

Speaking memo for WCO Informal Study Group meeting on the WTO Trade Facilitation negotiations

(re: WTO TFNG meeting of 5 - 9 November 2007)

Note: The WCO Secretariat did not attend the WTO meeting. I prepared this memo for my own use at the WCO Informal Study Group meeting of 19 November, based on the input and information received from the counterparts in Geneva who attended the meetings. This memo is uploaded to the WCO Websites as requested by Members attending the WCO Informal Study Group meeting of 19 November. Members who would like to use the contents of this memo should contact their own information source in Geneva/the Capital (e.g., Geneva delegation office, Ministry of Foreign Affairs, Ministry of Commerce, etc.) for verification.

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Introduction

1. The WTO TFNG meeting took place in Geneva from Monday 5 to Friday 9 November. It was a calendar conflict with the WCO TF meetings. The date of WTO meeting was set in short notice because of the urgent developments in other important WTO meetings: the WTO Secretariat informed to the Secretariat that the situation in Geneva did not allow the WTO members to take other dates for the TFNG.
2. In the past cases of a calendar conflict, the WCO Secretariat took a one-day or two-days trip by adjusting the meeting agenda of the WCO. The officer in charge proposed this arrangement but it was not the case for this time.
3. As the result, the WCO was not present at all the WTO TFNG meetings since the July Council session. So, the Secretariat did not attend November WTO TFNG meeting. The contents which I am going to deliver are based on the input and information received from my counterparts in Geneva who attended the meetings. If the Members would like to use the contents of my briefing, you should contact your own information source in Geneva/ at the Capital (e.g., Geneva delegation office, Ministry of Foreign Affairs, Ministry of Commerce, etc.) for verification.

Prior to the November TFNG meeting

4. Prior to the WTO TFNG meeting of 5-9 November, the WTO Chairman (Ambassador of Guatemala to the WTO) held consultations with individual WTO members on how the next step of the TF negotiations should be. The consultation took place on 10, 11 and 17 October.
5. The outcome of the consultation was briefed in the WTO Chairman's memo which was attached to the invitation FAX to the WTO meeting of 5-9 November. Through these consultations, the WTO Chairman detected a shared wish "*to intensify the process of building consensus through a more focused*

drafting exercise, using the WTO Secretariat's compilation as a basis. ... The WTO members continue supporting the transparent, inclusive and Member-driven manner."

Modalities of November WTO TFNG

6. Along with his observation, the WTO Chairman set the modalities of the WTO TFNG meeting in order to accelerate the negotiations, as follows:
 - The week started with a plenary session in the morning of Monday 5 November. New and revised WTO documents were introduced.
 - The formal plenary session in the Monday morning was followed by an informal plenary working session. In the mornings of Monday to Thursday, WTO TFNG Chairman held informal plenary working sessions on the WTO member's proposals related to GATT Article X and S&D. The WTO members were working based on the proposed texts on which the document identification, i.e., reference numbers and the proponent country names, were removed.
 - In the Monday morning, the WTO members worked on:
 - Publication and Availability of Information
 - Internet Publication
 - Establishment of enquiry points
 - The time periods between publication and implementation
 - Consultation and commenting on new and amended rules
 - In the Tuesday morning, the WTO members worked on:
 - Advance rulings
 - Right of appeal
 - Appeal mechanism in a Customs Union
 - Import alert, detention, test procedures
 - In the Wednesday and Thursday mornings, the WTO members worked on:
 - S&D
 - These morning plenary sessions of Monday to Thursday were followed by thematic informal working sessions by interested WTO members. These afternoon sessions were WTO member-driven work. They were facilitated by WTO members themselves; WTO Chairman and the WTO Secretariat did not take any particular role.
7. To my knowledge, for example, a WTO member-driven session in the Monday afternoon was attended by Barbados, China, Chinese Taipei, Costa Rica, Egypt, European Community, Guatemala, India, Japan, Korea, Malaysia,

Mexico, Norway, South Africa, Switzerland and Turkey. Customs presence in this gathering was reported to me.

8. The WTO Chairman's idea of meeting modalities was that Morning plenary would produce a list of points for further work and the afternoon interested WTO members working group would respond to these points and report back their progress.
9. A week long meeting was finished by a concluding formal plenary session on Friday 9 November. It took stock of progress made during the week.

Interesting points in the negotiations

10. There was one new document. The new document, TN/TF/W/150, was submitted by Egypt about a national experience on reform and restructuring the trade related procedures and measures, namely, the General Organization for Exports and Imports Control (GOEIC), which is a sort of Single Window agency.
11. There were two proposals on Internet Publication: one had a more simple structure and the scope than the other. Many WTO members appeared preferring the simple one. Developing countries claimed that they would need certain flexibility.
12. There were three proposals on Establishment of Enquiry Points. Again, many WTO members appeared preferring the simple one.
13. With respect to Prior publication and consultation, several developing WTO members claimed that draft tariff duty rates would not be published prior to the entry into force.
14. There were two proposals on Advance rulings. Again, many WTO members appeared preferring the simple one.
15. There was a clear gap between WTO members on the proposals of Appeal mechanism in a Customs Union.
16. A revised proposal (non-paper) on Separation of release from clearance was discussed under Appeal procedures. According to my counterparts, certain developing WTO members, in particular, some from Latin America, claimed that they did not have a system of guarantee. The Secretariat wishes to check this point.
17. There were two proposals on S&D. Several WTO members suggested studying elements commonly observed in two proposals, such as the elements in pre-signature to the TF agreement and those in post-signature. Some interested WTO members held a member-driven working session on S&D.

18. There was a WTO member-driven meeting on Use of International Standards. The issue is one of the WCO's interests. There was a WTO member-driven meeting on Single Window.
19. Many trade negotiators expressed that the negotiations were accelerated. Several delegates said that they would like to continue this path. Developing WTO members stated that they would need assurance of TACB if they commit the implementation of obligations.

Next WTO TFNG meeting

20. The next TFNG meeting was provisionally planned in the week of 10 December.

Secretariat observation on the Modalities of WTO TF negotiations

21. I would like to share the Secretariat's observation on the modalities of the WTO drafting work. The Secretariat was of view that the WTO drafting work would be increasingly conducted in informal gatherings of interested WTO members. To such informal gatherings, the Secretariat would hardly have access unless those WTO members explicitly invite the Secretariat. You would realize that in my briefing I spent more time in explaining the modalities of the WTO meetings than in explaining the contents of the negotiations.
22. Together with the fact that the Secretariat did not attend the WTO meetings since July 2007, in order to safeguard the WCO's and Customs' interests in the WTO negotiations, the situation required much more engagement through Member administrations to the WTO negotiation processes
23. Accordingly, one of the purposes of producing Annex to Doc. PC0192 is to serve Members administrations to effectively engage in the WTO negotiation process. The other purpose is to inspire possible review on WCO instruments and tools.