

EXECUTIVE SUMMARY

The WCO Working Group on the WTO Trade Facilitation Agreement (TFAWG) held its 3rd Meeting on 12 and 13 February 2015. A summary of the Working Group's deliberations, and of the outcomes, is set out below.

Item I - Opening and adoption of the Agenda

a) Opening of the Meeting

Conclusion

The Working Group:

- took note of the opening remarks by the Chairperson of the WCO TFAWG, Ms. Gugu Treasure Dlamini-Zwane (Swaziland), and of her words of warm welcome to WCO Members and representatives of international organisations, academia and the private sector, numbering more than 200 delegates;
- took note of her special words of welcome to Ambassador Conejos of the Philippines Mission to the WTO, the Chairperson of the WTO Preparatory Committee on Trade Facilitation, who had kindly agreed to deliver the keynote speech to the TFAWG.

b) Introduction by Mr. Kunio Mikuriya, Secretary General of the WCO

Mr. Mikuriya welcomed 200 delegates from 80 countries and 30 international organisations which showed the commitment of the global Customs community to implement the TFA effectively and efficiently. He informed the meeting that he had met Ambassador Conejos immediately after the conclusion of the TFA and Ambassador Conejos' nomination as Chairperson of the WTO Preparatory Committee on Trade Facilitation. Mr. Mikuriya recalled that he had invited the Ambassador to attend and speak at the TFAWG which had been established by the Policy Commission in December 2013 in Dublin, Ireland, immediately after the conclusion of the TFA in Bali.

The Secretary General expressed his sincere appreciation for Ambassador Conejos' excellent Chairmanship that had enabled the WTO to adopt the TFA Protocol of Amendment in November 2014 and he congratulated the WTO on the adoption.

He remarked that the WCO Council had endorsed the WCO Mercator Programme, A Strategic Initiative to Support Trade Facilitation, in the presence of the Director General of the WTO, Mr. Azevedo in June 2014. He went on to remind the delegates of the objectives of the TFAWG which included an analysis of the TFA and how it could be implemented in a consistent manner by using existing WCO instruments and tools and developing new ones where necessary, such as the WCO Transit Handbook which had been published recently. The TFAWG was also the forum where Members could share their best practices, helping each other to achieve consistent implementation of the TFA.

Mr. Mikuriya said that a partnership approach was key to successful TFA implementation. Customs needed to work together with other border agencies and the private sector to improve the economic competitiveness of countries. Customs and Trade Ministries also needed to cooperate and coordinate the development and implementation of trade policies.

He informed the TFAWG of his recent meetings with the International Chamber of Commerce and the Director General of World Organisation for Animal Health (OIE), Dr. Vallat, with whom he had agreed to further strengthen the existing cooperation in the framework of the TFA. He said that the TFA offered a golden opportunity for Customs and other border agencies to work together.

Conclusion

The Working Group:

- took note of the opening remarks by WCO Secretary General Mr. Kunio Mikuriya in which he congratulated the WTO on the adoption of the TFA Protocol.

c) Adoption of the Draft Agenda and the Summary Document

Conclusion

The Working Group:

- adopted the draft Agenda (Doc. PT0021), taking note of Mexico's request to discuss mechanisms for suggesting topics to be dealt with in future TFAWG meetings;
- adopted the Summary Document (Doc. PT0022).

Item II – Update of developments in the WTO regarding the TFA

a) Keynote speech by Ambassador Esteban B. Conejos Jr., Permanent Representative to the Philippine Mission to the WTO in Geneva and Chairperson of the Preparatory Committee on Trade Facilitation at the WTO

Ambassador Conejos expressed his sincere appreciation for the invitation to speak at the TFAWG extended by Mr. Mikuriya, the WCO Secretary General. The Ambassador said that he was very pleased with the speed with which the WCO had responded to the TFA conclusion, issuing the Dublin Resolution in December 2013 and launching the WCO Mercator Programme in June 2014.

He went on to explain the tasks that the WTO Preparatory Committee on Trade Facilitation had to perform, the legal review of the TFA text, receiving category A notifications and drafting the Protocol of Amendment to insert the TFA in the WTO legal framework.

The Ambassador remarked that there was not a fixed template to notify the WTO about the categorisation. It could be done by explicitly mentioning which commitments were categorised under A (positive approach) or by reporting that all provisions were categorised under A except specifically mentioned provisions (negative approach). Until now the WTO had received 55 notifications.

He informed the TFAWG how the legal review had proceeded. He said that the changes had been minor and that there had been no change in substance. Amendments had only been accepted if there was consensus. If consensus was missing, the text remained as it had been concluded in Bali in 2013.

The Ambassador said that the Protocol of Amendment would enter into force when two thirds of the WTO Members had ratified it and deposited their instruments of acceptance with the WTO. The ratification procedure depended on the national procedures. The WTO did not prescribe a certain procedure. It would only bind the two thirds that had accepted it. Countries that accepted the TFA after entry into force would be bound upon acceptance.

The delegates asked how many countries had to accept the Protocol before it entered into force. They also wished to know whether the establishment of National Committees on Trade Facilitation (NCTF) had to be a category A commitment since it was essential for the implementation of the TFA provisions and whether the countries that had notified their categorisation had all set up an NCTF. Furthermore, there was a question about possibly developing a handbook or a guide for the implementation of the TFA.

The Ambassador explained that 108 Members needed to ratify the TFA before it entered into force. Regarding the establishment of an NCTF, he said that NCTFs were in Section III of the TFA, making it an obligation when the TFA would enter into force. There was no need to categorise it as an A commitment, however, he said that an NCTF was indeed essential for TFA implementation, advising delegates to set up such a committee as soon as possible. He went on to explain that the WTO had not conducted a study whether the countries that had notified their category A commitments also had established an NCTF. Regarding the request for a handbook or guide, the Ambassador stressed that the WCO had all the instruments and tools required for implementation of the TFA and he strongly suggested Members to use these to implement the TFA.

Delegates expressed their appreciation for the TFA and the trade facilitation benefits it would bring and they said they were very supportive. They also asked how international organisations such as the WCO and ACP could contribute to the process in the WTO, e.g. by attending the WTO Preparatory Committee on Trade Facilitation and, when the TFA enters into force, the Committee on Trade Facilitation.

Ambassador Conejos took note of the appreciation and support for the TFA. He said he would take the suggestion for the participation of international organisations, such as the WCO, in proceedings at the WTO, forward.

Mr. Mikuriya added that the TFAWG had specifically been established to support consistent implementation of the TFA by sharing best practices. He reminded the delegates of the TFA Implementation Guidance developed by the WCO that offered for each article of the TFA an indication of relevant instruments, tools and national practices that could be used for implementation.

Conclusion

The Working Group:

- listened with great interest to the keynote speech by Ambassador Esteban B. Conejos Jr., Permanent Representative of the Philippine Mission to the WTO in Geneva and Chairperson of the Preparatory Committee on Trade Facilitation at the WTO;
- took note of Members' requests for the involvement of the WCO in the Preparatory Committee on Trade Facilitation at the WTO, and its successor - the Committee on Trade Facilitation, once the TFA had entered into force.

b) WTO TFA Facility, presentation by WTO Secretariat

Ms. Rosenow informed the meeting about relevant developments in the WTO and the WTO TFA Facility. She said that three WTO Members had accepted the Protocol: Hong Kong, Singapore and the United States. She also showed how the WTO captured the information about notifications on the WTO website. The most recent state of play was that 55 WTO Members had notified their category A commitments.

She went on to say that the most notified categories A were "movement of goods-import", "transit", "temporary admission", "right to appeal or review" and "common border procedures". The least notified categories were "single window", "authorised operators", "enhanced controls", "test procedures" and "average release times". She also explained the notification timeframes for developing and least developed countries.

Ms. Rosenow then addressed the WTO TFA Facility which was operational since 10 December 2014. The Facility would offer WTO Technical Assistance and Capacity Building support, implementation assistance and grants to countries that had been unable to find capacity building support elsewhere.

Ms. Rosenow's presentation can be found on the WCO website under the Third TFAWG meeting.

Conclusion

The Working Group:

- took note of a report by the WTO Secretariat on the WTO TFA Facility and on other relevant developments in the WTO.

Item III – Art. 23.2 - Panel discussion on stakeholder engagement/ways towards the establishment of National Trade Facilitation Committees

Ms. Barczyk, Deputy Director, Compliance and Facilitation Directorate, WCO Secretariat, who moderated the panel session started by introducing the results of the WCO survey on NCTFs that was sent out by the Secretariat in December 2014. The WCO Secretariat had received replies from 57 Members from five WCO regions. Preliminary findings indicated that 17 Members had set up an NCTF or maintained an existing mechanism as NCTF and that in almost all cases Customs had a leading role in them. More preliminary results can be found in document PT0023.

The panel consisted of Ambassador Esteban B. Conejos Jr., Permanent Representative of the Philippine Mission to the WTO in Geneva and Chairperson of the Preparatory Committee on Trade Facilitation at the WTO, Ms. Gugu Treasure Dlamini-Zwane, Customs Attaché, Embassy of the Kingdom of Swaziland in Brussels and Chairperson of the TFAWG and Mr. Erich Kieck, Director, Capacity Building Directorate, WCO.

Ambassador Conejos informed the TFAWG about the Philippines' experience regarding NCTFs. They had designated an existing mechanism, a technical committee on WTO matters dealing with implementation of WTO commitments, as NCTF. The Committee had undertaken a needs assessment and prepared the category A commitments and was now working on the ratification of the TFA. Even though the Committee was sufficient for its role currently, it might be necessary to create a new Committee. There would be a need to expand the Committee to include Customs modernization, as well as the inclusion of other agencies and the private sector. Ambassador Conejos said that Customs needed to play a predominant role in the Committee. He told the delegates that many countries had a de-facto NCTF, without it perhaps being given that designation, e.g. a Committee that had been set up to prepare the TFA category A commitments. He stressed that countries should consider the establishment of NCTFs as a matter of priority since they would be instrumental in implementing the other TFA provisions effectively and efficiently.

Ms. Treasure Dlamini-Zwane explained the situation in Swaziland. For the WTO needs assessment, an NCTF had been established and Swaziland had conducted two needs assessments. After the Bali WTO Ministerial Council, Swaziland brought together the members of the NCTF which included all relevant stakeholders such as Customs, other border agencies and the private sector, re-launching the Committee in August 2014. The Committee dealt with other Customs-related projects like the Ease of Doing Business in Swaziland. Customs had played a key role in drafting the Terms of Reference of the NCTF. A challenge had been the little knowledge about trade facilitation which in turn had led to low participation levels and therefore to maintenance and sustainability issues of the Committee including resources to convene meetings. The NCTF would align its work with other initiatives such as the Investor Road Map which was launched by the Head of State. This was to ensure that the NCTF had the political support which was also key for sustaining it. The NCTF would report to a steering Committee which in turn would report to the Cabinet Sub Committee on Investment. Trade and Customs were co-chairs and they both provided secretarial services.

Mr. Kieck addressed the Capacity Building work done by the WCO to support Members in setting up national committees, ensuring that these committees were productive and maintained. The WCO provided guidance on stakeholder mapping, how to chair meetings, prepare agendas and ensure follow-up. The WCO experience was that Coordinated Border Management Committees either did not exist or did not work well as they were quite often personally driven. He believed in four important strategic drivers that would make NCTFs work on a structural basis: (i) a clear sense of purpose why the committee was established and what was expected of them; (ii) the committee was underpinned by a shared vision and had a clear action plan; (iii) a common understanding of what needed to be done; and (iv) there was a champion to drive the committee in a very inclusive way with the right people at the right level empowered to make decisions, with the right level of soft skills.

Conclusion

The Working Group:

- listened with interest to a panel discussion on stakeholder engagement/ways towards the establishment of National Committees on Trade Facilitation;
- took note of the panellists' view that stakeholder engagement and the establishment of National Committees on Trade Facilitation was an important step in implementing the TFA and that countries should not wait with establishing such a committee until the TFA entered into force but start as soon as possible because they would be instrumental in implementing the other TFA provisions effectively and efficiently;
- took note of the panellists' conviction that National Committees on Trade Facilitation need to involve all relevant stakeholders, including Customs and other border agencies. Most of the provisions in the TFA are Customs-related, hence it makes sense for Customs to have a lead role in such a committee;
- took note of the panel agreeing that the WCO has experience in supporting the establishment of National Committees on Trade Facilitation through its work in setting up Strategic Planning mechanisms, sequencing models for strategic activities, National Policy Dialogues, stakeholder engagement support and Coordinated Border Management arrangements.

Item IV – Notification of categories A, B and C

TFA Section II on Special and Differential Treatment provides flexibilities for developing and least-developed country Members of the WTO when implementing trade facilitation measures contained in the TFA. This flexibility includes a commitment by each of these Members to determine and notify the WTO of which provisions fall under the three categories: A – implementation after TFA enters into force; B – implementation after a transitional period; and C – implementation after a transitional period and acquisition of assistance.

The Dominican Republic presented the way in which it had approached the subject of categorisation of commitments under the TFA, including the roles of a special working group and the National Committee on Trade Facilitation. The Dominican Republic Customs Administration had been actively involved in the WTO Trade Facilitation negotiating process since 2004 and it had developed the “2013-2016 Action Plan for implementation of trade facilitation measures”. It had also undergone a number of trade facilitation projects, including one on Single Window. The presentation made at the meeting can be found on the WCO web site under the Third TFAWG meeting.

During the plenary discussion, China shared its experience in the process of categorisation of commitments, including carrying out coordination meetings, workshops and surveys at regional and national level to identify the category for each commitment. China had placed almost all its

commitments under category A, while Single Window, establishment and publication of average release times, outward processing and Customs cooperation had been placed under category B. Pilot projects to improve implementation of trade facilitation measures were underway.

Conclusion

The Working Group:

- took note of the presentation made by the Dominican Republic on the categorisation of commitments under the TFA.

Item V – The WCO Mercator Programme – recent and envisaged developments

a) Update by Ms. Heike Barczyk, Deputy Director, Compliance and Facilitation, WCO, on outcomes from Policy Commission, PTC, Implementation Guidance, upcoming regional events, etc.

Ms. Barczyk, Deputy Director, Compliance and Facilitation, WCO, provided an update on the Mercator programme and its dual-track approach which ensured that Members' requirements for TF/TFA-related support was enabled at national, sub-regional, regional, as well as at global level. She further informed the meeting about the number of delivered missions, the schedule of regional workshops and the envisaged accreditation/refresher workshops for experts. In addition, she explained how the IT Guide for Executives, which was currently under development, would support administrations to improve management of their many IT projects essential for trade facilitation and modernisation efforts in general. A related pilot workshop would precede the 2015 WCO IT Conference in the Bahamas.

The Meeting acknowledged the progress made under the Mercator programme, especially in terms of developments on the ground. Japan announced a further increase in its contribution to the Customs Cooperation Fund in the following financial year to support the Mercator programme, including support for the regional workshops. The contribution from Japan would also include sending its experts to the TFA-related events.

A Member encouraged the WCO to continue developing tools and instruments to ensure a harmonised and expeditious implementation of the TFA under the Mercator programme. During the discussions, a Member stressed that successful implementation did not depend only on external support, but also on the responsibility and ownership of the Members. Further to a question posed, Ms. Barczyk explained the process for collecting the needs of Members and the monitoring mechanism for the roll-out of the TA/CB support to Members, including the use of the WCO Time Release Study.

Conclusion

The Working Group:

- took note of the presentation made by Ms. Barczyk, Deputy Director, Compliance and Facilitation on the Mercator programme, its dual-track approach, schedule of regional workshops, accreditation/refresher workshops for experts, IT Guide for Executives etc.;
- acknowledged the progress made under the Mercator programme, especially in terms of developments on the ground;
- took note of the announcement made by Japan to increase the Customs Cooperation Fund in the next financial year, to further support TF/TFA related activities under the Mercator programme.

b) Presentations by development partners

The EU provided an overview its support for Trade Facilitation, as part of the Trade Related Assistance and Aid for Trade support. Mr. Platton from the Directorate General for Development and Cooperation (DEVCO) explained that around 30% of their Trade programmes included a TF component. He further informed the delegates that the aim of the TF support was to maintain at least 400 million euro per year over five years, including 30 million euro for a specific international facility.

USAID presented its approach to support implementation of the TFA commitments, grouped into four key clusters (political will and implementation of fundamental principles, procedural simplification, compliance management and border agency cooperation). Ms. Brown explained some of the lessons learned from the work carried out so far, such as the need for a firm commitment at the highest levels of government and business, mutual accountability between donors and host countries, public/private sector cooperation and transparency, inclusion of all agencies concerned and other important elements.

The Members enquired about the procedures for collecting needs of Members and were provided with the information on how to ensure support from the WCO, EU and USAID programmes.

Conclusion

The Working Group:

- took note of the presentations of the TF/TFA-related support provided by the EU and USAID and the mechanisms for providing such assistance.

Item VI – Art. 11 - Panel discussion about Transit

a) Introduction by Secretariat

The Secretariat introduced the WCO Transit Handbook which had been adopted at the last Policy Commission in December 2014. The Transit Handbook included information of existing international standards such as the TFA and the Revised Kyoto Convention (RKC), relevant WCO tools and Members' experiences. The Handbook categorised the information in accordance with eight key approaches. The Secretariat also informed the TFAWG that a WCO regional workshop on transit would be held in Uganda on 16-19 February 2015.

Conclusion

The Working Group:

- took note of the introduction made by the Secretariat and acknowledged the recent publication of the WCO Transit Handbook.

b) Panel discussion about Transit

Mr. Carlos Enriquez, Minister Representative to the WCO and the EU and the Vice Chair of the TFAWG moderated the panel session. In his introductory remarks, he highlighted that functional transit regimes were essential for the economic development of Members, particularly Landlocked Developing Countries (LLDCs). He reminded the delegates that most costs for transit goods were related to border procedures.

The panel consisted of Mr. Sandagdorj Erdenebileg, Chief for the Policy Development, Mobilization, Coordination and Reporting Service of the United Nations Office for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (OHRLLS), Mr. Ramon Gomez Abg, Director of International relations of Paraguay Customs, Mr.

Sebastian Ortiz, Secretary of the Permanent Mission of Paraguay in Geneva, Ms. Anna Dubielak from the Directorate General for Taxation and Customs Union of the European Commission (DG TAXUD) and Mr. Fared Al-Asaly, International Polices Senior Advisor, Ministry of Petroleum and Mineral Resources of the Kingdom of Saudi Arabia.

The panellists addressed questions regarding the involvement of multiple agencies in transit regimes, whether the TFA had clarified GATT article V, review of regulations or formalities in connection with traffic in transit, reliable and stable transit of energy, available WCO instruments and tools such as the RKC, Transit Handbook and WCO Data Model, as well as guarantee systems.

Mr. Al-Asaly stated that the TFA had introduced several important measures such as advance filing and limited regulations and formalities. He emphasized the importance of policy space which allowed Members to ensure flexibility in implementing the TFA. Regarding energy transit, he said that the TFA did not single out energy goods so that the same TFA provisions applied to the transit this type of goods.

Mr. Erdenebileg said that coordination at bilateral, regional and international levels would also be important for effective transit regimes and he referred to existing regional cooperation in Africa such as the Northern Corridor projects.

Mr. Ramon Gomez Abg and Mr. Sebastian Ortiz explained that the TFA has many “GATT-plus” measures, such as opportunity to comment, information and consultation before entry into force and Authorized Operators. They shared their experiences regarding the RKC and WCO Data Model.

Ms. Dubielak from DG TAXUD spoke about the processes of the EU in relation to the introduction of new regulations. The European Commission usually communicated with EU Members at an early stage and consulted with private sector through the Trade Contact Group. She emphasized the importance of an appropriate balance between trade facilitation and security measures. Ms. Dubielak explained the guarantee system of the EU including the waiver for a guarantee for reliable persons. She also stated that the international guarantee chain established by international agreements such as the TIR Convention and Istanbul Convention, were another option.

A delegate introduced a study of Economic and Monetary Community of Central Africa (CEMAC). They used ASYCUDA and conducted pilot corridor projects in Central Africa. Another delegate said she appreciated the development of the WCO Transit Handbook.

Conclusion

The Working Group:

- listened with interest to a panel discussion on transit;
- took note of the panellists' view that transit was an important trade facilitation measure in the national, regional and global context and that effective and efficient transit systems were extremely important to landlocked developing countries to connect to regional and global value chains, giving them access to regional and global markets;
- took note of the panel agreeing that a simplified and effective guarantee system was essential for a well-functioning transit system;
- took note of the panel's opinion that the WCO instruments and tools, such as the RKC, the WCO Data Model and the WCO Transit Handbook, were valuable tools to assist Members in setting up reliable transit systems.

Item VII – Revised Kyoto Convention accession and TFA ratification

The Secretariat made a brief introduction to document PT0025. The Secretariat highlighted the importance of the RKC and the TFA, including the legal procedures to accede to the RKC and to accept the Protocol of Amendment concerning the WTO TFA. The Secretariat also explained that the RKC would be instrumental for the implementation of the TFA.

Delegates supported the simultaneous ratification of the RKC and the WTO TFA as they understood that these agreements were mutually beneficial and encouraged other Members that have not yet acceded to the RKC to take this opportunity to combine both processes.

Conclusion

The Working Group:

- took note of the information provided by the Secretariat on the procedure to accede to the RKC and the acceptance of the Protocol of Amendment concerning the WTO TFA, bearing in mind at the same time that such an approach should not hinder or delay Members from acceding to either of the two instruments.

Item VIII – Article 10.6 - Use of Customs Brokers

a) Introduction by Secretariat

b) Member case study, presentation by Ecuador

The Secretariat explained the provisions of the WTO TFA and the RKC relating to the use of Customs brokers. It informed the delegates about the preliminary study carried out by the Secretariat and the discussions held on this topic at the December 2014 Policy Commission. Enunciating the future work at the autumn Permanent Technical Committee (PTC) in terms of the directions of the Policy Commission, the Secretariat invited the TFAWG to provide guidance and share their working experiences for carrying this work forward.

A representative from the National Customs Service of Ecuador presented a case study on their use of Customs brokers. He described their legislation and working experiences, in particular provisions related to the optional use of Custom brokers for specified categories of importers/exporters such as 'individuals' for clearance of their personal belongings/household items/furniture and 'exporters'. The presentation can be found on the WCO website under the Third TFAWG meeting.

Responding to a question from a delegate, the representative from Ecuador clarified that foreign representatives of companies needed to meet minimum qualification and training requirements for lodging declarations and that they were also liable for complying with the formalities required by law.

While supporting the work being done by the Secretariat and acknowledging the wide range of models, a delegate from the private sector suggested to explore the possibility of carrying out a survey to ascertain brokers' role, regulatory/licensing requirements, challenges, opportunities and lessons learned as a potential way forward. The Secretariat further invited the TFAWG to coordinate with their delegates at the March 2015 PTC regarding this topic.

To a specific question from a delegate concerning the mandatory use of brokers, it was clarified that article 10.6 of the TFA required Members not to introduce any requirement for the mandatory use of Customs brokers from the entry into force of the agreement, whereas the RKC clearly stipulated the "optional" use of brokers. A delegate added that the TFA provisions would also support Members in making a business case for elimination of the mandatory use of Customs brokers (where applicable).

Conclusion

The Working Group:

- took note of the presentation by the Secretariat on the ongoing work on Customs brokers including the discussion at the Policy Commission in December 2014 and the potential way forward;
- acknowledged the presentation by the Ecuador Customs regarding their use of Customs brokers;
- discussed opportunities to continue work on this topic, and encouraged delegates to share their experiences including by coordinating with their delegates for the March 2015 PTC.

Item IX – Article 7.2 - Electronic Payment of Customs Duties, Taxes, Fees and Charges

a) Introduction by Secretariat

b) Member case study, presentation by Japan

The Secretariat informed the TFAWG about the WCO tools to support e-payment including the Single Window Compendium and the ICT Guidelines.

A representative of the Customs and Tariff Bureau of the Ministry of Finance of Japan shared Japan's experience on establishing electronic payments. He explained that the electronic payment implementation was an integrated part of Japan's national IT implementation within the NACCS system with the banking community as the main stakeholder. E-payment had been started in 1978 with a special bank account and the use of internet for multi payment system in 2004. The latest development of e-payment implementation was the use of real time account transfer payment in 2008.

Conclusion

The Working Group:

- took note of the Secretariat's introduction to the topic of electronic payment;
- took note of a presentation by Japan about the electronic payment of Customs duties, taxes, fees and charges.
- congratulated Japan on the efficient process it had put in place and expressed its gratitude to Japan for sharing its experiences with the TFAWG.

Item X – Article 7.3 - Separation of Release from Final Determination of Customs Duties, Taxes, Fees and Charges

a) Introduction by Secretariat

b) Member case study, presentation by Turkey

The Secretariat explained the provisions of Article 7.3 of the WTO TFA, indicating that this measure aimed to recommend to Customs administrations not to hold the goods while waiting for the final determination of the amount of duties, taxes, other fees and charges. The general objective was to reduce the cost and the delays caused by Customs formalities, bearing in mind that the Customs administrations could request for a guarantee in order to cover the risk of non-payment of the final amount when it was determined. This guarantee could also be requested in order to cover the amount of possible penalties if, before the release of goods, an offence had been committed. The Secretariat explained the linkages of this measure with the WTO Agreement

on Customs Valuation and the RKC, as well as with some other WCO tools such as The SAFE Framework of Standards (SAFE) and the Immediate Release Guidelines (IRG). Finally, the secretariat indicated that, under this context, it was important for WCO Members to share their experience in the implementation of this article.

A representative from the Customs administration of Turkey presented a case study on their implementation of Article 7.3. He described that Turkey applied this measure if there was any dispute on classification, valuation or origin. In that case, Customs could require a partial or complete guarantee equivalent to the amount disputed and this guarantee was automatically released when no longer needed or applicable.

He explained the benefits of implementing this article such as reduction of delays, less need of space to be allocated for the storage of goods, reduced responsibility of keeping the goods in good condition and securing the financial risk for Customs by using guarantees.

He concluded his presentation by indicating one challenge related to the management of the guarantee especially when the Customs administration lost the dispute and the Treasury had to pay back not only the cash deposit but also some interest. Another challenge was sometimes the difficulty for the Customs administration to accept the postponement of the collection of duties and taxes while goods were being released.

The very informative presentation can be found on the WCO website under the Third TFAWG meeting.

Delegates from some Customs administrations took the floor and raised issues such as the nature of the guarantee, the length of time given for the discharge of the guarantee, the partial guarantee, and the possibility given to the importer to use the goods while waiting for the final determination of the amount.

Responding to all these questions from delegates, the representative from Turkey indicated that in his Customs administration, guarantees were always a cash deposit or a bank guarantee and there was no limited time for the guarantee. On the other hand, he clarified that partial guarantees were requested when the Customs administration had already agreed with the customer on a certain amount of duties and taxes to be paid according to the calculation done by the computing system.

He further explained that when the decision was taken in case of disputes, the Customs administration was obliged to discharge the guarantee in a couple of days bearing in mind that the guarantee was kept by the Customs for the duration of the dispute.

Conclusion

The Working Group:

- took note of the introduction of the topic provided by the Secretariat, where linkages to other WTO and WCO instruments and tools were explained;
- took note of a presentation by Turkish Customs on separation of release from final determination of Customs duties, taxes, fees and charges in Turkey;
- congratulated Turkey and expressed its gratitude to Turkey for sharing its experiences with the TFAWG.

Item XI – Any Other Business

Mexico suggested that the Members actively participated in setting the agenda of the TFAWG given the importance of implementing the TFA. At the next meeting, a document could be prepared by the Secretariat with future proposals.

The Secretariat suggested drafting an Executive Summary which captured a little more detail than usual and refrain from writing a full report.

Conclusion

The Working Group:

- agreed to Mexico's proposal concerning future agenda items for the TFAWG;
- agreed to the Secretariat's proposal regarding the reporting.

Item XII – Closing

The Working Group took note of the closing remarks of the Chairperson, who thanked all those present for their active and constructive participation throughout the meeting.
