Summary of the comparative studies on subregional agreements on transport facilitation

Proposed model subregional agreement

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Outline

• Subregional agreements on transport facilitation (SRAs) in ESCAP region, their nature and purpose

• Subregional agreements on transport facilitation included into the scope of the studies

• Purpose and methodology of the studies

• Conclusions and recommendations of the studies
Subregional Agreements on Transport Facilitation (SRA)

- Asia and the Pacific region is wide and diverse, includes subregions with different geographic, economical historical and ethno-cultural background

- A number of frameworks of subregional bodies, entities, initiatives serving for subregional cooperation and integration if their member States

- Development of subregional cooperation includes improvement of transport connectivity within the subregions

- Subregional bodies create their own legal instruments to facilitate transport operations within the particular block

- Agreement is the most common form of a subregional legal instrument
Some Subregional Organizations/Initiatives and Subregional Agreements on Transport Facilitation in the ESCAP Region
ASEAN

- Member countries:
  - Brunei Darussalam, Cambodia, Indonesia, Lao People’s Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand, Viet Nam
ASEAN Agreements on Transport Facilitation

- Selected ASEAN agreements on transport facilitation:
  - Agreement on the Recognition of Domestic Driving Licenses issued by ASEAN Countries, 1985;
  - Agreement on the Recognition of Commercial Vehicle Inspection Certificates for Goods Vehicles and Public Service Vehicles issued by ASEAN Member Countries, 1998;
  - Framework Agreement on Multimodal Transport, 2005; and
CIS

- ESCAP Member countries also members to CIS:

Azerbaijan, Armenia, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan, Turkmenistan and Uzbekistan
Agreements of the Commonwealth of Independent States (CIS), related to Transport Facilitation

- CIS Agreements attempt to establish a common transport area and set up common standards for specific areas related international road transport

- Examples:
  - CIS Agreement on Mutual Cooperation in the Field of International Road Transport of Goods, 2003
  - CIS Agreement on Procedures of Transit through the Territories of the CIS Member States, 1999
  - CIS Agreement on Weights and Dimensions, 1999
  - CIS Agreement on International Weighing Certificate, 2004
ECO

- Member countries:

  - Afghanistan, Azerbaijan, Islamic Republic of Iran, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkey, Turkmenistan, Uzbekistan
ECO Transit Transport Framework Agreement, 1998

- Aimed to facilitate transit transport and provide necessary facilities, ensure safety and avoid unnecessary delay, and avoid fraud/tax evasion and harmonize administrative affairs
- Composed of forty articles and eight annexes
- Covers transit transport by road, rail, inland waterway, multimodal and access by port
- Participating countries: Afghanistan, Azerbaijan, Islamic Republic of Iran, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkey (all – signed and ratified) and Turkmenistan (signed)
GMS

• GMS Agreement for Facilitation of Cross-border Transport of Goods and People, 1999

• Contracting Parties: Cambodia, China, Lao PDR, Myanmar, Thailand and Viet Nam
GMS Agreement for Facilitation of Cross-border Transport of Goods and People, 1999

- Composed of 44 articles, 17 annexes and 3 protocols;
- Covers areas related to transport, immigration, customs and quarantine;
- Originally signed by LaoPDR, Thailand and Viet Nam;
- Later acceded by Cambodia, China and Myanmar;
- Main agreement entered into force in 2003;
- Annexes and protocols are partly in force.
• SCO Agreement on Facilitation of International Road Transport, 2014

• Contracting Parties: China, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan, Uzbekistan
TRACECA

• TRACECA Agreement, 1998

• Contracting Parties:
  Armenia, Azerbaijan, Bulgaria, Georgia, Islamic Republic of Iran, Kazakhstan, Kyrgyzstan, Moldova, Romania, Tajikistan, Turkey, Ukraine, Uzbekistan
Basic Multilateral Agreement on International Transport for the Development of the Europe-Caucasus-Asia Corridor (TRACECA), 1998

- Signed in 1998 and entered into force in 2000
- Consists of 16 articles and 4 technical annexes to the agreement
- Participating countries: Azerbaijan, Armenia, Bulgaria, Georgia, Iran (the Islamic Republic of), Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkey, Ukraine and Uzbekistan
Examples of overlapping contracting parties in subregional agreements

- GMS-Cross Border Transport Agreement (CBTA)
- ASEAN Framework Agreement on the Facilitation of Goods in Transit
- SCO Agreement on Facilitation of International Road Transport
- Basic Multilateral Agreement on International Transport for the Dev. of the TRACECA
- ECO Transit Transport Framework Agreement

Countries and Regions:

- Cambodia
- Thailand
- Viet Nam
- Myanmar
- Lao PDR
- China
- Brunei Darussalam
- Singapore
- Indonesia
- Malaysia
- Philippines
- Armenia
- Azerbaijan
- Georgia
- Kazakhstan
- Uzbekistan
- Kyrgyzstan
- Tajikistan
- Turkey
- Islamic Rep. of Iran
- Azerbaiean
- Pakistan
- Turkmenistan
- Afghanistan
- Russian Federation

*Indicates overlapping contracting parties in subregional agreements.
Purpose of the Studies

• Compare the provisions of selected subregional agreements on transport facilitation
• Identify commonalities and differences between the provisions of major subregional agreements, primarily in geographically overlapping countries
• Propose ways to harmonize the provisions of different subregional agreements, especially in geographically overlapping countries
• Propose a common framework for subregional agreements on transport facilitation
Methodology of the studies

- Main focus of the studies: international road transport of goods
- Conduct study under the Regional Network of Legal and Technical Experts on Transport Facilitation
- Rely on expertise of the Regional Network members
- Allocate national experts from the countries, which are the contracting parties to subregional agreements to prepare different modules of the study
- Secretariat to summarize the findings of the studies, conclusions and recommendations made by national experts and to make final conclusions and recommendations
Comparative studies conducted by Regional Network members:

- ASEAN AFAFGIT and AFAFIST vs GMS CBTA (overall provisions, provisions on transport)
- ASEAN AFAFGIT and AFAFIST vs GMS CBTA (other facilitation provisions)
- ASEAN AFAMT vs GMS CBTA (provisions on multimodal transport)
- ECO TTFA vs TRACECA
- ECO TTFA vs selected CIS and EURASEC
## Summary comparative table of subregional agreements

<table>
<thead>
<tr>
<th>Issue</th>
<th>Subregional agreements under the scope of the study</th>
<th>Number of agreements mentioning this issue (&quot;weight&quot;)</th>
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<td>Harmonization of traffic rules and regulations, signs and signals</td>
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<td>Technical requirements (weights and dimensions, axle load, emission standards, etc)</td>
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<td>Motor Vehicle third-party insurance</td>
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<td>Art 16 GMS CBTA (ref. to national legislation)</td>
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<td>Art.14 and Protocol 5 AFAFGIT, Art.14 AFAFIST+ Protocol 5 AFAFGIT</td>
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<td>Mutual recognition of driving licenses</td>
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<td>Art 17 GMS CBTA (ref to ASEAN - harmonized)</td>
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<td>Art.13 AFAFGIT; Art.13 AFAFIST</td>
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<td>Conditions for transport (carrier liability, etc)</td>
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Main conclusions

• SRAs are different in structure and in nature:
  – Comprehensive agreements
  – Agreements covering particular issues
• SRAs contain many similar provisions related to road transport facilitation
• In some cases, their provisions are harmonized and contain no legal conflict
• In some cases, the provisions of SRAs are of declarative nature which impose no concrete obligations
• Difficulties in implementation remains the key issue for SRAs efficiency
Recommendations for planning subregional agreements

1. Assessment of:
   • possibility of negotiating SRAs in reasonable time when planning new SRAs
   • possibility of subsequent practical implementation of the concluded SRAs
   • realistic tasks which can be solved through SRAs which are planned or being negotiated

2. Potential contracting parties should also identify legal issues which can be efficiently settled through bilateral agreements

3. Potential contracting parties can utilize “modular approach” for designing SRAs

4. “Step-by-step” approach to implementation mechanisms

4. The proposed model subregional agreement can serve as a common framework for subregional agreements on transport facilitation
Proposed Model Subregional Agreement on Transport Facilitation
Proposed model subregional agreement on Transport Facilitation

Structural elements

- Preamble
- Definitions and abbreviations
- Objectives and purposes, general provisions
- Scope: road transport
- Specific provisions
- Final provisions
- Annexes and protocols
Proposed model subregional agreement on Transport Facilitation: specific issues

1. Transport issues

• Road transport permits
• Traffic rights
• Designation of routes and border crossings

✓ Considering options
Road transport permits and traffic rights: subregional agreements only

Subregional agreement

| Traffic rights |
| Permit system |

SRA: traffic rights + permit system

CP

CP

CP
Subregional permits and bilateral traffic rights

- **Subregional agreement**
  - Permit system only

- **Bilateral agreements**
  - Traffic rights only

**SRA: permit quota**

**CP**
Bilateral agreements + supplementary use of subregional agreement (status quo)

- **Bilateral agreements**
  - Traffic rights
  - Permit system

- **Subregional agreements**
  - Multilateral traffic rights
  - Permit system (supplementary)

**Diagram:**
- SRA: traffic rights + permit system
- CP
- Bilateral connections
Subregional system + provision of greater facilities at bilateral level (recommended option)

Subregional agreement

- Traffic rights
- Permit system

Bilateral agreements

- Traffic rights with greater facilities
- Admission of vehicles with greater facilities (e.g. w/o permits)

SRA: permits+traffic rights

CP

Bilateral +
Proposed model subregional agreement on Transport Facilitation: specific issues

I. Transport issues (continued):
  • Mutual recognition of driving licenses
  • Harmonization of requirements for road vehicle documents (registration certificate, technical inspection certificate)
  • Harmonization of requirements for weights and dimensions
  • Vehicle third-party insurance system
  • Carrier licensing (common minimum criteria)
  • Provisions for passenger transport
  • Provisions for specific categories of goods
Proposed model subregional agreement on Transport Facilitation: specific issues

II. Fiscal and Customs issues:

• Charges and other financial obligations
• Temporary importation of vehicles (customs duty exemption)
• Harmonization and simplification of Customs procedures and formalities
• Customs cooperation
Proposed model subregional agreement on Transport Facilitation: specific issues

III. Other facilitation issues:
• Administrative assistance (exchange of information by control authorities, mutual assistance)
• Miscellaneous (establishment of offices, etc)
Proposed model subregional agreement on Transport Facilitation: specific issues

IV. Relationship with national legislation:

- Non-discriminatory enforcement of national legislation
- Compliance with national legislation
- Transparency and availability of national legislation
- National provisions for transit fee exemption
Proposed model subregional agreement on Transport Facilitation

V. Relationship with other international treaties:

• Harmonization Based on International Legal Instruments

• Reference to other international treaties of the contracting parties

• Provision of greater facilities
Proposed model subregional agreement on Transport Facilitation

VI. Institutional arrangements, implementation and monitoring mechanisms:

• Inter-Governmental structures
• National structures for implementation and monitoring
• Designation of competent authorities
• Secretariat support
• Dispute settlement arrangements
Proposed model subregional agreement on Transport Facilitation

VII. Final provisions:

- Entry into force
- Term of agreement
- Domestic procedures
- Procedure for amendment
- Possibility of accession by other countries (not only from one SRO)
- Procedure for accession by non-signatories
- Suspension
- Denunciation
- Languages and their authenticity
Issues recommended to be settled by separate subregional agreements

• Facilitation of visas and immigration controls for professional drivers

• Harmonization and simplification of documentation and procedures

• Customs transit procedure

• Facilitation of border-crossing formalities and inspections

• Private law (carrier liability and contractual relationship)
Conclusion

- The proposed **Model Subregional Agreement** can be applied for drafting and negotiating new subregional agreements and for planning amendments to existing agreements.

- The main goal for the region: harmonization of provisions of different legal instruments, establishment of legal regime favourable for development of international transport throughout the region.

- Effective legal regime is one of the key elements of improving intra-regional transport connectivity.
Thank you

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