

# Transport facilitation for borderless traffic in the UNECE region

By Oleksandr Fedorov,  
State Customs Service of Ukraine,  
WP.30 Chairman

Despite clear achievements of progress, elimination of cross-border obstacles for international trade still remains one of the most urgent tasks for both - the trade and numerous states. Generalization at the level of international organizations, rich experience of states, that have managed to achieve significant progress in this direction, made it possible to create powerful international tools.

However, the adoption of any decision to change trade practices, or practices of cross-border control, is always accompanied by questions of "Which tool to choose?" And quality of the solution, ultimately, depends on the correctness of choice.

There is always need to reduce the risk of improper tool selection, considering their "bilateral" nature and diversity.

(1) Progress in trade practices is direct interest of trade in an increasing competition. Exactly this interest dictates priority progress in transportation, control, storage, etc., from which depends on the **amount** and **speed** of getting net profit.

Progress in practice of cross-border control is the direct interest of states, dictated by the requirements of their populations. Particularly this interest prioritizes progress in public sphere, from which, ultimately, depends on the **level** of public security and safety.

Ideally, these two types of progress are "contradictory" to each other.

Globalization of trade, taking into account international character of trade interests, has identified creation and implementation of new tools at the international level. Trade and transport operations, as well as the documents, related to such transactions, become the subject of unification in various international documents.

Globalization has become the first serious challenge for the states to overcome the natural conservatism in adapting controls to the demands of the trade. In its turn, this led to formation and implementation of trade-offs aimed at meeting **international needs** of commerce, but depending on **the national capacities** of the states.

Finally, acquiring more and clearer outline, international nature of the needs of the states, protecting people from real threats of trade, leads to the development of tools at the international level, oriented to meet the direct interests of the states.

This process became the second major challenge, but now - for the trade. There is no more compromise between **the needs** of commerce and **the national capacity** of states. The most logical solution seems to be a **merge** of direct interests of the state and a new subject, which trade should gradually become – **safe and secure trade**.

(2) Since the first transported cargo was accompanied by the document, containing information about this shipment, we can say about the beginning of the material flow of information about it.

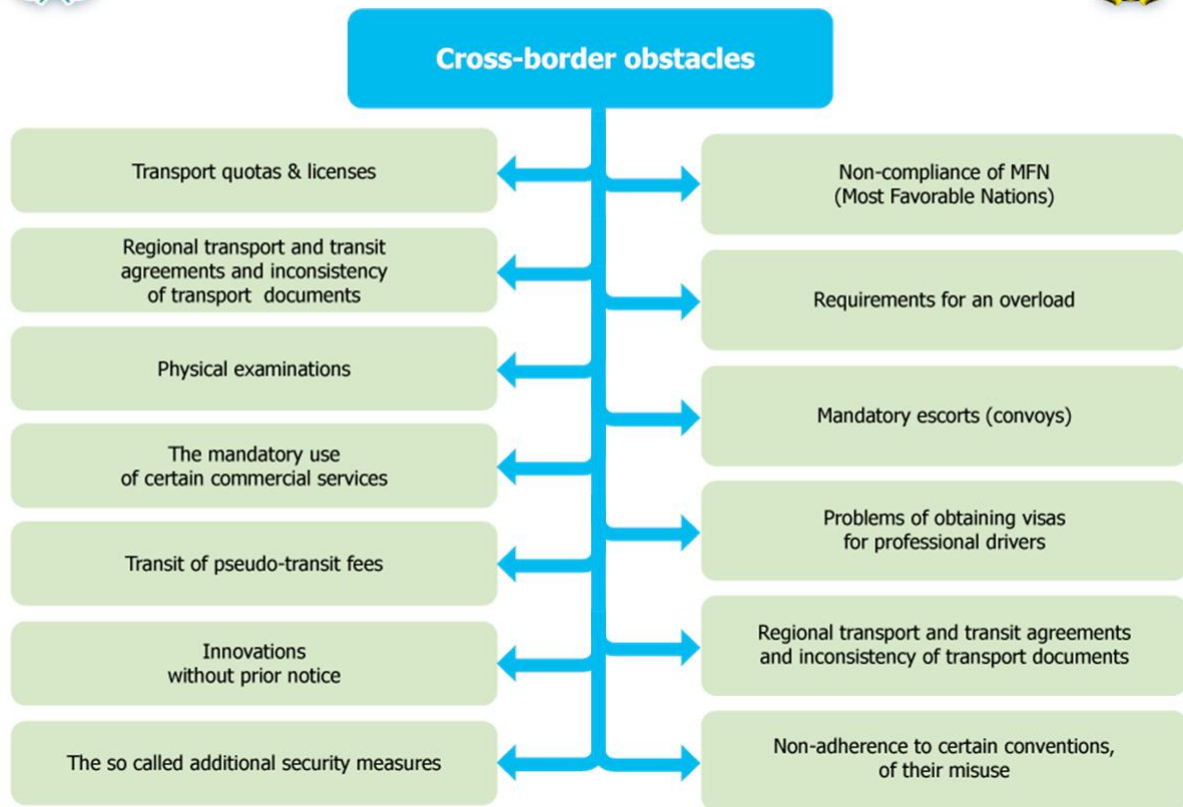
To this day, this flow, by virtue of changes and clarification of interests and needs of trade participants, is constantly being improved. Apparently there are at least five areas in which this flow is being improved. These are accuracy (reflecting the real properties of goods), clarity (for different languages and applications), speed of delivery, ease of handling, and reliability.

Now this flow, as the most appropriate to contemporary requirements to information, is rapidly transforming into e- form.

Obedying the laws of maintaining reasonable balance between interests of commerce and interests of states the e-form gradually starts, as well, to include the flow of information, circulating in the environment of state control.

Recent example of the EU ambitious projects such as "E-Customs" and Coordinated Border Management (CBM) shows that the concept of "paperless environment" in practice of trade and state control is far to be theoretical at all.

But at the same time, problems related to the necessity to overcome cross-border obstacles, removed partially only - on the territory of a particular region, and mainly in one direction (export). Obstacles come up again outside this territory.



Modern list of such obstacles is quite diverse. These are transport quotas and licenses, non-compliance of MFN (Most Favorable Nation) and the requirements for an overload, physical examinations and mandatory escorts (convoys), the mandatory use of certain commercial services and problems of obtaining visas for professional drivers, transit or pseudo-transit fees and the so-called additional security measures, innovations without prior notice, non-adherence to certain conventions, or their misuse, regional transport and transit agreements, inconsistency of transport documents, too short time to appeal, etc.

They are especially perceptible on a long distance routes, covering territories of several countries or even continents that trade tests now, using economic advantages of combined and multimodal transport.

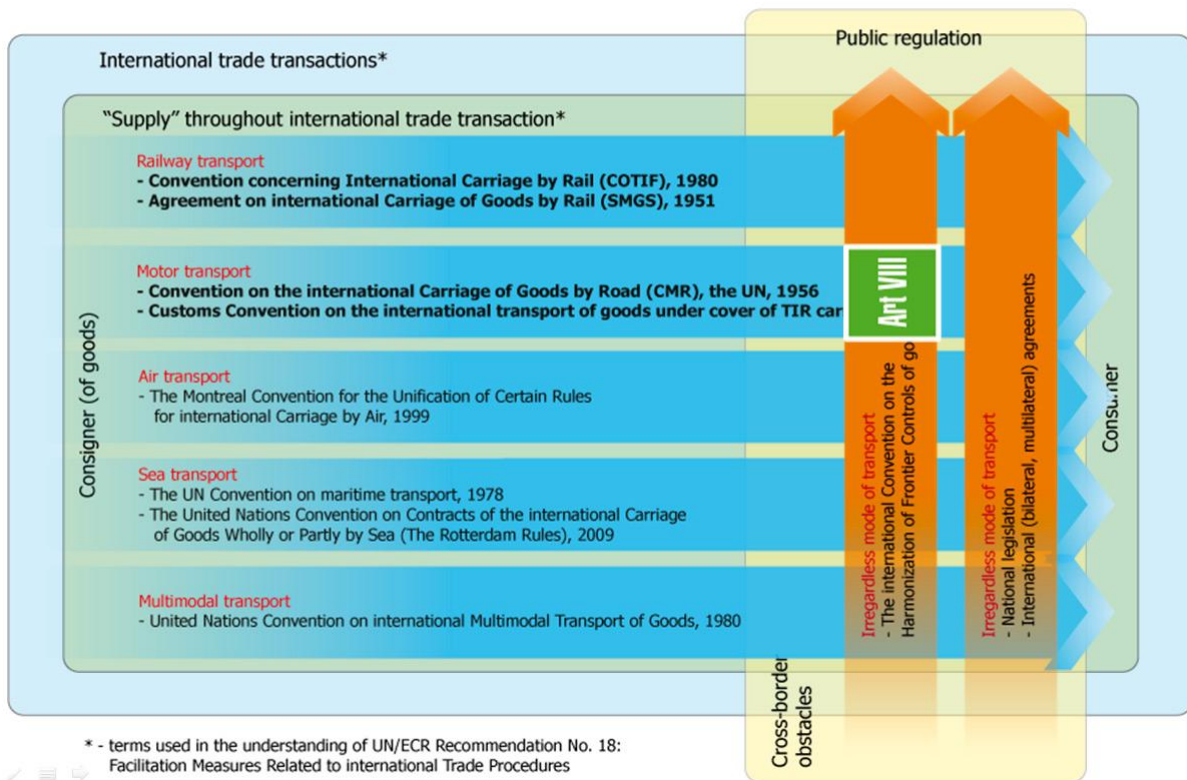
[Ukrainian examples –“Viking” (short-term expansion of geography), Yaroslav and Byelorussian “ZUBR”]

In context of such transportation it is necessary to make a theoretical draw back by looking at cross-border obstacles from the perspective of the concept, laid in the basis of the SAFE Framework of Standards to Secure and Facilitate Global Trade (WCO, 2005).





## International legal instruments



Consideration of the same scheme in the aspect of basic legal instruments makes it possible to see characteristic features of the current legal model of international trade, particularly its transport component.

Specifically, it becomes quite obvious the legal nature of the specific difficulties, encountered in overcoming or in preparation to overcome cross-border obstacles. For example, organization of container shipments unavoidably encounters the need to combine certain provisions of at least two conventions, subsequently regulating rail and road transport.

It is obvious that difficulties are also created by:

- Necessity for compulsory following the provisions of the unique TIR Convention, focused on international road transport only;
- Absence of the detailed provisions for control in the International Convention on the Harmonization of Frontier Controls of Goods (in the scheme - area "Cross-border obstacles"), as in Annex VIII, for other than automobile, modes of transport.

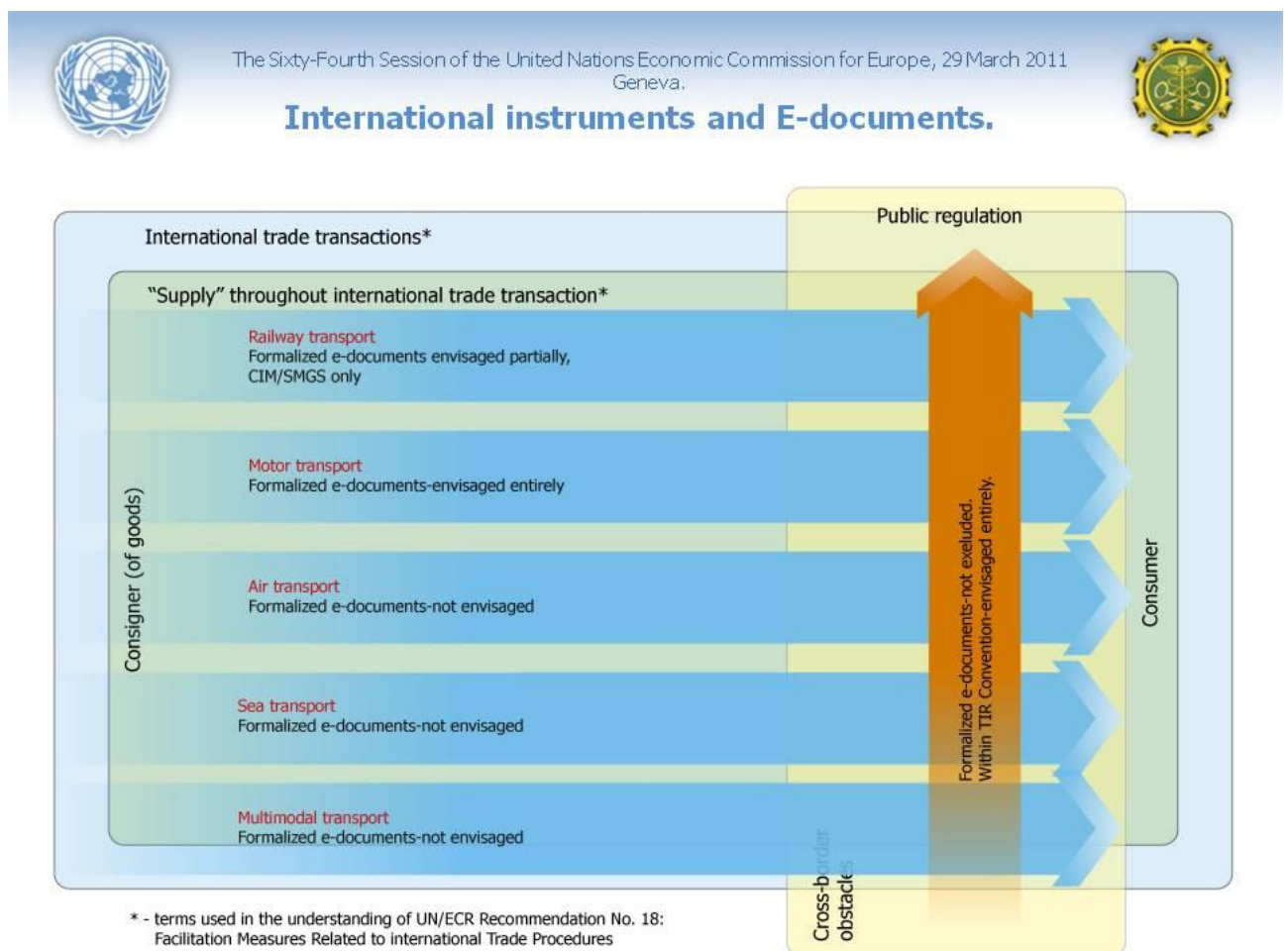
There is no doubt that such difficulties accompany organization of transportation by other combinations of transport as well.

In this context, it is necessary to emphasize particularly the necessity and urgency to develop an international legal framework of **the multi-modal global automated system of customs transit**.

Inter alia, on the same scheme, in “cross-border obstacles “(arrow “Bilateral international agreements ”) the nature of such obstacles, as the need to obtain permits for road transport, is obvious.

Since this obstacle is a tool of domestic regulation, it is necessary to consider the question of its elimination in terms of the relevance of such measures to public interests and the degree of the requirement of the state in this measure.

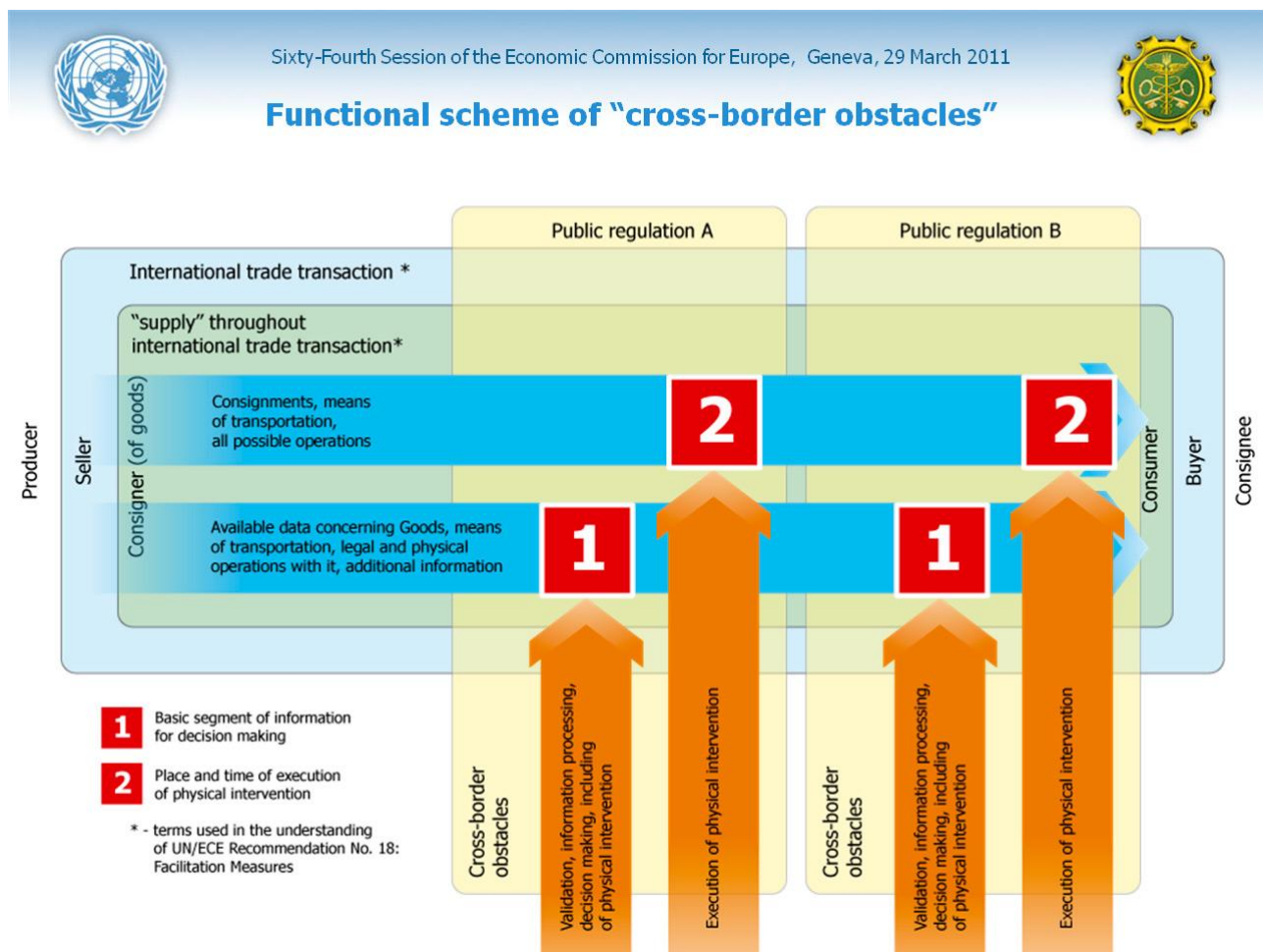
Following a review of this scheme we can make the first intermediate conclusion. Expansion of usage of different modes of transport in international transportation of goods reveals the gaps in the international legal regulation of both - the transportation and mandatory cross-border procedures. Legal model of international trade, including elements in touch with cross-border obstacles, requires updating.



Submission of the same scheme on the basis of the degree of coverage of basic legal instruments the possibility of target usage of the e-form (of documents) just confirms the previously suggested idea to update the legal model of international trade in general.

Without ignoring the fact that the e-document, with its individual international legal and technological basis, is widely used in all modes of

transport, should be clarified that the contents of this scheme applies exclusively to the legal instruments, mentioned in the previous scheme.



And finally, the method applied, makes it possible to visualize macro-level of cross-border obstacles functional model. We can clearly see two distinct groups of functions, performed by relevant governmental agencies while implementing various types of cross-border control.

1. Group of functions in relation to information about material objects, transported across the border.

2. Group of functions in relation to material objects.

Their sequence corresponds to the classical sequence of actions of a person, authorized to perform any kind of control. Firstly – [Area 1] to consider the information and to decide on further actions towards material object (it should be noted that this function in an increasing number of states is assigned to special software). Secondly – to ensure the compliance with such a decision.

On the one hand, we get a visual interconnection and interdependence of most of the recommendations of some facilitation tools and the best practices, such as:

"Single Window" [Area 1] - a way to organize information exchange among trade and the state;

"One Stop" [the sequence of areas 1 and 2] - the least burdensome way for trade when authorities decide and conduct physical inspection;

SAFE Framework of Standards to Secure and Facilitate Global Trade (WCO, 2005) [sequence of - Area 1 country of destination and area 2 of the country of departure] – is the differentiation at the state level of decision-making functions on physical inspection and direct accomplishment of such inspections.

On the other hand, there is a variety, as the intermediate, of organizational solutions, established in some countries. For example:

The system of preliminary documentary control - the prototype of "Single Window" with elements of coordination of inspection services activities at border crossing points;

Joint control and joint border crossing points, recommended by Kyoto Convention, are also approaching standard 7 "Targeting and Communication" of the first pillar of SAFE Framework of Standards".

***[Customs administrations should provide for joint targeting and screening, the use of standardized sets of targeting criteria, and compatible communication and/or information exchange mechanisms; these elements will assist in the future development of a system of mutual recognition of controls]***

Partial exception of the scheme, offered by the system of Coordinated Border Management (CBM), the best practices of which are:

EU - border with Switzerland;

EU – Norway;

EU - Western Balkans;

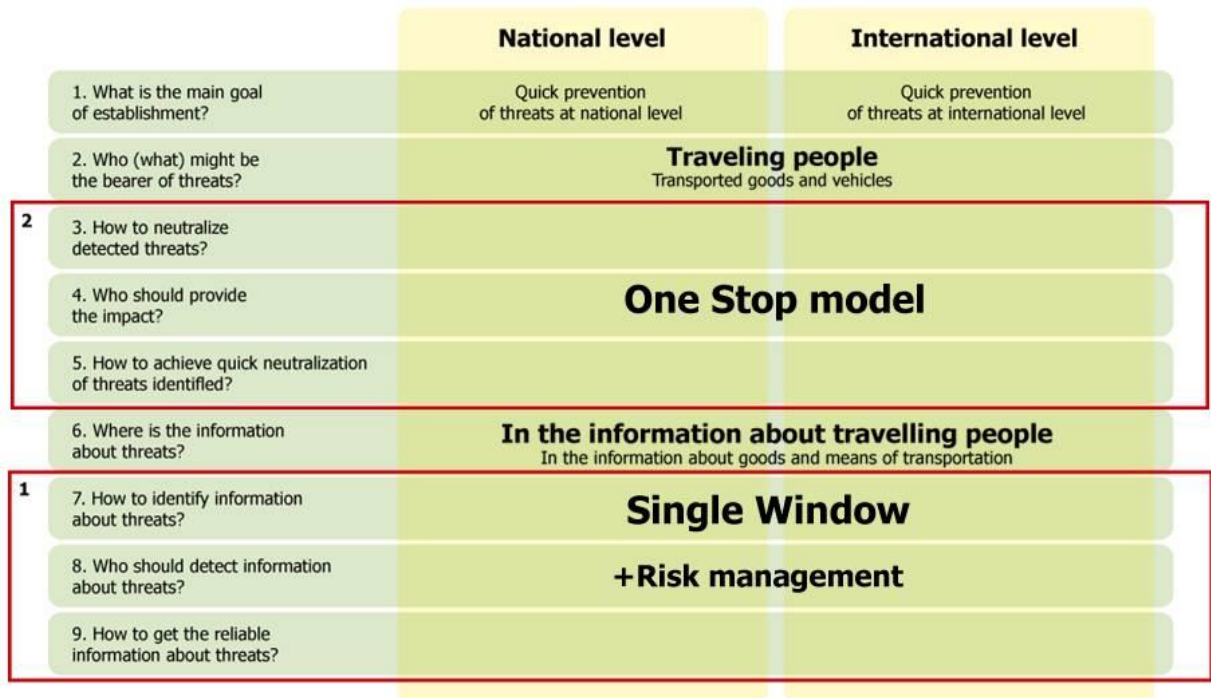
Singapore;

ASEAN countries, etc.





## Coordinated Border Management (CBM)



In the information and operational plan this system represents combination of well-known, including tools, listed above.

However, within the object of control (travelling people are added) this system goes beyond traditional competencies of UNECE and WCO.

Review of less ambitious initiatives, accomplished at the level of some states, in the context of CBM, allows the states to introduce more sophisticated tools in balanced and rational way.

In case of Ukraine, it is appropriate to mention the following.

1. Formation by the State Customs Service of Ukraine contractual basis for information exchange on the movement of consignments and vehicles with the Russian Federation, Belarus, and Moldova.

2. In cooperation with customs authorities of Poland:  
- Experience of joint control (two BCPs), the planned increase of the number of checkpoints during Euro-2012;

- "TCS" pilot project of customs information exchange at checkpoints;

- Exchange of information on emergency situations at the border.

Joint project by WCO and IRU for monitoring the queues at the borders (BWTO) could be mentioned as an example of partnership between international organizations and trade.

Based on the probability of conversion of **trade into secure trade**, mentioned in the introductory part, awareness of real and the most embracing governmental instrument to ensure border security (CBM), Authorized Economic Operator (AEO) with the status of "security" could be considered as a participant of the future **secure trade**.

Today, as it was mentioned above, trade actively develops combined and multimodal transport for long distance routes, covering territories of several states or even continents.

The obligation to maintain security in the supply chain, that AEO should exercise, but that is not inherent to it, makes AEO to some extent similar to the transport operator, which, following the provisions of TIR Convention has an obligation to deliver goods to customs of destination.

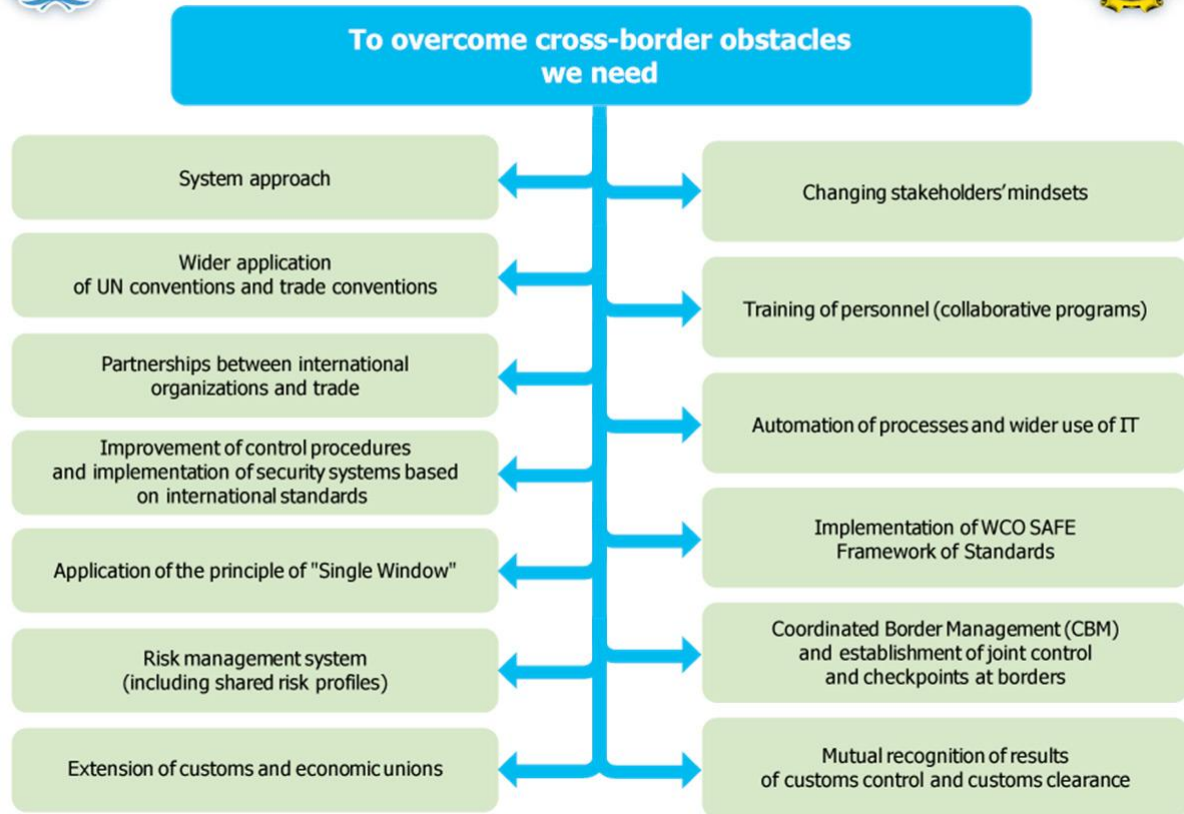
Road transport sector has the most complete international legal and informational elements matching with the public interests. It would not be possible for AEO to provide an effective international trade without it.

And finally today, one of the most affordable solutions for companies, involved in supply chain, - is the introduction of the security management systems, based on the international standards. In particular it is ISO 28000:2007 standard, developed by the International Organization for Standardization (ISO) to meet the requirements of the international business community in strengthening the security of consignments, vehicles and transport infrastructure from the threats of terrorism, smuggling and theft.

Presence of these preconditions, as well as the need for legal basis for transportation by more than one mode of transport (as mentioned above), allows to obtain a systematic experience for future decisions.

It is necessary to consider the functioning of developing transport corridors as a pilot site to explore interaction of the oncoming AEO with governmental agencies, and the interaction of state bodies with regard to AEO.

In this regard, it would be very appropriate and mutually beneficial to establish at an early stage possible, cooperation between states, regional and international organizations on the principle "along the future route of transportation, as well as the support to the needs of international trade at an early stage of the projects.



Thus, to overcome cross-border barriers successfully it is necessary to follow:

- System approach;
- Changing stakeholders' mindsets;
- Wider application of UN conventions and trade conventions;
- Training of personnel (collaborative programs);
- Improvement of control procedures and implementation of security systems based on international standards;
- Partnerships between international organizations and trade;
- Implementation of WCO SAFE Framework of Standards;
- Automation of processes and wider use of IT;
- Application of the principle of "Single Window";
- Coordinated Border Management (CBM) and establishment of joint control and checkpoints at borders;
- Risk management system (including shared risk profiles);
- Mutual recognition of results of customs control and customs clearance;
- Extension of customs and economic unions;

To conclude, we reiterate that the main idea of this presentation is still not to offer specific solutions for the particular problem areas. It is in

an attempt to look at familiar things in simple and, at the same time, system approach, intended to help stakeholders' mindset change.