Exporter for transit Country (Uzbekistan)	Exporter	SHIP process	
3. Inputs to the Getting the confirmation of tax payment sub-process				
Certificate of Conformity	Tax Inspection	Tajikstandart		Request for issuing certificate about confirmation of tax payment
Payment order	Tax Inspection	Bank		Request for issuing certificate

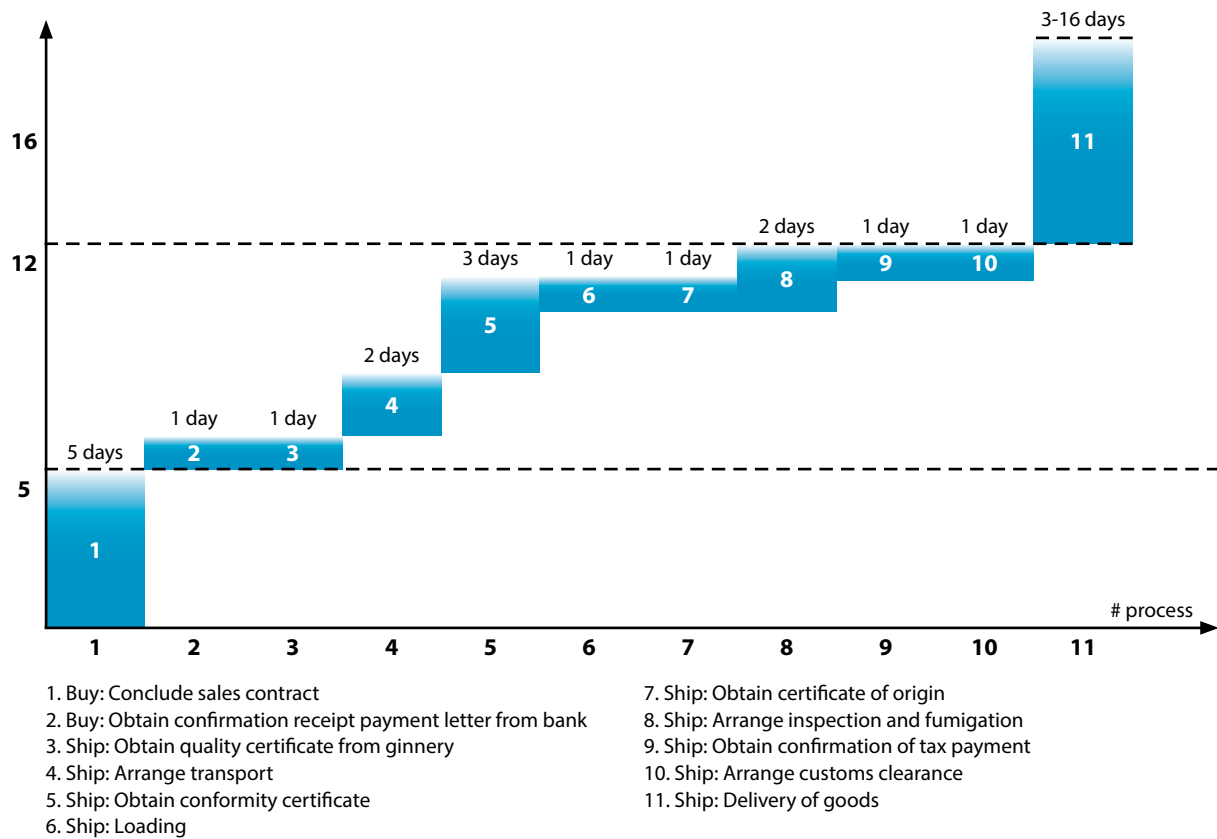
Document	Required or owned by	Issued / filled by	Input in process	Comments, Descriptions
4. Inputs to the Getting the Certificate of conformity sub-process				
Application for Certificate of conformity	Tajikstandart	Exporter		For issuing of the Certificate
Contract	Tajikstandart	Exporter		Request for issuing certificate
Quality certificate by ginnery	Tajikstandart	Ginnery		
Laboratory test results report	Tajikstandart	Inspector of Cotton inspection of the Agency		Produced by the Tajikstandart inspector for justification of goods quality
5. Inputs to the Getting the Certificate of Origin sub-process				
Application for certificate	Chamber of Commerce	Exporter		Request for confirmation of the Origin of goods
Contract	Chamber of Commerce	Exporter		Request for issuing certificate
Quality certificate of ginnery	Chamber of Commerce	Ginnery		
6. Inputs to Getting SPS Certificate sub-process				
Application for Phytosanitary Certificate	Phytosanitary Inspection	Exporter		
Contract	Phytosanitary Inspection	Exporter		
Inspection act (results of SPS inspection)		Phytosanitary Inspector		
Fumigation act (testifying that goods are fumigated)		Phytosanitary Inspector		

A5. Time-Process Charts

As shown in figure 5.1, completing the procedures for exporting cotton fibre from Tajikistan takes up to 16 days, when goods are shipped by road. This long period is caused by the unnecessary administrative procedures, which require traders to deal with multiple agencies and obtain the documents in person. Traders experience unnecessary delays, as they have to visit multiple offices in various locations to obtain the trade documents.

In addition, all payments for State agencies are made in cash at the main offices of individual agencies. The only exception is Customs, as customs duties and charges are made through banks.

Figure A1 Time-procedure for the export of cotton fibre from Tajikistan



A6. Recommendations

The business process analysis shows that Tajik exporters of cotton fibre face cumbersome regulatory and procedural measures, which involve repetitive submission of documents. These documents should be submitted in person, so that traders spend significant time dealing with multiple agencies in different locations. Traders also noted the lack of information of existing legislation and their implementation, and complained about what they considered as arbitrary measures. They also drew attention to the problem of informal payments, and lack adequate railway cars and vehicles.

Below are a number of recommendations for the government's consideration. These recommendations follow logically from the diagrams and the analysis.

1. Core business process: Buy

Outstanding need	Recommendations
Removing the advance payment requirement	<ul style="list-style-type: none"> Introduce the necessary modifications in existing legislation (namely) to terminate the advance payment requirement. Promote the use of modern trade finance instruments, such as the Letter of Credit, which is the most widely used instrument. Since banks may consider farmers, especially the small ones, as risky clients, the government may also promote the development of new trade structured finance services for supporting cotton fibre exports.
Addressing inconsistencies in existing legislation	<ul style="list-style-type: none"> Consider revising Government Resolution No. 223 of 15 May 2003 “Regulation on the organization of production, processing and marketing of cotton”, in order to bring it in line with the Tax Code and Customs code. In particular, the clause stipulating that the price specified in the sales contract should be calculated on the basis of FOB delivery terms should be removed from the said resolution.

2. Core business process: Ship

Outstanding need	Recommendations
General	
Establishing clear distinction between primary laws and secondary regulations for guiding implementation	Develop operation manuals for staff in relevant State agencies to guide the implementation of existing rules and regulation and day-to-day operations. In this regard, the government may wish to consider following the detailed recommendations provided in chapter two (Section 2.2.A)
Streamlining and reducing documentary requirements and administrative procedures	The government may wish to consider following the detailed recommendations provided in chapter two (Sections 2.2A and 2.2.C).
Equipping state agencies with the required management information systems	<ul style="list-style-type: none"> Install the required systems for enabling these agencies to issue electronic documents as explained in chapter two (Use of electronic documents and the SW facility) Install the required systems for automating payments.
Obtain certificate of quality from ginneries	
Addressing the shortage of storage facilities for processed cotton fibre	<ul style="list-style-type: none"> Promote the establishment of additional warehouses for storing processed cotton fibre. The Government could explore different types of partnerships to mobilize the required resources, including foreign direct investment
Arrange transport by rail	
Addressing the repetitive submission of trade documents	<ul style="list-style-type: none"> Limit the documentary requirements to key trade documents. Traders should not be requested to submit copies of the sales contract and certificate of conformity.
Improving overall transparency	<ul style="list-style-type: none"> Publish a price list Publish the procedures for arranging transport Implement measures to address the problem of informal payments, as explained in chapter two
Improving the quality and supply of railway cars	<ul style="list-style-type: none"> Promote new forms of partnerships for modernizing railway wagons, including foreign investments.
Arrange transport by road	
Improving the quality and supply of the local truck fleets	<ul style="list-style-type: none"> Promote new forms of partnerships for modernizing local truck fleets, including foreign investments. Promote the establishment of credit schemes for local truck/trailer fleet owners, so as to enable them to undertake the required investments.

Outstanding need	Recommendations
Obtain certificate of origin	
Reducing the number of documentary requirements	The CCI central and regional offices should have a common list of documentary requirements.
Obtain confirmation of tax payment	
Simplifying tax payment procedures	<ul style="list-style-type: none"> ● Introduce electronic payment systems so that traders does not have to go to the tax office to pay the taxes ● Consider moving the tax payment procedure forward, so that it is implemented after customs clearance (at the time of loading).
Arrange customs clearance	
Removing unnecessary administrative procedures	Remove the procedures that require multiple registration of trade documents with the Customs Service (central and regional offices). To this end, the government need to accord priority to addressing this problem, as it rolls out the UAIS at all customs offices.

Regulatory and Procedural Barriers to Trade in Tajikistan

Needs Assessment

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