



Knowledge Academy 2014

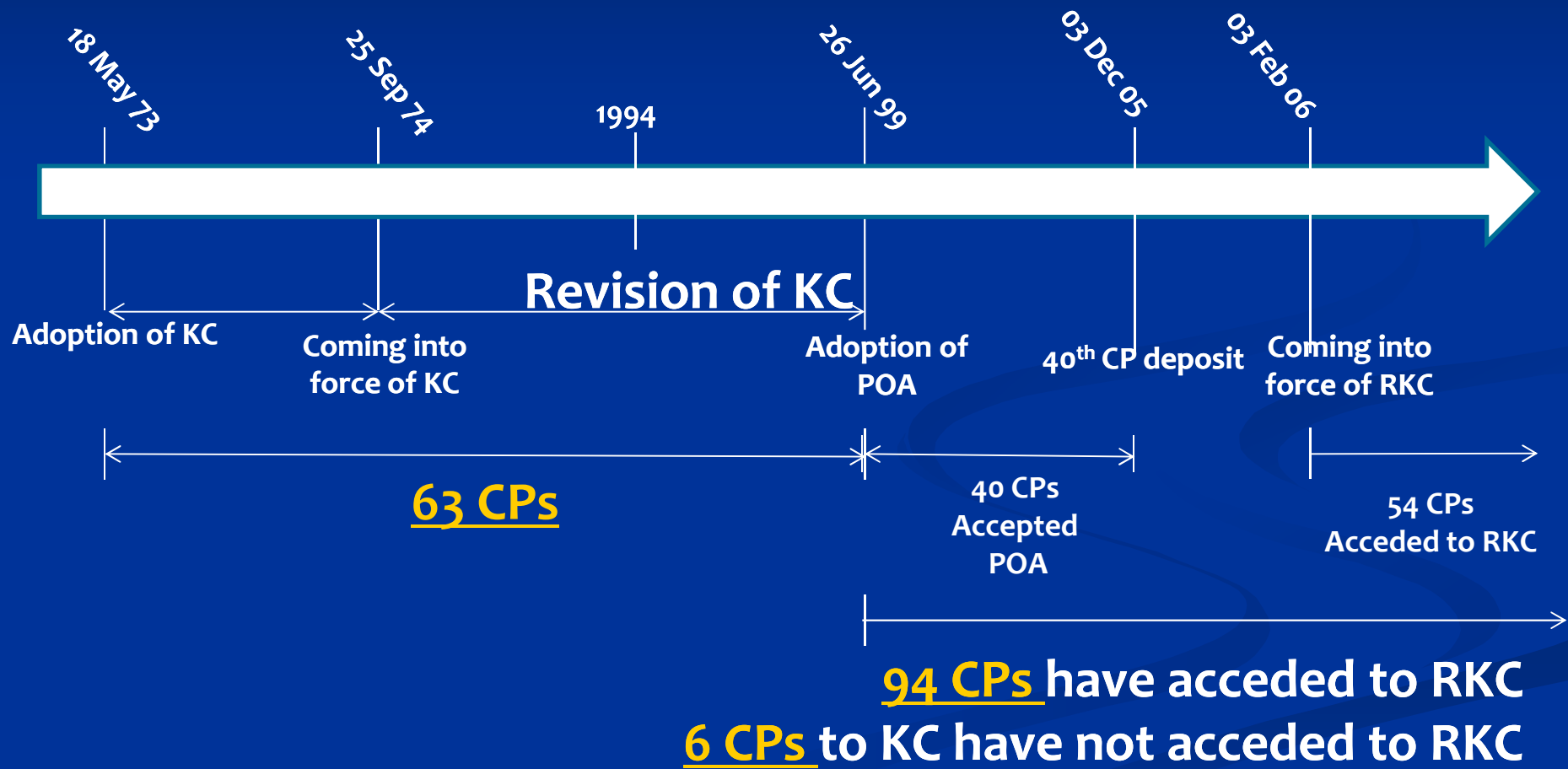
The Revised Kyoto Convention

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Introduction to the RKC

HISTORY



REVISION -Decision (1)

- ❖ Compile all core provisions and principles of general application in the Annexes of the current Kyoto Convention
- ❖ Include these in a single Annex
- ❖ Group similar core procedures and practices of general application into separate Chapters e.g. clearance formalities, security, appeals
- ❖ Incorporate new concepts where necessary

REVISION –Decision (2)

- ❖ Core provisions - provide the key to harmonize and simplify Customs procedures across administrations
- ❖ Core provisions - placed in a single Annex that should be obligatory for accession
- ❖ The provisions in an obligatory Annex should be totally binding, i.e. no reservations should be possible against their implementation

REVISED KYOTO CONVENTION

- ❖ Protocol of Amendment adopted by the Council in June 1999 in Brussels



The blueprint for modern, efficient and effective Customs Procedures in the 21st century

- ❖ Currently

*- total 94 Contracting Parties to RKC
(as of June 2014)*

Structure of the RKC

Changes in the structure of the Convention

- ❖ Creation of a General Annex which is
 - obligatory for accession
 - allows no reservations against provisions in the Annex
- ❖ 10 Chapters (Specific Annexes) containing core Customs procedures and practices

Structure of the RKC

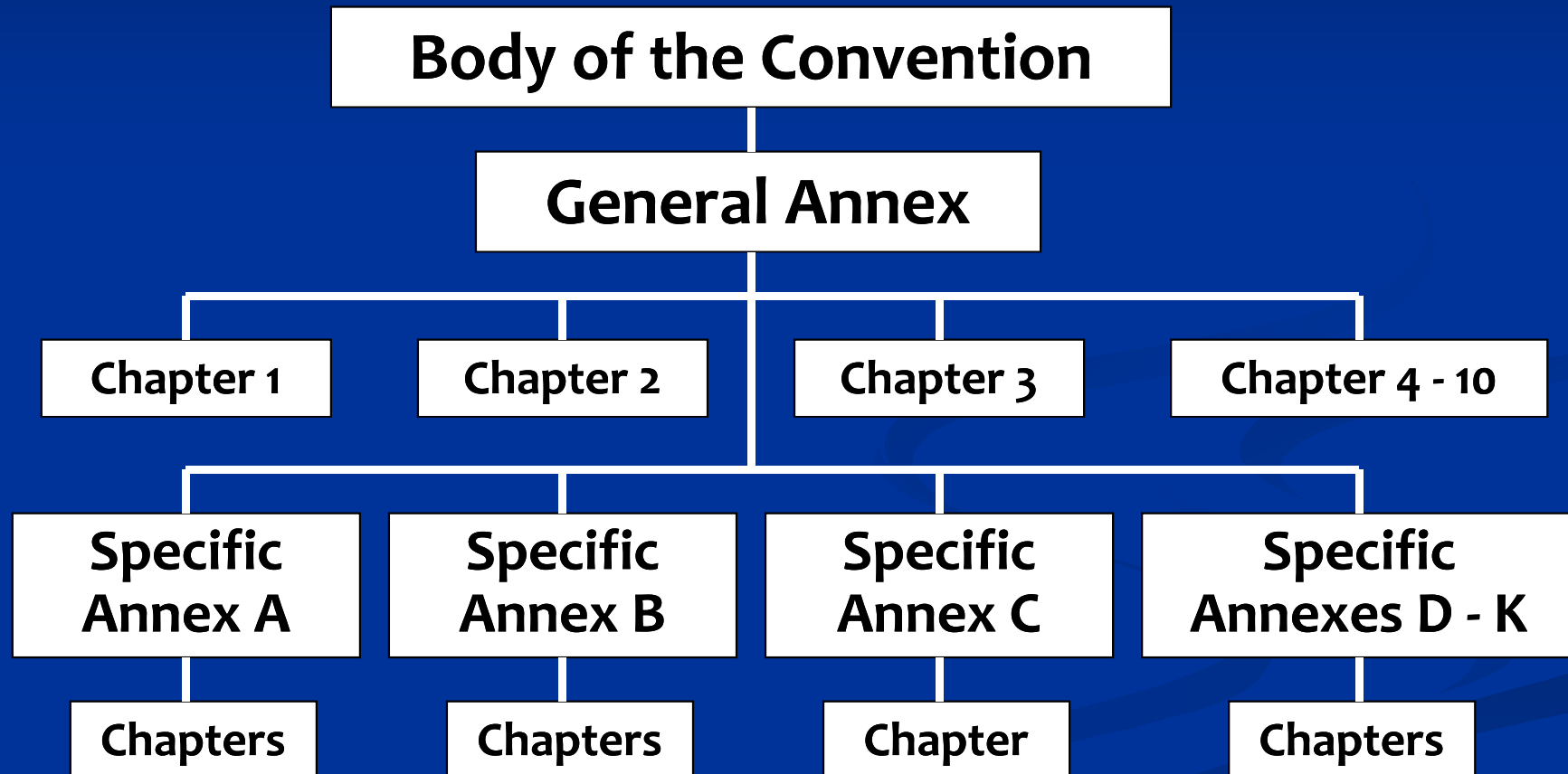
General Annex

- ❖ Consists of two types of provisions
 - Standards ➡ period for implementation **3 years**
 - Transitional Standards ➡ period for implementation **5 years**

Specific Annex

- ❖ Consists of two types of provisions
 - Standards
 - Recommended Practices

STRUCTURE OF REVISED CONVENTION



BODY OF THE CONVENTION

- ❖ PREAMBLE
- ❖ SCOPE
- ❖ STRUCTURE
- ❖ ADMINISTRATION
- ❖ RULES OF ACCESSION
- ❖ RULES FOR AMENDMENT

CONDITIONS FOR ACCESSION

Contracting Parties must accept

- a) **Body of the Convention**
- b) **General Annex**

**Acceptance of Specific Annexes and/or Chapters
therein optional and at Contracting Parties'
discretion**

RESERVATIONS TO PROVISIONS IN THE REVISED CONVENTION

- ❖ No reservations permitted to Standards
- ❖ Reservations permitted to Recommended Practices in the Specific Annexes
- ❖ Contracting Parties to review the reservations every 3 years
- ❖ Inform the depositary if reservations are to be continued

GENERAL ANNEX

- ❖ **Core provisions and definitions of general application to all Customs procedures**
- ❖ **Core provisions of General Application specified in 10 Chapters**
- ❖ **Core provisions not repeated in the Specific Annexes**

PROVISIONS IN THE GENERAL ANNEX

- ❖ General Annex to contain only Standards some of which are Transitional Standards
- ❖ Rule on no reservations to Standards applies to both types
- ❖ Implementation period provided for all Contracting Parties to both types of provisions
- ❖ Transitional Standards have longer implementation period (60 months versus 36)

SPECIFIC ANNEXES

- ❖ **Cover different aspects of Customs procedures**
- ❖ **Contain Chapters which deal with specific procedures**
- ❖ **Acceptance of one or more of the Specific Annexes/Chapter(s) optional**
- ❖ **Contain Standards and Recommended Practices**
- ❖ **Rule on no reservations to Standards applies**

SPECIFIC ANNEXES

RESERVATIONS

- ❖ **Reservations to Recommended Practices to be notified to WCO**
- ❖ **Obligation to review reservations**

GUIDELINES

- ❖ All Annexes and Chapters to be accompanied by implementation Guidelines
- ❖ Guidelines to contain detailed information on implementation of
 - Provisions in the Annexes
 - Simplified procedures
 - Best practices & methods of application
- ❖ Guidelines not a part of the legal text
- ❖ Guidelines to be reviewed and updated to reflect current practices

RKC Benefits

WCO Research Paper

Benefits of the Revised Kyoto Convention

1. Introduction

The Revised Kyoto Convention (RKC)¹ is an international agreement that provides a set of comprehensive Customs procedures to facilitate legitimate international trade while effecting Customs controls including the protection of Customs revenue and society. It deals with key principles of simplified and harmonized Customs procedures, such as predictability, transparency, due process, maximum use of information technology, and modern Customs techniques (e.g. risk management, pre-arrival information, and post-clearance audit). The RKC was adopted in 1999 and entered into force in February 2006. As of February 2010, the RKC had a total of 66 Contracting Parties, and the WCO estimates that the RKC Contracting Parties cover at least 70 percent of the value of globally traded goods².

The WCO has encouraged its Members to accede to the RKC, believing that more benefits would accrue as a result of early RKC implementation by more economies in a coordinated way (Swedish National Board of Trade, 2008). Therefore, it has been widely recognized that a paper should be developed on the benefits of the RKC as a means of facilitating the national accession processes of non-Contracting Parties.

The arguments on RKC benefits are referred to in many documents produced by the WCO and other organizations, including the WCO leaflet (WCO, 2002), the APEC Guidebook to the RKC (APEC, 2003), and a booklet on the RKC by Jordan Customs (Younis, 2006). In addition, the benefits of the simplified and harmonized Customs procedures embodied by the RKC have been well documented in the context of trade facilitation, in particular in the ongoing WTO negotiations on trade facilitation (Swedish National Board of Trade, 2008; OECD, 2005). Furthermore, many Customs reform and modernization programs have been designed to introduce modern Customs procedures in accordance with the RKC (IMF, 2003; World Bank, 2005). It has also been recognized on many occasions that there are considerable benefits to be derived from RKC accession as well as implementation.

Considering that background, this paper aims to summarize the benefits of both acceding to and implementing the RKC, based on existing literature and evidence. Following this first section, the second section summarizes the benefits related to RKC accession, while the third section focuses on the benefits related to RKC implementation. The fourth section provides the conclusion of this paper.

¹ The revised Kyoto Convention (RKC) is formally named "The International Convention on the Simplification and Harmonization of Customs Procedures (as amended)". The original Kyoto Convention was adopted in 1973 at the WCO Council Sessions in Kyoto, Japan, and entered into force in 1974. The Protocol of Amendment to the 1973 Convention was adopted at the WCO Council Sessions in 1999, and entered into force in February 2006. Further information is available at www.wcoomd.org/home_wco_topics_pfoverviewboxes_tools_and_instruments_pfrevisedkyotoconv.htm

² In terms of 2007 trade statistics excluding intra-EU trade, as estimated by the WCO Secretariat based on WTO Trade Profile (WTO, 2009a) and International Trade Statistics (WTO, 2009b)

❖ Issued in 2010

❖ Comprehensive explanation of RKC Benefits

❖ WCO Public-site

❖ <http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/~media/WCO/Public/Global/PDF/Topics/Facilitation/Instruments%20and%20Tools/Conventions/Kyoto%20Convention/BenefitsRKC.ashx>

Benefits of RKC

Accession & Implementation

RKC Accession

- ❖ **Certification of international standards implementation**
- ❖ **Participation to future standard setting**
- ❖ **Preparedness for the WTO TFA implementation**
- ❖ **Advantage in CB activities**

RKC Implementation

- ❖ **Faster release and lower trade costs**
- ❖ **Increased revenue**
- ❖ **More FDI and economic competitiveness**
- ❖ **Enhanced security**
- ❖ **Establishment of sound base for other international instruments**

RKC : Rights and Obligations

General Principles

- CP give a general undertaking to apply
 - Standard
 - Transitional Standard
 - Recommended Practice



CP remain entirely free to grant greater facilities

- CP have the right to apply all prohibitions and restrictions deriving from their national legislation e.g.
 - public morality or order, public security, public health,
 - protection of patents, trademarks and copyrights
 - those imposed on economic or any other grounds

Acceptance of Provisions

- General Annex - Obligatory to accept all provisions
- Specific Annex – Free to accept only a limited number of SAs or Chapters therein.
- CP accepting SAs or Chapter(s) therein shall be bound by all the Standards and Recommended Practices **unless** it enters reservation against RP
- CP may withdraw reservation, in whole or in part, at any time.

(Article 12)

Implementation of provisions

- Standards: 36 months (GA & SAs)
- Transitional Standards: 60 months (GA)
- Recommended Practices (SAs) : 36 months unless reservation entered

- When period mentioned in above is insufficient for CP to implement provisions of GA, CP may request management Committee to extend that period.

- Management Committee may grant such extension (no more than one year)

(Article 13)

Management of Convention

- CPs shall be members of the **Management Committee** and have the right to vote

- **Management Committee**
 - shall recommend amendments to Body, GA, SA or incorporation of new chapters to the GA and new SAs
 - may decide to amend Recommended Practices or to incorporate new RPs to the SAs
 - shall consider implementation of provisions of RKC
 - shall review and update the Guidelines
 - shall consider any other issue of relevance to the RKC

Amendments to the Convention

- Article 15 provides for amendment procedures to the Body, GA and SAs as well as incorporation of new Chapters in the GA.
- New SA and New Chapters in SAs are recommended under Article 6 and enter into force under Article 18.
- Article 16 provides for simplified procedures that Management Committee is empowered to decide amendments to Recommended Practices and the incorporation of new RPs.

List of Notifications

- Acceptance of SAs or Chapters (Article 8 para 3&4)
- Denunciation of the Convention (Article 17 para 2)
- Withdrawal of acceptance of the GA (Article 17 para 5)
- Withdrawal of acceptance of SAs or Chapters (Article 17 para 4)
- Reservation on Recommended Practices (Article 12 para 2, Article 16 para 2)
- Withdrawal of reservation on RPs (Article 12 para 2)
- Differences between national legislation and RPs (Article 12 para 2)
- Results of the examination of the possibility of withdrawing any reservation to RPs (Article 12 para 3)

etc

RKC Accession

Legal Requirement

- Member of WCO/UN/Others
- Deposit an instrument of accession
- Specify SA you accept
- Signify your intention to be bound by GA
- Declare the territories the accession applies
- Notify any reservation if this is the case

Two different processes

Domestic readiness

Improvements in legislation, organization, and operations in order to meet the obligations in the convention

Foreign affairs work

International act of consent to be bound by the Convention by particular action, notably, ratification, acceptance, approval or accession and notification to the depository

4 Major Stages to accede to RKC (Typical case)

**Stage A : Commitment to Accede RKC
& Gap-Analysis**

**Stage B : Communication among Stake
holders**

Stage C : Legal (Parliament) Works

Stage D : Official Diplomatic Works

Stage A : Commitment to Accede RKC & Gap Analysis

Check-list Provisions of the General Annex.pdf - Adobe Reader

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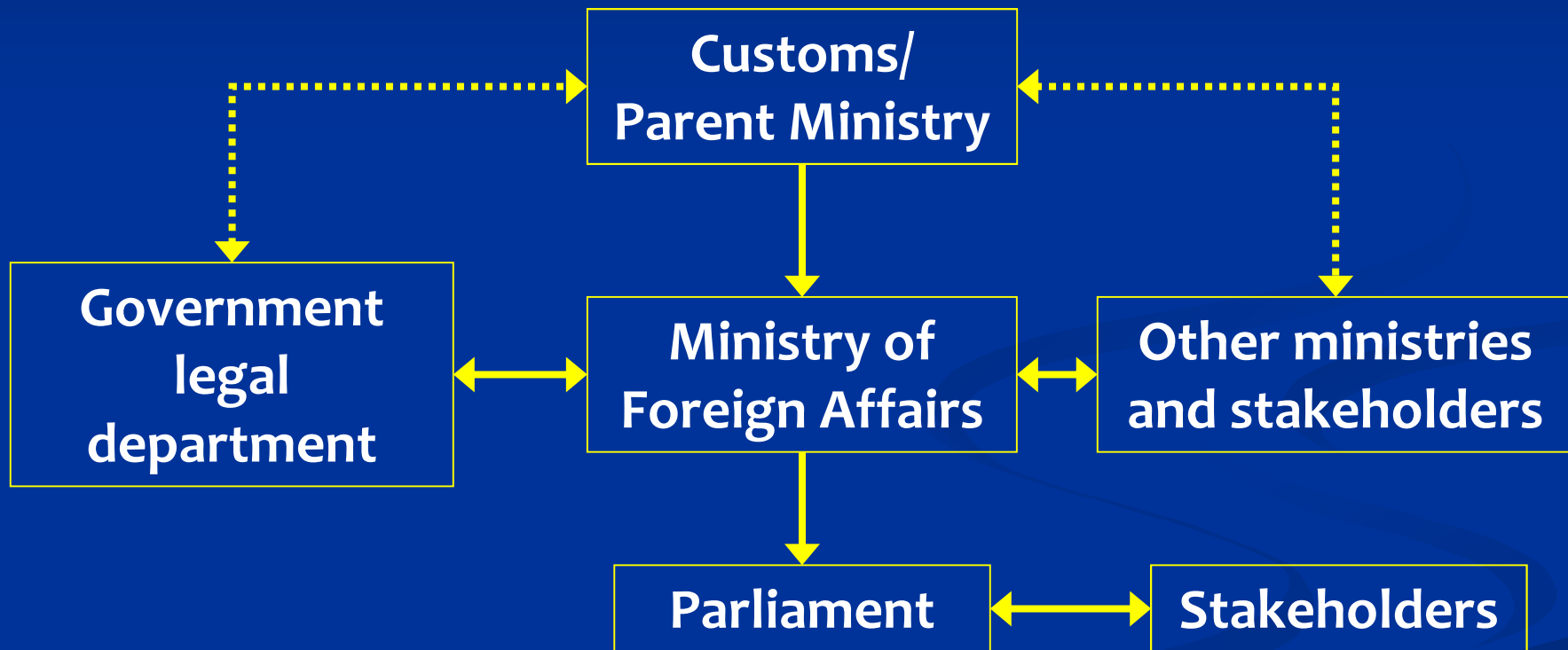
Outils Commentaire

ASSESSMENT OF THE COMPLIANCE OF PROVISION OF THE GENERAL ANNEX VIS-A-VIS NATIONAL LEGISLATION

Legal provisions of the General Annex			Covered by national legislation		COMPLIANT (Y/N)	OBSERVATIONS (Implementation / Difficulties)	PROPOSAL OF AMENDEMENT OF NATIONAL LEGISLATION
No	Text	Type of provision	Customs law	Other (e.g. Law, Decree, Regulation, Gov. notice, Admin. circular etc.			
CHAPTER 1 GENERAL PRINCIPLES							
1.1	The Definitions, Standards and Transitional Standards in this Annex shall apply to Customs procedures and practices specified in this Annex and, insofar as applicable, to procedures and practices in the Specific Annexes.	Standard					
1.2	The conditions to be fulfilled and Customs formalities to be accomplished for procedures and practices in this Annex and in the Specific Annexes shall be specified in national legislation and shall be as simple as possible.	Standard					
1.3	The Customs shall institute and maintain formal consultative relationships with the trade to increase co-operation and facilitate participation in establishing the most effective methods of working commensurate with national provisions and international agreements.	Standard					
CHAPTER 3 CLEARANCE AND OTHER CUSTOMS FORMALITIES							
3.1	The Customs shall designate the Customs offices at which goods may be produced or cleared. In determining the competence and location of these offices and their hours of business, the factors to be taken into account shall include in particular the requirements of the trade.	Standard					

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Stage B : Communication among Stakeholders



Stage C : Legal works

- Official Translation ?
- Formulation of reform package?
- Reform of the legislations, regulations, Customs instructions and/or organization?
- Implementation plan?

Stage D : Formal Diplomatic Works

President/ Prime Minister
/Foreign Affairs Minister

Embassy in Belgium

Instrument
of accession

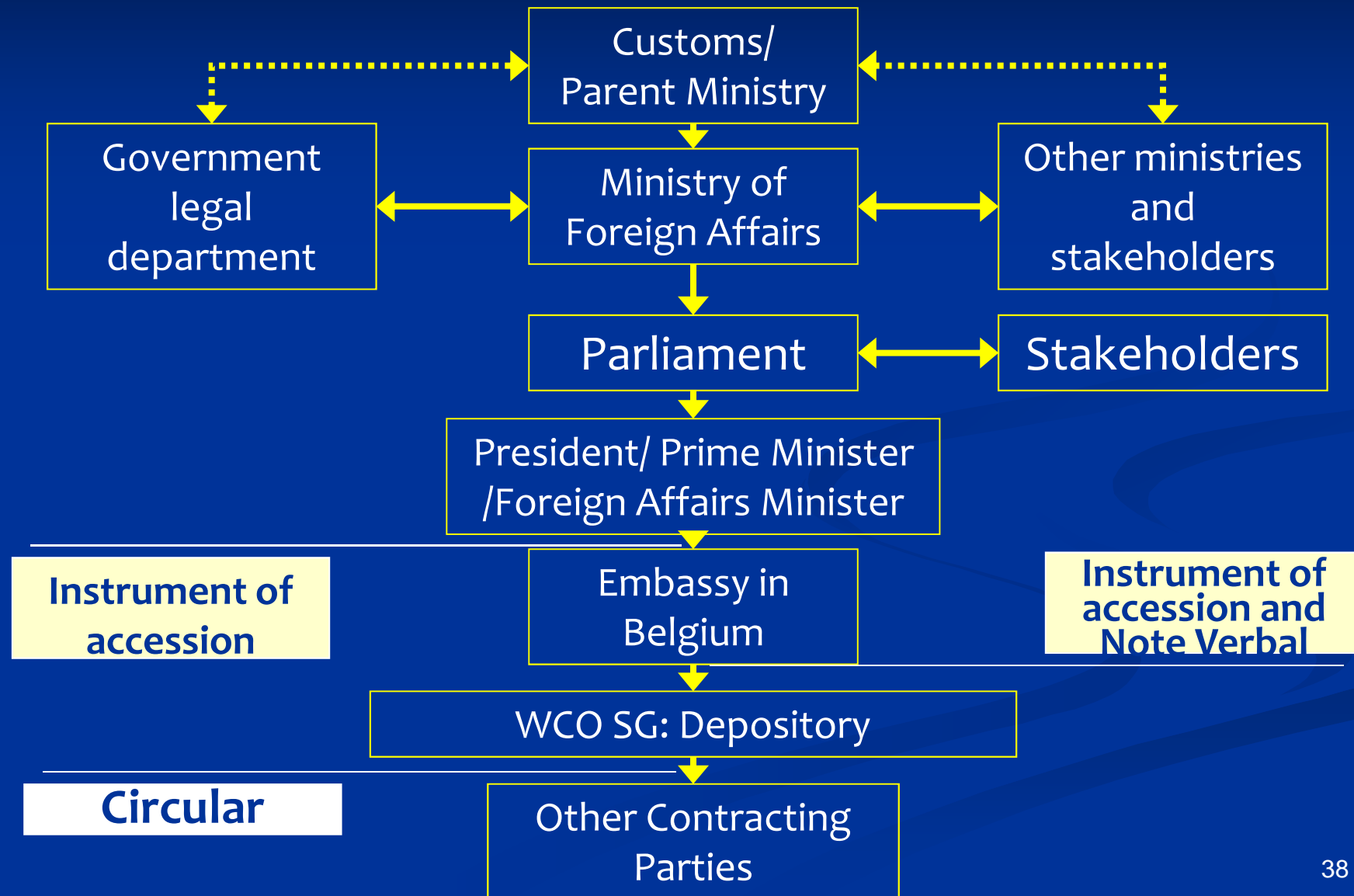
Note Verbal

WCO Secretary General: Depository

Circular

Other Contracting Parties

Overall Accession Process



Membres OMD (179)

1974 Kyoto (64)

Kyoto Révisée (94)

OCDE (31)

UE (28+1)

Autres non-PCs

Europe (1)
Israël

Afrique (4)

Burundi
Cameroun
Gambie
Rép. dém. Congo*

Afrique du sud
Algérie
Arabie saoudite
Botswana
Chine
Côte d'Ivoire
Cuba
Inde
Kenya
Lesotho
Macédoine
Malawi
Malaisie
Maroc
Nigeria
Ouganda

Pakistan
Rwanda
Sénégal
Serbie
Sri Lanka
Vietnam
Zimbabwe
Zambie

Bulgarie
Chypre
Croatie
Lettonie
Lituanie
Slovénie

Allemagne
Autriche
Belgique
Danemark
Espagne
Finlande
France

Grèce
Hongrie
Irlande
Italie
Luxembourg
Pays-Bas
Pologne

Australie
Canada
Corée
Japon
NZ
Norvège
Suisse

Turquie
Etats-Unis

Portugal
Rep. Tchèque
RU
Slovaquie
Suède

UE
Roumanie

Chili
Islande
Mexique

Albanie
Arménie
Azerbaïdjan
Belarus
Bahreïn
Bangladesh
Cambodge
Cap-Vert
Egypte
EAU

Iran
Fiji
Gabon
Jordanie
Kazakhstan
Madagascar
Mali
Maurice
Mongolie
Monténégro

Mozambique
Namibie
Papouasie Nvle Guinée
Philippines
Qatar
République Dominicaine
Russie
Soudan
Swaziland
Togo
Ukraine
Yémen

Estonie
Malte

*: Signé sous réserve de ratification (pas encore)

Thank you for your kind attention

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WCO, Brussels