

V. Conclusion and implications for the WTO negotiations

Case studies on trade facilitation measures implementation in five Asia-Pacific countries, namely Bangladesh, China, Indonesia, India and Nepal, reveal that continuous unilateral efforts have been made by the governments of these countries to facilitate trade, although countries are often at very different stages of implementation. In many countries, various trade facilitation systems and measures have been implemented at selected border crossings or customs offices on a pilot basis, with plans to expand the systems to all border crossings and relevant agencies, as resources become available. However, it is often unclear when these systems will be implemented on a national scale and to what extent rules and regulations will be implemented uniformly throughout each country's territory.

In an effort to increase transparency, government agencies responsible for issuing and enforcing trade rules and regulations often have extensive publication and dissemination programmes in place, although the amount of information made available publicly vary from country to country. Not all countries have established standard time periods between publication and implementation and consultation with stakeholders (e.g., private sector traders) on new or amended rules remain ad-hoc and informal in most cases. Some form of binding advance ruling systems are available or being established, but the coverage (e.g., tariff, valuation, origin) and effectiveness (e.g., time between receipt of the information and issuance of a ruling) of the systems vary greatly across countries. Appeal systems and procedures exist but are not always independent from the regulatory authorities. In addition, appeal processes are often lengthy and costly for the traders.

Fees and charges connected with importation and exportation seems to be still quite numerous in some countries. Some of the fees and charges are calculated as a percentage of the value of a shipment, which may not be consistent with the need for the fees charges to be charged on the basis of the cost of services rendered. Some Governments have made an effort to reduce the number and complexity of fees and charges, as well as of trade documents for imports and exports. All countries, including the LDCs studied, have on-going computerization and electronic trade documentation programmes. All countries also have some form of rapid clearance system in place, albeit for selected categories of goods. Risk management and post-clearance audit systems have also been introduced in all countries, although on a very limited pilot basis in some countries. In regard to tariff classification, all countries studied rely on the HS nomenclature, often expanded to 8 or 10-digit levels to suit their needs.

Transit in the Asian countries examined is generally governed by bilateral and regional transit agreements. This might suggest that different rules and regulations apply to goods in transit depending on their country of origin in some of the countries. No charges are imposed on transit goods. One recurring concern, particularly in South Asia, is that goods officially in transit be illegally marketed in the transit country, as there are often no risk assessment mechanisms in place for these goods.

While, according to a review of existing legislations/regulations and on-going projects and programmes often supplemented by interviews with Government officials, many of the trade facilitation measures being discussed at the WTO Negotiating Group on Trade Facilitation (NGTF) have been implemented, the domestic private sector in these countries generally point to a need for improvement in many areas. For example, the private sector often acknowledge that relevant trade information is published and available but points to the need to make the information more easily available, in particular information on new or amended rules.

Elimination of bribery and other corrupt practices of officials involved in the clearance and release of imported goods is given top priority by the private sector in all the countries. Improvement of coordination between relevant agencies, particularly on documentation requirements, e.g., through the establishment of a single window for one-time submission and collection of trade documents, is also given very high priority in all the countries. Timely and comprehensive publication and dissemination of trade rules and regulations (e.g., through the Internet) is the highest priority in Indonesia and Nepal, while reduction and simplification of the documentation requirements for import/export is the highest priority in Bangladesh. Customs valuation, which is not part of the current WTO trade facilitation negotiation agenda, was the most problematic trade facilitation related area identified by private sectors in the five countries.

In addition to the need and priorities of private sector stakeholders, the costs and benefits to governments of implementing trade facilitation measures will also be considered when selecting measures to be included in the agreement. The trade research and policy literature has dwelled extensively on the benefits associated with trade facilitation. Unfortunately, very little information is available on the cost of implementing selected trade facilitation measures discussed at the WTO, an issue included in the agenda of work of the WTO NGTF. Four of the five country case studies on which this report is based do provide some, albeit very partial, information on the cost associated with trade facilitation programmes and efforts at the national level. The numbers and cost estimates available from the individual studies are, at best, very preliminary. However, they are generally relatively low, partly because some of the costs of implementing trade facilitation measures are seen as coming from regular (routine) budget of Customs and other relevant agencies – as well as from the continuation of technical assistance projects by major donors or international organizations.

While regulatory and institutional costs are expected to be small because of the rather extensive trade facilitation related reforms that have been undertaken in most of the countries, training costs may be significant as some countries lack the human resources necessary to effectively implement some of the measures (e.g., risk management and post-clearance audit). Interestingly, most studies point to the need to upgrade infrastructure as part of implementing a meaningful trade facilitation programme. These costs are not limited to computerization and information and communication technology (ICT) systems, but include the costs of container scanners or the setup of testing facilities/laboratories at selected border crossings, for example. In terms of facilitating transit trade, the country

studies again suggest that transit trade may not be facilitated without significant investment in various infrastructures, ranging from roads and port facilities to effective risk management systems.

The international expert survey on the costs and benefits of selected trade facilitation measures undertaken as part of the study showed that, while long-term savings were expected to exceed costs for all measures, initial setup costs of some of the measures could be expected to be quite high relative to others. The cost difference between measures was mainly explained by the underlying political costs (i.e., extent to which measures will be resisted by staffs within relevant institutions; or by policymakers because of fear of losing political support they need) and infrastructure/equipment costs.

The following implications stem from the above findings:

- Since most of the trade facilitation measures on the negotiating table have been implemented or are planned for implementation even in the least developed countries in the region, the list of trade facilitation measures agreed upon will be less important than the accompanying terms and conditions for implementation, e.g., schedule of implementation for developing countries and technical assistance.
- Negotiation of an agreement on trade facilitation provides an opportunity for pushing potentially difficult regulatory reforms at home through binding commitments on small, simple but highly meaningful administrative procedures e.g., a 30-day standard time period between publication and implementation of regulations, the establishment of formal channels of communication with the private sector on trade facilitation issues (e.g., establishment of an inclusive national trade facilitation committee), the alignment of trade documents to specific international standards, or even an agreement to reduce the number of trade documents to a certain number (by a given date, as necessary).
- Measures to enhance transparency and impartiality, such as an independent system to appeal or double-check rulings on tariff classification, should be given serious consideration given the priority accorded by the private sector to the reduction/elimination of corruption – and its ranking of “tariff classification” as the second most problematic issue in the survey. The notification to the WTO of an official webpage with a negotiated basic list of information and publications and a complete and official list of all existing fees and charges (possibly developed in cooperation with the local chamber of commerce and/or with the support of relevant international organizations) could also be considered.
- Apart from improving timely dissemination of trade regulations and reducing the number of trade documents, one of the main priority identified through private sector surveys was the need for improvement of coordination between relevant agencies. The establishment of single windows for one-time submission and collection of trade documents may therefore need to be considered.

While commitments on electronic submission and processing of trade documents and the establishment of electronic single windows connecting all relevant agencies and organizations (e.g., similar to Singapore TradeNet) may not be feasible given the level of computerization and the state of the ICT infrastructure in many countries of the region, the negotiations provide an opportunity for developing countries to request and help shape a well-coordinated technical assistance/capacity building mechanism in this area. Developed countries may be particularly open to funding electronic trade facilitation systems in developing WTO member countries, given the raising concerns about trade security issues.

- While there is some convergence in the needs and priorities of the private sector, the individual country studies revealed that countries remain at various stages of development and implementation of trade facilitation measures. It was also established that setup costs of some measures may be significant for countries with limited resources or with difficult political conditions. Therefore, commitments on TF measures may need to be divided into groups or lists, depending on how quickly they can be implemented in all WTO members and/or on the amount of likely TA/CB and other resources or infrastructure required (TN/TF/W/82 and W/63).
- A detailed look at the case studies and the survey responses as well as the WTO member proposals, suggests that trade facilitation terms such as single windows, express clearance, risk management system and even advance ruling imply slightly different things to different people, even within a same country. As such, any agreement that will involve complex trade facilitation procedures (e.g., for risk management and post-clearance audit) will need to make specific reference to established trade facilitation instruments (such as specific paragraphs and sections of the WCO revised Kyoto convention). The disagreements that emerged, even among experts, on the sequencing of various measures also suggest that a long-term mechanism to deal with trade facilitation issues (e.g., a WTO working group or committee), as proposed by various WTO members is likely to be needed (TN/TF/W/62).
- As noted by many respondents to the expert survey, trade facilitation measures considered may not be implemented effectively separately, but as part of an overall trade facilitation programme (that may include some infrastructure component). Development of standard trade facilitation technical assistance/capacity building modules, each including a small set of related trade facilitation measures, for which countries in need could apply, may be considered.
- As the on-going unilateral trade facilitation efforts in the country studies suggest, implementation of trade facilitation measures has no downside for Governments, as they do not result in loss of customs revenue, even if trade flows remain the same. The findings on implementation costs, as well as a significant number of anecdotal evidence from inside and outside the Asia-Pacific region,

also suggest that setup and operating costs are dwarfed by long-term savings. As such, special and differential treatment is only needed to shield developing countries from dispute settlement until they secure the resources and build the capacity necessary to implement trade facilitation measures.

- The types of costs associated with various measures may affect the type of special and differential treatment needed. Measures with high political costs may require differential treatment in terms of time of implementation. Measures with high infrastructure-related costs may require exemption until technical assistance has been received and capacity to implement has been acquired.
- An agreement on TF with non-binding commitments would make little sense in the context of the WTO, especially since there are already a number of relatively comprehensive non-binding international conventions on trade facilitation, notably the WCO revised Kyoto Convention. One essential benefit from negotiating on TF at the WTO would be to agree on a possibly very small but nonetheless existent set of TF measures to be implemented by all WTO member countries.
- However, as pointed out in proposal TN/TF/W/82, a disagreement on a single transaction should not lead to the triggering of the WTO dispute settlement mechanism. A WTO agreement that would include commitments from member countries on disclosure of trade-related regulations and fees and charges, combined with a set of jointly agreed principles to govern and strengthen national level appeal mechanisms (including time limits on issuance of rulings), would greatly limit the risk of such occurrence. The WTO dispute settlement mechanism would then only be triggered in case of failure of the national appeal system to comply with negotiated principles. Some developing countries may need technical assistance to setup compliant appeal mechanisms, and assistance in terms of human resource training. One interesting feature is that the operating costs of appeal mechanisms at the national level will likely be a function of the level of transparency and impartiality of Customs and other agencies, thus in itself providing an incentive for further trade facilitation.
- Transit arrangements in many Asia-Pacific countries are based on bilateral and subregional agreements. Freedom of transit will therefore be dependent on harmonization of these bilateral and subregional agreements, suggesting that regional committees on transit issues, and perhaps also other trade facilitation issues, may be needed to make progress in this area. Given the neutral role and expertise of regional commissions of the United Nations in trade and transport facilitation, it is important that they form an integral part of the coordinated global trade facilitation technical assistance and capacity building that will likely be needed to facilitate implementation of the agreement.

- The fact that customs valuation (and SPS/TBT) rank as the most problematic issue(s) in all countries studied some years after the WTO Customs Valuation Agreement and the SPS and TBT Agreements have been implemented is an important signal to the Geneva negotiators of the discrepancies that may emerge between an agreement and its implementation in the area of trade facilitation. As such, it may be better to be less ambitious in the number of trade facilitation measures to be implemented, but more detailed in defining how compliance will be monitored and what technical assistance will be provided.