

TRADE FACILITATION MEASURES FOR PERISHABLE GOODS

Communication from Australia, Brazil and New Zealand

The following communication, dated 30 November 2012, is being circulated at the request of the delegations of Australia, Brazil and New Zealand for consideration by the Negotiating Group on Trade Facilitation.

Explanation

Perishable goods, because of their nature, need to be cleared through Customs and other relevant border agencies as fast as possible. Delays in the release and clearance of such goods reduce their shelf life and may affect their quality in an irreversible manner. Situations like that imply substantial costs for traders and producers, many of which are small and medium-size enterprises located in developing countries.

The WTO negotiations on Trade Facilitation under the DDA offer a good opportunity to promote principles and procedures that can help expedite the release and clearance of perishable goods. The current TF consolidated text (TN/TF/W/165/Rev.13) contains draft provisions that could contribute to streamlining the trade of goods in general. However, given the special nature of perishable goods, Australia, Brazil and New Zealand believe that targeted trade facilitation measures are necessary with a view to ensuring that the quality and commercial value of perishable goods are preserved throughout the process of importation.

In that context, Australia, Brazil and New Zealand present below a proposal that seeks to achieve some important objectives concerning the trade in perishable goods, such as: avoidance of unnecessary controls; expedited release and clearance; consideration to the need of appropriate storage; enhanced transparency. In drafting this proposal, the co-sponsors sought inspiration from existing international references and from some common practices related to perishable goods.

Regarding the future placement of this proposal in the consolidated text, it is our view that the text could fit in the current Article 7 ("Release and clearance of goods") of the TF consolidated text, as a new paragraph 8 for that Article. Like other parts of Section I of the consolidated text, the provisions on perishable goods would be subject to the flexibilities for developing and least-developed country Members laid out in the Section II.

The co-sponsors recognize that a definition for perishable goods may be necessary for the sake of more clarity about the coverage of the proposal. At this stage, the co-sponsors opted for not including a definition in the proposed text, since this issue could benefit from a broader and more detailed discussion among all Members. The co-sponsors, however, take this opportunity to share

their views on the possible coverage of this proposal. For us, the trade facilitation measures proposed below should be limited only to those goods that decay quickly, especially if not stored properly (e.g. fruits and vegetables, meat, fish, cut flowers etc.). Furthermore, Members may consider the possibility of extending the coverage of the proposal, or parts thereof, to live animals.

Proposed New Text

8. Perishable goods

8.1 Each Member shall limit the controls applied to the importation of perishable goods to the minimum necessary to ensure compliance with its WTO-consistent laws and regulations.

8.2 Each Member shall provide for the release of consignments of perishable goods under normal circumstances within the shortest possible time so as to preserve the quality and commercial value of the goods, provided the information required for release has been submitted.

8.3 When scheduling examinations, each Member shall give priority to the examination of perishable goods with a view to expediting the release of such goods and avoiding their loss or deterioration.

8.4 At the request of the importer, based on a justified risk of deterioration, the importing Member shall provide for the clearance of a consignment of perishable goods, at least at its major ports of entry, outside the business hours of Customs and other relevant authorities.

8.5 At the request of the importer, the importing Member shall allow consignments of perishable goods to be cleared at the premises of the importer or at the premises of a third party designated by the importer. The importing Member may require that such premises are approved, on the basis of reasonable criteria, by its relevant authorities.

8.6 When a consignment of perishable goods has to be held pending the results of an examination, the importing Member shall allow the goods to be stored in appropriate conditions for their conservation where available, for example by immediately allowing the importer to store the goods in approved facilities outside the Customs premises or providing such facilities itself.

8.7 In cases where a consignment of perishable goods is damaged due to a delay in its release or clearance, and at the request of the importer, the importing Member shall promptly provide a written explanation on the reasons for the delay.
