

Implementation of Trade Facilitation Measures: Needs, Costs and Other Issues for the WTO Negotiations

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INTRODUCTION

However one defines trade facilitation, its ultimate meaning is the ease (in terms of procedures and steps) by which goods move across international borders, whether these are for final destination or in transit to their final consumption in other trading economies. In light of the general and cumulative reduction in statutory tariff rates through several rounds of multilateral trade negotiations, the changing character of international trade, and advances in technology, the need to pay attention to trade facilitation has acquired new importance. Indeed there is realization by governments and traders alike that, in many instances and countries, even with low tariff rates, moving goods across borders faces complex procedures and processes.

In the context of the WTO negotiations, trade facilitation (TF) is defined as the "simplification and harmonization of international trade procedures...covering activities, practices and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade" (OECD, 2005). Following the Decision on the work programme adopted by the WTO General Council on August 2004 (also called, the *July Package*), the current Doha round of negotiations is mainly limited, in the area of TF, to improving and clarifying three articles of the 1947 General Agreement on Tariffs and Trade (GATT), namely Articles V, VIII, and X.

Despite the delineation from the Doha Declaration and the circumscribed scope of the negotiating mandate as per Annex D of the *July Package*, and the promise of "adequate technical assistance and support for capacity building in this area", developing countries are cautious about what obligations may evolve out of the TF negotiations, let alone their capacities to carry them out. Many are hampered by lack of adequate diagnostic and knowledge of various TF measures and their relative importance, even though they may be actually implementing a number of these measures. Most would benefit from a better analytical understanding of the comparative impacts and costs of TF measures which would provide guidance in the WTO negotiations. Without sufficient appreciation of the institutional requirements associated with TF measures, all would have difficulties in defining the necessary technical assistance and capacity building needs, which may lead to difficulties in expressing these needs convincingly at the negotiating table.

This brief reviews some of the salient results from the on-going ARTNeT research studies on trade facilitation and provides some guidance on the needs and priorities associated with selected trade facilitation measures discussed by the Negotiating Group on Trade Facilitation (NGTF), as well as their relative implementation costs and sequencing. Implications for the negotiations on trade facilitation are then discussed.

ARTNeT RESEARCH FINDINGS ON TRADE FACILITATION: AN OVERVIEW

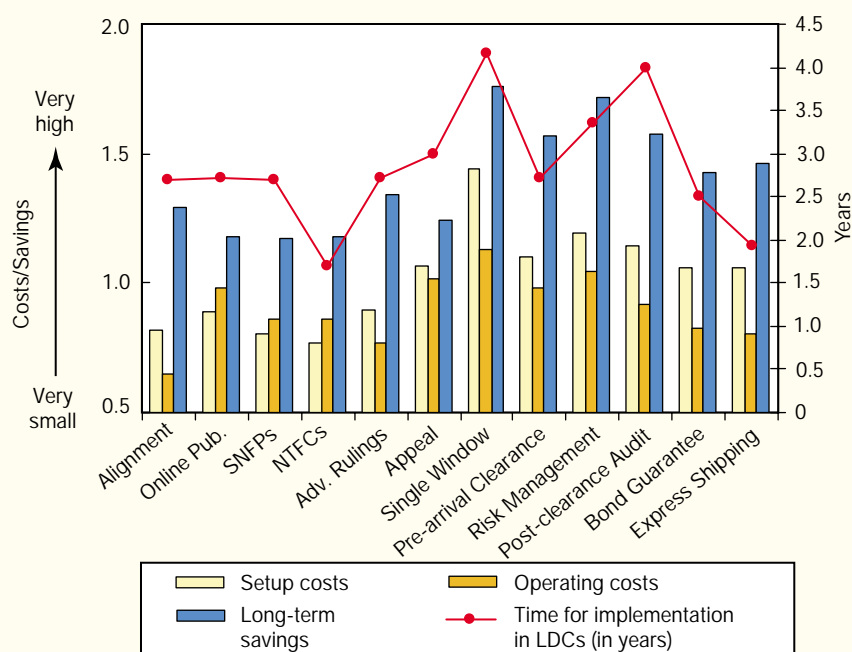
ARTNeT began a 3-year trade facilitation research study in October 2004 with an initial focus on "The Need for and Cost of Implementation of Selected Trade Facilitation Measures Relevant to GATT Articles V, VIII, and X". As a complement to an OECD implementation costs survey of 14 countries, ARTNeT supported case studies in 5 countries: Bangladesh, China, Indonesia, India and Nepal. It may be noted that these studies include the largest traders among the developing countries as well two least developed countries and a land-locked country.

All 5 countries are implementing (albeit partially or planning to implement) many of the measures under the three GATT Articles although there are, of course, variations across countries. A number of proposals that have been submitted to the NGTF in relation to Article X (i.e., Transparency and Appeals) have been, at least partially, implemented in some of the countries studied. For example, enquiry points and/or advance rulings have been established or are being set up, and appeals procedures have been revised or streamlined. Customs authorities also seem to be working toward wider dissemination of information through various media, including the Internet. However, in general, the research reveals significant inadequacies ranging from delays in publishing updates of rulings to limited English translation.

What stands out in the country reviews of Article VIII (i.e., Fees and Formalities) is the prevalence of irregular payments to expedite the movement of goods through customs, fees which are imposed *ad valorem* (which is tantamount to the imposition of tariff), and excessive penalties for minor breaches of regulations. Although automation is far from being implemented, the seeds of what is behind it are taking shape among the countries. Goods are classified in terms of risk and inspection processes conducted in proportion to the degree of risk – but in other countries customs

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Figure 1 – Experts' Qualitative Assessment of the cost of Implementing Selected Trade Facilitation Measures



SNFPs: Single national focal points/enquiry points; NTFCS: National trade facilitation committees.

Source: Duval (2005)

continue to perform 100 percent inspection. Fast customs clearance systems has been pilot-tested among several ports within the countries studied, which basically involve reduction in documentation and paper requirements, and tighter agency coordination.

It is in the review of Article V (i.e. Freedom of Transit) that the countries appear to be behind in implementing TF measures. Even if most existing bilateral transit treaties are generally consistent with the basic provisions of Article V in terms of freedom of transit, some of the countries studies suggest that national treatment is not always applied to goods in transit, in particular in terms of choice of modes of transport.

Private sector surveys were also conducted as part of the country studies to identify key problems and priorities for TF implementation as perceived by trade stakeholders (traders, customs house agents, forwarders, etc.). What is common among the key problem areas for most of the countries studied cluster around customs valuation, tariff classification, import licensing, inspection and release, technical barriers (including sanitary and phytosanitary), and documents submission. Naturally the priorities for TF implementation suggested from the surveys partly responds to these key areas: (1) dissemination and publication of trade rules and regulations, (2) elimination of corruption, (3) improvement in coordination among agencies with border responsibilities, (4) computerization and automation of border procedures, and (5) pre-arrival clearance, in this order.

The country studies also attempted to identify the costs of TF implementation (through extrapolation of customs reform programmes or itemization of cost components). While these attempts did not yield clear directions nor concrete and stable numbers, the following three observations may be made. Firstly,

costs are extremes – infrastructure costs related to TF, such as laboratory and testing facilities and roads for transit routes, are generally large, while costs related to computerization, training, publication and dissemination are generally low. Second, many of the TF measures identified have costs that are absorbed under regular budgets of border agencies with some initial start-up costs (that include reallocation of staff, training, and facilities). Third, the costs that have been itemized concentrate on customs and thus exclude other agencies which eventually have to smoothly interact with customs.

To complement the country case studies, ARTNeT has undertaken a survey of international trade facilitation experts that provides an independent qualitative assessment of costs, benefits, and time required for implementation of selected TF measures included in the various proposals submitted to the NGTF. Figure 1 gives a preliminary summary of the results¹. Notice the long-term savings (benefits) from all the TF measures identified, the relatively low set-up and

operating costs of a number of these and the relatively high costs for carrying out more modern customs methods (e.g. risk management, single window), and the time period for their implementation (the latter measures taking a longer time to implement).

Table 1 – Experts' Suggested Sequencing of Selected Trade Facilitation Measures

| Selected Trade Facilitation Measures | Group |
|---|-------|
| Alignment, HS nomenclature, use of international standards of/for trade documents | 1 |
| Establishment of national trade facilitation committee | 1 |
| Establishment of enquiry points and single focal points for trade facilitation issues | 1 |
| Online publication of trade regulations and procedures in local language and English | 1 |
| Establishment of an appeal procedure for customs etc. | 2 |
| Implementation of risk management systems | 2 |
| Establishment and systematic use of pre-arrival clearance mechanisms | 2 |
| Provision of advanced and binding rulings on tariff classification, valuation, and origin | 2 |
| Expedited procedures for express shipments and qualified companies | 2 |
| Establishment of single window system | 3 |
| Establishment and wider use of audit-based customs | 3 |
| Expedited clearance of goods based on a deposit | 3 |

Source: Duval (2005)

¹ 20 international trade facilitation experts with experience in the implementation of trade facilitation measures in the UNESCAP region were contacted as part of the survey. Figure 1 is based on responses received from 14 experts, including from OECD, UNCTAD, UNDP, UNECE, UNESCAP, and WCO.

The experts were also asked whether and how to sequence or phase in the selected TF measures for implementation. As shown in Table 1, Group 1 measures are those which may be immediately implemented while the succeeding groups (2 and 3) may be phased in soon after (or in some cases simultaneously).

Some of the experts noted that many of the TF measures under discussion may be implemented in a non-(fully) automated customs environment – one can even think of a single-window approach to border formalities in a setting using principally manual, not necessarily electronic, procedures. Moreover, these measures can be pursued within the framework of the present situation among developing countries with incremental needs for capacity building and technical assistance.

IMPLICATIONS FOR THE NEGOTIATIONS

The TF measures investigated in the ARTNeT studies and survey are measures that have been proposed for consideration to the WTO NGTF. The effect of these TF measures on the efficient movement of goods, consistency and predictability of processes and procedures, and savings on transactions costs and prices can not be understated. Given that these are incremental and yield benefits to developing countries², they may be translated into full obligations and legally binding rules under the WTO. To do so, however, requires the various measures to be defined in more specific terms for which reference points and monitoring systems can be brought to bear to ensure implementation. Adoption of standards, terms, procedures and systems detailed in existing trade facilitation related agreements may greatly facilitate this process, especially since a number of countries have already unilaterally adopted them (e.g., see the table below for the status of ASEAN member countries).

² While the ARTNeT studies did not focus on assessing the benefits of TF, analysis and data elsewhere indicate these benefits are substantial (e.g., see OECD, 2005).

These existing conventions can serve as milestones for the obligations coming out of the WTO negotiations on trade facilitation. Other TF measures may fall under some other WTO agreements which may have to be accepted by countries if they have not done so. For example, concerning advanced rulings with respect to valuation, one could use the WTO Customs Valuation Agreement as departure point for defining obligations.

One way of transforming an agreed list of TF measures into an agreement would be to include all measures but provide for an appropriate implementation time frame and technical assistance. Alternatively, it would be tempting to follow an agreement modality similar to the *APEC TF Action Plan* where individual economies can choose from a menu of options which they can implement.³ A drawback of this approach, however, is that countries (especially developing and least developed ones) may forgo the synergies associated with implementation of a common set of TF measures. It also raises WTO systemic issues with regard to the cohesiveness of a multilateral approach to trade.

In this regard, another possible common denominator could be a developing-country-based TF implementation programme featuring a subset of TF measures (e.g., Group 1 measures in Table 1), possibly supplemented by an optional menu of more advanced trade facilitation measures. This seems to be one thought coming out of the consensus reached at the WTO NGTF, tied to the necessary associated technical assistance.⁴

How technical assistance (TA) and capacity building (CB) and special and differential treatment (SDT) might be tied in with TF obligations needs careful consideration. It is important to point out here that, unlike tariff cuts, effective implementation of trade

³ Yuen Pau Woo (2004), Annex for a list of the menu of options.

⁴ *Bridges Weekly Trade News Digest* (Volume 9 Number 40 November 23, 2005). This is also found among the proposals submitted to NGTF summarized by Lewis (2005).

Table 2 – Status of Acceptance of Trade Facilitation Agreements: ASEAN

| | IMO | | TIR | UNECE CEFACT ¹ | UCP 500 ² | ICAO | WCO | | | ATA CARNET |
|-------------|-----|-------|-----|------------------------------|-------------------------|------|-----|----|----|---------------|
| | FAL | SOLAS | | | | | CCO | KC | HS | |
| Brunei | ✓ | ✓ | | | | ✓ | | | | |
| Cambodia | | ✓ | | | | ✓ | | | ✓ | |
| Indonesia | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | | ✓ | |
| Lao PDR | | | | | | | | | | |
| Malaysia | | ✓ | | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ |
| Myanmar | | ✓ | | | | ✓ | | | ✓ | |
| Philippines | | ✓ | | ✓ | ✓ | ✓ | | | ✓ | |
| Singapore | ✓ | ✓ | | ✓ | ✓ | ✓ | | | | ✓ |
| Thailand | ✓ | ✓ | | ✓ | ✓ | ✓ | | | ✓ | ✓ |
| Vietnam | | ✓ | | ✓ | ✓ | ✓ | | ✓ | ✓ | |

FAL/SOLAS: refer to conventions on Facilitation of Maritime Traffic and Safety of Life at Sea; **TIR:** refers to customs Convention on International Transport of Goods under cover of TIR carnets; **UCP:** refers to Uniform Customs and Practice for Documentary Credits; **ICAO:** refers to Convention on International Civil Aviation; **CCO/KC:** refer to Customs Convention on Containers and (revised) Kyoto Convention; **HS:** refers to International Convention on Harmonized Commodity Description and Coding System; **ATA:** Carnet refers to temporary admission of goods (ATA Convention).

Source: Annex of Compendium of Trade Facilitation Recommendations, updated as of 31 May 2005.

¹ Countries directly or indirectly participating in the work of UN/CEFACT.

² Adherence List.

facilitation measures are unambiguously beneficial to developing countries. Hence, rather than suspending implementation of some measures as a form of concession to developing countries, allowing developing countries to phase in their trade facilitation measures according to their own priorities, over time and possibly according to other criteria, may be a superior approach to special and differential treatment.

It is clear from the list of selected TF measures in Table 1 that, although they may appear to be incremental, they would require capacities and other costs which are obviously in short supply in developing countries. It may be attractive to build these implementation capacities and costs into the negotiations and an eventual agreement. This is the first time in WTO/GATT history that an explicit linkage has been created between the assumption of WTO obligations and capacity building/technical assistance. Much, however, depends on whether CB/TA can be given more specific meaning and whether concrete measures can be identified and monitored.

On the other hand, tying CB/TA to the TF obligations may cause the developing countries to also tie in reform of their legislative and regulatory institutions (from the results of the TF experts' survey, the political and legislative/regulatory costs of TF are even *higher* than set-up and operating costs) into the assumption of obligations. This is significant as many countries oppose CB or TA that are conditional on political and legislative reform initiatives.

While the above discussion has highlighted the fact that many complex issues need to be further discussed by the NGTF, what is important is that developing countries pay increasing attention to TF in light of diminishing pay-offs from further tariff rate reductions, and recent developments in logistics, production arrangements and technology. While improving GATT Article V, VIII and X is a good start, countries may need to take a fresh look at other relevant agreements (e.g., Customs valuation, TBT, SPS) and their implementation to address the needs of traders in developing countries in the future.

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