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THE ROLE OF TECHNICAL ASSISTANCE IN WORLD TRADE ORGANIZATION (WTO) TRADE FACILITATION NEGOTIATIONS

This issue of the Bulletin presents a brief review of trade facilitation negotiations from the specific viewpoint of technical assistance, capacity-building and special and differential treatment (SDT). Trade facilitation negotiations have focused on clarifying three articles of the General Agreement on Tariffs and Trade (GATT): article V (freedom of transit); article VIII (fees and formalities connected with importation and exportation); and article X (publication and administration of trade regulations).

Although the stage of text-based negotiations has not yet been reached, the process of receiving and analysing proposals has made it possible to identify the aspects most urgently in need of correcting by means of trade facilitation measures. Consideration has been given to several formulas for the implementation of those measures and to how the associated technical assistance should be organized.

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A. INTRODUCTION

Trade facilitation has become an important topic in bilateral, regional and multilateral negotiations on trade liberalization. Its importance is already recognized by all those involved in formulating trade policies. Most countries are, in fact, already engaged in heroic reforms aimed at reducing the costs of trade transactions, but they are not all equally equipped to face up to new commitments. In particular, many developing and least-developed countries need much support, since they lack both the human and the financial resources to implement trade facilitation measures.^[1]

There is no standard definition of trade facilitation in the area of public policy formulation, but trade facilitation measures traditionally relate to efforts to simplify the logistics of the passage of goods through ports and to streamline the movement of the documentation associated with international trade. In recent years, the concept of trade facilitation has broadened to include the environment in which trade is conducted, including the transparency and professionalism of customs, the regulatory climate, the harmonization of standards and compliance with international and regional regulations. This new approach has redirected the goals of trade facilitation from frontiers to domestic policies, and to institutional structures where capacity-building can play a very important role.^[2]

The developing and least-developed countries were generally reluctant to increase their obligations in the area of trade facilitation when, from the beginning of the WTO negotiations, trade facilitation was included among the Singapore Issues. As a result, the work of the Negotiating Group on Trade Facilitation was restricted to the aforementioned three articles of GATT. Nonetheless, various trade facilitation issues are covered by other WTO agreements.^[3] Trade facilitation was the only one of the “Singapore issues” to be included in the agenda

for the negotiation of the Framework Agreement of July 2004, which explicitly states that the requirement to implement the rules arising out of the negotiations shall be subject to countries' capacity to implement the associated measures. Furthermore, technical and financial assistance and capacity-building would be provided to those countries requiring it in order to implement the agreed trade facilitation measures.

The work of the Negotiating Group on Trade Facilitation up to November 2005 gave rise to the report of the Trade Negotiations Committee,^[4] which was presented at the sixth WTO Ministerial Conference, held in Hong Kong from 13 to 18 December 2005. In the official record of the Ministerial Conference, the Negotiating Group was encouraged to continue moving forward with negotiations, and the participants in the Conference endorsed the recommendations contained in the report of the Negotiating Group. Those recommendations included an appeal to the developed countries to continue to strengthen their support for technical assistance, in a comprehensive, long-term and sustainable manner, backed by secure funding.

The measures proposed^[5] include the timely publication of trade regulations on the Internet; the creation of a computerized system to reduce or eliminate discretion; the use of international standards; the implementation of Single Window/One-time Submission; expedited procedures for express shipments; risk management and analysis, and authorized traders. Measures concerning goods in transit, an issue which particularly affects landlocked countries, include the reduction, simplification, harmonization and standardization of transit formalities and documentation requirements, and improved coordination and cooperation amongst authorities and between authorities and the private sector.

In addition to the measures directly related to the three articles under negotiation, which are covered by the first point of the proposed list, a second point has been included, concerning arrangements for effective cooperation between customs authorities and other authorities in the area of trade facilitation and provisions to improve compliance with customs procedures. The third point in the proposals relates to the identification of needs and priorities in the area of trade facilitation, beginning with the creation of a general instrument for assessing the current situation and the subsequent use of the result as the basis for the application of special and differential treatment (SDT) and the provision of technical assistance and capacity-building. The last issue considered under this item includes various matters such as the evaluation of implementation costs, and implementation deadlines and the sequence for application of measures.

B. INSTRUMENT FOR ASSESSING THE CURRENT SITUATION

In February 2005, the World Customs Organization (WCO) made available to countries a self-assessment checklist^[6] which customs administrations can use in order to judge the extent to which their systems are in line with WCO instruments and best practices relating to the provisions of the three articles under negotiation (articles V, VIII and X of the General Agreement on Tariffs and Trade (GATT)).

The WTO Secretariat made a self-assessment questionnaire available to countries, so that the two sides could collaborate in determining their needs and priorities in the area of trade facilitation in relation to the articles being negotiated. The questionnaire was prepared on the basis of information collected by the Secretariat on countries' proposals to the Negotiating Group on Trade Facilitation.^[7] The questions contained in the document are designed to provide a preliminary and approximate evaluation of the extent to which the measures are being applied and the countries' needs in the area of technical assistance.

China, together with Pakistan and the countries of the African Group, presented documents entirely devoted to the subject of technical assistance, suggesting that the countries should begin their work to determine their trade facilitation needs, using a shared tool which remained to be determined, and that special and differential treatment (SDT) should be implemented through legally binding provisions.

C. COORDINATION PLATFORM FOR TECHNICAL ASSISTANCE AND WORKING MECHANISM FOR IMPLEMENTATION OF MEASURES

The European Communities proposed that WTO and other organizations such as the World Bank, WCO and the United Nations Conference on Trade and Development (UNCTAD) should, well before the outcome of negotiations is implemented, jointly establish and manage an international cooperation and coordination

platform for technical assistance, combining the efforts of donor bodies, recipient countries, regional groups and other intergovernmental bodies having a role to play, such as the Organisation for Economic Co-operation and Development (OECD) and the Regional Commissions of the United Nations.

The function of such a platform would be to help to ensure the transparency, consistency and, where necessary, the coordination of assistance between donors and recipients. It would also contribute to ensuring that assistance was targeted, inter alia, on implementing commitments in the framework of WTO which had been entered into in this area; and to matching the needs of recipients to those of donors and ensuring that any gaps were filled. Furthermore, in the framework of those efforts towards transparency and coordination, a role could be assigned to national and international trade federations, many of which already provided assistance or made investments for the implementation of trade facilitation measures, or were directly affected by them. The platform should not superimpose its activities on those of already existing coordination mechanisms such as the WTO/OECD Development Assistance Committee (DAC) database on technical assistance,^[8] but should coordinate with them and use those tools to help to carry out its functions. The platform should benefit, rather than harm, coordination and cooperation in the field in recipient countries; that was essential in order to ensure effectiveness in the provision of assistance.

In April 2006, Chile, the Dominican Republic, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru and Uruguay presented a document proposing a working mechanism to begin efforts to implement trade facilitation measures, on the basis of the creation by WTO of a monitoring body for the application of the trade facilitation agreement to be concluded following the negotiations. This instrument specifies that the obligations contained in the trade facilitation agreement will be binding once it has entered into force, except for any obligations of which the developing and least-developed countries have notified the WTO Secretariat before the entry into force of the agreement, compliance with which will remain subject to the acquisition of the necessary capacities, within a time frame not exceeding six years, to be specified by the country in the appropriate notification. Thereafter, within three years from the date of that notification, the country is required to inform WTO of its plans for acquiring that capacity. Any country which so requests will be assisted by international organizations in the formulation and execution of its capacity-building plans. The acquisition of the capacity will subsequently be verified through a mechanism consisting of the recipient country, the donor country and the agency responsible for the execution of the plan.

The African Group reiterated its position regarding the need for technical assistance, and Chinese Taipei^[9] expressed its agreement with the creation of a coordination and cooperation mechanism to provide such assistance and ensure the efficient use of available resources.

D. TECHNICAL ASSISTANCE IN TRADE FACILITATION BY INTERNATIONAL BODIES AND DEVELOPED COUNTRIES

The WTO Secretariat has focused its efforts on technical assistance, with two objectives: (i) assisting countries in seeking the most appropriate way to support and promote efforts towards collaboration among the various international bodies in this area, and (ii) helping countries to determine how they can obtain the greatest benefit from the available technical assistance activities, especially in order to assess their needs and priorities in terms of trade facilitation.

Every year, the WTO Secretariat holds seven Regional Workshops on Trade Facilitation,^[10] each lasting three days, with the cooperation of WCO, UNCTAD and other interested regional organizations. The purpose of these workshops is to help the countries' representatives to enrich their participation in negotiations by ensuring that officials resident in national capitals have the latest information on the progress of the Negotiating Group on Trade Facilitation. At the same time, the WTO trade policy courses include sessions devoted to trade facilitation. WTO also organizes a series of country workshops, organized on an ad hoc basis in response to specific requests by countries.^[11]

In the second half of 2005, a contribution was received from the World Bank, which delivered to the Negotiating Group the WTO Trade Facilitation Negotiations Support Guide.^[12] This procedural guide is intended to assist developing countries to establish practical and effective mechanisms for communication and

coordination between negotiators and experts in national capitals. The European Union presented a document describing in detail the wide range of activities relating to technical assistance in trade facilitation, and stated that it was prepared to consider requests for assistance from developing countries for the implementation of future trade facilitation agreements. It also called upon the developed countries to work with intergovernmental organizations in the provision of technical assistance, and to improve the level and quality of such assistance.

E. CONCLUSIONS

In all proposals presented to the Negotiating Group, both by countries and by the WTO Secretariat, reference is made to technical assistance for the implementation of the proposed measures. This matter has been mentioned by the representatives of the developing and least-developed countries at every meeting of the Negotiating Group. Clearly, most of those countries were looking to WTO for a more formal and binding definition of the provision of assistance. These constant references to the issue led the representative of the United States of America to state during one meeting that the WTO Secretariat clearly “was not a development agency,” in an attempt to redirect the concerns which had been expressed in that regard.

One example of those concerns is a document presented in June 2005 by the majority of the Latin American countries.^[13] The document specified the negotiating conditions which emerge from the provisions of annex D of the Doha Work Programme: (i) the scope of the commitments must be proportionate to the developing countries’ capacity to implement them; (ii) that capacity, particularly in the case of the developing countries, is to be determined in accordance with their trade facilitation needs and priorities; and (iii) technical assistance must help the developing countries to implement commitments arising out of the negotiations.

In mid-2005 there was already full agreement on the great importance of technical assistance, capacity-building and special and differential treatment (SDT) in trade facilitation negotiations, and on the fact that the most significant help would be that received from international bodies whose activities included technical assistance in trade facilitation. It was also clear that WTO would conduct its regional workshops and certain other training activities, and that the countries expected it to be actively involved in coordinating offers of assistance, requests, and the final certification of the projects conducted. In this way, there were already concrete proposals to establish a mechanism to coordinate assistance.

The priority for the region’s developing countries should now be clearly defined. That priority should be to clearly determine the current situation and needs in the area of trade facilitation. This task requires a stable, intersectoral working group with the necessary political support, enabling it to work unobstructed within the various bodies involved. The working group must conduct a thorough examination of current legislation in order to determine the changes needed for the implementation of the agreed measures. Determining needs, formulating the corresponding projects, setting deadlines for their execution and estimating costs will be a critically important activity requiring great precision on the part of the countries.

ECLAC invites any readers of this bulletin who are involved with trade facilitation to participate in the electronic forum *Red de Conocimientos sobre las Tecnologías de la Información aplicadas a la Facilitación del Comercio* (RECTIFAC).^[14] In this virtual forum, they will find support material enabling them to keep themselves informed of negotiations in progress, documents relating to technical assistance, and a permanent invitation to share experiences and comments on matters related to the area of trade facilitation.

[1] See World Bank, “Key Issues in Trade Facilitation”, World Bank Policy Research Working Paper, No. 3703, Washington , D.C. , September 2005.

[2] See World Bank, “Trade Facilitation and Economic Development: Measuring the Impact,” Policy Research Working Paper, No. 2988, Washington , D.C. , March 2003.

[3] The WTO agreement on customs valuation, the Agreement on Import Licensing Procedures, the Agreement on Preshipment Inspection, the Agreement on Rules of Origin, the Agreement on Technical Barriers to Trade and the Agreement on the Application of Sanitary and Phytosanitary Measures.

[4] See WTO document TN/TF/3.

[5] See annex E to the Hong Kong Ministerial Declaration, WT/MIN(05)/DEC.

[6] See WTO document TN/TF/W/16.

[7] See WTO document Compilation of Members' Proposals (TN/TF/W/43 Rev.5).

[8] <http://tcdbd.wto.org/> The database was launched in November 2002, and currently contains records of more than 15,000 training activities covering the period from 2001 to 2006.

[9] Separate Customs Territory of Taiwan , Penghu, Kinmen and Matsu .

[10] English-speaking Africa in June, French-speaking Africa in May, Arab and Middle Eastern countries in April, the Caribbean in July, Central and Eastern Europe and Central Asia in August and Latin America in September.

[11] As of early 2006, WTO had received requests from Cuba , the Dominican Republic , Egypt , Honduras , Indonesia , Lesotho , Malawi , Morocco and Trinidad and Tobago . See the note by the Secretariat containing information on technical assistance and capacity building on trade facilitation (TN/TF/W/76).

[12] See WTO document TN/TF/W/51.

[13] Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru and Uruguay.

[14] This forum can be accessed at the following address: stnt01.eclac.cl/WBE/?Boardid=RECTIFAC
