

PART II: SPECIFIC ANNEX A

Introduction to Specific Annex A

Specific Annex A is divided into two chapters. The first chapter covers the formalities applicable prior to the filing of the declaration and contains 10 standards and 9 recommended practices. The second chapter covers the temporary storage of goods and contains 8 standards and 5 recommended practices. Pakistan has acceded to the first chapter but has not yet acceded to the second chapter.

It should be noted, as pointed out in the Executive Summary of this report, that Article 2 of the RKC provides that a Contracting Party “undertakes...to conform, in accordance with the provisions of this Convention, to the Standards, Transitional Standards and Recommended Practices in the Annexes to this Convention.” Therefore, when a Contracting Party has acceded to a Specific Annex or a chapter of a Specific Annex, it is obligated to implement both the standards and recommended practices contained therein, with the exception of recommended practices for which it has lodged a reservation. Pakistan has not lodged a reservation for any of the recommended practices in the first chapter of Annex A; therefore it is currently bound to implement all standards and recommended practices contained in chapter 1.

Table 5 summarizes the subject matter and number of standards and recommended practices covered by each chapter of Specific Annex A.

Ch. No.	Subject	Standards	Recommended Practices	Total
1	Formalities prior to the lodgement of the Goods Declaration	10	9	19
2	Temporary Storage of Goods	8	5	13
Total		18	14	32

And Table 6 summarizes the overall results of the compliance assessments for each chapter of Annex A, using the scoring system described in Table 1, which may be found in the Executive Summary.

Ch. No.	Category	Compliant	Substantially Compliant	Partially Compliant	Marginally Compliant	Non-Compliant	NA	Total
1	Standards	6	2	1			1	10
	Recommended Practices	5	2	1		1		9
2	Standards	7					1	8
	Recommended Practices	1	3			1		5
Total		19	7	2		2	2	32

As indicated by Table 6, it has been determined that Pakistan’s customs regime appears to be in full compliance with approximately 63% of the standards and recommended practices of Annex A (without taking into account the two standards for which a compliance rating is not applicable). With respect to a standard or recommended practice that has been identified as presenting compliance issues, recommendations are made in the individual assessment for that standard or recommended practice with respect to measures that may be taken to bring the customs regime into compliance. Many of the recommendations relate to suggested changes in national legislation; and others relate to



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suggested modifications to customs practice. If any aspect of the customs regime is modified, some training will need to be provided to the concerned customs personnel.

Chapter 1: Formalities prior to the lodgment of the Goods declaration

Definitions:

Three defined terms are provided at the beginning of Chapter 1 of Specific Annex A, and are to be used to properly understand the meaning of the standards and recommended practices contained in that chapter. As explained in the general discussion of the use of definitions, which is provided in the analysis of Chapter 2 of the General Annex, there is no explicit requirement in the RKC requiring a Contracting Party to adopt into its national legislation the terms and assigned meanings specified in the RKC. However, we note that in some cases it may be difficult for Pakistan to comply with its obligations under the RKC if certain of the customs-specific terms defined in the RKC are not used in Pakistan's customs legislation, or - if such a term is used - it is assigned a meaning that differs materially from that specified in the RKC, which reflects the generally accepted meaning of the term in international practice.

With regard to many of the other terms defined in the RKC that are not customs-specific (or are unique to the RKC, such as the phrase "*customs formalities prior to the lodgment of the Goods declaration*," discussed immediately below) the question is not whether Pakistan's customs legislation uses the same terminology. The question is whether - when reviewing compliance with a specific standard or recommended practice that uses a term defined by the RKC - Pakistan's customs legislation and practice, as a matter of substance, complies with the requirements of such standard or recommended practice, regardless of whether Pakistan's customs legislation and practice uses the same terminology

The three defined terms and associated meanings provided in Chapter 1 of Specific Annex A (and our notes with respect to each) are:

- "cargo declaration" means information submitted prior to or on arrival or departure of a means of transport for commercial use that provides the particulars required by the Customs relating to cargo brought to or removed from the Customs territory;

Note: In the Customs Act, the definition of term 'cargo declaration' has not been specifically provided. However, the terms 'Export General Manifest' and 'Import General Manifest' as defined in section 2 of the Act are equivalent to the expression 'cargo declaration'. The definition of "export manifest" in Section 2(kkk) refers to the export manifest delivered under Section 53(2) which requires the master, at the time of applying for port clearance, to specify all goods to be exported etc. The definition of "import manifest" under Section 2(lb) refers to delivery of an import manifest under Section 43 (vessels) and Section 44 (other conveyances).

Subchapter II of Chapter XVIII of the Customs Rules deals with the arrival and departure of vessels at ports where PACCS is operational. Rule 302 refers to "Cargo Declaration" and "Import General Manifest" interchangeably. According to Rule 418, the Export General Manifest is no longer necessary after PACCS is operational.

Recommendation: It is recommended that the definition of the term "cargo declaration" be considered for possible inclusion Section 2 of the Customs Act; however, acceptance of this recommendation would mean that it would then also need to be introduced in all relevant sections of the Customs Act and terms covering the same concept be removed.

- "carrier" means the person actually transporting goods or in charge of or responsible for the operation of the means of transport;

Note: Section 2(ea) of the Customs Act defines “carrier” in the same terms as the above definition: “carrier” means the person actually transporting goods or in charge of, or responsible for, the operations of the means of transport or the owner thereof;”

Rule 394(c) of the Customs Rules further defines a “carrier” with reference to transporting goods under a bill of lading on vessel and non-vessel operating common carriers.

- *“customs formalities prior to the lodgment of the Goods declaration”* means all the operations to be carried out by the person concerned and by the Customs from the time goods are introduced into the Customs territory until goods are placed under a Customs procedure.

Note: As one might expect, the expression “Customs formalities prior to the lodgment of the Goods declaration” is not defined either in the Customs Act or the Customs Rules. Nonetheless, the formalities are an important aspect of Customs control, the provisions for which are contained in Chapters VII, VIII and IX (sections 42 to 79) of the Act read with Chapter XVIII of Customs Rules, 2001.

1. Standard	Customs formalities prior to the lodgment of the Goods declaration shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.
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Overall Assessment: Not Applicable

Relevant Law:

- [None]

Discussion:

Standard 1 does not establish a requirement that a national customs regime must comply with. It only provides that the customs formalities that take place before the declaration is filed are to be governed by Chapter 1 of Annex A and the applicable provisions of the General Annex.

Conclusion: Any compliance issues with respect to Standard 1 will be identified in the individual compliance assessments for the standards and recommended practices of Chapter 1.

Recommendations: Recommendations are provided in the context of the individual assessments for Chapter 1 whenever compliance with Standard 1 is implicated.

2. Recommended Practice	Customs formalities prior to the lodgment of the Goods declaration should apply equally, without regard to the country of origin of the goods or the country from which they arrived.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Chapter VII, VIII and IX
- The Customs Rules; Chapter XVIII, Rule

Discussion:

Law. In the provisions of the Customs Act, 1969 (the Act) i.e. chapters VII, VIII and IX (sections 42 to 82) of the Act, read with sub-Chapter II of Chapter XVIII of Customs Rules, 2001, there is no restriction of any kind relating to the type of goods or the country of origin/the country from which the goods arrived.

This Recommended Practice does not preclude or discourage the granting of special facilitation measures, such as the reduction of Customs formalities. Rule 402 permits the cargo declaration to be filed 12 hours instead of 18 hours before the estimated time of vessel arrival if the vessel has departed the following ports: Dubai, Jebel Ali, Khor- Fakkan, Salalah, Fujairah, Bandar Abbas, Mumbai, Nhava Sheva, Mundra, Kandla and Mina Qaboos.

Practice: No incident has either been reported or is on record of any Customs port or Customs station to the effect that the customs formalities prior to the lodgment of GD were applied discriminately or prejudicially on the basis of country of origin of the goods or the country from which they arrived.

Resource Persons:

- Mr. Aamir Ahmed, Collector of Customs, MCC PACCS, Karachi.
- Mr. Fazal Yazdani, Collector of Customs, MCC Preventive, Lahore.
- Mr. Javed Iqbal Butt, former Deputy Collector of Customs (law), MCC (Appraisalment), Karachi.
- Mr. Wahid Baksh, former Deputy Collector of Customs, MCC (Appraisalment), Karachi.

Conclusion: The law and practice appear to be in compliance with the Recommended Practice.

Recommendations: No recommendations are deemed necessary at this time.

3. Standard	<p>National legislation shall specify the places at which goods may be introduced into the Customs territory. Only when they consider it necessary for control purposes shall the Customs specify the routes which must be used to convey the goods directly to a designated Customs office or other places specified by the Customs. In determining these places and routes the factors to be taken into account shall include the particular requirements of the trade.</p> <p>This Standard shall not apply to goods on board vessels or aircraft crossing the Customs territory that do not call at a port or airport situated in that Customs territory.</p>
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Overall Assessment: Partially Compliant

Relevant law:

- The Customs Act; Sections 9, 10(a) and 42

Discussion:

Introductory Note: The standard has four elements:

- National legislation shall specify the places at which goods may be introduced into the Customs territory;
- Only when they consider it necessary, Customs shall specify the routes which must be used to convey the goods directly to a designated Customs office or other places specified by the Customs;
- In determining these places and routes, the factors to be taken into account shall include the particular requirements of the trade; and
- The provisions of this Standard shall not apply to goods on board vessels or aircraft crossing the Customs territory that do not call at a port or airport situated in that Customs territory.

Law: Section 9(a) of the Customs Act authorizes the FBR to declare in the Official Gazette places which alone shall be customs-ports or customs-airports for the clearance of goods. Section 9(b) similarly authorizes the FBR to declare customs-stations for goods transported by land. Section 42 of the Customs Act precludes the person in charge of a conveyance from calling or landing at any place when entering Pakistan other than at a customs-station (which is defined in Section 2 to include customs-ports and customs-airports).

The following SROs specify the location of customs-ports, customs-airports and customs-stations:

- SRO 1250(I)/73 of 24 August 1973
- SRO 101(I)/83 of 12 February 1983
- SRO 102(I)/83 of 12 February 1983
- SRO 104(I)/83 of 12 February 1983
- SRO 108(I)/83 of 12 February 1983
- SRO 1134(I)/86 of 30 December 1986
- SRO 210(I)/92 of 16 March 1992

Section 9(c) of the Customs Act authorizes the FBR to declare routes by which goods may pass by land or inland waterway into or out of Pakistan, or to or from any land customs-station. The subsection does not set any conditions or criteria for declaring such routes. SRO 102(I)/83 specifies rail and road routes connecting India with Pakistan, Pakistan with Iran, Pakistan with China and Pakistan with Afghanistan.

The final sentence of the standard refers to ships and aircraft crossing Pakistan airspace or within the coastal waters of its customs territory without stopping.

Practice: According to the resource persons specified below, any consultation between the trading community and Customs over location of customs stations and designation of routes takes place in a random informal manner.

Resource Persons:

- Mr. Mohammad Yahya, Chief Collector (South), Customs House, Karachi
- Dr. Arslan Subaktagin, Collector of Customs, MCC, Gwadar

Conclusion: The Customs Act does specify the location of places at which goods may be introduced into the customs territory; i.e. customs stations. However, legislation sets no conditions for determining the location of customs-stations or routes – and hence the interests of the trading community are not formally taken into consideration by Customs when determining location. There is no express or implied intention in law or in practice to designate routes only when considered necessary by Customs. Therefore, the law and practice are in partial compliance with the standard.

Recommendations: Customs should formally review the necessity of routes already designated and should issue a new Customs Rule setting out the criteria for determining the location of routes and customs station.

4. Standard	The carrier shall be held responsible to the Customs for ensuring that all goods are included in the cargo declaration or are brought to the attention of the Customs in another authorized manner.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Sections 45 and 156(1) (23),(24),(41)&(42)

Discussion:

Law: Sub-section (1) of Section 45 of the Act requires the cargo declaration to be signed by the person-in-charge of the conveyance or his duly authorized agent and to specify all goods imported on the conveyance showing separately all goods, if any, intended to be landed, transshipped, transited or taken into another customs-station or to a destination outside Pakistan, etc.

Clause 23 of sub-section (1) of section 156 of the Act subjects the person delivering the manifest to penalty of up to 25,000 Rupees if the manifest is not signed or in the form required or does not contain the required particulars, including a true specification of all goods to be imported or exported. Clause 24 of sub-section (1) of section 156 of the Act subjects the person-in-charge-of the conveyance to a penalty of twice the duties of missing goods, or up to 15,000 Rupees per missing package or the value of any bulk goods if any goods entered in the cargo declaration are not found on the conveyance or the quantity of any goods is short.

Clause 40 of sub-section (1) of section 156 of the Act subjects the person-in-charge of any conveyance to a maximum penalty of 25,000 Rupees if any goods unloaded are not entered in the cargo declaration. Clauses 41 and 42 subjects goods that are concealed or otherwise not disclosed in the cargo declaration to confiscation.

Practice: According to the resource persons specified below, all customs offices are handling imports in accordance with these provisions of the Act. The law and the practice appear to be in compliance with the standard.

Resource Persons:

- Mr. Muhammad Nasir Khan, Collector (Appeals), Islamabad
- Mr. Javed Iqbal Butt, Former Deputy Collector of Customs (Law), MCC Appraisement, Karachi
- Mr. Shamim, Senior Preventive Officer, MCC (Preventive), Karachi

Conclusion: The law and practice appear to be in compliance with the standard.

Recommendations: No recommendations are deemed necessary at this time.

5. Standard	The fact of having introduced goods into the Customs territory shall entail the obligation for the carrier to convey them directly using designated routes, where required, and without delay to a designated Customs office or other place specified by the Customs. In doing so the nature of the goods or their packaging shall not be altered nor shall any seals be interfered with. This Standard shall not apply to goods on board vessels or aircraft crossing the Customs territory that do not call at a port or airport situated in that Customs territory.
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Overall Assessment: Substantially Compliant

Relevant Law:

- The Customs Act; Section 42
- The Customs Rules; Rule 399

Discussion:

Law: Subsection (1) of Section 42 of the Customs Act precludes the person in charge of a conveyance from calling or landing at any place when entering Pakistan other than at a customs-station (which is defined in Section 2 to include customs-ports and customs-airports). The proviso to Subsection (2) of Section 42 requires the person-in-charge of a conveyance en route to Pakistan to either provide to Customs pre-arrival information concerning the conveyance or having arrived within Pakistan “*proceed directly*” to the customs-station at which it will arrive unless directed elsewhere by Customs.

Rule 399 requires all containers except empty or one-door-off containers arriving in or leaving Pakistan to bear seals.

Practice: According to the resource persons specified below, the practice follows the law referenced above. In practice, conveyances enter Pakistan and land directly at a customs-station except at Khunjarab on the China-Pakistan border where the customs station is 80 KM inland within Pakistan.

Resource Persons:

- Mr. Javed Iqbal Butt, Former Deputy Collector of Customs (Law), MCC Appraisement, Karachi
- Mr. Shamim Akhtar, Senior Preventive Officer, MCC (Preventive), Karachi

Conclusion: The law and practice are substantially in compliance with the standard.

Recommendations: Article 42 of the Customs Act should be amended to require that interference with packaging and seals on goods entering Pakistan and en route to the relevant customs office is prohibited.

6. Standard	Where the conveyance of the goods from the place of their introduction into the Customs territory to a designated Customs office or other specified place is interrupted by accident or force majeure, the carrier shall be required to take reasonable precautions to prevent the goods from entering into unauthorized circulation and to advise the Customs or other competent authorities of the nature of the accident or other circumstance which has interrupted the journey.
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Overall Assessment: Compliant

Relevant Law: The Customs Act; Sections 42 and 156(l)(25)

Discussion:

Law: Sub-section (2) of Section 42 of the Act provides that the officer-in-charge of a vessel compelled by accident, stress of weather or other unavoidable cause to call or land at a place other than a customs-station, to immediately report its arrival to the nearest Customs or police officer and not permit the unloading of any goods, crew or passengers.

Practice: According to the resource persons specified below, the practice follows the law as stated in the above-referenced provisions.

Resource Persons:

- Mr. Javed Iqbal Butt, Former Deputy Collector of Customs (Law), MCC Appraisement, Karachi.
- Mr. Shamim Akhtar, Senior Preventive Officer, MCC (Preventive), Karachi.

Conclusion: The law and practice appear to be in compliance with the standard.

Recommendations: No recommendations are deemed necessary at this time.

7. Recommended Practice	Where the Customs office at which the goods are to be produced is not located at the place where the goods are introduced into the Customs territory, a document should be required to be lodged with the Customs at that place only when the Customs consider it necessary for control purposes.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act; Section 42-45, and 48

Discussion:

Introductory Note: The recommended practice provides that, when goods are introduced into the customs territory at a customs office that is not the same as the customs office at which they will be produced, the initial customs office (the one where the goods are introduced into the customs territory) should only require a document to be filed when it is necessary for control purposes.

Law: Sections 42-45 require an import manifest to be delivered or filed electronically upon with respect to *all* goods at the customs station where they are introduced into the customs territory. And Section 48 authorizes customs officers at such a customs station to require additional documents and places no limitations on that authority.

Practice: According to the resource persons specified below, the practice follows the law as stated in the above-referenced provisions. However, it should be noted that truck drivers and freight forwarders are not required to file any document when entering Pakistan at Khunjarab on the China-Pakistan border before proceeding to the customs station 80 KM inland.

Resource Persons:

- Mr. Javed Iqbal Butt, Former Deputy Collector of Customs (Law), MCC Appraisement, Karachi
- Mr. Shamim Akhtar, Senior Preventive Officer, MCC (Preventive), Karachi
- Raja Karamat Hussain, Superintendent Customs, MCC Islamabad

Conclusion: The law and practice appear to be only in partial compliance with the recommended practice.

Recommendations: It is suggested that Sections 43, 44 and 48 be amended to comply with the recommended practice. In particular, Section 48 should allow a customs officer to require documents only when, in the exercise of reasonable judgment, he considers it necessary for control purposes.

8. Standard	Where the Customs require documentation in respect of the production of the goods to the Customs, this shall not be required to contain more than the information necessary to identify the goods and the means of transport.
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Overall Assessment: Substantially Compliant

Relevant Law: The Customs Act; Sections 42-45, and 48

Discussion:

Law: As discussed under Recommended Practice 7, Sections 42-45 of the Customs Act do not generally require any documentation other than the import manifest and a pre-arrival document for vessels. Section 48 authorizes a customs officer to require certain additional; but the specified documents that relate to the goods are those related to the identification of the goods.

Practice: According to the resource persons specified below, the practice follows the law as stated in the above-referenced provisions.

Resource Persons:

- Mr. Faiz Ali, Additional Collector of Customs, MCC, Gilgit-Baltistan
- Mr. Mahabat Khan Mandokhel, Assistant Collector of Customs, Land Customs Station, Chaman, MCC, Quetta
- Mr. Aslam Zubair, Deputy Superintendent, MCC, Quetta
- Mr. Javed Iqbal Butt, Former Deputy Collector of Customs (Law), MCC Appraisement, Karachi
- Mr. Shamim Akhtar, Senior Preventive Officer, MCC (Preventive), Karachi
- Raja Karamat Hussain, Superintendent Customs, MCC (Islamabad), at present posted at (Sust) Gilgit

Conclusion: The law and practice are in substantial compliance with the standard.

Recommendations: See the recommendations under Recommended Practice 7.

9. Recommended Practice	The Customs should limit their information requirements to that available in carriers' normal documentation and should base their requirements on those set out in the relevant international transport agreements.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Sections 42-45, and 48
- The Customs Rules; Rules 400, 402, 407, 408 and 409

Discussion:

Law: Section 42 of the Customs Act provides for persons-in-charge of vessels to submit a Vessel Intimation Report (VIR) to Customs. Rule 400 requires vessel owners or their agents to submit an online version of the VIR through PACCS 15 days prior to vessel arrival. Appendix I to Sub-Chapter II of Chapter XVIII of the Customs Rules sets out 28 fields of information describing the vessel that are required to be included in the VIR. Appendix II sets out further information required identifying the crew and passengers to be provided 24 hours before arrival.

Sections 43 and 44 require persons-in-charge of vessels and other conveyances to deliver or file electronically import manifests. Section 45 of the Act provides that import manifests shall separately identify goods intended to be landed, transshipped, transited, or consumed on the outward journey. Rule 402 requires the import manifest to be filed online once receipt of the VIR is confirmed. Appendix III to Sub-Chapter II of Chapter XVIII of the Customs Rules sets out the detailed information required in an import manifest describing containerized and bulk cargo.

Rules 407, 408 and 409 provide for the submission of a Vessel Store Declaration, Crew and Passenger List and Crew and Passenger Effects List respectively.

Practice: The resource persons below comment that Customs does not require more information than is already possessed by the carrier in their ordinary course of business. Customs is adhering to information guidelines set by the ICAO Convention (1944) and the Hague Visby Rules - although Pakistan has not acceded to these conventions. The Hague Visby Rules are now being used to draft new rules for Pakistan. The practice follows the law referred to above.

Resource Persons:

- Mr. Zubair Shah, Secretary FBR (former) Deputy Collector of Customs, MCC Appraisalment, Peshawar
- Mr. Javed Iqbal Butt, Former Deputy Collector of Customs (Law), MCC Appraisalment, Karachi
- Mr. Shamim Akhtar, Senior Preventive Officer, MCC (Preventive), Karachi
- Raja Karamat Hussain, Superintendent Customs, MCC (Islamabad), at present posted at (Sust) Gilgit

Conclusion: The law and practice appear to be in compliance with the recommended practice.

Recommendations: No recommendations are deemed necessary at this time.

10. Recommended Practice	The Customs should normally accept the cargo declaration as the only required documentation for the production of the goods.
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Overall Assessment: Not Compliant

Relevant Law:

- The Customs Act; Sections 42-45, 150 and 151
- The Customs Rules; Chapter XVIII

Discussion:

Introductory Note: The production of goods refers to placing goods under Customs control once goods have been unloaded at the port or customs-station after the import manifest is filed.

Law: Section 42 of the Customs Act requires the person-in-charge of a conveyance to submit details of the crew, passengers, cargo and arrival time required to Customs before the arrival of the conveyance. Customs has prescribed such details for vessels in Rule 400 and Appendix I of Chapter XVIII of the Customs Rules (Vessel Intimation Report).

In addition, Sections 43-45 require persons-in-charge of vessels and other conveyances, respectively, to submit import manifests (cargo declarations) to Customs.

Practice: The practice follows the above stated provisions of law.

Resource Persons:

- Mr. Javed Iqbal Butt, Former Deputy Collector of Customs (Law), MCC Appraisement, Karachi.
- Mr. Shamim Akhtar, Senior Preventive Officer, MCC (Preventive), Karachi.

Conclusion: Since vessels have to submit both a Vessel Intimation Report and an import manifest (cargo declaration) to Customs, then customs law and practice is not compliant with the recommended practice.

Recommendations: Sections 43-45 of the Customs Act should be amended to comply with the recommended practice.

11. Recommended Practice	The Customs office responsible for the acceptance of the documentation required for the production of the goods should also be competent for acceptance of the Goods declaration.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Sections 42, 43, 44 and 79
- The Customs Rules; Rules 400 and 402

Discussion:

Introduction: The production of goods refers to placing goods under Customs control once goods have been unloaded at the port or customs-station after the import manifest is filed.

Law: the Customs Act leaves the determination of the form and manner of submission of documents to Customs to the decision of the Collector (regarding VIRs under Section 42(2)(a)) or to the Board (regarding vessel import manifests under Section 43). Section 44 provides for the person-in-charge of a conveyance, other than a vessel, to submit an import manifest to the appropriate officer after arrival at a customs-stations or customs-airport.

Rule 400 provides for the vessel VIR to be filed online through PACCS. Rule 402 provides for the import manifest (cargo declaration) to also be filed online through PACCS. Section 79 of the Customs Act permits the owner of the goods to assess and pay his duties and taxes online through PACCS.

Practice: Almost all traders and their agents submit documents electronically to Customs. PACCS sends all documents to the relevant customs offices. Of documents submitted manually, VIRs, import manifests and goods declarations are all submitted to the same Customs office – the customs-station where the goods are unloaded.

Resource Persons:

- Mr. Javed Iqbal Butt, Former Deputy Collector of Customs (Law), MCC Appraisement, Karachi
- Mr. Shamim Akhtar, Senior Preventive Officer, MCC (Preventive), Karachi
- Raja Karamat Hussain, Superintendent Customs, (Sust) Gilgit

Conclusion: The law and practice appear to be in compliance with the recommended practice.

Recommendations: No recommendations are deemed necessary at this time.

12. Recommended Practice	Where the documents produced to the Customs are made out in a language which is not specified for this purpose or in a language which is not a language of the country into which the goods are introduced, a translation of the particulars given in those documents should not be required as a matter of course.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Section 155N

Discussion:

Law: Section 155N of the Act empowers a Customs officer, but does not require him, to ask for an authentic translation of any document presented to him if it is written in a foreign language other than English.

Practice: The existing practice is in accordance with the law as translation of documents is only sought when needed for determining the classification of goods etc. But it is not required as a matter of course.

Resource Persons:

- Mr. Mohammad Yaqoob Mako, Additional Collector of Customs, Karachi Airport, MCC, Karachi
- Mr. Anwar Hussain, former Senior Preventive Officer, MCC (Preventive), Custom House, Karachi
- Raja Karamat Hussain, Superintendent Customs, (Sust) Gilgit
- Mr. Shamim Akhtar, Senior Preventive Officer, MCC (Preventive), Karachi

Conclusion: The law and practice appear to be in compliance with the recommended practice.

Recommendations: No recommendations are deemed necessary at this time.

13. Standard	The Customs shall specify the precautions to be taken by the carrier to prevent the goods from entering into unauthorized circulation in the Customs territory when they arrive at a Customs office outside working hours.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Sections 42, 47, 62, 64, 66, 69 and 70

Discussion:

Law: Section 65 of the Act provides that “where the Customs Computerized System is in operation, all loading and discharge may be allowed by the Collector of Customs round the clock and on all days of the week”. Almost all Customs offices have been connected to PACCS, and remaining offices will be connected shortly, permitting goods arriving at any time of the day or night to be unloaded. This minimizes the risk of goods entering into unauthorized circulation.

Furthermore, the provisions of Sections 42, 47, 62, 69 and 70 provide for the following precautions:

- Not to unload goods except at a Customs station (Section 42 (2) (b))
- Not to unload or load except in approved places (Section 66)
- Immediately report any accident to Customs (Section 42 (2)).
- Not to break bulk without permission of Customs (Section 47)
- Not to unload goods until allowed by Customs (Section 42 (2) (b)).
- Not to unload or load a vessel except in presence of an officer (Section 64)
- To comply with any direction given by any officer (Section 42 (2) (c))
- Customs officer may mark, seal, search any goods onboard a conveyance (Section 62)
- Water-born goods to be landed or shipped without unnecessary delay (Section 69)
- No goods shall be transhipped from one boat to another without the permission of an officer (Section 70)

Practice: The practice is in accordance with existing law. On the mooring of a vessel arrival, the officer boards the ship and takes control of stocks and stores, etc. The gang way is monitored and breaking of bulk is not allowed till delivery of the import manifest. If goods arrive at a land border with no customs-stations, e.g. in Sust, outside of working hours, a mobile Customs Squad monitors the goods and the conveyance.

Resource Persons:

- Mr. Mohammad Yaqoob Mako, Additional Collector of Customs, Karachi Airport, MCC, Karachi
- Mr. Anwar Hussain, former Senior Preventive Officer, MCC (Preventive), Custom House, Karachi
- Raja Karamat Hussain, Superintendent Customs, (Sust) Gilgi
- Mr. Shamim Akhtar, Senior Preventive Officer, MCC (Preventive), Karachi

Conclusion: The law and practice appear to be in compliance with the standard.

Recommendations: No recommendations are deemed necessary at this time.

14. Recommended Practice	At the request of the carrier, and for reasons deemed valid by the Customs, the latter should, insofar as possible, allow the Customs formalities prior to the lodgment of the Goods declaration to be accomplished outside the designated hours of business of the Customs.
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Overall Assessment: Substantially Compliant

Relevant Law:

- The Customs Act; Section 44
- The Customs Rules; Rule 402

Discussion:

Law: No legislative provision permits a carrier to request Customs to permit the carrier to complete Customs formalities prior to submission of the goods declaration outside of designated Customs business hours. However, the only such formality required with respect to all conveyances is the submission of the import manifest. Rule 402 provides for import manifests to be filed electronically before the arrival of any vessel at a customs-port. Section 44 of the Act provides for the import manifest to be filed electronically before arrival or within 24 hours after arrival of goods at a land customs-station or customs airport.

Practice: The majority of customs clearance and submission of documents is conducted electronically via PACCS. PACCS is expected to be operational at all customs stations by the end of 2014.

Resource Persons:

- Ms. Naureen Tarar, Additional Collector of Customs Wahga, MCC (Preventive) Lahore
- Mr. Shafiq-ur-Rehman, Deputy Collector of Customs, Wahga, MCC, (Preventive), Lahore
- Raja Karamat Hussain, Superintendent Customs, (Sust) Gilgit

Conclusion: The law and practice are substantially compliant with the recommended practice. When PACCS is operational at all customs-stations law and practice will be fully compliant with the recommended practice - import manifests will be able to be filed with Customs 24 hours a day, eliminating the need for any carrier to request completion of formalities outside of Customs operating hours.

Recommendations: It is recommended that PACSS be made operational at all customs-stations as soon as possible.

15. Standard	National legislation shall specify the places which are approved for unloading.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Section 10
- SROs listed below

Discussion:

Section 10 of the Customs Act authorizes the FBR to approve proper places in any customs-station for the loading and unloading of goods or any class of goods.

Some of the notifications issued under Section 10 of the Customs Act are listed below:-

(i)	SRO NO.109(I)83 dated 12-02-1983	Proper place of Port of Karachi
(ii)	SRO No.110(I)83 dated 12-02-1983	Pasni, Gwadar. Port Bin Qasim, Karachi
(iii)	SRO NO.232(I)85 dated 12-03-1985	Shaheen Airport Services, Karachi
(iv)	SRO NO.673(I)85 dated 04-07-1985	Customs Port, (Sumbrial) Sialkot
(v)	SRO NO.617(I)86 dated 26-06-1986	Peshawar Customs Port Cantt: Railway Station
(vi)	SRO NO.1185(I)93 dated 08-12-1993	Airport M/S Gerry International, Karachi
(vii)	SRO NO.15(I)94 dated 08-01-1994	Customs Port Faisalabad
(viii)	SRO NO.28(I)94 dated 10-01-1994	Customs Airport, Islamabad
(ix)	SRO NO.955(I)95 dated 25-09-1995	Customs Port N. L.C. Amangarh, Nowshera
(x)	SRO NO.526(I)2000 dated 27-07-2000	Port M.Bin Qasim
(xi)	SRO NO.190(I)2001 dated 21-03-2001	Peshawar Airport
(xii)	SRO NO.286(I)2003 dated 20-03-2003	Allama Iqbal International Airport, Lahore
(xiii)	SRO NO.381(I)2003 dated 02-05-2003	New Terminal Allama Iqbal International Airport, Lahore
(xiv)	SRO NO.1131(I)2003 dated 29-12-2003	PTA Container Station M/S Ibraheem Fibers Ltd Jaranwala Distt: Faisalabad
(xv)	SRO NO.764(I)2004 dated 03-09-2004	Multan Dry Port
(xvi)	SRO NO.904(I)2005 dated 03-09-2005	Margala Railway Station, Islamabad
(xvii)	SRO NO.1127(I)2005 dated 10-11-2005	Sargodha Export Terminal

Practice: According to the resource persons specified below, the practice is in accordance with the law.

Resource Persons:

- Mr. Shafiq-ur-Rehman, Deputy Collector of Customs, Wahga, MCC, (Preventive), Lahore
- Raja Karamat Hussain, Superintendent Customs, (Sust) Gilgit
- Mr. Anwar Hussain, former Senior Preventive Officer, MCC (Preventive), Custom House, Karachi
- Mr. Shamim Akhtar, Senior Preventive Officer, MCC (Preventive), Karachi

Conclusion: It appears that the law and the practice are compliant with the standard.

Recommendations: No recommendations are deemed necessary at this time.

16. Recommended Practice	At the request of the person concerned, and for reasons deemed valid by the Customs, the latter should allow goods to be unloaded at a place other than the one approved for unloading.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Sections 66 and 78
- SRO 371(I)/2002 of 15 June 2002

Discussion:

Law: Section 66 of the Customs Act provides for the appropriate officer to give permission in writing for imported goods to be unloaded or goods to be exported, loaded, at a place other than a place duly approved. The appropriate officer is listed in SRO 371(I)/2002. Section 78 provides for an agent of the vessel master or person-in-charge of a conveyance to receive goods at the customs-house or specified landing place, or at any landing place belonging to the port or other public body, or giving it another person approved by the Collector of Customs.

Practice: In actual practice, when the competent authority is satisfied that a customs function relating to goods clearance needs to be performed outside the designated places for imports, exports and passenger clearance, it is allowed.

Resource Persons:

- Dr. Wasif Ali Memon, Collector of Customs, MCC Exports, Karachi
- Dr. Nadeem Memon, Additional Collector of Customs, MCC, Karachi
- Mrs. Zeba Hai, Collector of Customs, Appraisal, MCC, Lahore

Conclusion: It appears that the law and the practice are compliant with the recommended practice.

Recommendations: No recommendations are deemed necessary at this time.

17. Standard	The commencement of unloading shall be permitted as soon as possible after the arrival of the means of transport at the place of unloading.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Sections 47, 69, 73, 74 and 78

Discussion:

Law: Section 47 of the Customs Act requires the import manifest be delivered and an order for entry of the vessel be given before the vessel may break bulk. Section 69 of the Act requires all goods water-borne to be “landed or shipped without unnecessary delay”. Section 73 of the Act permits a vessel to unload once an order for entry inwards of the vessel or a special pass to break bulk has been issued. Section 74 permits the person-in-charge of a conveyance, once the import manifest has been delivered, to take the conveyance to the examination station at the customs station and remove all goods in the presence of a Customs officer. Section 78 provides that an appropriate officer may declare in the official Gazette that a vessel master or person-in-charge of a conveyance may discharge goods into the custody of their agent *immediately* upon receipt of an order or special pass.

Practice: The practice follows the law and the standard. Port authorities and Customs permit goods to be unloaded as soon as possible after the arrival of the conveyance at the place of unloading in order to avoid port congestion and additional fees

Resource Persons:

- Raja Karamat Hussain, Superintendent Customs, (Sust) Gilgit.
- Mr. Anwar Hussain, former Senior Preventive Officer, MCC (Preventive), Custom House, Karachi.
- Mr. Shamim Akhtar, Senior Preventive Officer, MCC (Preventive), Karachi.

Conclusion: It appears that the law and the practice are compliant with the standard.

Recommendations: No recommendations are deemed necessary at this time.

18. Recommended Practice	At the request of the person concerned and for reasons deemed valid by the Customs, the latter should, in so far as possible, allow unloading to proceed outside the designated hours of business of the Customs.
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Overall Assessment: Substantially Compliant

Relevant Law:

- The Customs Act; Section 65
- SRO 113(I)/83 dated 12 February 1983

Discussion:

Law: Section 65 of the Act authorizes the appropriate officer to give permission for goods to be unloaded at a customs station on a public holiday or outside of Customs operating hours. A recent enacted proviso to Section 65 also provides that where PACCS is in operation all loading and discharge may take place 24 hours a day – i.e. at any time the relevant unloading facility and customs station are open and operating.

Practice: PACCS will soon operate at all customs stations, but only port customs stations currently operate 24 hours a day. Land customs stations at Chaman, Sust, Torkham, and Wahga have limited operating times and trucks cannot be unloaded outside of these times even if the import manifest is submitted online prior to arrival of the truck with the goods. Exact operating times for Customs operations, including unloading of goods, are strictly observed per local conditions and by the mutual understanding of Customs administrations of Pakistan and the relevant neighboring country. Inward rail cargo is not unloaded from trains but is instead examined on the wagons.

Resource Persons:

- Raja Karamat Hussain, Superintendent Customs, (Sust) Gilgit
- Mr. Shamim Akhtar, Senior Preventive Officer, MCC (Preventive), Karachi
- Mr. Anwar Hussain, former Senior Preventive Officer, MCC (Preventive), Karachi

Conclusion: It appears that Section 65 permits carriers to apply to Customs to have their goods unloaded outside of Customs operating hours. But, currently, 24 hour a day unloading of vessels takes place only at ports. However, limited operating hours are strictly enforced at land customs-stations, even though it is possible for loading to proceed outside such hours. Therefore, the practice is only substantially compliant with the recommended practice.

Recommendations: The possibility for allowing unloading to proceed outside the designated hours of operation at land customs stations should be implemented in practice.

19. Standard	Any expenses chargeable by the Customs in connection with : <ul style="list-style-type: none"> • Accomplishment of Customs formalities prior to the lodgement of the Goods declaration outside the designated hours of business of the Customs; • Unloading goods at a place other than the one approved for unloading; or • Unloading goods outside the designated hours of business of the Customs, shall be limited to the approximate cost of the services rendered.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Sections 18D, 65 and 200
- Customs Rules; Rule 402

Discussion:

Law: Section 18D of the Customs Act authorizes Customs to set fees for any service or activity it performs. Section 65 of the Act authorizes the FBR to set a fee for unloading or loading goods outside of Customs operating hours. Section 200 provides that the importer shall bear all expenses related to preparing goods for examination by Customs. Rule 402 provides that electronic submission 24 hours a day of a vessel import manifest is free of charge.

Practice: Legislation does not provide guidance that fees should be no greater than the cost of service. However, all Customs fees are nominal and are less than the cost of service.

Resource Persons:

- Raja Karamat Hussain, Superintendent Customs, (Sust) Gilgit
- Mr Shamim Akhtar, Senior Preventive Officer, MCC (Preventive), Karachi
- Mr Anwar Hussain, former Senior Preventive Officer, MCC (Preventive), Custom House, Karachi

Conclusion: Any fees charged under Sections 18D, 65 or 200 for the performance of Customs functions outside of designated operating hours or outside of designated landing places are less than the cost of service. Therefore, law and practice are in compliance with the recommended practice.

Recommendations: FBR/Customs may consider increasing fees to reflect their cost of service.

Chapter 2: Temporary Storage of Goods

Definitions:

Two defined terms are provided at the beginning of Chapter 2 of Specific Annex A, and are to be used to properly understand the meaning of the standards and recommended practices contained in that chapter. As explained in the general discussion of the use of definitions provided under Chapter 2 of the General Annex of this report, there is no explicit requirement in the RKC requiring a Contracting Party to adopt into its national legislation the terms and assigned meanings specified in the RKC. However, we note that in some cases it may be difficult for Pakistan to comply with its obligations under the RKC if certain of the customs-specific terms defined in the RKC are not used in Pakistan's customs legislation, or - if such a term is used – it is assigned a meaning that differs materially from that specified in the RKC, which reflects the widely accepted meaning in international practice.

With regard to many of the other terms defined in the RKC that are not customs-specific (or are unique to the RKC), the question is not whether Pakistan's customs legislation uses the same terminology. The question is whether – when reviewing compliance with a specific standard or recommended practice that uses a term defined by the RKC - Pakistan's customs legislation and practice, as a matter of substance, complies with requirement of such standard or recommended practice, regardless as to whether Pakistan's customs legislation uses the same terminology

The two defined terms and associated meanings provided in Chapter 1 of Specific Annex A (and our notes with respect to each) are:

- "Cargo declaration" means information submitted prior to or on arrival or departure of a means of transport for commercial use that provides the particulars required by the Customs relating to cargo brought to or removed from the Customs territory;

Note: This same term and associated definition are substantively identical to that provided in Chapter 1. Therefore, see the note for this defined term under the definitions section of Chapter 1 above.

- "Carrier" means the person actually transporting goods or in charge of or responsible for the operation of the means of transport;

Note: Section 2(ea) of the Customs Act defines "carrier" in the same terms as the above definition: "carrier" means the person actually transporting goods or in charge of, or responsible for, the operations of the means of transport or the owner thereof;" Rule 394(c) of the Customs Rules further defines a "carrier" with reference to transporting goods under a bill of lading on vessel and non-vessel operating common carriers.

- "Temporary storage of goods" means the storing of goods under Customs control in premises and enclosed or unenclosed spaces approved by the Customs (hereinafter called temporary stores) pending lodgment of the Goods declaration.

Note: Pakistan's Customs regime does not expressly define "temporary storage of goods". Section 2(i) of the Customs Act defines "customs area" to include "any area in which imported goods or goods for export are ordinarily kept before clearance by the customs authorities;" FBR has issued various notifications that specify places for storing goods within customs areas pending submission of the declaration. And the FBR has issued licenses to public and private entities to maintain and secure such storage areas.

Principles

1. Standard	Temporary storage of goods shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.
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Overall Assessment: Not Applicable

Relevant Law:

- [None]

Discussion:

Standard 1 of Chapter 2 of Specific Annex A does not establish a requirement that a national customs regime must comply with. It only provides that the temporary storage of goods shall be governed by the provisions of this chapter and the applicable provisions of the General Annex.

Conclusion: Any compliance issues with respect to Standard 1 will be identified in the individual compliance assessments for the standards and recommended practices of Chapter 2.

Recommendations: Recommendations are provided in the context of the individual assessments for Chapter 2 whenever compliance with Standard 1 is implicated.

2. Standard	The Customs shall authorize the establishment of temporary stores whenever they deem it necessary to meet the requirements of the trade.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Sections 2(i) and 10
- SROs issued under Section 10 of the Customs Act

Discussion:

Law: Section 2 (i) of the Customs Act, 1969, has defined 'customs-area' to mean 'the limits of the customs-station specified under section 10 and includes any area in which imported goods or goods for export are ordinarily kept before clearance by the customs authorities'. Pursuant to section 10 of the Act, FBR/Customs have issued various notifications, including Notification SRO 1185(I)/93, dated 06-12-1993 and 28(I)/94, dated 10-01-1994, whereby at each Customs station, establishment of temporary stores has been authorized by the Customs.

Furthermore, Rule 556(a)(2) of the Customs Rules 2002 requires the terminal operator to store all goods, cargo and containers in areas within the terminal approved by the Collector after verification by the technical team. Terminal operators may also apply to temporarily store containers within a secure area inside the PACCS terminal or customs port and approved by the Collector after verification by the technical team.

The main notifications issued under Section 10 of the Customs Act are specified below:

S.No.	Notification No. & Date (Under Section)	Appointment (Declaration) of Customs Ports / Approval of Proper places
1	SRO NO.109(I)83 dated 12-02-1983	Approval of Proper places in Karachi Customs Port for loading and unloading of certain classes of goods.
2	SRO No.110(I)83 dated 12-02-1983	Approval of Proper Places in the Customs Ports for loading and unloading of certain classes of goods at Pasni, Gwadar, Port Bin Qasim, Karachi .
3	SRO NO.232(I)85 dated 12-03-1985 0	Approval of Proper Places at Karachi International Airport for loading and unloading of certain goods at godown of Shaheen Airport Services, Karachi
4	SRO NO.673(I)85 dated 04-07-1985	Specification of loading & unloading places in the Customs Port, (Sumbrial) Sialkot for certain classes of goods.
4	SRO NO.617(I)86 dated 26-06-1986	Approval of proper place at Peshawar Customs Port for loading and unloading of goods.
6	SRO NO.1185(I)93 dated 08-12-1993	Approval of proper place at Karachi Airport for the purpose of loading and unloading of general Air Cargo Handled by M/S Gerry International, Karachi.
7	SRO NO.15(I)94 dated 08-01-1994	Approval of proper place in the Customs Port Faisalabad for loading and unloading of various goods.
8	SRO NO.28(I)94 dated 10-01-1994	Approval of proper place in the Customs Airport, Islamabad for loading and unloading of goods.
9	SRO NO.955(I)95 dated 25-09-1995	Declaration of Container Freight Station owned and by National Logistic Cell at Amangarh, District Nowshera N.W.F.P. to be Customs for clearance of goods imported or to be exported.
10	SRO NO.526(I)2000 dated 27-07-2000	Specification of limits of the Customs Port of Port Muhammad Bin Qasim.

S.No.	Notification No. & Date (Under Section)	Appointment (Declaration) of Customs Ports / Approval of Proper places
11	SRO NO.190(I)2001 dated 21-03-2001	Approval of the proper Places at the Peshawar International Airport for loading and unloading of only certain classes of goods.
12	SRO NO.286(I)2003 dated 20-03-2003	Specification of limits of the Allama Iqbal International Airport, Lahore.
13	SRO NO.381(I)2003 dated 02-05-2003	Approval of the proper Places at the Customs Airport New Terminal Complex, The Allama Iqbal International Airport, Lahore for loading and unloading and examination, certain goods
14	SRO NO.1131(I)2003 dated 29-12-2003	Notification of the PTA Container Station Located in the premises of M/S Ibraheem Fibers Ltd Jaranwala Distt: Faisalabad as the Customs Station.
16	SRO NO.764(I)2004 dated 03-09-2004 (Under Section 9 & 10)	Declaration of Area measuring five kanals and ten marlas at moaza Anayat Pur, AliPur Road, Muzaffargarh as Customs Station for export purpose (Multan Dry Port).
17	SRO NO.904(I)2005 dated 03-09-2005 (Under Section 9 & 10)	Margala Railway Station, Islamabad to be a Customs Port Named as the Islamabad dry-Port for clearance of goods imported or to be exported.
18	SRO NO.1127(I)2005 dated 10-11-2005 (Under Section 9 & 10)	Declaration of Sargodha Export Terminal as Customs Station for export purpose.

Practice: According to the resource persons specified below, FBR/Customs have - through several notifications - notified the establishment of places for loading, unloading and temporary storage of goods. Furthermore, Collectors of Customs issue licenses to persons to operate temporary stores.

Resource Persons:

- Mr. Irfan Javaid, Additional Collector of Customs, MCC (PACCS), Karachi
- Mr. Faiz Ali, Deputy Collector of Customs (Air Freight Unit-AFU), MCC, Islamabad
- Mr. Nasir Chandna, Customs House Agent, Karachi
- Mr. Awais Zafar, Pakistan Baggage, Benazir Bhutto Airport, Islamabad

Conclusion: The law and practice appear to be in compliance with the standard.

Recommendations: No recommendations are deemed necessary at this time.

3. Recommended Practice	Temporary storage should be allowed for all goods irrespective of quantity, country of origin or country from which they arrived. However, goods which constitute a hazard, which are likely to affect other goods or which require special installations should be admitted only into temporary stores specially equipped and designated by the competent authorities to receive them.
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Overall Assessment: Substantially Compliant

Relevant Law:

- Customs Act; Section 78(2)
- Customs Rules; Rule 556(a)

Discussion:

Law: Customs legislation does not provide for non-discrimination regarding the origin of goods to be held in temporary storage before being cleared by Customs. Nor does Customs legislation expressly regulate the temporary storage of hazardous goods. With respect to goods entering Pakistan by sea, Rule 556(a)(i) of the Customs Rules 2001 requires terminal operators to ensure the safe custody of all goods; Rule 556(a)(ii) places all risk, cost and liability for containers temporarily stored in secure areas of a terminal on the terminal operator; and Rule 556(a)(iii) requires the terminal operator to protect the safety of workers and other persons within the terminal. With respect to goods entering the country by land or air, Section 78(2) provides for the agent receiving cargo to be liable for damages – the agent can ensure that temporary storage facilities are appropriate for the type of goods though contract with the storage operator. Operators and Customs apply the prescribed handling and safety procedures under the following laws:

- The Petroleum Act, 1934 (as amended)
- The Petroleum Rules 1937 (as amended)
- The Explosives Act 1884 (as amended)

Practice: According to the resource persons interviewed, the Pakistan Customs regime does not discriminate in granting permission for temporary storage of goods on the basis of country of origin. With regard to goods which constitute a hazard or which require special storage conditions, such goods are admitted into temporary stores only when Customs are satisfied that the custodian has the appropriately certified facilities to receive them.

Resource Persons:

- Mr. Irfan Javaid, Additional Collector of Customs, MCC (PACCS), Karachi
- Mr. Faiz Ali, Deputy Collector of Customs (Air Freight Unit-AFU), MCC, Islamabad
- Mr. Nasir Chandna, Customs House Agent, Karachi
- Mr. Awais Zafar, Pakistan Baggage, Benazir Bhutto Airport, Islamabad

Conclusion: The law is not fully compliant with the recommended practice, although practice appears to be compliant. Legislation does not preclude discrimination in terms of country of origin and it does not clearly require the safe temporary storage of goods under appropriate conditions for goods at any customs station.

Recommendations: The Customs Act should be amended to comply with the recommended practice. For example, a new subsection (2) might be inserted in Section 75 or a new Customs Rule issued providing that goods may be unloaded irrespective of the quantity, country of origin or country from which they arrived. Such a rule should include a provisions, issued under Section 14-A of the Act, specifying the handling and storage requirements for hazardous goods entering or leaving customs controlled areas.

4. Standard	The only document to be required when goods are placed under temporary storage shall be that used to describe the goods when they are produced to the Customs.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Sections 47, 49, and 78
- The Customs Rules; Rule 556-B

Discussion:

Law: Section 78 of the Act provides that the appropriate Customs officer may permit the master of any vessel receiving an order to enter a port and break bulk under Section 47 or Section 49, or the person in charge of any conveyance other than a vessel on receipt of the import manifest, to discharge the goods into the custody of his agent and unload the goods at the customs house, relevant wharf, or give them into the custody of such persons approved by the Collector of Customs. The person so receiving custody of the goods may only permit their removal in accordance with a written order from the officer. The order to enter port and break bulk is given under Section 47 upon receipt of the import manifest or upon special permission from the appropriate officer before receipt of the import manifest under Section 49.

Section 78 is the only provision in the Act referring to the transfer of custody of the goods from the master or person-in-charge of the conveyance to the operator of a temporary storage facility. The import manifest is the only document necessary to permit unloading and such transfer of custody. Customs Rule 556B authorizes unloading and inter-port movement of goods to the off-dock terminal upon a valid import general manifest being filed by the owner or agent

Practice: According to the resource persons specified below, the practice follows the provisions of law as discussed above.

Resource Persons:

- Mr. Irfan Javaid, Additional Collector of Customs, MCC (PaCCS), Karachi
- Mr. Faiz Ali, Deputy Collector of Customs (Air Freight Unit-AFU), MCC, Islamabad
- Mr. Nasir Chandna, Customs House Agent, Karachi
- Mr. Awais Zafar, Pakistan Baggage, Benazir Bhutto Airport, Islamabad

Conclusion: The law and practice appear to be in compliance with the standard.

Recommendations: No recommendations are deemed necessary at this time.

5. Recommended Practice	The Customs should accept the cargo declaration or another commercial document as the only document to be required to place the goods under temporary storage, provided that all the goods mentioned in that cargo declaration or that other commercial document are placed in a temporary store.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Section 78

Discussion:

Law: As discussed under the previous standard (Standard 4), Section 78 is the only provision in the Act referring to the transfer of custody of the goods from the master or person-in-charge of the conveyance to the operator of a temporary storage facility. The import manifest is the only document necessary to permit unloading and such transfer of custody. Section 78 permits *a portion* of the goods imported by a conveyance to be discharged into the custody of an agent on receipt of the import manifest (cargo declaration).

Practice: According to the resource persons specified below, the practice follows the provisions of law as discussed above.

Resource Persons:

- Mr. Irfan Javaid, Additional Collector of Customs, MCC (PaCCS), Karachi
- Mr. Faiz Ali, Deputy Collector of Customs (Air Freight Unit-AFU), MCC, Islamabad.
- Mr. Awais Zafar, Pakistan Baggage, Benazir Bhutto Airport, Islamabad
- Mr. Nasir Chandna, Customs House Agent, Karachi

Conclusion: This recommended practice requires that all the goods listed on the relevant import manifest be placed in temporary storage, when temporary storage is being sought. However, Section 78 permits a portion of goods described in an import manifest to be transferred into the custody of a person with a place of storage. Therefore, neither the law nor the practice is compliant.

Recommendations: Customs discusses the merits of requiring all goods listed on the manifest to be placed in temporary storage with the logistics community

6. Standard	The Customs shall lay down the requirements as regards the construction, layout and management of temporary stores and the arrangements for the storage of goods, for stock-keeping and accounting and for Customs control.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Sections 14A and 211
- Customs Rules; Rule 554
- SROs issued under Section 10 of the Act, specifying the limits of customs stations

Discussion:

Law: Section 14A of the Act authorizes the Collector of Customs to determine the Customs requirements to be fulfilled by any agency or person managing or owing a customs port, customs airport and customs station relating to, among others, the storage of goods.

Section 211 requires traders, etc. including operators of terminals and warehouse owners to maintain records for at least five years.

Customs Rule 554 does not specify any physical requirements for temporary storage facilities maintained by port terminal operators although it does require the terminal operator provide an information system that maintains an audit trail.

See the 18 SROs listed in the discussion to Standard 2 of this Chapter of Specific Annex A. The SROs authorize the location and capacity of Pakistan's main customs-stations.

Practice: According to the resource persons specified below, the practice follows the provisions of law as discussed above.

Resource Persons:

- Mr. Irfan Javaid, Additional Collector of Customs, MCC (PaCCS), Karachi
- Mr. Faiz Ali, Deputy Collector of Customs (Air Freight Unit-AFU), MCC, Islamabad
- Mr. Awais Zafar, Pakistan Baggage, Benazir Bhutto Airport, Islamabad

Conclusion: The law and practice appear to be in compliance with the standard.

Recommendations: No recommendations are deemed necessary at this time.

7. Standard	Goods under temporary storage shall be allowed, for reasons deemed valid by the Customs, to undergo normal operations necessary for their preservation in their unaltered state.
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Overall Assessment: Compliant

Relevant Law: The Customs Act; Section 78(2)

Discussion:

Law: The Customs Act, 1969 (the Act) and the Customs Rules do not explicitly provide for goods under temporary storage to undergo normal operations to preserve their state. Section 78(2) provides that the agent receiving custody of the unloaded goods shall discharge all claims by the owner for damage. Section 78(2) implies that the agent is liable for any damage to the goods while in temporary storage and so should ensure that the temporary storage operator preserves the goods. Section 78(4) permits the custodian of the goods in temporary storage to “deal with the goods” on a written order from the appropriate officer.

Practice: According to the resource persons specified below, because of the liability of an agent under Section 78(2), agents seek to impose terms under the storage agreement on the temporary storage operator (the custodian) that goods be maintained in an appropriate condition. The custodian may apply to the appropriate officer with valid reasons to take appropriate actions to preserve the goods pursuant to Section 78(4). In general, goods remain in temporary storage for a limited period of time and under appropriate physical conditions. Therefore, Customs minimizes any access to such goods.

Resource Persons:

- Mr. Irfan Javaid, Additional Collector of Customs, MCC (PaCCS), Karachi.
- Mr. Faiz Ali, Deputy Collector of Customs (Air Freight Unit-AFU), MCC, Islamabad.
- Mr. Awais Zafar, Pakistan Baggage, Benazir Bhutto Airport, Islamabad.
- Mr. Nasir Chandna, Customs House Agent, Karachi.
- Mr. Moeed Khan, former Manager, Gerry’s Dnata, Benazir Bhutto International Airport, Islamabad.

Conclusion: The law appears to deal with this situation by placing liability for any damage on the agent and permitting the storage custodian to request permission to deal with the goods as appropriate. In practice the agent’s liability can be passed contractually to the custodian. By allocating liability and the right to act to relevant parties, the legislation appears to give effect to the intention of this Standard. It is impractical for legislation to list all possible situations when the custodian may act in relation to goods in storage.

Recommendations: No recommendations are deemed necessary at this time.

8. Recommended Practice	Goods under temporary storage should be allowed, for reasons deemed valid by the Customs, to undergo normal operations necessary to facilitate their removal from the temporary store and their further transport.
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Overall Assessment: Compliant

Relevant Law: The Customs Act; Section 78(4)

Discussion:

Law: Section 78(4) permits goods in temporary storage to be “removed or otherwise dealt with” on the written order from the appropriate officer.

Practice: According to the resource persons specified below, in practice Pakistan Customs generally allows goods to undergo any operation necessary to facilitate their removal from the temporary store and their further transport. This may be in shape of packing of loose cargo, such as wheat, fertilizer, cement etc., repacking, consolidation of packages and palleting, etc.

Resource Persons:

- Dr. Arsalan Subaktageen, Collector of Customs, MCC, Gwadar
- Mr. Shahenshah Husnain, Director, ‘Directorate General of Transit Trade’, Custom House, Karachi
- Mr. Irfan Javaid, Additional Collector of Customs, MCC (PACCS), Karachi
- Mr. Awais Zafar, Pakistan Baggage, Benazir Bhutto Airport, Islamabad
- Mr. Nasir Chandna, Customs House Agent, Karachi
- Mr. Moeed Khan, former Manager, Gerry’s Dnata, Benazir Bhutto International Airport, Islamabad

Conclusion: The law and practice appear to be in compliance with the recommended practice.

Recommendations: Customs could issue a notification clarifying the situations when it will authorize goods to be removed or otherwise dealt with under Subsection 78(4), i.e. in the following situations:

- Packing/bagging of loose cargo
- Separating damaged or deteriorated goods from the rest
- Sorting goods or changing their containers for the purpose of preservation, sale, export or disposal of the goods
- Dealing with the goods and their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods

9. Standard	Where national legislation lays down a time limit for temporary storage, the time allowed shall be sufficient to enable the importer to complete the necessary formalities to place the goods under another Customs procedure.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Sections 79 and 82

Discussion:

Law: Sub-section (1) of section 79 of the Customs Act, 1969 (the Act), provides that the owner of any imported goods shall make entry of such goods for home consumption or warehousing or for any other approved purposes, within fifteen days of the arrival of the goods, by filing a true declaration of goods and by following the other related procedures. Consequently, an owner can store goods for a maximum of fifteen days of the arrival thereof. This period is considered sufficient to enable the importer to complete the necessary formalities and to place the goods under another Customs procedure.

Practice: According to the resource persons specified below, practice follows the law and otherwise appears to be in compliance with the standard.

Resource Persons:

- Dr. Arsalan Subaktageen, Collector of Customs, MCC, Gwadar.
- Mr. Shahenshah Husnain, Director, 'Directorate General of Transit Trade', Custom House, Karachi.
- Mr. Irfan Javaid, Additional Collector of Customs, MCC (PACCS), Karachi.
- Mr. Awais Zafar, Pakistan Baggage, Benazir Bhutto Airport, Islamabad.
- Mr. Nasir Chandna, Customs House Agent, Karachi.
- Mr. Moeed Khan, former Manager, Gerry's Dnata, Benazir Bhutto International Airport, Islamabad.

Conclusion: The law and practice appear to be in compliance with the standard.

Recommendations: No recommendations are deemed necessary at this time.

10. Recommended Practice	At the request of the person concerned, and for reasons deemed valid by the Customs, the latter should extend the period initially fixed.
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Overall Assessment: Substantially Compliant

Relevant Law:

- The Customs Act, 1969, Sections 79 and 224
- SRO 371(I)/2002 dated 15-06-2002

Discussion:

Law: The period of fifteen days initially fixed under section 79 of the Customs Act, 1969 (the Act), can be extended by the appropriate officer under Section 224 of the Act “if satisfied that the delay was beyond the control of the applicant and that by granting such extension there is a possibility of some loss or hardship to the applicant being mitigated or prevented, condone the delay and extend the time limit laid down in this Act or the rules made thereunder.” However, Notification Number SRO 371(I)/2002 dated 15-06-2002 does not nominate an appropriate officer who may authorize an extension of the 15-day period specified in Section 79 of the Act.

Practice: According to the resource persons specified below, requests for an extension to file a goods declaration under Section 79 are often authorized by more senior Customs officials than necessary causing additional and unnecessary workload on such officials.

Resource Persons:

- Mr. Irfan Javaid, Additional Collector of Customs, MCC (PaCCS), Karachi
- Mr. Awais Zafar, Pakistan Baggage, Benazir Bhutto Airport, Islamabad
- Mr. Nasir Chandna, Customs House Agent, Karachi

Conclusion: Given the uncertainty over which officer is the appropriate one to authorize an extension request, the law and practice are considered only to be in substantial compliance with the recommended practice.

Recommendations: Notification Number SRO 371(I)/2002 dated 15-06-2002 should be amended to include a provision designating the appropriate officer to authorize an extension of the 15-day period specified in Section 79 of the Customs Act.

11. Recommended Practice	Goods deteriorated, spoiled or damaged by accident or force majeure before leaving the temporary store should be allowed to be cleared as if they had been imported in their deteriorated, spoiled or damaged state provided that such deterioration, spoilage or damage is duly established to the satisfaction of the Customs.
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Overall Assessment: Substantially Compliant

Relevant Law:

- The Customs Act; Sections 27, 33 and 78(2)
- The Customs Rules; Rules 556(a)(ii) and 556(c)

Discussion:

Law: Section 27 of the Act provides that in case goods are damaged or have deteriorated during their transportation or unloading and before any Customs examination the owner of the goods may inform an appropriate officer in writing. The officer may then appraise the value of the damaged or deteriorated goods and the owner shall be allowed abatement of duty in proportion to the diminution of value. Section 78(2) places liability on the agent for any damage to the goods during unloading and storage; the port terminal operator has liability for any containers temporarily stored in a secure area under Rule 556(a)(ii) and liability for any breakage of goods within the terminal area under Rule 556(c)(iii).

Practice: Section 27 is applicable when the importer is aware of the damage to the goods before submitting a goods declaration or becomes aware if Customs has ordered the goods to be examined. However, under PACCS the majority of goods declarations are cleared by the system under the Green Channel where the goods are not examined at all. The system itself releases the goods and the importer is advised to pay the normal duties and taxes and remove the goods from the Customs area. If the importer is not already aware of the damage to the goods, then he will need to seek a post-clearance refund of duties and taxes under Section 33 of the Act. Given their liability under legislation for damage during storage, the agent and/or terminal operator has an onus to inform the importer as soon as any damage is discovered. However, the majority of cargo will be containerized and sealed and any damage will not be discoverable until the goods are unpacked – often at the premises of the importer after clearance.

Resource Persons:

- Mr. Irfan Javaid, Additional Collector of Customs, MCC (PACCS), Karachi
- Mr. Awais Zafar, Pakistan Baggage, Benazir Bhutto Airport, Islamabad
- Mr. Nasir Chandna, Customs House Agent, Karachi
- Mr. Moeed Khan, former Manager, Gerry's Dnata, Benazir Bhutto International Airport, Islamabad

Conclusion: Section 27 does not provide for the situation when the goods are damaged or have deteriorated during the period of their temporary storage and after being unloaded. Therefore the law is only substantially compliant with the recommended practice.

Recommendations: Section 27 should be amended, or a notification issued, to clarify that the damage or deterioration that may be appraised under Section 27 includes that which occurs during temporary storage.

12. Standard	Any person having the right to dispose of the goods shall be entitled to remove them from a temporary store subject to compliance with the conditions and formalities in each case.
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Overall Assessment: Compliant

Relevant Law: The Customs Act; Sections 79

Discussion:

Law: Section 79 of the Customs Act, 1969 (the Act), empowers the owner of the goods to file a Goods Declaration (GD) to clear the goods for entry into the customs territory. Rule 556(c)(ii) precludes the terminal operator to permit goods to enter or leave the terminal unless authorized through PACCS. Section 83 of the Act permits the appropriate officer or PACCS to order the clearance of goods if appropriate duties and other charges have been paid and all other requirements have been met.

Practice: The resource persons specified below have indicated the practice follows the law.

Resource Persons:

- Mr. Irfan Javaid, Additional Collector of Customs, MCC (PaCCS), Karachi
- Mr. Awais Zafar, Pakistan Baggage, Benazir Bhutto Airport, Islamabad
- Mr. Nasir Chandna, Customs House Agent, Karachi
- Mr. Moeed Khan, former Manager, Gerry's Dnata, Benazir Bhutto International Airport, Islamabad

Conclusion: The law and practice appear to be in compliance with the standard.

Recommendations: No recommendations are deemed necessary at this time.

13. Standard	National legislation shall specify the procedure to be followed when goods are not removed from a temporary store within the period allowed.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Section 82
- The Customs Rules; Chapter V

Discussion:

Law: Section 82 of the Customs Act provides for the disposal of imported goods if such goods are not cleared or removed from the port or customs station within twenty days from the date of unloading or filing of declaration. The Assistant Collector of jurisdiction is empowered to extend the aforesaid period by another ten days. If goods are not removed or cleared within the relevant period, he may take over the goods and dispose them off through an open auction in accordance with provisions of rules 49 to 75, as contained in chapter V of the Customs Rules, 2001.

Practice: According to the resource persons specified below, the practice follows the law.

Resource Persons:

- Mr. Irfan Javaid, Additional Collector of Customs, MCC (PaCCS), Karachi
- Mr. Awais Zafar, Pakistan Baggage, Benazir Bhutto Airport, Islamabad
- Mr. Nasir Chandna, Customs House Agent, Karachi
- Mr. Moeed Khan, former Manager, Gerry's Dnata, Benazir Bhutto International Airport, Islamabad

Conclusion: The law and practice appear to be in compliance with the standard.

Recommendations: No recommendations are deemed necessary at this time.