THE NATIONAL ASSEMBLY OF SEYCHELLES

REPORT OF THE INTERNATIONAL AFFAIRS COMMITTEE

ON THE

International Convention on the simplification and harmonisation of customs procedures (as amended)

(Submitted for Ratification as per Article 64 (4) of the Constitution)

The Committee has considered this Convention and presents its report thereon to the 7th Assembly. This is the International Affairs Committee's third report on international agreements for the year 2024, laid before the Assembly in accordance with Article 64 (4) of the Constitution of the Third Republic of Seychelles.

The International Affairs Committee (IAC) has the parliamentary responsibility for scrutinising all international agreements submitted to the National Assembly by Recommendation of the President of the Republic of Seychelles.

This report addressed this Convention, that has been reviewed and considered at a meeting of the IAC on Thursday 13th June with the Assistance of the Trade Department and the Seychelles Revenue Commission (SRC) represented by

Mr. Francis Lebon – Principal Secretary for Trade Department,
Mr Paul Barrack – Commissioner of Customs and
Ms. Veronique Brutus – Senior Trade Officer - Goods cluster

THE INTERNATIONAL AFFAIRS COMMITTEE is mandated to address any topic associate with the national foreign service of Seychelles, the conduct of tourism, international affairs and of the international parliamentary affairs as per its Terms of Reference.

Powers
The Committee is a Select Sessional Committee, the powers of which are set out in the National Assembly Standing Orders, 2020, principally, SO 88-92 and the Constitution of the Republic of Seychelles Article 104. (1), (2) and (3).

Committee Staff
The Committee is assisted by the following Parliamentary Staff of the Secretariat:
Ms. Emma Didon (Committee Clerk) and Mr. Darel Atala (Committee Clerk Assistant)

Contact
All correspondence should be addressed to the *Secretary of the International Affairs Committee, The National Assembly of Seychelles, Ile du Port, PO Box 734.*
The Committee's email address is *iac@nationalassemblysc.com*
The telephone number for general enquiries is +248 4285 600

The following Members of the International Affairs Committee undersigned, submit this Report dated 30th August 2024:

Hon. Waven William
Chairperson

Hon. Wavel Woodcock
Vice Chairperson

Hon. Philip Arissol
Member

Hon. Egbert Aglae
Member

Hon. Kelly Samynadin
Member

Hon. Rachel Spiro
Member

Hon. Philip Monthy
Member

1 SYNOPSIS OF THE CONVENTION AND ITS CONTENT

1.1. Informally known as the Kyoto Convention, the International Convention on the Simplification and Harmonization of Customs Procedures, first entered into force in 1974 in Kyoto, Japan at the World Customs Organisation Council Session. In 1999, the Protocol of Amendment to the Convention was adopted and the Revised Kyoto Convention (RKC) came into force in February 2006.

1.2. The Convention is a blueprint for modern and efficient Customs procedures of this day and age and promotes effective controls and trade facilitation through legal provisions detailing the application of efficient procedures.

1.3. The chief key governing principles elaborated by the Convention are:

- transparency and predictability of Customs actions;
- standardisation and simplification of the goods declaration and supporting documents;
- simplified procedures for authorised persons;
- maximum use of information technology;
- minimum necessary Customs control to ensure compliance with regulations;
- use of risk management and audit based controls;
- coordinated interventions with other border agencies;
- partnership with the trade.

The below is a summary of the Chapters and Articles of the Convention:

CHAPTER I Definitions – Article 1 provides for the definitions for the purpose of this Convention.

CHAPTER II Scope and Structure – Provided for by ***Articles 2 – 5*** where the Scope of the Convention and the Structure of the Convention are laid down and addresses the conformity to the Standards, Transitional Standards and Recommended Practices in the Annexes to this Convention.

CHAPTER III Management of the Convention – ***Articles 6 & 7*** makes provision for the establishment of the Management Committee, and its voting procedures. The committee is responsible for considering the implementation of the Convention including any measure to secure uniformity in its interpretation and application and any amendments proposed.

CHAPTER IV Contracting Party – ***Articles 8 – 17*** addresses the provisions for the Contracting Parties to follow including Ratification of the Convention; Application of the Convention; Acceptance of the provisions and reservations; Implementation of the provisions; Settlement of disputes; Amendments to the Convention; Duration of accession.

CHAPTER V Final Provisions – Includes ***Articles 18 – 20*** providing for Entry into force of the Convention; Depositary of the Convention; Registration and authentic texts.

GENERAL ANNEX – the set of provisions applicable to all Customs procedures and practices referred to in this Convention. The General Annex has 10 Chapters including General Principles; Definitions; Clearance and other customs formalities; Duties and taxes; Security; Customs Control; Application of information Technology; Relationship between the customs and third parties; Information, decisions and rulings supplied by the customs and; Appeals in customs matters.

SPECIFIC ANNEXES – A set of provisions applicable to one or more Customs procedures and practices referred to in this Convention. There are ten Specific Annexes, A – K addressing Arrival of goods in Customs territory; Importation; Exportation; Customs warehouses and free zones; Transit; Processing; Temporary admission; Offences; Special procedures; Origin.

2 MAIN DISCUSSION POINTS & CONCERNS

2.1. Importance and benefits of the Convention

PS. Lebon led the discussions on the Convention beginning with a brief and thorough presentation on the importance of the Kyoto Convention and its implications for Seychelles. After providing a background on the origins of the Convention, PS Lebon noted that the main objective of the RVK is to promote consistent and predictable customs procedures through its legal provisions. PS Lebon explained that being party to the Convention would signal to the world that the Seychelles government promotes and maintains efficient custom procedures that are modern and internationally standardised. This ensures smooth trade operations without compromising border control measures.

One of the main benefits of the RKC noted by PS. Lebon was that it brings confidence into the country's customs administration as it has been granted with a brand status as RKC is supported by all the relevant organisations including the WTO as an indicator of best practices. Adhering to international best practices is important to ensure that all of Seychelles exports run smoothly without affecting any stakeholders. Additionally, being a contracting party to the convention will give Seychelles' Customs commission the opportunity to participate in negotiations of other instruments under the convention. Further to this, Seychelles gains to benefit from any other instruments under the Convention. Also highlighted was the technical assistance automatically available to Seychelles as a party to the Convention, enhancing the SRC's capacity building portfolio.

In his presentation, PS. Lebon also noted that the General Annexes are mandatory, and the Specific Annexes are simply recommendations. In that the latter can be applied at the discretion of the signatory party.

2.2. Implications for the Customs Management Act, 2011

PS. Lebon explained the implications to the Seychelles Customs Management Act (CMA) when Seychelles becomes a signatory to the Convention. He noted that the government had the foresight to seriously consider the RKC in the development and drafting of the CMA in 2011. Evaluation of the legal implications for Seychelles' accession to the Convention has been found to be a gap of approximately ten percent meaning that the CMA is almost entirely compliant to the provisions of the Convention. He added that there is already intention to review the CMA to streamline it and noted that there will be no financial implications for Seychelles when accession and ratification takes place.

Upon consultation, clearance for the accession was given by the Foreign Affairs Department (FAD), the Attorney General's Office and the SRC. Accession will still take place despite the

reservations held on some Annexes of the Convention. The reservations made were due to Seychelles' current inability to implement the annexes in question. This does not mean however that the reservations will remain. PS. Lebon noted that the technical assistance will help Seychelles do that as well as facilitate the push towards achieving more international trade standards.

2.3. Concerns on the reservations on the Special Annexes

Annex A, Chapter 1, Recommended Practice 12 - The committee enquired on the possibility of building human or/and technological capacity for translation of customs text and documents, as per the annex so that the reservations can be removed.

P.S. Lebon acknowledged the recommendation and noted that for such a reservation to be removed, legislation negating the recommended practice would have to change. This includes the Fair-Trade Commission Act and the Public Health Act where provisions are made for products to be in the 3 national languages, making it a legal impediment to the recommended practice, therefore it will have to remain as a reservation until the time where things change. Any translations made to medicinal products not in one of the National languages, must be approved before it can circulate in the market.

Annex B, Chapter 2, Recommended Practice 15 – The committee had enquiries on the reasoning behind the reservation concerning importation in the same state as the committee agreed with the special annex, that would ease processes especially for commercial businesses. The recommendation states that Customs should allow the first exportation declaration to cover the subsequent re-importations and exportations.

The committee referred specifically to the storage of such merchandise in warehouses where forms must be filled out each time something is needed from there. It was proposed that, in the future, to avoid the documentations and ease the process, that the parties keep records on a quarterly basis where Customs can then verify this against their warehouse log/inventory, allowing for a more dynamic and open system. P.S. Lebon acknowledged the proposal but explained that the reservation was made because the current customs regulations require you to submit a declaration for each import and export instance. Declaration is important for information gathering, and more so previously as everything was done on paper. The information gathered from declarations documents includes statistics and it informs the development of risk assessments. However, this does not mean that with the advancements in technology, that this reservation will remain. Declarations will therefore continue until the law is in conformity and capacity is built, considering the Seychelles' development context, to adhere to the recommended practice.

2.4. Transhipment of consignment not entering the country

The committee sought clarification and explanation on the procedures and whether they are like that of transhipment for boats. Mr. Barrack explained that transhipment is also applicable for consignments arriving by plane and that is headed elsewhere, such as Mauritius, for purposes of this explanation. The consignment, therefore, needs to be offloaded in Seychelles because the plane is not headed to Mauritius. In such instances, the consignment is deposited in the Air Seychelles hangar, managed by Customs, where the Bill of Entry and transhipment declaration are processed and a handling fee of Sr25 is charged. When the plane arrives to take the consignment to its destination, no other Bill of Entry must be done for the loading of the merchandise on the plane.

As for transit activities connected with the airport, two customs offices are involved. CEO Barrack referred to the example of a consignment of arms entering the country by airport cargo. There, a transit bill is applied, where the merchandise is cleared and escorted to the port where it is loaded on the military ship under the customs and police supervision. This is done under one single bill or declaration where both activities are covered.

2.4. The Convention on e-commerce, e-security and supply chain

The Committee noted that the Convention does not seem to be addressing the matters of e-commerce, e-security and supply chain security, especially since Customs procedures must constantly be adapting to new global trends and emerging challenges. P.S. Lebon explained that since the main objective of this Convention is to render trade seamless by simplifying and harmonising customs procedures, the Convention will automatically cover all trade matters including the digital aspect. All the dimensions and facets of trade will therefore be covered under the RKC which is promoting international best practices and promoting the development in Information Technology.

2.5. Matter of service animals in cases of National emergencies

The Committee enquired on whether there is an alternative route and/or legislation addressing Seychelles' access to live animals, specifically in cases of disasters. There was in fact a reservation made by Seychelles on the Convention on Temporary Admission (Istanbul Convention) where animals are included in the list of goods eligible for total conditional relief from duties and taxes. This is due mainly to the national policy on the quarantine of animals, making it impossible for Seychelles to adhere to the provision of the Istanbul Convention. Seychelles' Biosecurity agency therefore, takes the lead in cases of national emergency provided that the professional animals have their required documents including their passports. However, in cases where an animal owner wants to simply bring over their animal in the country with them, they will have to undertake the usual biosecurity procedures.

Cases of national emergencies usually involves bilateral cooperation and aid which is why Specific Annex J on relief consignments (goods forwarded as aid to those affected by disaster) adheres to the national law and why Seychelles has no reservations on this provision as in state of emergencies, the necessary arrangements can be made on an executive level to facilitate and enable the process.

2.6. Capacity Building progress and strategy in relation to modernisation

Considering the rate of modernisation and digitalisation, the committee enquired on the vision and strategy the SRC will implement vis a vis capacity building, to ensure they are not left behind. P.S. Lebon acknowledged the pertinence of the question and noted that the SRC ensures that capacity building is included in its budget. He continued, noting that people are at the centre of capacity building which means that the tangible results of capacity building cannot be observed if turnover is frequent, which is unfortunately the case for SRC. P.S. Lebon explained that there are approximately 60 vacancies that have yet to be filled over the last three years, impacting the wellbeing of the workforce as they must take on more work. This low recruitment rate and high turnover is attributed to the nature of the work.

Other than the SRC having its own capacity building and training plan, the Trade Department also receives, many customs related capacity building opportunities through various trade organisations to which Seychelles is party such as COMESA, SADC, and the EU. The development of e-payment systems nationally is also a form of capacity building. Unfortunately, the results of the capacity building opportunities are not felt nor observed simply due to staff retention issues. Considering this, the committee enquired on whether the SRC has considered recruitment of foreigners to solve these issues

3 RESERVATIONS

The below is summary of the reservation of Seychelles on the Recommended Practices including the difference between the provisions of the Recommended Practices and Seychelles legislation on the matter. Mr. Barrack explained several of the most pertinent reservations for the benefit of the committee.

Specific Annex A – Arrival of goods in a Customs territory

- **Chapter 1** Formalities prior to the lodgement of goods declaration

Reservation – Recommended Practice 12 provides that Customs should not require translation of the documents provided in a language not of the country or not specified as a matter of course.

This is inconsistent with Seychelles regulations which stipulates that information be provided in one of the three national languages being Creole, English and French. Information provided in another language must therefore be translated.

Specific Annex B – Importation

- **Chapter 2** Re-importation in the same state

Reservation – Recommended Practice 15 states that Customs should allow the first exportation declaration to cover the subsequent re-importations and exportations of goods in the same state during a specific period.

Seychelles legislation requires that a goods declaration be lodged upon each importation and exportation of the goods.

- **Chapter 3** Relief from import duties and taxes

Reservation – Recommended Practice 6 makes provision for the relief from import duties and taxes for goods specified in international instruments under the conditions laid down therein and consider acceding to those international instruments.

Seychelles is considering those instruments with the intention of acceding to them in the future.

Reservation - Recommended Practice 7 provides for the relief from import duties and taxes and from economic prohibitions and restrictions for identified goods.

No provision is made in Seychelles for the relief from economic prohibitions and restrictions for therapeutic substances of human origin, blood grouping and tissue reagents.

Specific Annex D - Customs warehouses and free zones

- **Chapter 1** Customs warehouses

Reservation – Recommended Practice 7 provides for the admission of goods to warehouses by Customs. The goods are entitled to repayment of import duties and taxes when exported, so they can be repaid immediately.

Seychelles' legislation provides that drawback or repayment of import taxes and duties may only be paid upon providing proof of exportation of the imported goods. The legislation does not provide for goods which have been delivered for home use to be warehoused prior to re-exportation.

Reservation - Recommended Practice 9 provides that Customs should allow dutiable or taxable goods intended for exportation to be admitted to Customs warehouses so that they may qualify for exemption from or repayment of the internal duties and taxes.

- **Chapter 2** Free zones

Reservation - Recommended Practice 9 provides that no goods declaration should be required by Customs for goods introduced into a free zone directly from abroad if the information is already available on the documents accompanying the goods.

Seychelles does not provide for the offsetting of the manifest without goods declaration.

Specific Annex J - Special procedures

Chapter 4 Stores

Reservation - Recommended Practice 4 provides for stores for consumption by the passengers and the crew imported as provision on international express trains to be exempted from import duties and taxes.

Seychelles legislation makes no provision for such situation, as the Seychelles does not operate international express train.

Reservation - Recommended Practice 11 provides that Customs should permit the issue of stores for consumption on board by the crew while the vessel is undergoing repairs in a dock or shipyard, provided that the stay in a dock or shipyard is considered to be reasonable.

The legislation of Seychelles does not provide for the issue of stores for consumption on board by the crew while the vessel is undergoing repairs in a dock or shipyard.

Reservation - Recommended Practice 12 provides that Customs should permit the issue of stores for consumption on board both during the stay of the aircraft at such intermediate airports and during its flight between such airports.

The legislation of Seychelles makes no provision for the issue of stores for consumption on board both during the stay of the aircraft at such intermediate airports and during its flight between such airports.

4 RECOMMENDATIONS

RECOMMNEDATION ONE: Capacity Building for document translation

That the authorities consider procuring technologies and building human resource capacity to translate customs and trade documents arriving in Seychelles not in the national languages. This may entail seeking technical assistance and creating translator posts. This could effectively remove the reservation on the matter.