


TRACECA Project  
Legal & Regulatory Framework  
**PROGRESS REPORT**  
17th January 1997

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Project Title	: TRACECA Project: Legal and Regulatory Framework		
Project Number	: TELREG 9306		
Countries	: Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan		
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Date of report : 17th January 1997

Reporting period : 1/7/96 - 31/12/96

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### Contents

	page
Section 1. Project Synopsis	2
Section 2. Summary of Project Progress	3
Section 3. Summary of Project Planning for the remainder of the project	4
Section 4. Project Progress in reporting period	7
Section 5. Project Planning for next reporting period	17

### List of Tables

Tables 1-4	Conventions Recommended for Ratification	9
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### List of Forms

Form 2.2	Project Progress Report	14
Form 2.3	Resource Utilisation Report	15
Form 2.4	Output Performance Report	16
Form 1.6	Plan of Operations for the Next Period (Work Programme)	21

### List of Appendices

Appendix 1	National Task Force Contacts List
Appendix 2	Trade and Transport Questionnaire Analysis
Appendix 3	Financial Questionnaire
Appendix 4	Legislative Decision Makers Flow Diagrams

**PROJECT SYNOPSIS**

Project Title:	TRACECA Project: Legal and Regulatory Framework
Project Number:	TELREG 9306
Countries:	ARMENIA, AZERBAIJAN, GEORGIA, KAZAKHSTAN, KYRGYZSTAN, TAJIKISTAN, TURKMENISTAN, UZBEKISTAN

- Project objectives:
1. To provide technical assistance and documentary support in the field of transport legislation and to promote utilisation and harmonisation of existing transport systems in the TRACECA Transport corridor by taking account of international aspects.
  2. Reductions in commercial risk and cross frontier delays and to help create a mixed economy transport system.
  3. Advice on opportunities for training on International Transport issues to facilitate movement towards a more competitive transport system.
  4. The joining of international institutions and agreements by counterpart states to facilitate trade.
- Planned outputs:
1. Transfer of technical knowledge and awareness of issues between the consultants and the National Task Force (NTF) partners and other relevant specialists within the TRACECA region.
  2. Harmonisation of transport laws to reduce barriers to domestic and international trade.
  3. The creation of consultative institutions in all countries based on the NTF which are capable of implementing a recommended reform programme in the long term.
  4. Reduction of existing barriers to develop domestic and international trade and transport.
- Project activities:
1. The appointment of NTF personnel in each state to develop draft transport legislation and to maintain close links with other regional NTF and the Consultant.
  2. To provide the NTF with model legislation and documentation to assist in the harmonisation of legislation and procedures.
  3. To maintain a library of relevant transport legislation in each state including comparative legislation of the E.U. Russian Federation and International Conventions.
  4. Management of regional training seminars and workshops for counterparts during visits by the Consultant.
  5. Work with NTF partners on harmonisation of specific key areas of law where the limited inputs possible within the existing target budget can produce the most rapid results.
  6. To co-ordinate with other relevant TRACECA projects to share information and demonstrate a joint approach to the solution of transport problems.
  7. To advise the NTF partners on the obligations and advantages of joining and accepting international conventions.
  8. To provide regional workshops and "on the job training" to counterparts during visits by the Consultant.

Project starting date: 21 December 1995

Project duration : 24 months

## 2. SUMMARY OF PROJECT PROGRESS SINCE THE START

In the Consultant's proposal the programme for the carrying out of the project tasks and objectives was broken down into 3 phases. This report is submitted at the point where Phase 2 is in course and is merging with aspects of Phase 3. Planning for the period under review required some minor adjustments as a result of experience gained in Phase 1.

During Phase 1 the broad project objectives as set out in the TOR were agreed with counterparts. The principal practical task was the establishment of the National Task Forces (NTF) and the regional offices and equipment. A list of the present organisational structures, personnel and addresses for NTFs is to be found in Appendix 1. In each Republic we should like to record our particular thanks to the local Tacis offices for their continuing assistance.

The results of the Preliminary Appraisal Missions and associated work enabled the Consultant to set provisional priorities for the legal reform activities for Phase Two and Three of the project. The priorities were discussed and agreed during the First Regional Conference held in Almaty between 13th-17th May.

A management seminar on international trade and transport issues was presented at Tashkent from 11th - 14th June 1996 for around 20 senior officials and was repeated in Baku from 4th -7th November and in Ashkabad from 11th -14th November (for details of content see inception report).

Following the Almaty conference the ITF team began detailed work on the legal models which are intended to provide the foundation for the main work of the project until completion. This work took up virtually the whole of the time and energy of the ITF team during the quarter immediately preceding the Second Regional Conference held in T'bilisi between 5th -8th October 1996.

The Second Regional Conference endorsed the model multilateral road and maritime transport agreements and the model law on transport and road and rail codes as suitable for further development. It also endorsed the policy of aiming for a harmonised approach to the ratification of 17 key international conventions and agreements.

Following the conference counterparts commenced the process of providing detailed comments on the proposed drafts with a view to the ITF team producing final drafts which will be presented for adoption or signature at the Third Regional Conference to be held in Ashgabat during April 1997 .

### 3. SUMMARY OF PROJECT PLANNING FOR THE REMAINDER OF THE PROJECT

Overall planning for the project remains along the lines indicated in the proposal forming the basis of contract as modified by the Inception Report and First Progress Report dated 17th July 1996. However implementation strategies have been reshaped in the light of experience. The priority project objectives are to achieve concrete results in the following areas:-

#### **Priority I, Regional Access to the Transport Market**

The activities in the field of regional access to the transport market will be focused on the conclusion of multilateral transport agreements in the TRACECA region in respect of Road, Water and Rail transport for the facilitation of transit, domestic transport, third country transport and cabotage.

Drafts have now been developed for the Road and Water transport agreements and these have already been extensively discussed with counterparts and modified. They will be put in final shape in the early part of 1997 and should be agreed at the Ashgabat conference in April.

#### **Priority II, International Standards in Trade and Transport**

The Consultant will focus on delivering advice and assistance in relation to the ratification of international conventions and obtaining of membership of international organisations notably IRU and FIATA. The most optimal sequence for the activities in this field will be given for each TRACECA State.

Particular emphasis will be given to ratifications recommended in the ESCAP Resolution 48/11 on road and rail transport modes in relation to facilitation measures, namely:

- The Convention on Road Traffic of 1968.
- The Convention on Road Signs and Signals of 1968.
- Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention) of 1975.
- The Customs Convention on the Temporary Importation of Commercial Road Vehicles of 1956.
- Customs Convention on Containers of 1972.
- The International Convention on the Harmonisation of Frontier Controls of Goods of 1982.
- The Convention on the Contract for the International Carriage of Goods by Road (CMR) of 1956
- The Barcelona and New York Transit Conventions.



To this list has now been added the following additional Conventions and Agreements:

- AETR agreement on hours of work 1970
- Convention on Safe Containers (CSC) 1972
- Agreement on main traffic Arteries (AGR) 1975
- Agreement on transport of perishable foodstuffs (ATP) 1970
- Agreement on carriage of dangerous goods (ADR) 1957
- Convention on the Liability of Operators of International Terminals 1991

The ITF team has been encouraging counterparts to ratify the above, with some success as may be seen from the results shown in Section 4, and a more systematic approach to ratification is being developed in the form of model dossiers. This work will continue throughout the remainder of the project.

The ITF team will continue its efforts to establish carrier and forwarder associations in the countries of the region and to leave behind a structure for international co-operation based on National Trade and Transport Facilitation Commissions.

### **Priority III, National Organisation of the Transport Market**

The transport markets should be rationalised. Minimum standards such as professional competence and financial standards have to be introduced to regulate entry into the market. Common technical UN and EU standards for transport with trains, trucks and ships have to be introduced gradually into the laws on transport. The ITF will concentrate on assistance in the drafting and implementation of four laws in the field of goods transport:

- General Law on Transport
- Rail Transport Code
- Road Transport
- Law on Water Transport

The first three are being developed as model laws to function as points of reference for the National law making processes and final drafts will be presented for adoption at the conference in Ashgabat in April 1997. The laws can be taken over entirely or can be implemented in the existing Civil Law and Transport Law through amendments. The more the particular TRACECA States incorporate common standards from the model laws, the more Regional harmonisation will be achieved.

It is also hoped that some recommendations can be developed in the next phase of work for introduction of modernised provisions for the transport of dangerous goods in conjunction with the models.

Work will continue on individual assistance to the 4 maritime Republics on Maritime Codes taking as the model the work recently completed with Georgian counterparts.

## 4. PROJECT PROGRESS IN THE REPORTING PERIOD

### 4.1 Achievements in comparison with planned results

The principal planned outputs for the period were the model transit agreements and the model Road and Rail Codes. These were completed in first draft and circulated prior to the Second Regional Conference held in T'bilisi in October 1996 as had been planned.

The Consultant completed work on analysis of the questionnaire handed out at the Almaty conference in May. The findings are set out in Appendix 2. The Consultant points out that some of the information provided by counterparts has proved not to be accurate. A discussion of the implications of this is to be found in Section 5.

Workshops, based on the one presented in Tashkent in June 1996, were held in Baku and Ashgabat during November 1996 as planned and met the dual objective of informing a broad spectrum of opinion within the transport sector about international conventions and agreements and establishing dialogue with delegates useful to the future work of the project locally.

During late November and December comments began to be received from NTFs concerning the models. For a variety of reasons the process took longer than anticipated but no delay to the project resulted as the Consultant reduced by an equivalent amount the time given to the ITF experts to consider the comments of local specialists and modify the models.

The Consultant sets out below a report showing progress on deliverables during the project since the start (with tables where appropriate) and will update the tables in future reports.

### 4.2 Regional access to the transport market

The Consultant completed initial work on multilateral agreements on road and maritime transport during the reporting period. The models are currently subject to comment from counterparts and definitive drafts will be presented to the Regional Conference in April 1997. There appears to have been strong support for the provisions set out in the drafts.

It is very pleasing to be able to report that the Republics of Azerbaijan, Georgia, Turkmenistan and Uzbekistan signed an important framework agreement on transit on 13th May 1996, inspired by the early work of Telreg. The project model drafts are capable of operating underneath this agreement as "normative acts" and it is hoped that the signatories to the framework agreement may also become early signatories to the model agreements.

The states party to TRACECA have trading relationships with other neighbouring states and the Consultant has taken considerable trouble to maintain positive contact with other transit facilitation initiatives currently in course in the region.

Thus there has been co-operation with the UNCTAD/UNDP silk road project. The influential UNDP representative from Uzbekistan was invited to the Second Regional Conference in T'bilisi and made valuable contributions to the debate on the draft agreements and the Consultant's transit specialist was able to attend the UNCTAD/UNDP conference in Bishkek in November 1996 to explain and promote project objectives. The silk road project sees the detailed road transit agreement developed by the Consultant as likely to provide the technical underpinning for the framework agreement they have under development.

There has also been communication with the ECO transit initiative, an Azerbaijan member of their drafting committee being invited to the T'bilisi conference.

#### **4.3 International standards in trade and transport**

The Consultant continued dialogue with a number of organisations during the reporting period to promote adoption of international conventions and agreements by the 8 Republics. Meetings took place with representatives of ECE, UNDP, UNCTAD in relation to international facilitation and with FIATA and IRU on establishment of trade associations and implementation of systems for TIR and multimodal transport. In dialogue with ECO the Consultant warned of the possible dangers if that organisation introduced a parallel system to TIR to overcome temporary problems with the carnet guarantees

Discussions took place with UIC concerning possible merger of the COTIF and SMGS systems. UIC has been involved in previous attempts and is not at present hopeful that a solution can be found. A first requirement is a translation by lawyer-linguists of the COTIF text into Russian but unfortunately neither the present project nor UIC has the necessary resources. This could be considered for separate technical assistance by the EU Commission. The question of overlap/conflict between COTIF/SMGS remains important: Turkmenistan is considering adhering to both systems so the question is of more than academic concern.

The Consultant carried out work in the field of international finance, with particular regard to bank guarantees. A questionnaire was circulated at the T'bilisi Conference and is to be found in Appendix 3.

The Consultant set in hand the collection of Dossiers on the mechanics of the convention ratification process with counterparts but at the date of this report insufficient usable material had been forthcoming and it is likely that better results will flow from working direct with the treaty organisations themselves.

In relation to the Conventions recommended for ratification, Tables 1, 2, 3 and 4 show the analysis as at 1.12.95, the countries in the middle column then having ratified and the situation today in the right column.

<b>Table 1</b>	<b>Analysis at 1.12.95</b>	<b>Analysis at 17.1.96</b>
CMR Convention 1956	Kazakhstan Uzbekistan	Kazakhstan Tajikistan Turkmenistan Uzbekistan
Convention on Road Traffic 1968	Georgia Kazakhstan Tajikistan Uzbekistan	Georgia Kazakhstan Tajikistan Turkmenistan Uzbekistan
Convention on Road Signs & Signals	Kazakhstan Tajikistan Turkmenistan Uzbekistan	Kazakhstan Tajikistan Turkmenistan Uzbekistan
Conventions on Temporary Import of Commercial Vehicles 1956	None	None
TIR Convention 1975	Armenia Georgia Kazakhstan Uzbekistan	Armenia Azerbaijan Georgia Kazakhstan Tajikistan Turkmenistan Uzbekistan
AETR Agreement 1970	Kazakhstan	Azerbaijan Kazakhstan Turkmenistan
Vienna Convention on International Sale of Goods 1980	Georgia	Georgia
Hamburg Rules 1978	Georgia	Georgia
Convention on Harmonisation of Frontier Controls 1982	Armenia	Armenia
Customs Convention on Containers 1972	None	None
Convention on Safe Containers	Kazakhstan	Kazakhstan
AGR Agreement 1975	Georgia Kazakhstan	Georgia Kazakhstan
ATP Agreement 1957	Kazakhstan	Kazakhstan
ADR Agreement 1957	None	None
Barcelona Transit Convention 1921	N/A	N/A
New York Transit Convention 1965	N/A	N/A
Convention on Liability of International Terminal Operators 1994	Georgia	Georgia

<b>Table 2</b>	<b>Analysis at 1.12.95</b>	<b>Analysis at 17.1.96</b>
Membership of IRU	Georgia Kazakhstan	Azerbaijan Georgia Kazakhstan Turkmenistan Uzbekistan

<b>Table 3</b>	<b>Analysis at 1.12.95</b>	<b>Analysis at 17.1.96</b>
Membership of FIATA	None	Uzbekistan

<b>Table 4</b>	<b>Analysis at 1.12.95</b>	<b>Analysis at 17.1.96</b>
Creation of a Commission meeting the objectives of Trade Facilitation as identified in the TOR	None	Uzbekistan

#### 4.4 National organisation of the transport market

The Consultant completed initial work on production of a model law on transport, a model road and model rail code during the reporting period. These models are currently the subject of comments from counterparts and will be presented in definitive form at the Third Regional Conference in April 1997. Work was also carried out on a draft Georgian Maritime Code which will serve as a partial model for 3 other national Codes.

It has proved difficult to meet the objective of introduction of European standards while still ensuring compatibility with Russian standards. The Consultant has tried to maintain working contact with a major project of transport law reform being financed in Russia by the World Bank. A confidentiality clause in the latter has most regrettably meant that the Consultant has not been able to have access to draft material being planned for Russia or even to some high quality translations of existing Russian material. The Consultant has asked the European Union to seek a diplomatic solution to this difficulty. At the date of this report it is understood that work on the Russian project has been suspended sine die owing to failure of institutions in Russia to agree objectives with one another. The Consultant can do no more than maintain contact with the executing consultant and point out the difficulty of attempting to harmonise reform work in this area.

Work on models inevitably implies the constant making of compromises. It has proved easier to move rapidly towards European models in road transport than in the other modes where continued technical and political interface with existing models cannot be avoided. It will be a matter for individual legislatures to decide on the ultimate balance between new and traditional approaches, particularly when it comes to passenger transport, which has to be considered following comments received at the Second Regional Conference and the Athens TRACECA meeting. Passenger transport falls outside the TOR for the project, but the Consultant will attempt to give some limited guidance as to how the treatment of passenger transport could interface with the freight transport models, particularly in the field of rail transport.

In addition to concentration on the main tasks set out in the TOR the Consultant has kept under scrutiny developments in related areas, such as the new Civil Codes of the Republics. These are being based on a "model" code prepared by the Commonwealth of Independent States and are heavily influenced by former Soviet models. In discussions with counterparts in each of the Republics, the Consultant has emphasised the importance of allowing transport to benefit from exceptions to the normal provisions of the Civil Codes, and in particular to be allowed freedom to operate regimes of limited liability in freight transport.

The Consultant has had some impact in this area thanks particularly to the work of Professor Tulegaliev of the ITF who is a member of the CIS drafting committee for the model Civil Code. However the Consultant would not rule out the possibility that some amendments to the Civil Codes will be required to accommodate the arrangements foreseen in the project model transport Codes.

#### **4.5 Deviation from original planning and reasons**

The treatment of some issues departed from the schedule foreseen in the proposal because either:-

- they were affected by overlap with TNREG 9308, or
- NTFs indicated they were not of high priority, or
- NTFs requested a different approach and the Consultant agreed

##### ***Overlap***

The most significant impact on the Telreg project is from the Customs and Freight Forwarding Project also let to Scott Wilson Kirkpatrick. Every attempt is being made to optimise outputs on the 2 projects by making the best possible use of resources. As a result of discussions between the 2 projects the conclusion was drawn that best results would be achieved if the Customs and Forwarding project took forward certain activities during its lifetime and the Telreg project took over responsibility for these and completed them during the final 8 months of its life. These were:-

- institutional strengthening with particular reference to Associations
- documentation redesign

Substantial progress has been made with the second of these and by the end of the sister project we anticipate that the work will be complete. A start has been made with the first but the Telreg project has continued its own involvement with IRU and FIATA and also with other projects such as the TRACECA “Improvement of road transport services Caucasus Republics” project where the Consultant has put the project in touch with appropriate persons to establish the only association now lacking for road transport in the region.

##### ***Topics not of high priority***

The Consultant circulated a questionnaire to NTFs seeking their further views on project activities in the financial area. The results were discussed with counterparts at the T’bilisi conference. Somewhat to the Consultant’s surprise, further assistance with financial issues and guarantees was not perceived as a priority for use of project resources.

##### ***NTFs requested a different approach***

Maritime issues concern only 4 Republics, Azerbaijan, Georgia, Kazakhstan and Turkmenistan. Of these, Georgia was already well advanced with a new Maritime Code. In consultation with all interests concerned at the Almaty conference in May it was agreed that a model should not be developed independently for maritime transport by the Consultant but that comments should first be submitted on the Georgian Draft. These comments and the draft itself would then be discussed with the other countries to assist them in



developing their own drafts. The intention remains to achieve a high degree of harmonisation between the new maritime Codes of the four Republics. Work is now proceeding on the draft Azerbaijan Code following which attention will turn to Kazakhstan and Turkmenistan.

#### **4.6 Specific action needed from the Authorities**

##### *Within the TRACECA region*

The Consultant repeats its plea that the importance of the project should be adequately recognised by recipient governments not just in words but in deeds. They need to ensure that the project objectives are secured in all tiers of the administration and not just in that tier in which the NTF chairman operates. The NTF Chairmen themselves must be given sufficient authority to circulate draft laws and other material at the appropriate level and must ensure that they do so. The Consultant is seeking to work closely with TRACECA co-ordinators and EU Delegations to raise the profile of the project with key decision makers and will co-operate with initiatives they may propose. The Consultant has identified decision makers involved in implementation of legislation in each of the 8 Republics and this information is shown in flow chart form in the 8 diagrams set out in Appendix 4.

ITF members and the Regional Co-ordinator are continuing to face personal administrative problems of visa application, registration requirements, airport formalities etc in some parts of the region which absorb time and energy which could be more usefully spent on the project itself. The recognition by the Authorities of TACIS consultants as government advisers rather than as "businessmen" would simplify life considerably to the benefit of all concerned.

##### *From the Commission*

The Consultant indicated clearly in its Proposal and in the Inception Report that a project of this scale and complexity would require constant fine-tuning and a flexible approach. Performance cannot be guaranteed by slavishly following plans which were devised long ago and no longer fit changed circumstances. It is pleasing to note that the Commission is now actively supporting and sometimes initiating this necessary fine-tuning.

#### **4.7 Man Month Inputs**

There has been variation between planned and actual time inputs and this reflects the needs of the project. The Consultant will review and report separately on budgetary and time implications for the next phase of the project. The scope for the use of local experts has been limited, however, there may be greater opportunity for their use in the later stages of the project.

## FORM 2.2: PROJECT PROGRESS REPORT

Project title: TRACECA: Legal & Regulatory Framework		Project number: TELREG 9306		Countries: Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan		Page: 14									
Planning Period: 1/7/96 - 31/12/96		Prepared on: 17 January 1997		EC Consultant: Scott Wilson Kirkpatrick and N.E.A.											
Project objectives: To assist in the utilisation and harmonisation of existing transport systems in the TRACECA region by helping to establish a common legal framework for transport															
INPUTS															
No	ACTIVITIES IMPLEMENTED	TIME FRAME 1996 months						OTHER							
		July	August	Sept	Oct	Nov	Dec	Personnel EC Consultant	Personnel Counterpart	Planned	Utilised	Planned	Utilised		
1	Appraisal visits and establishing National Task Forces -Appoint National Task Force -Acquire and equip offices	xxxxxx	xxx	xx	xx	xx	xx	1.0	1.0	3.0	2.0	Office equipment: fax, phone, e-mail, computer, copier	Office equipment: fax, phone, e-mail, computer, copier	1 flight	1 flight 1 car journey
2	Legislative needs analysis -Assess local legislation -Collect and analyse -Identify needs & prioritise	x	xxx	xxxxxxx	xxxxxx	xxx	xx	4.0	5.5	5.0	4.5			1 flight 1 car journey	3 flights
3	Prepare legal models and guidelines for a common legal framework	x	xx	xxxxxxx	xxxxxx	xxxxxx	xxxxxx	10.0	12.5	26.0	15.0			3 flights 1 car journey	8 flights
4	Management seminars -Prepare conference material -Deliver seminars and workshops		xxx	xxx	xxxxxx	xxxxxx	xxxxxx	6.0	7.0	15.0	8.0	Prepare training material	Prepare training material,	20 flights	35 flights
5	Develop a common legal framework for transport laws	xx	xxx	xxxxxxx	xxxxxx	xxxxxx	xxxxxx	6.0	7.0	15.0	6.0			1 flight	4 flights
6	Harmonisation of trade facilitation issues			xxxxxxx	xxxxxx	xxxxxx	xxxxxx	2.0	1.0	3.0	2.4			1 flight	2 flight
7	Harmonisation of transport operator legislation	xx		xxxxxxx	xxxxxx	xxxxxx	xxxxxx	2.0	2.9	3.0	0.5			1 flight	2 flight
8	Institutional strengthening					xx	xx	1.5	2.0	0.0	0				
		TOTAL man months		32.5		38.9		70.0		38.4				55 flights 1 car journey	
		% of Contract Total		24.9		29.9		39.8		21.8					

## FORM 2.3: RESOURCE UTILISATION REPORT

Project title: TRACECA: Legal & Regulatory Framework		Project number: TELREG9306		Countries: Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan		Page: 15
Planning Period: 1/7/96 - 31/12/96		Prepared on: 17th January 1997		EC Consultant: Scott Wilson Kirkpatrick and N.E.A.		
Project objectives: To assist in the utilisation and harmonisation of existing transport systems in the TRACECA region by helping to establish a common legal framework for transport						
RESOURCES/INPUTS	TOTAL PLANNED	PERIOD PLANNED	PERIOD REALISED	TOTAL REALISED	AVAILABLE FOR REMAINDER	
PERSONNEL						
Director	0.8					
Training Expert	2.3	0.2	0.5	1.3	-0.5	
Regional Co-ordinator	20.0	0.58	2.7	6.7	-4.4	
Team Leader		5.0	5.7	11.0	9.0	
Road Transport Lawyer	15.0	3.75	4.8	9.5	5.5	
Rail Transport & Customs Lawyer	12.0	3.0	4.1	6.3	5.7	
Maritime & Transport Lawyer	2.0	0.5	2.1	2.9	-0.9	
Banking & Finance Regional Legal Expert	2.0	0.5	1.2	2.2	-0.2	
Regional Transport Specialists	0.5	0.5	0.4	0.4	0.1	
Regional Sub Unit Supporting Visiting Specialists	12.0	3.0	3.0	6.0	6.0	
Pool of Specialists	44.0	3.0	3.0	6.0	6.0	
Local Experts	6.0	11.0	11.4	29.4	14.6	
	1.7	1.5	0	0	6.0	
	176.0	0.57	0	0	1.7	
		70.0	38.4	72.9	103.1	
Sub-total	306.3	103.1	77.3	154.6	151.7	
EQUIPMENT & MATERIAL						
Computer Software	9	3	3	9	0	
Printer	9	3	3	9	0	
Fax / Tel	8	2	2	8	0	
Photocopier	8	2	2	8	0	
e-mail	9	3	3	9	0	
	8	2	2	8	0	
TOTAL	51	15	15	51	0	

## FORM 2.4: OUTPUT PERFORMANCE REPORT

Project title: TRACECA: Legal & Regulatory Framework	Project number: TELREG9306	Countries: Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan	Page: 16
Planning Period: 1/7/96 - 31/12/96	Prepared on: 17th January 1997	EC Consultant: Scott Wilson Kirkpatrick and N.E.A.	
Output results	Deviation original plan + or -	Reason for deviation	Comment on constraints & assumptions
1 Established National Task Forces	0%	Due to the difficulty of obtaining relevant material and speedy translations, more time has been spent on this part of the project.	1 Partners generally willing to participate and provide offices. Availability of equipment and offices and services varies according to country.
2 Legislative drafts being established by N.T.F.	+5%	Due to the delay in obtaining comments on draft model laws, the preparation of model laws has been slightly delayed, although this has been compensated for by a reduction in the time spent by ITF experts	2 Partners have started to obtain legislation and identify needs and prioritise requirements.
3 Model laws being prepared	-5%	None	3 Partners are prepared to consider models and guidelines although the authority of the NTF members may not be sufficiently mandated by national government levels
4 Conference delivered in T'bilisi and workshop in Baku & Ashgabat	None	None	4 Capacity limited by length of training and numbers available to train.
5 Start made on preparing a common legal framework for transport laws	-5%	NTF members may not be sufficiently mandated by national governments to make binding decisions	5 Partners willing to discuss, develop and harmonize trade.
8 Guidance given on institutional strengthening	-5%	Some individuals not yet identified for long term institutions.	8 Funding will be required to set up and develop institutions and not all states may be willing / able to locate funds.

## 5. PROJECT PLANNING FOR THE NEXT REPORTING PERIOD

### 5.1 Important observations for project success

#### *Authority of delegates at Regional Conferences*

Delegates at Regional Conferences, including many NTF chairmen, have not been sufficiently mandated by their respective governments. The memoranda drawn up at the conferences have therefore been treated as advisory and not binding. This has not caused any real problems while the project was merely developing models which would in any case be subject to further comment and modification. However now that the project is entering the implementation phase it is essential that delegates should come to conferences under a specific mandate to make binding decisions. In order to achieve this situation it will be necessary for the senior management of the TRACECA programme to assist the Consultant, using channels of communication open to them at the most senior levels in government, to ensure that the appropriate mandates are held by conference representatives. Diplomatic activity will be at least as important as the technical aspects of the project during the next reporting period.

The Consultant proposes to prepare the technical ground for the next conference during its next round of visits to the region and to work alongside the TRACECA co-ordinators who can intervene on the diplomatic level in support of the project objectives.

#### *Common purpose in regional relationships*

The key multilateral agreements on road and maritime transport are already virtually in final form, reflecting comments received. It is hoped that they will be signed at the Ashgabat conference and will be implemented in full. The Consultant will work to that objective between now and April 1997 but cannot guarantee that the political will exists to make the agreements a reality. The April conference will be a real test of whether and to what extent the region wishes to implement regional facilitation. The road transport agreement is designed in such a way that it will be capable of implementation on a sub-regional basis if the will does not exist for an immediate implementation of an 8 Republic scheme. The maritime transport agreement is, however, to some extent bound up in the minds of counterparts with developments surrounding the status of the Caspian Sea and its future may depend on discussions taking place elsewhere about that status.

The Third Regional Conference will also be a test of how far the 8 Republics are willing to proceed with a common policy for domestic road, rail and maritime transport. It is already apparent that variations are required in maritime laws. Should the same divergences be revealed in relation to the other modes the project would require substantial re-appraisal as there is no resource currently available to proceed other than on a model basis in relation to road and rail transport.

## **5.2 Proposals for adjustment of overall project planning**

It has become clear to the Consultant that some assumptions on which project planning was based cannot be relied upon and that adjustments to the project strategy are now required. The adjustments are minor in overall project resource terms but they do need to be considered before the project proceeds any further.

It is quite possible that significant adjustments will be advisable if the decisions made by delegates at the Ashgabat conference do not accord with those hoped for by the Consultant.

### ***Reliance on local counterparts for information***

The project was founded on the assumption that local counterparts would be a source of accurate information on the legal developments in their respective countries. This has unfortunately not always proved to be the case. The Consultant carried out a detailed inquiry with counterparts at the First Regional Conference concerning the status of Conventions and other agreements. Replies were double checked on a number of occasions with different counterparts and the analysis is included with this report as Appendix 2. However the information provided by counterparts does not accord with the information obtained from the United Nations authorities in relation to the majority of countries. In some cases the Consultant was erroneously assured that countries were party to agreements when this is not the case, and in an equal number of cases the Consultant was assured that ratification had not taken place when in fact it has taken place.

The Consultant would like to stress that this is not through personal fault or dereliction of duty by individual counterparts who have, on the contrary, been co-operative and diligent. It would seem to be much more serious a problem than one related to individuals.

The exercise has highlighted the way in which the institutional systems of most of the countries fail to deliver results even in the field of information provision. It raises serious implications also as to the significance actually attached by those institutions to the reality of international obligations after ratification has taken place since those most concerned with implementation have in some cases has not been informed by others of already existing obligations.

The Consultant has deliberately sought to rely on counterparts to provide information as this provides a focus for common endeavour and team work. In the light of the above system failures, the Consultant will in future rely mainly on information established directly by the ITF.

### ***Reliance on local counterparts for action***

Just as information provided by some local counterparts has been found to be unreliable requests made of them for action have frequently met with system problems. The role of the NTFs was foreseen as crucial to

the project in the TOR and the Consultant has tried to honour the letter and spirit of the TOR in making the NTFs the focus of activity in each country.

However it is now clear that the persons institutionally able to make policy advance in the countries have many conflicting calls on their time and cannot work regularly alongside the Consultant or even necessarily attend Regional Conferences: they are persons at around the level of Vice Prime Minister or equivalent status. Persons who are able to work alongside the Consultant and to whom tasks of disseminating information or gathering comments have been entrusted, have not always been able to perform their tasks effectively because of institutional constraints.

The Consultant can envisage improved future effectiveness for project work by increasing the direct responsibility of the project offices and documentalists as representatives of the Consultant and the project. The project offices should deal direct with all relevant persons and institutions to secure the necessary action with support from the NTF Chairmen, the ITF team, the TRACECA co-ordinators and Tacis offices and Brussels where appropriate. The NTF chairmen and members would naturally retain their important role as advisers but would have reduced administrative involvement.

The Consultant has made a de facto adjustment along these lines since the end of November with good results and would ask that the approach be ratified for the remainder of the project.

### *Introduction of Conventions and agreements*

In view of the institutional impediments to rapid progress in this area identified above, the Consultant now plans to adopt a twin track approach working much more closely and directly with the UN agencies in developing implementation strategies rather than relying mainly on using the experience of some of the participating countries to assist the others, as was envisaged following the T'bilisi conference. The positive experience of individual countries will still be harnessed where counterparts are able to provide source material.

### *Expert visits*

In order to maintain an active programme of visits by ITF experts it may be necessary to increase the number of flights available for this purpose later in 1997. Much will depend on the outcome of the Ashgabat conference as this will determine how the implementation phase should be scheduled. The Consultant will return to this issue in a separate request after the conference.

### *Training*

The formula of providing training through single country workshops has worked well and it is hoped that further workshops can be held before the end of the project. The priority for these is, however, not as high as for other aspects of the project, the more so as so much specific transport law training was incorporated in other projects during 1996. The Consultant intends to schedule them into the last months of the project when

there will be the added advantage of being able to explain the new agreements and Codes hopefully by then in the implementation phase.

It was originally envisaged that training would be given at the Regional Conferences and this was the approach adopted at Almaty, but the conferences have evolved into working sessions where formal presentations no longer seem appropriate in most cases. The Consultant therefore does not propose to continue to combine apparently incompatible objectives in the limited time, and with the restricted audience available at Regional Conferences. There may be a few exceptions, for example to demonstrate the practical benefits of EDI systems, and to present the agreed package of new regional transport documentation.



## Form 1.6. PLAN OF OPERATIONS FOR THE NEXT PERIOD (Work programme)

Project title : TRACECA Project: Legal and Regulatory Framework		Project number : TELREG 9306				Countries : Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan				Page : 21	
Planning period : 18/1/97 - 30/6/97		Prepared on : 17th January 1997				EC Consultant : Scott Wilson Kirkpatrick and N.E.A.					
Project objectives : To assist in the utilisation and harmonisation of existing transport systems in the TRACECA region by helping to establish a common legal framework for transport											
TIME FRAME											
1997 (months)											
INPUTS											
PERSONNEL											
EQUIPMENT AND MATERIAL											
OTHER											
No	ACTIVITIES	January	February	March	April	May	June	EC Consultant / Regional sub-unit	Counterpart /Local Experts	EQUIPMENT AND MATERIAL	OTHER
1	Appraisal visits and establishing of National Task Forces	xxxx	xxxx	xxxx	xxxx			0	1.0		
2	Legislative needs analysis	xxxx	xxxx	xxxx	xxxx	xxxx		4.0	6.0		3 flights
3	Legal models and guidelines	xxxx	xxxx	xxxx	xxxx	xxxx	xxxx	6.0	18.0		3 flights
4	Management seminars				xxxx	xxxx		5.0	15.0	Prepare training material	10 flights
5	Develop a common legal framework for transport law				xxxx	xxxx	xxxx	6.0	14.0		3 flights
6	Harmonisation of trade facilitation issues				xxxx	xxxx	xxxx	4.0	6.0		2 flights
7	Harmonisation of transport operator legislation				xxxx	xxxx	xxxx	4.0	6.0		2 flights
8	Institutional strengthening			xxxx	xxxx	xxxx	xxxx	3.0	4.0		1 flight
TOTAL man months								32.0	70.0		25 flights



# *Appendix*

# *1*

## *National Task Force Contacts List*



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# *Appendix*

## 2

### *Trade and Transport Questionnaire Analysis*





**TRACECA LEGAL AND REGULATORY  
FRAMEWORK, PROJECT NO. 1  
Questionnaire on Transport Legislation  
Results  
(966140\23981)**

**The Netherlands, Rijswijk, September 1996**



## INTRODUCTION

A questionnaire on transport legislation in the TRACECA States has been completed by the NTF chairmen and their legal advisors. The aim is to prioritise and harmonise the legal reform in the various States. The main results are produced in the following tables and conclusions. The legal situation in the various TRACECA States is, to a certain extent, similar. Therefore the TRACECA Legal and Regulatory project is well-timed and prioritising the legal reform can be done on a regional level.

One of the most serious findings is a total lack of a comprehensive legal system for the transport sector, meeting the needs of a market in reform. This leads to practices which hampers the reform process in an unacceptably way. The environment of unfair competition is threatening emerging business initiatives, so desperately needed in the TRACECA Region.

The Legal and Regulatory Framework Project should provide a comprehensive and harmonised legal system for the eight states in the TRACECA Corridor. The structure and organisation of the transport market will be laid down in a general transport code and codes for each transport sector.

This national law should be in line with the chapters on transport and forwarding in the Civil Codes, which are under preparation in the TRACECA States. The model codes produced by the project should be adopted as a whole or, depending on the national legal traditions and systems, and incorporated in the existing legal framework. It is up to the Ministry of Justice to test the new codes against existing rules and regulations. With regard to international law, the project proposes and promotes the ratification and implementation of a set of transport conventions which should get first priority. These conventions represent the main international standards which should be introduced. Besides, transport relations between States should be laid down in regional agreements, focusing on the accessibility of the TRACECA Corridor.

In chapter 2 the current sources of applicable law are described. Various transport issues related to civil and commercial law are covered in chapter 3. Access to the profession of transport and forwarding operator in the TRACECA States and access to the TRACECA transport market are the subjects for chapters 4 and 5. Ratification and implementation of international conventions are covered by chapter 6, while in chapter 7 the membership of international organisations is presented. Chapter 8 gives some major conclusions based on the questionnaire.

## SOURCES OF APPLICABLE LAW

Throughout the region, the lack of a comprehensive legal system for the transport sector is considered to be an unacceptable hindrance for the reform process

Still the SU Charters on rail, road and maritime transport are applicable in the region, lacking an appropriate alternative. In some cases temporary regulations have been adopted, anticipating on more structural changes.

All States are working on new legislation for the new market situation. Most States have split the legal reform into sector related draft laws. General issues, such as liabilities in transport, are covered by the new Civil Codes, which are in preparation in most of the TRACECA States.

New transport legislation in road (construction, maintenance and finance) and civil aviation are the most advanced. The Consultant, therefore, finds it convenient as the Terms of Reference of the project requires, to focus on rail, road and maritime regulations because immediate action is required here.

Last year in Kazakhstan a "Rail Code" and a "Road Code" were developed with the assistance of Scott Wilson Kirkpatrick. The "Road Code" has been sent to the government, promoting the major principles presented to all TRACECA States during the Almaty Legal Project Conference in May 1996. In Kazakhstan implementing regulations are now under preparation.

After studying some draft legislation provided by the chairmen of the NTF's, the Consultant has to conclude the law making process is still based on former traditions and practices. Law making principles, such as clarity, simplicity and unanimity of legislation, which are of utmost importance accepting the rule of law, are not always applied. Legal drafts are often vague and can be in interpreted in different ways. Scarcely measures are embedded in a wider policy, but based on "ad hoc" decisions. In general an awareness has to be developed about the binding force of legislation, not only for civilians and legal entities but also for the State.

Furthermore, there is a problem of a lack of legal expertise to support the law making process. Legal documents used to be developed in Moscow. The TRACECA States were only acting as regional offices, implementing and enforcing Moscow based rules and regulations.

The uncertain legal situation and the unpredictable changes of rules and regulations make the foreign investor reluctant to develop initiatives in the TRACECA region and become long term investors. If they are in business, foreigners prefer to work under their own law. In the contracts, they tend to declare their own national law applicable. Because of a lack of knowledge about international trade and foreign legal systems, this causes a serious arrears for businessmen in the region. In case of an international dispute the problems are only aggravated.

## CIVIL AND COMMERCIAL LAW

In most of the TRACECA States, in the transport **contract** (see table 1), parties are bound to a compulsory (C) content. In the road transport (Ro) sector parties are beginning to get more freedom (F) to enter into an agreement according to their own stipulations. With the lack of civil and commercial law the position of the contract is decisive in the relation between parties. Contract law often makes the legal effect unpredictable. Besides this, contract parties are not always aware of imperative international law applicable to the contracts.

### 1. Civil/commercial law

	AR	AZ	GE	KA	KY	TA	TU	UZ
	RoRaSe	RoRaSe	RoRaSe	RoRaSe	RoRaSe	RoRaSe	RoRaSe	RoRaSe
<b>Contract</b>	F E -	C C C	F C C	C C C	C C C	-	F F C	C C -
<b>Tariffs</b>	F S -	F F F	F S F	F S F	F S F	-	R C C	F F -
<b>Notes</b>	S S -	S S S		S S S		-	S S S	S S -
<b>Liability</b>	N N	L L L	L L	L L L	L N L	-	L L L	N N -
<b>Ins. goods</b>	N N	N A A	N N N	A A A	N N N	-	A A A	N N -
<b>Ins. operat.</b>	N N	N A A	N N	A A A	N N N	-	N N N	N N -
<b>Ins. civil I.</b>	N.C.P.	C.P.	N.C.P.	N.C.P.	N.C.P.		C.P.	C.P.

Transport **tariffs** are almost free (F) in all TRACECA States in road transport and maritime transport (Se). Only in rail transport (Ra) the tariffs are usually set (S) by the railway authorities.

The Consignment **Notes** in road and water transport and the Bill of Lading in sea transport all have a standard (S) content. Sometimes international documents, such as the CMR Consignment Note, are used, even while the convention has not been ratified. Parties applying this practice however, are not always aware of the legal implications of using these documents.

The **liability** of the carrier is, depending on the mode of transport, in some of the TRACECA States not (N) limited. No limitation of liability causes serious problems for the carriage's insurance. In four States the liability is limited (L) in all modes of transport. The limitation, however, is not based on recognised international levels. Especially in Multimodal transport operations the legal situation gets vague and complicated in case the freight is lost or damaged, or the arrival of the goods is delayed.

In Armenia, Georgia, Kyrgyzstan and Uzbekistan, the **insurance of goods and operators** is not (N) or hardly available. Especially in the domestic market, reliable insurance companies are difficult to find. For Azerbaijan the problem of obtaining insurance is only existing in the road transport sector. In Turkmenistan the insurance of goods can be made, while insurance of the operator's liability causes problems. Often the operators just take the risk and carriage is performed without any insurance and based on mutual trust. These unacceptable risks causes a serious competitive backlog compared with Western transport companies working on a world wide policy.

**Insurance of civil liability** is common practice (CP) in Azerbaijan, where it has become compulsory very recently, Turkmenistan and Uzbekistan, while in the other TRACECA States, this insurance is no common practice (NCP) at all.

## ACCESS TO THE PROFESSION OF TRANSPORT AND FORWARDING OPERATOR

Rail (Ra) and maritime (Se) transport is basically done by state owned companies. In maritime transport some private initiatives can be seen in Georgia. Rail transport is still carried out by the national railway companies. Privatisation made the most progress in the road transport sector (Ro) and the forwarding sector (F). New small scale initiatives, however, are often hindered by dominant positions of the former main players in the market. The latter are often busy consolidating their positions for the future.

The present conditions to obtain access to the profession of transport and forwarding operator which are to be fulfilled are diverse, subjective and often unclear. There is no harmonisation among TRACECA States. Foreign investors are subject to other or additional conditions. Furthermore, the management of the licensing system is not done by independent authorities. A general awareness of the necessity to distinguish policy enforcement and the transport operations has to grow. Especially the Ministries of Transport have to withdraw from the operations' side and focus on policy development and enforcement. Sometimes anti-monopoly commissions are established to take immediate measures.

Table 2 shows that transport operators in general have to be registered. Because of enforcement problems, however, a lot of transport operations are done by companies which are not registered. Further, the operators have to prove they are reliable and professionally competent. Conditions are often focused on safety and the drivers' qualification and not on the quality of the management. One of the reasons is a lack of appropriate management courses in the TRACECA States. Also some kind of creditworthiness has to be shown.

The financial conditions which are to be fulfilled by the transport sector can only be set at on a minimum. Many enterprises have serious solvency problems. In road transport additional technical conditions for the fleet are often applicable. For example in Uzbekistan, a test certificate of a service station has to be available, together with a TIR certificate for international operations.

### 2. Access to the profession of transport & forwarding operator

	AR	AZ	GE	KA	KY	TA	TU	UZ
	RoRaSeF	RoRaSeF	RoRaSeF	RoRaSeF	RoRaSeF	RoRaSeF	RoRaSeF	RoRaSeF
<b>Nationality</b>	-	x xx			-	-		-
<b>Registration</b>	x x - x	x x xx	x x x	x x x	x x -	-	x x x x	x x - x
<b>Establishm.</b>	-	x x xx	x x		x -	-		x x - x
<b>Reliability</b>	x x - x	x x xx	x x	x x x	x x -	-		x x - x
<b>Prof.Comp.</b>	x x - x	x x xx	x x	x x x	x x -	-	x x x x	x x - x
<b>Fin.Standing</b>	x x - x	x x xx	x x	x x	-	-	x	x x - x

In almost all countries the profession of forwarder is easy accessible. According to the transport sector too easily. The current transport market in reform is in need of a sound forwarding sector, acting as a principal if appropriate. Some regulations are urgently needed, at least on the reliability of the operator. Starting point for regulations must be equal competitive conditions for state owned and private forwarding and transport operators.

## **BILATERAL RELATIONS BETWEEN THE STATES IN THE REGION**

Bilateral relations between States in the region are evolving, especially in rail and road transport. In road transport TRACECA States are evaluating the introduction of transit permit systems. Especially in relation to an imbalance of market shares. For a surplus of permits in a bilateral relation, States have to pay a transit tax. Thus, permit systems are used to regulate market shares.

If transit permit systems are introduced, the first aim is to work toward a standard transit system, which can be reduced gradually. This seems to be the only possible sequence, as only such a system can offer some clarity in the real market shares. Such an approach should give transport sectors enough time to adapt to the new market circumstances.

At the project conference in Georgia, however, all States were supporting the general principle of a non-permit system for the region. This progressive approach can be considered as an important incentive to reach the overall objective of trade and transport facilitation in the TRACECA Region. In relation to States where a threatening imbalance of market shares exists, such as Turkey and Iran, a transit permit can then be maintained.

One of the main advantages of a regional approach within the TRACECA Region is an improved position of individual States in their bilateral negotiations with third countries. Of course it is recommended that agreements with third countries are concluded by all TRACECA States in their general interest.

Multilateral agreements are evolving, meeting a need, especially to facilitate transit operations. In May 1996 the "Agreement on the co-operation in Freight Transit Regulation between the Republic of Azerbaijan, Georgia, Turkmenistan and Uzbekistan" was signed by the States' presidents.

In the field of planning of infrastructure there is almost no co-ordination with neighbouring States. Because priorities differ from State to State, the development of an integrated network is difficult. More information on transport flows and continuous exchange and evaluation of investment schemes should bring some co-ordination.



## RATIFICATION AND IMPLEMENTATION OF INTERNATIONAL CONVENTIONS

All TRACECA States are taking the recommendations made during the Almaty Legal Project Conference on the ratification of transport related conventions as a guide.

In respect to the ratification of international conventions, the difficulties of adopting norms and the relationships with other TRACECA States or surrounding States such as Russia, have to be taken into account.

### Conventions on Contracts in Trade and Transport

Because of the level of deregulation and privatisation in road transport, here adaptation of the legal system to the realities of the free market is of utmost importance. Therefore, it is promising that Georgia, Kazakhstan Turkmenistan and Uzbekistan ratified (Rat.) the **CMR Convention of the Contract for the International Carriage of Goods by Road**. In the other TRACECA States the CMR Convention is not applicable (NA). See table 3.

### 3. Conventions on contracts and liabilities

	AR	AZ	GE	KA	KY	TA	TU	UZ
<b>CMR*</b>	N.A.	N.A.	Rat.	Rat.	N.A.		Rat.	Rat.
<b>COTIF-CIM</b>	N.A.	N.A.	N.A.	N.A.	N.A.		N.A.	N.A.
<b>SMGS</b>			A.	A.	A.		A.	A.
<b>Hague</b>	-	Rat.	Rat.	N.A.	-	-	Rat.	-
<b>Hague V.</b>	-	N.A.	Rat.	N.A.	-	-	Rat.	-
<b>Hamburg</b>	-	N.A.	Rat.	N.A.	-	-	Rat.	-
<b>ICC rules</b>	N.C.P.	C.P.		N.C.P.	N.C.P.		C.P.	N.C.P.
<b>UNCTAD/ICC</b>	N.C.P.	N.C.P.		N.C.P.	N.C.P.		C.P.	C.P.
<b>Incoterms</b>	N.C.P.	C.P.	C.P.	N.C.P.	N.C.P.		C.P.	C.P.

As far as transport on the territory of the former SU is concerned, railway operations are well covered by the **SMGS**, which is applicable (A) throughout the region. Signing the **COTIF-CIM** at the moment has no priority, since most of the operations are carried out on the territory of the former SU. In the long run, approximation of the two legal systems is highly recommended.

The maritime transport sector in Azerbaijan, Georgia and Turkmenistan is well integrated in the international legal system. Azerbaijan only signed the **Hague Rules**, Georgia and Turkmenistan ratified (Rat.) the **Hague Rules** and the **Hague Visby Rules** and the **Hamburg Rules**. Kazakhstan however signed none of the maritime conventions.

## Conventions on Technical, Social, Safety and Environmental Matters

Technical, social, environmental and safety norms are mostly laid down in SU code based national decrees. Sometimes international conventions are ratified. Because of the level of the international standards however, implementation and enforcement causes serious problems. Especially technical standards cannot be made, because of the lack of financial resources to do the necessary replacement investments.

Most of the social legislation is laid down in the national labour codes. This is the case in, for example, Azerbaijan, Kazakhstan and Turkmenistan. In such a system the special features of the various transport markets and the international dimension of transport are often not taken into consideration. Only Kazakhstan and Turkmenistan ratified (Rat.) the **AETR Convention on operation times and resting periods for drivers**. See table 4.

### 4. Conventions on technical, social, environmental and safety matters

	AR	AZ	GE	KA	KY	TA	TU	UZ
<b>AETR</b>	N.A.	N.A.	N.A.	Rat.			Rat.	N.A.
<b>ADR</b>	N.A.	N.A.	N.A.	N.A.	N.A.		N.A.	N.A.
<b>ATP</b>	N.A.	N.A.	Rat.	Rat.	N.A.		N.A.	N.A.
<b>RT49</b>	Rat.		Rat.	Rat.	Rat.		N.A.	N.A.
<b>RT68*</b>	Rat.		Rat.	Rat.	Rat.		Rat.	Rat.

None of the TRACECA States signed the **ADR Convention on the transport of Dangerous Goods** and only a few the **ATP Convention on the transport of Perishable Goods**.

In most of the States the **UN conventions on Road Traffic** and the **UN Convention on Road Signs and Signals** are ratified (Rat.).

### Conventions on Border Crossing Formalities

In the field of border crossing formalities, ratification, which has been done by almost all TRACECA States, except Kyrgyzstan, and implementation of the **TIR Custom Convention on the International Transport of Goods under cover of TIR Carnets 1975** (see table 5), has the highest priority. Armenia and Kyrgystan are working on setting up a system for the application of the TIR Convention. One of the constraints for these States is the organisation of a national guarantee for the TIR system. Another problem is the establishment of an independent association of international road transport operators, for the national management of the TIR Carnet system.

## 5. Conventions on border crossing formalities

	AR	AZ	GE	KA	KY	TA	TU	UZ
<b>TIR*</b>	Rat.	Rat.	Rat.	Rat.	N.A.		Rat.	Rat.
<b>CCC72*</b>	N.A.	Rat.	Rat.	N.A.	N.A.		N.A.	Rat.
<b>FCG82*</b>	N.A.	N.A.	Rat.	N.A.	N.A.		N.A.	N.A.
<b>ACR75</b>	N.A.		Rat.	Rat.			N.A.	N.A.
<b>ATA</b>	N.A.		N.A.	N.A.	N.A.		N.A.	N.A.
<b>CDP56*</b>	N.A.		Rat.	N.A.			N.A.	N.A.
<b>NCC</b>	P.		P.	yes	no		yes	no

The other Conventions, namely:

- **Customs Convention on Containers 1972**
- **International Convention on the Harmonisation of Frontier Controls of Goods 1982**
- **ACR Agreement on Major Traffic Arteries 1975**
- **ATA Convention on Temporary Import of Goods**
- **Customs Convention of Temporary Import of Commercial Road Vehicles 1956 (Carnet de Passage)**

are not yet ratified (Rat.) by the TRACECA States, but are considered to be of the utmost importance.

Some of the conventions, see \* in table 3, 4 and 5, are also considered to be important for Central Asia by the UN Economic and Social Commission for Asia and the Pacific (ESCAP) according to Resolution 48/11 on Road and Rail Transport modes in relation to facilitation measures on Border Crossing Formalities.

Besides the conventions on border crossing, most of the TRACECA States are preparing (P.) or have just implemented a National **Customs Code**. This is considered to be a sensitive political matter of national trade policy. The Custom Code will be accompanied by custom regulations and a law on tariffs, which need updating annually. It is considered extremely important that the codes correspond with the standards of newly introduced conventions. At the moment national custom regulations causes problems for a smooth international trade, mainly because regulations and transit duties tend to change on a daily basis.

On a multilateral basis, agreements on border crossing formalities are non-existent. The need to harmonise these formalities, such as custom procedures, is emphasised both by authorities and the transport sector. The new Custom Union between Russia, Kazakhstan, Kyrgystan and Bleorussia might become an important mean to harmonise border crossing formalities. Most of the TRACECA States, however, will not join the Custom Union within a short period of time because the unified tariffs for third countries are considered to be too high.

Also the joint committee, proposed in the project Multilateral Agreements could obtain the task to harmonise custom procedures, by developing normative acts and supporting harmonised application of regulations.

## MEMBERSHIPS OF INTERNATIONAL ORGANISATIONS

To support regional and national interests and to get acquainted with international standards, the TRACECA States are urged to become member of the most important international organisations. It is therefore, in these times of reform, unacceptable that one of the major constraints for TRACECA States to become member of international organisations, is the financial burden of the membership itself. This is the reason for example that Kyrgyzstan has only the status of observer in the World Custom Organisation (WCO).

### 6. Memberships of international organisations

	AR	AZ	GE	KA	KY	TA	TU	UZ
<b>IRU</b>	no	yes	yes	yes	no		yes	yes
<b>OCTI</b>	no	no	no	no	no		no	no
<b>UIRR</b>	no	no	no	no	no		no	no
<b>IMO</b>	-	yes	yes	yes	-	-	yes	-
<b>IRF</b>	no	no	yes	no	no		no	yes
<b>WTO</b>	yes	no	yes	yes	no		no	no
<b>WCO</b>	yes	no	yes	yes	no		yes	yes
<b>ICC</b>	yes	no	yes	yes	no		no	no
<b>FIATA</b>	no	no	no	no	no		no	yes

For the application of the TIR Convention, membership of the **International Road Transport Union (IRU)**, is necessary. Therefore, it is important that also Armenia and Kyrgyzstan become members with an independent national transport operators' organisation. Only Georgia and Turkmenistan are members of the **International Road Federation (IRF)**.

In railways the most important organisation for the national railway companies is the Moscow based **OSGD**. For this reason none of the TRACECA States are a member of the **Office Central des Transports Internationaux par Chemin Fer (OCTI)** and the **Union Internationale de Societes de transport Combiné Rail Route (UIRR)**.

The **International Maritime Organisation (IMO)** is joined by all relevant TRACECA States.

Armenia, Georgia and Kazakhstan are members of the **World Trade Organisation (WTO)**, the **World Custom Organisation (WCO)** and the **International Chamber of Commerce (ICC)**, while Azerbaijan and Kyrgyzstan do not have the membership of even one of these international organisations.

Kazakhstan is a member of the **International Federation of Forwarding Agents Associations (FIATA)**. In October 1996 Uzbekistan also became a member of FIATA. One of the main reasons the other states have not yet applied for membership, is the lack of a national forwarding agents association.

## CONCLUSIONS

The results of the questionnaire enables the Consultant to focus the efforts during the lifetime of the project.

With regard to the access to the transport markets and transit traffic, artificial hindrances have to be prevented from coming into being. Therefore, multilateral agreements on rail, road and maritime transport are to be developed and signed. The agreement should not only facilitate the trade and transport in the region, but also improve the co-operation between the TRACECA States.

The introduction of recognised liability systems in all modes of transport is of the utmost importance for domestic transport. The liability systems are proposed in draft national laws in rail, road and maritime transport. For international transport the necessary conventions in relation to transport contracts are to be ratified and implemented.

Furthermore, the licensing of transport and forwarding operators and the certification of transport means is an issue which needs to be addressed as soon as possible. Especially in the road transport sector, where privatisation progressed the most, some harmonised regulation of the national transport market is urgently needed.

Disputes between States or companies, which used to be solved within the legal system of the former SU, have now become international cases. Up to now there is no appropriate dispute solving institute. Some kind of arbitration procedure for disputes between States or companies from different TRACECA States should be developed.

One of the most serious constraints for the introduction of international standards is the implementation and enforcement of regulations. Those who are supposed to enforce new international standards are not appropriately equipped for their duties and tasks. This problem needs careful consideration and will put a burden on the pace of the approximation of legal systems. New standards have to be implemented gradually. Within the region the reform will be focused on a minimum, acceptable and feasible for all TRACECA States.



*Appendix*

3

*Financial Questionnaire*





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## QUESTIONS

1. How many banks in your country are authorised to maintain foreign accounts in foreign currency ?
  2. Out of them, how many actually maintain such accounts and regularly engage in international payments and commercial transactions ?
  3. When did they open such account(s) ?
  4. What kind of difficulties or 'brakes' do they experience with foreign correspondents:
    - Language problems
    - Communication problems (PT and T for ex.)
    - Transfer problems (delays) one way only or both ways ?
  5. Exchange problems:
    - Availability of foreign currency with National Bank, with other local banks, unwillingness of foreign correspondents to deal in foreign currency, other.
  6. Non availability of bank guarantees:
    - For large contracts (works, raw materials)
    - For commercial transactions,
    - For confirming L/C's
  7. How do you think your bank (in the case of a company) or how did you (in the case of a bank) approach your foreign correspondent(s) or plan to do so ?
  8. At what level ?
  9. What are your requirements or needs ? (or your bank's)
  10. Name the 5 most important countries of destination of exports (countries importing from you).
  11. Name the 5 most important countries of origin of your imports (countries exporting to you).
  12. Are you aware of the countries, of the banks, which most frequently accept a risk on your country (including National Bank) or Banks ?
  13. What arrangement would you be prepared to enter into, in case of a very important or urgent commercial transaction (foreign) ?
  14. In case you export, is it usually FOB or CIF ? Have you considered to quote your prices CIF instead of FOB ?
  15. In case you import, is it usually CIF or FOB ? Have you considered to ask your seller to quote prices FOB instead of CIF ?
- (These 2 questions are valid mostly in case of road transport, with local (CEI) trucks and drivers).

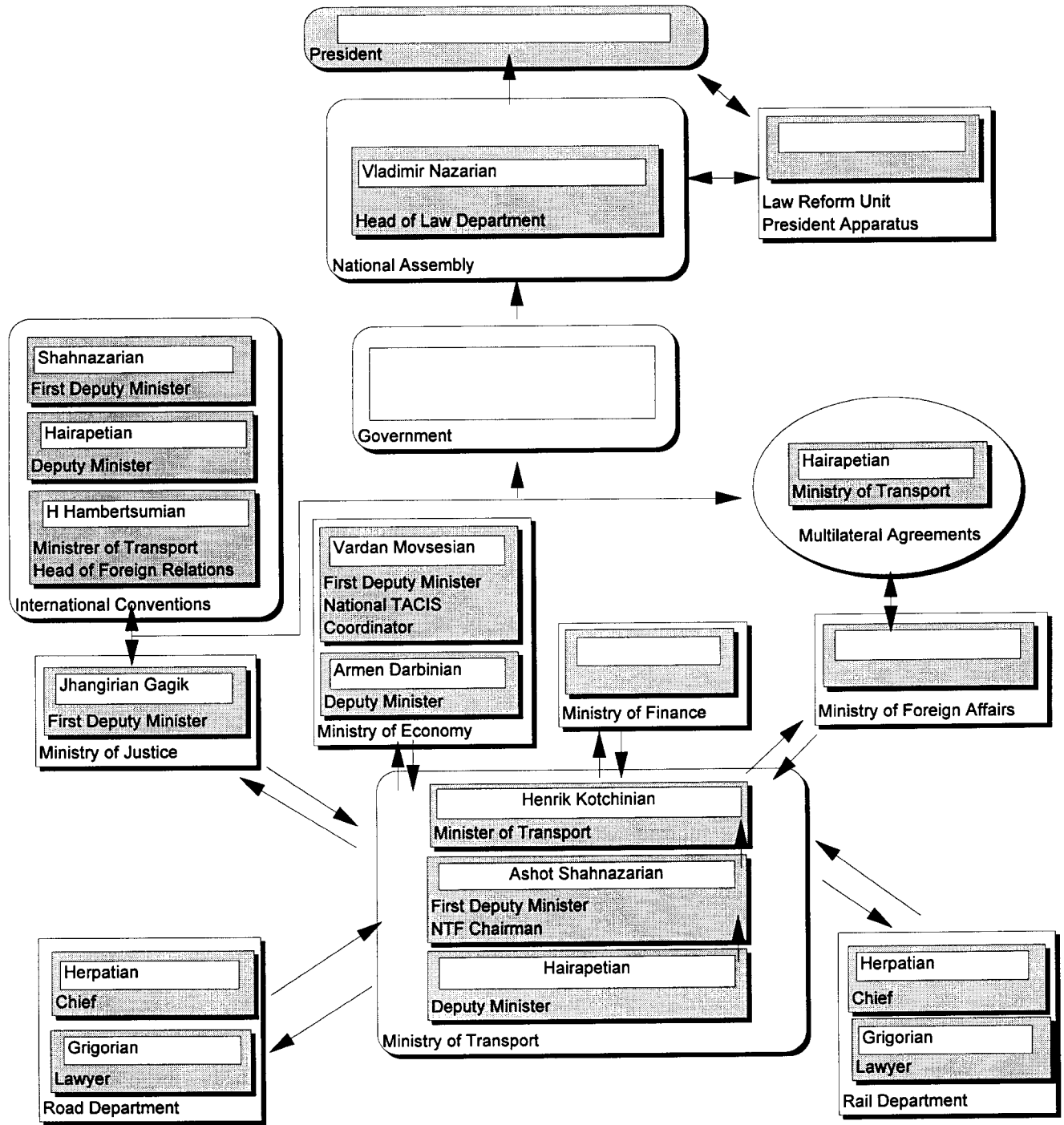


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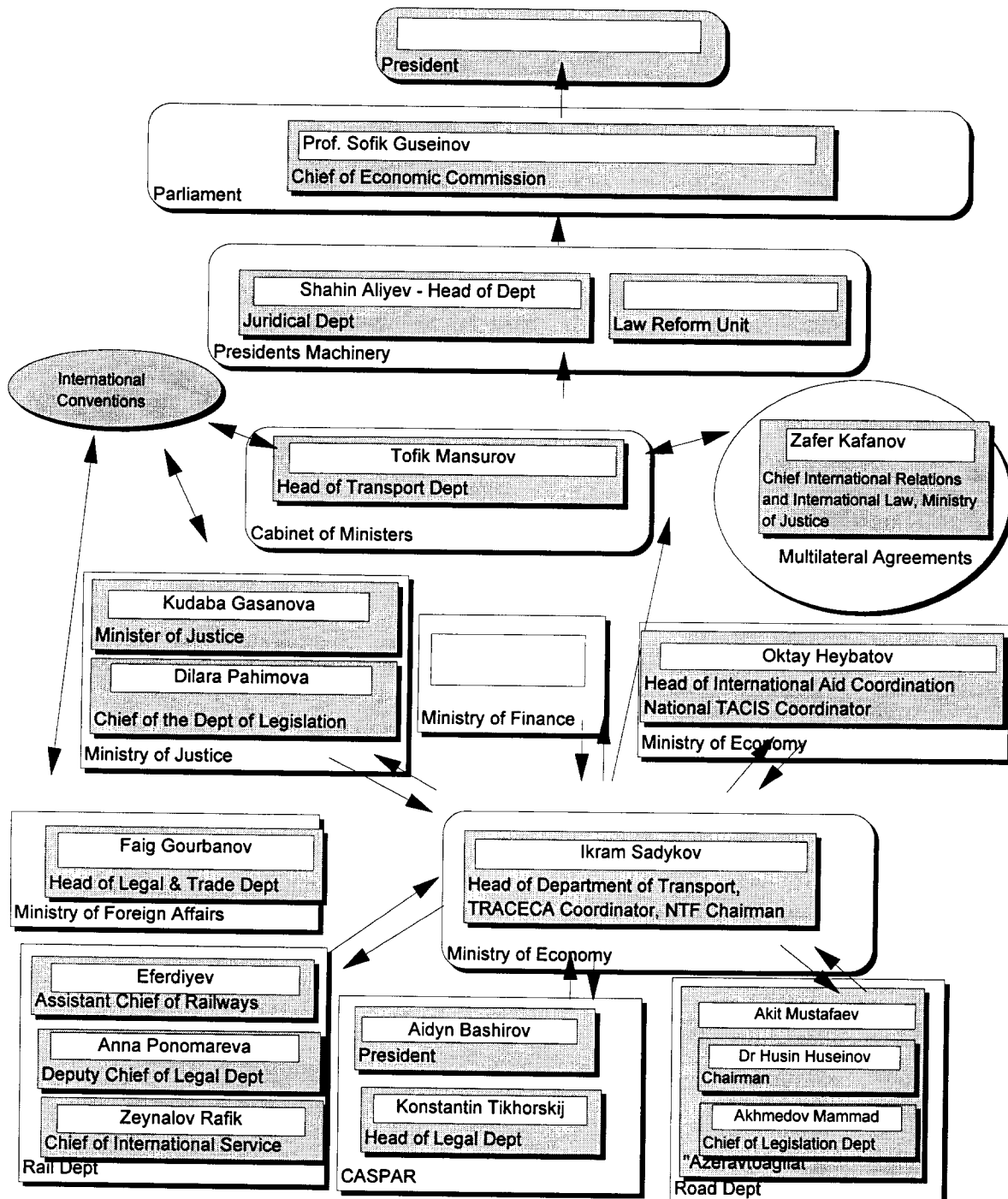
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*Legislative Decision Makers Flow Diagrams*

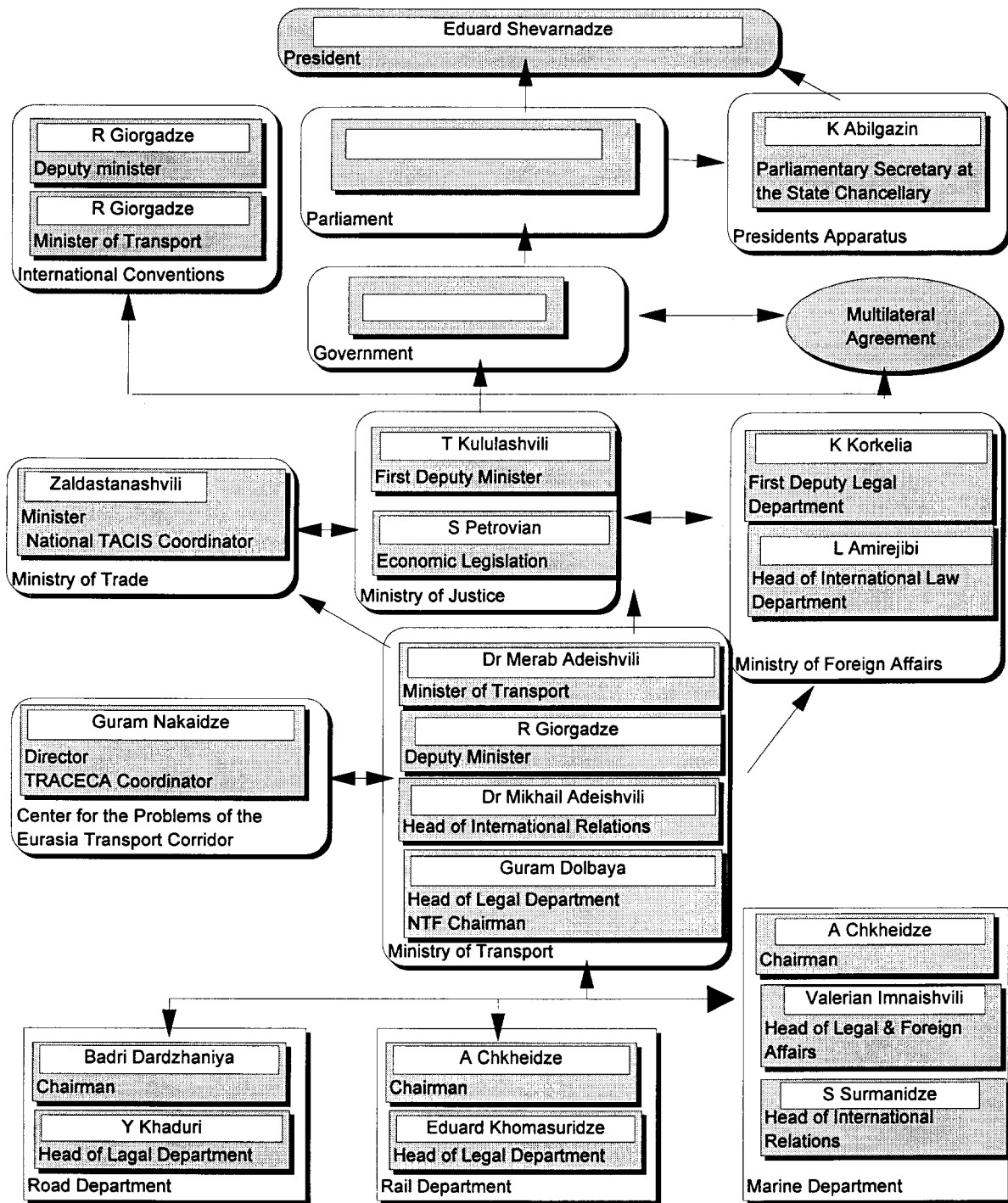




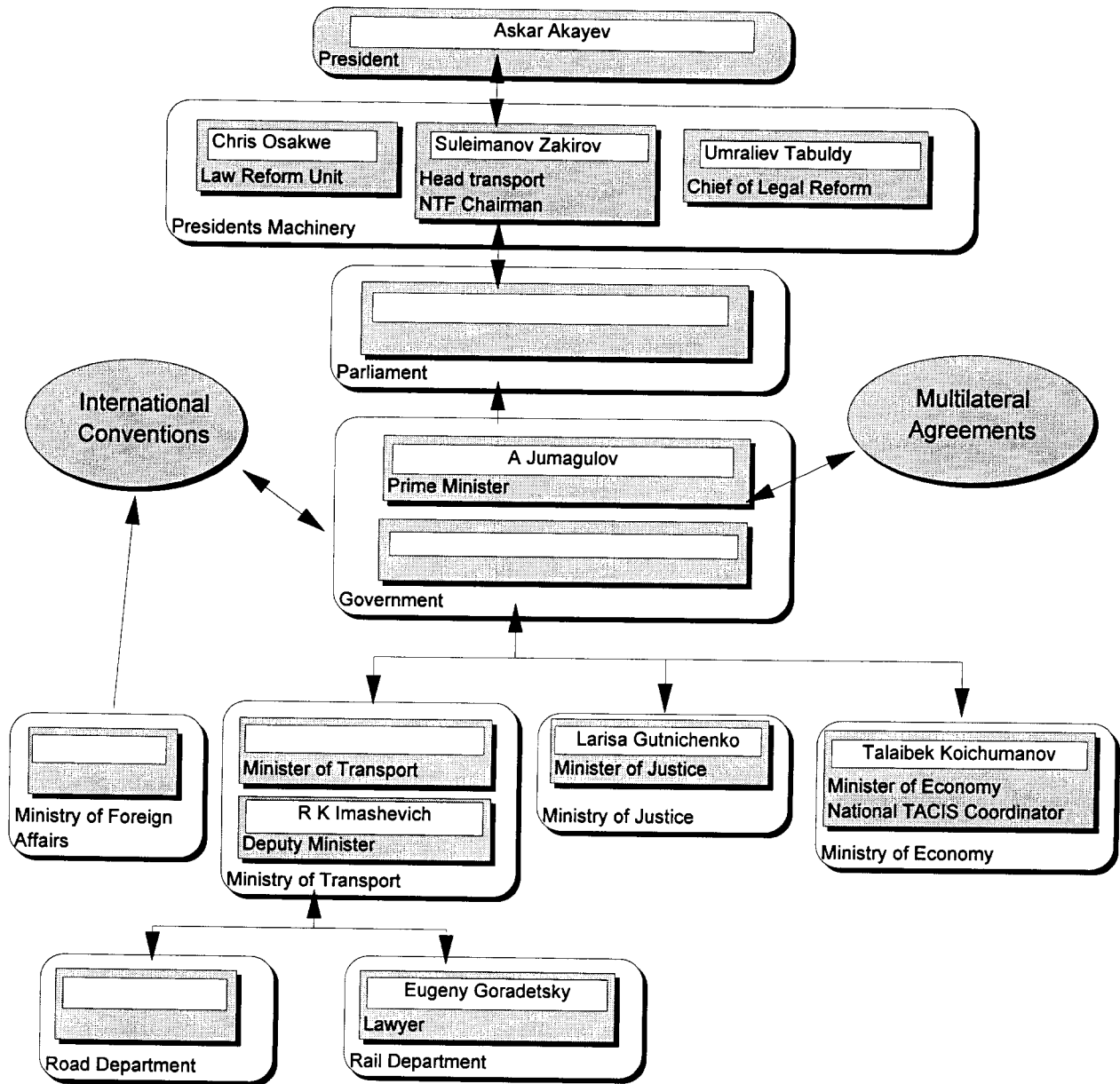
	Depts	Law Dev dept	Ministry of Transport	MOJ/MOE/MOF	Government	Parliament	President
Transport Codex							
Road Codex							
Rail Codex							
Marine Codex							
Multilateral Agreement							



	Depts	Dept of Transport	Ministry of Justice	Cabinet of Ministers	Presidents Machinery	Economic Commission
Transport Codex						
Road Codex						
Rail Codex						
Marine Codex						
Multilateral Agreement						

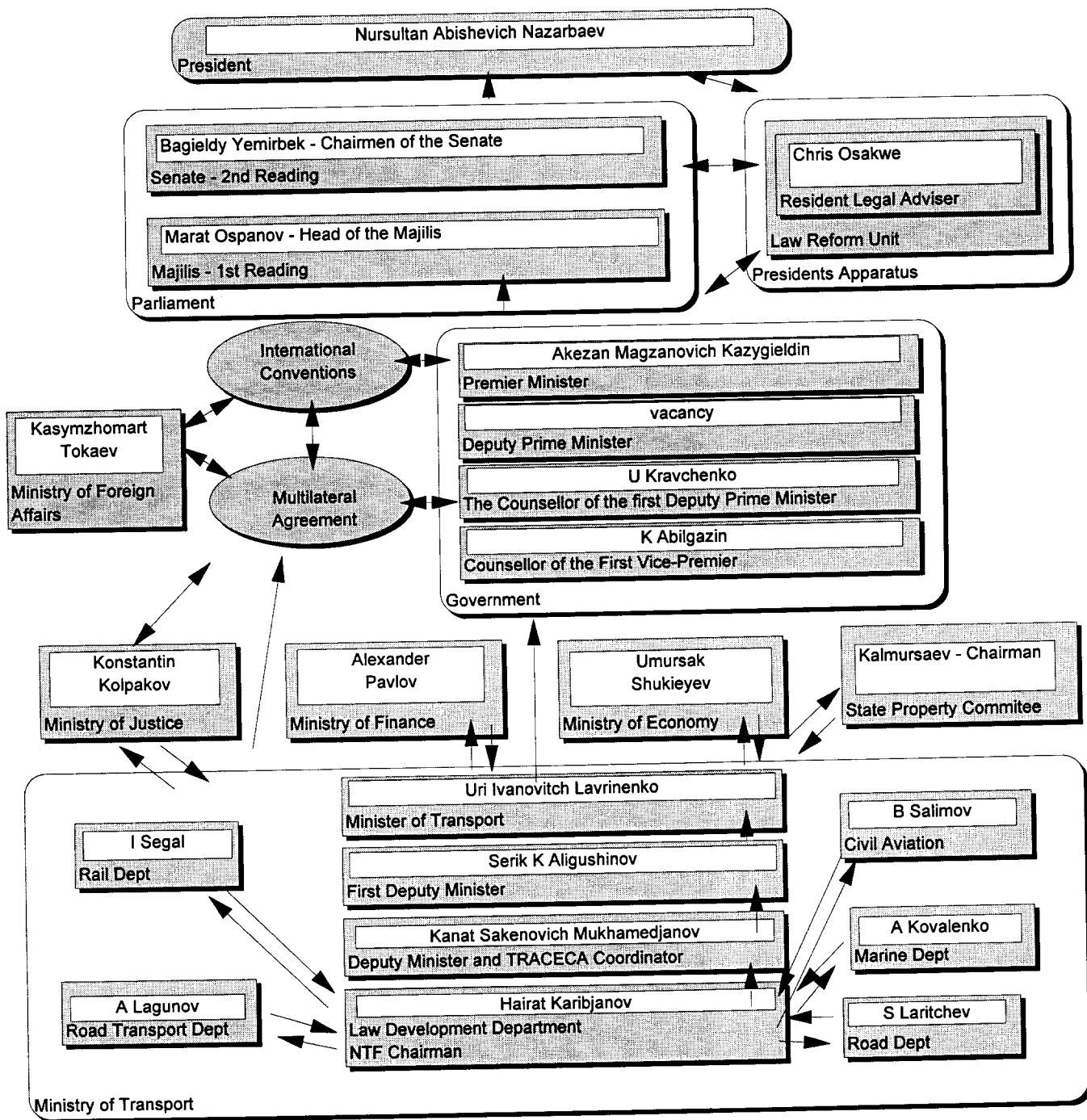


	Depts	Law Dev dept	MOT Minister	MOJ/MOE/MOF	Government	Parliament
Transport Codex						
Road Codex						
Rail Codex						
Marine Codex						
Multilateral Agreement						

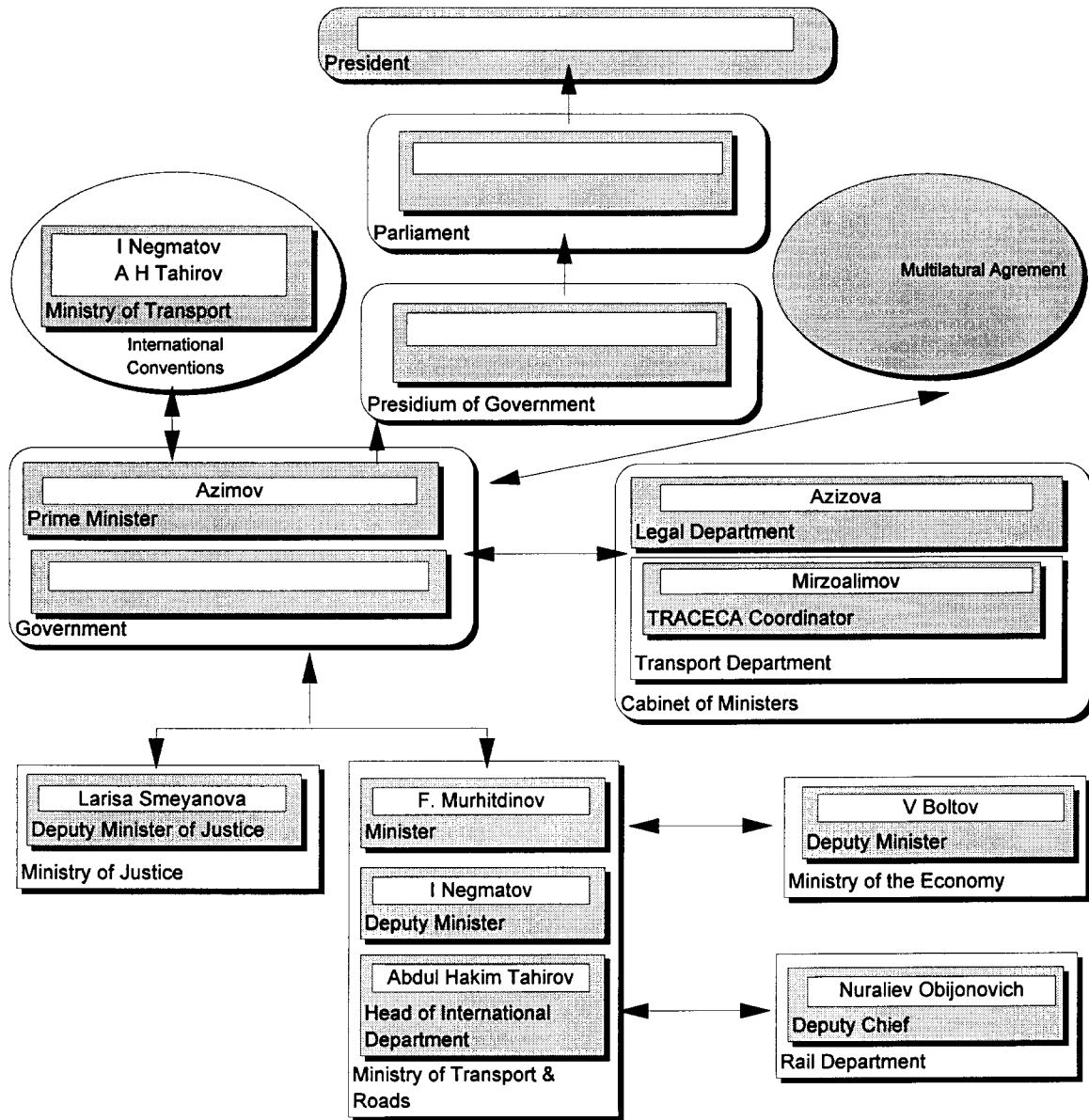


	Depts	Law Dev dept	MOT Minister	MOJ/MOE/MOF	Government	Parliament	President
Transport Codex							
Road Codex							
Rail Codex							
Marine Codex							
Multilateral Agreement							

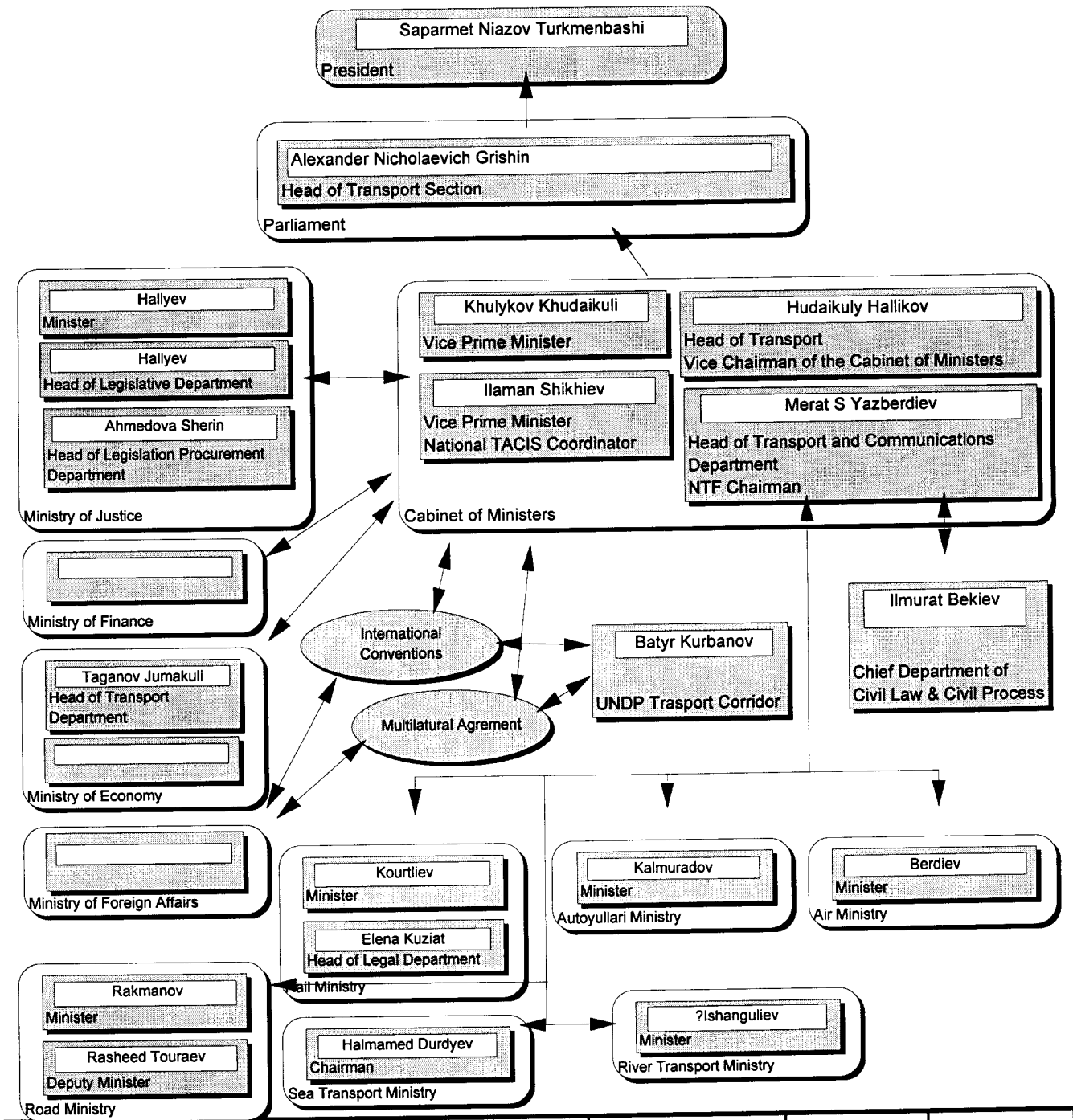




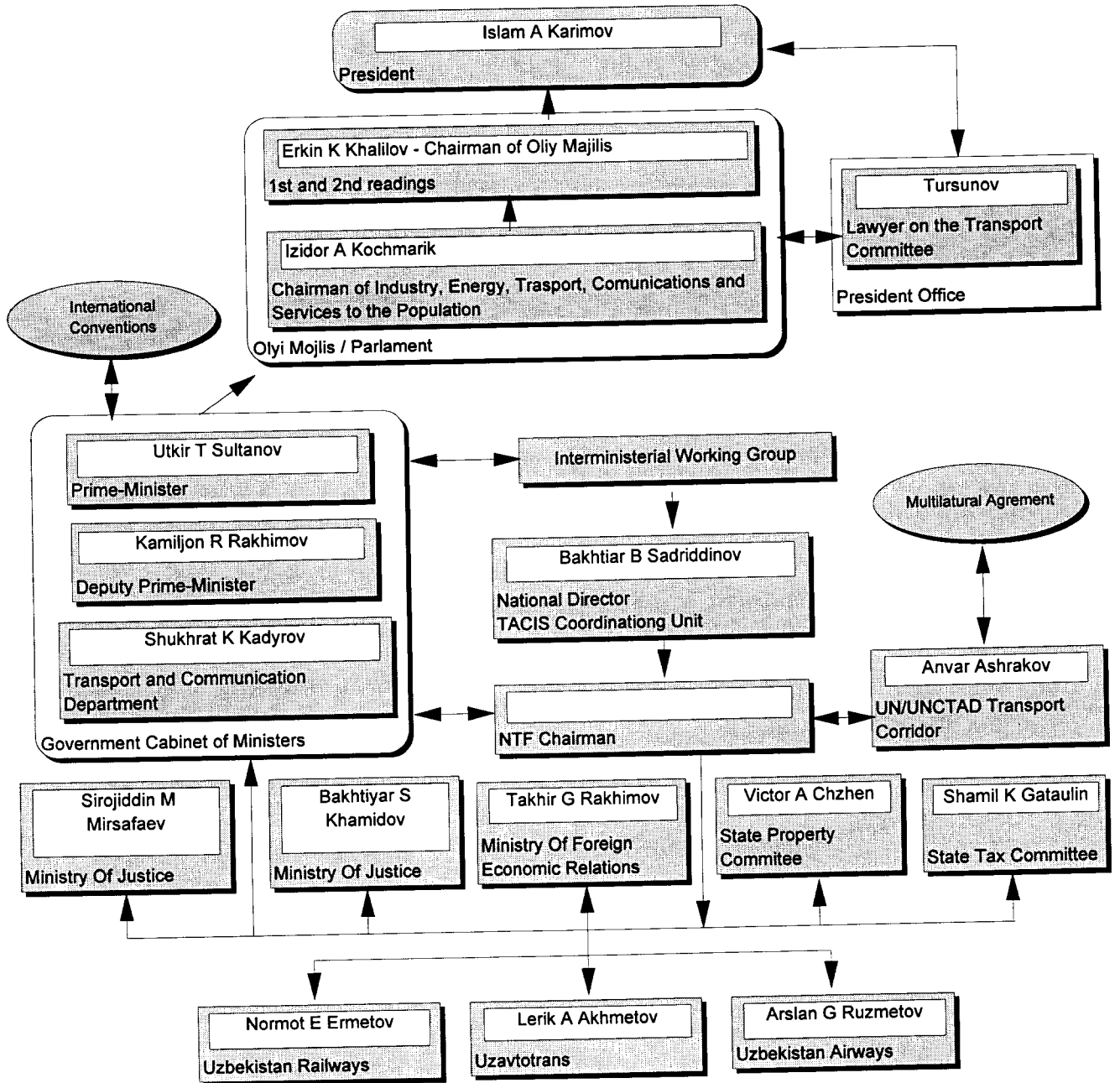
	Depts	Law Dev dept	MOT Minister	MOJ/MOE/MOF	Government	Parliament	President
Transport Codex							
Road Codex							
Rail Codex							
Marine Codex							
Multilateral Agreement							



	Depts	Law Dev dept	MOT Minister	MOJ/MOE/MOF	Government	Parliament
Transport Codex						
Road Codex						
Rail Codex						
Marine Codex						
Multilateral Agreement						



	Sponsoring Ministrys	NTF Chairman	MOJ	Cabinet of Ministers	Parliament	President
Transport Codex						
Road Codex						
Rail Codex						
Marine Codex						
Multilateral Agreement						



	Depts	Ministers		Cabinet of Ministers	Parliament	President
Transport Codex						
Road Codex	10.11.96					
Rail Codex	10.11.96					
Marine Codex						
Multilateral Agreement						
International Conventions						