

**POSSIBLE APPROACH FOR A
TRADE FACILITATION AGREEMENT
IN THE
WORLD TRADE ORGANISATION**

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Simplifying International Trade

Possible Approach for a Trade Facilitation Agreement in the WTO

Introduction

This discussion paper aims to give guidance related to a potential agreement on trade facilitation within the WTO. It is supportive of opening negotiations on an agreement in Cancun September 2003. It outlines a possible approach that matches the commitments to such an agreement, with the capacity of WTO members to implement it. The main aim is to improve the overall efficiency of the international trade process through a WTO agreement, and over time increase the wealth of all trading countries. A trade facilitation agreement will complement other WTO agreements, ensuring that international trade is conducted on a fair, efficient and predictable basis.

Trade Facilitation and its WTO Context

Trade facilitation is about more than just establishing customs procedures; it covers the broad aspects of the border management process associated with the movement of goods across international borders. It is crucial that at the outset there is a common understanding of the potential scope of a trade facilitation agreement. To ensure that the concept of trade facilitation encourages a focused approach to border management we suggest that it be confined to: -

- the sustained improvement in the efficiency of moving goods across national borders, in full compliance with appropriate legislation, including security arrangements, and with proper regard to the collection of revenue and commercial payments.
- fully facilitating the border management process by basing an agreement on internationally accepted standards and practices.

The Benefits of a Trade Facilitation Agreement

A successful trade facilitation agreement would further stimulate trade and increase the ability of the world's trading system to deliver improved prosperity to all participants. For such an agreement to work, it would have to reduce trade bottlenecks, be capable of objective assessment, and deliver measurable benefits to all concerned, particularly to developing countries.

Trade facilitation is vital to enable the regulatory process to keep up with the growth in trade and with modern trade practices. Trade facilitation does not mean a lowering of control standards or a threat to revenue collection. On the contrary, trade facilitation enables the maintenance and improvement of regulatory compliance, standards and revenue collection whilst allowing trade to flow more efficiently. In particular, by encouraging greater discrimination in the collection and use of data about trade flows, and by promoting modern control techniques (risk assessment, intelligent profiling, etc) it can enhance countries' ability to protect themselves against growing risks of fraud, criminality and the threat of international terrorism.

Trade facilitation will enable developing countries (and SMEs) to benefit disproportionately in a number of ways, including:

- greater efficiency of the border process making the task of revenue collection and detection of illicit traffic more effective;
- eliminating duplication and unnecessary activities, thereby reducing delays, and lowering the overall cost of international trade transactions, giving major benefits to government, business and ultimately the consumer;
- more efficient official controls improving predictability and helping reduce the incidence of theft and spoilage;
- easier access to developed country markets, and to those of other developing countries (“south-south” trade);
- at a time of ever increasing regulation covering security, clear and robust rules that improve the process of border management will improve the security of and confidence in the trading process; and
- creation of a more open, transparent and predictable trading environment that will encourage foreign direct investment and improve economic performance.

Why is Trade Facilitation Best Managed within a WTO Agreement?

Whilst there appears to be a broad consensus about the necessity to improve the efficiency of the trading process, there is some debate about whether trade facilitation commitments should be negotiated in the WTO.

So why do we believe that there should be an agreement within the WTO?

- it will underpin other, existing agreements that are focused on the conduct of international trade;
- trade facilitation already exists in WTO but the provisions on it are not fully operational;
- the establishment of core standards for the border management of trade will ensure a level playing field for all WTO members. Small traders, developing countries, and particularly land-locked countries, have the biggest need of transparency, predictability and non discrimination. They stand to gain most from a common approach. The WTO is uniquely placed to ensure that an agreement is effectively implemented and managed. It has a proven track record of setting fair rules and reliable mechanisms;
- the establishment of core standards for international trade within the WTO will stop the growth of barriers caused by unacceptably onerous, costly and slow procedures, and put all countries on the same path of improvement. If these core standards are adopted internationally, it will simplify the overall trading process: traders can import and export against globally accepted standards and processes instead of a proliferation of differing national ones;
- without a set of core standards covering trade facilitation, trade will always be subject to unpredictable national preoccupations and interventions. Trade growth in the modern, global economy cannot be sustained if the process is not predictable. A WTO agreement would improve the predictability of

individual transactions and minimise national interventions in the trade process. International commitments in WTO, in the other words, will ensure that the simplified and modern procedures put in place are not reversed;

- countries that are landlocked depend on their neighbours' goodwill for the transit of their goods to third country markets. Unless they have an enforceable international agreement to protect their trading rights, their commercial well-being could be undermined by unjustified border control and transit issues;
- there is currently a justifiable preoccupation with the potential use of international trade for terrorism. If countries operate a robust regulatory regime, guaranteed through the WTO, this should provide assurance to the importing country that security issues are being adequately addressed; and
- it is important to ensure that standards of border management are progressively improved and to do this the border procedures need to be enforced. This is more likely to benefit developing countries trading with other developing countries, or developing countries exporting to developed countries, as they will be more able to predict the legitimate costs and procedures that their goods will encounter in export markets.

A Possible Structure for a Trade Facilitation Agreement

Our suggestion for a WTO trade facilitation agreement is based on the following key principles:

- the agreement must have sufficient substance to create a measurable improvement to trade facilitation;
- the agreement must put all WTO Members on the same road towards simplification of trade procedures;
- the agreement must measure and stimulate progressive improvement in the facilitation of trade and the adoption of higher standards;
- the agreement must offer developing countries the economic benefits of trade facilitation, without necessarily requiring them immediately to achieve the same degree of trade facilitation in all its aspects as the developed economies;
- application of the agreement must be subject to objective assessment, enforcement and policy review; and
- GATT Articles V, VIII and X provide the appropriate platform for a trade facilitation agreement, whose purpose would be to expand on these articles and make them more comprehensive and operational.

We believe that an agreement should feature special and differential treatment, to allow developing countries to implement progressively a comprehensive package of trade facilitation measures, at a pace that they can accommodate. A 'trade facilitation ladder' would define levels of facilitation to which countries would commit themselves. The larger developing countries or those most involved in international trade would commit to a higher level of facilitation than the poorest developing

countries, who would take on rather a more basic or minimum set of WTO commitments.

WTO members would self-assess their position on the facilitation ladder, by considering the degree of facilitation that their regime offers related to the facilitation levels in the agreement and their resources capacities and constraints. However, all members would be required to meet the conditions of at least 'level one'. The core commitments implicit in acceptance of 'level one' would deliver an immediate improvement in trade facilitation worldwide, and assessment and review mechanisms would encourage WTO members to move progressively up the facilitation ladder.

Measurement of Trade Facilitation

Our view is that an initial measurement of facilitation could be achieved using release times for imported goods. What does this mean in practice? As we see it, a trade facilitation agreement should not require Members to adopt uniform, harmonised release times for goods – this would not be feasible. Instead, each Member would establish for itself its own, domestic average release times, make those publicly known, and commit progressively to try to reduce them. A process of regular assessment either by each Member or multilaterally would enable the WTO to track progress in delivering trade facilitation.

The WTO commitment in other words would be to ensure that all Members engage in a process of simplification and move in a common direction, rather than to fix a completely uniform end result.

This process aims to achieve improvement on a national basis to ensure that all member countries are moving in the same direction. It would not be used to compare performance between countries. In the longer term, members would be encouraged to develop more comprehensive measures of facilitation, which could ultimately be considered as an international standard approach. Objective measurement of the impact of trade facilitation would be a key ingredient in establishing its practical value and encouraging members to stick to, and indeed increase, their level of commitment.

Dispute Settlement

An agreement in the WTO should be supported by appraisal systems, like country reviews, that are designed to ensure maximum transparency in the operation of the new arrangements, and they should be backed by an appropriate disputes settlement procedure. However, the rules developed should ensure that enforcement of commitments takes in account developing country capacity constraints.

Capacity Building

The Doha development agenda firmly linked progress in new agreements to substantial support being given to those countries that do not have the capability or infrastructure to implement such an agreement. It is crucial for the implementation of a trade facilitation agreement that funds and technical assistance, are readily available to those developing countries in need of support. The support of funds and technical assistance should be used to achieve an appropriate step-up the 'facilitation ladder' referred to earlier.

Up until now the sponsorship given to countries to improve their capability to manage international transactions by a whole range of well meaning donors has been unsatisfactory. A wide range of donor organisations and countries have given significant funds and technical assistance, but because of the lack of coordination between the donors, there has been no consistent approach. The beneficiaries to this random approach to capacity building are not necessarily the recipient countries, but the consultants. In future the support must form part of a consistent and coordinated approach that will ensure sustainable improvement. The only way to ensure long term sustainable benefit is to measure the degree of facilitation both before *and after* the support has been given. Whilst the primary donors must be the international governmental organisations and governments themselves, business could also be involved in capacity building through the supply of technical knowledge and infrastructural support. Substantial business support for capacity building is unlikely to happen until the funds for capacity building are managed far more efficiently. Greater levels of foreign direct investment in infrastructure at ports, airports, transit systems etc are also more likely to materialise if WTO Members can offer investors the predictability and transparency guaranteed by WTO commitments.

Conclusion

WTO agreements covering trade issues improve the overall efficiency and fairness of the international trading process. An agreement on trade facilitation is a natural extension of this approach, and would be a basic building block for the efficient movement of goods. Cancun offers a golden opportunity to improve the efficiency of the international trade process for the benefit of all WTO members and their traders. A WTO agreement would bring synergistic benefit to the process of trading internationally. It would be manageable and would attract funding and technical assistance. Without a WTO agreement, the benefits of facilitation of international trade would be very limited, especially for developing countries and SMEs, and perpetuate the current inconsistency and unpredictability for exporters and importers worldwide.