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Trade facilitation rules as a trade enabler: Options and requirements

Note by the UNCTAD secretariat

Executive summary

In the face of globalized production systems and supply chains requiring access to international logistics networks, it is ever more important to have fast and reliable import, export and transit border procedures. Trade facilitation helps improve administrative procedures and reduces the risk of duty evasion. It is being increasingly seen as a development tool, as its implementation requires investing in human and institutional capacity.

More and more, trade facilitation is finding its place in regional and multilateral trade agreements, notably the Agreement on Trade Facilitation adopted at the Ninth Ministerial Conference of the World Trade Organization (WTO), held in Bali, Indonesia, from 3 to 7 December 2013. UNCTAD supports trade facilitation implementation, inter alia, through the development of national trade facilitation implementation plans, strengthened national trade facilitation committees, capacity-building and customs automation programmes.

The present document introduces key issues for experts to discuss implementation of trade facilitation measures through the preparation of national implementation plans, aiming at mainstreaming trade facilitation in national development strategies.

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Introduction

1. Trade facilitation is essential to developing countries' trade competitiveness and development. The prominence of geographically distributed production systems and global value chains requiring access to regional and global supply chains and international logistics networks make fast and reliable import, export and transit border procedures ever more important.

2. Members of WTO concluded negotiations on the Agreement on Trade Facilitation (WT/MIN(13)/36 – WT/L/911) in Bali, Indonesia, in December 2013. This development has placed trade facilitation even higher on agendas relating to national and international trade policy. In addition, trade facilitation measures have been increasingly included in regional trade agreements (RTAs) over the past decade. While the multiplication of RTAs may pose unexpected challenges in the management of varied procedures, the inclusion of trade facilitation in RTAs may promote administrative reforms and bring a further global harmonization of rules. Trade facilitation is thus now widely considered as a central element of investment policies in soft infrastructure at the national, regional and multilateral levels.

3. The main impact of trade facilitation on international trade is that manufacturers and traders can purchase and sell abroad more easily, more reliably and at a lower cost. As customs duties have continued to decline, and trade in manufactured and intermediate goods has become increasingly sensitive to issues such as reliability and speed, trade facilitation measures have gained in importance. Effective trade costs are closely correlated with different trade and transport facilitation indicators.

4. The present document will introduce key issues to provide a background for the second session of the Multi-Year Expert Meeting on Transport, Trade Logistics and Trade Facilitation focusing on trade facilitation. During the meeting, experts will discuss the following issues: how to implement trade facilitation measures efficiently, for example through the preparation of national implementation plans; ways to mainstream trade facilitation through it inclusion in the national development strategies of developing countries, in particular least developed countries (LDCs) and other structurally weak, vulnerable and small economies; and the impact of trade facilitation on trade.

5. This note is divided into four substantive chapters followed by a concluding chapter:

(a) Chapter I – Costs and benefits of trade facilitation reforms and their impact on development;

(b) Chapter II – Multilateral and regional trade facilitation commitments;

(c) Chapter III – Trade facilitation implementation;

(d) Chapter IV – National trade facilitation committees;

(e) Chapter V – The way forward.

I. Costs and benefits of trade facilitation reforms and their impact on development

6. Trade facilitation reforms are undertaken for a variety of reasons:

a) To respond to traders’ requests for more efficient trade formalities allowing more transparent, less cumbersome and more predictable processes for foreign trade control;

b) To improve administrative efficiency and effectiveness and thus enable regulatory authorities to have more control over international trade transactions, preserve public safety and security by tracking illicit traffic and increase revenue collection, a key objective of national customs administrations. Trade facilitation measures reduce the risk of duty evasion through undervaluation or false information in import declarations;

c) Trade facilitation reforms are increasingly regarded as a development tool; the implementation of most trade facilitation measures requires investing in human and institutional capacity as a means of promoting good governance, which on its own directly contributes to a country’s long-term development.

A. Trade facilitation and international trade

7. The impact of trade facilitation on international trade relies on a straightforward rationale: If manufacturers and traders, be they importers or exporters, can purchase and sell abroad more easily, more reliably and at a lower cost, they are more likely to do so. Trade costs are closely correlated with trade and transport facilitation indicators, as widely documented by recent research and publicized in aggregate form in the Doing Business Report and the logistics performance index of the World Bank or the UNCTAD liner shipping connectivity index (Arvis et al., 2013).

8. Estimates of trade cost reductions by the Organization for Cooperation and Development (OECD) suggest that trade costs in the full implementation scenario might be reduced by 14.1 per cent in low-income countries, 15.1 per cent in lower-middle-income countries and 12.9 per cent in upper-middle-income countries. At world level, “reducing global trade costs by 1 per cent would increase worldwide income by more than $40 billion, most of which would accrue in developing countries” (OECD, 2013).

9. Empirical evidence from econometric studies suggests that trade facilitation reforms have the potential to bring major economic gains in increased trade and real incomes. The studies further suggest that developing and developed countries both stand to gain from improved trade facilitation. In particular, exports are expected to increase for both country groups. Some parties have raised concerns that developing country imports might rise more rapidly than exports, thereby causing balance-of-payments problems for developing countries. This is debatable. The balance of payments is determined by macroeconomic forces within a country, most fundamentally the ratio of savings to investment. Trade facilitation plays almost no role in the determination of the balance of payments, except in the very short term, during which macroeconomic variables such as the exchange rate are undergoing adjustments (Hoekman and Shepherd, 2013).

B. Trade facilitation implementation costs and customs revenues

10. Most trade facilitation measures require an initial investment in staff mobilization, training, deployment and information technology (IT). Subsequently, these investments should generally be recovered in the short to medium term because of efficiency gains and increased revenue collection. The initial costs of introducing trade facilitation reforms depend on a wide range of factors, which include the following:

(a) The starting point – few countries start from scratch, and a reform often builds on some ongoing programme. Depending on the starting baseline, additional resources required may vary greatly;

(b) The timing and choice of resources used – aiming at a quick implementation with full international support from international consultants – may end up being more costly than a more gradual implementation, which would depend upon available in-house national expertise;

(c) The objective – if the aim of the reform is to achieve mere compliance with multilateral obligations, it may be less costly than a more ambitious reorganization that would go beyond minimum legal requirements, but which would generally give the country in question a competitive edge.

11. Based on the above, as well as the results of 26 national trade facilitation implementation plans prepared by UNCTAD in 2012 and 2013 (UNCTAD, 2013a), the implementation costs for a given country to be able to meet its obligations with regard to the implementation of the Agreement on Trade Facilitation can be estimated to be in the range of $1 million to $15 million (UNCTAD, forthcoming).

12. Once in place, most trade facilitation measures will save time and costs through improved IT solutions such as automation, inter-agency cooperation and reduced formalities. In parallel, many of such measures will also lead to enhanced revenue collection and improved enforcement of national regulations. In particular, for instance, the measures related to the customs sphere of action in risk management, in combination with authorized traders schemes, pre-arrival clearance, post-clearance audits and customs cooperation, can help prevent undervaluation of import declarations, a major concern of revenue authorities.

13. Overall, most trade facilitation measures have a relatively high return on investment when initial expenditures, subsequent cost savings and increased revenue collection are also taken into account. Around 60 per cent the customs automation projects of the UNCTAD Automated System for Customs Data (ASYCUDA) Programme are financed by the customs administrations of developing countries themselves.[1]

C. Trade facilitation reforms and development

14. Trade facilitation reforms are closely linked to the development of public sector institutions. They require building human, institutional and technological capacities. By the same token, countries that are more developed already – that is, boasting higher human, institutional and IT capacities – will find the implementation of trade facilitation reforms much easier. A more developed country is also more likely to have higher trade volumes, which more easily justifies investments in trade-supporting services and infrastructure. Smaller and less-developed trading nations, on the other hand, may be confronted with low trade volumes implying little revenue from duties and taxes, which a priori may make it more difficult to economically justify investments in IT, transport and other trade-related infrastructure.

15. However, the implementation of trade facilitation reforms will foster a country's development, regardless of its actual level, in several ways. Apart from promoting trade-driven development (see section A above) and enhancing revenue collection (see section B above), improving trade administration will have a direct impact on various dimensions of

[1] See http://asycuda.org/ (accessed 14 April 2014).

human, institutional and IT development (International Trade Centre, 2014). Specific examples are listed below:

(a) Clear and transparent trade rules will help transform an informal economy into a formal economy;

(b) Consultative and appeal mechanisms, prior publication and enquiry points promote good governance and transparency;

(c) Transit and customs guarantee solutions can encourage investment in a country's financial and insurance sector;

(d) Inter-agency cooperation fosters efficiency and the sharing of best practices towards a modernized public administration;

(e) IT solutions such as direct trader input and the single window encourage small and medium-sized enterprises to invest in their own IT capacities, so as to optimize the efficiency of the entire trading system and benefit from the economies of scale of public sector investment;

(f) International support and exposure to global best practices will help professionalize public administrations.

16. In view of the reciprocal relationship between development and trade facilitation, it is clear that LDCs will require more technical assistance and capacity-building to implement the measures included in the Agreement on Trade Facilitation than non-LDCs (UNCTAD, forthcoming). At the same time, official development assistance in LDCs is confronted with numerous competing priorities such as health, education and infrastructure, and the share of official development assistance that is allocated to trade issues, in particular trade facilitation, is lower in LDCs than in non-LDCs (UNCTAD, 2013b). Finally, a survey on existing trade facilitation committees shows that LDCs have less effective trade facilitation committees than non-LDCs (see chapter IV).

II. Multilateral and regional trade facilitation commitments

A. Trade facilitation measures at the multilateral level

17. Notwithstanding the importance of the Agreement on Trade Facilitation, the concept of trade facilitation is not new – it appears in the General Agreement on Tariffs and Trade (1994), in particular articles V, VIII, and X. It is therefore natural that these should form the basis of the new trade facilitation agreement.

18. However, the Agreement on Trade Facilitation adds much detail to the existing provisions of the General Agreement on Tariffs and Trade and a significant multilateral dimension to the plethora of trade facilitation arrangements that already exist at the bilateral, regional and international levels, many of which have drawn inspiration from the WTO negotiations that have taken place over the years.

19. The Agreement on Trade Facilitation is not the only legal instrument on the issue at the international level. Many agreements concluded under the auspices of the World Customs Organization (WCO), such as the Kyoto and Revised Kyoto Conventions, contain significant trade facilitation measures.[2] The United Nations, in particular under the auspices

[2] See http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new.aspx (accessed 14 April 2014).

of the Economic Commission for Europe and the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), manages a large number of recommendations and standards on trade facilitation with international applicability.[3] However, the nature of legally enforceable obligations would ensure that the provisions of the Agreement are implemented as part of national trade policy and development agendas.

20. UNCTAD has been working on trade facilitation and trade efficiency for many years. The UNCTAD Programme on Trade Facilitation and the Expert Working Group on Trade Efficiency led in 1994 to the adoption of the Columbus Ministerial Declaration on Trade Efficiency. This, in turn, contributed to the inclusion of trade facilitation in the WTO agenda at the First WTO Ministerial Conference held in Singapore in 1996. As a result, trade facilitation gained added visibility and began figuring prominently in the work programme of many institutions, and in various RTAs, eventually leading to the Agreement on Trade Facilitation.

21. UNCTAD, in collaboration with other Annex D partners,[4] has been assisting developing countries and LDCs to ensure their effective participation in the trade facilitation negotiations at WTO. Another objective of the UNCTAD technical assistance programme was to prepare the beneficiary countries to take on the obligations ensuing from the Agreement. In 2012 and 2013 UNCTAD worked with almost 30 countries to develop their national trade facilitation implementation plans and increase awareness and expertise of national policymakers. Activities aimed at increasing coordination among trade facilitation stakeholders in those countries and strengthening collaborative forums for trade facilitation also complemented this effort.

B. Regional trade agreements and the inclusion of trade facilitation measures

22. A major development in international trade in recent decades is the steady increase in the number of RTAs and inclusion of customs and trade facilitation provisions therein. Figure 1 shows that the number of RTAs that include customs and trade facilitation provisions has grown significantly, especially since the launch of trade facilitation negotiations in WTO as part of the Doha Development Agenda.

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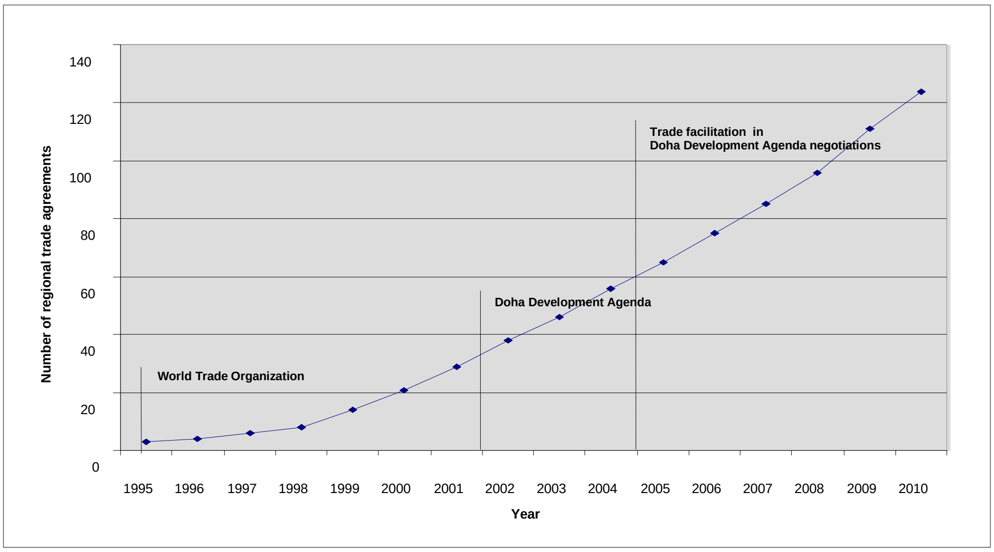
[3] See http://www.unece.org/cefact.html (accessed 14 February 2014).

[4] Decision of the WTO General Council on the Doha Agenda work programme, known as the July Package, 1 August 2004, Annex D, defining relevant international organizations to be invited to provide technical assistance and capacity-building includes the International Monetary Fund, OECD, UNCTAD, WCO and the World Bank.

Figure 1
Increasing number of regional trade agreements on customs and other trade facilitation measures



Source: UNCTAD secretariat, based on WTO database on regional trade agreements (http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx).

23. Neufeld (2014) concludes that "by the late 1990s, RTAs regularly incorporated a TF [trade facilitation] component, reflecting governments' growing awareness of the need to expand their trade policies to the cutting of red tape. The launch of the WTO negotiations on trade facilitation gave another impetus to these endeavours, leading to an acceleration of TF [trade facilitation] reforms both at the multilateral and regional level". Virtually every country today is involved in one or more regional trade arrangements. A total of 259 agreements were notified to the WTO database on RTAs[5] at the end of June 2013.

24. A trait of many RTAs is that often they closely reflect developments at the international level and, at an earlier stage, seek to implement issues that are being negotiated at the international level, adapted in some cases to a lesser or larger degree to the regional context. This development reflects the greater ease of obtaining agreement between a smaller group of countries that are often at a similar stage of development.

25. However, the multiplication of trade facilitation rules and commitments may also lead to overlap, complication and a need to adjust certain agreements. This is often termed the "spaghetti-bowl effect" or "noodle-bowl effect", which describes the complication that arises from the application of several trade agreements containing provisions on the same issues. The effect can be overlap, lack of transparency and inconsistency, which can lead to contradictory outcomes among trade partners. This is, in particular, a danger when different government agencies are charged with the implementation of various regional and international agreements covering the same components without ensuring the necessary national coordination and coherence.

26. The UNCTAD publication, *Trade Facilitation in Regional Trade Agreements* (2011), provides a good overview of the issues related to the alignment of trade facilitation commitments at the regional and multilateral levels. The study concludes that while it is beneficial to seek trade efficiency through regional and multilateral trade facilitation

[5] See http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx (accessed 14 April 2014).

agreements, it is important at the national level to remedy potential inconsistencies between such commitments.

III. Trade facilitation implementation

27. It is essential to point out that the scope of trade facilitation is wider than set out in the provisions of the Agreement. For example, to capture the vast coverage of trade facilitation initiatives, UN/CEFACT, in cooperation with UNCTAD, drew up the *Compendium of Trade Facilitation Recommendations* (2002). The Compendium contains a structured list of 270 proposed trade facilitation recommendations in various legal instruments under the care of 11 mandated international organizations and bodies that were available at the time.[6]

28. The WTO Agreement on Trade Facilitation is timely, as it comes in the midst of an increasing demand placed by the ever-growing world of trade on all countries to provide faster and more reliable import, export, transit and border procedures; to grow and sustain trade partnerships through more sophisticated networks of traders in various countries; and to increase transparency and predictability by standardizing protocols and simplifying trade procedures. The Agreement opens a new window of opportunity to all WTO members, not only because of its timeliness, but also because of the potential improvement in trade that is available to those who are committed to achieving compliance. Implemented trade facilitation agreement measures serve as cornerstones where additional layers of trade facilitation initiatives are built. Full compliance in the Agreement through required implementation and reforms may ultimately strengthen trading relations among existing trade partners and establish new ones.

29. The objective to implement the Agreement is therefore crucial for designing national, regional and international trade policy initiatives. It should be carried out with an objective beyond that of solely achieving legal compliance of the provisions (ad minims). It should be further aimed at improving the trading procedures in line with best international practices to achieve a higher degree of trade facilitation. It should be implemented in a spirit of transparency and good governance that sustains public and private stakeholders in their collaboration towards a national reform with the expected multifaceted impact leading to a more efficient and streamlined international trading system.

A. Required actions before and after the entry into force of the Agreement on Trade Facilitation

30. The implementation of the Agreement will go through several stages as from the conclusion of negotiations in Bali. In this respect, it contains a number of important deadlines and commitments to be observed by WTO Member States. After its entry into force, the Agreement will be binding for parties, but the stages of implementation will vary, depending on whether a country is considered to be a developed country, a developing country or an LDC, and how a particular LDC or developing country designates the timing for implementation of a particular measure.

31. As a first step, WTO procedures require that the Agreement, after legal review without affecting its substance, be incorporated in the Agreement Establishing the World Trade Organization (1994) through an amendment protocol to be adopted by the General Council no later than 31 July 2014. The Protocol will be open for acceptance by WTO

[6] See http://www.unece.org/index.php?id=13849 (accessed 14 April 2014).

Members between 1 August 2014 and 31 July 2015. Its entry into force requires the acceptance by a two thirds majority of the WTO Member States, that is to say, 107 WTO Member States must accept the Agreement. Entry into force could therefore take place between 31 July 2014 and 31 July 2015 if two thirds of the Members have deposited their acceptance of the Agreement with the WTO Secretariat, or immediately after 31 July 2015. However, if two thirds of the Members have not accepted the Agreement by 31 July 2015, it can enter into force when ratified by two thirds of the Members.

32. Developed countries are under the obligation to implement all provisions of the Agreement upon its entry into force.

33. Each developing country and LDC shall self-designate the provisions of the Agreement according to categories that will determine the eventual implementation time frames:

(a) Category A provisions: Implementation upon entry into force;

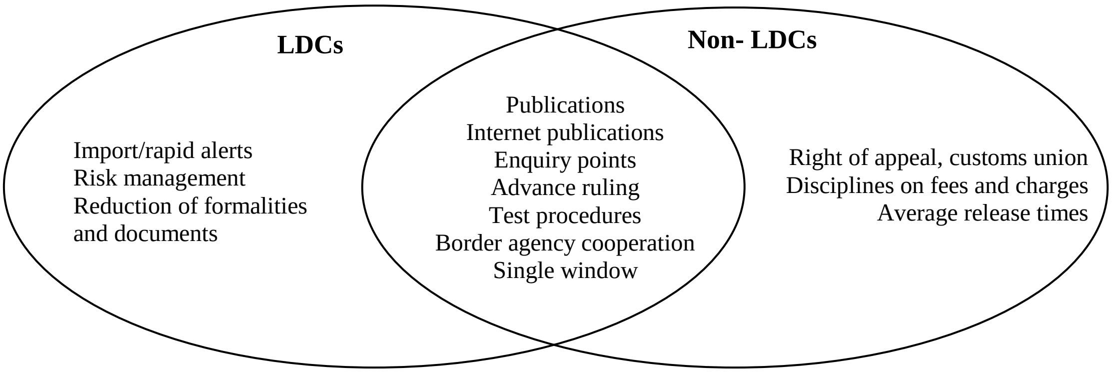
(b) Category B provisions: Deferred implementation date;

(c) Category C provisions: Deferred implementation date; dependent on acquisition of capacity through technical assistance and support from donors.

34. A major feature of the Agreement is that it provides for special and differential treatment for developing country and LDC members in accordance with their respective implementation capacities. This is expressed in particular through the provision on the possibility to seek technical assistance for capacity-building as required by developing countries and LDCs (section II, article 9 of the Agreement) as well as the provision on assistance offerings by donor Members and international and regional organizations, such as UNCTAD (section II, article 10 of the Agreement). These provisions guarantee that developing countries and LDCs will receive assistance from donors for those provisions under the Agreement that developing countries and LDCs will place under category C. These are often provisions that are considered technically difficult or financially challenging to implement.

35. A study by UNCTAD, based on the non-attributable results from confidential technical assistance projects on the preparation of 26 trade facilitation implementation plans for developing countries and LDCs, describes many of the challenges that developing countries and LDCs have raised in connection with the implementation of individual provisions of the trade facilitation agreement. Figure 2 below lists the top 10 measures for which developing countries and LDCs have estimated that they will need the most technical assistance and capacity-building from donors.

Figure 2
Top 10 measures requiring technical assistance and capacity-building for least developed countries and other countries



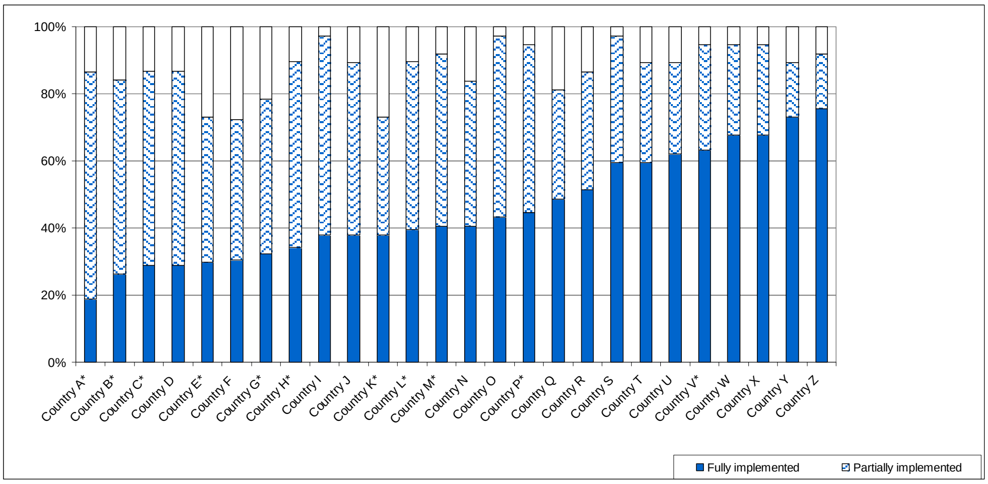
Source: The new frontier of competitiveness in developing countries: Implementing trade facilitation (UNCTAD, forthcoming).

B. Trade facilitation in developing countries prior to the Agreement on Trade Facilitation

36. In 2011, thanks to funding made available by the European Union, Norway, Sweden and the United Nations Development Account, UNCTAD took the lead in a project carried out in collaboration with Annex D organizations aimed at helping developing countries and LDCs prepare national implementation plans for the trade facilitation measures proposed within the WTO negotiation (UNCTAD, forthcoming). UNCTAD learned from this exercise that less than 50 per cent of the trade facilitation measures negotiated at WTO are currently fully implemented in the majority of the participating countries, comprised of LDCs, middle-income developing countries, landlocked countries and small island economies in Africa, Asia and the Caribbean and Latin America.[7] As depicted in Figure 3, full implementation rates vary between 19 per cent and 76 per cent, while the rate of partially implemented measures per country is found to be between 16 per cent and 68 per cent.

[7] The analysis is based on data gathered from 26 participating countries in the projects. The data are non-attributable, as the individual country plans are confidential.

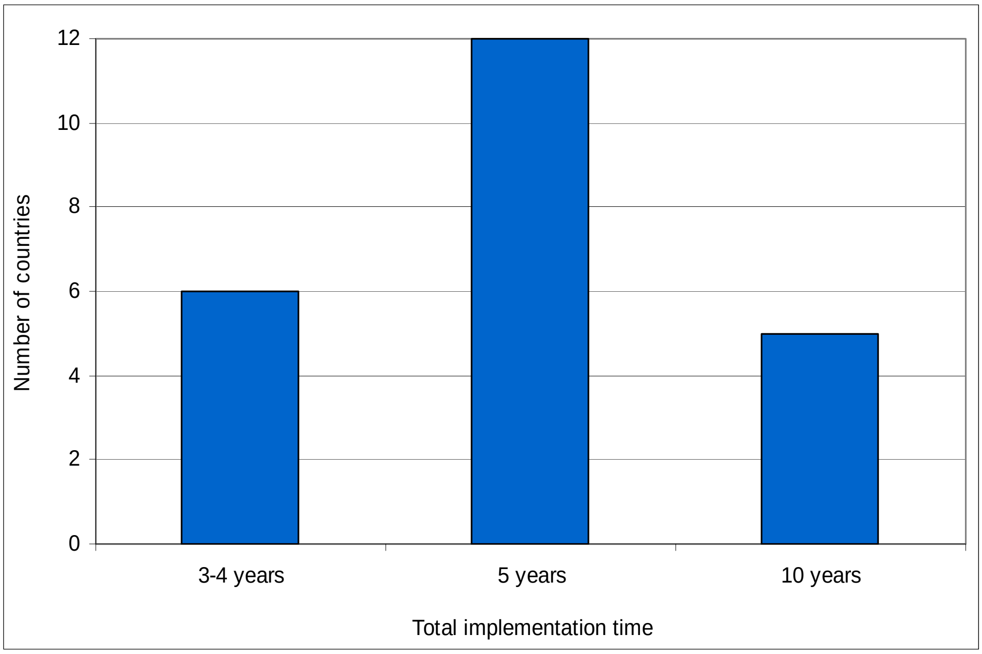
Figure 3
Implementation level of trade facilitation measures, by country



Source: The new frontier of competitiveness in developing countries: Implementing trade facilitation (UNCTAD, forthcoming).
Note: * = least developed country.

37. Further study into the implementation experience of these countries is well documented in a forthcoming report by UNCTAD entitled “The new frontier of competitiveness in developing countries: Implementing trade facilitation”. It not only provides a snapshot of countries' level of trade facilitation implementation, but offers an analysis of implementation needs, priorities, costs and time frames that would have a bearing on strategizing or sequencing the path of implementing remaining trade facilitation measures. For example, when countries were asked to estimate the length of the implementation process until full compliance, 78 per cent of the countries stated that they would require up to 5 years, while the remaining 22 per cent ventured a more cautious estimate of 10 years (figure 4).

Figure 4
Estimated total implementation time



Source: The new frontier of competitiveness in developing countries: Implementing trade facilitation (UNCTAD, forthcoming).
Note: Implementation time is based on data provided by countries included in the survey.

C. Commitment to implementation and compliance

38. Countries' commitment to implement the Agreement is crucial. Commitment should reflect strong intent to see the entire implementation process through, beyond mere legal compliance. To ensure progress, the Agreement allows for commitments from developing WTO members to implement measures in line with their capacity, while developed countries and international organizations are to support developing members in acquiring the necessary capacity.

39. UNCTAD works closely with developing and developed countries to help achieve compliance with the aforementioned commitments through a tailor-made technical cooperation programme. The programme provides the necessary framework for the development and strengthening of developing countries' trade facilitation implementation capacity. UNCTAD has long-standing expertise and experience in lending technical assistance and capacity-building support to developing countries, including the establishment of national trade and transport facilitation committees, needs assessments, trade facilitation implementation plans, transit agreements and customs automation through the ASYCUDA programme.

40. ASYCUDA is the Organization's most successful technical assistance programme. Its state-of-the-art customs automation software has been deployed for use in varying versions in managing national customs clearance systems in over 90 countries. In the implementation phase of the Agreement, customs automation systems such as ASYCUDA can play an important role in assisting developing countries, especially LDCs, in their effort to achieve full compliance of the Agreement.

41. ASYCUDA technical assistance can be tailored in line with the Agreement. In relation to the ongoing technical assistance, this can entail additional needs assessment in ASYCUDA user countries with a view to upgrading their current customs information and communications (ICT) systems as well as assessments for newly interested countries in the ASYCUDA system in line with the norms of the Agreement and WCO standards. Such upgrades could include single window functions such as e-portals, e-payments, web services, e-certification, e-excise, valuation control and multi-agency risk management. Importantly, such a development could, through the single-window method, offer multi-agency connectivity and coordination according to a one-stop approach. Many developing countries can thereby offer facilities for multiple agencies involved in the trade chain and provide efficient trade facilitation and enforcement for their respective areas.

42. Furthermore, countries view the single-window provision as one of the highest priorities for implementation, despite the fact that it is estimated that nation-wide implementation could cost several million dollars due to the required national reforms associated with the implementation of other trade facilitation measures and to the ensuing development of electronic automation systems for customs administration and transactions (UNCTAD, forthcoming).

43. The automation of customs procedures such as import, export and transit procedures, though not an obligation per se, can facilitate the implementation of the Agreement. For example, the use of an automated customs data system such as ASYCUDA can help countries fulfil some of the requirements of the Agreement.

IV. National trade facilitation committees

44. Trade facilitation reforms require a great deal of coordination among stakeholders, in a wide range of public and private institutions.

45. National trade facilitation committees have proved to be a useful instrument to establish and maintain a communication channel between government and the private sector, and in many cases to initiate and/or maintain coordination among all public agencies. They are also recognized as knowledge-sharing and training platforms.

A. Types of trade facilitation committees

46. A trade facilitation committee is a permanent forum where relevant stakeholders from the public and private sectors discuss and coordinate trade facilitation measures at the national level.

47. Specific objectives and functions may differ according to the type of committee or specific needs of the relevant country. National trade facilitation committees can generally be classified as one of the following four types:[8]

(a) PRO committees (national trade facilitation bodies);

(b) National trade and transport facilitation committees;

(c) National trade facilitation committees;

(d) WTO negotiations on trade facilitation support groups.

[8] See http://unctad.org/en/DTL/TLB/Pages/TF/Committees/default.aspx.

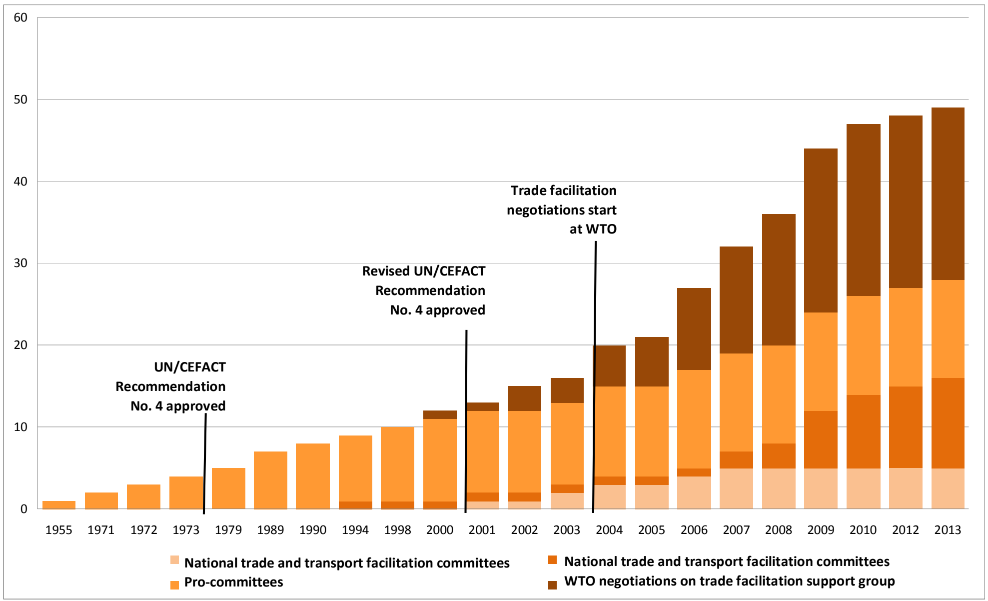
48. In the early 1970s, trade facilitation bodies were created as consultative platforms between government departments and the business community to provide coherence in trade facilitation actions formulation through coordination and cooperation. These bodies were established in developed countries in Europe and Asia, for example the Japan Association for Simplification of International Trade Procedures (1971), the French International Trade Facilitation and Simplification Body (1972) and the Finnish National Body for Simpler Trade Procedures (1973).

49. Inspired by these successful best practices, Economic Commission for Europe Recommendation No. 4 was adopted in 1974. It advised countries to set up national trade facilitation bodies (PRO committees) to ensure the alignment of trade documents, automatic customs data processing and coding. Since then many PRO committees have been established in developed and developing countries, although many of them later ceased operations.

B. From recommendation to obligation

50. From the 1980s to the early 2000s, the growth of national trade facilitation bodies was modest (Figure 5) but their importance was often highlighted at the international level. For instance, Recommendation No. 4 was revised in 2001, encouraging again the establishment of national organizations to implement recommendations on the facilitation of international trade procedures. During this period, UNCTAD and the World Bank launched several technical assistance projects contributing to the establishment of national trade and transport facilitation committees.

Figure 5
Number of national trade facilitation committees, by year



Source: UNCTAD, based on data from the online repository available at http://unctad.org/en/DTL/TLB/Pages/TF/Committees/default.aspx; and UN/CEFACT Recommendation No. 4 (http://www.unece.org/cefact/recommendations/rec_index.html).

51. Since 2004, the number of trade facilitation bodies has increased exponentially, triggered by the trade facilitation negotiations carried out in the context of the Doha Development Agenda (WTO) in July 2004. National coordination mechanisms supporting the negotiations proliferated in all regions.

52. Despite the increasing relevance of trade facilitation bodies, their establishment has remained a recommendation. Only with the Agreement (pending entry into force) will national trade facilitation committees become an obligation for WTO Members. Under the Agreement, members commit to set up national trade facilitation committees. This commitment is included in article 13 of the Agreement, which means that developing countries and LDCs do not have the option to include this measure in category B or C – the national trade facilitation committee must be in place upon the Agreement's entry into force.

C. The challenge of sustainability

53. Regardless of the type of committee, the biggest challenge for trade facilitation working groups is their sustainability. Recent research conducted by UNCTAD has shown that not one, but many determining factors relating to the formal institutionalization of the trade facilitation body can be responsible for the sustainability of the group. Thus, even if there is no miracle ingredient for ensuring the sustainability of trade facilitation bodies, there is a healthy recipe based on a series of components that can strongly influence the effective work of the group.

54. According to UNCTAD (2006),

> While a strong commitment by high-level officials and business leaders is essential, advisory committees, a steering committee and working groups are good solutions to ensure focus and continuity in the work programme. In some instances, a lack of awareness of the purpose of committee work at the national and stakeholder levels hampered the effectiveness of the committee. Staff training, awareness raising and publicity campaigns should go hand in hand with the setting up and maintaining of trade facilitation bodies. […]
>
> Most committees suffer from a lack of sustainability. Cooperation between private and public sectors and the creation of a sense of ownership among stakeholders are important prerequisites. The sustainability of a committee also depends on:
>
> (a) International technical assistance for initial guidance, assessment of trade facilitation needs and the setting of objectives;
>
> (b) Proactive and supportive public and private sector participation;
>
> (c) Its promotion in national and international forums;
>
> (d) Strong linkages with international institutions and trade bodies;
>
> (e) An independent secretariat and technical team of experienced professionals with commensurate remuneration;
>
> (f) The identification of the appropriate lead agency and the selection of a "champion";
>
> (g) Its successful transfer from project dependence to a lead agency;
>
> (h) High-level decision-makers with influence in government ministries;
>
> (i) Assurances from the outset of public financial support for operational and overhead expenses.
>
> A Government must be politically committed to establishing and supporting a trade facilitation committee as a national forum for promoting trade facilitation measures. The committee should be established by decree or within a legal framework, as appropriate.

55. Under article 13 of the Agreement, WTO Members must have a coordination mechanism in place by the time of its entry into force. If a Member already has such a mechanism, that Member must continue maintaining it. This would mean that the national governments of WTO Members must ensure the sustainability and functioning of trade facilitation committees. For those Members who do not yet have such committees in place, it is obligatory to establish them. The only alternative is that, instead of creating some new entity or structure, they can opt to designate an existing mechanism to perform the functions mentioned in the Agreement, that is to say, to facilitate domestic coordination and implementation of the Agreement.

V. The way forward

56. As stated above, UNCTAD has assisted developing countries for many years on issues of trade facilitation and trade efficiency. The Agreement on Trade Facilitation now provides a multilateral platform for building further on this work.

57. The Agreement creates binding commitments for all WTO members to expedite the movement, release and clearance of goods; increase customs efficiency and reduce documentation requirements. It provides for implementation commitments from developing and developed countries alike. Developing WTO members are to implement the measures in line with their capacity, and developed countries and international organizations are to support developing members to acquire the necessary capacity.

58 UNCTAD collaborates with developing and developed countries in their efforts to optimize trade facilitation. In this context, assistance to achieve compliance with the commitments of the Agreement through a programme of tailor-made technical cooperation will be important in the years to come. The UNCTAD programme provides the necessary framework to develop and strengthen the trade facilitation implementation capacity of developing countries.

59. The objectives of the programme on assistance to implement the Agreement are twofold:

a) To lend assistance in developing national trade facilitation implementation plans for the identification of the corresponding categories (A, B and C), time schedules and resource requirements;

b) To provide support towards the actual implementation of trade facilitation reforms aimed at acquiring compliance capacity. For the latter, special focus will be placed on project development, strengthening national trade facilitation committees, capacity-building and ensuring the implementation capacity for implementing category C commitments.

60. The scope of UNCTAD support in this area is as follows:

(a) Developing national implementation plans as well as detailed project proposals for category C measures. The national plans may also cover the implementation of measures in compliance with regional or bilateral commitments;

(b) Establishing, strengthening and helping sustain national trade facilitation committees. These committees should be set up in compliance with article 13 of the Agreement. They are a key mechanism for the development of national implementation plans, the categorization of measures (A, B or C), and overseeing the implementation of trade facilitation measures and the necessary coordination among stakeholders;

(c) Training and capacity-building through tailor-made seminars and workshops to strengthen national capacities to comply with the Agreement and relevant trade facilitation issues beyond it.

61. The successful implementation of trade facilitation reforms requires a high degree of collaboration among domestic stakeholders from both the public and private sectors. Enhanced coherence among development partners in delivering the necessary technical assistance is equally important. UNCTAD continues to work with other international organizations to achieve the highly sought coordination for technical assistance and capacity-building activities. To further such institutional collaboration, UNCTAD in early 2014 signed a memorandum of understanding with the International Trade Centre to work jointly on trade facilitation issues within the respective mandate of both organizations.

62. The trade facilitation support programme includes, among others, tailor-made activities such as the development of national implementation plans; the drafting of project proposals for submission to donors; the production of technical and training material; and the delivery of training, including online and printed training materials, and other support to national trade facilitation committees. It is the view of UNCTAD that the successful implementation of trade facilitation measures would stimulate international trade and strengthen the multilateral trading system through enhanced compliance with multilateral trade rules and improved alignment of national and regional rules with multilateral trade facilitation agreements.

63. In conclusion, the UNCTAD ASYCUDA Programme has the internationally recognized expertise, powerful ICT tools and staff to assist developing countries, particularly LDCs, in implementing the Agreement. It has provided demand-driven technical assistance to member States for over 30 years and its reliable customs management system has become the de facto international standard for customs automation.

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