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State of Play – Issue Paper 8

Trade Facilitation

Disproportionate Burden on Developing Countries?

Under the framework of the World Trade Organisation (WTO), trade facilitation is defined as "the simplification and harmonisation of international trade procedures", where trade procedures include "activities, practices and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade". This definition encompasses a range of activities such as import and export procedures (customs or licensing procedures), transport formalities, payments, insurance, and other financial requirements. All of these include: 1) documentation requirements; 2) official procedures; 3) automation and use of information technology; 4) transparency, predictability and consistency; and 5) modernisation of border-crossing administration.

The scope of the work on trade facilitation in the WTO is limited to customs and border-crossing procedures. A broader definition of trade facilitation involves reform of all those government policies that impinge on the cost, uncertainty and the speed with which firms can get their goods and services across borders. The definition, as adopted by the WTO, and shared by the United Nations Conference on Trade and Development (UNCTAD) and the Organisation for Economic Cooperation and Development (OECD), is more restricted than the broad approach taken by the World Bank, which primarily covers reforms in customs, regulatory frameworks and standards (Nanda, 2003).

I. Trade Facilitation in the WTO

Work in the area of trade facilitation has been carried out by organisations such as UNCTAD, UNECE or the WCO for several decades. It was brought into the realm of the WTO in December 1996, when the Singapore Ministerial Declaration (paragraph 21) directed the Council for Trade in Goods (CTG) "to undertake exploratory and analytical work, drawing on the work of other relevant organisations, on the simplification of trade procedures in order to assess the scope for WTO rules in this area" (WTO document: WT/MIN (96)/DEC).

Specific elements related to the simplification and harmonisation of trade procedures are already contained in the WTO legal framework, e.g., in Articles V, VII, VIII, and X of GATT 1994 as well as in the Agreements on Customs Valuation, Import Licensing, Preshipment Inspection, Rules of Origin, Technical Barriers to Trade, and the Agreement on the Application of Sanitary and Phytosanitary Measures. However, it was the Singapore Ministerial Conference that gave the WTO the mandate to take a more comprehensive look at trade facilitation (See WTO website, at http://www.wto.org/english/tratop_e/tradfa_e tradfa_overview_e.htm). Further the Singapore Ministerial Declaration has mandated that only Articles V, VIII and X of GATT 1994 be considered for future multilateral negotiations. Article V deals with the Freedom of Transit of goods and transportation vessels across territories, Article VIII with the fees and formalities connected with the importation and exportation of goods, and Article X with the publication and administration of trade regulations, that is, measures to ensure transparency.

As a first step, in the aftermath of the Singapore Ministerial, a background note was prepared by the WTO Secretariat on work already done or being done on the subject of trade facilitation in other international organisations, including non-governmental organisations. This background note has been used as a basis of discussions in the CTG. This note was updated in 1998 and 2000 (See WTO, 1998, G/C/W/80/Add.1 for background paper).

In March 1998, the CTG organised a WTO Trade Facilitation Symposium in Geneva, with the objective of identifying the main areas where traders face obstacles when moving goods across borders. As an outcome of the Symposium, the main concerns expressed by traders were summarised into the following subheadings (WTO document G/L/226): Excessive documentation requirements; lack of automation and insignificant use of information-technology; lack of transparency; unclear and unspecified import and export requirements; inadequate procedures especially a lack of audit-based controls and risk-assessment techniques; and lack of modernisation of, and cooperation among customs and other government agencies, which thwart efforts to deal effectively with increased trade flows.

In 1998, the CTG held four dedicated meetings as informal meetings, which addressed several specific issues related to import and export procedures and requirements. Differences in opinions between WTO member countries became apparent between 1998-1999 and in the events leading up to the Doha Ministerial (Lucenti, 2003).

In 2000 and 2001, the Council for Trade in Goods continued its analytical and exploratory work through meetings. Attempts were made by delegations to draw linkages between WTO principles and national experience papers on trade facilitation submitted by the different WTO members. Work was organised into three categories: National Experiences, WTO Principles and Trade Facilitation Measures, and Technical Assistance and Capacity Building. In a workshop on technical assistance and capacity building on trade facilitation in 2001, delegations identified, specifically, the elements essential for the successful execution of trade facilitation-related technical assistance programmes (See http://www.wto.org/english/tratop_e/tradfa_e/tradfa_overview2001_e.htm).

At the Doha Ministerial Conference, Ministers recognised "the case for further expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. In the period until the Fifth Session, the Council for Trade in Goods shall review and as appropriate, clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 and identify the trade facilitation needs and priorities of Members, in particular developing and least-developed countries. We commit ourselves to ensuring adequate technical assistance and support for capacity building in this area."

In 2002, in order to carry out the Doha mandate, members adopted a work programme on trade facilitation. The post Doha work programme has been organised under the following main categories (i) GATT Articles V, VIII and X (ii) trade facilitation needs and priorities of Members, particularly developing and least developed countries and (iii) technical assistance and capacity building.

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It is worth noting that most of the proposals submitted to the CTG are by developed countries[1]. The countries that have submitted papers, to date, are: European Communities (Articles V, VIII, X of GATT 1994), Switzerland (general), Korea (Articles V, VIII, X), Hong Kong, China (Article VIII), Canada (Articles V, VIII, X), Japan (Articles VIII, X), Australia (general), United States (Article VIII), Norway (Norway's experience on trade facilitation), Maldives (National Experience Paper), Paraguay (Presentation concerning landlocked countries), Chile (Chile's experience with the modernisation of customs administration under use of information technology), Costa Rica (Costa Rica's position on trade facilitation; National Experience Paper), Czech Republic (National Experience Paper), Guatemala (National Experience Paper), New Zealand (Paper on Technical Assistance – trade facilitation) and Columbia (Article VIII).

II. Arguments For and Against

Along with the other Singapore issues of competition, investment and transparency in government procurement, trade facilitation is a potential source of discord between policymakers. The countries that have been active proponents of a multilateral agreement on trade facilitation are: Australia, Canada, Chile, Columbia, Costa Rica, EC, Hong Kong, Hungary, Japan, Korea, Morocco, New Zealand, Paraguay, Singapore and Switzerland.

What proponents say

Proponents of a multilateral agreement on trade facilitation have emphasised that:

- By modernisation and automation of customs procedures to match established international standards, transaction costs associated with international trade can be reduced substantially.
- Reductions in requirements and administrative international trade procedures, through trade facilitation, will result in reduction in trade discrimination and protection (Colombia, 2002, G/C/W/425).
- Multilateral efforts at trade facilitation will result in better information and control, revenue protection, and more efficient administration for governments and added certainty and transparency, reduced costs and delays, and more competitive import and export conditions for businesses, especially small and medium sized enterprises (Australia, 2002, G/C/W/443).
- The losses suffered by businesses through delays at borders, opaque and often-redundant documentation requirements and lack of automation of government-mandated trade procedures exceed the cost of tariffs in many cases (http://www.wto.org/english/thewto_e/whatis_e/eol/e/wto02/wto2_69.htm).
- Proponents insist that there is an agreement amongst WTO members to launch negotiations - only the modalities will be decided at Cancun.

What opponents say

In principle, developing countries recognise the long-term benefits of simplified and streamlined customs procedures. Greater efficiency in border procedures, reduced corruption and a more attractive domestic climate for foreign investors are key among them. However, most developing countries are opposed to the introduction of new legal obligations in the WTO. Amongst countries that are vigorously opposing a potential multilateral agreement on trade facilitation are India, Malaysia, Pakistan, Egypt and others. The various reasons cited by developing countries are:

- There is no need for additional WTO obligations, especially as developing countries are still struggling to implement Uruguay Round rules on trade facilitation (Lucenti, 2003).
- With the introduction of new issues, the WTO will be 'overburdened'.
- Additional rules will exceed their implementation capacities. Further, most developing countries do not have the resources necessary to update their customs procedures to more modern technological standards. The financial burden is perceived to outweigh the potential benefits.
- Even if the benefits outweigh the costs, it is widely believed that the development payoff might be greater if those resources were channelised elsewhere (Nanda, 2003), depending on the needs and priorities of the country in question.
- Past experience has shown that technical assistance and capacity building programmes have not been effective in their implementation.
- New obligations will unnecessarily expose them to dispute settlement. Over the years several developing countries have voiced their concern that to reduce their exposure to dispute settlement, additional rules should be implemented slowly or not implemented at all (Lucenti, 2003).
- Developing countries have reiterated that trade facilitation, by its very nature is technical and detailed. It also necessitates close co-ordination with other reform priorities such as tax administration.
- Another concern expressed is that new rules on trade facilitation "could overlap or interfere with other programmes of other organisations such as WCO, UNCTAD, World Bank etc" (Lucenti, 2003).
- Some developing countries have suggested that it is better to make the existing work of organisations such as the WCO more effective, rather than bring trade facilitation into the ambit of the WTO.
- Since WTO member countries are at different levels of development, a "one-size-fits-all" approach cannot be used to design new obligations in the WTO on trade facilitation.
- Developing country delegations have expressed their preference for trade facilitation work to be undertaken at the national, bilateral and regional level, where countries have similar domestic capacities and reform priorities.
- Developing countries such as Uruguay, Pakistan, India, Indonesia, Malaysia, and Cuba have all stressed that the Doha Mandate didn't call for negotiations until after a decision is made in Cancun (Lucenti, 2003).

III. Conclusions

The 5th WTO Ministerial to be held at Cancun on the 10-14th of Sept. 2003 aims to take stock of progress made towards carrying out the Doha Work Programme. The Draft Cancun Ministerial Text states, ["Taking note of the work done on trade facilitation by the Council for Trade in Goods under the mandate in paragraph 27 of the Doha Ministerial Declaration, we decide to commence negotiations on the basis of the modalities set out in Annex G to this document"]

[We take note of the discussions that have taken place on trade facilitation in the Council for Trade in Goods since the Fourth Ministerial Conference. The situation does not provide a basis for commencement of negotiations in this area. Accordingly, we decide that further clarification of the issues be undertaken in the Council for Trade in Goods] (WTO, 2003, JOB (03)/150, Rev.1).

Which of these options is chosen, remains to be seen.

References

1. *Lucenti, K. (2003), "Is there a case for further multilateral rules on trade facilitation?" in SECO and Simon J. Evenett (eds.), The Singapore Issues and the World Trading System: The Road to Cancun and Beyond, World Trade Institute, Berne.*

2. Nanda, N. (2003), "WTO and Trade Facilitation: Some Implications" in Economic and Political Weekly, June 28-July 4, 2003, Vol XXXVIII No 26.

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[1] For papers submitted until mid-1998, mid-1998 – end-1999, end 1999-end-2000, year 2001 and year 2002, please refer to the WTO website at: http://www.wto.org/english/tratop_e/tradfa_e/tradfa_overview_e.htm

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