

**Notes for the WCO Informal Study Group
on the WTO Trade Facilitation Negotiations**
(Subject : WTO TFNG meeting from 26 to 30 May 2008)

Note : The WCO Secretariat attended the WTO Meeting. These notes are available on the WCO Web site, as requested by the Members participating in the WCO Informal Study Group, and were prepared for my personal use. Members who would like to use the contents of these notes must contact their own information source in Geneva/the Capital (e.g. : Geneva delegation office, Ministry of Foreign Affairs, Ministry of Commerce, etc.) for verification.

2 June 2008
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Procedures for the May 2008 WTO TFNG

1. The WTO TFNG Chairman set out the following procedures for the WTO TFNG meeting :
 - the week began with a formal plenary session, followed by an informal plenary working session led by the Chairman. In the course of the week, the Chairman organized several informal plenary working sessions on WTO Members' proposals regarding Articles V, VIII and X of the GATT. The main new and/or revised WTO documents which were presented and discussed were Docs. TN/TF/W/154 (Customs Cooperation), TN/TF/W/153 (Advance Rulings), TN/TF/W/146/Rev.1 (Transit), TN/TF/W/138/Rev.2 (Single Window), TN/TF/W/129/Rev.2 (Regional Approaches) and TN/TF/W/128/Rev.1 (Border Coordination);
 - informal working sessions on these issues as well as on S&D, chaired by different WTO Members, were also held in the course of the week;

- the week-long meeting concluded with a formal plenary session on Friday 30 May, which took stock of progress made during the week and which authorized the Annex D Organizations to participate in the next meeting.

Interesting points in the negotiations

2. Several proposals were discussed. Canada explained the new proposal on advance rulings contained in Doc. TN/TF/W/153. The discussions were essentially given over to clarifying certain terms or aspects of the text, such as the time period for taking a decision (certain Members would like it to be more precise and to indicate a specific time period within which a decision must be given), the time period for notification should an advance ruling be refused (once again, certain Members would like greater precision), the information to be supplied for the decision-making process (what information is required?), whether or not appeal procedures are applied, the introduction of the option to revoke or amend the decision retroactively if the information provided was incorrect, or the compulsory nature of paragraph 5 (publication of these advance rulings). Furthermore, the scope of application of this proposal is still bracketed, apart from tariff classification (the other domains being the application of Customs valuation criteria, the application of a drawback, deferral, or other relief from Customs duties, and the application of quotas). This proposal will have to be revised once again and discussed further.
3. With regard to regional approaches to trade facilitation (Doc. TN/TF/W/129/Rev.2), the question was raised as to which groups of countries this revised proposal applied (small economies and/or developing countries?/ small, vulnerable economies?) and whether it was restricted to establishing an enquiry point. Several countries supported this measure.
4. The revised proposal concerning the Single Window (Doc. TN/TF/W/138/Rev.2) was presented by Korea (it should be noted that Thailand has become a co-sponsor). Once again, a number of requests for clarification of, or amendment to, this revised text were made with regard to the scope (paragraph 1 : including transit? - paragraph 2 : limited to a single transaction), the procedure (not wishing to restrict the

notification of results via the Single Window only), the use of certain terms (what do “in a timely manner” and “the results of their examinations” mean?). In this connection, the principle of S&D was recognized as being extremely important in order to be able to implement this measure progressively, taking account of countries’ requirements and capacities to implement it.

5. Regarding the proposal on border agency coordination (TN/TF/W/128/Rev.1), the main issues raised were, firstly, whether this should be compulsory or merely a “best effort” provision and, secondly, how this coordination should be implemented.
6. With regard to transit (TN/TF/W/146/Rev.1), the sole issue of discussion focused on legitimate exceptions to freedom of transit (only those set out in Articles XX and XXI of the GATT, or beyond?). Bilateral and multilateral discussions will be held on this matter.
7. With regard to Customs cooperation, Canada presented Doc. TN/TF/W/154 which generated a great deal of discussion. The main issues discussed were :
 - paragraph 1 : should the scope of application be limited to the declared value of goods, or should it be extended?
 - paragraph 2 : what does “mutually agreed terms” mean and entail?
 - paragraph 3 : request for subsequent analysis and link to information sharing set out in the Valuation Agreement;
 - paragraph 5 : why limit the protection to “*commercially* confidential information” rather than “confidentiality of information” as mentioned in paragraph 7 (b)?
 - paragraph 7 : “should” does not entail a real commitment. This text appears to grant too much leeway to the requested country;
 - paragraph 14 : should not limit requests to a certain number (but rather be based on the available resources);
 - paragraph 15 : may give too much discretion to Members.
8. A number of working sessions were devoted to the issue of S&D (often chaired by Argentina) and progress was made. The main areas of consensus at this stage are as follows. Firstly, there is some question of presenting a plan in which the

commitments contained in the Agreement are listed under three separate categories, namely :

- category A : provisions applicable immediately after entry into force of the Agreement;
- category B : provisions to be implemented following expiry of the transition period;
- category C : provisions related to Members' capacities to implement them.

This plan could be presented upon signature of, or at any rate no later than the entry into force of the Agreement and would be subject to a capacity self-assessment being carried out (with or without assistance). This self-assessment exercise would consequently be aimed at identifying measures covered by these three categories, but not at setting a schedule or estimating the costs of implementing measures B and C. With regard to the technical assistance that may be requested by developing and least-developed countries to conduct capacity self-assessment workshops, the WTO Secretariat said that it would endeavour to reply, by the end of the year, to all the requests received by 18 July 2008.

9. In respect of category B and C measures, more detailed discussions will have to be held, especially regarding the category C proposals which will have to be covered by a capacity building plan (to be notified to the Trade Facilitation Committee - when ?). Many Members expressed a preference for greater flexibility in terms of this S&D mechanism (e.g. in cases where the capacity building plan cannot be presented within the time frame or where capacities have not been acquired within the deadline set. Furthermore, are these deadlines merely guidelines or are they compulsory?). There is also the issue of whether a final date must be set by which the Agreement would be applied in its entirety.
10. At the end of the meeting, the Chairman welcomed the headway in the discussions. Overall, as in the previous two meetings, he was satisfied with the progress made during this meeting and with the very positive and constructive climate throughout. He was nevertheless aware that a great deal of important work still had to be done and that the consolidation work had to continue. Furthermore, the Chairman wished to stress the need to step up the drafting work. To that end, he said that the next meeting would have to re-examine all the compilation texts, one by one, based on the

working documents (one per measure) prepared by the WTO Secretariat. Each document will contain the current proposal(s) as well as any useful extracts from aides-mémoires. The authors will systematically have to indicate whether or not they wish to take account of the suggestions made to date.

Next WTO TFNG meeting

The next TFNG meeting is provisionally planned for the week of 14 July 2008. The WTO Secretariat reminded participants that funds were available to finance a national expert's participation in this meeting, and that interested Members should submit a request to the WTO to that end as soon as possible.

Moreover, on Monday 21 July 2008 the World Bank is holding a discussion session on the capacity self-assessment exercises and key lessons learned following the initial national workshops regarding this assessment. An invitation will be sent to WTO Members to that end.

Secretariat comments on the procedures for the WTO Trade Facilitation Negotiations

In order to protect the interests of the WCO and Customs during the WTO negotiations, the Secretariat continues to encourage WCO Members to play a greater role in the WTO negotiation process.
