

Part VI: SPECIFIC ANNEX E
 (Updated August 2014)

Introduction to Specific Annex E

Specific Annex E is divided into three chapters. The first chapter covers customs transit and contains 16 standards and 10 recommended practices. The second chapter covers transshipment and contains 6 standards and 5 recommended practices. The third chapter covers carriage of goods coastwise and contains 7 standards and 10 recommended practices. Pakistan has not acceded to any aspect of Specific Annex E.

Table 13 summarizes the subject matter and number of standards and recommended practices covered by each chapter of Specific Annex E.

Ch. No.	Subject	Standards	Recommended Practices	Total
1	Customs Transit	16	10	26
2	Transshipment	6	5	11
3	Carriage of goods coastwise	7	10	17
Total		29	25	54

And Table 14 summarizes the overall results of the compliance assessments for each chapter of Annex E, 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	1	4	1	3	-	15
	Recommended Practices	1	2	1	-	6	-	10
2	Standards	-	-	2	-	3	1	6
	Recommended Practices	1	1	2	-	1	-	5
3	Standard	1	-	2	-	3	1	7
	Recommended Practice	-	-	1	-	9	-	10
Total		9	4	11	1	27	3	54

As indicated by Table 14, the gap analysis has determined that Pakistan's customs regime appears to be in full compliance with approximately 18% of the standards and recommended practices of Annex E (without taking into account the three standards for which a compliance rating is not applicable). With respect to a standard that has been identified as presenting compliance issues, recommendations are made in the individual assessment for that standard with respect to measures that may be taken to bring the customs regime into compliance. Many of the recommendations relate



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to suggested changes in national legislation; and others relate to 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: Customs Transit

Definitions

Eight defined terms are provided at the beginning of Chapter 1 of Specific Annex E, 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 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), the question is not whether Pakistan's customs legislation uses the same terminology. The question is whether - when reviewing compliance with a specific standard that uses a term defined in the RKC - Pakistan's customs legislation and practice, as a matter of substance, complies with requirements of such standard, regardless of whether Pakistan's customs legislation and practice uses the same terminology

The eight defined terms and associated meanings provided in Chapter 1 of Specific Annex E are:

- "authorized consignee" means a person empowered by the Customs to receive goods directly at his premises without having to present them at the office of destination;
- "authorized consignor" means a person empowered by the Customs to send goods directly from his premises without having to present them at the office of departure;
- "control office" means the Customs office responsible for one or more "authorized consignors" or "authorized consignees" and, in this respect, performing a special control function for all Customs transit operations;
- "Customs transit" means the Customs procedure under which goods are transported under Customs control from one Customs office to another;
- "Customs transit operation" means the transport of goods from an office of departure to an office of destination under Customs transit;
- "office of departure" means any Customs office at which a Customs transit operation commences;
- "office of destination" means any Customs office at which a Customs transit operation is terminated;
- "transport-unit" means : containers having an internal volume of one-cubic meter or more, including demountable bodies; road vehicles, including trailers and semi-trailers; railway coaches or wagons; lighters, barges and other vessels; and aircraft.

Standard 1	Customs transit 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 customs transit is to be governed by Chapter 1 of Annex E 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.

Standard 2	<p>The Customs shall allow goods to be transported under Customs transit in their territory:</p> <ul style="list-style-type: none"> a) From an office of entry to an office of exit; b) From an office of entry to an inland Customs office; c) From an inland Customs office to an office of exit; and d) From one inland Customs office to another inland Customs office.
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Overall Assessment: Marginally Compliant

Relevant Law:

- The Customs Act; Chapter XII (Transshipment) Section 120 to 125;
- The Customs Act; Chapter XIII (Transit Trade) Section 126, 127, 128, 129 and 129 A.
- The Customs Rules; Chapter XIV (Transshipment), Rules 326 to 341
- The Customs Rules; Chapter XXV (Afghanistan-Pakistan Transit Trade Rules), Rules 598 to 652

Discussion:

Introductory Note: The standard requires that Customs allow goods to be transported under transit in the four specified situations.

Law: In the Customs Act, the basic provisions governing transit and transshipment are Sections 121 and 129. And in those sections the terms “transit” and “transshipment” are used differently than they are in the RKC.

In the RKC “transit” is used to describe a customs procedure covering the four types of goods movement specified above in the standard, In the Customs Act, specifically Section 129, the term “transit” only refers to the first two types of movement listed in items a) and b) of the standard, and only when the movement occurs *in the same conveyance*.

Section 121 of the Customs Act uses the term “transshipment” to describe a situation where the movement of goods involves a *change of conveyance* and the goods move:

- from an office of entry to an office of exit (which under the RKC would be categorized as a type of “transit” specified in item a) of the standard;
- from an office of entry to an inland office (which under the RKC would be categorized as a type of “transit” specified in item b) of the standard; and
- within one customs station, which serves as both the office of entry and office of exit (only this last situation fits the definition of “transshipment” in the RKC).

Neither Section 121 nor 129 of the Customs Act provides for the types of transit specified in items c) or d) of the standard.

Going beyond the difference in the use of terminology and the absence in the Customs Act to provide for items c) and d) of the standard, an examination of the substance of the transit regime established by the Customs Act and Customs Rules reveals other substantial compliance issues. with the standard. Section 129 of the Act provides for the duty free transit of goods under two of the four scenarios required by the standard, but only under two severely restrictive conditions: First, Section 129 is wholly discretionary, as the statute states that the appropriate officer *may*, subject to the provisions of the rules, allow the duty-free transit of the goods. Second, Section 129 only authorizes

a customs officer to allow such duty free transit to an office of exit to the extent specifically provided by the Customs Rules; *so in the absence of rules governing the specific type of transit Customs may not – even on a discretionary basis – permit duty free transit.* And the Customs Act and the Customs Rules only permit duty free transit (1) from an office of entry to an inland customs station or (2) for goods moving to or from Afghanistan and only where Afghanistan is the country of origin or the country of destination (based on APPTA 2010). No other types of transit are permitted.

The law is therefore only, at best, marginally compliant with the standard.

Practice: According to interviews with the resource persons specified below, it appears that Customs practice follows the law. Therefore the practice is also only marginally compliant.

Resource Persons:

- Mr. Ibrahim Vighio, Collector of Customs, MCC, Quetta.
- Dr. Saeed Jadoon, Additional Collector of Customs, MCC, Peshawar.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the Standard.

Recommendations: The provisions of the Customs Act and the Customs Rules governing transit need to be completely re-written if they are to become compliant with the standard.

Standard.3	Goods being carried under Customs transit shall not be subject to the payment of duties and taxes provided the conditions laid down by the Customs are complied with and that any security required has been furnished.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act; Sections 121, 127 and 129

Discussion:

Introductory Note: The basic principle of Customs transit is relief from import and export duties and taxes for goods in Customs transit passing through a Customs territory. Pakistan's transit regime is not consistent with the RKC. Nevertheless, the specific point of this standard is to require that goods that are being carried in transit not be subjected to duties and taxes.

Law: Section 121 of the Act states that 'subject to the provisions of section 15 and the rules, the appropriate officer may, on application by the owner of any goods imported at any customs-station and specially and distinctly manifested at the time of importation as for transhipment to some other customs-station or foreign destination, grant leave to tranship the same without payment of duty, if any, chargeable on such goods with or without any security or bond for the due arrival and entry of the goods at the customs-station of destination.' Section 121 of the Act allows transportation of goods from port of entry to other inland customs station without payment of duty. Under Pakistan Customs law it is known as transhipment. However, this is identical to National Transit as per RKC, which makes the Pakistan Customs law non-compliant with the standard above.

Section 127 of the Act states that any goods imported in a conveyance and mentioned in the import manifest as for transit in the same conveyance to a custom-station in Pakistan or to any destination outside Pakistan may be allowed to be so transited without payment of duty, if any, leviable on such goods at the customs-station of transit.

Under Section 129 of the Act it is provided that where any goods are entered for transit across Pakistan to a destination outside Pakistan, the appropriate officer may, subject to the provisions of the rules, allow the goods to be so transited without payment of the duties which would otherwise be chargeable on such goods (International Transit). Theoretically, Section 129 permits the transit of goods to countries other than Afghanistan; however, by its terms Section 129 provides that transit can only occur to the extent authorized by the Customs Rules, and the Customs Rules restrict international transit except where Afghanistan is the country of origin or destination.

See also the discussion under Standard 2 above.

Again it must be recalled that the specific point of this particular standard is to require that goods that are being carried in transit not be subjected to duties and taxes. Pakistan's customs regime does in fact relieve goods that qualify for its very limited transit procedure of the obligation to pay duties and taxes as required by the standard; however, the extraordinary restrictions on access to the transit procedure again present substantial compliant issues.

Practice: According to interviews with the resource persons specified below, it appears that Customs practice follows the law.

Resource persons:

- Mr. Zulfiqar Kazmi, Collector of Customs, MCC, Peshawar.
- Mr. Amir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are partially in compliance with the Standard.

Recommendations: As recommended under Standard 2, Pakistan's Customs Act and Rules on transit need to re-written.

4. Standard	National legislation shall specify the persons who shall be responsible to the Customs for compliance with the obligations incurred under Customs transit, in particular for ensuring that the goods are produced intact at the office of destination in accordance with the conditions imposed by the Customs.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act; Section 2 (pq) definition of “principal”, 156 (63), 156 (64), 207
- The Customs Rules; Afghan Transit rules: (Rule 641)
- The Customs Rules; Transshipment Rules (329 and 338)

Discussion:

Introductory Note: The standard imposes an obligation on the content of national legislation. It requires that the Customs Act or the Customs Rules specify with clarity the persons who are to be responsible to Customs for ensuring that the requirements of the transit regime are complied with.

Law: Neither the Act nor the Rules provide clearly designate the responsible persons as required by the standard.

Section 2 (qa) of the Customs Act defines the ‘principal’ which means the owner of the goods or the person primarily responsible for making a declaration to Customs under this Act and includes the person in charge of the conveyances, carriers, custodian of cargo, and the terminal operator.

Section 207 of the Act specifies that no person shall act for the transaction of any business unless such persons hold a license granted accordance with the rules. FBR has notified the rules under chapter XIII (Customs Agents Licensing) which are comprehensive and specify the responsibilities of the licensee and the action in case of violations of the conditions of the Rules.

Chapter XIV of the Customs Rules deals with ‘transshipment’ of cargo from port of entry to inland customs stations.

‘Carrier’ is also defined in Section 2 (ea) of the Customs Act. Rule 329 of the Customs Rules specifies the responsibilities of the carrier in satisfying itself about the actual description, quantity, quality and weight of the goods before loading on its conveyance.

At present, international transit is limited to Afghanistan; hence the rules cover international transit to Afghanistan only. These rules have been framed in terms of bilateral transit agreement APTTA, signed between Afghanistan and Pakistan.

Rule 601(2) of the Customs Rules, specifies the transport operator or the Customs clearing agent to file a Goods declaration for Afghan transit.

The Afghan importer's identity and title to goods is to be established from the documents mentioned in (a) to (d) and in (f) provided in Rule 601 of the Customs Rules. The letter of authorization referred in (f) specifies the Transporter or Customs Agent who is authorized to act on behalf of the Afghan importer. These documents confirm that the goods are owned by the person who has issued the letter of authorization for getting the goods processed through Pakistan Customs.

The responsibilities of both the transport operator and Customs House Agent are provided for in the Rule 601 of the Customs Rules. Bonded Transport operator is licensed by Customs under the provisions of Rules 638-641 (sub-chapter XI of chapter XXV) of the Rules. His responsibilities are

specified under Rule 641. Likewise a Customs Agent is licensed under rules 90 to 106 of the said rules whereas his responsibilities have been specified under Rule 101 *ibid*.

Since, the persons responsible to the Customs for compliance with the obligation incurred under the Customs transit have been specified under the Customs Rules, the law is in compliance with the standard.

It has been pointed out by Customs the safe carriage of transit cargo for Afghanistan should be the responsibility of the Afghan importer and his agent in Pakistan and that this should be provided in the law. The Customs never get the custody of the goods yet whenever there is any pilferage or loss of goods/containers, Customs are held responsible.

Practice: According to interviews with the resource persons specified below, it appears that Customs practice follows the law.

Resource Persons:

- Mr. Zia Sarhadi, Director Pak Afghan Chamber of Commerce, Peshawar.
- Mr. Zubair Shah, Assistant Collector of Customs, Torkham, MCC, Peshawar.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, C.H.L. 1402, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are in only partial compliance with the standard.

Recommendations: As recommended under Standard 2, Pakistan's Customs Act and Rules on transit need to be re-written, and provisions that implement this standard must be included in the new legal regime covering transit.

5. Recommended Practice	The Customs should approve persons as authorized consignors and authorized consignees when they are satisfied that the prescribed conditions laid down by the Customs are met.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Sections 126-129A.
- The Customs Rules; 598 to 652
- The Customs Rules; Transshipment Rules, Rules 326 to 341

Discussion:

Introductory Note: Above standard states that the Customs should approve persons as authorized consignor and authorized consignees when they are satisfied that the prescribed conditions laid down by the Customs are met. Following are the definitions of 'authorized consignee' and 'authorized consignor' in the RKC:

'Authorized consignee' means a person empowered by the Customs to receive goods directly at his premises without having to present them at the office of destination;

'Authorized consignor' means a person empowered by the Customs to send goods directly from his premises without having to present them at the office of departure;

Law: The review of both the above definitions shows that this 'Recommended Practice' provides a facilitation arrangement for transport of goods in transit under which goods shall be received directly at 'authorized consignees' premises without having to present them at the office of destination. These goods will be sent directly from the premises of 'authorized consignor' without having to present them at the office of departure.

The idea of 'authorized consignee' and 'authorized consignor' is to facilitate the trade to avoid delays and reduce cost of transportation. Customs will approve consignee and consignor (forwarders, importers, exporter, etc.) and their premises in accordance with the rules and regulations made by customs administrations and after entering into agreement with the consignee and consignors.

Authorized Consignor or authorized consignee has not been defined in the Customs Act, or in the Customs Rules. Similarly no procedure has been prescribed in the rules for creating 'authorized consignee' or 'authorized consignor'.

This is an altogether new concept which has been recommended by RKC for trade facilitation. Appendix 1 of the Guidelines to RKC contains the procedures that may be followed by Customs administrations. These are 'for information purposes only and the administrations wishing to initiate an authorized consignor or authorized consignee procedures, may use them as a basis and adapt them to local conditions'

Practice: There being no provisions in the customs law for 'authorised consignor' and 'authorised consignee', in practice too, there are no 'authorised consignor' and 'authorised consignee'.

Resource Persons:

- Mr. Shehanshah Husnain, Additional Collector of Customs, MCC, Port Muhammad Bin Qasim, Karachi.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, C.H.L. 1402, Karachi.

Conclusion: Based on the above analysis it appears that the law and practice are not in compliance with the Recommended Practice as this concept does not exist in Pakistan's Customs regime at all.

Recommendations: Since introduction of the concept of 'authorized consignee' and 'authorized consignor' has far reaching implications (administrative and revenue), FBR may like to examine the recommended practice, in the light of Appendix 1 of the Guidelines to RKC. After consultations with the stakeholders, FBR may decide future course of action.

6. Standard	Any commercial or transport document setting out clearly the necessary particulars shall be accepted as the descriptive part of the Goods declaration for Customs transit and this acceptance shall be noted on the document.
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Overall Assessment: Substantially-Compliant

Relevant Law:

- The Customs Act; Sections 45,127, 128 and 129.
- The Customs Rules; Transit rules: Rules 598 to 652
- The Customs Rules; Transshipment Rules, Rules 326 to 341

Discussion:

Introductory Note: As has been explained under preceding standards that RKC definition of transit includes both 'national transit' and 'international transit'. Although, Pakistan customs law recognizes 'national transit' and 'international transit' but handles the national transit under its transshipment law while national transit is handled under its transit trade law. There are rules but under these two different headings.

Law: In order to determine the status of Pakistani customs law, both 'national transit' and 'international transit' are reviewed separately.

Rule 329 (1) of The Customs Rule provides as follows:

- Prior to submission of application (Appendix-1) for transshipment, the carrier shall satisfy himself that the actual description, quantity, quality and weight of the goods under the transshipment are as per declaration in the IGM of the vessel. In case any mis-declaration or substitution is found at subsequent stage, the carrier shall be held responsible under sections 32 and 121 of the Act.

Appendix 1 referred to the above require the attachment of following documents with the application for transshipment permit:

- Undertaking of the importer
- Indent/Performa invoice
- Commercial invoice
- Packing list
- Bill of lading
- Letter of credit

In the case of Pakistan, compliance to the standard would mean that the Customs accept application for issuance of Transshipment Permit if column No. 24 (i.e. description with specification of goods (each item to be detailed separately) of the Transshipment Permit matches the description given either in commercial or transport document.

Rule 601 requires submission of following documents, in support of a Goods declaration:

- a) Original invoice;
- b) Bill of lading;
- c) Original packing list;
- d) Importability documents.-
 - a. Valid "Jawaznama" for Afghan Transit Trade (ATT) commercial goods in original (import permit) attested or verified by the respective Afghan Consulate;
 - b. Exemption certificate "Mafinama" of the Afghan Customs department for non-commercial Afghan transit trade goods;

- e) Customs security as provided under these rules;
- f) Letter of authorization from the importer based in Afghanistan in respect of his representative undertaking by the concerned Customs agent to the effect that the jawaznama and mafinama is valid; and
- g) Six copies of the GD shall be prepared

Practice: The practice is in substantial compliance with the standard as the description provided in the original invoice is incorporated in column No. 24 of the goods declaration (description of the goods).

Resource Persons:

- Mr. Zia Sarhadi, Director Pak Afghan Chamber of Commerce, Peshawar.
- Mr. Zubair Shah, Assistant Collector of Customs, Torkham, MCC, Peshawar.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, Karachi

Conclusion: Based on the above research, it appears that the law and practice are substantially in compliance with the standard as this is not specified anywhere in the Law.

Recommendations: FBR/Customs may amend the relevant law and rules to provide that any commercial or transport document setting out clearly the necessary description of the goods for example the pro forma invoice/commercial invoice will be accepted as the descriptive part of the Goods declaration for Customs transit (National as well as International) and this acceptance noted on the document

7. Recommended Practice	The Customs should accept as the Goods declaration for Customs transit any commercial or transport document for the consignment concerned which meets all the Customs requirements. This acceptance should be noted on the document.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Sections 45, 127
- The Customs Rules; Rules 598-652
- The Customs Rules; Rules 326 to 341

Discussion:

Introductory Note: In the standard it is provided that any commercial or transport document for the consignment concerned which meets all the Customs requirements should be accepted as the Goods declaration.

Law: The current legal status vis-à-vis transit (national transit and international transit) is as follows: In the case of national transit, relevant customs rules are provided in the chapter on Transshipment. Rule 329 of the transshipment rules provide that carrier will file application for Transshipment Permit, a format of which is prescribed known as Appendix-I of the transshipment rules. This is a very comprehensive document which is almost like a GD. Based on this application form; Transshipment Permit is issued by the Customs office.

Rule 601(2) of the Customs Rules, which applies only to Afghan Transit goods, requires the submission of "six copies" (actually the original and five copies) of a Goods Declaration accompanied by several other documents; Rule 601(2) reads as follows:

The transport operator or the customs agent shall file the goods declaration (Afghan Transit) at the office of departure in accordance with these rules. The GD shall be accompanied the following documents, namely:-

- Original invoice;
- Bill of lading;
- Original packing list;
- Importability documents.
- Valid *jawaznama* for Afghan Transit Trade (ATT) commercial goods in original (import permit) attested or verified by the respective Afghan Consulate;
- Exemption certificate (*mafinama*) of the Afghan Customs department for non-commercial Afghan transit trade goods;
- Customs security as provided for in the Customs Rules;
- Letter of authorization from the importer based in Afghanistan in respect of his representative undertaking by the concerned Customs agent to the effect that the Jawaz nama or Mafinama is valid.
- Six copies of the GD [goods declaration] shall be prepared

Practice: According to interviews with the resource persons specified below, it appears that Customs practice follows the law, although not in compliance with the standard.

Resource Persons:

- Mr. Zubair Motiwala, President Pak Afghanistan Chamber of Commerce, Karachi.
- Mr. Zia Sarhadi, Director Pak Afghan Chamber of Commerce, Peshawar.
- Mr. Zubair Shah, Assistant Collector of Customs, Torkham, MCC, Peshawar.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, C.H. L. 1402, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the standard as this is not specified anywhere in national legislation.

Recommendations: The Act and the Rules should be amended to implement this standard and the WeBOC system will have to be modified to allow for the submission of a document other than a declaration for goods in transit.

8. Standard	The Customs at the office of departure shall take all necessary action to enable the office of destination to identify the consignment and to detect any unauthorized interference.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Sections 45 and 63,
- The Customs Rules; Afghan Transit rules: Rules 598 to 652
- The Customs Rules; Transshipment Rules, Rules 326 to 341

Discussion:

Introductory Note: The aim of any transit operation is to move goods from one point to another and to ensure that the consignment reaching the destination is the same consignment that was under customs control at the start of the transit procedure.

Law: In all Customs operations for the transshipment (National transit) of goods, filing of a Goods Declaration (GD) or Transshipment permit (TP) is mandatory under Rule 328 of the Customs Rule. These documents contain all the necessary information for the identification of the goods. The other documents attached with these GDs or TPs include the commercial invoice which also provides the complete description of the goods. Currently, two computer systems are in operation in Pakistan Customs and both these systems require the data available on the GDs/TPs to be fed in the system. These systems are visible to the officers at the destination.

In all Customs operations for the transshipment (International transit) of goods, filing of a Goods Declaration (GD) is mandatory under Rule 601 of the Customs Rules. These documents contain all the necessary information for the identification of the goods. The other documents attached with these GDs include the commercial invoice which also provides the complete description of the goods. Currently, two computer systems are in operation in Pakistan Customs and both these systems require the data available on the GDs to be fed in the system. International transit is currently being handled through One Customs system. These systems are visible to the officers at the destination i.e. the offices of exit - Torkham and Chaman. The practice follows the provisions of law. No deviation in practice with reference to current law has been reported. The systems described above ensure identification at the office of destination/exit.

Practice: According to interviews with the resource persons specified below, it appears that Customs practice follows the law.

Resource Persons:

- Mr. Zubair Motiwala, President Pak Afghanistan Chamber of Commerce, Karachi.
- Mr. Zia Sarhadi, Director Pak Afghan Chamber of Commerce, Peshawar.
- Mr. Zubair Shah, Assistant Collector of Customs, Torkham, MCC, Peshawar.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are in compliance with the standard.

Recommendations: No recommendations are considered necessary at this stage.

9. Recommended Practice	Subject to the provisions of other international conventions, the Customs should not generally require that transport-units be approved in advance for the transport of goods under Customs seal.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Rules; Afghan Transit rules: Rules 598 to 652
- The Customs Rules; Transshipment Rules, Rules 326 to 341
- The ‘International Convention for Safe Containers, 1972’ (CSC).

Discussion:

Introductory Note: The standard is very specific and relates only to a requirement that transport-units be approved in advance if they are to be used to transport goods under seal. The standard provides that Customs should not – as a general rule or practice – require such approval *in advance*. It is clear from the Guidelines that Customs is expected to examine and approve a unit before it is used for transit; however, requiring that an approval be obtained *in advance* (as opposed to providing for at-the-border examinations and approvals for vehicles not previously approved) would be contrary to the standard.

The definition of “transport units” is specified to include:

- a) Containers having an internal volume of one-cubic meter or more, including demountable bodies;
- b) road vehicles, including trailers and semi-trailers;
- c) railway coaches or wagons;
- d) lighters, barges and other vessels; and
- e) Aircraft.

Law: Pakistan Customs Rules require a transport unit to be approved in advance before it may be used for transit. Therefore, under a strict reading of the standard, Pakistan is not compliant.

Customs Rules 638-641 require transporters who want to engage in transit to obtain a license to act as “transport operators”. All transport operators are registered by the Model Customs Collectorate (Appraisalment), Customs House, Karachi.

Transit goods can only be carried by such licensed “transport operators”. Once a transport-unit is brought for registration by a transport operator, it is inspected by Customs. When the transport-unit is brought to the Customs- area, for loading of transit goods it is then re-checked by Customs under Rule 329 (5 & 6) before goods are loaded. This is reportedly a routine activity and does not cause inconvenience to the transporter.

At present, international transit is limited to Afghanistan; hence the rules cover international transit to Afghanistan only. These rules have been framed in terms of bilateral transit agreement APTTA, signed between Afghanistan and Pakistan.

Rule 601(2) of the Customs Rules, specifies the transport operator or the Customs clearing agent to file a Goods declaration for Afghan transit.

A bonded transport operator is licensed by Customs under the provisions of Rules 638-641, and must move the transit goods only in an approved transport unit that is inspected by Customs before allowing loading.

Practice: According to interviews with the resource persons specified below, it appears that Customs practice follows the law.

Resource Persons:

- Mr. Zubair Motiwala, President Pak Afghanistan Chamber of Commerce, Karachi.
- Mr. Javaid Chaudhry, Additional Collector of Customs (Afghanistan Transit), MCC (Appraisalment), Karachi.
- Syed Shams Ahmed Burney, Chairman, All Pakistan Customs Bonded Carrier Association, Room 02, State Life Building No. 7, G. Allana Road, Tower, Karachi.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, C.H.L. 1402, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the standard.

Recommendations: If Pakistan desires to comply with the standard, the Customs Rules will have to be modified to provide for the examination and (possible) approval of a unit to be used for transit at the border.

10. Standard	<p>When a consignment is conveyed in a transport-unit and Customs sealing is required, the Customs seals shall be affixed to the transport-unit itself provided that the transport-unit is so constructed and equipped that:</p> <ol style="list-style-type: none"> a) Customs seals can be simply and effectively affixed to it; b) No goods can be removed from or introduced into the sealed part of the transport-unit without leaving visible traces of tampering or without breaking the Customs seal; c) It contains no concealed spaces where goods may be hidden; and d) All spaces capable of holding goods are readily accessible for Customs inspection. <p>The Customs shall decide whether transport-units are secure for the purposes of Customs transit.</p>
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Sections 63
- The Customs Rules; Transshipment rules 601, 603, 622, 624 and 638.
- The 'Afghan Pakistan Transit Trade Agreement, (APTTA): Articles 11 and 12 of Protocol Three.

Discussion:

Introductory Note: When the transport unit meets the conditions set out in the standard, the Customs seals must be affixed to the transport unit itself. However, in certain circumstances Customs may decide to seal transport- units which have not been approved for the transport of goods when they are satisfied that the units, when sealed, are sufficiently secure.

Law: The procedure for National Transit which is currently referred to as Transshipment in Pakistan Customs law is identical to the procedure for international transit being explained below:

The international transit goods are generally transported to Afghanistan in containers. These containers are loaded from Karachi ports in transit to Afghanistan through flat bedded trucks. Customs seals are affixed on such containers. The remaining cargo (bulk goods, oversized goods and vehicles), which are not shipped in containers, are transferred to trucks which are either in the nature of containers with a door at the back or are covered with a tarpaulin which is fastened with a cable or rope. These trucks are also sealed with Customs seals in an effective and secure manner.

Oversize cargo which cannot be conveniently stuffed in containers is allowed to be carried in open trucks. In this context it is worth noting that the APTTA provides for mechanism/operation of open trucks only for a period of three years commencing from the date of enforcement of rule 622 of the Customs Rules, i.e. 13.06.2011 (Notification Number SRO 601(I)/2011 dated 13-06-2011). The relevant rules are reproduced below:

622. Transportation of goods:

- 1) Transportation of transit goods by transport operators shall be allowed in containers of international specifications. However, for a period of three years the transit goods shall also be allowed in internationally acceptable and verifiable standard of sealable trucks. Internationally acceptable and verifiable standard of sealable trucks shall be those.-
 - a) On which customs seals can be simply and effectively affixed;
 - b) From which no goods can be removed from or introduced into the sealed part of these trucks without breaking the customs seal or leaving visible traces of tampering;
 - c) Which contain no concealed space where goods can be hidden; and

- d) In which all spaces capable of holding goods are readily accessible for customs inspection.
- 2) Oversize, heavy and bulky transit goods may be transported in open transport units
 - 3) Export of perishable goods in transit (like fruits and vegetable etc.) is allowed to be transported in open trucks or other transport units.
 - 4) All transport units and conveyances used by the transport operators for carrying transit goods shall be properly secured, riveted, locked and sealed. The transport units and conveyance used by the transport operators shall be so constructed and equipped as to provide for the customs seals to be conveniently and effectively affixed thereon and containing no concealed space where any goods be hidden. The transport units shall have a permanently installed or fixed tracking device capable of showing the location of the said vehicle or trailer at any given time as well as a track of its route and stoppage etc. The transport unit shall be free from all manufacturing defects so that no goods can be removed from or introduced into the sealed portion of the transport units without leaving visible traces of tampering or breaking of the customs seal. All places, holds or provisions in the transport units capable of holding any goods should be readily accessible for customs inspection. The transport units shall be individually registered with the vehicle registration authority.

Practice: According to interviews with the resource persons specified below, it appears that Customs practice follows the law.

Resource Persons:

- Mr. Javaid Chaudhry, Additional Collector of Customs (Afghanistan Transit), MCC, (Appraisement), Karachi.
- Syed Shams Ahmed Burney, Chairman All Pakistan Customs Bonded Carrier Association, Room 02, State Life Building No. 7, G. Allana Road, Tower, Karachi.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, C.H.L. 1402, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are in compliance with the standard.

Recommendations: The rules and regulations (for transit and transshipment) should be re-issued which are consistent with the definitions. The international transit law and regulations should be relevant to all the landlocked countries and not Afghanistan only.

11. Recommended Practice	Where the accompanying documents make it possible unequivocally to identify the goods, the latter should generally be transported without a Customs seal or fastening. However, a Customs seal or fastening may be required: <ul style="list-style-type: none"> • Where the Customs office of departure considers it necessary in the light of risk management; • Where the Customs transit operation will be facilitated as a whole; or where an international agreement so provides.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Rules; Rules 334 & 624

Discussion:

Introductory Note: The Pakistan Customs law or rules do not provide for any situation where Customs seals are not fixed on the transport unit. The transport unit in almost all cases consists of containers loaded on flatbed trucks or trucks which themselves act as containers. In Pakistan the risk management requires that all containers should be sealed.

Law: The APTTA also requires that all containers should be sealed. The Custom Rules 334 & 624 specifies sealing of the containers.

The Customs Act, and the Customs Rules, do not allow goods to be transported without seal unless these are over-sized, necessitating carriage in open trucks/trailers, e.g. heavy machinery. But this sealing is a requirement of APTTA; it is in accordance with condition (iii) of this 'Recommended Practice'. Articles 11 and 12 of Protocol Three of the Afghanistan-Pakistan Transit Trade Agreement provide for sealing of trucks.

It is also necessary as part of risk management and it also facilitates the transit operation as a whole as the carriers to which seals are affixed are neither interfered with en-route nor these are required to stop for inspection/checking.

Practice: According to interviews with the resource persons specified below, it appears that Customs practice follows the law.

Resource Persons:

- Mr. Javaid Chaudhry, Additional Collector of Customs (Afghanistan Transit), MCC, (Appraisalment), Karachi.
- Syed Shams Ahmed Burney, Chairman All Pakistan Customs Bonded Carrier Association, Room 02, State Life Building No. 7, G. Allana Road, Tower, Karachi.
- Mr. Zubair Shah, Assistant Collector of Customs, Torkham, MCC, Peshawar.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, C.H. L. 1402, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are partially in compliance with the recommended practice.

Recommendations: It is recommended that a provision may be inserted in the law that in those cases where there is no risk of the goods being interfered with the requirement of sealing should be done away with. A provision may also be made in the rules to this effect and the risk management system should also take such situations into account before sealing of transit cargo, both National and International, is ordered.

12. Standard	<p>If a consignment is, in principle, to be conveyed under Customs seal and the transport-unit cannot be effectively sealed, identification shall be assured and unauthorized interference rendered readily detectable by:</p> <ul style="list-style-type: none"> • Full examination of the goods and recording the results thereof on the transit document; • Affixing Customs seals or fastenings to individual packages; • A precise description of the goods by reference to samples, plans, sketches, photographs, or similar means, to be attached to the transit document; • Stipulation of a strict routing and strict time limits; or • Customs escort. <p>The decision to waive sealing of the transport-unit shall, however, be the prerogative of the Customs alone.</p>
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Rules; Rules 622, 624 and 629.
- The 'Afghan Pakistan Transit Trade Agreement, (APTTA, 2010); Articles 11 and 12 of Protocol Three.

Discussion:

Introductory Note: The exact measure that Customs may have to take when goods are transported in a non-sealable transport unit will depend on the specific circumstances of each case, taking account of various elements such as the nature of goods and the packaging, the duties and taxes that may be payable at importation or at exportation and the previous history of the person concerned.

Law: It is stated that in the Customs Act as well as rules there is no express provision provided that fulfills the requirement stated in standard above. The goods which cannot be transported in sealed containers or trucks because the same are oversize, heavy and bulky or, in case of perishable goods (like fruits and vegetable etc.), the same are transported in transit through open trucks as provided in rule 622 of the Customs Rules, Pakistan Customs law and rules however do not provide for the various provisions of the standard. In practice however, this is generally followed. An example of such goods is oversized goods which cannot be containerized or sealed easily. Such goods are examined and the detailed examination report is transcribed on the GD. On occasions Customs escorts are also provided for such goods.

Practice: The practice is in substantial compliance with the standard. However, the law and the rules do not provide for the various features of this standard expressly.

Resource Persons:

- Mr. Javaid Chaudhry, Additional Collector of Customs (Afghanistan Transit), MCC, (Appraisalment), Karachi.
- Syed Shams Ahmed Burney, Chairman All Pakistan Customs Bonded Carrier Association, Room 02, State Life Building No. 7, G. Allana Road, Tower, Karachi.
- Mr. Zia Sarhadi, Director Pak Afghan Chamber of Commerce, Peshawar.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, C.H.L. 1402, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the standard.

Recommendations: The chapter XII and XIII of the Customs Act need to be suitably amended to provide for the various options of this standard for goods which cannot be easily and effectively sealed. This is in addition to what has already been recommended above with reference to the terminology of transit and transshipment as used in Pakistan Customs law and rules.

13. Standard	When the Customs fix a time limit for Customs transit, it shall be sufficient for the purposes of the transit operation.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Rules; 339 and 633.
- The Customs General Order (CGO) Number 10/2012.
- The Afghan Pakistan Transit Trade Agreement.

Discussion:

Introductory Note: This Standard stipulates that when Customs fix a time limit for Customs Transit, it shall be sufficient for the purpose of the transit operation.

Law: The time limit for the Customs transit is not fixed under the Customs Act however, the time limit for National Transit has been fixed under Rule 339 (1) of the Customs Rules. It provides that “all goods for which transshipment permit has been issued will reach the Customs port of station of destination within seven days of the date of issue of Transshipment permit”. This time limit has been found to be sufficient in practice for all inland Customs Stations.

At present, transit trade is taking place between Pakistan and Afghanistan under Afghan Pakistan Transit Trade Agreement.

Rule 633 (Chapter XXV) of the Customs Rules stipulates that the “timelines in hours for movement of transit goods by road and railway shall be determined and specified by the Board separately through a General Order, in consultation with experts in the transportation field and the relevant stakeholders.” This time however has not yet been fixed by FBR. This is also a requirement of APTTA.

Customs General Order (CGO) 10/2012 '(Procedure for transit of US forces cargo to and from Afghanistan through the territory of Pakistan)' provides, vide Paragraph 11 (viii) thereof that the transit operation, shall be completed within 15 days from time of departure. It may also be mentioned here that according to the 'Dwell Time Study'(the Study) conducted by USAID PTP and reported on 24th December, 2010, the dwell time for goods from Karachi to Chaman was 23 days and from Karachi to Torkham was 22 days. Copy of study is annexed.

This time period of fifteen days fixed is, therefore, not sufficient for the purposes of transit operation under-reference. In practice the dwell time of a consignment is thus not within the time of fifteen days fixed by the FBR/Customs.

This dwell time study is being updated by the Trade Project. The newly established Directorate General of Transit is also conducting a small study on its own to determine the dwell time. FBR may fix the time period after these studies are completed.

Practice: According to interviews with the resource persons specified below, it appears that Customs practice follows the law.

Resource Persons:

- Mr. Javaid Chaudhry, Additional Collector of Customs (Afghanistan Transit), MCC (Appraisement), Karachi.
- Syed Shams Ahmed Burney, Chairman All Pakistan Customs Bonded Carrier Association, Room 02, State Life Building No. 7, G. Allana Road, Tower, Karachi.
- Mr. Zia Sarhadi, Director Pak Afghan Chamber of Commerce, Peshawar.
- Mr. Zubair Shah, Assistant Collector of Customs, Torkham, MCC, Peshawar.

Conclusion: Based on the above research, it appears that the law and practice are partially in compliance with the standard.

Recommendations: FBR/Customs may fix the time limit, for Customs transit (International Transit), which should be sufficient for the purposes of completion of the transit operation for all routes, in general. This is also a requirement of APTTA.

Standard.14	At the request of the person concerned, and for reasons deemed valid by the Customs, the latter should extend any period initially fixed.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Rules; Rule 634
- The Customs General Order Number 10/2012.
- The Afghan Pakistan Transit Trade Agreement.

Discussion:

Introductory Note: The standard above provides that under normal circumstances the initial time fixed for the completion of the transit operation would be sufficient for the completion of operation. At request of the person concerned, the Customs should extend any period initially fixed.

Law: Rule 339 (2) provides that if there is delay in the transshipment (National Transit) of any goods, the carrier shall make a request with the specific reason to the concerned Assistant Collector of Customs for extension in the prescribed period.

Customs General Order (CGO) 10/2012 (Procedure for transit of US forces cargo to and from Afghanistan through the territory of Pakistan) has, vide Paragraph 11 (viii) thereof, provided that the transit operation, shall be completed in 15 days from time of departure. This period is extendable for a similar period when an application is filed with Additional Collector of Customs of jurisdiction, on his satisfaction that the circumstances causing delay were beyond the control of the carrier.

Under rule 634 of the Customs Rules, an unavoidable delay in concluding the transit operation may be condoned by Customs and extension in the prescribed period may be allowed. Rule 634 reads as under:

- 634. Unavoidable delay.-If unavoidable delay en-route in the transit of any goods takes place, the carrier shall make a request with specific reason to the concerned Assistant or Deputy Collector for extension in the prescribed period. This extension shall be allowed after recording reasons in writing and subject to condition that the goods shall be hundred per cent examined at the port of exit besides taking penal action, if deemed appropriate.

This rule is in contrast to section 224 of the Customs Act, reproduced here-in-below, which empowers, inter alia, FBR/Customs to condone a time limit, in appropriate cases.

- 224. Extension of time limit.-The Federal Government, the Board or the appropriate officer of Customs, may, upon being approached by an aggrieved party 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 there under]
- 605. Processing of duplicate copy of GD.- (1) In case the goods are imported at sea port, the Customs administration at the Office of departure shall send duplicate copy to the office en-route in Pakistan (Torkham or Chaman) which shall be handed over to Afghan Customs at the border. The Afghan Customs shall send the GD back to the office of departure in Karachi through the respective Customs station (Torkham or Chaman on the Pakistani side) along with copy of T-1 issued and attested by Afghan Customs bearing cross reference of GD filed in Pakistan, and a certificate to the effect that the consignment mentioned in the relevant T-1 form has crossed the Customs checkpoint or station Samarkhel (Jalalabad) in case of transit through Torkham, and Spin Boldak in case of transit through Chaman. This shall be considered, as Cross Border Certificate

(CBC) and on the basis of which Customs shall release, after due process, the Customs security. The duplicate copy of GD shall be submitted in the above manner within sixty days extendable by another thirty days by the Additional Collector of Customs concerned, after recording reasons in writing.

- In case the goods imported at Border Station are exported through sea port, duplicate copy of GD shall be returned to the office of departure within fifteen days, extendable by another fifteen days by the Additional Collector of Customs after recording reasons in writing and endorsement of MR number,
- In case the goods imported at Border Station are exported through another border station, duplicate copy shall be returned to the office of departure within fifteen days, extendable by another fifteen days by the Collector after recording reasons in writing and endorsement of “Crossed Border” with date and time by the appropriate Customs officer.

Practice: According to interviews with the resource persons specified below, it appears that Customs practice follows the law.

Resource Persons:

- Mr. Zulfiqar Kazmi, Collector of Customs, MCC, Peshawar.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, C.H.L. 1402, Karachi.
- Mr. Zia Sarhadi, Director Pak Afghan Chamber of Commerce, Peshawar.

Conclusion: Based on the above research, it appears that the law and practice are partially in compliance with the standard.

Recommendations: FBR should fix time limits for International Transit on all routes. In case the request from the concerned person is received, for reasons deemed valid by the Customs, the period may be extended without the condition of examination. Examination should be resorted to, only if the container or the seals etc. are found tampered or damaged. We understand that a new CGO is in the process of finalization which will implement the standard; therefore we have no additional recommendations.

15. Standard	Only when they consider such a measure to be indispensable shall the Customs: <ul style="list-style-type: none"> a) Require goods to follow a prescribed itinerary; or b) Require goods to be transported under Customs escort.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Rules; Rules 474(c) and 607(2).
- The Customs General Order Number 10/2012.
- The 'Afghan Pakistan Transit Trade Agreement; Annex-1 and Article 4.

Discussion:

Introductory Note: The Standard stipulates that when Customs really consider it indispensable, they may require goods to follow a certain itinerary (schedule or travel plan) or require goods to be transported under escort. *Note that the standard does not require Customs to ever prescribe an itinerary or to assign an escort; the standard only states that Customs shall limit its use of these practices to situations where they are "indispensable".*

Law: Annex-1 read with Article 4 of APTTA has approved routes on which transport-unit carrying Afghan Transit Trade can carry goods from point of departure to a point of exit/termination of transit. The licensed transport operator may take any one of the said routes. These routes are not prescribed by Customs but by international agreement, and in any case they are not equivalent to a "prescribed itinerary".

The Customs Rules do not, generally, provide for Customs escort in case of Customs transit between points of entry and exit. However, there are two exceptions, i.e. rule 474(c) and rule 607(2).

Sub-Chapter VII of Chapter XVI of the Customs Rules deals with "Transit under PACCS". Rule 474 thereof is relevant, which reads as under:

- 474. Transit declaration: On receipt of transit declaration or manifest information as may be filed on PACCS, the Customs shall, subject to production of delivery order from the shipping line, authorize the Terminal Operator online to hand over the transit consignments as have been mentioned in the manifest in the following manner:
 - Refrigerated or over dimensional cargo may be transported through a private carrier under Customs escort;
- 607. Physical examination of transit goods: The Customs authorities at the office of departure may require transit goods consigned from or destined to the territory of the Afghanistan to be transported under Customs escort while in the territory of the Pakistan in very exceptional cases like where the goods are precious and highly susceptible to misuse of transit facility, to be determined by the Additional Collector.

In practice, transport operators follow the prescribed routes in accordance with their convenience. Our queries from resource persons on whether any consignments have been transported under escort under APTTA, 2010 have been answered in the negative.

Practice: According to interviews with the resource persons specified below, it appears that Customs practice follows the law.

Resource Persons:

- Mr. Ibrahim Vighio Collector of Customs, MCC, Quetta.
- Dr. Saeed Jadoon, Additional Collector of Customs, MCC, Peshawar.

Conclusion: Based on the above research, it appears that the law and practice are in compliance with the standard.

Recommendations: No recommendations deem necessary at this stage.

16. Standard	Customs seals and fastenings used in the application of Customs transit shall fulfill the minimum requirements laid down in the Appendix to this Chapter.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Rules; Rules 622, 624 and 629.
- Customs General Order (CGO) 4 of 2007.
- The 'Afghan Pakistan Transit Trade Agreement (APTTA).

Discussion:

Introductory Note: This Standard stipulates that Customs seals and fastening used in the application of Customs transit shall fulfill the minimum requirements laid down in the Appendix to Chapter 1 of Specific Annex E. For facility of reference, the said Appendix is reproduced below:

APPENDIX

Minimum requirements to be met by Customs seals and fastenings

- a) Customs seals and fastenings shall meet the following minimum requirements:
 - i. General requirements in respect of seals and fastenings: The seals and fastenings shall:
 - a. Be strong and durable;
 - b. Be capable of being affixed easily and quickly;
 - c. Be capable of being readily checked and identified;
 - d. Not permit removal or undoing without breaking or tampering without leaving traces;
 - e. Not permit use more than once, except seals intended for multiple use (e.g. Electronic seals);
 - f. Be made as difficult as possible to copy or counterfeit.

Law: There is no clear provision in the Act or Rules on the issue addressed by the standard. However, there does not absolutely need to be, as the standard is really directed at a practice issue. However, Customs Rules 622, 624 and 629 provides the sealing requirements for Customs transits. The Customs seals used in Customs transit are applied by Pakistan Customs Container Security System (PCCSS) managed/operated by trained personnel of Customs. This is a very elaborate system and the sealing and de-sealing (if any) is recorded in the computer system as well. These seals satisfy the requirements of APTTA and the requirements of RKC as mentioned above. This has been confirmed by the field officers of Customs. There have been no reported incidents of failure on this score.

Practice: According to interviews with the resource persons specified below, it appears that Customs practice follows the law.

Resource Persons:

- Mr. Irfan Javed, Additional Collector of Customs, MCC, (Appraisalment), Karachi.
- Mr. Aamir Altaf, Customs Clearing Agent, C.H.L. 1402, Karachi.
- Dr. Saeed Jadoon, Additional Collector of Customs, MCC, Peshawar.

Conclusion: Based on the above research, it appears that the law and practice are in compliance with the standard.

Recommendations: It might be advisable, but not necessary, to include in the Customs Rules a requirement that seals and fastenings meet the six criteria specified in the Appendix to Chapter 1 of Annex E.

<p>17. Recommended Practice</p>	<p>Customs seals and identification marks affixed by foreign Customs should be accepted for the purposes of the Customs transit operation unless :</p> <ul style="list-style-type: none"> • They are considered not to be sufficient; • They are not secure; or • The Customs proceed to an examination of the goods. <p>When foreign Customs seals and fastenings have been accepted in a Customs territory, they should be afforded the same legal protection in that territory as national seals and fastenings.</p>
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Rules; Rule 622, 624 and 629.
- The Customs General Order Number 10/2012.
- The 'Afghan Pakistan Transit Trade Agreement, (APTTA, 2010).

Discussion:

Introductory Note: This provision recommends that customs facilitate transit operation by accepting Customs seals and identification marks affixed by foreign customs.

Law: Under National Transit the position of Law and practice is identical to the international transit. The provisions of law/rules and the practice followed for international transit is discussed below in detail.

This 'Recommended Practice' stipulates that the Customs should accept Customs seals and identification marks affixed by a foreign Customs unless any or all the 3 conditions mentioned below exist:

- They are considered not to be sufficient;
- They are not secure; or
- The Customs proceed to an examination of the goods.

It further suggests that when foreign Customs seals and fastenings are accepted by some other country's Customs, they should be given same legal protection in that territory as national seals and fastenings.

Section 129 of the Customs Act, provides that on arrival, the goods should be accepted for transit across Pakistan subject to provisions of the Rules. Rule 603 of the Customs Rules is relevant which provides that:

603. Physical Customs inspection at Office of Departure.-

- 1) All consignments of transit Goods shall be inspected to verify the shipper's seal and container number declared in GD.
- 2) Up to five percent of the containers of transit goods shall be selected for examination through risk profiling or the risk management system. The selected consignment shall be examined hundred percent.
- 3) In case of any suspicion or on receipt of credible information any consignment of transit goods shall be examined by the orders of the officer of Customs not below the rank of Assistant or Deputy Collector of Customs.

The law and rules are in compliance of RKC for accepting seals fixed by the Customs of the port of departure.

Practice: The practice follows the provision of law and rules in force. The law and practice are thus not in compliance with the 'Recommended Practice'.

Conclusion: The law and practice are not in compliance with the 'Recommended Practice'.

Recommendations: The Customs Rules be amended for the sake of clarity, to provide that foreign Customs seals and fastenings when accepted will be afforded the same legal protection as Pakistan's national seals and fastenings. Pakistan Customs will retain the authority to fix its own seals whenever considered necessary or required. For this purpose, detailed specifications and Standard Operating Procedure may be notified to obviate its misuse in view of the special circumstances and sensitivities of Transit both National and International.

18. Recommended Practice	Where the Customs offices concerned check the Customs seals and fastenings or examine the goods, they should record the results on the transit document.
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Overall Assessment: Substantially Compliant

Relevant Law:

- The Customs Rules; 477 and 624
- The Customs General Order Number 10/2012.
- The Afghan Pakistan Transit Trade Agreement, (APTTA, 2010).

Discussion:

Introductory Note: This ‘Recommended Practice’, stipulates that where the Customs offices concerned check the Customs seals and fastenings or examine the good, they should record the results in the transit document.

Law: In the paperless PACCS/WeBOC system, all such steps relating to checking of Customs seals and examination of goods, if any, are recorded electronically in the system.

Under One-Customs, however, the manual process will continue for a while, for which Rules 578 to 652 of the Customs, Rules are relevant to Customs control applicable to transit. Rule 602 of the Customs Rules provides that when Customs check seals/fastenings or they examine goods (Rule 604 *ibid*), the facts and/results should be recorded on Goods declaration.

In the PCCSS (Pakistan Customs Container Security System), seals are applied (Rule 624 *ibid*) and then checked in Customs Port at office of Focal Point in Afghan transit Group at Karachi Port.

Practice: According to interviews with the resource persons specified below, it appears that Customs practice follows the law.

Resource Persons:

- Mr. Zia Sarhadi, Director Pak Afghan Chamber of Commerce, Peshawar.
- Dr. Saeed Jadoon, Additional Collector of Customs, MCC, Peshawar.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, C.H.L. 1402, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the ‘Recommended Practice’,

Recommendations: Customs rules may be amended with the clear provisions that fulfil the procedure laid down in the standard above.

19. Standard	A change in the office of destination shall be accepted without prior notification except where the Customs have specified that prior approval is necessary.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Chapter VIII
- The Customs Rules; Rules 603 and 646.
- The Customs General Order Number 10/2012.
- The 'Afghan Pakistan Transit Trade Agreement, (APTTA, 2010).

Discussion:

Introductory Note: The standard provides that the office of destination could be changed without notifying the Customs, except where the Customs have specified that prior approval is necessary.

Law: Under National Transit the position of Law and practice is identical to the international transit. The provisions of law/rules and the practice followed for international transit is discussed below in detail.

This Standard stipulates that a change in the office of destination shall be accepted without prior notification except where Customs have specified that prior approval is necessary.

The Customs Act and the Customs Rules do not provide for change of destination. It is even more remote in practice once the Goods declaration relating to transit goods has been processed and goods are on way to office en-route at Torkam/Chaman. The APTTA, 2010, also does not provide for such change.

This change may however be required under some special circumstances. These are:

- a. The supplier abroad writes to the shipping company to change the destination as they have made a mistake in preparing the bill of lading.
- b. The access to Customs station of destination is beyond the carrier's control, such as a blocked road or a rail link, a closed airport or any other transport or logistical reason.

There is no reported case of change in destination in case of any consignment of international transit goods en-route. In the context of Transit to Afghanistan, change of destination appears a remote possibility as the transit destinations in Afghanistan Jalalabad, Qandhar and Kabul, are far apart. The destination in Afghanistan is mentioned in the "Jawaz-Nama" which describes the importer in Afghanistan and his address. The documents provided by the Afghan importers also clearly mention the Customs Stations where the goods will be processed and cleared by Customs in Afghanistan. The destination of the goods is also reflected in the Import General Manifest (IGM). This can only change if the supplier gets it changed.

In the National Transit (Transshipment) as well the IGM clearly mentions the destination.

There are occasional cases when at the Customs station of departure, a request for change in destination was made because of a clerical error. The changes because of such eventualities are rare. However, these are allowed regularly.

Currently the practice follows the law and destinations remain same as given in original documentation including the IGM.

Practice: According to interviews with the resource persons specified below, it appears that Customs practice follows the law.

Resource Persons:

- Mr. Irfan Javed, Additional Collector of Customs, MCC, (Appraisement), Karachi
- Mr. Aamir Altaf, Customs Clearing Agent, C.H. L. 1402, Karachi.
- Dr. Saeed Jadoon, Additional Collector of Customs, MCC, Peshawar.
- Mr. Zia Sarhadi, Director Pak Afghan Chamber of Commerce, Peshawar.
- Dr. Saeed Jadoon, Additional Collector of Customs, MCC, Peshawar.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the standard.

Recommendations: FBR may consult stakeholders to evaluate the necessity for meeting the requirements of the standards and to amend rule 603 to provide for change in destination subject to the conditions as may be prescribed in the said rule.

20. Standard	Transfer of the goods from one means of transport to another shall be allowed without Customs authorization, provided that any Customs seals or fastenings are not broken or interfered with.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act
- The Customs Rules
- The 'Afghan Pakistan Transit Trade Agreement

Discussion:

Introductory Note: The essential point in this standard is that Customs seals and fastening shall not be broken or interfered with. Transfer en-route without Customs authorization is possible if, for example, a sealed container is transferred intact from one means of transport to another.

Law: The position of Law and practice is in National Transit is identical to the international transit. The provisions of law/rules and the practice followed for international transit is discussed below in detail.

This Standard stipulates that transfer of goods from one means of transport to another shall be allowed without Customs authorization, provided that any Customs seals or fastenings are not broken or interfered with.

There is no provision in the Customs Act or the Customs Rules, providing for this facility. On the contrary, the Rules requires that Customs record of GD and the registers maintained at different control points identify container or the consignment of goods with reference to the transport unit. So if the office en-route finds a change of transport unit when transit goods arrive at border or when a check post between Karachi and Torkham /Chaman finds a change, a case of violation of the law will arise. The law is thus not in compliance with this Standard.

There can be exceptional circumstances or force majeure. A truck or prime mover might break down and require unloading of goods/container. The placement of goods in the open or in unsecured premises will be open to greater risk of loss to the goods and the revenues. Therefore, transfer of goods to another means of transport will be the only solution for security of the goods and for completion of journey of the transit goods to reach office en-route and cross the border to arrive at destination.

It is accordingly considered appropriate that the Customs Rules be amended to provide that in case of accident or break down of containerized truck or container load of goods being carried by prime-mover or trailer or even railway wagons, if the transport unit has broken down necessitating unloading of goods, the goods may be transferred to another conveyance with permission from and presence of the Customs staff of the nearest Customs Station at an appropriate level (may be an Assistant Collector of Customs). In case where the law of the country requires, FIR may also be lodged at the Police Station of jurisdiction and the fact also reported to the office of departure i.e. Karachi and office of exit i.e. Chaman/Torkham.

Practice: The practice follows the law and the rules. The law and practice are thus not in compliance with the Standard.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the standard.

Recommendations: The law and the rules should provide for such change of transport by the transporter without prior permission of Customs. However, they will need some Customs officer to have a look at the seals and fastenings to ensure that these were intact. For the sake of processing through the computer systems the transporter will need to inform the office of departure to amend the particulars of the transport in the system.

21. Recommended Practice	The Customs should allow goods to be transported under Customs transit in a transport-unit carrying other goods at the same time, provided that they are satisfied that the goods under Customs transit can be identified and the other Customs requirements will be met.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act
- The Customs Rules
- The Customs General Order Number 10/2012.
- The 'Afghan Pakistan Transit Trade Agreement

Discussion:

Law: The position of Law and practice under National Transit is identical to the international transit. The provisions of law/rules and the practice followed for international transit is discussed below in detail.

The Customs Act has no provision to allow this facility. The Customs Rules are also silent about it. The purpose of this 'Recommended Practice' is extension of further facilitation to trade particularly when less than Container Load (LCL) cargo is involved. In the current uncertain business environment and the poor law and order situation, it is important that transit trade of Afghanistan remains a smooth and on-going affair and it is not disturbed to a level that it breaks down. Carrying of goods in transit and free goods in same conveyance can give rise to misuse of facility or even to diversion of transit cargo. In the circumstances it is inadvisable to implement this Recommended Practice at this point in time. However, an amendment in the Customs Rules may be made, to take effect say, three years from now by which time the working of IT applications and the robust monitoring system shall have taken firm roots and Customs transit system and procedures will have matured enough to provide this kind of facilitation to the trade.

The practice follows the provisions of law and transit cargo is carried in individual consignments in containers and trucks which can be sealed appropriately.

Practice: According to the interviews with the resource persons specified below, it appears that the customs practice follow the law.

Resource Persons:

- Muhammad Ibrahim Vigio, Collector of Customs, MCC Quetta.
- Mr. Zulfiqar Ali Kazmi, Collector of Customs, MCC Peshawar.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, C.H.L. 1402, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the Recommended Practice.

Recommendations: The Customs law will need to be amended to provide for such a situation to permit goods in free circulation to be carried in transit (National and International). Provided that Customs are satisfied that the goods under Customs transit can be identified and the other Customs requirements are met.

22. Recommended Practice	The Customs should require the person concerned to report accidents or other unforeseen events directly affecting the Customs transit operation promptly to the nearest Customs office or other competent authorities.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Rules; Rule 641.
- The Customs General Order Number 10/2012.
- The 'Afghan Pakistan Transit Trade Agreement.

Discussion:

Introductory Note: This recommended practice provides that the accidents or other unforeseen events can have repercussions on transit. They can result in accidental breaking of the seal, loss or destruction of the goods or the urgent transfer of the goods to another transport-unit necessitating removal of the seal.

Law: The position of Law and practice in national transit is identical to the international transit. The provisions of law/rules and the practice followed for international transit is discussed below in detail.

This Recommended Practice has nexus with Standard No. 20 and may be read in conjunction with comments on the said Standard.

Rule 641 (5) of Sub-chapter XI of chapter XXV of the Customs Rules provides that:

- In case of any accident on the way between office of departure and office en-route which may cause delay in the delivery of goods beyond the specified time, the nature of accident, exact time and place of accident along with complete detail of the transport operator shall be communicated to the office of departure and office en-route telephonically or electronically.

Moreover, there are no provisions in the law as to what should be done if goods are exposed and there is danger to their loss or further damage thereto. Indeed rescue operations in such situations need to be devised in accordance with the exigency. What is important is that Customs should take control as quickly as possible so as to control the damage by securing the goods at the earliest, making inventory of goods, preparing incident report with maps of site of occurrence, repackaging of goods if required, safe custody and eventual dispatch of goods to office en-route or closest Customs station with examination report and fresh inventory/list of goods.

A standard operating procedure for these and other related activities needs to be in place even if possibility of such a force majeure or accident is remote.

In practice such incidents are regularly reported to the office of departure, office of exit and the office where the accident or some other untoward accident has taken place. In fact now all the containers and trucks are monitored through tracking devices and the Customs are informed about such incidents in real time.

Practice: According to the interviews with the resource persons specified below, it appears that the customs practice follow the law.

Resource Persons:

- Muhammad Ibrahim Vigio, Collector of Customs, MCC Quetta.
- Mr. Zulfiqar Ali Kazmi, Collector of Customs, MCC, Peshawar.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, C.H.L. 1402, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are in compliance with the Recommended Practice.

Recommendations: No recommendations deem necessary at this stage.

23. Standard	National legislation shall not, in respect of the termination of a Customs transit operation, require more than that the goods and the relevant Goods declaration be presented at the office of destination within any time limit fixed, without the goods having undergone any change and without having been used, and with Customs seals, fastenings or identification marks intact.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act
- The Customs Rules; Sub Chapters IX and X of Chapter XXV.
- The Customs General Order Number 10/2012.
- The 'Afghan Pakistan Transit Trade Agreement, (APTTA, 2010).

Discussion:

Introductory Note: This standard provides that the Customs may also verify that the transport-unit is otherwise secure and may carry out either a summary or detailed examination of the goods themselves so as to place them under another Customs procedure.

Law: The position of Law and practice under national transit is identical to the international transit. The provisions of law/rules and the practice followed for international transit is discussed below in detail.

Relevant rules in Sub-Chapters VI are self-explanatory and need no further comment. Same are reproduced below for convenience of reference:

629. Receipt or acknowledgement or Inspection of seals and loading, unloading of transit cargo at office en- route.

- In case the GD is found in order, seals of the containers are intact and no discrepancy is found in terms of weight or scanning image or there is no evidence of [tampering] of the container, the goods shall be allowed to cross the border.
- After crossing over the border by transport units, the relevant copies of GDs including Afghan Government's copy, shall be forwarded to the office en-route on the Afghan side for their endorsement in relevant portion of the GD as token of receipt of the transit good. The Afghan office en-route shall return a copy of the GD with acknowledgment of receipt of the consignment to the Pakistan office en-route as confirmation of receipt of the consignment and forward the original GDs to the office of destination on the Afghan side.

In rule 600 of the Customs Rules, 2001, the definitions of 'office of departure', 'office en-route' and 'office of destination' are given, which are as under:

600. Definitions. - In this Chapter, unless there is anything repugnant in the subject or context,-

- Office of departure means any Customs office at which a Customs transit operation commences;
- Office en-route means any Customs office through which goods in transit pass during the course of a Customs transit operation; Explanation.- If office of departure is Karachi, the office en-route shall be Torkham/Chaman and Afghan customs office on other side of the border and office of destination shall be customs station inside Afghanistan where Afghan goods declaration is filed;
- Office of destination means any Customs office at which a Customs transit operation is terminated;

Rule 601 *ibid* provides that the transit operation shall be completed when the goods are received at the office of destination and in acknowledgement thereof, a copy of GD accompanying the goods to the office of destination is returned to the relevant Customs office of departure. In this way the requirements of the Standard are satisfied.

Practice: According to the interviews with the resource persons specified below, it appears that the customs practice follow the law.

Resource Persons:

- Mr. Zulfiqar Kazmi, Collector of Customs, MCC, Peshawar.
- Mr. Zia Sarhadi, Director Pak Afghan Chamber of Commerce, Peshawar.

Conclusion: Based on the above research, it appears that the law and practice are in compliance with the standard.

Recommendations: Customs Act is required to be amended with adequate enabling provision for fully compliance with the standard.

24. Standard	As soon as the goods are under its control, the office of destination shall arrange without delay for the termination of the Customs transit operation after having satisfied itself that all conditions have been met.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Section 129.
- The Customs Rules; Sub-Chapters VI, IX and X of Chapter XXV.
- The Customs General Order Number 10/2012.
- The 'Afghan Pakistan Transit Trade Agreement, (APTTA, 2010).

Discussion:

Introductory Note: Standard 24 states that as soon as the goods are under its control, the office of destination shall arrange without delay for the termination of the Customs transit operation.

Law: The position of Law and practice under national transit is identical to the international transit. The provisions of law/rules and the practice followed for international transit is discussed below in detail.

This particular recommended practice relates exclusively to international transit.

This Standard stipulates that as soon as the goods are under its control, the office of destination shall arrange without delay for termination of Customs Transit operation after having satisfied that all conditions have been met.

The relevant rules are contained in Sub-Chapters VI, IX and X of Chapter XXV of the Customs Rules titled 'Verification at office en-route', 'Transit from Afghanistan to India through Land Route Wagha' and 'Procedure in respect of Afghan Transit Exports at Karachi Port, Port Muhammad Bin Qasim and Gwadar port', respectively.

Relevant rules in Sub-Chapters VI are self-explanatory and need no further comment. Same are reproduced for convenience of reference:

629. Receipt or acknowledgement or Inspection of seals and loading, unloading of transit cargo at office en- route.

- In case the GD is found in order, seals of the containers are intact and no discrepancy is found in terms of weight or scanning image or there is no evidence of [tampering] of the container, the goods shall be allowed to cross the border.
- After crossing over the border by transport units, the relevant copies of GDs including Afghan Government's copy, shall be forwarded to the office en-route on the Afghan side for their endorsement in relevant portion of the GD as token of receipt of the transit good. The Afghan office en-route shall return a copy of the GD with acknowledgment of receipt of the consignment to the Pakistan office en-route as confirmation of receipt of the consignment and forward the original GDs to the office of destination on the Afghan side.

In rule 600 of the Customs Rules, 2001, the definitions of 'office of departure', 'office en-route' and 'office of destination' are given, which are as under:

600. Definitions. - In this Chapter, unless there is anything repugnant in the subject or context,-

- Office of departure means any Customs office at which a Customs transit operation commences;
- Office en-route means any Customs office through which goods in transit pass during the course of a Customs transit operation; Explanation.- If office of departure is Karachi, the office en-route shall be Torkham/Chaman and Afghan customs office on other side of the border and office of destination shall be customs station inside Afghanistan where Afghan goods declaration is filed;
- Office of destination means any Customs office at which a Customs transit operation is terminated;

Rule 601 *ibid* provides that the transit operation shall be completed when the goods are received at the office of destination and in acknowledgement thereof, a copy of GD accompanying the goods to the office of destination is returned to the relevant Customs office of departure. The relevant portion of the rule is reproduced as below:

- Duplicate copy In case the goods are imported at sea port, the Customs administration at the office of departure shall send copy to the office en route in Pakistan (Torkham or Chaman) which shall be handed over to Afghan customs at the border. The Afghan Customs shall send the GD back to the office of departure in Karachi through the respective border Customs stations (Torkham or Chaman on the Pakistani side) along with copy of T-1 issued and attested by Afghan Customs bearing cross reference of GD filed in Pakistan, and a certificate to the effect that the consignment mentioned in the relevant T-1 form has crossed the Customs checkpost or station Samarkhel (Jalalabad) in case of transit through Torkham, and Spin Boldak in case of transit through Chaman. This shall be considered, as Cross Border Certificate (CBC) and on the basis of which Customs shall release, after due process, the Customs security.
- In case the goods are imported at Border Customs Station and exported through sea port, the copy shall be sent by the office of departure to the Customs at sea port. This copy shall be returned to the office of departure after endorsement of mate receipt (MR) number; and
- In case the goods are imported at Border Customs Station and exported through another Border Customs Station, this copy shall be returned to the office of departure after endorsement of "crossed Border" by the appropriate customs officer."

Practice: According to the interviews with the resource persons specified below, it appears that the customs practice follow the law.

Resource Persons:

- Dr. M. Saeed Jadoon, Additional Collector of Customs, MCC, Peshawar.
- Mr. Mir Zaman, Inspector of Customs (Rebate), MCC, Peshawar, formally at Torkhum for three years.

Conclusion: Based on the above research, it appears that the law and practice are in compliance with the standard.

Recommendations: No recommendations deem necessary at this stage.

25. Recommended Practice	Failure to follow a prescribed itinerary or to comply with a prescribed time limit should not entail the collection of any duties and taxes potentially chargeable, provided the Customs are satisfied that all other requirements have been met.
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Overall Assessment: Substantially Compliant

Relevant Law:

- The Customs Act; Chapter VIII and section 224.
- The Customs Rules; 607, 634 and 641(3).
- The Customs General Order Number 10/2012.
- The 'Afghan Pakistan Transit Trade Agreement, (APTTA, 2010): Protocol Three.

Discussion:

Introductory Note: Failure to follow a prescribed itinerary or to comply with a prescribed time limit should, recommended practice 25 recommends not collecting the duties and taxes potentially chargeable, provided that customs are satisfied that all other requirements have been met.

Law: This particular recommended practice relates exclusively to international transit. Under rule 634 of the Customs Rules an unavoidable delay in concluding the transit operation may be condoned by Customs and extension in the prescribed period may be allowed. Rule 634 reads as under:

- 634. Unavoidable delay.-If unavoidable delay en-route in the transit of any goods takes place, the carrier shall make a request with specific reason to the concerned Assistant or Deputy Collector for extension in the prescribed period. This extension shall be allowed after recording reasons in writing and subject to condition that the goods shall be hundred per cent examined at the port of exit besides taking penal action, if deemed appropriate.

Rule 641(3) is also relevant, which reads as under:

- 641. Responsibilities of the bonded transport operator:
 - The delay in delivery from the stipulated time or deviation from the route shall require a written explanation from the transport operator to focal point (PCCSS) and may entail invocation of penalty provisions.

Rule 641 refers to administrative action against the transport operator and does not apply to the Afghan Importer or Pakistani importer (National Transit).

Practice: The practice follows the provisions of law. The law and practice are thus in substantial compliance with the 'Recommended Practice',

Conclusion: The law and practice are in substantial compliance with the 'Recommended Practice',

Recommendations: Time limit for completing the Customs transit, in Pakistan, for each route needs to be prescribed for permitted routes under Protocol Three of APTTA, 2010. This will automatically safeguard against any misuse of the facility. The standard will reportedly soon be addressed in a CGO.

26. Recommended Practice	Contracting Parties should give careful consideration to the possibility of acceding to international instruments relating to Customs transit. When they are not in a position to accede to such international instruments they should, when drawing up bilateral or multilateral agreements with a view to setting upon international Customs transit procedure, take account therein of Standards and Recommended Practices in the present Chapter.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Chapter VIII
- The Customs Rules
- The 'Afghan Pakistan Transit Trade Agreement
- The 'Quadrilateral Transit Trade Agreement between Pakistan, China, Kyrgyzstan and Kazakhstan, 1995.

Discussion:

Introductory Note: This recommended practice exclusively deals with international transit. The instruments referred in the standard are as follows:

Law: The Customs Convention on the International Transport of Goods under cover of TIR carnets (TIR Convention), Geneva, 14 November 1975.

- The Convention on Temporary Admission (done at Istanbul, 26 June 1990). The Istanbul Convention groups various facilities for the temporary admission of goods into a single instrument. Consequently it does not deal with matters of Customs transit. Nevertheless it is mentioned here since Annex A relates, in particular, to ATA carnets, which also comprise an international transit system.
- The Customs Convention on the ATA carnet for the Temporary Admission of Goods (ATA Convention), Brussels, 6 December 1961. ATA carnets can be accepted for the transit of goods under temporary admission which have to be conveyed to or from their destination under Customs control, either in the Customs territory of temporary admission or through a Customs territory or countries between those of exportation and importation.

Pakistan is a signatory to the ATA convention only, Brussels, Dec, 6, 1961. The accession to the other conventions is under consideration but the process is expected to take a long time.

However, if APTTA does not come at par with some of the provisions of the international instruments already in existence and in force, it is because the ground realities impose limitations. To illustrate the level of prevalent compliance, the Customs law does not warrant removing or minimizing Customs controls on Afghan transit goods and the sensitivities attached to this Transit Trade make it almost impossible to do so. In this regards Afghan importers too have their concerns as goods pass through Pakistan. Risk of theft and diversion of cargo is a deterrent in the way of allowing commercial merchandise to be transported in the open trucks and without seals from Karachi to Kabul or Kandahar.

Nonetheless, the significance of this Recommended Practice is that it should provide the beacon light to Contracting Parties in formulating their respective future agreements so that the new agreements cover some more distance towards simplification and facilitation. At present, the agreements signed by Pakistan are not in full compliance to Annex E. In fact the agreements were signed without keeping in view RKC requirements because Pakistan has not ratified this Annex.

Practice: Recommended Practice is not followed. The practice is not in compliance with the Recommended Practice.

Resource Persons:

- Mr. Zulfiqar Ali Kazmi, Collector of Customs, MCC Peshawar.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, C.H.L. 1402, Karachi.
- Mr. Muhammad Ibrahim Vighio, Collector of Customs, MCC Quetta.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the Recommended Practice.

Recommendations: The FBR/Customs may always give careful consideration to the possibility of acceding to international instruments relating to Customs transit. When they are not in a position to accede to such international instruments they should, when drawing up bilateral or multilateral agreements with a view to setting upon international Customs transit procedures, take account therein of the provisions of General Annex and Standards and Recommended Practices of Chapter 1 of Annex E of RKC.

Chapter 2: Transshipment

Definitions

One defined term is provided at the beginning of Chapter 2 of Specific Annex E, and is 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 defined 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 defined term and associated meaning provided in Chapter 2 of Specific Annex E (and our notes with respect thereto) are:

- "transshipment" means the Customs procedure under which goods are transferred under Customs control from the importing means of transport to the exporting means of transport within the area of one Customs office which is the office of both importation and exportation.

Note: The intent and meaning of the term "transshipment" as defined above is clear. The term is used in Chapter XII (Sections 120-125) of the Customs Act; however, as noted above under Standard 2 of Chapter 1, the term "transshipment" as used in the Customs Act refers to any situation where there is a change of conveyance and therefore its meaning is much broader in scope than the meaning of the term "transshipment" as used in the RKC.

In the Customs Act, a definition of the term "transshipment" is not given, although it is defined in item "o" of Customs Rule 326, but the definition is not as clear as the RKC definition. Rule 326(o) defines "transshipment" as "the transfer of transshipment goods without payment of customs duties and taxes at port to carrier for carriage to another customs port or station."

It appears that the term "transshipment" as used in the Customs Act actually encompasses not just RKC transshipment but also substantial aspects of what the RKC defines as "transit". See the discussion under Standard 2 of Chapter 1.

Recommendation: There appears to be a compelling need for definitional clarity to clearly distinguish transshipment from transit in the manner provided for in the RKC. It is recommended that the definition of the term "transshipment" provided in Chapter 2 of Specific Annex E be inserted in Section 2 of the Customs Act and in item "o" of Customs Rule 326; and the relevant provisions of both the Customs Act and the Customs Rules should be modified appropriately to ensure that they use the term in a manner that is consistent with the new definition.

1. Standard	Transshipment 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 transshipment is to be governed by Chapter 2 of Annex E 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	Goods admitted to transshipment shall not be subject to the payment of duties and taxes, provided the conditions laid down by the Customs are complied with.
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Overall Assessment: Partially Compliant

Relevant Law:

- Custom Act; Section 121
- S.R.O. 698(I)/73 dated 17th May, 1973
- Preventive Service Manual, Edition 1965, chapter X, Drawback, Transit Trade and Transshipment.

Discussion:

Introductory Note: This standard provides that any goods admitted to transshipment must not be subject to payment of duties and taxes, provided further that the conditions laid down by the Customs are complied with.

Law: Sections 121 of the Customs Act as reproduced below, meets the requirements of this Standard partially. This section has a provision for National Transit which is also referred to as Transshipment. This section also allows Transshipment as required under RKC. The portions allowing Transshipment as per RKC have been highlighted:

121. Transshipment of goods without payment of duty.-(1) Subject to the provisions of section 15 and the rules, the appropriate officer may, on application by the owner of any goods imported at any Customs-station and specially and distinctly manifested at the time of importation as for transshipment to some other Customs-station or foreign destination, grant leave to tranship the same without payment of duty, if any, chargeable on such goods with or without any security or bond for the due arrival and entry of the goods at the Customs-station of destination.

S.R.O. 698(I)/73 dated 17 May 1973, laid down the rules regarding the transshipments of goods other than postal articles at the port of Karachi. It provides that the transship permit for the goods so transshipped shall be obtained and the transshipment fee, if any, payable in respect thereof shall be paid immediately after the import general manifest has been put in. However, it does not clearly indicate that the goods so admitted are not subject to payment of duties and taxes.

Chapter X of the Preventive Service Manual provides that after the payment of transshipment fee leviable under Section 133 of the Sea Customs Act, the Superintendent Export Section, shall sign the "Let Transship" order on all the copies of the transship permit, and hand over the duplicate and triplicate copies to the owner or agent as the case may be as authority to proceed with the goods.

The law is in thus partial compliance with the standard. However, the expression "Transshipment" has been mixed up with 'National Transit'. Obviously, the definition needs to be re-drafted to separate "Transshipment" from "Practice is as per law. Imported Goods are also allowed to be transferred, without payment of duties and taxes to another ship for export, to a foreign destination (Customs territory). "National Transit". Imported Goods are allowed to be transferred, without payment of duties and taxes, to another ship for export, to a foreign destination (Customs territory).

Practice: According to the interviews with the resource persons specified below, it appears that the customs practice follow the law.

Resource Persons:

- Dr. Sarfaraz Warraich, Collector of Customs, MCC, Sambrial (Sialkot).
- Dr. Saeed Jadoon, Additional Collector of Customs, MCC, Peshawar.
- Mr. Irfan Javed, Additional Collector of Customs, MCC, PACCS Karachi.

Conclusion: Based on the above research, it appears that the law and practice are partially in compliance with the standard.

Recommendations: The definition needs to be re-drafted to separate “Transshipment” from “National Transit”. The definitions of the terms ‘Transshipment’ and ‘National Transit’ as given in RKC may be incorporated in Section 2 of the Customs Act and in the allied rules/procedures; as a corollary to the proposed definitions, the provisions contained in Chapters XII and XIII of the Customs Act may be modified to meet the requirements of RKC, with respect to ‘Transshipment’ and ‘National Transit’, respectively; and the movement of goods to other Customs stations may be termed as National Transit.

3. Recommended Practice	Transshipment should not be refused solely on the grounds of the country of origin of the goods, the country from which they arrived or their country of destination.
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Overall Assessment: Partially-Compliant

Relevant Law:

- Custom Act; Section 121
- S.R.O. 698(I)/73 dated 17th May, 1973
- Preventive Service Manual, Edition 1965, chapter X, Drawback, Transit Trade and Transshipment.

Discussion:

Introductory Note: This standard provides that the transshipment should not be refused solely on the ground of the country of origin of the goods, the country from which they arrived or their country of destination.

Law: There is no clear provision provided in the Act as well as Rules that clearly meets the criteria laid down in the standard above. Section 121 of the Act provides the procedure for transshipment of goods without payment of duty. Preventive Service Manual, Edition 1965, chapter X, Drawback, Transit Trade and Transshipment) allows Transshipment to take place within Karachi Port and Port Qasim, Karachi, and at Airports when goods brought/imported to Pakistan are transshipped to another vessel/aircraft, within the same port, for export to another country.

Goods are allowed transshipment without any consideration to the origin of the goods or their country of destination. Except the goods the import of which is prohibited under the Customs Act.

There is no incident on record of any customs station having refused transshipment for these reasons if nothing to the contrary is provided in the law e.g. a prohibition under The Custom Act.

Practice: According to the interviews with the resource persons specified below, it appears that the customs practice follow the law.

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: Based on the above research, it appears that the law and practice are partially in compliance with the Recommended Practice.

Recommendations: Despite the fact that the law does not stop Transshipment of goods of a particular origin or destination there is a need to specify this in the law. Section 121 of the Customs Act and the Rules need to be appropriately amended to make the law transparent.

4. Standard	Only one Goods declaration shall be required for the purposes of transshipment.
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Overall Assessment: Non-Compliant

Relevant Law:

- Custom Act
- S.R.O. 698(I)/73 dated 17th May, 1973
- Preventive Service Manual, Edition 1965, chapter X, Drawback, Transit Trade and Transshipment.

Discussion:

Introductory Note: This standard provides that only one goods declaration must be required for the purposes of transshipment.

Law: There is no clear provision in the Act as well as rules that provides that only one goods declaration is required for the purposes of transshipment. However, Section 121 read with 131 are partially relevant to the standard. The procedure is provided in S.R.O. 698(I)/73 dated 17th May, 1973 and Preventive Service Manual, Edition 1965, chapter X, Drawback, Transit Trade and Transshipment. Practice follows the law since only one GD is required to be filed for transshipment.

Practice: According to the interviews with the resource persons specified below, it appears that the customs practice follow the law.

Resource Persons:

- Mr. Aamir Ahmed, Collector of Customs, MCC PaCCS, Karachi.
- Mr. Fazal Yazdani Khan, 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: Based on the above research, it appears that the law and practice are not in compliance with the Recommended Practice.

Recommendations: Customs Act may be amended with clear provisions about one GD requirement for the purposes of transshipment.

5. Standard	Any commercial or transport document setting out clearly the necessary particulars shall be accepted as the descriptive part of the Goods declaration for transshipment and this acceptance shall be noted on the document.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Section 2(O), 79(a),79(b), First proviso of Section 79, 121

Discussion:

Introductory Note: This standard provides that the any transport document that clearly sets out the particulars must also be accepted as the descriptive part of the Goods declaration for transshipment and further this acceptance shall be noted on the document.

Law: Section 79(a), 79(b) and First proviso of Section 79 are relevant here. None of these provisions are in conformity with the stipulations of the Standard because Customs require declarant to file several supporting documents with GD (Goods Declaration)-TP (Transshipment Permit).

Practice: In practice a Goods declaration, called GD-TP, is required to be filed along with several supporting documents. The practice is at variance with the provisions of RKC.

Resource Persons:

- Mr. Zulfiqar Kazmi, Collector of Customs, MCC, Peshawar.
- Dr. Arsalan Subuktageen, Collector of Customs, MCC, Gwadar.
- Mr. Qurban Ali Khan, Additional Collector of Customs, AFU, Islamabad.
- Mr. Javed Iqbal Butt, former Deputy Collector of Customs (Law), MCC (Appraisalment), Karachi.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, C.H.L. 1402, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the standard.

Recommendations: FBR/Customs may modify the Customs Rules to make a provision for acceptance of any commercial document such as 'Proforma Invoice' or transport document (e.g. 'Bill of Lading'), setting out clearly the necessary particulars of goods, should be accepted as the descriptive part of the Goods declaration for transshipment and this acceptance shall be noted on the document. It may be mentioned that the 'Proforma Invoice' normally has complete description of goods as it also works as a contract and the Letters of Credit usually refer to the same.

6. Recommended Practice	The Customs should accept as the Goods declaration for transshipment any commercial or transport document for the consignment concerned which meets all the Customs requirements. This acceptance should be noted on the document.
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Overall Assessment: Non-Compliant

Relevant Law:

- Custom Act; Section 2(O), 79(a),79(b), First proviso of Section 79, 121
- S.R.O. 698(I)/73 dated 17th May, 1973
- Preventive Service Manual, Edition 1965, chapter X, Drawback, Transit Trade and Transshipment.

Discussion:

Law: Section 79(a), 79(b) and First proviso of Section 79 are relevant here. These sections provide various documents to be filed along with the GD/TP. These are required to be filed for Transshipment as well. Obviously there is no provision for acceptance of any commercial document as GD/TP.

Practice: In practice a Goods declaration (GD-TP) is invariably required to be filed duly supported by several supporting documents. This is a practice not known in Pakistan Customs law, procedures or rules.

Resource Persons:

- Dr. Arsalan Subuktageen, Collector of Customs, MCC, Gwadar.
- Mr. Qurban Ali Khan, Additional Collector of Customs, AFU, Islamabad.
- Mr. Javed Iqbal Butt, former Deputy Collector of Customs (law), MCC, (Appraisalment), Karachi.
- Mr. Irfan Javed, Additional Collector of Customs, MCC, (Appraisalment), Karachi.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, C.H.L. 1402, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the Recommended Practice.

Recommendations: Such a document could be the 'Proforma Invoice' which constitutes the basis of firm contract and which contains information relating to the subject goods including the description, specifications and in some cases the HS code as well. Section 79 of the Customs should be suitably amended to provide for the acceptance of the Proforma Invoice or some other similar document to be accepted as the descriptive part of the GD/TP.

7. Standard	When the Customs consider it necessary, they shall take action at importation to ensure that the goods to be transshipped will be identifiable at exportation and that unauthorized interference will be readily detectable.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Section 79(a),79(b), First proviso of Section 79, 121
- S.R.O. 698(I)/73 dated 17th May, 1973
- Preventive Service Manual, Edition 1965, chapter X, Drawback, Transit Trade and Transshipment.

Discussion:

Law: The procedures already prescribed and notified include provisions that can be used for identification of the goods. However, whenever Customs feel that the documentary controls are not enough they may require the containers to be sealed or the goods to be examined before these are allowed Transshipment. These procedural requirements have been found to be sufficient for identification purposes. However, there is no procedure prescribed for the situation where sealing of the containers or examination of the goods may become necessary. This could happen in cases where the goods move from one wharf to another in the same port.

Practice: The law and practice are in compliance with the Standard. However, the physical controls referred above are not prescribed in the Law, rules or procedures. The current procedures only prescribe documentary controls.

Resource Persons:

- Mr. Irfan Javed, Additional Collector of Customs, MCC (Appraisalment), Karachi.
- Mr. Aamir Altaf, Customs Clearing Agent, C.H.L. 1402, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the standard.

Recommendations: The existing procedures only prescribe documentary controls. However, there is no provision in the law, rules or procedures for physical controls e.g. sealing of the containers or examination of the goods. These physical controls should be provided in the law, rules and procedures mentioned above.

8. Standard	When the Customs fix a time limit for the exportation of goods declared for transshipment, it shall be sufficient for the purposes of transshipment.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act; Section 79(a),79(b), First proviso of Section 79, 121
- Customs Rules; 339
- S.R.O. 698(I)/73 dated 17th May, 1973

Discussion:

Law: The Customs Act does not specify any period within which transshipment must take place from importing vessel to the exporting vessel. However, rule 339 sets the time limit for transshipment of goods. It is provided that all goods for which transshipment permit has been issued will reach the customs port within seven days of the date of issue of transshipment permit. After the application for GD-TP has been processed and approved the time period for the Transshipment is normally less than 24 hours in practice. S.R.O 698 (I)/73 dated 17th May, 1973, indirectly specifies the time period after the arrival of the importing vessel to be 24 hours after the processing of the TP (Transshipment Permit). However, this is not very clearly specified.

It is worth noting that transshipment from an importing vessel to another vessel or transport unit is expected to be completed within a short span of time as importing vessel has a limited berthing time at the port and even in case of transfer to another transport unit, a longer waiting time, after landing of goods from importing vessel, is not visualized. Nonetheless, it is important that a reasonable time is prescribed with a view to streamlining the procedures and making transshipment predictable. It seems appropriate that a time limit (say 7 days) is provided for the same in the Customs Rules, where Customs are satisfied that the cause of delay was beyond a person's control.

Practice: In practice 'transshipment' as envisaged under the RKC (transfer of goods from importing vessel to another (exporting) vessel) is not disallowed on grounds of time limitation.

Resource Persons:

- Dr. Arsalan Subuktageen, Collector of Customs, MCC, Gwadar
- Mr. Javed Iqbal Butt, former Deputy Collector of Customs (law), MCC (Appraisalment), Karachi.
- Mr. Irfan Javed, Additional Collector of Customs, MCC (Appraisalment), Karachi.
- Mr. Aamir Altaf, Customs Clearing Agent for Afghanistan Transit Trade, C.H.L. 1402, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are partially in compliance with the standard.

Recommendations: No recommendations deemed necessary at this stage.

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

Relevant Law:

- The Customs Act; Section 121, 224
- Customs Rules; 339

Discussion:

Introductory Note: The standard provides that at the request of the person with a valid reason the customs can extend any period initially fixed.

Law: There is no express provision in the Act or Rules which makes it mandatory for the Customs to extend any period initially fixed. However, Section 224 of the Act and Rule 339 of Customs Rules covers such situation and empowers FBR and appropriate officers of Customs to extend the time prescribed in any case.

No delays, however, have been recorded in the Customs on this account in the past one year. The reason for this could be that the transshipment dwell time cannot be more than 24 hours as the ships do not stay in the port for very long. Most of the ships leave the port within 24 hours of arrival.

In any case Section 224 of the Customs Act is relevant in all such cases. Extensions under this section are allowed liberally. It is reproduced below for convenience of reference:-

224. Extension of time limit.-The Federal Government, the Board or the appropriate officer of Customs, may, upon being approached by an aggrieved party 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 there under.

As already observed in comments on the Definition, Standards and Recommended Practices of this Chapter, the definition of transshipment given in the Customs Act and the rules made there under is different from that given in this Chapter of RKC and have recommended that the former may be modified.

Practice: According to the interviews with the resource persons specified below, it appears that the customs practice follow the law.

Resource Persons:

- Dr. Sarfraz Warraich, Collector of Customs, MCC, Smabrial (Sialkot).
- Mr. Irfan Javed, Additional Collector of Customs, MCC, (Appraisement), Karachi.
- Mr. Javed Iqbal Butt, former Deputy Collector of Customs (Law), MCC, (Appraisement), Karachi.
- Mr. Aamir Altaf, Customs Clearing Agent, C.H.L. 1402, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are in compliance with the Recommended Practice.

Recommendations: There should be a specific reference to this recommended practice in the Customs law or rules. So that the stakeholders know about the fact that extension in time limit will be allowed in such situations of delay in Transshipment.

10. Recommended Practice	Failure to comply with a prescribed time limit should not entail the collection of any duties and taxes potentially chargeable, provided the Customs is satisfied that all other requirements have been met.
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Overall Assessment: Substantially Compliant

Relevant Law:

- The Customs Act; Section 224
- Customs Rules; 339

Discussion:

Law: The Customs Act and Rules have fixed time limit for completion of 'transshipment'. The Act does not provide for collection of duties and taxes on 'transshipment' for any reason.

Section 224 of the Customs Act provides for extension of time limit. The extensions are allowed liberally. The section is reproduced below for convenience of reference;

224. Extension of time limit.-The Federal Government, the Board or the appropriate officer of Customs, may, upon being approached by an aggrieved party 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 there under.

The law thus provides to mitigate the hardship of importer/exporter in consonance with the purpose of the Recommended Practice. In practice, no duties and taxes are charged when completion of transshipment from importing means of transport to the exporting means of transport has been delayed for any reason.

Practice: According to the interviews with the resource persons specified below, it appears that the customs practice follow the law.

Resource Persons:

- Dr. Sarfraz Warraich, Collector of Customs, MCC, Smabrial (Sialkot).
- Mr. Irfan Javed, Additional Collector of Customs, MCC (Appraisalment), Karachi
- Mr. Javed Iqbal Butt, former Deputy Collector of Customs (law), MCC, (Appraisalment), Karachi.
- Mr. Aamir Altaf, Customs Clearing Agent, C.H. L. 1402, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are substantially in compliance with the Recommended Practice.

Recommendations: The provision of Seven days for Transshipment should be freely extended and such extensions/delays should not entail payment of any duties and taxes.

11. Recommended Practice	At the request of the person concerned, and subject to such conditions as the Customs may specify, the Customs should as far as possible allow goods in transshipment to undergo operations likely to facilitate their exportation.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act; Section 121(1).
- The Customs Rules; Rule 331.

Discussion:

Introductory note: The process of transshipment is essentially that of transferring goods from one means of transport to another and it is generally understood that the goods should be in the same condition after the transfer as before. Certain operations intended to facilitate Transshipment should be authorized for various reasons. These operations may include change of packing, marking or sorting.

In these operations there may be a need for consolidating goods/packages. This consolidation of goods/packages may also be freely allowed to facilitate trade.

Law: Transshipment from importing vessel to another vessel is provided in section 121 of the Customs Act, which is reproduced below for convenience of reference:

121. Transshipment of goods without payment of duty.-(1) Subject to the provisions of section 15 and the rules, the appropriate officer may, on application by the owner of any goods imported at any Customs-station and specially and distinctly manifested at the time of importation as for transshipment to some other Customs-station or foreign destination, grant leave to tranship the same without payment of duty, if any, chargeable on such goods with or without any security or bond for the due arrival and entry of the goods at the Customs-station of destination.

The Act and the rules made there under, have no specific provisions to allow goods in transshipment to undergo any operations likely to facilitate their exportation. Nonetheless, Para 26 of chapter X of the 'Preventive Service Manual', issued by Custom House, Karachi (1965 edition) provides for repacking of transshipment cargo. The said Para is reproduced below:

26. Recovering or repacking of transshipment Cargo - If a trans-shipper wishes to convert, repack or recover his goods on the docks, he should apply in writing to the SPS concerned who may, if such goods have remained all along in the custody of the Port Trust and have suffered damage rendering repacking-necessary for transshipment, allow such repacking or recovering under Customs supervision, without reference to the Assistant Collector of Customs. In other cases the orders of Assistant Collector, Preventive must be obtained before permitting any such operations in the Docks.

In practice goods under transshipment are not ordinarily allowed to undergo operations. However, in exceptional cases, such as bursting of bags and cartons, letting loose the cargo (and spilling all over), recovering and repacking and other such like operations are allowed. If several lots of LCL cargo are to be stuffed in one container, marks of distinction and segregation of lots is also allowed. However, there are no specific provisions authorizing such operations. The consolidation of LCL cargo is allowed in practice on case to case basis.

Practice: According to the interviews with the resource persons specified below, it appears that the customs practice follow the law.

Resource Persons:

- Mr. Zulfiqar Kazmi, Collector of Customs, MCC, Peshawar.
- Dr. Arsalan Subuktageen, Collector of Customs, MCC, Gwadar.
- Mr. Qurban Ali Khan, Additional Collector of Customs, AFU, Islamabad.
- Mr. Irfan Javed, Additional Collector of Customs, MCC (Appraisement), Karachi.

Conclusion: Based on the above research, it appears that the law and practice are partially in compliance with the Recommended Practice.

Recommendations: Scope of the Customs Rules may be enlarged to allow goods under transshipment to undergo certain operations as mentioned above to facilitate their exportation, such as affixing of marks and numbers there to, their recovering, wrapping, repacking, segregating the same and the like. Detailed rules may be prepared for the handling of LCL cargo. At present there are no notified provisions for the handling of LCL cargo.

Chapter 3: Carriage of Goods Coastwise

Definitions

One defined term is provided at the beginning of Chapter 3 of Specific Annex E and is 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 generally accepted meaning of the term in international practice.

The defined term and associated meaning provided in Chapter 3 of Specific Annex E (and our notes with respect thereto) are:

- “The carriage of goods coastwise procedure” means the Customs procedure under which:
 - a. goods in free circulation, and
 - b. Imported goods that have not been declared under the condition that they must be transported in a vessel other than the importing vessel in which they arrived in the Customs territory are loaded on board a vessel at a place in the Customs territory and are transported to another place in the same Customs territory where they are then unloaded.

Note: As one might expect, the expression “carriage of goods coastwise procedure” is not defined or used in the Customs Act or the Customs Rules. However, the term “coastal goods” is defined in Section 2(f) of the Customs Act:

- “Coastal goods” means the goods transported in a vessel from one port in Pakistan to another, but does not include imported goods on which Customs duty has not been paid.

Recommendation: Even though the term “coastal goods” is defined, Pakistan has no specific procedure governing the carriage of goods coastwise. A procedure that reflects the standards of Chapter 3 of Annex E should be developed and incorporated into the Customs Act.

1. Standard	The carriage of goods coastwise procedure 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 carriage of goods coastwise is to be governed by Chapter 3 of Annex E 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 3.

Recommendations: Recommendations are provided in the context of the individual assessments for Chapter 3 whenever compliance with Standard 1 is implicated.

2. Standard	The Customs shall allow goods to be transported under the carriage of goods coastwise procedure on board a vessel carrying other goods at the same time, provided that they are satisfied that the goods can be identified and other requirements will be met.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Chapter XVI, Sections 146-155
- The Preventive Service Manual, 1965, Chapter VII,

Discussion:

Law: Chapter XVI of the Customs Act contains provisions relating to coastal goods and vessels. According to the definition of coastal goods under section 2(f) of the Act, ‘coastal goods’ do not include imported goods which have not been declared to Customs and on which duties and taxes have not been paid. When compared with RKC definition, there is apparent variance between the two definitions.

Chapter VII, titled “Control of shipping and allied operations” of the ‘Preventive Service Manual’ (1965 edition), issued by the existing law and the Preventive Service Manual, an elaborate procedure does exist. However, this procedure is not compliant to the RKC provisions of this chapter. It should be noted that the Preventive Service Manual of Custom House, Karachi, which is used as a procedural guide, provides a simplified procedure for imported goods in coastal trade.

The items specified under “relevant law” above suggest that both coastal goods and other (imported) goods are to be accounted-for and reported to Customs. The procedure in the Preventative Service Manual has not changed materially from that being used even before 1969, the year the Sea Customs Act of 1878 was replaced by the Customs Act. The procedure therefore requires updating.

Practice: Presently the procedure for the transportation of coastal goods is confined to free goods; imported goods are not allowed to be transported in coastal trade. The law and practice are thus not in compliance with the standard.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the standard.

Recommendations: The Customs Act should be amended to provide (in Chapter XVI, Sections 146-155) that Customs shall allow free goods to be transported under the carriage of goods coastwise procedure on board a vessel which is also carrying goods that have not been declared to Customs and on which duties and taxes have not been paid if Customs, in the exercise of its reasonable judgment, is satisfied that the two categories of goods will be readily distinguishable at the port of destination and the operator has followed the prescribed conditions for the transport of such goods in the same vessel. The Preventive Service Manual should be similarly updated..

As noted in the introduction to Chapter 3 above, a detailed procedure called “Carriage of Goods Coastwise Procedure” should also be drafted and included in the Customs Act. Provisions reflecting that new procedure should also replace Chapter VII of the Preventive Service Manual; perhaps this should be part of a larger exercise to re-write the entire Preventive Service Manual.

3. Recommended Practice	The Customs should require goods in free circulation being transported under the carriage of goods coastwise procedure to be segregated from other goods carried on board the vessel only when they consider it to be necessary for control purposes.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Sections 147 to 155

Discussion:

Law: The Act provides for a simplified procedural framework in Chapter XVI (Sections 147 to 155) for transportation of coastal goods (free goods) but it does not provide for carriage of 'other goods' (imported goods not declared to Customs) alongside free goods or even independently. There is also no provision in the Customs Rules to cater for carriage of 'free goods' and 'other goods' in a coastal vessel at the same time.

Since there is no provision in the law to allow carriage of both 'free goods' and 'other goods' in a coastal vessel at the same time, the law is at variance with this Recommended Practice and therefore there is no provision to segregate the two types of goods when Customs consider it to be necessary for control purposes.

Practice: In practice also both types of goods (i.e. free goods and imported goods not yet declared to Customs) are not allowed to be transported in the same vessel.

Resource Persons:

- Mr. Muhammad Ibrahim Vighio, Collector of Customs, MCC, Quetta.
- Mr. Shahanshah Husnain, Additional Collector of Customs, Port Mohammad Bin Qasim, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the recommended practice.

Recommendations: Same as under Standard 2 above.

4. Recommended Practice	At the request of the person concerned, and subject to such conditions as the Customs deem necessary, the latter should allow goods to be transported under the carriage of goods coastwise procedure on board a vessel which is to call at a foreign port during its voyage coastwise.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act; Chapter XVI, sections 150 and 219.
- The Customs Preventive Service Manual (1965 edition), issued by Custom House, Karachi,

Discussion:

Law: The Customs Act and the Rules made there under, however, stipulates a scenario where a foreign port has been touched before arriving at a port in Pakistan during its voyage along the coast. Section 150 of the Act is reproduced below:

- 150. Declaration concerning coasting vessel which has touched foreign port. The master of a vessel carrying coastal goods which has touched at any foreign port immediately before its arrival at a port of Pakistan shall deliver, along with the bills referred to in section 149, a declaration stating that fact and indicating the particulars and specifications of the cargo, if any, discharged or taken on board at such foreign port.

It is very clear that the law provides for a coastal vessel to touch a foreign port during its coastal cruise and on return, to a coastal port, the master of the vessel is required to report if goods have been discharged at such port and if any goods have been loaded on the vessel at the foreign port. But there is no direct law and procedure where under custom may allow vessel to a foreign port. The voyage as envisaged in this chapter would become in the first instance, as an out-going journey which in the ordinary course would have required completion of Customs formalities as an out-going vessel. Its return journey will be no different than the calling of vessel on a port in Pakistan as an incoming vessel, required to report its arrival to Customs and to file 'Import General Manifest' (IGM). In case of coast-wise trade, the provisions of section 150 of the Act are attracted.

The Customs Preventive Service Manual (1965 edition), issued by Custom House, Karachi, provides a brief procedure for Coastal Trade, as discussed while reviewing Standard 2.

To sum up, on the one hand, there exists, in the Act and in the 'Preventive Service Manual', procedures, which regulate movement of coastal vessels and the free goods which they carry. But, the transportation of goods to a foreign port during a coastal voyage (from one coastal port of the country to another) is not provided for. Hence there is need for a procedure to be prescribed so that these aspects of movement of vessels and carriage of cargo are also covered.

The resource persons, listed below, have categorically stated that in actual practice, no coastal ship visits a foreign port during its voyage from one coastal port to another as this is not permissible. In the context of Pakistan this is possible only if there is a situation where the access to the port of destination is blocked due to severe weather conditions or some other disaster. The nearest port to Pakistan in such situations is Chabahar in Iran. However as mentioned above this has never happened and there is no possibility of this happening in future. The law and practice are thus partially compliant with the 'Recommended Practice'.

Practice: According to the interviews with the resource persons specified below, it appears that the customs practice follows the law.

Resource Persons:

- Mr. Muhammad Ibrahim Vighio, Collector of Customs, MCC, Quetta.
- Mr. Shahanshah Husnain, Additional Collector of Customs, Port Mohammad Bin Qasim, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are partially in compliance with the recommended practice.

Recommendations: Same as under Standard 2 above. In particular, the new procedure should include provisions that - at the request of the person concerned and subject to such conditions as Customs deem necessary – Customs shall allow goods to be transported under the procedure on board a vessel which is to call at a foreign port during its voyage coastwise.

5. Recommended Practice	When a vessel which is to call at a place or places outside the Customs territory has been authorized to convey goods under the carriage of goods coastwise procedure, those goods should be sealed only at the request of the person concerned or when the Customs consider sealing to be necessary to ensure that goods cannot be removed there from or other goods added thereto without this being readily apparent.
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Overall Assessment: Non-compliant

Relevant Law:

- The Customs Act; Chapter XVI and section 219
- The 'Preventive Service Manual' (1965 edition), issued by Custom House, Karachi: Chapter VII, titled "Control of shipping and allied operations"

Discussion:

Law: The Customs Act and the Customs Rules have no specific provisions corresponding to the Recommended Practice.

Practically, if coastal vessel makes a decision before commencing a coastal voyage, to call at a foreign port, it will behave like a vessel on voyage to a foreign port. Therefore, the general provisions of the Customs Act relevant to such a voyage and to the goods, (both free goods and imported goods not declared to Customs for clearance) shall be attracted. In other words, no distinct procedure exists to cover the situation as envisaged in this 'Recommended Practice'.

Practice: In practice as well, no coastal ship is allowed to carry goods for exportation to a foreign port during a coastal voyage or to import goods. The law and practice are thus not in compliance with the 'Recommended Practice'.

Resource Persons:

- Mr. Muhammad Ibrahim Vighio, Collector of Customs, MCC, Quetta.
- Mr. Jawad Agha, Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.
- Mr. Shahanshah Husnain, Additional Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the recommended practice.

Recommendations: Same as under Standard 2 above. In particular, the Customs Act, Chapter XVI, should be amended to provide for the scenario specified in this recommended practice. The Preventive Service Manual should also be amended to incorporate a new procedure which covers this scenario. New rules should also be added to the Customs Rules for Coastal Trade to cover this recommended practice.

6. Recommended Practice	When a vessel transporting goods under the carriage of goods coastwise procedure is forced to deviate from its intended route and to call at a place outside the Customs territory, the Customs should regard those goods as remaining under the carriage of goods coastwise procedure provided they are satisfied that the goods are those which were originally placed under the procedure.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Chapter XVI and section 219.

Discussion:

Law: The Customs laws in Pakistan have no corresponding provisions. However, to some extent, section 150 of the Customs Act is relevant to the provisions of this 'Recommended Practice'. The section reads as under:

- 150. Declaration concerning coasting vessel which has touched foreign port.- The master of a vessel carrying coastal goods which has touched at any foreign port immediately before its arrival at a port of Pakistan shall deliver, along with the bills referred to in section 149, a declaration stating that fact and indicating the particulars and specifications of the cargo, if any, discharged or taken on board at such foreign port.

It is apparent from this provision that the coastal vessel may have discharged coastal goods which were on board the coastal vessel. It may also have taken on board some foreign goods. On arrival back at a Customs Port or Coastal port of Pakistan, the master of the said vessel is required to declare the quantity and description of cargo that was discharged during the said call. The foreign goods taken on board and brought into Pakistan also need to be declared according to the procedure prescribed for the import cargo. Examination of the goods, can determine that goods on board are the same for which "Bills" had been filed under section 147 at the port of departure. Under section 150, the Master of the vessel is bound to give a declaration both for goods discharged and for goods loaded at a foreign port. This declaration is in lieu of a post facto Import General Manifest (IGM) as well as a post-facto Export General Manifest (EGM).

In the absence of a detailed 'carriage of goods coastwise procedure', the basic requirement of this 'Recommended Practice' is not satisfied. The Customs law in Pakistan is in partial compliance with the recommended practice.

Practice: In practice, coastal vessels are allowed only to move between coastal ports or a coastal area and a Customs port of the country and to carry only free goods. The law and practice are thus in partial compliance with the 'Recommended Practice'. There is no reported case of such an incident in Customs.

Resource Persons:

- Mr. Muhammad Ibrahim Vighio, Collector of Customs, MCC, Quetta.
- Mr. Jawad Agha, Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.
- Mr. Manzoor Memon, Collector of Customs, MCC, Appraisal, Karachi.
- Dr. Arsalan Subuktageen, Collector of Customs, MCC, Gwadar.
- Mr. Shahanshah Husnain, Additional Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the recommended practice.

Recommendations: Same as under Standard 2 above. In particular, the Customs Act, Chapter XVI, should be amended to provide for a procedure covering the scenario specified in this recommended practice. The Preventive Service Manual should also be amended to incorporate a new procedure which covers this scenario. New rules should also be added to the Customs Rules for Coastal Trade to cover this recommended practice.

7. Standard	National legislation shall specify the places which are approved for the loading and unloading of goods under the carriage of goods coastwise procedure and the times during which loading and unloading may be carried out.
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Overall Assessment: Compliant

Relevant Law:

- The Customs Act; Sections 9, 147 to 155.
- Notification Number SRO 103(I)/83 dated 12-02-1983
- Notification Number SRO 113(I)/83 dated 12-02-1983
- The 'Preventive Service Manual' (1965 Edition), issued by Custom House, Karachi: Chapter X

Discussion:

Law: SRO 103(I)/83 dated 12-02-1983, prescribes the places which are approved for the loading and unloading of goods and the times during which loading and unloading may be carried out. The ports are mentioned below:

Coastal ports		Coastal ports	
1	Shah Bunder	1	Karachi
2	SokhiBunder	2	Jiwani
3	Ibrahim Hydry	3	Gwadar
4	KetiBunder	4	Pasni
5	Sonmiani	5	Ormara
		6	Port Muhammad Bin Qasim

Keeping in view the procedure specified in sections 147 to 155 of the Act, read with procedures contained in Chapter X of the Customs Preventive Service Manual (1965 Edition), issued by Custom House, Karachi, provides a broad framework for loading and unloading of coastal goods.

So far as fixing timings for loading and unloading of goods, Notification Number SRO 113(I)/83 dt 12-02-1983, has fixed hours for Customs ports in Sindh and Baluchistan to be from 7am to 7pm. These timings are observed at all coastal ports. In case of coastal vessels, the timing for loading and unloading of goods being observed are 7am to 7pm which is the same as notified under SRO 113(I)/83 dt 12-02-1983.

Practice: According to the interviews with the resource persons specified below, it appears that the customs practice follow the law.

Resource Persons:

- Mr. Jawad Agha, Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.
- Mr. Manzoor Memon, Collector of Customs, MCC, Appraisalment, Karachi.
- Dr. Arsalan Subuktageen, Collector of Customs, MCC, Gwadar.
- Mr Muhammad Arif Moton, Advocate and former Member, Customs Appellate Tribunal, Karachi.
- Mr Shahanshah Husnain, Additional Collector of Customs, MCC, Port Qasim, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are in compliance with the standard.

Recommendations: None.

8. Recommended Practice	At the request of the person concerned, the Customs should, in the case of a vessel carrying only goods in free circulation under the carriage of goods coastwise procedure, allow such goods to be loaded or unloaded at any place and at any time.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Sections 9, 65, 66, 68, 147, 148, 149, 152, 154 and 219.
- Notification Number SRO 103(I)/83 dated 12-02-1983

Discussion:

Law: The provisions of sections 147, 148, 149 and 154 of the Customs Act provide the procedure for the loading and unloading of goods in free circulation in relation to coastal vessel. But the 'Recommended Practice', aims at further facilitating the stakeholders concerned. It recommends that when a request is made by a person for allowing loading or unloading of goods in free circulation at any place and at any time. This will be allowed. However, section 152 of the Act prohibits the coastal goods to be loaded on or unloaded from, any vessel at any port other than a customs-port or a coastal port declared under section 9 thereof.

Sections 65 and 66 of the Act contain similar provisions to allow the appropriate officer notified by FBR to permit a vessel, in writing and on payment of prescribed fees, the loading or unloading of cargo at any time and at any place. For facility of reference the said sections are reproduced below:

- Goods not to be loaded or unloaded except at approved places.- Save where general permission is given under section 67 or with permission in writing of the appropriate officer, no imported goods shall be unloaded or goods for export loaded at any place other than a place duly approved under clause (b) of section 10 for the unloading or loading of such goods.

As is obvious, this provision caters substantially to the requirements of the Recommended Practice. However, this does not specifically cater to the Coastal Trade.

There being no 'procedure for carriage of goods coastwise' providing for carriage of goods, whether in free circulation only or also imported goods, the law is not in compliance with the 'Recommended Practice'.

Practice: In practice, free goods carried by a coastal vessel to a coastal or Customs Port are not allowed to be unloaded at any place other than the notified ports.

Resource Persons:

- Mr. Muhammad Ibrahim Vighio, Collector of Customs, MCC, Quetta.
- Mr. Jawad Agha, Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.
- Dr. Arsalan Subuktageen, Collector of Customs, MCC, Gwadar.
- Mr. Shahanshah Husnain, Additional Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the recommended practice.

Recommendations: Same as under Standard 2 above. In particular, the Customs Act should be amended to provide for a procedure covering the scenario specified in this recommended practice. In

particular, Section 152 of the Act should be amended to allow this recommended practice subject to the satisfaction of the appropriate Customs officer, who should not be lower than a Collector of Customs. Rules may also be framed to allow such goods to be loaded or unloaded at any other place and at any time on the request of a person. The Preventive Service Manual should also be amended to incorporate a new procedure which covers this scenario. New rules should also be added to the Customs Rules for Coastal Trade to cover this recommended practice.

<p>9. Recommended Practice</p>	<p>At the request of the person concerned, the Customs should allow goods under the carriage of goods coastwise procedure to be loaded or unloaded at a place other than that normally approved for that purpose even if the vessel is also carrying imported goods that have not been declared or goods placed under any other Customs procedure. Any expenses chargeable shall be limited to the approximate cost of the services rendered.</p>
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Sections 9, 65, 66, 68, 147 to 155 and 219.
- Notification Number SRO 103(I)/83 dated 12-02-1983
- The Customs Preventive Service Manual (1965 Edition) issued by Custom House, Karachi.

Discussion:

Law: The provisions of sections 147, 148 and 149 of the Customs Act provide the procedure for the loading and unloading of goods in free circulation in relation to coastal vessel. But the 'Recommended Practice' envisages a situation when a request is made by a person for allowing loading or unloading of goods in free circulation at any place and at any time, even if the vessel is also carrying imported goods that have not been declared or goods placed under any other Customs procedure.

On the other hand section 152 of the Act strictly prohibits the coastal goods to be loaded on, or unloaded from, any vessel at any port other than a customs-port or a coastal port declared under section 9 thereof.

Sections 65 and 66 of the Act contain similar prohibitions but allow the appropriate officer notified by FBR, to permit in writing on payment of prescribed fees the loading or unloading of cargo at any time and at any place. For facility of reference the said sections are reproduced below:

65. Goods not to be loaded or unloaded or passed on certain days or at certain times.-Except with the permission in writing of the appropriate officer and on payment of such fees as may be prescribed by the Board no goods, other than passengers' baggage or mail bags, shall in any customs-port be discharged, or be shipped or water-borne to be shipped or shall be loaded or unloaded or passed at any land customs-station or customs-airport-

- a) on any public holiday within the meaning of section 25 of the Negotiable Instruments Act,1881(XXVI of 1881), or on any day on which the discharge or shipping of cargo at customs-port or loading, unloading passage or delivery of cargo at any land customs-station or customs-airport, as the case may be, is prohibited by the Board by notification in the official Gazette; or
- b) on any day except between such hours as the Board may, from time to time, by a like notification, appoint

Goods not to be loaded or unloaded except at approved places.- Save where general permission is given under section 67 or with permission in writing of the appropriate officer, no imported goods shall be unloaded or goods for export loaded at any place other than a place duly approved under clause (b) of section 10 for the unloading or loading of such goods.

Section 68 is also relevant although no general permission has so far been allowed under this section for loading and unloading of goods in free circulation on or from coastal vessels at any place or any time other than the Customs ports or coastal ports. The above provisions do not cater to the requirements of the Recommended Practice.

Practice: In practice, goods, whether in free circulation or imported ones not declared to Customs, are neither allowed by Customs to be transported in the coastal vessel nor loaded or unloaded at any place other than the notified ports above mentioned.

Resource Persons:

- Mr. Muhammad Ibrahim Vighio, Collector of Customs, MCC, Quetta.
- Mr. Jawad Agha, Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.
- Mr. Manzoor Memon, Collector of Customs, MCC, Appraisement, Karachi.
- Dr. Arsalan Subuktageen, Collector of Customs, MCC, Gwadar.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the recommended practice.

Recommendations: Same as under Standard 2. The new procedure should provide that - at the request of the person concerned - Customs should allow goods to be loaded or unloaded at a place other than that normally approved for that purpose even if the vessel is also carrying imported goods that have not been declared or goods placed under another Customs procedure. Any expenses chargeable may be limited to the approximate cost of the services rendered. The procedure may also provide for effective Customs controls (Chapter 6 of General Annex) in case the goods are to be loaded or unloaded at a place other than that normally approved for that purpose. The expenses Customs may charge for attendance should be limited to the approximate cost of the services rendered as required under Chapter 3 of the General Annex.

10. Recommended Practice	When a vessel transporting goods under the carriage of goods coastwise procedure is diverted during the voyage, the Customs should, at the request of the person concerned, allow such goods to be unloaded under the procedure at a place other than that originally intended. Any expenses chargeable shall be limited to the approximate cost of the services rendered.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Sections 64,66, 67 and Chapter XVI
- Notification Number SRO 103(l)/83 dated 12-02-1983
- The Customs Preventive Service Manual (1965 Edition) issued by Custom House, Karachi.

Discussion:

Law: The provisions of Sections 147, 148 and 149 of the Customs Act provide the procedure for the loading and unloading of goods in free circulation in relation to coastal vessel. This “Recommended Practice” envisages a situation similar to the recommended practice 9 above. The difference being that a request is made for allowing loading or unloading of goods in free circulation when the vessel is diverted during the voyage, at a place other than that originally intended.

On the other hand section 152 of the Act strictly prohibits the coastal goods to be loaded on or unloaded from, any vessel at any port other than a customs-port or a coastal port declared under section 9 thereof.

Sections 64 and 66 of the Act contain similar prohibitions. And Section 67 provides an exemption, but it is of no real relevance to the recommended practice. Section 67 provides as follows:

67. **Power to exempt from sections 64 and 66.** - Notwithstanding anything contained in section 64 or 66, the Board may, by notification in the official Gazette, give general permission for goods to be loaded at any customs-station from any place not duly appointed for loading and without the presence of an officer of customs.

It is clear from a close review of the recommended practice (which is exclusively about allowing the *unloading* of goods at a place other than that originally intended), Section 67 is exclusively about the *loading* of goods at a customs-station. Also the recommended practice is about a situation where – because of the circumstances arising from a diverted voyage – Customs should, if requested by the concerned person, allow the unloading of the goods at a place other than that originally intended. Unlike the recommended practice, Section 67 has nothing to do with the ad hoc exercise by Customs of reasonable discretion. Section 67 authorizes the FBR to issue a general notification allowing the routine loading of goods from a particular place in a customs station. Section 67 therefore does not in any manner address the situation described in the recommended practice.

Practice: In practice, goods, whether in free circulation or imported ones not declared to Customs, are neither allowed by Customs to be transported in the coastal vessel nor loaded or unloaded at any place other than the notified ports above mentioned.

Resource Persons:

- Dr. Arsalan Subuktageen, Collector of Customs, MCC, Gawadar.
- Mr. Jawad Agha, Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.
- Mr. Irfan Javed, Additional Collector of Customs, MCC, Appraisement, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the recommended practice.

Recommendations: FBR/Customs should prescribe a “Carriage of goods coastwise procedure”, with a provision that when a vessel transporting goods under the procedure is diverted during the voyage, the Customs should, at the request of the person concerned, allow such goods to be unloaded under the procedure at a place other than that originally intended. Any expenses chargeable may be limited to the approximate cost of the services rendered in case general or special permission is granted. The procedure may also provide for effective Customs controls (Chapter 6 of General Annex) in case the goods are to be loaded or unloaded at a place other than that normally approved for that purpose. The expenses Customs may charge for attendance should be limited to the approximate cost of the services rendered as provided in the General Annex Chapter 3.

11. Standard	When the transport of goods under the carriage of goods coastwise procedure is interrupted by accident or force majeure, the Customs shall require the master or other person concerned 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: Partially -Compliant

Relevant Law:

- The Customs Act; Chapter XVI.
- The Customs Rules: Rule 329.

Discussion:

Law: The provisions of the Customs Act are silent about the role which a master of the coastal vessel or other person concerned should play when the vessel meets accident or faces “force majeure.” However, Customs Rule 329(8) partly address the standard by requiring the carrier to immediately report the details of any accident that may delay the delivery of the goods beyond the specified time.

329. Responsibilities of the Carriers.-

(8) In case of any accident en-route which may cause delay in the delivery of goods beyond the specified time, the nature of accident, exact time and place of accident along with complete detail of the carrier shall be communicated to the CCSU telephonically or to the nearest Customs or Sales Tax Collectorate or station.

But Rule 329(8) addresses only the reporting element of the standard. It does not address the other issue described in the standard: that the master or other person concerned take reasonable precautions – in the event of an accident or force majeure event - to prevent goods from entering into unauthorized circulation.

Practice: There is no procedure for such situations. There has been no reported case of accident or force majeure on record. The law and practice are thus not in compliance with the Standard.

Resource Persons:

- Dr. Arsalan Subuktageen, Collector of Customs, MCC, Gwadar.
- Mr. Jawad Agha, Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.
- Mr. Irfan Javed, Additional Collector of Customs, MCC, Appraisement, Karachi

Conclusion: Based on the above research, it appears that the law and practice are partially in compliance with the standard.

Recommendations: Same as under Standard 2. In particular, a new provision should be added to the Customs Act in Chapter XVI, and to Rule 329 requiring that - in the event of an accident or force majeure event - the master of the vessel or other responsible person take reasonable precautions to prevent the goods from entering into unauthorized circulation and to report to Customs the nature of the accident or other circumstances that has interrupted the journey.

12. Standard	When a vessel transporting goods under the carriage of goods coastwise procedure is conveying imported goods that have not been declared or goods placed under any other Customs procedure, the Customs shall allow goods under the carriage of goods coastwise procedure to be loaded or unloaded as soon as possible after the arrival of the vessel at the place of loading or unloading.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Sections 79, 147 to 155.

Discussion:

Law: Under the Customs Act a procedure exists for coastal goods (free goods) which may be loaded or unloaded at a coastal port on or from a coastal vessel. But there is no provision in the law or rules made there under which provides for carriage of non-duty-paid goods in same vessel in which free goods are also being carried. There is thus no existing law/procedure for this standard.

Practice: Practice is as per law. Imported goods not declared to Customs are not allowed to be carried on a coastal ship. Hence the question of their being allowed to be loaded or unloaded at a coastal port does not arise. The law and practice are thus not in compliance with the Standard.

Resource Persons:

- Dr. Arsalan Subuktageen, Collector of Customs, MCC, Gwadar.
- Mr. Jawad Agha, Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.
- Mr. Irfan Javed, Additional Collector of Customs, MCC, Appraisement, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the standard.

Recommendations: FBR/Customs may prescribe “Carriage of Goods Coastwise Procedure”, providing therein to incorporate the requirements of sections 149 and 150 read with section 79 thereof requiring the master of the vessel to file a Goods declaration in respect of imported goods to be unloaded and to pay duties and taxes thereon as assessed by Customs, where after the said goods may be allowed for removal from the port. The Master of the ship shall keep a register, duly authenticated by Customs, to record therein all GDs, serially numbered, date-wise, with particulars of vessel, the description and quantity of goods and amounts of duties and taxes levied/ paid, if any. Master of the vessel shall keep the cargo book ready for inspection by the Customs.

13. Standard	The Customs shall require the master or other person concerned to present only a single document giving details of the vessel, listing the goods to be carried under the carriage of goods coastwise procedure and stating the port or ports in the Customs territory at which they are to be unloaded. This document, once endorsed by the Customs, shall constitute the authorization for the conveyance of the goods under the carriage of goods coastwise procedure.
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Overall Assessment: Partially Compliant

Relevant Law:

- The Customs Act; Sections 9, 147 to 155.

Discussion:

Law: A few provisions of the Customs Act are somewhat relevant to this standard. Section 147 of the Act requires the master of the vessel to obtain a prescribed bill of coastal goods from every consignor of goods in which the consignor shall make a true and correct declaration. Under section 148 of the Act unless such bill has been passed by Customs, loading of goods shall not commence. But Customs may in exceptional cases condone this obligation and allow loading. The ‘cargo book’ is produced to Customs by master of vessel on demand.

Additionally, under section 152 of the Act, loading and unloading of goods shall be made only at ports notified under section 9 of the Act. Moreover, section 153 requires that the coastal vessels shall depart only after obtaining written orders (port clearance).

Practice: In practice vessels carrying only local goods are involved in coastal trade and they are required to follow provisions of the above stated sections of the Act before departure from a port as well as on arrival at next port of call. The practice is thus compliant to the extent of carriage of goods in free circulation.

Resource Persons:

- Dr. Arsalan Subuktageen, Collector of Customs, MCC, Gwadar.
- Mr. Jawad Agha, Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.
- Mr. Irfan Javed, Additional Collector of Customs, MCC, Appraisement, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are partially in compliance with the recommended practice.

Recommendations: FBR/Customs while considering to prescribe ‘carriage of Goods Coastwise Procedure’ may also provide therein that master of the vessel shall provide only one document, may be a simplified version of Import General Manifest (IGM)/ Export General Manifest (EGM), to Customs at every port of call giving details of vessel, listing goods to be carried under the Carriage of Goods Coast Wise Procedure and stating the port or ports of the Customs Territory at which they are to be unloaded. This document once endorsed by Customs shall constitute the authorization for the conveyance of the goods under the carriage of goods coastwise procedure.

14. Recommended Practice	The Customs should grant a general authorization to convey goods under the carriage of goods coastwise procedure for vessels which trade regularly between specified ports.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Chapter XVI.
- The Customs Preventive Service Manual (1965 Edition) issued by Custom House, Karachi.

Discussion:

Law: There is no provision in the Customs Act and the Rules/Procedures framed under the Act, to grant general authorization to convey goods under the “Carriage of Goods Coastwise Procedure” for vessels which trade regularly between specified ports. If such general authorization is granted, based on certain criteria/risk profiles, it will improve the level of compliance and facilitate the movement of goods.

The purpose of the ‘Recommended Practice’ will be achieved if, the cargo book prescribed by section 151 of the Act is modified so as to provide for separate account to be maintained for goods in free circulation and for imported goods not declared to Customs, respectively. Likewise, there should be a clear indication on the cargo book and other documents that these are for vessels which have general authorization.

Practice: There is no instance of grant of general authorization in actual practice to master of any vessel.

Resource Persons:

- Mr. Muhammad Ibrahim Vighio, Collector of Customs, MCC, Quetta.
- Mr. Jawad Agha, Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.
- Mr. Manzoor Memon, Collector of Customs, MCC, Appraisement, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the recommended practice.

Recommendations: To achieve compliance with the Recommended Practice, it is recommended that; General authorization should be granted, based on certain criteria/risk profiles if the vessel travels and carries trade goods regularly. Cargo book prescribed by section 151 of the Act should be modified to provide for separate account to be maintained for goods in free circulation and for imported goods not declared to Customs, respectively. Likewise, there should be a clear indication on the cargo book and other documents that these are for vessels which have general authorization. These requirements will ensure Customs control as provided in Chapter 6 of the General Annex.

15. Recommended Practice	When a general authorization has been granted for a vessel, the Customs should require only a list of the goods to be conveyed under the carriage of goods coastwise procedure before the goods are loaded.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Chapter XVI.

Discussion:

Law: The Customs Act does not have any such provision which corresponds to the recommended practice.

As this Recommended Practice recommends simplified procedures and facilitation of business, the goods declaration should only have a list of goods to be conveyed under this procedure before the goods are loaded on the vessel where no general authorization has been granted. In the case of General Authorization the list of goods presented/submitted at the time of loading for the port of destination/unloading should only be required to be presented to the Customs at the destination/port of unloading.

Practice: The recommended practice is not followed as this simplification/facilitation measure of General Authorization is not provided in the Act/regulations.

Resource Persons:

- Mr. Jawad Agha, Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.
- Mr. Manzoor Memon, Collector of Customs, MCC, Appraisalment, Karachi.
- Dr. Arsalan Subuktageen, Collector of Customs, MCC, Gwadar.
- Mr Muhammad Arif Moton, Advocate and former Member, Customs Appellate Tribunal, Karachi.
- Mr. Shahan shah Husnain, Additional Collector of Customs, MCC, Port Qasim, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the recommended practice.

Recommendations: FBR/Customs may prescribe 'Carriage of Goods Coastwise Procedure', and provide that general authorization may be provided to the vessels which travel regularly for transporting of goods between specified coastal ports. It should also be provided that, the master of the vessel shall only convey a list of goods, and a simplified version of Goods Declaration/ Import General Manifest (IGM)/ Export General Manifest (EGM), to the Customs.

16. Recommended Practice	In relation to goods unloaded from a vessel covered by a specific authorization, the Customs should require the master or other person concerned to present only a copy of the authorization listing the goods to be unloaded at that port. In the case of a vessel granted a general authorization, only a list of the goods unloaded should be required.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Chapter XVI.

Discussion:

Introductory Note: There are two types of authorizations referred to in this recommended practice; a specific authorization and a general authorization. In the first case, the Customs may require the master to present a copy of specific authorization and a list of goods (GD) to be unloaded at a port. In the second case, only a list of goods (GD) to be unloaded at a port may be presented to the Customs.

Law: At present Pakistan's Customs regime does not provide for any facilitation and simplification of the kind envisaged by this Recommended Practice. Introduction of the proposed facilitation will make the coastal trade more economical as the time and documentation will be reduced which will enhance efficiency and compliance level of Customs laws in Pakistan.

Practice: In actual practice such simplified Customs procedure is not followed.

Resource Persons:

- Mr. Jawad Agha, Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.
- Mr. Manzoor Memon, Collector of Customs, MCC, Appraisalment, Karachi.
- Mr. Shahan shah Husnain, Additional Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the recommended practice.

Recommendations: FBR/Customs may prescribe 'Carriage of Goods Coastwise Procedure', providing therein that; in the first case, the Customs may require the master to present a copy of specific authorization listing the goods to be unloaded at a port. In the second case, when a general authorization is granted, only a list of goods to be unloaded may be presented to the Customs.

17. Standard	Only when the Customs consider it indispensable shall security be required in respect of goods in free circulation being transported under the carriage of goods coastwise procedure which would be liable to export duties and taxes if exported or which are subject to export prohibitions or restrictions.
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Overall Assessment: Non-Compliant

Relevant Law:

- The Customs Act; Sections 18(2), 147 to 155.

Discussion:

Law: While reviewing the Standards and Recommended Practices in this chapter (Chapter 3 of Specific Annex E), it has been recommended that there is need to prescribe a new procedure under the title 'carriage of goods coast wise procedure'. Once this procedure is formulated and notified, the conditions for obtaining the security may also be specified in respect of goods in free circulation being conveyed under that procedure.

Currently no securities are required when goods in free circulation are carried by coastal vessels. However, Customs may seek security in case they consider it necessary keeping in view the nature of the good. Securities may be required if the goods are liable to export duties or these are subject to some restrictions or prohibitions at the time of such transportation.

At present no export duties or taxes are chargeable at the time of export however there are many restrictions/prohibitions in place under the current trade policy.

Practice: According to the interviews with the resource persons specified below, it appears that the customs practice follow the law.

Resource Persons:

- Mr. Jawad Agha, Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.
- Mr. Manzoor Memon, Collector of Customs, MCC, Appraisement, Karachi.
- Mr. Shahan shah Husnain, Additional Collector of Customs, MCC, Port Mohammad Bin Qasim, Karachi.

Conclusion: Based on the above research, it appears that the law and practice are not in compliance with the standard.

Recommendations: Same as under Standard 2. In particular the standard should be incorporated in the proposed "Carriage of Goods Coastwise Procedure", even though no duties and taxes are currently chargeable on goods being carries coastwise because such it is possible that such duties and/or taxes could be imposed at some future time.