

WORKSHOP
**Amending the WCO's Harmonized System to Strengthen
Non-Proliferation Efforts for Bioweapons**
Brussels, Belgium, 17-18 April 2008

Tracking of Scheduled Chemicals

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Declarations Branch/Verification Division

ORGANISATION FOR THE PROHIBITION OF CHEMICAL WEAPONS



What is a chemical weapon?



?



Chemical Weapon

Means the following, together or separately:

- a) **Toxic chemicals** and their precursors, except where intended for purposes not prohibited under this Convention (*)
- b) Munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in paragraph a)
- c) Any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in paragraph b)

TOXIC CHEMICAL means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of the method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(*) General purpose criteria defined by purpose and not by properties

Chemicals covered by the CWC

Sched 1

Sched 2

Dual-use chemicals

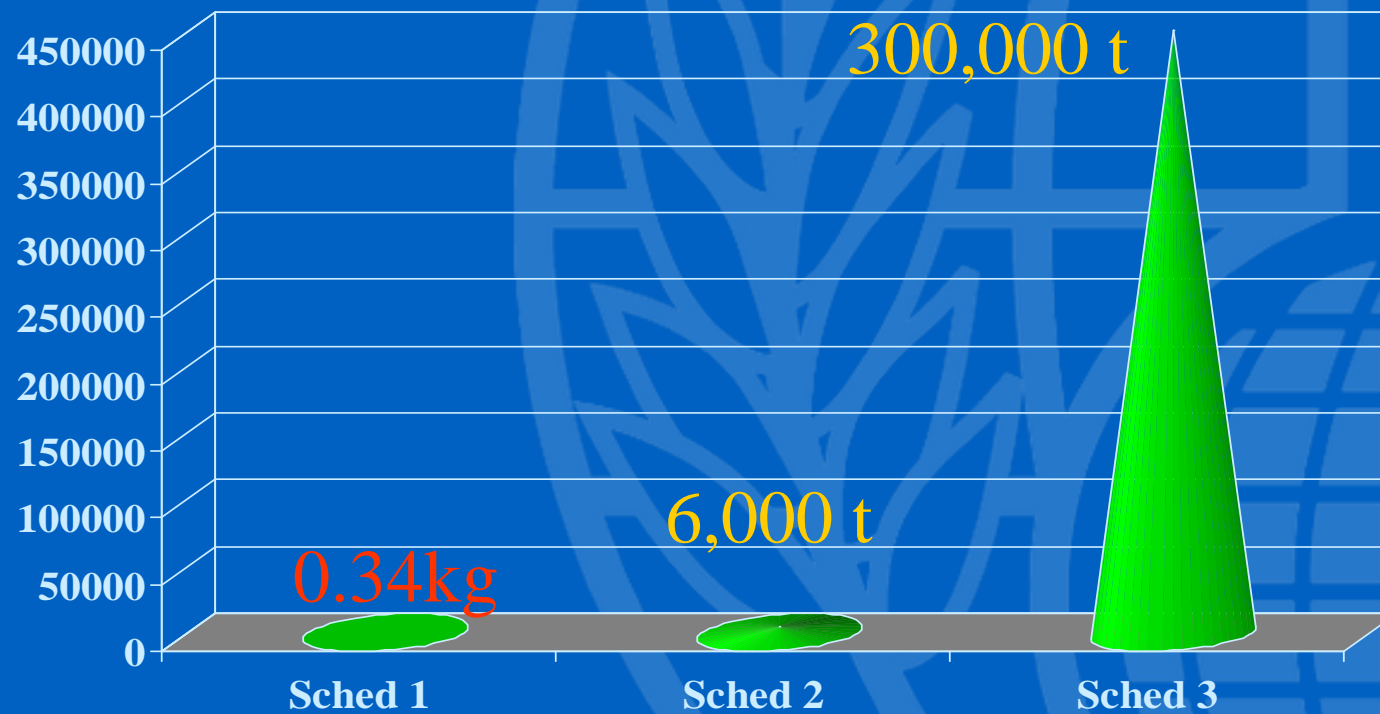
Sched 3

DOC

Scheduled Chemicals

- Schedule 1 - 12 families or individual chemicals
 - Theoretically thousands of individual chemicals
 - approx 950 individual chemicals declared
 - 27 traded in very small amounts
- Schedule 2 - 14 families or individual chemicals
 - Theoretically many thousands of individual chemicals
 - 300 individual chemicals declared
 - 20 regularly traded in moderate volume
- Schedule 3 - 17 individual chemicals
 - 15 regularly traded (some very large volume)

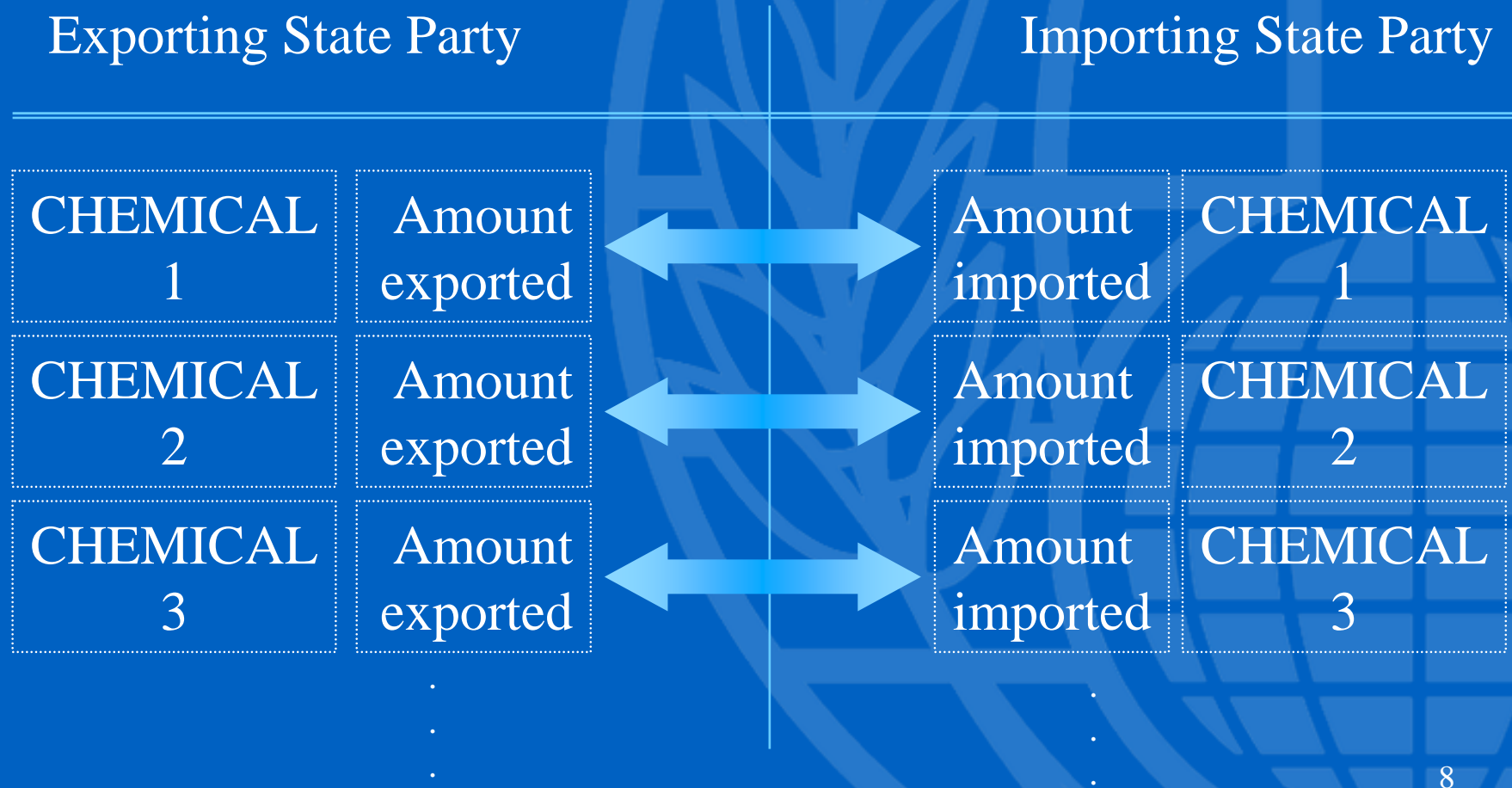
Quantities Imported/Exported in 2006



The CWC Contains no Overt Customs Requirements, but States Parties are obliged to :

- Prevent transfers of Schedule 1 chemicals to and from States not Parties and to third States
- Report transfers of Schedule 1 chemicals in declarations
- Prevent transfers of Schedule 2 chemicals above specified concentration limits to States not Parties
- Prevent transfers of Schedule 3 chemicals to States not Parties without assurance that the chemicals will only be used for purposes not prohibited by the Convention (to require EUC)
- Report imports and exports of Schedule 2 and Schedule 3 chemicals by State (Aggregate National Data)

Analysing Schedule 2 and 3 declarations



Transfer Discrepancies

Definition of Discrepancy

- Until recently considered discrepancy if difference between imp and exp declarations is $>20\%$
 - Catches lots of small absolute differences
Example: 5t vs. 3t
 - Large absolute differences can be missed if quantities transferred big enough
Example: 1190t vs. 1000t

Definition of Discrepancy New Criteria

- New proposal – discrepancy only if difference is greater than declaration threshold for that chemical (e.g. 1 tonne for Sch.2B; 30 tonnes for Sch.3)
 - Focuses on larger absolute differences
- Reduces overall number of discrepancies by about half, 66% to 33% (for 2005)
- Secretariat is using this definition since 2006.

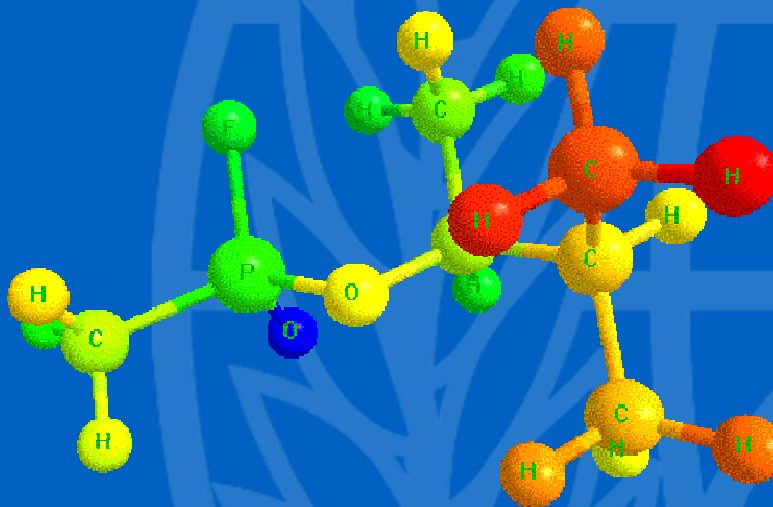
Nature of discrepancies



Sources of discrepancies related with Customs

- The absence of customs borders in free trade areas
- Identification of Scheduled Chemicals
- Country of Origin or Exporting Country?
- The definition of transfer/import/export

Problems with identification of chemicals



To control transfers, to collect data, to make declarations,
chemicals should be identified by Customs

Identification of the chemical

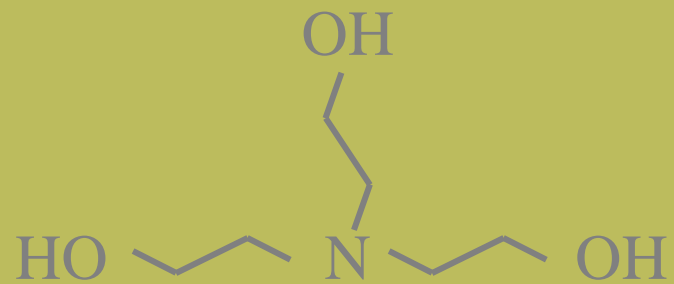
- 102-71-6 Trietanolamina
- 102-71-6 2,2',2''-Nitrilotriethanol
- 102-71-6 2,2',2''-Nitrilotris[ethanol]
- 102-71-6 Alkanolamine 244
- 102-71-6 Daltogen
- 102-71-6 Ethanol, 2,2',2''-nitrilotri-
- 102-71-6 Ethanol, 2,2',2''-nitrilotris-
- 102-71-6 Nitrilotriethanol
- 102-71-6 Sterolamide
- 102-71-6 Sting-Kill

Identification of the chemical

- 102-71-6 Trietanolamina
- 102-71-6 TEA
- 102-71-6 TEA (amino alcohol)
- 102-71-6 TEOA
- 102-71-6 Triethanolamin
- 102-71-6 Triethanolamine
- 102-71-6 Tris(.beta.-hydroxyethyl)amine
- 102-71-6 tris-(2-Hydroxyethyl)amine
- 102-71-6 Tris(2-hydroxyethyl)amine
- 102-71-6 Trolamine

Identification of the chemical

CAS 102-71-6



Harmonized System (HS)

The HS Structure

21 Sections

96 Chapters (2 digits)

+1200 Headings (4 digits)

+5000 Sub-headings (6 digits)

Example:

Chapter 29: Organic chemicals

Heading 29.22: Oxygenated amino compounds

Sub-heading 2922.13: Triethanolamine and its salts

Sub-heading 2922.13.00: Triethanolamine and its salts

National Sub-heading 2922.13.XX: Triethanolamine

SECTION VI

Chapter 28: Inorganic Chemicals

Chapter 29: Organic chemicals

Chapter 30: Pharmaceutical products

Chapter 38: Miscellaneous chemicals products

6 Digits: International level

8 Digits Regional- National level

10-more Digits: National level



RECOMMENDATION OF THE WCO ON THE INSERTION IN NATIONAL STATISTICAL NOMENCLATURES OF SUBHEADINGS FOR SUBSTANCES CONTROLLED UNDER THE CWC (18 June 1996, amended 25 June 1999 and 1 July 2006)

<http://www.wcoomd.org/ie/En/Recommendations/recommendations.html>

WCO - World Customs Organization - - Windows Internet Explorer

http://www.wcoomd.org/ie/En/Recommendations/recommendations.html

WCO - World Customs Organization

WORLD CUSTOMS ORGANIZATION

Recommendations Access to the texts of International WCO Recommendations

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RECOMMENDATION OF THE CUSTOMS CO-OPERATION COUNCIL* ON THE INSERTION IN NATIONAL STATISTICAL NOMENCLATURES OF SUBHEADINGS FOR SUBSTANCES CONTROLLED UNDER THE CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING AND USE OF CHEMICAL WEAPONS AND ON THEIR DESTRUCTION
(18 June 1996)
(Amended 25 June 1999 and 1 July 2006)

THE CUSTOMS CO-OPERATION COUNCIL,

CONSIDERING the urgent need to control and monitor international trade in substances capable of being used as chemical weapons or for the production of chemical weapons,

NOTING the request of the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons to introduce specific subheadings in the Harmonized System in order to facilitate the collection and comparison of data on the international movement of substances controlled under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction,

RECOGNIZING that amendments to the Harmonized System Convention cannot be implemented for several years,

HAVING REGARD to the amendments to the Harmonized System, which were accepted by Contracting Parties to the Harmonized System Convention in accordance with Article 16 of that Convention, and which will enter into force on 1 January 2007,

RECOMMENDS that Member administrations and Contracting Parties to the Harmonized System Convention take all appropriate action to insert the additional subdivisions set out in the Annex to this Recommendation in their statistical nomenclatures in such a manner as indicated in the Notes therein, as soon as possible, and

REQUESTS Member administrations and Contracting Parties to the Harmonized System Convention to notify the Secretary General of their acceptance of this Recommendation and the date of its application and, where applicable, to specify which items are omitted pursuant to Note 1 in the Annex and which items are grouped pursuant to Note 2 in the Annex.

ANNEX TO THE RECOMMENDATION OF THE CUSTOMS CO-OPERATION COUNCIL ON THE INSERTION IN NATIONAL STATISTICAL NOMENCLATURES OF SUBHEADINGS FOR SUBSTANCES CONTROLLED UNDER THE CONVENTION

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HS Codes Examples - WCO Recommendation

Schedule 3

HS Sub-heading (CAS Registry number)

A. Toxic chemicals:

(1) Phosgene: Carbonyl dichloride	2812.10	(75-44-5)
(2) Cyanogen chloride	2851.00	(506-77-4)
(3) Hydrogen cyanide	2811.19	(74-90-8)
(4) Chloropicrin: Trichloronitromethane	2904.90	(76-06-2)

B. Precursors:	HS Sub-heading	(CAS Registry number)
(5) Phosphorus oxychloride	2812.10	(10025-87-3)
(6) Phosphorus trichloride	2812.10	(7719-12-2)
(7) Phosphorus pentachloride	2812.10	(10026-13-8)
(8) Trimethyl phosphite	2920.90	(121-45-9)
(9) Triethyl phosphite	2920.90	(122-52-1)
(10) Dimethyl phosphite	2920.90	(868-85-9)
(11) Diethyl phosphite	2920.90	(762-04-9)
(12) Sulfur monochloride	2812.10	(10025-67-9)
(13) Sulfur dichloride	2812.10	(10545-99-0)
(14) Thionyl chloride	2812.10	(7719-09-7)
(15) Ethyldiethanolamine	2922.19	(139-87-7)
(16) Methyldiethanolamine	2922.19	(105-59-9)
(17) Triethanolamine	2922.13	(102-71-6)

Status of Implementation of the WCO's Recommendation

- According to WCO: only 18 SP formally adopted the Recommendation
39th HS Committee March 2007. Doc NC1127E1a
- Informal survey of 50 SPs at OPCW transfer workshop showed that ~50% apply Recommendation
- Why low adoption?
 - Difficult to implement
 - heavy burden entailed in introducing new subheadings into regional/national tariff

MOST TRADED CHEMICALS

- Criteria for selection:

Worldwide trade > 1 tonne/year

During any of the past 5 years

CHANGES TO THE WCO's RECOMMENDATION

- OPCW proposed to the WCO a simplified Recommendation based on 35 most traded chemicals
- New Recommendation based on 34 most traded CWC chemicals was approved in principle in 41st Session of the HS Committee, March 2008.
 - Classification of 1 chemicals to be considered by the Scientific Sub-Committee
- Will run in parallel to Old Recommendation (won't be revoked)
- Expected approval : July 2008

No	Sched	CAS	Chemical name	HS
1	2B04	170836-68-7	Mixture of CAS RN 41203-81-0 and CAS RN 42595-45-9	3824.90
2	2B04	18755-43-6	Dimethyl propylphosphonate	2931.00
3	2B04	294675-51-7	Phosphonic acid, methyl-, polyglycol ester	2931.00 *
4	2B04	41203-81-0	Phosphonic acid, methyl-, (5-ethyl-2-methyl-2-oxido-1,3,2-dioxaphosphorinan-5-yl) methyl methyl ester	2931.00
5	2B04	42595-45-9	Phosphonic acid, methyl-, bis[(5-ethyl-2-methyl-2-oxido-1,3,2-dioxaphosphorinan-5-yl)methyl] ester	2931.00
6	2B04	68957-94-8	2,4,6-Tripropyl-1,3,5,2,4,6-trioxatriphosphinane 2,4,6-trioxide	2931.00
7	2B04	70715-06-9	Mixture of Dimethyl methylphosphonate, Oxirane and Phosphorus oxide(P2O5)	3824.90
8	2B04	756-79-6	Dimethyl methylphosphonate	2931.00
9	2B04	78-38-6	Diethyl ethylphosphonate	2931.00
10	2B04	84402-58-4	Mixture: 50% Methylphosphonic acid / 50% (Aminoiminomethyl)urea	3824.90
11	2B04	84962-98-1	Sodium 3-(trihydroxysilyl)propyl methylphosphonate	2931.00
12	2B08	76-93-7	2,2-Diphenyl-2-hydroxyacetic acid	2918.19
13	2B10	4261-68-1	2-(N,N-Diisopropylamino)ethyl chloride hydrochloride	2921.19
14	2B10	4584-46-7	2-(N,N-Dimethylamino)ethyl chloride hydrochloride	2921.19
15	2B10	869-24-9	2-(N,N-Diethylamino)ethylchloride hydrochloride	2921.19
16	2B11	96-80-0	2-(N,N-Diisopropylamino)ethanol	2922.19
17	2B12	100-38-9	2-(N,N-Diethylamino)ethanethiol	2930.90
18	2B13	111-48-8	Bis(2-hydroxyethyl)sulfide	2930.90

* Classification has not been examined by the HS Committee

No	Sched	CAS	Chemical name	HS
19	3A01	75-44-5	Carbonyl dichloride	2812.10
20	3A02	506-77-4	Cyanogen chloride	2851.00
21	3A03	74-90-8	Hydrogen cyanide	2811.19
22	3A04	76-06-2	Trichloronitromethane	2904.90
23	3B05	10025-87-3	Phosphorous oxychloride	2812.10
24	3B06	7719-12-2	Phosphorous trichloride	2812.10
25	3B07	10026-13-8	Phosphorous pentachloride	2812.10
26	3B08	121-45-9	Trimethyl phosphite	2920.90
27	3B09	122-52-1	Triethyl phosphite	2920.90
28	3B10	868-85-9	Dimethyl phosphite	2920.90
29	3B11	762-04-9	Diethyl phosphite	2920.90
30	3B12	10025-67-9	Sulfur monochloride	2812.10
31	3B13	10545-99-0	Sulfur dichloride	2812.10
32	3B14	7719-09-7	Thionyl chloride	2812.10
33	3B15	139-87-7	Ethyldiethanolamine	2922.19
34	3B16	105-59-9	Methyldiethanolamine	2922.19
35	3B17	102-71-6	Triethanolamine	2922.13

COVERAGE OF THE SIMPLIFIED RECOMMENDATION

YEAR	2002	2003	2004	2005	2006
% S2 TRANSFERS COVERED (18 Chemicals)	99.98 %	100 %	99.99 %	99.90 %	99.98 %
% S2 TRANSFERS COVERED (17 Chemicals)	99.84 %	99.85 %	99.75%	99.73 %	99.74%
Difference	0.14 %	0.15 %	0.24 %	0.17 %	0.24 %
% S3 TRANSFERS COVERED	100 %	100 %	100 %	100 %	100 %



PROBLEMS WITH THE DEFINITIONS OF TRANSFER, IMPORT AND EXPORT

WHO IS THE EXPORTING COUNTRY ?



WHO IS THE EXPORTING COUNTRY ?



- Production, Processing, Consumption defined in Art II p 12. of the CWC
- Import, Export, Transfer:
NO DEFINITIONS, NO AGREED UNDERSTANDINGS
- OBLIGATIONS ON DECLARATIONS
Referred to Import and Export
- TRADE RESTRICTIONS
Referred exclusively to transfers

Definition of Transfer

- According to the Oxford Dictionary of English, 2nd Edition, Transfer has different meanings, but only two are relevant in the CWC context^[1]:
 - a) Move from one place to another
 - b) Make over the possession of (property, a right or a responsibility) to another

^[1] In Arabic, Chinese, French, Russian and Spanish, the term has the same two meanings.

MEANING OF IMP-EXP

IMPORT

1. Bring goods or services into a country from abroad (for sale)
2. To buy or bring in goods from a foreign country
3. To bring or carry in goods from a foreign country especially for trade or sale
4. The act of bringing or causing any goods to be brought into a Customs territory

1 Oxford Dictionary of English 2nd Ed.

2 Collins English Dictionary 21st Century Ed

3 The American Heritage Dictionary of English Language

4 Glossary of International Customs Terms. World Customs Organization

MEANING OF IMP-EXP

EXPORT

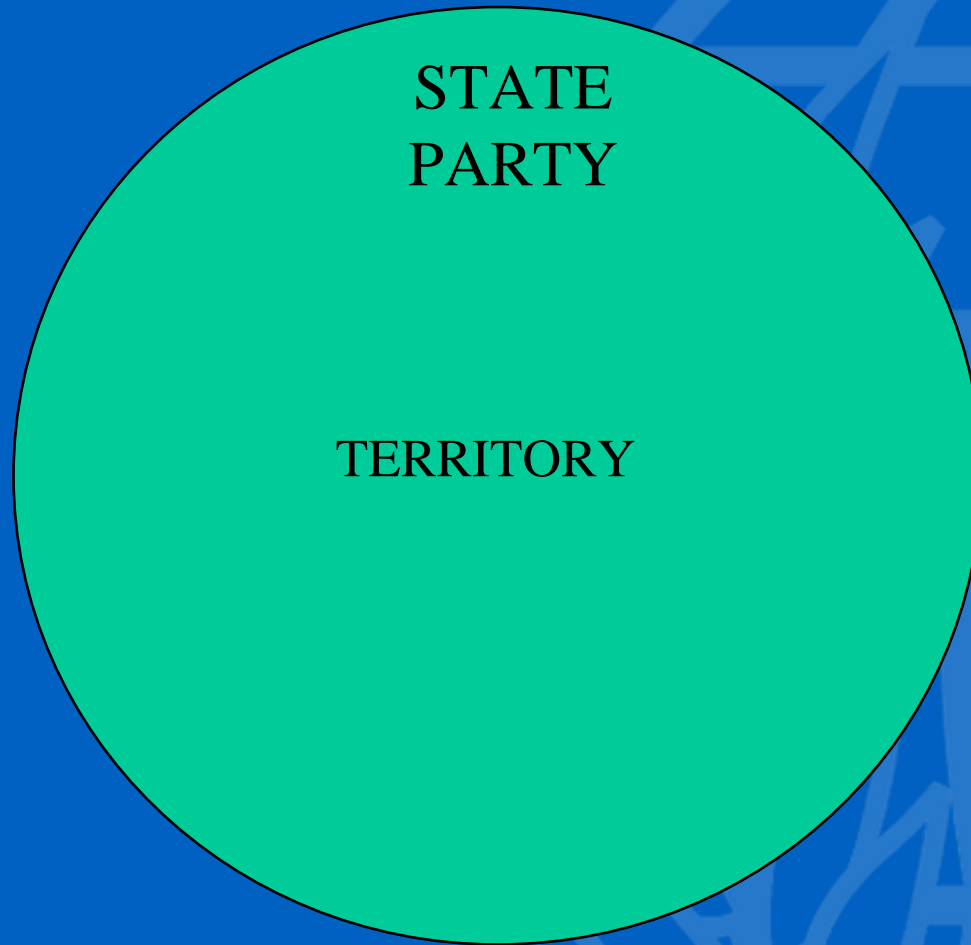
1. Send goods or services to another country (for sale)
2. To sell or to ship goods to a foreign country
3. To send or carry goods abroad, especially for trade or sale
4. The act of taking out or causing to be taken out any goods from the Customs territory

1 Oxford Dictionary of English 2nd Ed.

2 Collins English Dictionary 21st Century Ed

3 The American Heritage Dictionary of English Language

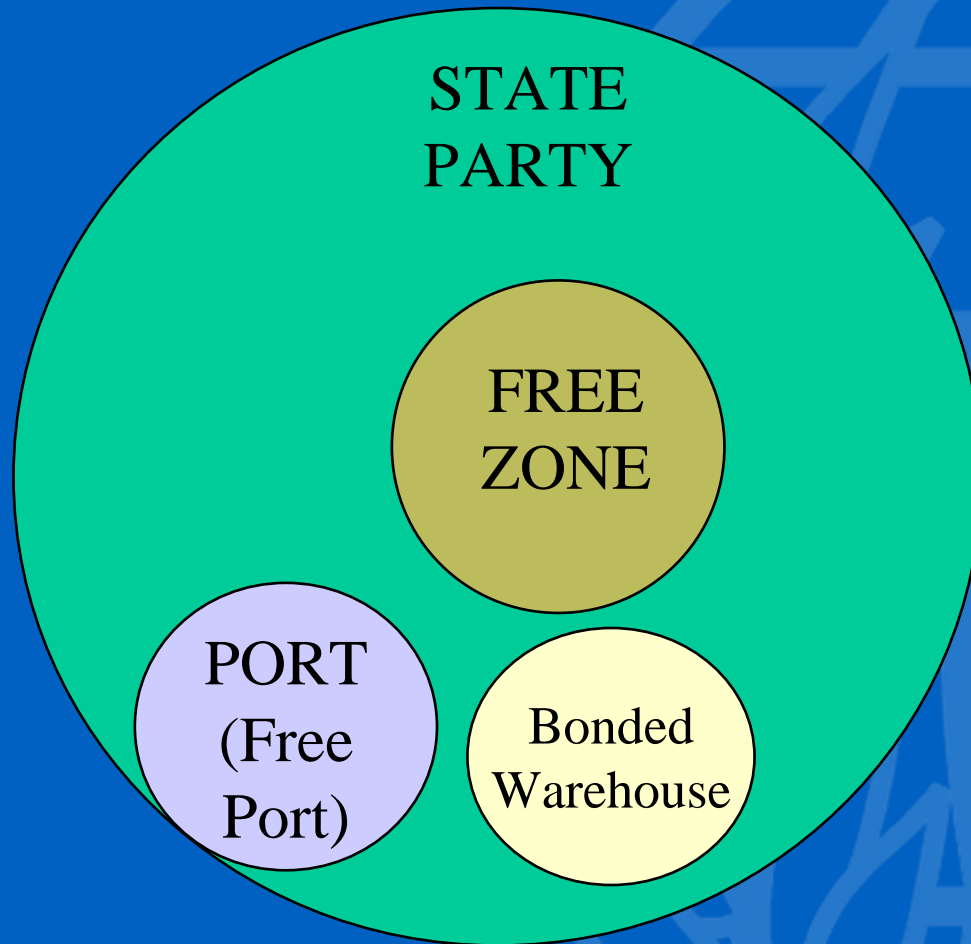
4 Glossary of International Customs Terms. World Customs Organization



OBLIGATIONS under **UN RES 1540**

Develop and maintain effective national export and transshipment controls including laws and regulations to control export, transit, transshipment, re-export and funds related to such exports...

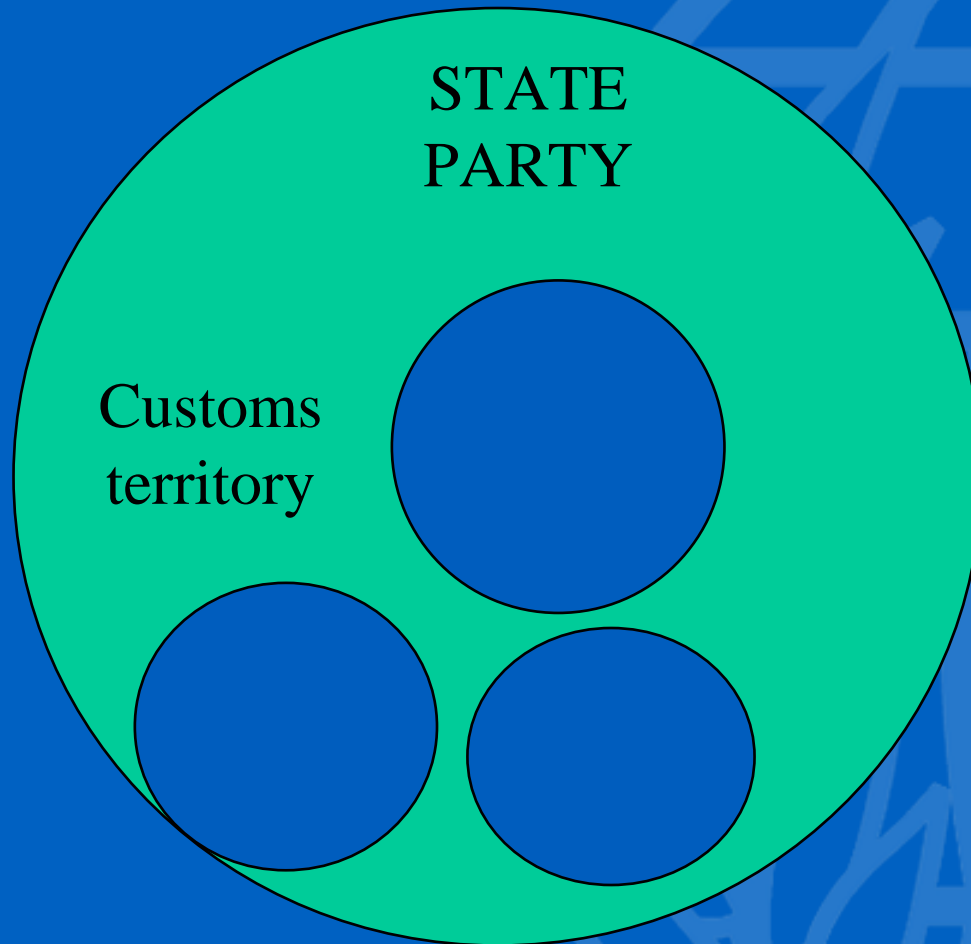
OBLIGATIONS under the **CWC**:
“Any place under the jurisdiction or control of the SP”



Zones artificially created to promote economic activity.

No tax payments

No Imp/Exp requirements

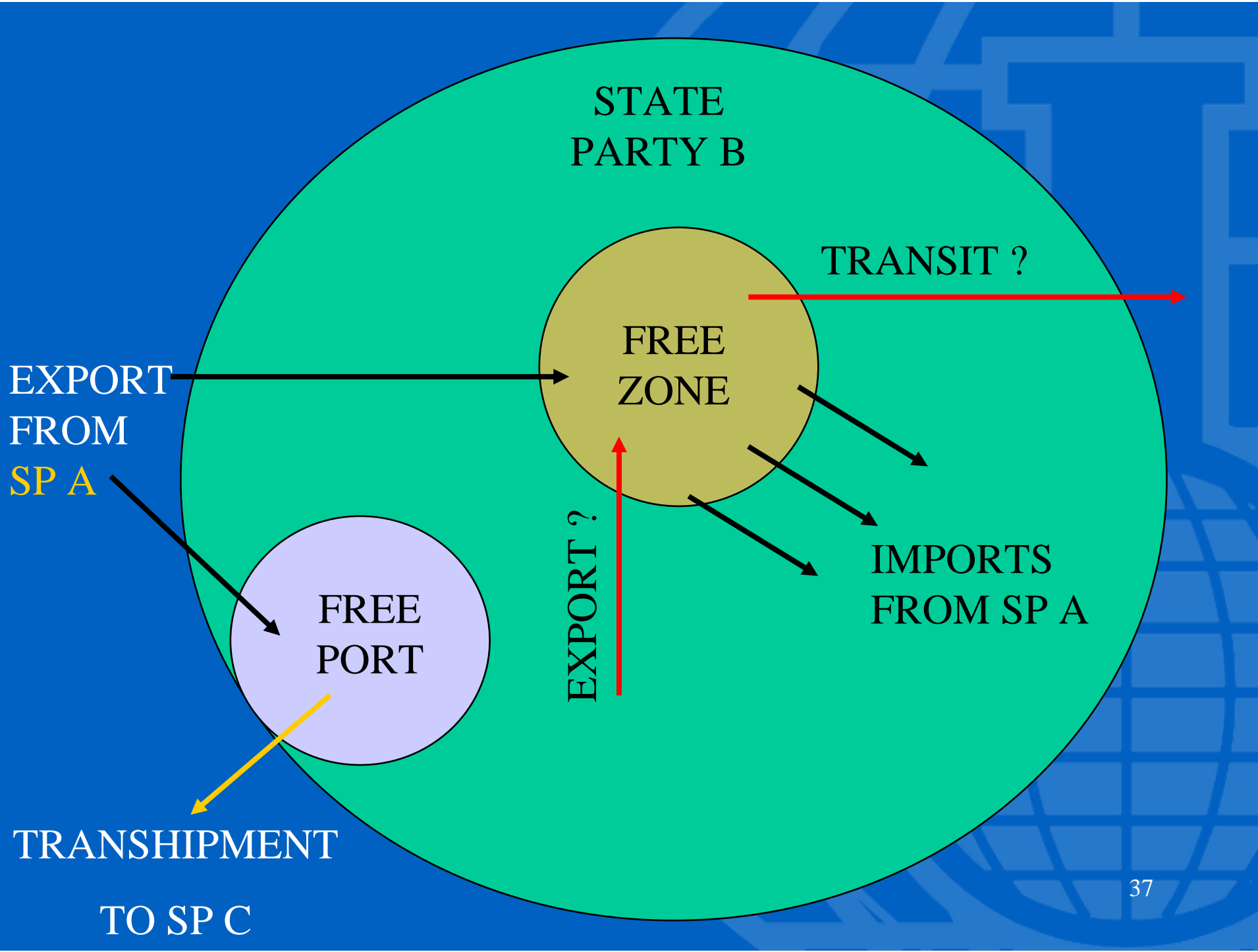


Some States define Import and Export within the  Customs territory

WCO's GLOSSARY OF INTERNATIONAL CUSTOMS TERMS

IMPORTATION: The act of bringing or causing any goods to be brought into a **Customs territory**

EXPORTATION: The act of taking out or causing to be taken out any goods from the **Customs territory**



Way Forward

- Industry Cluster is considering developing an understanding on what the terms import and export mean in relation to declarations of Schedule 2 and 3 aggregate national data.
 - Initial proposals focus on physical movement of goods not Customs procedures
 - Under discussion

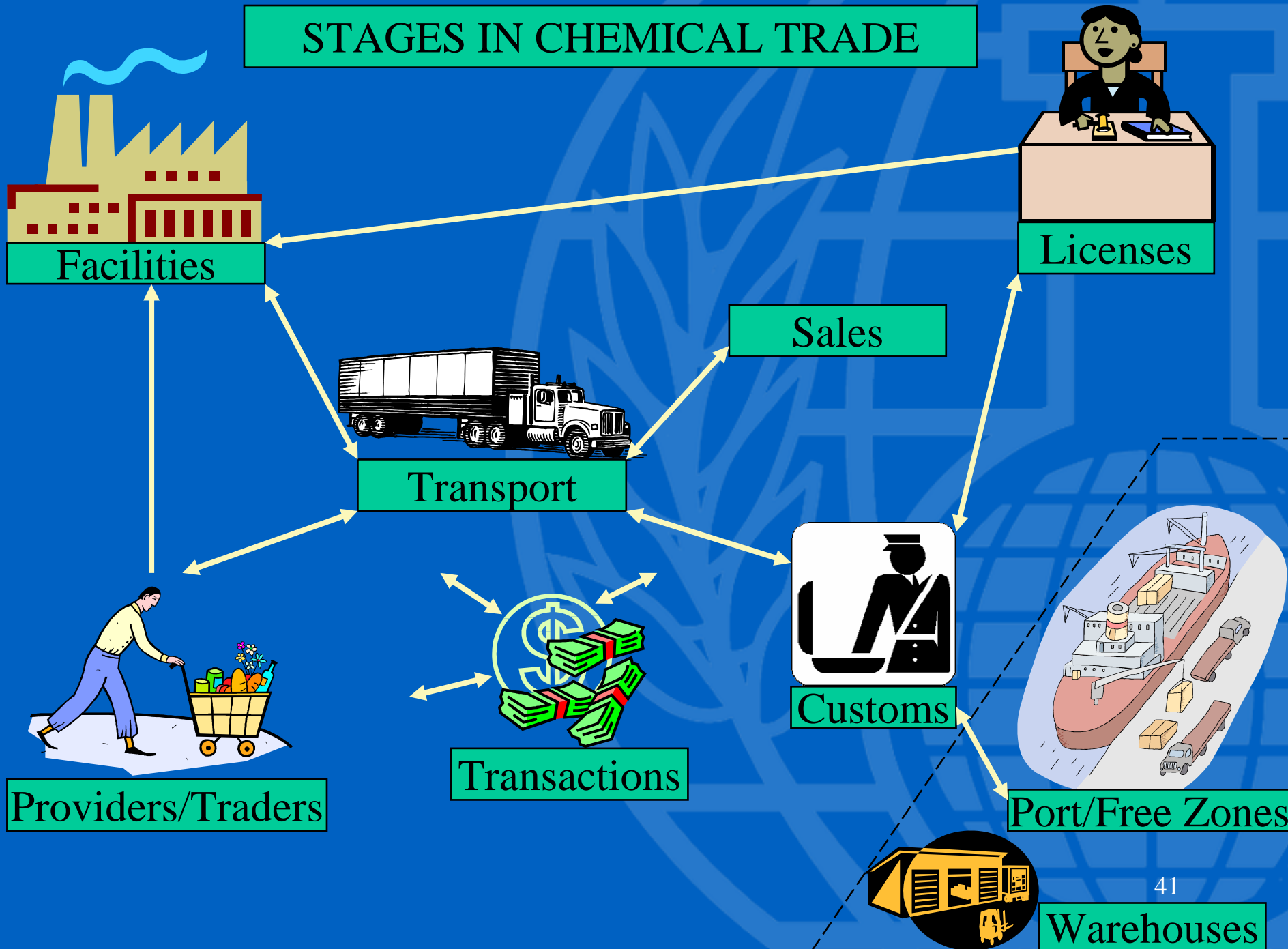
PRACTICAL CONSIDERATIONS



How to control transfers and collect data

- ✓ Universality
- ✓ Legislation and Law enforcement
- ✓ Licensing procedures
- ✓ Customs controls and enforcement
- ✓ Intelligence data
- ✓ Encourage measures taken by industries (self-control)

STAGES IN CHEMICAL TRADE



Systems to monitor and control transfers

- Sources: Customs  Licenses
- NOT EFFICIENT
- No effective controls
- Discrepancies

Customs control

POP
Convention

PIC
Convention

Montreal
Protocol

Basel
Convention

CITES

National
Regulations

Regional
Agreements

Tax
Regulations

Australia
Group

Wassenaar
Dual-use Goods

Missile Technology
Control Regime

Convention on
Narcotics Drugs

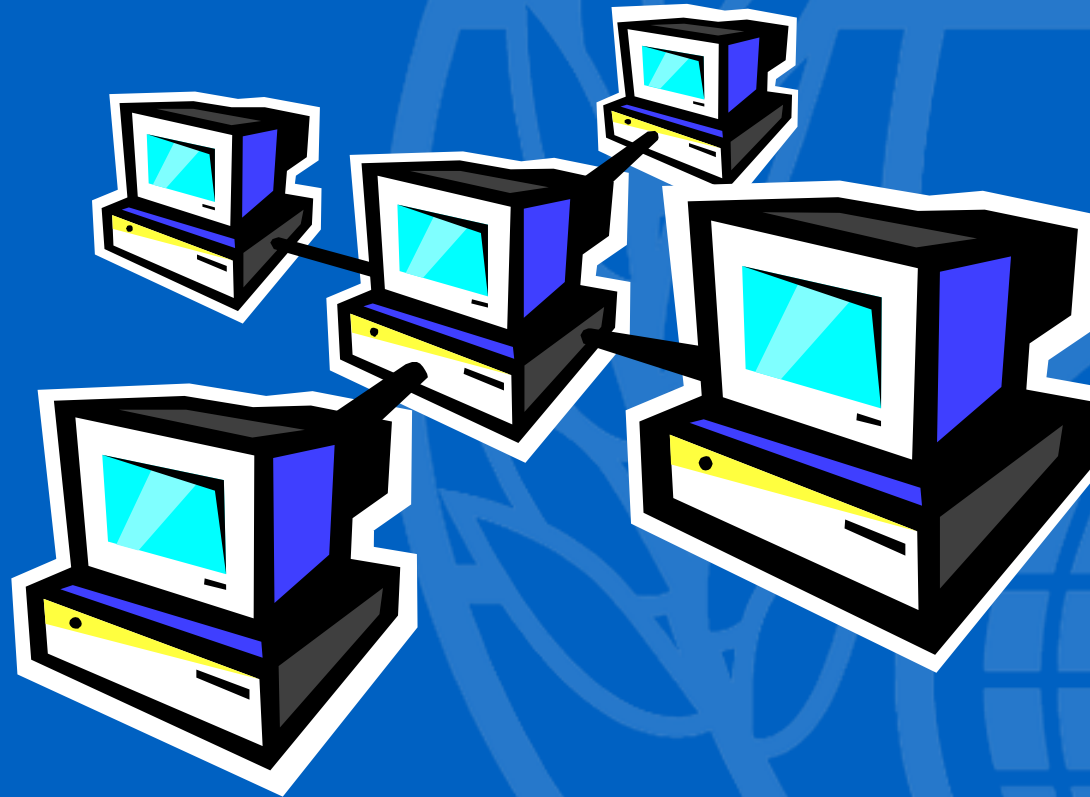
BTWC

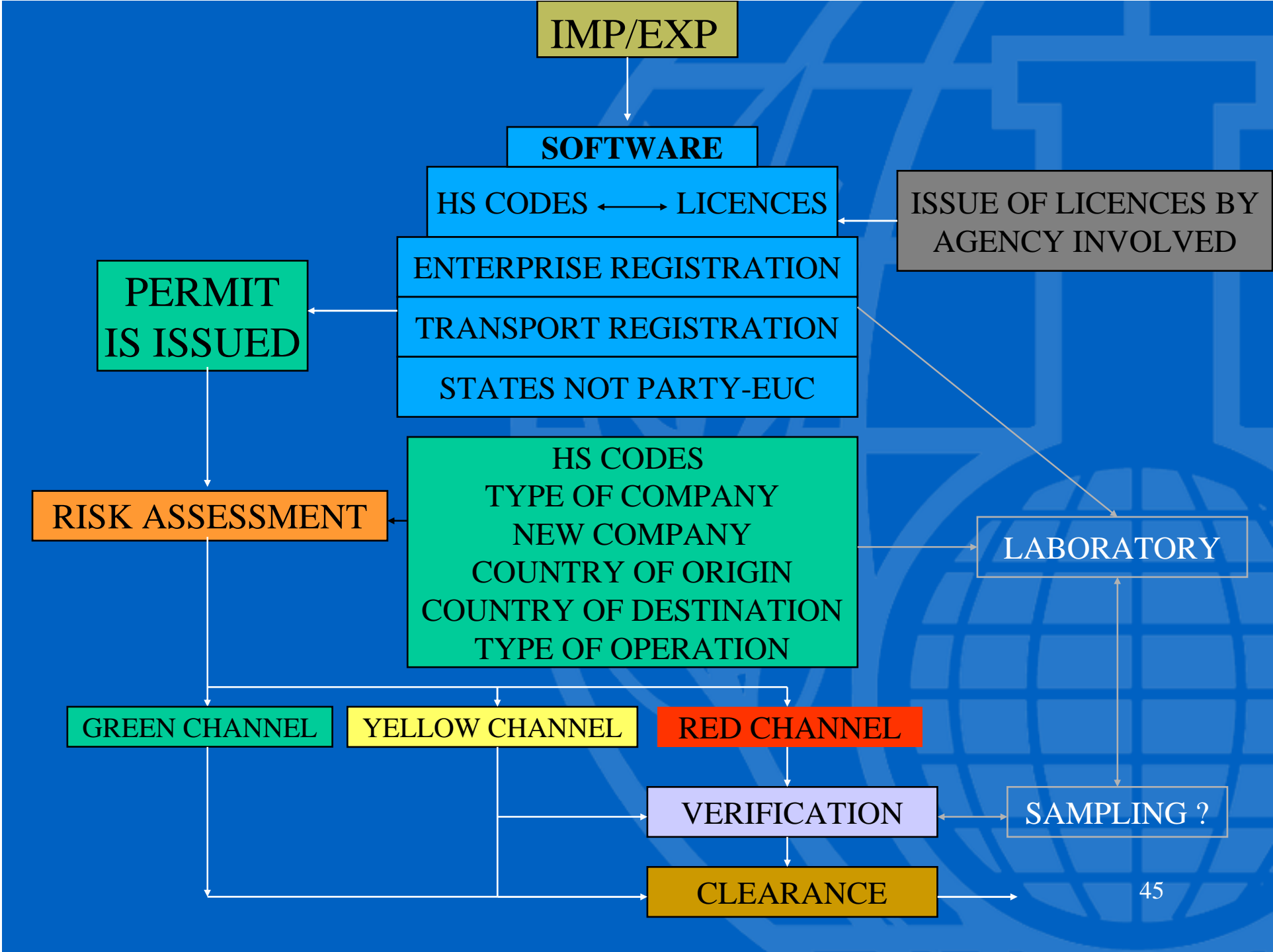
CWC

Nuclear
Supplier Group

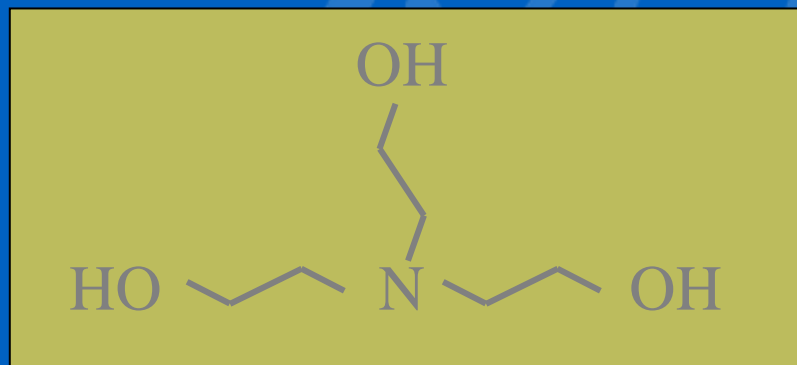


ONLY ONE SOLUTION





Misclassification



- Heading 29.05 Acyclic alcohols and their nitrated or nitrosated derivatives
- Heading 29.22 Oxygen-function amino-compounds

2905.5 Nitrated or nitrosated derivatives of acyclic alcohols

2905.59 Others

2905.59.99 Others

2922.1 Amino-alcohols

2922.13 Triethanolamine and its salts

2922.13.10 Triethanolamine (License)

2922.13.99 Others

(No license) }

RISK ASSESSMENT

3 LEVELS OF CONTROLS

- PRE-CLEARANCE

Review of Cargo manifest

- CLEARANCE

Review of Documents submitted and Physical Inspection

- POST-CLEARANCE

Review of Permits and Audit based controls



Thank you

Questions?