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Economic Commission for Europe

Inland Transport Committee

Working Party on Customs Questions affecting Transport

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International Convention on the Harmonization of Frontier

Controls of Goods, 1982 (“Harmonization Convention”):

Border performance measurement and the Harmonization Convention

Comparing World Trade Organization Trade Facilitation Agreement and Harmonization Convention

Note by the secretariat

Summary

1. This document contains a comparison of the provisions of the WTO Agreement on Trade Facilitation and of the UNECE Harmonization Convention of 1982. It is prepared for information of delegates to facilitate discussions on possible synergies between two legal instruments.
2. It is recalled that at its latest session (February 2014) the UNECE Inland Transport Committee decided that “... Bearing in mind that WTO negotiations reached consensus on a Trade Facilitation Agreement at the Bali Ministerial Conference in December 2013, the Committee noted that the final agreement contains provisions for faster and more efficient customs procedures through effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues. The Harmonization Convention could, therefore, be seen as one of the key building blocks in the effective implementation of the Trade Facilitation Agreement and, for this reason, closer cooperation with WTO in promoting the Harmonization Convention would be welcomed” (ECE/TRANS/240).

AGREEMENT ON TRADE FACILITATION

WT/MIN(13)/W/8

6 December 2013

World Trade Organization

International Convention on the Harmonization of Frontier Controls of Goods

ECE/TRANS/55/Rev.2

21 October 1982

Economic Commission for Europe

Inland Transport Committee

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

1 Pre-arrival Processing

1.1. Each Member shall adopt or maintain procedures allowing for the submission of import documentation and other required information, including manifests, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival.

1.2. Members shall, as appropriate, provide for advance lodging of documents in electronic format for pre-arrival processing of such documents.

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

4 Risk Management

4.1. Each Member shall, to the extent possible, adopt or maintain a risk management system for customs control.

4.2. Each Member shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination, or disguised restrictions to international trade.

4.3. Each Member shall concentrate customs control and, to the extent possible other relevant border controls, on high risk consignments and expedite the release of low risk consignments.

Each Member may also select, on a random basis, consignments for such controls as part of its risk management.

Annex 9 Facilitation of border crossing procedures for international rail freight

Article 8 Documentation

1. The Contracting Parties shall ensure that shipping and accompanying documents are properly formulated in accordance with the legislation of the importing and transit countries.

2. In their mutual relations, the Contracting Parties shall endeavor to reduce paper documents and to simplify documentation procedures by using electronic systems for the exchange of information corresponding to the information contained in railway consignment notes and customs declarations accompanying the goods, drawn up in accordance with the legislation of the Contracting Parties.

3. The Contracting Parties shall endeavor to provide the customs authorities in advance with information on goods arriving at border (interchange) stations as contained in the railway consignment note and customs declaration. The format, and the procedure and deadlines for providing the information, shall be determined by the Contracting Parties.

Annex 9 Facilitation of border crossing procedures for international rail freight

Article 6 Controls

The Contracting Parties:

1. ...

2. Shall carry out customs controls relying on the principle of selection on the basis of risk evaluation and management. As a general rule, if required information on the goods has been provided and if the goods are contained in a properly closed and sealed rolling stock unit, container, piggyback semi-trailer or wagon, physical examination shall not be carried out;

3. Shall carry out simplified controls at border (interchange) stations and shall, as far as possible, move certain forms of controls to the stations of departure and destination;

AGREEMENT ON TRADE FACILITATION

WT/MIN(13)/W/8

6 December 2013

World Trade Organization

International Convention on the Harmonization of Frontier Controls of Goods

ECE/TRANS/55/Rev.2

21 October 1982

Economic Commission for Europe

Inland Transport Committee

4.4. Each Member shall base risk management on assessment of risk through appropriate **selectivity criteria**. Such selectivity criteria may include, *inter alia*, HS code, nature and description of the goods, country of origin, country from which the goods were shipped, value of the goods, compliance record of traders, and type of means of transport.

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

9 Perishable Goods¹⁰

9.1. With a view to preventing avoidable loss or deterioration of perishable goods, and provided all regulatory requirements have been met, each Member shall:

- a. provide for the release of perishable goods under normal circumstances within **the shortest possible time**; and
- b. provide for the release of perishable goods, in exceptional circumstances where it would be appropriate to do so, **outside the business hours of customs** and other relevant authorities.

9.2. Each Member shall give **appropriate priority to perishable goods** when scheduling any examinations that may be required.

9.3. Each Member shall either arrange, or allow an importer to arrange, for **the proper storage of perishable goods pending their release**. The Member may require that any storage facilities arranged by the importer have been approved or designated by its relevant authorities. The movement of the goods to those storage facilities, including authorizations for the operator moving the goods, may be subject to the approval, where required, of the relevant authorities. The Member shall, where practicable and consistent with domestic legislation, upon the request of the importer, provide for any procedures necessary for release to take place at those storage facilities.

9.4. In cases of significant delay in the release of perishable goods, and upon written request, the importing Member shall, to the extent practicable, provide a **communication on the reasons for the delay**.

4. Without prejudice to Article 10 of the Convention, Article 4 of Annex 2, Article 5 of Annex 3 and Article 5 of Annex 4, shall carry out inspections of transit goods only in cases where these are warranted by the actual circumstances or risks.

Annex 8 Facilitation of border crossing procedures for international road transport

Article 3

International road transport operations

...

3. Referring in particular to Article 7 of this Convention, **priority shall be given to** urgent consignments, e.g. live animals and **perishable goods**. In particular, the competent services at border crossing points:

- (i) shall take the necessary measures **to minimize waiting times** for **ATP-approved** vehicles transporting perishable foodstuffs or for vehicles transporting live animals, as from their time of arrival at the frontier until their regulatory, administrative, Customs and sanitary controls;
- (ii) shall ensure that **the required controls** mentioned under (i) **are carried out as quickly as possible**;
- (iii) shall allow, as far as possible, the operation of the necessary refrigerating units of vehicles carrying perishable foodstuffs during the time of crossing the border, unless this is impossible as a result of the required control procedure;
- (iv) shall **co-operate**, in particular through advance information exchange, with their counterparts in other Contracting Parties in order to accelerate border crossing procedures for perishable foodstuffs and live animals, in case these loads are subject to sanitary inspections.

AGREEMENT ON TRADE FACILITATION

WT/MIN(13)/W/8

6 December 2013

World Trade Organization

International Convention on the Harmonization of Frontier Controls of Goods

ECE/TRANS/55/Rev.2

21 October 1982

Economic Commission for Europe

Inland Transport Committee

ARTICLE 8: BORDER AGENCY COOPERATION

1. A Member shall ensure that its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation and transit of goods cooperate with one another and coordinate their activities in order to facilitate trade.

2. Members shall, to the extent possible and practicable, cooperate on mutually agreed terms with other Members with whom they share a common border with a view to coordinating procedures at border crossings to facilitate cross-border trade. Such cooperation and coordination may include:

- i. alignment of working days and hours;
- ii. alignment of procedures and formalities;
- iii. development and sharing of common facilities;
- iv. joint controls;
- v. establishment of one stop border post control.

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION AND TRANSIT

3 Use of International Standards

3.1. Members are encouraged to use relevant international standards or parts thereof as a basis for their importation, exportation or transit formalities and procedures except as otherwise provided for in this Agreement.

3.2. Members are encouraged to take part, within the limits of their resources, in the preparation and periodic review of relevant international standards by appropriate international organizations.

3.3. The Committee shall develop procedures for the sharing by Members of relevant information, and best practices, on the implementation of international standards, as appropriate. The Committee may also invite relevant international organizations to discuss their work on international standards. As appropriate, the Committee may identify specific standards that are of particular value to Members.

Chapter II Harmonization of Procedures

Article 7 Co-operation between adjacent countries

Whenever a common inland frontier is crossed, the Contracting Parties concerned shall take appropriate measures, whenever possible, to facilitate the passage of the goods, and they shall, in particular:

- (a) endeavor to arrange for the joint control of goods and documents, through the provision of shared facilities;
- (b) endeavor to ensure that the following correspond:
 - opening hours of frontier posts,
 - the control services operating there,
 - the categories of goods, the modes of transport and the international Customs transit procedures accepted or in use there.

International standards proposed by the Convention

Article 9 Documents

1. The Contracting Parties shall endeavour to further the use, between themselves and with the competent international bodies, of documents aligned on the United Nations Layout Key.

Annex 8

Facilitation of border crossing procedures for international road transport

Article 4 Vehicle inspection

1. The Contracting Parties, not yet Parties to the Agreement Concerning the Adoption of Uniform Conditions for Periodical Technical Inspections of Wheeled Vehicles and the Reciprocal Recognition of such Inspections (1997), should endeavour, in line with relevant national and international laws and regulations, to facilitate the crossing of road vehicles across borders by accepting the International Technical Inspection Certificate as

AGREEMENT ON TRADE FACILITATION

WT/MIN(13)/W/8

6 December 2013

World Trade Organization

International Convention on the Harmonization of Frontier Controls of Goods

ECE/TRANS/55/Rev.2

21 October 1982

Economic Commission for Europe

Inland Transport Committee

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION AND TRANSIT

7 Common Border Procedures and Uniform Documentation Requirements

7.1. Each Member shall, subject to paragraph 7.2, apply **common customs procedures and uniform documentation** requirements for release and clearance of goods throughout its territory.

7.2. Nothing in this Article shall prevent a Member from:

1. differentiating its procedures and documentation requirements based on the nature and type of goods, or their means of transport;
2. differentiating its procedures and documentation requirements for goods based on risk management;
3. differentiating its procedures and documentation requirements to provide total or partial exemption from import duties or taxes;
4. applying electronic filing or processing; or

differentiating its procedures and documentation requirements in a manner consistent with the Agreement on Sanitary and Phytosanitary Measures.

provided for in this Agreement. The Technical Inspection Certificate, as contained in the Agreement as of 1 January 2004, is contained in Appendix 1 to this Annex.

2. With a view to identifying ATP-approved vehicles carrying perishable foodstuffs, the Contracting Parties may utilize the distinguishing marks affixed to the relevant equipment and the ATP certificate or plate of approval provided for in the Agreement on the International Carriage of Perishable Foodstuffs and the Special Equipment to be used for such Carriage (1970).

Article 5

International Vehicle Weight Certificate

1. In order to accelerate border crossings, the Contracting Parties, in line with relevant national and international laws and regulations, should endeavour to avoid repetitive vehicle weighing procedures at border crossings by accepting and mutually recognizing the **International Vehicle Weight Certificate** as contained in Appendix 2 to this Annex. In case the Contracting Parties accept such certificates, no further weight measurements shall be carried out apart from random checks and controls in the case of supposed irregularities. Vehicle weight measurements recorded in such certificates shall take place only in the country of origin of international transport operations. The results of such measurements shall be duly reflected and certified in such certificates.

Annex 9

Facilitation of border crossing procedures for international rail freight

Article 9

Use of the CIM/SMGS railway consignment note

The Contracting Parties may use, instead of the other shipping documents currently stipulated by international treaties, the **CIM/SMGS railway consignment note**, which at the same time could be a customs document.

AGREEMENT ON TRADE FACILITATION

WT/MIN(13)/W/8

6 December 2013

World Trade Organization

ARTICLE 12: CUSTOMS COOPERATION

12 Bilateral and regional agreements

12.1. Nothing in this Article shall prevent a Member from entering into or maintaining a **bilateral, plurilateral, or regional agreement** for sharing or exchange of customs information and data, including on a secure and rapid basis such as on an automatic basis or in advance of the arrival of the consignment.

12.2. Nothing in this Article shall be construed to alter or affect Members' rights or obligations under such bilateral, plurilateral or regional agreements or to govern the exchange of customs information and data under such other agreements.

The new technology proposed by Agreement

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

2 Electronic Payment

Each Member shall, to the extent practicable, adopt or maintain procedures allowing the option of electronic payment for duties, taxes, fees and charges collected by customs incurred upon importation and exportation.

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION AND TRANSIT

4 Single Window

4.1. Members shall endeavour to establish or maintain a single window, enabling traders to submit documentation and/or data requirements for importation, exportation or transit of goods through a single entry point to the participating authorities or agencies. After the examination by the participating authorities or agencies of the documentation and/or data, the

International Convention on the Harmonization of Frontier Controls of Goods

ECE/TRANS/55/Rev.2

21 October 1982

Economic Commission for Europe

Inland Transport Committee

Article 6 International co-operation

The Contracting Parties undertake to co-operate with each other and to seek any necessary **co-operation** from the competent international bodies, in order to achieve the aims of this Convention, and furthermore to attempt to arrive at **new multilateral or bilateral agreements or arrangements**, if necessary.

Article 14 Relation to other treaties

Without prejudice to the provisions of article 6, the Convention shall not override the rights and obligations arising from treaties which the Contracting Parties to the Convention concluded before becoming contracting parties to this Convention.

Annex 9 Facilitation of border crossing procedures for international rail freight

Article 7 Time limits

The Contracting Parties shall ensure compliance with the time limits specified in bilateral agreements for technical operations involving the reception and transfer of trains at border (interchange) stations, including all types of controls, and shall endeavor **to reduce these time limits by improving the technology and equipment used**. The Contracting Parties shall undertake to reach a maximum reduction in the time limit in the coming years.

Similar issues in texts of UNECE Convention and WTO Agreement (unofficial comparison prepared by the UNECE secretariat)

AGREEMENT ON TRADE FACILITATION

WT/MIN(13)/W/8

6 December 2013

World Trade Organization

International Convention on the Harmonization of Frontier Controls of Goods

ECE/TRANS/55/Rev.2

21 October 1982

Economic Commission for Europe

Inland Transport Committee

results shall be notified to the applicants through the single window in a timely manner.

4.2. In cases where documentation and/or data requirements have already been received through the single window, the same documentation and/or data requirements shall not be requested by participating authorities or agencies except in urgent circumstances and other limited exceptions which are made public.

4.3. Members shall notify to the Committee the details of operation of the single window.

4.4. Members shall, to the extent possible and practical, use information technology to support the single window.

+ etc.
