

## Preamble

17 April 2008

### PREAMBLE

The Contracting Parties to the present Convention established under the auspices of the Customs Co-operation Council,

**ENDEAVOURING** to eliminate divergence between the Customs procedures and practices of Contracting Parties that can hamper international trade and other international exchanges,

**DESIRING** to contribute effectively to the development of such trade and exchanges by simplifying and harmonizing Customs procedures and practices and by fostering international co-operation,

**NOTING** that the significant benefits of facilitation of international trade may be achieved without compromising appropriate standards of Customs control,

**RECOGNIZING** that such simplification and harmonization can be accomplished by applying, in particular, the following principles:

- the implementation of programmes aimed at continuously modernizing Customs procedures and practices and thus enhancing efficiency and effectiveness,
- the application of Customs procedures and practices in a predictable, consistent and transparent manner,
- the provision to interested parties of all the necessary information regarding Customs laws, regulations, administrative guidelines, procedures and practices,
- the adoption of modern techniques such as risk management and audit-based controls, and the maximum practicable use of information technology,
- co-operation wherever appropriate with other national authorities, other Customs administrations and the trading communities,
- the implementation of relevant international standards,
- the provision to affected parties of easily accessible processes of administrative and judicial review,

**CONVINCED** that an international instrument incorporating the above objectives and principles that Contracting Parties undertake to apply would lead to the high degree of simplification and harmonization of Customs procedures and practices which is an essential aim of the Customs Co-operation Council, and so make a major contribution to facilitation of international trade,

Have agreed as follows:

### CHAPTER I Definitions

#### Article 1

For the purposes of this Convention:

**"Standard "** means a provision the implementation of which is recognized as necessary for the achievement of harmonization and simplification of Customs procedures and practices;

**"Transitional Standard"** means a Standard in the General Annex for which a longer period for implementation is permitted;

**"Recommended Practice"** means a provision in a Specific Annex which is recognized as constituting progress towards the harmonization and the simplification of Customs procedures and practices, the widest possible application of which is considered to be desirable;

**"National legislation"** means laws, regulations and other measures imposed by a competent authority of a Contracting Party and applicable throughout the territory of the Contracting Party concerned, or treaties in force by which that Party is bound;

**"General Annex"** means the set of provisions applicable to all the Customs procedures and practices referred to in this Convention;

**"Specific Annex"** means a set of provisions applicable to one or more Customs procedures and practices referred to in this Convention;

**"Guidelines"** means a set of explanations of the provisions of the General Annex, Specific Annexes and Chapters therein which indicate some of the possible courses of action to be followed in applying the Standards, Transitional Standards and Recommended Practices, and in particular describing best practices and recommending examples of greater facilities;

**"Permanent Technical Committee"** means the Permanent Technical Committee of the Council;

**"Council"** means the Organization set up by the Convention establishing a Customs Co-operation Council, done at Brussels on 15 December 1950;

**"Customs or Economic Union"** means a Union constituted by, and composed of, States which has competence to adopt its own regulations that are binding on those States in respect of matters governed by this Convention, and has competence to decide, in accordance with its internal procedures, to sign, ratify or accede to this Convention.

### CHAPTER II SCOPE AND STRUCTURE

**Article 2****Scope of the Convention**

Each Contracting Party undertakes to promote the simplification and harmonization of Customs procedures and, to that end, to conform, in accordance with the provisions of this Convention, to the Standards, Transitional Standards and Recommended Practices in the Annexes to this Convention. However, nothing shall prevent a Contracting Party from granting facilities greater than those provided for therein, and each Contracting Party is recommended to grant such greater facilities as extensively as possible.

**Article 3**

The provisions of this Convention shall not preclude the application of national legislation with regard to either prohibitions or restrictions on goods which are subject to Customs control.

**Article 4****Structure of the Convention**

The Convention comprises a Body, a General Annex and Specific Annexes.

The General Annex and each Specific Annex to this Convention consist, in principle, of Chapters which subdivide an Annex and comprise:

definitions; and

Standards, some of which in the General Annex are Transitional Standards.

Each Specific Annex also contains Recommended Practices.

Each Annex is accompanied by Guidelines, the texts of which are not binding upon Contracting Parties.

**Article 5**

For the purposes of this Convention, any Specific Annex(es) or Chapter(s) therein to which a Contracting Party is bound shall be construed to be an integral part of the Convention, and in relation to that Contracting Party any reference to the Convention shall be deemed to include a reference to such Annex(es) or Chapter(s).

**CHAPTER III****MANAGEMENT OF THE CONVENTION****Article 6****Management Committee**

There shall be established a Management Committee to consider the implementation of this Convention, any measures to secure uniformity in the interpretation and application thereof, and any amendments proposed thereto.

The Contracting Parties shall be members of the Management Committee.

The competent administration of any entity qualified to become a Contracting Party to this Convention under the provisions of Article 8 or of any Member of the World Trade Organization shall be entitled to attend the sessions of the Management Committee as an observer. The status and rights of such Observers shall be determined by a Council Decision. The aforementioned rights cannot be exercised before the entry into force of the Decision.

The Management Committee may invite the representatives of international governmental and non-governmental organizations to attend the sessions of the Management Committee as observers.

The Management Committee:

shall recommend to the Contracting Parties:

amendments to the Body of this Convention;

amendments to the General Annex, the Specific Annexes and Chapters therein and the incorporation of new Chapters to the General Annex; and

the incorporation of new Specific Annexes and new Chapters to Specific Annexes;

may decide to amend Recommended Practices or to incorporate new Recommended Practices to Specific Annexes or Chapters therein in accordance with Article 16;

shall consider implementation of the provisions of this Convention in accordance with Article 13, paragraph 4;

shall review and update the Guidelines;

shall consider any other issues of relevance to this Convention that may be referred to it;

shall inform the Permanent Technical Committee and the Council of its decisions.

The competent administrations of the Contracting Parties shall communicate to the Secretary General of the Council proposals under paragraph 5 (a), (b), (c) or (d) of this Article and the reasons therefor, together with any requests for the inclusion of items on the Agenda of the sessions of the Management Committee. The Secretary General of the Council shall bring proposals to the attention of the competent administrations of the Contracting Parties and of the observers referred to in paragraphs 2, 3 and 4 of this Article.

The Management Committee shall meet at least once each year. It shall annually elect a Chairman and Vice-Chairman. The Secretary General of the Council shall circulate the invitation and the draft Agenda to the competent administrations of the Contracting Parties and to the observers referred to in paragraphs 2, 3 and 4 of this Article at least six weeks before the Management Committee meets.

Where a decision cannot be arrived at by consensus, matters before the Management Committee shall be decided by voting of the Contracting Parties present. Proposals under paragraph 5 (a), (b) or (c) of this Article shall be approved by a two-thirds majority of the votes cast. All other matters shall be decided by the Management Committee by a majority of the votes cast.

Where Article 8, paragraph 5 of this Convention applies, the Customs or Economic Unions which are Contracting Parties shall have, in case of voting, only a number of votes equal to the total votes allotted to their Members which are Contracting Parties.

Before the closure of its session, the Management Committee shall adopt a report. This report shall be transmitted to the Council and to the Contracting Parties and observers mentioned in paragraphs 2, 3 and 4.

In the absence of relevant provisions in this Article, the Rules of Procedure of the Council shall be applicable, unless the Management Committee decides otherwise.

**Article 7**

For the purpose of voting in the Management Committee, there shall be separate voting on each Specific Annex and each Chapter of a Specific Annex.

Annex and each Chapter of a Specific Annex.

Each Contracting Party shall be entitled to vote on matters relating to the interpretation, application or amendment of the Body and General Annex of the Convention.

As regards matters concerning a Specific Annex or Chapter of a Specific Annex that is already in force, only those Contracting Parties that have accepted that Specific Annex or Chapter therein shall have the right to vote.

Each Contracting Party shall be entitled to vote on drafts of new Specific Annexes or new Chapters of a Specific Annex.

#### **CHAPTER IV CONTRACTING PARTY**

##### **Article 8 Ratification of the Convention**

Any Member of the Council and any Member of the United Nations or its specialized agencies may become a Contracting Party to this Convention:

- by signing it without reservation of ratification;
- by depositing an instrument of ratification after signing it subject to ratification; or
- by acceding to it.

This Convention shall be open until 30th June 1974 for signature at the Headquarters of the Council in Brussels by the Members referred to in paragraph 1 of this Article. Thereafter, it shall be open for accession by such Members.

Any Contracting Party shall, at the time of signing, ratifying or acceding to this Convention, specify which if any of the Specific Annexes or Chapters therein it accepts. It may subsequently notify the depositary that it accepts one or more Specific Annexes or Chapters therein.

Contracting Parties accepting any new Specific Annex or any new Chapter of a Specific Annex shall notify the depositary in accordance with paragraph 3 of this Article.

(a) Any Customs or Economic Union may become, in accordance with paragraphs 1, 2 and 3 of this Article, a Contracting Party to this Convention. Such Customs or Economic Union shall inform the depositary of its competence with respect to the matters governed by this Convention. Such Customs or Economic Union shall also inform the depositary of any substantial modification in the extent of its competence.

(b) A Customs or Economic Union which is a Contracting Party to this Convention shall, for the matters within its competence, exercise in its own name the rights, and fulfil the responsibilities, which the Convention confers on the Members of such a Union which are Contracting Parties to this Convention. In such a case, the Members of such a Union shall not be entitled to individually exercise these rights, including the right to vote.

##### **Article 9**

Any Contracting Party which ratifies this Convention or accedes thereto shall be bound by any amendments to this Convention, including the General Annex, which have entered into force at the date of deposit of its instrument of ratification or accession.

Any Contracting Party which accepts a Specific Annex or Chapter therein shall be bound by any amendments to the Standards contained in that Specific Annex or Chapter which have entered into force at the date on which it notifies its acceptance to the depositary. Any Contracting Party which accepts a Specific Annex or Chapter therein shall be bound by any amendments to the Recommended Practices contained therein, which have entered into force at the date on which it notifies its acceptance to the depositary, unless it enters reservations against one or more of those Recommended Practices in accordance with Article 12 of this Convention.

##### **Article 10**

##### **Application of the Convention**

Any Contracting Party may, at the time of signing this Convention without reservation of ratification or of depositing its instrument of ratification or accession, or at any time thereafter, declare by notification given to the depositary that this Convention shall extend to all or any of the territories for whose international relations it is responsible. Such notification shall take effect three months after the date of the receipt thereof by the depositary. However, this Convention shall not apply to the territories named in the notification before this Convention has entered into force for the Contracting Party concerned.

Any Contracting Party which has made a notification under paragraph 1 of this Article extending this Convention to any territory for whose international relations it is responsible may notify the depositary, under the procedure of Article 19 of this Convention, that the territory in question will no longer apply this Convention.

##### **Article 11**

For the application of this Convention, a Customs or Economic Union that is a Contracting Party shall notify to the Secretary General of the Council the territories which form the Customs or Economic Union, and these territories are to be taken as a single territory.

Acceptance of the provisions and reservations

##### **Article 12**

##### **Acceptance of the provisions and reservations**

All Contracting Parties are hereby bound by the General Annex.

A Contracting Party may accept one or more of the Specific Annexes or one or more of the Chapters therein. A Contracting Party which accepts a Specific Annex or Chapter(s) therein shall be bound by all the Standards therein. A Contracting Party which accepts a Specific Annex or Chapter(s) therein shall be bound by all the Recommended Practices therein unless, at the time of acceptance or at any time thereafter, it notifies the depositary of the Recommended Practice(s) in respect of which it enters reservations, stating the differences existing between the provisions of its national legislation and those of the Recommended Practice(s) concerned. Any Contracting Party which has entered reservations may withdraw them, in whole or in part, at any time by notification to the depositary specifying the date on

which such withdrawal takes effect.

Each Contracting Party bound by a Specific Annex or Chapter(s) therein shall examine the possibility of withdrawing any reservations to the Recommended Practices entered under the terms of paragraph 2 and notify the Secretary General of the Council of the results of that review at the end of every three-year period commencing from the date of the entry into force of this Convention for that Contracting Party, specifying the provisions of its national legislation which, in its opinion, are contrary to the withdrawal of the reservations.

#### Article 13

##### Implementation of the provisions

Each Contracting Party shall implement the Standards in the General Annex and in the Specific Annex(es) or Chapter(s) therein that it has accepted within 36 months after such Annex(es) or Chapter(s) have entered into force for that Contracting Party.

Each Contracting Party shall implement the Transitional Standards in the General Annex within 60 months of the date that the General Annex has entered into force for that Contracting Party.

Each Contracting Party shall implement the Recommended Practices in the Specific Annex(es) or Chapter(s) therein that it has accepted within 36 months after such Specific Annex(es) or Chapter(s) have entered into force for that Contracting Party, unless reservations have been entered as to one or more of those Recommended Practices.

(a) Where the periods provided for in paragraph 1 or 2 of this Article would, in practice, be insufficient for any Contracting Party to implement the provisions of the General Annex, that Contracting Party may request the Management Committee, before the end of the period referred to in paragraph 1 or 2 of this Article, to provide an extension of that period. In making the request, the Contracting Party shall state the provision(s) of the General Annex with regard to which an extension of the period is required and the reasons for such request.

(b) In exceptional circumstances, the Management Committee may decide to grant such an extension. Any decision by the Management Committee granting such an extension shall state the exceptional circumstances justifying the decision and the extension shall in no case be more than one year. At the expiry of the period of extension, the Contracting Party shall notify the depositary of the implementation of the provisions with regard to which the extension was granted.

#### Article 14

##### Settlement of disputes

Any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention shall so far as possible be settled by negotiation between them.

Any dispute which is not settled by negotiation shall be referred by the Contracting Parties in dispute to the Management Committee which shall thereupon consider the dispute and make recommendations for its settlement.

The Contracting Parties in dispute may agree in advance to accept the recommendations of the Management Committee as binding.

#### Article 15

##### Amendments to the Convention

The text of any amendment recommended to the Contracting Parties by the Management Committee in accordance with Article 6, paragraph 5 (a) (i) and (ii) shall be communicated by the Secretary General of the Council to all Contracting Parties and to those Members of the Council that are not Contracting Parties.

Amendments to the Body of the Convention shall enter into force for all Contracting Parties twelve months after deposit of the instruments of acceptance by those Contracting Parties present at the session of the Management Committee during which the amendments were recommended, provided that no objection is lodged by any of the Contracting Parties within a period of twelve months from the date of communication of such amendments.

Any recommended amendment to the General Annex or the Specific Annexes or Chapters therein shall be deemed to have been accepted six months after the date the recommended amendment was communicated to Contracting Parties, unless:

there has been an objection by a Contracting Party or, in the case of a Specific Annex or Chapter, by a Contracting Party bound by that Specific Annex or Chapter; or

a Contracting Party informs the Secretary General of the Council that, although it intends to accept the recommended amendment, the conditions necessary for such acceptance are not yet fulfilled.

If a Contracting Party sends the Secretary General of the Council a communication as provided for in paragraph 3 (b) of this Article, it may, so long as it has not notified the Secretary General of the Council of its acceptance of the recommended amendment, submit an objection to that amendment within a period of eighteen months following the expiry of the six-month period referred to in paragraph 3 of this Article.

If an objection to the recommended amendment is notified in accordance with the terms of paragraph 3 (a) or 4 of this Article, the amendment shall be deemed not to have been accepted and shall be of no effect.

If any Contracting Party has sent a communication in accordance with paragraph 3 (b) of this Article, the amendment shall be deemed to have been accepted on the earlier of the following two dates:

the date by which all the Contracting Parties which sent such communications have notified the

Secretary General of the Council of their acceptance of the recommended amendment, provided that, if all the acceptances were notified before the expiry of the period of six months referred to in paragraph 3 of this Article, that date shall be taken to be the date of expiry of the said six-month period;

the date of expiry of the eighteen-month period referred to in paragraph 4 of this Article.

Any amendment to the General Annex or the Specific Annexes or Chapters therein deemed to be accepted shall enter into force either six months after the date on which it was deemed to be accepted or, if a different period is specified in the recommended amendment, on the expiry of that period after the date on which the amendment was deemed to be accepted.

The Secretary General of the Council shall, as soon as possible, notify the Contracting Parties to this Convention of any objection to the recommended amendment made in accordance with paragraph 3 (a), and of any communication received in accordance with paragraph 3 (b), of this Article. The Secretary General of the Council shall subsequently inform the Contracting Parties whether the Contracting Party or Parties which have sent such a communication raise an objection to the recommended amendment or

...shall then have been sent to the Commission, raise an objection to the recommended amendment or accept it.

#### Article 16

Notwithstanding the amendment procedure laid down in Article 15 of this Convention, the Management Committee in accordance with Article 6 may decide to amend any Recommended Practice or to incorporate new Recommended Practices to any Specific Annex or Chapter therein. Each Contracting Party shall be invited by the Secretary General of the Council to participate in the deliberations of the Management Committee. The text of any such amendment or new Recommended Practice so decided upon shall be communicated by the Secretary General of the Council to the Contracting Parties and those Members of the Council that are not Contracting Parties to this Convention. Any amendment or incorporation of new Recommended Practices decided upon under paragraph 1 of this Article shall enter into force six months after their communication by the Secretary General of the Council. Each Contracting Party bound by a Specific Annex or Chapter therein forming the subject of such amendments or incorporation of new Recommended Practices shall be deemed to have accepted those amendments or new Recommended Practices unless it enters a reservation under the procedure of Article 12 of this Convention.

#### Article 17

##### Duration of accession

This Convention is of unlimited duration but any Contracting Party may denounce it at any time after the date of its entry into force under Article 18 thereof.

The denunciation shall be notified by an instrument in writing, deposited with the depositary.

The denunciation shall take effect six months after the receipt of the instrument of denunciation by the depositary.

The provisions of paragraphs 2 and 3 of this Article shall also apply in respect of the Specific Annexes or Chapters therein, for which any Contracting Party may withdraw its acceptance at any time after the date of the entry into force.

Any Contracting Party which withdraws its acceptance of the General Annex shall be deemed to have denounced the Convention. In this case, the provisions of paragraphs 2 and 3 also apply.

### CHAPTER V

#### FINAL PROVISIONS

#### Article 18

##### Entry into force of the Convention

This Convention shall enter into force three months after five of the entities referred to in paragraphs 1 and 5 of Article 8 thereof have signed the Convention without reservation of ratification or have deposited their instruments of ratification or accession.

This Convention shall enter into force for any Contracting Party three months after it has become a Contracting Party in accordance with the provisions of Article 8.

Any Specific Annex or Chapter therein to this Convention shall enter into force three months after five Contracting Parties have accepted that Specific Annex or that Chapter.

After any Specific Annex or Chapter therein has entered into force in accordance with paragraph 3 of this Article, that Specific Annex or Chapter therein shall enter into force for any Contracting Party three months after it has notified its acceptance. No Specific Annex or Chapter therein shall, however, enter into force for a Contracting Party before this Convention has entered into force for that Contracting Party.

#### Article 19

##### Depositary of the Convention

This Convention, all signatures with or without reservation of ratification and all instruments of ratification or accession shall be deposited with the Secretary General of the Council.

The depositary shall:

- receive and keep custody of the original texts of this Convention;
- prepare certified copies of the original texts of this Convention and transmit them to the Contracting Parties and those Members of the Council that are not Contracting Parties and the Secretary General of the United Nations;
- receive any signature with or without reservation of ratification, ratification or accession to this Convention and receive and keep custody of any instruments, notifications and communications relating to it;
- examine whether the signature or any instrument, notification or communication relating to this Convention is in due and proper form and, if need be, bring the matter to the attention of the Contracting Party in question;
- notify the Contracting Parties, those Members of the Council that are not Contracting Parties, and the Secretary General of the United Nations of:
  - signatures, ratifications, accessions and acceptances of Annexes and Chapters under Article 8 of this Convention;
  - new Chapters of the General Annex and new Specific Annexes or Chapters therein which the Management Committee decides to recommend to incorporate in this Convention;
  - the date of entry into force of this Convention, of the General Annex and of each Specific Annex or Chapter therein in accordance with Article 18 of this Convention;
  - notifications received in accordance with Articles 8, 10, 11, 12 and 13 of this Convention;
  - 14. withdrawals of acceptances of Annexes/Chapters by Contracting Parties;
  - denunciations under Article 17 of this Convention; and
  - any amendment accepted in accordance with Article 15 of this Convention and the date of its entry into force.

In the event of any difference appearing between a Contracting Party and the depositary as to the performance of the latter's functions, the depositary or that Contracting Party shall bring the question to the attention of the other Contracting Parties and the signatories or, as the case may be, the Management Committee or the Council.

#### Article 20

##### Registration and authentic texts

In accordance with Article 102 of the Charter of the United Nations, this Convention shall be registered with

## World Customs Organization

In accordance with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Secretary General of the Council. In witness whereof the undersigned, being duly authorized thereto, have signed this Convention. Done at Kyoto, this eighteenth day of May nineteen hundred and seventy-three in the English and French languages, both texts being equally authentic, in a single original which shall be deposited with the Secretary General of the Council who shall transmit certified copies to all the entities referred to in paragraph 1 of Article 8 of this Convention.