

Notes for the WCO Informal Study Group on the WTO Trade Facilitation Negotiations

(Subject : WTO TFNG meeting from 14 to 18 July 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.

30 July 2008
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Procedures for the July 2008 WTO TFNG

1. The WTO TFNG week-long meeting proceeded as follows :
 - 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 VIII and X of the GATT (based on worksheets prepared by the WTO Secretariat). The main new and/or revised WTO documents which were presented and discussed were Docs. TN/TF/W/155 (Publication and availability of information), TN/TF/W/156 (Prohibition of requiring consular transactions), TN/TF/W/110/Rev.1 (Customs brokers), TN/TF/W/131/Rev.1 (The use of international standards), TN/TF/W/153 (Advance rulings) and TN/TF/W/107 (Fees and charges);
 - over the course of the week, a large number of officials from the capitals (almost one hundred) participated in the negotiations and were consequently able to support their negotiators in Geneva. To that end, the majority of these delegates received funding from the United Kingdom and the European Commission. As part of this assistance programme, special training sessions were organized during the afternoons, thus resulting in the suspension of the negotiations;
 - the last day focused mainly on the S&D issue and concluded with a formal session on Friday 18 July which took stock of progress made during the week (Doc. TN/TF/6) and which authorized the Annex D Organizations to participate in the next meeting;
 - in addition, the World Bank organized a discussion session on 21 July regarding the needs self-assessment exercises and the main lessons learned following the first national workshops on this self-assessment. A report will be drafted by the World Bank following this meeting and will subsequently be made available to Members.

Interesting points in the negotiations

Article X

2. Several proposals were discussed, starting with the proposal on publication and availability of information contained in Doc.TN/TF/W/155. In the interests of consolidation, the co-authors initially proposed that this communication replace TN/TF/W/114/Rev.1 and TN/TF/W/132/Rev.1 in the compilation document TN/TF/W/43/Rev.15 and its subsequent revisions, except for the text on prior publication and consultation contained in Doc. TN/TF/W/132/Rev.1. The discussions mainly focused on clarifying certain terms or aspects of the text such as the judicial decisions mentioned in paragraph 2 (exact scope?), the elements covered by paragraphs 2 (c) and (e) (maintaining these elements? why only in terms of Customs classification? publication only of fees collected by public authorities?), the scope of paragraph 4 (a) regarding publication on a website or else the operation of enquiry points (paragraph 6).
3. With regard to advance rulings (Doc. TN/TF/W/153), the main issue still relates to their scope (paragraph 5), namely should one go beyond tariff classification (paragraph 5 (a)) (and why not include origin)? In general terms, the elements covered by subparagraphs (b), (c) and (d) are not yet sufficiently precise and some Members would tend to favour deleting them or making them optional.
4. It should be noted that the proposal on import alerts (Doc. TN/TF/W/122) is far from obtaining unanimity both in terms of its nature (this measure should not be incorporated in the TF Agreement, but rather in the SPS Agreement) and its scope (should be applied to all Members, whether or not Customs Unions).

Article VIII

5. With regard to the proposal on fees and charges (Doc. TN/TF/W/107), many issues are currently still pending, especially with regard to the cost (direct or indirect) or else the exclusion of the ad valorem basis as the basis for calculation. There was also the issue of ensuring consistency between this proposal and the proposal on the prohibition of requiring consular transactions (Doc. TN/TF/W/104). With regard to this last issue, it is worth noting the communication submitted by the United States in Doc. TN/TF/W/156 and which contains a range of additional information on the costs and burdens associated with consularization requirements, as well as on previous efforts to eliminate this practice.
6. In terms of the use of international standards (TN/TF/W/131/Rev.1), there was an initial proposal to incorporate Doc. TN/TF/W/130 (on the use of international standards for the simplification and harmonization of trade documents) within the latter in the interests of consolidation. All the Members agree that standardization is an extremely important aspect of TF and that a text in this respect is consequently required. Many Members expressed support for a general text and do not want to refer to specific international standards. Certain Members would also like a more flexible text in paragraph 1 by including therein a term such as "as far as possible" (the idea is that national standards can sometimes be more effective than

international standards). In this context, Norway also asked that the WCO give an updated presentation on its international standards at the next TFNG.

7. With regard to Customs brokers, the European Communities presented Doc. TN/TF/W/110/Rev.1 which was widely discussed. The amended revised version radically changes the scope of this proposal, insofar as it is no longer a question of abolishing the compulsory use of Customs brokers, but merely ensuring that licensing requirements are transparent and proportionate. At this stage, several requests were made for clarification of paragraphs 2 and 3 (what is meant by “qualified economic operators”? Why can the number of licences not be limited?).
8. Finally, the proposal on the Single Window remains problematic for many WTO Members and some of them recommend making this a “best effort” provision.
9. Little progress was made in terms of S&D and there is still 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 the signature, 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.

10. 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.
11. At the end of the meeting, the Chairman welcomed the headway in the discussions. These negotiations continue to operate using the bottom-up process that has characterized this Group’s working method since the very outset. Further negotiations to establish the text of the Agreement will continue on the basis of the compilation of proposals, using the worksheets and aide-mémoires in which account is taken of the suggestions for additions, eliminations and modifications that are made by delegations with respect to those proposals. These documents are nevertheless without prejudice to Members’ positions, including the right of each delegation to

continue to make further suggestions for additions, eliminations and modifications to the proposals. They are updated regularly to reflect progress in these negotiations.

12. Work is therefore continuing in a variety of configurations, combining Negotiating Group sessions with complementary activities by the Membership in various formats (bilateral, plurilateral, open-ended). In this context, the Chairman particularly encouraged delegations to intensify their informal, open-ended process of negotiations on S&D and capacity building.
13. In terms of technical assistance and capacity building, countries requesting it will receive individual assistance to conduct a national assessment to identify their needs and priorities in the area of trade facilitation. 30 national self-assessment workshops have been held to date, and a further thirty or so are still expected to take place this year.

Next WTO TFNG meeting

The next TFNG meeting is provisionally planned for the week of 15 September 2008.

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 participate in the WTO negotiation process.
