



United Nations Conference on Trade and Development

Distr.: General
10 July 2007

Original: English

Trade and Development Board
Commission on Enterprise, Business Facilitation and Development
Expert meeting on regional cooperation in transit transport:
Solutions for landlocked and transit developing countries
Geneva, 27–28 September 2007
Item 3 of the provisional agenda

Regional cooperation in transit transport: Solutions for landlocked and transit developing countries

Note by the UNCTAD secretariat

Executive summary

The present document analyses selected international instruments and institutional solutions designed to allow the effective free movement of goods and equipment involved in transit operations to and from landlocked developing countries. It provides an overview of the situation and discusses the status of implementation of the Almaty Programme of Action. Selected regional, bilateral and corridor agreements are considered with a view to producing better regional cooperative arrangements for landlocked and transit developing countries within the framework of the Almaty Programme of Action. The document concludes with a number of considerations that need to be taken into account in the design of new schemes, or in the reform of existing ones, to make them compatible with the most widely accepted standards and best practices in transit transport operations.

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I. Introduction

1. As a result of their geographical disadvantage, landlocked countries face specific challenges in their attempts to integrate into the global trading system, mainly because goods coming from or going to a landlocked country are subject to additional trade barriers such as lengthy border-crossing procedures. In addition, many landlocked developing countries suffer from weak legal and institutional arrangements, poor infrastructure, a lack of information technology, an underdeveloped logistics sector and a lack of cooperation with neighbouring transit countries. Finally, the distance to markets, as compared to countries with direct access to seaports, can also be a disadvantage in some cases.

2. The economic disadvantage of being a landlocked country is evidenced by the fact that the economic growth of landlocked countries in the period 1992–2002 was 25 per cent lower than that of their transit neighbouring countries.¹ For landlocked developing countries, the average annual growth in real gross domestic product (GDP) per capita during the period 1990–1999 was negative, at –0.93 per cent, as compared with growth of 0.87 per cent in other least developed countries, 1.3 per cent in transit developing countries and 2.49 per cent in other developing countries.

3. The above-mentioned problems faced by landlocked and transit developing countries have over the years been addressed by the international community through, inter alia, the adoption of international legal instruments aimed at easing the economic burden suffered by them as a result of their landlocked nature, through measures aiming at reducing the cost of bringing their goods to export markets.

4. In 2003, the International Ministerial Conference of Landlocked and Transit Developing Countries and Donor Countries and International Financial and Development Institutions on Transit Transport Cooperation took place in Almaty, Kazakhstan, under the auspices of the United Nations. The outcome of the conference was the Almaty Programme of Action, the overall goal of which has to establish a new global framework for action to establish efficient transit transport systems in landlocked and transit developing countries, emphasizing, on the one hand, the fact that efficient transit transport systems can be established through genuine partnerships between landlocked and transit developing countries at the bilateral, subregional, regional and international levels and, on the other hand, the value of public-private partnerships.

5. UNCTAD is a key stakeholder in the Almaty Programme of Action and has been working for many years on the problems faced by landlocked and transit developing countries, producing tangible solutions to the problems faced by them.² In particular, UNCTAD has promoted successful cooperative arrangements between landlocked developing countries and their neighbours and has also led efforts to incorporate information and communication technology into the transit transport procedures of landlocked and transit developing countries, while at the same time assisting such countries generally to introduce efficient integrated logistics solutions aimed at integrating them into the global logistics and supply chain.

¹ Thomas Snow et al., “United Nations Development Programme country case studies on the challenges facing landlocked developing countries” (Human Development Report Office, occasional paper, 2003).

² See e.g. the report on the expert meeting on the design and implementation of transit transport arrangements (TD/B/COM.3/EM.22/3).

6. In 2006, the General Assembly of the United Nations adopted resolution 61/212, in which it called for a midterm review in 2008 of progress in the implementation of the Almaty Programme of Action. UNCTAD was called on to provide necessary support to the review process.

7. Against this background, and to support landlocked and transit developing countries in their common endeavours to improve international transit transport operations in practical ways such as the use of information technologies and systems, the Commission on Enterprise, Business Facilitation and Development, at its eleventh session, held in Geneva from 19 to 23 February 2007, decided to organize an expert meeting on regional cooperation in transit transport and solutions for landlocked developing countries.

8. This note takes a look at selected international legal instruments and institutional solutions and provides an overview of the current situation. It also provides an overview of the Almaty Programme of Action and takes a look at selected regional and bilateral agreements. Finally, it brings together the most widely accepted standards and best practices in transit transport operations with a view to facilitating their more efficient use in existing and future transit arrangements.

9. Chapter II examines the institutional and legal framework for transit traffic; chapter III provides examples of transit arrangements and best practices; chapter IV considers some of the operational aspects of transit operations; and chapter V presents a way forward and suggests solutions for regional cooperation in transit transport for landlocked developing countries.

II. The institutional framework for transit traffic

10. One of the problems faced when discussing transit solutions is that reference is often made to different concepts, definitions or types of transit. In general terms, “transit trade” can be defined as a country’s external trade that passes through the territory of one or more third countries prior to reaching its final destination. When discussing transit traffic or transit transport, the term “transit” occurs in a number of different contexts, such as “transit freedom” or “customs transit”, which, though related, vary in substance.

11. This chapter describes the main legal framework covering transit traffic and transit transport, the distinguishing features of the different concepts which are usually considered as “transit”, the applications of these concepts and the ways in which they interrelate and differ in scope. In the trade facilitation context, transit traffic is often described as a procedure whereby goods are moved through a territory, with the beginning and end of the transit operation taking place outside the territory. In the context of customs procedures, transit is described as a procedure whereby goods are transported under customs control from one customs office to another. Customs transit includes outbound transit, through transit and inbound transit.

A. International legal instruments defining transit traffic

12. The international community has, over the years, adopted several international legal instruments containing provisions aimed at helping landlocked countries gain

access to seaports via transit traffic through neighbouring countries. The four main legal instruments containing definitions of transit traffic are:

- (a) Convention and Statute on Freedom of Transit, 1921 (entry into force 31 October 1922; 50 parties);
- (b) General Agreement on Tariffs and Trade (GATT), 1947, now part of GATT 1994 (provisional entry into force 1 January 1948; 150 members of the World Trade Organization (WTO));
- (c) Convention on Transit Trade of Land-Locked States, 1965 (entry into force 9 June 1967; 38 States parties);
- (d) United Nations Convention on the Law of the Sea, 1982 (entry into force 16 November 1994; 155 States parties).

13. As each of the above-mentioned legal instruments addresses issues of a different nature, there are naturally some differences in their definitions of transit. Whereas GATT, in its article V, and the Convention on Transit Trade of Land-Locked States only include goods (including baggage) in the definitions of transit, the Convention and Statute on Freedom of Transit and the United Nations Convention on the Law of the Sea also include passengers. These two agreements also include the concept of trans-shipment as a type of transit.

14. It is noteworthy that all four legal instruments refer to “freedom” of transit rather than a “right” of transit. This difference has been interpreted by some as meaning that there is no obligation for a transit country to grant a right of transit to a landlocked country, whereas others argue that the transit country has an obligation to grant the right of freedom of transit to landlocked countries.³ The real question is whether landlocked countries have in practice been disadvantaged as a result of the application of the more restrictive interpretation by a transit country.

15. The four conventions, in general terms, define transit as passage through a transit country provided that the journey begins and ends outside the country and provided that the journey through the transit country is only a portion of the entire journey. In addition to the definitions of transit traffic and freedom of transit, the four legal instruments also contain provisions concerning equal treatment and transit facilitation. With the exception of the United Nations Convention on the Law of the Sea, they also contain provisions on duties, taxes and charges.

16. Only GATT and the United Nations Convention on the Law of the Sea have gained wide international acceptance. As demonstrated above, the four legal instruments do not provide fully harmonized definitions of the various concepts such as “traffic in transit” or “freedom of transit”. However, they seem to some extent to have assisted landlocked and transit countries by creating a legal framework for the bilateral or multilateral agreements to which they are a party.

17. In the context of the negotiations to clarify and improve the text of GATT 1994, a number of proposals have been put forward on trade facilitation, including proposals to amend article V with a view to further expediting the movement, release and clearance of goods. In this connection, it should be noted that the

³ Kishor Uprety, *The Transit Regime for Landlocked States: International Law and Development Perspectives* (World Bank, Law, Justice and Development Series, 2005).

question of dispute settlement in the general context of GATT also includes settlement with regard to article V.

B. Regional agreements

18. A number of regional cooperation organizations, including the Association of Southeast Asian Nations (ASEAN), the Andean Community and the Southern African Development Community (SADC), have concluded transit or transport agreements or have included transit transport elements in agreements between their members.⁴ Such regional agreements can be particularly beneficial for landlocked developing countries as they provide a wider framework for harmonized procedures through which countries can gain access to transit facilities in a larger number of countries on the basis of the same legal framework. They can also act as a stepping stone for accession to international legal instruments. The Greater Mekong Subregional Cross-Border Transport Agreement is a good example of this, as its annexes include many elements of international legal instruments in the field of transport and transit facilitation.

19. Other regional agreements also contain provisions that go beyond the transit traffic issues covered by the four international legal instruments mentioned above. The current trend seems to be to cover all issues relating to transport and transit facilitation in framework regional agreements. This is a useful practice, as authorities and carriers thereby have a consolidated legal framework instead of having to manage various agreements covering specific issues.

20. In addition to the regional cooperation agreements, multilateral transport and transit facilitation agreements are being drawn up between individual countries forming groups, such as the trilateral transit traffic agreement being negotiated between China, Mongolia and the Russian Federation or the four-way agreement being considered by China, Kazakhstan, Kyrgyzstan and Pakistan.

21. With regard to the spread of multiparty and regional agreements, one issue that warrants special attention is the risk to which a given country exposes itself by signing up to several such agreements, and possibly also international legal instruments, that contain regulations that are not compatible. The spread of such agreements could be counterproductive as there is a genuine risk that it will lead to complications and therefore negate efficiency gains.

C. Bilateral transport and transit agreements

22. It has for many years been the general practice in international relations for countries to enter into bilateral agreements on particular aspects of cooperation. This is also the case in the field of transport and transit, where an agreement is often required for a transport operator in one country to carry out bilateral transport operations, third-country transport operations or transit transport operations through another country. Such agreements often include rules on transport-related issues concerning the goods, the vehicle, the driver, etc. (see chapter IV below). It is common practice for the two countries concerned in a bilateral road transport agreement to stipulate the maximum number of loads or trips in a given period (quotas) and for the agreement to be renegotiated on a regular basis. Countries

⁴ Andean community, decision 399, International Transportation of Merchandise by Road; ASEAN Framework Agreement on the Facilitation of Goods in Transit; SADC, Protocol on Trade, Annex IV concerning Transit Trade and Transit Facilities.

sometimes exchange transport or transit authorizations or permits as a means of introducing an element of flexibility into what is generally a rigid system of quotas.

23. Some bilateral agreements deal solely with the question of transit, without addressing other transport-related issues. Other agreements include or make reference to customs transit procedures. This was the case, for instance, with the transit agreement that was previously in place between Afghanistan and Pakistan.

24. It is common practice for bilateral transport and transit agreements to make reference to international legal instruments in the field of transport and transit facilitation or to international customs procedures, making compliance with the provisions of such legal instruments a condition for the use of the permits exchanged.

25. In the past, many countries were hesitant to give up transport and transit agreements or to totally liberalize bilateral transport and transit traffic, as many countries believed they could gain a competitive advantage through skilful negotiations. However, countries are increasingly coming to realize that applying a large number of bilateral transport or transit agreements is inefficient and resource-intensive. For this reason, some countries – especially those that do not appear to have gained a competitive advantage from bilateral transport and transit agreements – are becoming more interested in either totally liberalized bilateral arrangements or multi-country or regional agreements.

D. Corridor arrangements

26. Transit corridor arrangements are becoming increasingly important for most landlocked developing countries.⁵ There is no uniform definition of transport or transit corridors, but a transit corridor can be described as a designated route (unimodal, multimodal or intermodal) between two or more countries along which the corridor partners have agreed to apply facilitated procedures and where there are support services available.

27. The reasons for the success of corridor arrangements are multiple. Such arrangements often provide a better return on investment than traditional transit arrangements, regardless of whether they are bilateral, regional or multilateral. This is partly because the scope of such arrangements is very focused; there is a defined group of interested parties and, in general, all issues concerning the entire corridor (e.g. issues related to infrastructure, customs, vehicles or vessels, or border-crossings) can be dealt with holistically. A holistic approach, however, is not usual in traditional arrangements, where specific issues are often dealt with by separate authorities and agreements.

28. Corridor arrangements are very dependent on well-functioning public-private partnerships to which all corridor stakeholders contribute. The public side must be ready to provide a regulatory framework which facilitates the corridor operations and must be willing to contribute to infrastructure and facilities along the corridor. If this is provided, the private parties can operate in a stable framework and plan for long-term operations and investment.

⁵ For a comprehensive overview of the main corridor arrangements in place in various parts of the world, see Anwarul K. Chowdhury and Sandagdorj Erdenebileg, *Geography against Development: A Case for Landlocked Developing Countries* (United Nations Publications, sales no. E.05.II.A.5, 2006). For an in-depth analysis of how successful corridor arrangements operate, see John Arnold, *Best Practices in Management of International Trade Corridors* (World Bank Transport Papers Series).

E. International legal instruments supporting transport and transit facilitation

29. In addition to the international legal instruments mentioned in section A, which set out the framework for transit traffic and customs transit, a multitude of other international legal instruments have been adopted under the auspices of various intergovernmental bodies with a view to facilitating international transport and transit traffic. These instruments cover thematic issues related to international transport operations, such as the transport of dangerous goods, the facilitation of crossing of borders⁶ or the contract of carriage for road or rail transport.⁷ Other legal instruments are modal-specific, addressing, for instance, the harmonization of road signs and signals or the transport of goods by rail. These instruments are complementary to regional and bilateral transport and transit agreements and are often referred to in agreements on transport as well as in those on infrastructure, storage and general trade terms.⁸

F. International legal instruments covering customs transit procedures

30. As mentioned in section A, three of the four main international legal instruments on transit traffic contain provisions concerning duties, taxes and charges. Generally speaking, they specify that goods in transit are not to be subject to duties and taxes of the transit State during the transit operation. Nevertheless, transit States obviously need assurance that the goods they allow to transit through their territory do actually leave the territory. If, owing to some irregularity in the transit transport, this is not the case and the goods are either illegally introduced into the market of the transit State or disappear during the transit operation, the transit State will want to have the right to be compensated for the duties and taxes not collected.

31. Under normal circumstances, a transit country would therefore require some form of financial security for transport in transit through its territory before transit is authorized. This is a measure that can be both slow and expensive. In order to simplify matters, customs transit procedures, at either the international or the national level, are established to supervise the transit transport and, by means of a guarantee or security, to collect duties and taxes, and also to simplify and speed up the customs transit operation.

32. The International Convention on the Simplification and Harmonization of Customs Procedures (the revised Kyoto Convention) of 1999 includes in its annex E provisions concerning customs transport operations. The annex describes the national customs transit operation and related procedures. In addition, chapter 5 of the Convention contains procedures for the provision of securities for customs procedures in general, including customs transit operations.

33. It should be noted that the revised Kyoto Convention neither addresses the question of freedom of transit nor defines transit traffic in the same terms as the four main legal instruments mentioned in section A. The definition of a transit operation

⁶ International Convention on the Harmonization of Frontier Controls of Goods, 1982.

⁷ Convention on the Contract for the International Carriage of Goods by Road; Convention concerning International Carriage by Rail.

⁸ An overview of some of the most important legal instruments is contained in K. Chowdhury and Sandagdorj Erdenebileg, *Geography against Development: A Case for Landlocked Developing Countries* (see footnote 5).

in the Kyoto Convention, and in other customs transit agreements, is based purely on customs transit procedures. The main differences are that (a) customs transit does not include trans-shipment and (b) customs transit includes not only the transit operation inside a country but also so-called outbound and inbound transit, that is, the transport segments leaving the country of departure and entering the country of destination.

G. The Almaty Programme of Action and its midterm review

34. The main goal of the Almaty Programme of Action is to reinforce cooperation between landlocked and transit developing countries. The Almaty Programme of Action specifically aims to: (a) secure access to and from the sea by all means of transport according to applicable rules of international law; (b) reduce costs and improve services so as to increase the competitiveness of exports; (c) reduce the delivered costs of imports; (d) address problems of delays and uncertainties on trade routes; (e) develop adequate national networks; (f) reduce loss, damage and deterioration en route; (g) open the way for export expansion; and (h) improve safety of road transport and security of people along the corridors.

35. For landlocked developing countries, in particular, it has been found to be important to address the above-mentioned issues concerning transit cooperation with a view to reducing the freight cost of import and export goods and thereby enhance the competitiveness of landlocked developing countries. Table 1 illustrates the excessive high transport costs experienced by landlocked developing countries.

Table 1. Estimates of freight costs for selected African landlocked developing countries as compared to the world average
(in millions of \$US)

Year	Country group	Estimate of freight cost of imports	Value of imports (CIF)	Freight costs as percentage of import value
2003	World average	379.2	7 053	5.4
	<i>Southern Africa</i>			
2002	Malawi	101.0	695	14.5
2000	Zambia	108.6	993	10.9
	<i>Western Africa</i>			
2001	Burkina Faso	92.5	656	14.1
2003	Mali	275.8	1 130	24.4
2003	Niger	117.3	490	23.9
	<i>Eastern Africa</i>			
2003	Burundi	20.9	157	13.3
2004	Rwanda	61.0	284	24.1
2004	Uganda	288.3	1 657	17.4

Source: UNCTAD, *Review of Maritime Transport 2005* (UNCTAD/RMT/2005) and *2006* (UNCTAD/RMT/2006).

36. A brief overview of the five main priorities of the Almaty Programme of Action is given below.⁹

⁹ See the report of the Secretary-General of the United Nations on the implementation of the Almaty Programme of Action (A/61/302).

Priority 1: Fundamental transit policy

37. Landlocked and transit developing countries should review and revise their regulatory frameworks; allow greater participation by the private sector; introduce reforms to make transport providers more responsive to user demands; simplify and increase the transparency of transit and border regulations and streamline administrative procedures; promote the use of information technology; strengthen training programmes, taking full account of environmental and sustainable development aspects; and make use of international conventions on transport and transit, as well as regional and bilateral agreements ratified by the country in question.

Priority 2: Infrastructure development and maintenance

38. Inadequate infrastructure is a primary obstacle to establishing efficient transit transport systems in landlocked and transit developing countries. Addressing infrastructure needs and remedying the deterioration of infrastructure will involve considerable investment, often more than the public sector can afford. This will therefore require the setting-up of public-private partnerships, capacity-building, the introduction of new policies and institutional reform, where necessary. The support of donors, international financial institutions and development assistance agencies remains critical. A prerequisite for success in this task is to focus on regional and subregional cooperation and on providing a sound regulatory and institutional framework.

Priority 3: International trade and trade facilitation

39. A large number of landlocked and transit developing countries are neither engaged sufficiently in international trade nor members of WTO, to the detriment of their development prospects. For landlocked developing countries it is particularly important that issues such as cumbersome border-crossing, customs procedures and documentation requirements are addressed, with a view to reducing transaction costs. International conventions and regional, subregional and bilateral agreements are one of the main tools with which to streamline, simplify and standardize rules and procedures.

Priority 4: International support measures

40. The requirements to establish and maintain an efficient transit transport system are so onerous that landlocked and transit developing countries cannot meet them without help. Both development partners and private partners should play an important role in supporting transit transport development programmes.

Priority 5: Implementation and review

41. The implementation of the programme of action requires individual and concerted efforts by the landlocked and transit developing countries themselves, their development partners and the organizations and bodies of the United Nations system and other intergovernmental institutions. Bilateral, regional and subregional cooperation is the most important factor in establishing efficient transit transport systems and must be promoted on the basis of the mutual interests of both landlocked and transit countries. UNCTAD has been asked to continue to consider programmes in relation to electronic commerce, trade facilitation, trade issues in landlocked and transit developing countries and the Special Programme for the Least Developed, Landlocked and Small Island Developing Countries.

III. Selected examples of transit arrangements and best practices

42. This chapter provides more details on selected examples of the different types of transit transport arrangements which have proven to be successful in overcoming the difficulties of landlocked and transit countries.

A. Regional agreements

ASEAN Framework Agreement on the Facilitation of Goods in Transit

43. The members of ASEAN have decided to create a single market by 2015. To this end, the establishment of a fully harmonized customs environment is a high priority, in line with the ASEAN Customs Vision 2020.

44. A core component of ASEAN customs integration is the implementation of a customs transit system to provide the most efficient environment possible for the movement of goods across national borders. The 1998 ASEAN Framework Agreement on the Facilitation of Goods in Transit will form the basis for the development of the customs transit system, which will allow trader input to be used. The outcome of the project is expected to be the introduction in ASEAN of common legal provisions, regulations and procedures for transit; the use of a single administrative document or declaration covering the whole transit transport system; access to the transit system for all traders who meet the prescribed conditions, though with simplified procedures for experienced bona fide operators; a single security or guarantee provided at departure that will be valid across all the countries in the system; risk-management systems in place, including end-to-end computer control to acquit transactions and goods movements; customs acceptance of controls carried out by members' administrations; and arrangements for mutual assistance.

45. It is expected that the system will operate much like the European Community's customs transit system, including the European Community's computerized customs transit management system.

46. The Lao People's Democratic Republic, the only landlocked developing country in ASEAN, can expect to benefit particularly from the introduction of a customs transit system in ASEAN member States. The customs transit system, together with the existing Framework Agreement on the Facilitation of Goods in Transit, will provide harmonized and simplified procedures for Lao traders and a market-driven choice of transport routes for its foreign trade.

B. Bilateral agreements

Ethiopia-Djibouti

47. Landlocked developing countries are often very dependent on bilateral relations in the area of transit traffic. One example of such dependence is Ethiopia, which, owing to the political situation in the Horn of Africa, is currently using the transit route through Djibouti to gain access to a seaport.

48. Ethiopia's transit transport through Djibouti and the use of the Djibouti port are regulated by the bilateral Agreement on Port Utilization and the Transit of Goods. The agreement is based largely on provisions and regulations from international legal instruments and covers issues such as transit freedom, customs procedures, land transport regulations and requirements, and accreditation of transport operators.

49. The agreement also contains provisions for conflict resolution. Standing committees have been established to deal with problematic issues and complaints, which can be raised through an official consultative arrangement provided for in the agreement.

C. Corridor arrangements

Walvis Bay Corridor Group

50. The Walvis Bay Corridor Group consists of public and private stakeholders along the following four transport corridors in southern Africa, all connecting with the port of Walvis Bay, Namibia:

- (a) Trans-Kalahari corridor (connects with Gaborone, Botswana; Johannesburg, South Africa);
- (b) Trans-Caprivi corridor (connects with Lusaka, Zambia; Harare, Zimbabwe; Lubumbashi, Democratic Republic of the Congo);
- (c) Trans-Cunene corridor (connects with Lubango, Angola);
- (d) Trans-Oranje corridor (connects with Cape Town, South Africa).

51. The Walvis Bay corridor has a multimodal focus, focusing on road and rail transport links as well as logistics operations, port operations and the interface with government and regulatory authorities. The group aims to optimize the reliability of all operations linked to transport along the corridors, and thus reduce transport and transit time and optimize the cost of transport. The group was originally set up pursuant to a memorandum of understanding between the Governments of Botswana, Namibia and South Africa concerning the development of the trans-Kalahari corridor.

52. For each corridor, the stakeholders have analysed the key elements necessary for its successful operation, such as infrastructure, facilitation and communication aspects, and capacity. On that basis, strategies and a number of clearly-defined projects have been formulated for the development, implementation and management of the corridors. The strategies identify funding, training and promotional activities.

53. The Walvis Bay Corridor Group was established in 2000. To give an example of its impact, use of the trans-Kalahari corridor increased from 20 per cent to 60 per cent between 2000 and 2004 and the throughput of containerized cargo in Walvis Bay doubled between 2001 and 2004.

D. International customs transit arrangements

TIR Convention

54. The TIR Convention has over the years proven to be the most successful international customs transit system available. At present, it is in use by around 55 countries, mainly in the pan-European area and Central Asia, and covers around 3 million TIR transit transport operations a year.

55. The principles of customs transit are set out in the World Customs Organization (WCO) International Convention on the Simplification and Harmonization of Customs Procedures (the revised Kyoto Convention), and replicated in the TIR system. This means that the TIR Convention only addresses

the customs component and does not deal with access rights or freedom of transit. The TIR system was originally developed for road transport, but it can also be used for container transport; it is therefore intermodal and can be used for intercontinental transport.

56. The TIR Convention aims, on the one hand, to facilitate international transit transport of goods through the use of a simplified customs procedure that includes suspension of payment of duties and taxes during the transit transport and, on the other hand, to protect customs revenue through the use of an international guarantee system. This dual aim benefits both the national authorities that allow transit transport through their country and the transport operators concerned, since it simplifies procedures for both parties.

57. As compared to other international or regional customs transit systems, the main factor in the success of the TIR system is that it automatically provides a guarantee to the transit country when a transit transport operation is carried out. The absence of such a guarantee has proven to be a stumbling block for many other international or regional customs transit systems. Without a functioning guarantee system, customs transit systems do not provide the full benefits for either national authorities or operators. The guarantee arrangements in the TIR Convention are complex, but basically each transit transport operation under the TIR system is covered by a guarantee of US\$ 50,000. While this financial component is one of the reasons why the TIR system has been successful, the cost to the operator of using the guarantee system, combined with other costs relating to the transport units, has probably prevented the TIR system from having an even wider geographic application around the world. The cost inhibits operators in developing countries in particular from taking advantage of the system.

E. Information and communication technology solutions

58. The use of information and communication technology (ICT) in transport and transit traffic has over the last ten years been very much a requirement for anyone wishing to operate in this field. The electronic submission of documentation has become standard in all modes of transport between manufacturers and carriers on the one hand and between carriers and authorities on the other. The use of “single window” and “corridor platform” ICT systems is today widespread in both developed and developing countries. The use of ICT is to a large extent driven by the trade globalization and the operation of global logistics and supply chains.

59. Many customs authorities use ICT applications such as the UNCTAD Automated System for Customs Data (ASYCUDA) to manage customs transit systems.

60. An obvious target for the use of information and communication technology is in the area of transit corridor management. To reap the full benefits of a corridor arrangement, the processing of data should be automatic, in order to cut down on repetitive operations and waiting times at borders and supervisory authorities. However, this is only possible if the information technology systems of the various parties to the corridor arrangement and the various authorities are compatible. More detailed information on the use of ICT solutions are available in the report of the expert meeting on ICT solutions to facilitate trade at border crossings and ports (TD/B/COM.3/EM.27/3), held in November 2006.

ASYCUDA

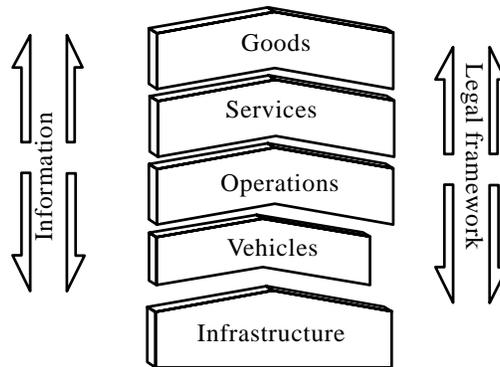
61. ASYCUDA is designed to handle all the main customs-related transactions, from simplifying and harmonizing procedures and formalities and aligning trade documents to risk management, transit operations and expedited clearance of goods, in addition to collecting timely and accurate data for fiscal and trade policy objectives.

62. The two objectives of ASYCUDA are (a) to modernize customs through the computerized automation of most border formalities, in order to expedite the clearance of goods, and (b) to strengthen customs management and control by providing Governments with accurate and timely statistics on customs operations and foreign trade for fiscal revenue and trade policy purposes.

IV. Operational aspects of transit operations

63. Transit transport must comply with the commercial, industrial, health, safety and other norms and regulations of the transit country and must be properly documented (commercial invoice, transport contract, etc.) and packaged. The rules and regulations to be observed are governed by various authorities in the transit country. The main aspects to be considered in a transit operation are listed in figure 1.

Figure 1. Main operational aspects to consider when moving goods



64. Selected legal frameworks and ICT solutions have already been discussed in this paper. International legal instruments governing transit do not usually specify any particular goods in their provisions (although the TIR Convention specifically prohibits the transport of certain tobacco and alcohol products, with a view to protecting the TIR guarantee system from abuse). However, conventions dealing with customs transit, including the TIR Convention, contain provisions that specifically allow a given transit country to apply restrictions and controls imposed under national regulations on grounds of public morality, public security, hygiene or public health, or for veterinary or phytopathological reasons. Such provisions are also replicated in some regional transit arrangements and bilateral arrangements.

65. When designing specific transit arrangements, it is important to understand the composition of transit goods with a view to ensuring the necessary controls and

services are in place along the transit route. This can be done by collecting and analysing data on a landlocked country's export and volumes and flows.

66. With regard to the assessment of infrastructure requirements, a number of international legal instruments provide standards and benchmarks for the design and construction of infrastructure for transport by road, rail and inland waterways.¹⁰

67. When designing and constructing infrastructure to satisfy the demand for capacity on specific transport routes, it is important to know the transport volumes on the route and, in particular, the share of the various modes of transport on the route. For landlocked developing countries, it is particularly important to consider infrastructure development not only at the national level but also along the entire transit corridor used by the landlocked developing country to reach a seaport. The landlocked and transit countries must therefore carry out integrated assessments and analyses together with a view to putting in place the appropriate, correctly dimensioned and interoperable transport infrastructure.

68. Each type of trade has its own requirements as regards the type of vehicle used (truck, vessel or wagon). For each type of vehicle there are specific regulatory and commercial standards to be followed.¹¹ Certain traffic patterns require the use of more than one mode of transport during transit. In such cases, it is necessary to comply with international regulations for combined transport, multimodal transport or intermodal transport. It is, therefore, necessary to take such patterns into consideration when designing transit agreements and corridors.

69. Finally, in the light of all the above-mentioned factors, various regulatory controls (e.g. customs, veterinary or personal controls) and commercial services (e.g. customs brokers, banks or parking facilities) need to be put in place in an integrated and coherent manner. For example, customs and other border controls between neighbouring countries should operate during the same opening hours for the same kind of goods and, ideally, should operate in the same location, following joint procedures so that transport operators can benefit from one-stop operations.

70. To streamline their procedures in this way, landlocked and transit countries can draw on international legal instruments such as the revised Kyoto Convention (1999) or the International Convention on the Harmonization of Frontier Controls of Goods (1982) to help them draw up memorandums of understanding on specific issues and procedures for border-crossings between them.

V. The way forward

71. Regional cooperation arrangements in transit transport are becoming increasingly important, as shown by the initiatives taken in ASEAN, the Greater Mekong subregion, the Common Market for Eastern and Southern Africa (COMESA) and the Andean Community. One of the reasons for this trend is that regional organizations are gradually moving towards closer economic and trade integration, which requires the harmonization of transport, transit and customs procedures.

¹⁰ For example the European Agreement on Main International Railway Lines (AGC), the Intergovernmental Agreement on the Asian Highway Network and the International Agreement on Roads in the Arab Mashreq.

¹¹ For example, for the transport of perishable foodstuffs, many countries use the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP).

72. Transit corridor arrangements are also on the rise in some regions. Corridor arrangements enable all interested partners to work jointly on the implementation of practical transit facilitation measures.

73. The basis for many regional transit arrangements and transit corridor arrangements is provided by international legal instruments, which, in full or in part, are incorporated in many such arrangements. This approach can ensure consistency with the international regulatory framework and interoperability and consistency between different regional and corridor arrangements. Incompatibility between different transit arrangements is one of the risks facing countries and transport operators involved in different arrangements. A plethora of incompatible international legal instruments, regional agreements and corridor arrangements would surely set back the drive towards transport and transit facilitation and would be detrimental to, in particular, landlocked countries.

74. Although a single international instrument covering all aspects of transit transport might appear the ideal solution, as it would avoid possible conflicts between provisions, it would appear to be a distant goal. As a first step towards reaching it, the adoption of some common reference points to be incorporated in regional and bilateral agreements would at least ensure functional compatibilities between different schemes designed to reflect local circumstances and needs.

75. One of the most important elements in the successful implementation of both regional and corridor transit arrangements is the use of information and communication technology to make efficiency gains. ICT solutions in transit arrangements can help make procedures more efficient, thereby avoiding additional costs and increasing the competitiveness of the goods carried, while also ensuring transparency and accountability in the supply chain.

76. Landlocked developing countries stand to benefit particularly from efficient transit arrangements. Regional and corridor transit arrangements could focus specifically on their needs. In particular, corridor transit arrangements provide them with a targeted and not overly bureaucratic approach to the implementation of transit facilitation measures. At the same time, such arrangements can be monitored and measured, which is beneficial for both the public and the private partners involved in and using the corridor.

77. In this context, and taking into account some of the main issues to be addressed in such instruments, the following may emerge as consensual reference points for the design or reform of regional cooperative solutions for landlocked developing countries' transit operations:

- (a) To deal with customs procedures and documentation: annex E of the revised Kyoto Convention provides the most highly recommended and widely agreed way ahead;
- (b) To deal with the freedom of transit of goods: the current revision of article V of GATT 1994 and its expected new provisions in the framework of a WTO trade facilitation agreement offer a global benchmark for the foreseeable future;
- (c) As far as guarantee systems are concerned, if they are required, the TIR system offers a model of an institutional and financial scheme of proven effectiveness in ensuring fiscal security;

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- (d) To address the requirements of physical security of the international supply chain, which undoubtedly affects the transit transport operations of landlocked developing countries' trade, the recently adopted the WCO Framework of Standards to Secure and Facilitate Global Trade is for the time being the only global reference in this field;
 - (e) To deal with free international movement of transport equipment and open cross-border provision of transport services, including personnel and insurance coverage for goods, no international standard exists but some successful examples, notably in South America, might be examined as possible models;
 - (f) As regards the liability of transport operators, the Convention on the Contract for the International Carriage of Goods by Road (CMR) and the Convention concerning International Carriage by Rail (COTIF) are the most widely accepted of the currently available international references;
 - (g) As regards the most efficient way to organize transit transport operations as a whole, transit-transport-corridor management solutions may be found in the current best practices applied in each region;
 - (h) The development of information and communication technology systems to support the overall management of transit transport arrangements, including fiscal and physical security, has yet to find a widely accepted common reference, but some customs systems, such as ASYCUDA, and port-community extended networks have proposed efficient ways to monitor and improve the efficiency of transit operations.

78. The midterm review of the Almaty Programme of Action is an excellent opportunity to look at all these different aspects of the collaborative action that landlocked and transit countries should jointly undertake in the interests of all stakeholders. It also provides a unique opportunity to focus on the most effective solutions and instruments and to make them available to landlocked developing countries.

79. UNCTAD, as part of the international community involved in the implementation of the Almaty Plan of Action, could assist in designing regional solutions based on international standards that would not only cater for local circumstances but would also be compatible with widely recognized de jure or de facto international standards and best practices.
