

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

(Subject : WTO TFNG meeting from 27 April to 1 May 2009)

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.

13 May 2009
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Procedures for the April 2009 WTO TFNG

1. The WTO TFNG meeting proceeded as follows :
 - the meeting began with a formal plenary session (no new proposals), followed by an informal plenary working session led by the Chairman. In the course of the meeting, the Chairman organized several informal plenary working sessions on WTO Members' proposals regarding Article VIII of the GATT. In particular, work began with the examination of Doc. TN/TF/W/144/Rev.2 (Expedited Shipments);
 - Members are again reminded that neither the WCO nor its Secretariat participate directly in the WTO negotiations, only governments being entitled to do so. The WCO, like the Annex D Organizations, has observer status, but, from this April 2009 meeting onwards, the Annex D Organizations will no longer be able to participate in the TFNG's informal sessions;
 - over the course of the meeting, officials from capitals (Africa and LDCs) receiving specific funding participated in the negotiations and were consequently able to support their negotiators in Geneva. On this occasion 45 officials were able to benefit from the programme which will again be available (funding from the EC, United Kingdom and Norway) for the next meeting;
 - the last two days focused mainly on the special and differential treatment (S&D) issue and the meeting concluded with a formal session on Friday 1 May which took stock of the progress made during the week;
 - in addition, at the initiative of the Norwegian delegation, a special session on international standards was held on Tuesday afternoon, during which the WCO and UN/CEFACT presented their TF instruments;
 - finally, Wednesday was devoted to workshops for the exchange of information between WTO Members regarding both the establishment of a national trade facilitation (TF) committee and the application of advance rulings.

Points of interest in the negotiations

Compilation (TN/TF/W/43/Rev.18)

2. The WTO Secretariat has just published the 18th revised version of the Compilation. The main changes as compared with the 16th version are as follows:
 - the text relating to the use of Customs brokers in Doc. TN/TF/W/110/Rev.1 has been replaced by the previous version of the proposal at the request of the authors, which is of fundamental importance given that the revised version appeared to contradict the RKC;
 - New Zealand's proposal (TN/TF/W/126) concerning tariff classification has been withdrawn;
 - proposal TN/TF/W/158 (Honduras, Norway and Switzerland) concerning the establishment of a national committee on TF has been introduced;
 - revised proposal TN/TF/W/136/Rev.2 (Canada and Switzerland) concerning separation of release from final determination and payment of Customs duties, taxes and fees has been incorporated.
3. It should be noted that at the last meeting the Compilation texts were examined on the basis of a working document prepared by the WTO Secretariat which includes the proposed texts as well as all the comments made on each of these measures at previous meetings. No new proposal was introduced at this meeting.

Article VIII

4. Members began with a lengthy discussion of Doc. TN/TF/W/144/Rev.2 (United States) on expedited shipments which resulted in several proposals, namely: to merge this proposal with that concerning authorized traders (or at any event avoid any overlap); to make it less prescriptive (for example, as regards the 3 hour release time – suggestion to make reference to “a reasonable period”), to make it more flexible and more open to all operators; to introduce flexibility of implementation for LDCs and DCs¹ (SDT); to simplify the definitions of expedited shipment provider and single document; and to envisage categorizing the goods. Moreover, there were numerous requests for clarification about how the system could be implemented, what types of infrastructure were necessary, when a guarantee would be needed and what was the precise status of the single document.
5. The proposal on the prohibition of requiring consular transactions (TN/TF/W/104 from the United States and Uganda) was again discussed and the great majority of Members supported the measure. Generally speaking, Egypt is still fiercely opposed to the proposal and wants to maintain its consular transactions. By way of compromise, some Members proposed progressive elimination and stressed the need to bring these fees into conformity with the criteria of Article VIII.
6. The proposal on border agency coordination (TN/TF/W/128/Rev.2) had been revised with a view to the more precise specification of the areas of cross-border cooperation and, in this connection, Members made numerous requests for changes/clarification, such as making the scope of this cooperation more general (they also wished to know whether the cooperation was confined to land borders or also included maritime

¹ Least Developed Countries (LDCs) and Developing Countries (DCs).

borders); incorporating (or referring to) Standards 3.3 and 3.5 of the RKC; and adding the notion of joint controls.

7. With regard to the proposal concerning the elimination of pre-shipment inspection (TN/TF/W/108), it was proposed that there be added a new § prohibiting the requirement of a cargo tracking note and the associated documents as a condition of the importation, unloading or transhipment of goods.
8. The proposal on the reduction/limitation and periodic review of formalities and documentation requirements – Article VIII (doc. TN/TF/W/124/Rev.2) was then discussed (Hong-Kong, China and Switzerland) and there were numerous requests for clarification/changes with regard to the revised text. For example, how would it be known that a Member had reviewed and reduced its formalities; the need to list a minimum of import/export documents to be taken into account in the course of a review; the use of the term “periodically” rather than “at reasonable and regular intervals”; the inclusion of transit (not just import/export) and reference not only to documents but also to data.
9. With regard to the use of international standards (TN/TF/W/131/Rev.1), an informal plenary session chaired by Norway was organized on the afternoon of Tuesday 28 April. The UN/CEFACT and WCO Secretariats presented their organizations’ trade facilitation instruments (1 hour) – for the WCO: in 3 parts, namely: (1) the WCO in brief, (2) the TF instruments (those referenced within the WTO proposals and the others), (3) the WTO-WCO relationship within the context of the TFNG. The presentation was very well received and a long discussion (Q&A) followed (both technical and institutional questions). Specifically, awareness of the WCO’s instruments in general and the RKC in particular was sharply raised and these exchanges of views should help the negotiators to deal with the question of international standards more effectively in the future. Switzerland has also circulated an informal working document summarizing the state of the negotiations in this area.

Articles X and V

No discussion

National experience concerning the establishment of a national follow-up committee

10. First of all, attention should be drawn to the existence of proposal TN/TF/W/158 (Honduras, Norway and Switzerland) concerning the establishment of a national committee on trade facilitation which was introduced into the Compilation, but has not really been discussed so far. The Annex D Organizations strongly support this measure.
11. During the Wednesday morning workshop, a number of delegations described their national experience with the establishment of a national TF committee (Benin, Saint Lucia, Uganda,...) stressing the characteristics of such a committee and its benefits (management and follow-up of TF negotiations; single contact point for negotiators based in Geneva; reporting to the government on the progress of the negotiations and their consequences; consultation of other parties not represented in the group, as needed; participation in the work of the TFNG in Geneva).

Special and differential treatment (SDT)

12. Where SDT is concerned, not having access to the negotiations, the WCO is not in a position to make reliable comments and has no conclusive information indicating significant progress in this area.

Conclusions of the Chairman

13. At the end of the meeting, the Chairman concluded by stating that the negotiations were making headway and that the work had proven useful. He stressed the importance of continuing to make new contributions, in particular regarding SDT, and wanted to see the consolidation of the texts intensified. Going beyond this general conclusion, the Chairman noted that although the approach adopted so far ("bottom-up /Member driven") had proved effective, it was based on the steady contribution of new Members' proposals. In this respect, there was some cause for concern since many proposals were still the same after more than two years. Consequently, he earnestly requested Members to redouble their efforts to submit new ideas and no longer to negotiate on the basis of multiple texts. He proposed the adoption of a new approach in July, namely, to concentrate on just a few proposals and to try to find a consensus.

Self-assessment workshops

14. In terms of technical assistance (TA) 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. 70 national self-assessment workshops have been held to date and countries that would still like to benefit from TA in conducting their self-assessment exercise should absolutely request it as soon as possible, given that this programme ends in September 2009.
15. At the initiative of the World Bank, the representatives of the Annex D Organizations held a parallel meeting to discuss the measures to be taken after the holding of the national self-assessment workshops to identify the needs and priorities in the area of trade facilitation (in particular the preparation of a new Guide concerning the plan of action).

Next WTO TFNG meeting

The dates for the next TFNG are 29 June to 3 July 2009.

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.
