

WORLD TRADE ORGANIZATION

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Negotiating Group on Trade Facilitation

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TRADE FACILITATION TECHNICAL AND FINANCIAL ASSISTANCE AND SUPPORT FOR CAPACITY BUILDING REGISTER/SCHEDULE

Communication from the ACP Group

The following submission, dated 2 November 2011, is being circulated at the request of the delegations of the ACP Group for consideration by the Negotiating Group on Trade Facilitation at its meeting on 9-11 November 2011.

This submission is intended to provide a vehicle for developed Members to notify developing and least developed Members of specific trade facilitation (TF) technical and financial assistance and capacity building measures that developed Member donors or their designated agents will apply to support the implementation of TF Section I measures by developing and least developed members. Developed Member donors would update this register/schedule on a yearly basis. Two types of registers are envisaged: (1) the first, to indicate technical assistance activities to be undertaken during the timeframe indicated in the register/schedule and submitted to the WTO as soon as possible before conclusion of the agreement and updated on a yearly basis; and (2) another, to indicate the level of support and description provided to developing and least developed Members during the previous twelve months and submitted to the WTO after entry into force of the agreement.

In essence, this proposal for a register/schedule documenting specific assistance and amounts should provide developing and least developed Members with greater transparency on how developed Member donors will commit to provide technical/financial assistance to support implementation of commitments undertaken by developing and least developed Members in accordance with Annex D of the July 2004 Framework Agreement and Annex E of the Hong Kong Ministerial Declaration. In addition to providing transparency on the amount of support available, this submission seeks to provide a guide to developing and least developed Members on the relevant procedures required to access technical and financial assistance. In view of the need to support specific development outcomes for LDCs, expedited procedures would be deployed by developed Member donors for LDC Members.

Since the commencement of substantive negotiations in TF, extensive discussions and text based negotiations have advanced in the Negotiating Group on Trade Facilitation (NGTF) on Section I of the draft TF text without commensurate treatment in Section II relating to technical and financial assistance beyond current paragraph II.10. This register/schedule seeks to redress this imbalance and aims to provide developing and least developed Members with a precise record of the form and structure of technical and financial assistance and support for capacity building that developed Member donors have specifically earmarked and have provided to support the implementation of commitments in line with the architecture laid out in Section II of the draft text.

Where projects are not yet identified because relevant developing and least developed Members have not yet completed needs assessments or no agreement has been reached between developing and least developed and developed Members to enable the submission of notifications of category C commitments, this register/schedule will be updated as often as practicable and at least once a year.

All Members explicitly agreed that TF negotiations would commence, and any implementation from developing and least developed Members in need, would be predicated on the provision of technical/ financial assistance and capacity building. It is clear from the negotiations that equal weight has not been placed on concrete principles of special and differential treatment as that evident in Section I. Based on the eleventh revision of the draft text, the burden is on developing and least developed Members for implementation and also to seek out assistance from donors to meet those needs. However, in this context, it is important for developed Member donors to provide developing and least developed countries with a clear sense of what resources are available for implementation.

The draft text contemplates a Category C notification where developing and least developed Members are expected to notify commitments that require technical and financial assistance and capacity building in order to implement the respective commitments. In contrast, the notification is not matched by a notification from Member donors indicating the type of assistance that is available or will be committed. Instead, the draft text envisions that developed Member donors will only be required to submit an annual report to a TF Committee describing assistance provided and amounts dispersed (see e.g., TN/TF/W/165/Rev.11, Section II.10). The register/schedule would be a living document facilitating transparency on how developed Member donors will commit to provide support for implementation as well as the amount and nature of resources to be made available. This information must be provided as soon as possible and before the conclusion of the agreement. The register/schedule will be updated as often as required, at least annually to provide an opportunity for donors to catalogue projects undertaken, resources expended, resources available and procedures for approval. This proposal would replace the text for annual reports to the future TF Committee already envisaged in the draft text.

Amendments to the draft TF composite text

The following text is to be inserted into the draft text as new Section II.9.3*bis*:

"To provide transparency to developing and least developed Members, developed Members will complete a trade facilitation technical and financial assistance and support for capacity register/schedule. The register/schedule will serve as the vehicle to inform developing and least developed members about the specific assistance and support that developed members will provide for implementation of Section I provisions. The register/schedule shall be submitted in two stages: first, before signature of the Agreement, and the second, after entry into force of the agreement. The second register/schedule to be submitted annually will document all forms of assistance and support provided by developed members to developing and least developed members on a country by country basis (or in special circumstances, regional) during the previous twelve months. This register/schedule would support operationalizing the principal mandate contained in Annex D of the 2004 July Framework Agreement and Annex E of the Hong Kong Declaration. The information provided shall contain a description of the technical and financial assistance and capacity building available and/or provided, the amounts disbursed and available, the beneficiary country, region (in special circumstances where required), the implementing agency in the donor Member, and procedures for disbursement of the assistance."

The following registers and draft guidelines for completing them are to be inserted into the consolidated text as Annex II:

**REGISTER FOR SCHEDULING TECHNICAL AND FINANCIAL ASSISTANCE
AND SUPPORT FOR CAPACITY BUILDING**

REGISTER BEFORE CONCLUSION OF THE TF AGREEMENT

Donor Member					
Description of TF specific programmes	Amounts or Value Earmarked 2012-2014	Beneficiary country	Regional (where required)¹	Responsible Ministry or Department in the developed country member	Procedures required for approvals and disbursement (URL – Websites)

REGISTER AFTER ENTRY INTO FORCE

Donor Member						
Provision to be implemented	Description specific technical/ Financial assistance and capacity building	Amount/value or Disbursed	Beneficiary country	Regional (in special circumstances where required)²	Responsible Ministry or Department	Procedures for approvals and disbursement
Publication and Availability of Information						
Prior publication and consultation						
Advance rulings						
Appeal [REVIEW] procedures						
Other measures to enhance impartiality, non-discrimination and transparency						

¹ A regional entry is only for special circumstances where assistance is provided only through this vehicle, for example to customs unions,. However, it must be demonstrated that all low income developing countries in that region may access the assistance. Since donors are expecting specific developing and least developed country Members to implement specific commitments under this agreement, it is imperative that the information on assistance provided is equally so described.

² A regional entry is only for special circumstances where assistance is provided only through this vehicle, for example to customs unions,. However, it must be demonstrated that all low income developing countries in that region may access the assistance. Since donors are expecting specific developing and least developed country Members to implement specific commitments under this agreement, it is imperative that the information on assistance provided is equally so described.

REGISTER AFTER ENTRY INTO FORCE

Donor Member

Provision to be implemented	Description specific technical/ Financial assistance and capacity building	Amount/value or Disbursed	Beneficiary country	Regional (in special circumstances where required)²	Responsible Ministry or Department	Procedures for approvals and disbursement
Disciplines on fees and charges imposed on or in connection with importation and exportation						
Release and Clearance of Goods						
Border agency cooperation						
Declaration of transhipped or in transit goods] [domestic transit]						
Formalities connected with importation and exportation (reduction formalities, international standards, single window, etc.)						
Freedom of transit						
[Customs cooperation mechanism for trade facilitation and compliance][customs cooperation]						
National committee on trade facilitation						

**GUIDELINES FOR COMPLETING THE TRADE FACILITATION
TECHNICAL AND FINANCIAL ASSISTANCE AND SUPPORT
FOR CAPACITY BUILDING REGISTER/SCHEDULE**

Donor Members shall prepare their register in accordance with the formats in Annex 1 and provide the following information for technical/financial assistance provided specific to the Trade Facilitation (TF) text, before conclusion of the agreement and after entry into force of the agreement:

1. Description of TF specific assistance before conclusion of the agreement: The programs must be relevant to the type of commitments envisaged in the draft text and Members are expected to commit to. The description must not include general assistance that could be remotely connected to the commitments envisaged, but still qualify as trade facilitating.
 2. Description of TF after conclusion of the agreement: The programs must be entered specific to the sections of the agreement developing Members or least developed Members in need have identified in a Category C request.
 3. Amount earmarked and disbursed: For the period before conclusion of the agreement, donor Members shall provide information on the amounts earmarked for TF specific technical/financial assistance and capacity building. For the period after conclusion of the agreement, donor Members shall provide amounts disbursed related to the specific section of the TF agreement.
 4. Beneficiary Member: The information must describe the specific WTO beneficiary Member eligible to access or having received the assistance.
 5. Regional: This information must be provided only in the special case where assistance has been or can only be provided through a regional vehicle. However, the donor Member must demonstrate the specific WTO Member countries having benefitted from the assistance or may access the assistance. Since donors are expecting specific developing and least developed country Members to implement specific commitments under this agreement, it is imperative that the information on assistance provided is equally so described.
 6. Responsible Ministry or Department: The Ministry, agency, or department responsible for approving and disbursing assistance must be indicated to enable developing countries to appreciate the specific source of funding in the donor Member.
 7. Procedures for approval and disbursement: Donor Members are asked to provide the specific website link to access the information on approval and disbursement procedures. It is imperative that this information is clear and allows no ambiguity to facilitate the developing or least developed Member in need of assistance for implementation to access that assistance in a timely and effective manner.
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