



Brussels, 23 September 2014.

WTO TRADE FACILITATION AGREEMENT

Update of the Analysis of Section I

(Item II. (d) on the Agenda)

Introduction

1. At the 1st Meeting of the Working Group on the WTO Trade Facilitation Agreement (TFAWG) and at the 203rd/204th Sessions of the Permanent Technical Committee (PTC), both held in March 2014, the delegates discussed the Draft Preliminary analysis of TFA Section I (Analysis) and potential implications on the WCO under documents PT0005 and PC0350.
2. The Analysis was developed to provide relevant information and guidance in terms of preparing for the implementation of the TFA provisions by using WCO instruments and tools, to ensure a harmonized approach by Customs administrations, and to present the basis for the TFA Implementation Guidance web tool which has been launched in May 2014. The Analysis is considered to be a living document, as new instruments are being developed, the existing ones updated and as Members' experiences are being explored.
3. The Secretariat presented the main findings of the Analysis which showed a high level of consistency between the TFA provisions and more than 40 WCO instruments and tools. The Analysis also showed that the WCO standards and tools to a large extent address the TFA requirements in terms of cooperation and coordination with other border agencies. It also pointed to the areas which have been identified as needing more guidance.
4. The delegates strongly supported the work on the Analysis which was regarded as a very good starting point in assessing the compatibility of WCO instruments and tools with Section I of the TFA. It was stressed that in ensuring full compatibility, work needs to continue in close collaboration with the concerned WCO working bodies. The TFAWG and the PTC further provided recommendations for improving the Analysis.

Analysis Rev.1

5. In the inter-session, the Secretariat carried out an Update of the Analysis (Analysis Rev.1, in Annex I to this document), based on the recommendations provided by the TFAWG and the PTC. The objective was to pull together all relevant outcomes of the discussions on the different TFA provisions which took place in the different WCO working bodies (TFAWG, PTC, Joint PTC/Enforcement Committee, Information Management Sub-Committee (IMSC), etc), as well as within the Secretariat.
6. The Analysis Rev.1 also takes into consideration the requirements of other stakeholders, and identifies the authorities concerned for each of the provisions (in the last column). For the purpose of achieving consistency, the authorities concerned are in line with the ones identified by the WTO and contained in the WTO Self-Assessment Guide (WTO doc. TN/TF/W/143/Rev.7¹).
7. Having in mind the important role that the sanitary and phytosanitary agencies will also play in the implementation of the TFA, the Analysis Rev.1 also incorporates information on the links between the TFA and the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), based on an Information Note prepared by the WTO Secretariat (“The Relationship Between the Trade Facilitation Agreement and the Agreement on the Application of Sanitary and Phytosanitary Measures”²). It also incorporates information on the links between the TFA and the WTO Agreement on Technical Barriers to Trade (TBT Agreement). The WTO Secretariat has made a significant input to the Analysis in that regard. Both the TBT and the SPS Agreements are specifically mentioned in Paragraph 6 of Article 24 of the TFA.
8. With the objective of making it more user-friendly for those other than Customs, the Analysis Rev.1 explains in more detail how each of the relevant WCO instruments and tools fit into the context of TFA implementation and what type of standards and guidance they can provide for each of the provisions.
9. Analysis Rev.1 includes track changes to reflect the modifications made to the original version from March 2014. It includes the following columns:
 - **“Article in the WTO Trade Facilitation Agreement (WT/L/931)”**: During the inter-session, the WTO Preparatory Committee has completed the legal scrubbing of the TFA. For ease of reference, this finalized text has been included in the first column of Analysis Rev.1.
 - **“WCO Instruments, Tools, Guidelines (non exhaustive)”**: The WCO instruments and tools developed over the past years provide ample standards and guidance adequate for implementing the TFA provisions. In this column, more specificity is provided in references to the Revised Kyoto Convention (RKC). It is important to bear in mind that wherever a reference is made to the RKC, this refers to both the Standards in the General Annex or a Specific Annex, as well as to the accompanying RKC Guidelines.

¹ The WTO Self-Assessment Guide can be found at the following link on the WTO web site:
[https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=\(%20@Symbol=%20tn/tf/w/143%20or%20tn/tf/w/143/*\)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true#](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=(%20@Symbol=%20tn/tf/w/143%20or%20tn/tf/w/143/*)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true#)

² The Information Note “The Relationship Between the Trade Facilitation Agreement and the Agreement on the Application of Sanitary and Phytosanitary Measures” can be found at the following link on the WTO web site: http://www.wto.org/english/tratop_e/sps_e/tf_sps_e.pdf

This column however also provides references to the many other WCO instruments and tools available and relevant for implementation of the individual TFA provisions. Some of these tools are currently under revision. The instruments and tools mentioned include:

- Istanbul, A.T.A, Nairobi, Johannesburg and other conventions, numerous recommendations, the SAFE Framework of Standards, etc.
- Revised Arusha Declaration and the Niamey Declaration;
- Compendiums on Single Window (SW), Risk Management, Post-Clearance Audit, Customs Valuation etc;
- Guidelines on Time Release Study (TRS), Immediate Release, Binding Origin Information, Valuation Controls, Customs Laboratories, Transit, Coordinated Border Management, Customs International Benchmarking Manual, Model Bilateral Agreement, SAFE Package, etc.
- IT standards, tools and repositories such as the Data Model, TRS on-line software, Customs Enforcement Network, SW Information Store on the WCO web site etc.

Compared to the original version of the Analysis, the text in this column has been changed only slightly and does not yet include a number of tools which have been developed in the meantime and have not yet been adopted by the WCO committee structure.

- **“Remarks”**: The information in this column is an attempt to shed more light on the TFA provisions and how they relate to the WCO instruments and tools, as well as which and to what extent they can be used to implement the TFA.

This is the most important part of the Analysis which has been extensively updated in the inter-session to include four different types of remarks:

- **“Overview”**: Includes a short description of the TFA text, even though the full text of the TFA is included in column 1. The Overview also mentions cross-references with other articles.
- **“Links with other WTO agreements (SPS, TBT and Valuation), where applicable”**: Having in mind the role which the SPS authorities will play in TFA implementation, the Analysis Rev.1 now includes links between the TFA and the SPS Agreement, as outlined in the WTO Information Note, already mentioned above. However, there is also reference mentioned to the WTO TBT and Valuation Agreements.
- **“Links with WCO instruments and tools”**: This has been elaborated in more detail to include more specificity and clarity on how the WCO instruments and tools fit into the context of TFA implementation. In order to make the Analysis more user-friendly for those other than Customs, these remarks contain also brief descriptions of the contents of these instruments/tools.
- **“ICT considerations, where applicable”**: The important role which information and communication technologies will play in TFA implementation has been stressed on numerous occasions. The Information Management Sub-Committee (IMSC) had therefore at its 67th Meeting in June 2014 discussed in more detail the ICT considerations for the individual TFA provisions. This has been included throughout the Analysis Rev.1, where applicable (for more detail, see IMSC document PM0358).

- **“Possible implications”**: Some areas have been identified as possibly needing more guidance. Those are indicated in this column. The Analysis Rev.1 includes the developments which have taken place in the inter-session, including the phase of development at which the different required tools/facilities are at currently, as well as recommendations for the future (more detail is provided below under “Prioritizing update/development of instruments/tools/projects”).
- **“WCO Body concerned”**: The comprehensive WCO structure provides the ideal forums for discussions on any issues and for sharing Members’ experiences. This column indicates

WCO bodies which could be discussing the same WTO provisions from different perspectives and with different profiles of delegates, ensuring a coherent approach in implementing the individual TFA provisions. Some have already had an opportunity to discuss the individual provisions, the results of which have been incorporated in the Analysis Rev.1, mainly under "Remarks".

- **"Authorities concerned"**: This column has been added to cater for the need to clarify which government stakeholders will have an important role to play and with which it will be necessary to enhance cooperation and coordination. The authorities concerned for the different articles are in line with those identified in the WTO Self-Assessment Guide.

10. The Analysis Rev.1 retains what used to be Article 13 (Institutional arrangements) of Section I, but which has after the legal scrubbing of the Agreement been moved to the new Section III and has become Article 23. Due to the different nature of these provisions to those of Section I, the Analysis of Article 23 only contains a number of remarks.

Prioritizing update/development of instruments/tools/projects

11. One of the objectives of the Analysis is to point out the areas requiring more guidance. These have been identified in column "Possible implications" where four different scenarios for WCO support to the TFA have been identified:
1. New tools currently under development, or recently developed:
 - Customs-Business Engagement/Partnership Guidance
 - Business Lens Checklist for SMEs
 - Consolidated Guidelines for Advance Rulings
 - Guidance on Customs Compliance Framework and Voluntary Disclosure
 - Diagnostic Tool for Post-Clearance Audit
 - Consolidated Guidelines for Advance Rulings
 2. Existing tools currently under revision:
 - Compendium on Coordinated Border Management
 - Transit Handbook
 3. Possible revision/update/fast-tracking of existing instruments/tools/projects:
 - Update WCO Recommendation on the use of World Wide Web to align with the TFA
 - Update ICT Guidelines/SW Compendium to include more guidance on electronic payment
 - Update Immediate Release Guidelines to include criteria for persons who may apply for expedited release of goods
 - Update Guide to the Exchange of Customs Valuation Information to ensure full alignment with TFA
 - Revise certain instruments (mainly recommendations) and tools to fully align with the TFA
 - Provide more guidance in the RKC for some specific areas (for example, perishable goods, enquiry points in Customs Unions and Regional Economic Communities, periodic review and publishing of information on fees and charges, dealing with rejected goods etc)
 - Fast track relevant Utility Blocks/Proof-of-Concept projects under the Globally Networked Customs work
 - Revise WCO Glossary of International Customs Terms to provide more clarity on how WCO terms relate to those mentioned under the TFA (this is not specifically mentioned under "Possible implications" but stems from the Analysis in general)
 - Update Guidelines for Customs Laboratories to include more information on second test (in accordance to Article 5.3)

4. Possible development of new tools/instruments/projects:
 - o Develop Guidelines for transparency and predictability
 - o Develop a list of enquiry points, including in Customs Unions and Regional Economic Communities
 - o Launch a WCO project to address the notification of (valuation) legislation
 - o Develop a list of links to Members' web sites where information published according to requirements in Article 1 is published
 - o Introduce a notification system for published information
 - o Develop guidance on advance rulings on relief/exemption from customs duties, on quotas and those areas other than tariff, origin and valuation (where ample guidance is already provided)
 - o Establish a network of customs laboratories to include the second test
 - o Develop guidance on uniform requirements of procedures and documentation based on best practices
 - o Develop a list of contact points for exchange of information (in accordance with Article 12)

12. For the purpose of helping Members more effectively prepare for implementation of the TFA, it would be of significant value to identify measures (from the lists under 3. and 4. above), which are of high priority to the Members and need to be addressed by the WCO more urgently than others.

13. Having in mind that many Members have already hosted self-assessment missions, or have carried out their own gap-analysis against the TFA, they are invited to flag to the WCO Secretariat those areas lacking guidance and where current WCO instruments and tools don't provide sufficient implementation support.

Conclusion

14. Delegates are invited to carefully examine the Analysis Rev.1 and provide guidance in terms of possible improvements and its further use.

15. In addition, delegates are invited to identify high-priority measures to be carried out in support of preparation for TFA implementation (in line with paragraphs 11. and 12. of this document).

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