

Brief on Trade Facilitation

Trade facilitation is the name given to measures to simplify and reduce the impact of import, export and customs procedures. Problems in this field faced by traders include unnecessary and excessive data and documentation requirements, lack of transparency, lack of rapid legal redress, excessive release and clearance times, absence of co-ordination between customs and other inspection agencies, the absence of modern customs techniques and inadequate transit regimes. On the multilateral front, the WTO, as the main organization for international trade, has a natural role in setting rules on trade facilitation. It already contains some limited and out-dated provisions on trade facilitation. The current negotiations are focused on the development of a more binding rules-based approach. This would help guarantee transparency, predictability and reduced costs for traders; reinforce political commitment to reform; and benefit governments and taxpayers through more effective controls and security, higher revenue intakes and a better investment climate.

MANDATE

As part of the WTO Doha Development Agenda, WTO Members agreed on 31 July 2004 to launch negotiations on trade facilitation. The negotiations shall aim to clarify and improve the existing WTO provisions, encompassing the following three elements:

- Increasing the transparency of trade regulations (GATT Article X);
- Simplifying, standardizing and modernizing import, export and customs procedures (GATT Article VIII);
- Improving the conditions for transit (GATT Article V).

Addressing developing country concerns will be an essential element of the negotiations, including with regard to the issues of capacity building, special and differential treatment, and cooperation between relevant international organizations. The negotiations shall also aim at provisions for effective co-operation between customs or any other appropriate authorities on trade facilitation and customs compliance issues.

Current Status

Many delegates have submitted Proposals to simplifying import and export procedures and documentation. Many countries have shared their best practices on different issues. The WTO secretariat has compiled all such submissions in doc TN/TF/W/43. The latest in the series is 10th revision dated 11 August 2006. Through another doc TN/TF/W/59 WTO Secretariat has circulated a self assessment questionnaire to identify 'Needs and Priorities' of Members.

The Ministerial Declaration adopted at Hong Kong (Para 33) has endorsed the recommendations of the Group to start text based negotiations. The Members are submitting second/ third generation proposals to move the negotiating process forward.

The format has not yet been discussed that whether it is going to be an independent Multilateral Agreement like Customs Valuation or Antidumping Agreement or only textual changes in the existing language of relevant articles. The likelihood is of an independent agreement. There are still some divergent views concerning the scope of any future agreement.

Pakistan's position

- Pakistan is supportive of the objectives as it believes that trade facilitation can improve trading disciplines. The real challenge is to have a balance between facilitating trade without compromising on efficient collection of custom revenues and other border controls.
- The timing and extent of commitments by developing Countries would depend upon their implementation capacities and their own discretion.
- The Developed Country Members must ensure provision of Technical Assistance and capacity building aimed at enhancing implementation capacities of Developing and least developed Members.
- There must be an adequate linkage between any new obligation and capacity of developing countries to implement those.

- Pakistan has already reformed their import and export procedures. Many of the measures being discussed are already in place. As a result of Trade Facilitation negotiations those are likely to become binding commitments.

Pakistan's Contribution

- Pakistan has been the main proponent of Trade Facilitation and played an important role to bring trade facilitation negotiations on the track after the Cancun failure and building consensus for establishment of negotiating group on Trade facilitation.
- Pakistan has been actively contributing in the Negotiation Group on Trade Facilitation (NGFT). Pakistan co sponsored a proposal with Japan and others on clarification and improvement of GATT Article X. (TN/TF/W/8).
- Pakistan Submitted two proposals: TN/TF/29, with China on “identifying Trade facilitation Needs and Priorities” and TN/TF/63, with Switzerland on “Development Related Issues in Trade Facilitation”. A brief summary of each proposal proposals is attached as Annex-A
- Pakistan along with China, India, and Sri Lanka has submitted another proposal (TN/TF/W/82) to flag the issues of arrangement of commitments, provision of Technical Assistance and Capacity Building and its linkage with the prospective commitments, and application of dispute settlement process to the future Trade facilitation Agreement. A summary of this proposal is given at Annex B.
- Pakistan and China with Latin American countries and few developed countries like Canada, EU, Japan and Switzerland has been working specifically on How to operationalise S&D in trade facilitation and mechanism for providing TA &CB by developed countries. During June meeting of NGTF a proposal has been submitted TN/TF/W/137.
- Pakistan has developed an end to end custom solution known as Pakistan computerized clearance System (PACCS) under its Customs Reform Project (CARE). Pakistan Shared this experience with other WTO Members TN/TF/W/135 followed by a power point presentation by representative of CBR which was very well received.

[Annex A]

Communication by China and Pakistan (TN/TF/W/29)

NEEDS AND PRIORITIES IDENTIFICATION

- *With reference to the work already done by other international organizations, Members use a general tool to assess their needs and priorities as well as their current levels of trade facilitation. When conducting the assessment, outstanding diversities of levels of regional economic development within individual Members should be taken into full consideration. The result of the assessment should be taken as a basis for establishment of relevant trade facilitation rules, the arrangement of special and differential treatment and the provision of technical assistance and capacity building support.*

- Proposed Next Steps of Work

- (a) *Based on the Secretariat's document on Technical Assistance and Capacity Building on Trade Facilitation (TN/TF/W/5), the Secretariat should frequently provide updated information to Members, if any, on the work done by other international organizations in assessing trade facilitation needs and priorities.*
- (b) *Members should study relative tools available and decide on the usage of a general tool. There could be a series of tools already developed by different international organizations with each covering a different area.*
- (c) *Based upon the general tool agreed, Members may conduct a self assessment and then submit a summary report on the assessment to the Secretariat.*
- (d) *Based on the summary reports, the Secretariat prepares a document reflecting major areas of interests of Members or a list of needs and priorities of Members within the general scope of GATT Articles V, VIII and X. Future rules on trade facilitation will be developed mainly on the basis of those major areas.*
- (e) *During the assessment period, a working group made up of international organizations concerned may be set up to ensure the objectivity of the assessment and to give necessary assistance and support to developing and least-developed countries. Those Members who have already had the experience in such assessment are invited to share their experience with other Members.*
- (f) *For those Members who have huge regional economic level diversities within their territories, their assessment could be based either on the different or on an average level of development within their territories. The unique development situations of these countries shall be taken into full consideration in the implementation of future trade facilitation rules.*

Communication from Pakistan and Switzerland (TN/TF/W/63)

"One of the key messages of Annex D is that Trade Facilitation obligations would become effective for a country when, in the view of the WTO Members, the country has acquired the capacity to administer efficiently the rules. Any measures will become binding obligations once the capacity to implement has been achieved. Part C of this paper proposes elements of a mechanism that strives to operationalise this objective. The following three elements would complement this operational mechanism:

An Inventory of Trade Facilitation Measures

The WTO Secretariat's compilation document TN/TF/W/43 and subsequent revisions provides a good basis for such an inventory.

The contribution by the African Group TN/TF/W/56 suggests further support for clarification and educative process, including training of customs officials, with respect to the measures contained in the compilation document related to GATT Articles V, VIII and X. We welcome this proposal and encourage Members and relevant international organizations to contribute to this educational process. We also encourage proponents to voice their specific interests in the NGTF and bilaterally.

Assessment of the Current Situations (Needs and Priorities)

Undertaking an assessment of the current situation vis-à-vis trade facilitation and the future needs and priorities is necessary for each Member so that it can then define which technical measures under negotiation it can implement and in what timeframe. Where do countries currently stand in trade facilitation? What gaps exist between ground facilities and proposed commitments? We tend to agree with China and Pakistan as well as with a number of Latin American countries, which see this assessment exercise as a continuous process that has to accompany the negotiations.

Like other Members that have made proposals on assessment, we believe that each Member needs to undertake a thorough self-assessment.

*Complementing the picture of the assessment of Members' needs and priorities, Members should also get a clearer idea on **ongoing and planned TA&CB and infrastructure-financing activities** related to the inventory of trade facilitation measures.*

Because this needs to be accurate and done on a country-by-country basis, we suggest that the recipient Members make this compilation.

Sequencing of measures

Determining the sequencing and interrelationship of the technical measures being negotiated is equally essential. Indeed, sometimes a combination of measures allows to reap real benefits on the ground. Also, some advanced measures may require the prior implementation of other basic measures. Experienced international organizations could be of valuable support to Members by assisting them to organize these interrelationships and their sequencing.

A Possible Mechanism to Relate TA&CB and Financing to Reform

A basic requirement for this mechanism is that it is predictable and transparent, and to quote from TN/TF/W/56: "such mechanism should ensure that the needs and priorities with respect to trade facilitation ... are addressed effectively; that available resources will be efficiently used; and that there will be long-term sustainability of technical assistance programmes."

This mechanism could comprise a set of components:

- (i) Action plans containing obligations, implementation periods and required means;*
- (ii) Pledging mechanism for TA&CB and funding;*
- (iii) Multiple channels to provide TA&CB and funding*
- (iv) WTO Trade Facilitation Committee (TFC) to endorse Members' obligations (TF measures) and commitments (TA&CB and funding); and*
- (v) Multilateral endorsement of implementation capacities.*

Document TN/TF/W/63 provides more detailed views on (i) to (v).

[Annex B]

Communication from China, India, Pakistan and Sri Lanka (TN/TF/W/82)

The Arrangement of Commitments for Developing Members

In view of the different requirement of proposed trade facilitation measures and the limited resources of developing Members, it would be desirable that proper arrangements of commitments are made for developing Members. A possible mode of commitment arrangement might be that the rules to be established are divided into different modules, depending upon the degree of difficulty and the extent of resources and capability required for implementation. There could be the kind of module rules that is comparatively easier to implement and forms the basic commitments by the developing Members. For these rules, the developing Members might take the commitments the day the agreement comes into effect and may also have (X) years of transition period if they so require. For those modules of rules that require technical assistance and capacity building support, commitments shall be taken subject to a period of transition and provision of relevant assistance and support guaranteed under the technical assistance and capacity building mechanism established from the negotiations. It needs to be made clear that the actual mode of arrangement of commitments and the specific working mechanism is yet to be decided in further discussions and there is no attempt to prejudge the issue here.

Technical Assistance and Capacity Building Support Mechanism

There are already specific submissions from Members on how to solve the issue. These include the idea of "establishing a coordination/collaborative mechanism or building upon any existing mechanism involving various partners engaged in trade facilitation to enhance synergies and ensure efficient use of available resources" (TN/TF/W/56), an organizing and coordinating mechanism ensuring that "technical assistance is adapted to the needs of the recipients, so as to guarantee transparency, coherence and effective assistance to developing and least-developed countries in the implementation of commitments" (TN/TF/W/41), and a possible mechanism to relate TA&CB and financing to reform (TN/TF/W/63). However, more in-depth discussions are needed to kick off proper arrangements in this area.

The Application of Dispute Settlement Mechanism

In the past it has been suggested that, given the nature of implementation of a Trade Facilitation Agreement and that thousands of transactions everyday could be subject to this Agreement, there is need for Members to have some creative thinking and to consider dispute settlement rules that would address the concerns of the developing Members without otherwise diminishing the fundamental rule of the WTO dispute settlement process. A possible solution could be the establishment of an agreement-specific process of consultation or mediation. Disputes would first be brought to a dedicated body, such as a Committee on Trade Facilitation, to be discussed and mediated there. The dispute settlement mechanism should only be the last resort when there is no hope of settling the dispute within the Committee. There has been no discussion in the Negotiating Group on this issue and this would need to be addressed at the appropriate stage.
