

PART IV: SPECIFIC ANNEX C

Introduction to Specific Annex C

Specific Annex C has only one chapter, which Pakistan has acceded to. Therefore Pakistan has acceded to the entirety of Annex C, which covers the formalities applicable to outright exportation. Annex C contains 2 standards and 1 recommended practice.

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 the recommended practice in Annex C; therefore it is currently bound to implement the two standards and one recommended practice contained in Annex C.

Table 9 summarizes the subject matter and number of standards and recommended practices covered by Annex C.

Ch. No.	Subject	Standards	Recommended Practices	Total
1	Outright Exportation	2	1	3
Total		2	1	3

Table 10 summarizes the overall assessments made with respect to the standards and recommended practices of Specific Annex C using the scoring system described in Table 1, which may be found in Table 1 of the Executive Summary.

Ch. No.	Category	Compliant	Substantially Compliant	Partially Compliant	Marginally Compliant	Non-Compliant	NA	Total
1	Standards		1				1	2
	Recommended Practices					1		1
Total			1			1	1	3

A compliance rating is not applicable to the first standard. And Pakistan’s customs regime is not in full compliance with either the second standard or the recommended practice. The compliance issues are discussed in the individual compliance assessments provided below, as are recommendations with respect to measures that may be taken to bring the customs regime into compliance. Recommendations may relate to suggested changes in national legislation or suggested modifications to customs practice. If any aspect of the customs regime is modified, some type of training will need to be provided to the concerned customs personnel.

Chapter 1: Outright Exportation

Definitions:

One defined term is provided at the beginning of Specific Annex C. That term, as defined, is to be used to properly understand the meaning of the two standards and one recommended practice contained in the annex. 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.

The following is the defined term and its associated meanings provided in Specific Annex C (and our notes with respect thereto) are:

- "Outright exportation" means the Customs procedure applicable to goods which, being in free circulation, leave the Customs territory and are intended to remain permanently outside it.

Note: Neither the Customs Act nor the Customs Rules use this term. However, the terms "export" and "exportation" when used in the Customs Act have the same permanent meaning as "outright exportation". The Customs Act has specific provisions governing goods that are temporarily exported.

1. Standard	Outright exportation 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 outright exportation is to be governed by Chapter 1 of Annex C and the applicable provisions of the General Annex.

Conclusion: Any compliance issues with respect to Standard 1 will be identified below in the individual compliance assessments for the standards and recommended practice of Annex C.

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

2. Recommended Practice	National legislation should provide that goods may be declared in an alternative manner to the standard Goods declaration on the condition that it provides the necessary particulars relating to the goods to be cleared for outright exportation.
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Overall Assessment: Non-Compliant.

Relevant Law:

- The Customs Act; Sections 131 and 132.
- The Customs Rules; Rules 443 to 454
- The Customs General Order (CGO) Number 12/2002 dated 15-06-2002.

Discussion:

Law: Pakistan customs legislation does not provide for an alternative to the filing of an export goods declaration in order to clear goods for export. Section 131 of the Act requires an exporter to file a goods declaration for export in the manner and form prescribed by FBR/Customs. Alternative methods of documenting exports in use in other countries include the following:

- Filing a simplified version of the standard GD; or
- Filing the Bill of Lading for export with information on the tariff heading; or
- Filing a Pro forma Invoice with a full description of goods.

Practice: Exporters file an export goods declaration for all goods being exported.

Resource Persons:

- 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 are not in compliance with the recommended practice.

Recommendations: The National Transport and Trade Facilitation Committee reviews alternative simplified methods for goods clearance. The committee should review criteria for risk profiling of goods and exporters and selectivity of exporters to qualify for alternate methods. Proposed methods can be piloted with voluntary exporters meeting selectivity criteria. Implementation of the above recommendations will require amendments to Section 131 of the Act and detailed rules.

3. Standard	The Customs shall not require evidence of the arrival of the goods abroad as a matter of course.
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Overall Assessment: Compliant.

Relevant Law:

- The Customs Act

Discussion:

Law: Customs legislation does not require evidence of the arrival of exported goods in the country of destination. However, if claiming duty drawback, the exporter shall produce the proof of payment of foreign exchange, i.e. the 'Bank Credit Advice prescribed by State Bank of Pakistan. This, by implication, imposes a condition of proof of actual export for the purpose of claiming 'repayment/duty drawback'.

Under the law, the export is complete once the Customs procedures for exportation and loading of the ship are completed. Under PACCS an officer of the vessel signs a "Confirmation of Loading Report". If PACCS is not operational then the officer of the ship (mate) issues a mate-receipt and export general manifest evidencing the completed loading of goods on the ship for export.

Practice: The practice is in accordance with the existing provisions of law.

Resource Persons:

- 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 are in compliance with the Standard.

Recommendations: FBR/Customs may consider doing away with the requirement of Bank Credit Advice in consultation with the Ministry of Commerce and State Bank of Pakistan, from exporters who claim duty drawback/ refund of taxes.