



WCO WORKING GROUP ON
THE WTO
TRADE FACILITATION
AGREEMENT
-
10th Meeting
-
22 - 23 October 2018

PT0084E1b

Brussels, 11 October 2018

TFAWG TERMS OF REFERENCE

(Item V of the Agenda)

Introduction

1. At the 8th TFAWG held on 16-18 October 2017, discussions were held about the work of the TFAWG after the entry into force of the TFA. The discussion was very useful in determining the future operations of the TFAWG, including the monitoring function of the TFAWG. It was felt that the current Terms of Reference (ToRs) were not sufficiently covering this aspect.
2. The 9th TFAWG decided that the monitoring function needed to be clarified at the following meeting of the TFAWG. The delegates felt that the term monitoring had negative connotations and that it should be replaced by a different term. In addition, delegates were of the opinion that the WCO should focus on the implementation of the relevant WCO instruments and tools that supported Members in TFA implementation.
3. At the 79th Session of the Policy Commission in June 2018, delegates discussed the TFAWG's work. In a wide-ranging discussion, the Policy Commission expressed its appreciation of, and support for, the activities of the TFAWG and the progress made to date, including continued dynamic support to Members regarding the harmonized and efficient implementation of the TFA by means of the various instruments and tools. Delegates recognized that the TFAWG had a pivotal role to play in TFA implementation from both a political and a technical perspective, and that this required effective and efficient coordination, especially with the WTO, as well as the ability to monitor the progress of implementation - through Time Release Studies, (TRS) for example. The Policy Commission suggested that the TFAWG review its current Terms of Reference and submit a revised version to the Policy Commission in December 2018.

TRS as a TFA implementation measurement tool

4. Article 7.6 of the TFA identifies the WCO Time Release Study as a tool for Members to measure and publish their average release time of goods periodically and in a consistent manner.
5. TRS is one of the methods used for the review of clearance procedures to measure the average time taken between the arrival of the goods and their release. This facilitates Customs, in collaboration with other relevant government agencies and stakeholders, to identify both the problem areas and potential corrective actions to increase their efficiency. The use of automation and other sophisticated selectivity methods can allow Customs to improve compliance and at the same time improve facilitation for the majority of low risk goods.
6. Measuring the time taken for the release of goods also meets the concerns of trade circles regarding long delays in Customs clearance. It helps Customs to respond to trade requirements where the operators need to plan ahead for the movement of goods across borders in order to meet tight production schedules and just-in-time inventory systems that require forward planning.
7. The time required to release goods has increasingly become the measure by which the international trading community assesses the effectiveness of a Customs administration. The WCO Time Release Study provides guidance to Customs administrations on the best way to apply this method.
8. TRS, a strategic tool for trade facilitation performance measurement, could be used by Members in the strategic planning and proper sequencing of TFA measures by the National Committee on Trade Facilitation (NCTF) in terms of accurate and comprehensive assessment of trade facilitation needs and priorities. It can also be used for periodic evaluation of the outcomes of the implementation of specific facilitation measures and associated policies and programmes.
9. In short, TRS allows Members to identify where potential trade facilitation measures have not yet been fully implemented, including TFA provisions. From that perspective, TRS is more than just a tool to determine the average release times, it also enables Members to measure the implementation of TFA provisions by Customs administrations but also other Cross Border Regulatory Agencies.
10. The Secretariat suggests to include wording in the TFAWG Terms of Reference about TRS as a tool to periodically measure the implementation of the TFA. The Secretariat also suggests to promote TRS and seek support at the WTO and other international institutions as a performance measurement tool. During the Council Session in June 2018, the World Bank already offered support.
11. Promotion of TRS as a TFA implementation measurement tool could be done by, e.g.:
 - Promoting at relevant events and occasions at national, regional and global level;
 - Informing national representatives at the WTO;
 - Informing the WTO TFC;
 - Making TRS a standing item at the TFWAG where Members will have the opportunity to share their experiences;

- Sending national experiences to the WCO Secretariat for inclusion in the TFA Implementation Guidance and for analysis thereof, at an aggregate level to identify trends, gaps and opportunities at the national, regional and international levels, including the development of a global TRS database for benefits of larger membership;

Alternative terminology for monitoring

12. TFAWG expressed reservations around the use of the term “monitoring”. WTO uses the term “track” to explain what the purpose of the TFA Database is. In principle this seems to be a well-chosen term as “track” lacks the negative connotation that monitor has and it expresses the ultimate goal of the TFA, which is making progress in Trade Facilitation in order to cut red tape at the border. According to dictionaries, the definition of “track” is: “note the progress or course of”. Therefore it is suggested to use the term “track” in relation to noting the progress of WCO Members in implementing the TFA. In accordance with Members’ wishes this will be done by tracking the application of WCO instruments and tools, as included in the WCO TFA Implementation Guidance, that are relevant for the successful implementation of the TFA by WCO Members.
13. The TFAWG Terms of Reference are attached as an Annex to this document. Suggested amendments to implement the Policy Commission’s wish for the TFAWG to be able to track the progress of implementation have been included in track changes.

Action requested

14. The TFAWG is invited to
 - discuss the amendment of its Terms of Reference; and,
 - endorse the amendments so they can be submitted to the Policy Commission in December 2018.

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Annex to
doc. PT0084E1

TERMS OF REFERENCE FOR THE WCO WORKING GROUP ON THE WTO AGREEMENT ON TRADE FACILITATION

Confirmed by the Council - June 2014

Chairperson : Representative of a WCO Member administration

Established : March 2014

Duration : Until superseded or revoked

1. Mandate

The WCO Working Group on the WTO Agreement on Trade Facilitation (TFAWG), acting under authority of paragraph 19 of the June 2014 Report of the Policy Commission (Doc. SP0487E1b), and as referenced in paragraph 99 of the Minutes of the 2014 Customs Co-operation Council (Doc. SC0140E1a), is formed for the purpose of taking up the practical aspects of meeting expectations arising out of the WTO Agreement on Trade Facilitation (WTO TFA). The Working Group will operate at two levels : a level dealing with policy matters concerning which it shall be guided by and report to the Policy Commission; and a second level dealing with technical matters regarding which it will be guided by and report to the Permanent Technical Committee and the Capacity Building Committee in matters of their respective competence. It advises these bodies, as well as the Secretary General, on progress and issues relating to categorization according to the TFA, tailor-made technical assistance, and future implementation of the TFA by WCO Members.

2. Membership

The TFAWG will be open to all interested Members of the WCO, parties with recognized WCO observer status, partner organizations such as the WTO, and other entities, including those representing the private sector, where deemed appropriate.

3. Purpose and Scope

Based on the Dublin Resolution adopted at the Policy Commission's 70th Session in December 2013, the purpose and scope of the TFAWG is to advise, as appropriate, the Policy Commission, the Permanent Technical Committee, the Capacity Building Committee and the Secretary General on the full range of issues concerning the WTO TFA. Such issues may include : matters relating to preparation of deliberations in the WTO Preparatory Committee on Trade Facilitation and the subsequent WTO Committee on Trade Facilitation; relationship between the WCO and the WTO Committee on Trade Facilitation; representation of the WCO in that Committee; matters relating to special and differential treatment; matters relating to the direction of the implementation of the WTO TFA by WCO Members; the short, medium and long term goals of implementation and the identification of priorities in each term; matters relating to the relationship between existing WCO instruments and tailor-made technical assistance to implement WTO TFA provisions; matters relating to the preparation of implementation, tracking the implementation progress and administration of the WTO TFA, e.g. through the use of the WCO Time Release Study. In relation to these matters, specific work will be carried out by the TFAWG and brought forward to the appropriate body for

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endorsement or further direction. Required tasks will be carried out in periodic meetings convened by the Secretariat and presided over by the Chairperson elected by the TFAWG.

4. Key Deliverables

The key deliverables of the TFAWG are to:

- analyse, prepare and evaluate relevant actions and measures in relation to practical aspects of meeting expectations arising from the WTO TFA; and
- submit timely reports to the Policy Commission, Permanent Technical Committee and Capacity Building Committee as appropriate, that shall :
 - a. track the progress of implementation of WCO instruments and tools that support Members in applying the TFA, e.g. through the WCO Time Release Study;
 - b. provide recommendations of the TFAWG based on an analysis of the needs assessments which includes technical assistance, and
 - c. describe the WCO's activities for the technical assistance and capacity building effort to support implementation of the WTO TFA;
- establish and maintain an annual work plan, including timelines, for TFA-related activities.

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5. Means of Operation

The TFAWG will meet under the leadership of its Chairperson, with membership being determined as specified above.

The Customs members of the TFAWG will elect the Chairperson and the Vice-Chairperson for a two-year term from among its Customs members. The outgoing Customs Chairperson and Vice-Chairperson will be eligible for re-election, though rotation of the chairpersonship is desirable, with the Vice-Chairperson succeeding the Chairperson.

The TFAWG will conduct its work in English and French.

If necessary, the TFAWG may decide to set up dedicated (virtual) groups.

6. Resources Required

The TFAWG will hold its sessions as and when required, and subject to approval by the appropriate bodies. It will normally meet twice a year. The time to be allocated for the meeting will be determined by the scope of issues to be discussed. However, the Secretary General may determine whether circumstances dictate the need for scheduling meetings more frequently. The length of each session will depend on the number and complexity of items on the Agenda.

The participants in the TFAWG should have decision-taking authority in their respective Customs administrations.

The general administrative arrangements and provision of support services shall be the responsibility of the WCO Secretariat.