

FACILITATION OF INTERNATIONAL TRADE IN GOODS

The FAL Bulletin is reverting to its original concept, that is, facilitation of trade in the broad sense. In the context of ECLAC, this is a topic covered by the International Trade Unit in the International Trade and Development Finance Division, to which the Transport Unit also belonged until it was incorporated into the Natural Resources and Infrastructure Division in April 1999.

In an effort at inter-divisional cooperation starting with this issue, the International Trade Unit will be responsible for preparing four articles per year on trade facilitation for the FAL Bulletin. These are certain to be of great interest not only to those of our readers concerned with multi-modal ocean transport and customs procedures but also to those with links to the broader issue of promoting foreign trade in the region.

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1. Introduction

Growing economic interdependency among nations has led to keener interest in the issue of trade facilitation, whether at the multilateral level, within the World Trade Organization, at the regional and subregional levels, or within the Asia-Pacific Economic Cooperation Council (APEC), the Free Trade Area of the Americas (FTAA) and other subregional integration schemes. Various international organizations, such as the United Nations Conference on Trade and Development (UNCTAD), the United Nations Economic Commission for Europe (UN/ECE) and the World Customs Organization (WCO) have developed major trade facilitation programmes in order to establish international rules for promoting best practices.

The term "trade facilitation" is a relatively imprecise concept. In practice, its aim is to simplify, standardize and harmonize the different procedures and requirements that govern movements of goods and services being traded internationally. This definition encompasses a vast set of questions relating to the export, import, organization of transport and activities relating to financing of trade transactions, including insurance.

Clearly, anything that helps to eliminate barriers, increase the transparent and uniform application of standards, rationalize and expedite the transmission of information, define and protect property

rights, reduce processing time for formalities and paperwork or simplify the transit of goods may be considered to be a trade "facilitator". However, some of these elements (namely, services, foreign investments, the protection of intellectual property rights) form part of other areas of trade negotiations, whereas a country's infrastructure and transport facilities are not normally the subject of international negotiation. In this report, we examine only those trade facilitation matters that can be issues of trade negotiations but that do not include any elements that are dealt with in other specific negotiations.

In theory, trade facilitation works to the advantage of all parties involved in international trade, whether national governments, entrepreneurs, the labour force or end consumers. In general, the reduction in costs improves the competitive position of exporters and increases the volume of trade flows. Nevertheless, in some cases, it is difficult to distinguish between a trade facilitation requirement and a trade measure that fulfills a role of national strategic interest, especially in the context of developing countries.

2. Trade facilitation in the World Trade Organization

The World Trade Organization has been expressly concerned with the issue of trade facilitation since the Ministerial Conference held in Singapore (1996), although various agreements adopted at the end of the Uruguay Round do refer to different aspects of trade facilitation. The agreements involved are as follows: Agreement on Technical Barriers to Trade; Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade of 1994 (Customs Valuation Code); Agreement on Rules of Origin; Agreement on Import Licensing Procedures; Agreement on Preshipment Inspection and the Agreement on the Application of Sanitary and Phytosanitary Measures.

Furthermore, the basic legal agreement establishing GATT in 1947 (now in its up-dated 1994 version) contains specific measures relating to the simplification and harmonization of trade procedures, such as article VIII (Fees and Formalities connected with Importing and Exporting) and article X (Publication and Application of Trade Regulations).

The ministers who gathered for the first WTO Ministerial Meeting in 1996 requested the Council for Trade in Goods to undertake an analytical and exploratory study on the simplification of trade procedures, with a view to evaluating the scope and coverage of WTO regulations, basing their work on the advances made by relevant organizations. Since that date, WTO has organized various meetings in which member countries discussed the issue with other organizations active in this area. Nevertheless, in a report issued in October 1999, the Council for Trade in Goods noted the persistence of significant disagreements between member countries on the relevance of the study, the possibility of reformulating existing standards and agreeing to new disciplines. Some countries even had doubts as to the advisability of further facilitation regulations being established by WTO. However, there was consensus on the importance of the full implementation of existing agreements, such as agreements on customs valuation, import licensing, rules of origin, sanitary and phytosanitary measures, and technical barriers to trade, among others.

The Council recommended that, as part of their mandates, the different committees dealing with the above-mentioned issues, and not just the Council for Trade in Services and the Trade and Development Board, should include trade facilitation on the agenda of their respective meetings.

In this way, member countries arrived at the ministerial meeting in Seattle in December 1999

without a common position as to whether it was advisable for WTO to establish broad multilateral rules on trade facilitation. Some delegations, including those of the European Union, United States, Republic of Korea and Switzerland, were in favour of a specific agreement. Others, on the other hand, notably the developing countries, questioned the need for a binding agreement in WTO, which would be subject to the rules of the dispute settlement mechanism. Their representatives argued that the costs of implementation of such an agreement would be very high for countries that did not have the means to modernize their customs services. Nevertheless, in addition to greater harmonization of the rules of origin, a broader technical assistance programme and closer cooperation between WTO and WCO would be necessary.

In an address to WTO, the representative of the Republic of Korea stressed the need for importing countries to institutionalize the use of a single window to concentrate information relating to the whole importation process in a transparent and simple way. He also underscored the importance of automating and modernizing customs administration and the primacy of electronic processing of commercial documents and information. Thus, he proposed using United Nations Electronic Data Interchange for Administration, Commerce and Transport (UN/EDIFACT). Lastly, he stated that WTO could establish rules that were binding or formulate possible recommendations, depending on the issues concerned.

Traditionally, the European Union has been very active in trade facilitation, largely as a result of that association's own efforts at European integration, and has transmitted to the WTO at least three communications setting forth its position. These communications place special emphasis on the physical movements of products, multimodal transport, electronic data transmission and services relating to the movement of goods. In its first communication, the Union identified joint actions relating to payments and insurance for international trade, including electronic payment systems, problems of non-payment and delays in payment. In its second communication, it highlighted the importance of mutual reinforcement between electronic data transmission and a broader policy of systematic improvement and simplification of trade practices. The regular framework should incorporate provisions of the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention). However, these rules should not limit unnecessarily the new technologies now emerging. The WTO rules should include the commitment to seek international standards, such as the UN/EDIFACT. The third communication focuses on the relationship between trade facilitation and development. It affirms the benefits that developing countries can derive from facilitation and the importance of this for small and medium-sized enterprises. Facilitation is expected to have positive effects on the investment climate in these countries, to strengthen tax collection and, in general, to improve the implementation of controls and the reduction of corruption and administrative expenses. It underscores the importance for these countries to adopt a national policy of trade facilitation, which should be fully supported by international organizations. It recognizes that currently, there are duplications and rivalries among the latter. WTO rules would be the framework for coordinating such efforts.

The United States' position is based on the need to expand existing rights and obligations in terms of trade facilitation, as well as to enhance transparency and simplify customs procedures and administration. In this way, multilateral trade negotiations should help to complement and expand existing trade facilitation rules under the WTO, while avoiding duplication of work carried out in other international forums. In this regard, Article VIII relating to import and export forms and formalities should be examined. The same should be done with Article X, relating to the publication

and administration of trade regulations. In practical terms, an effort should be made to build on existing WTO agreements on issues relating to trade facilitation.

3. Trade facilitation in the United Nations Conference on Trade and Development (UNCTAD)

Activities in this area date back almost to the inception of the Conference in 1964. UNCTAD has focused on four specific areas relating to facilitation: the establishment of rules, technical assistance for their application, work on multimodal transport in cooperation with other institutions in customs reform and modernization. These areas are tackled through a series of projects, i.e. the Automated System of Customs Data Entry, Control and Management (ASYCUDA), the Trade Point Programme, the Trade Analysis and Information System (TRAINS) and the Advance Cargo Information System (ASIS). ASYCUDA is a computerized system of customs administration which covers most foreign trade procedures. The Trade Point Programme assists in setting up national trade facilitation centres whose purpose is to reduce transaction costs in commercial operations and to ensure better access to trade information for small and medium-sized enterprises. TRAINS is a personal computer-based system which uses the UNCTAD data base on measures that affect trade while the ACIS system uses computers to generate information required for managing multimodal cargo transport and general transport problems. In the last twenty years, UNCTAD has also collaborated closely with UN/ECE in developing UN/EDIFACT and other trade instruments of the United Nations Centre for the Facilitation of Procedures and Practices for Administration, Commerce and Transport (UN/CEFACT), in particular, the United Nations Lay-out Keys and their standardized terminology.

In a recent communication to the WTO, UNCTAD affirmed that, in theory, trade facilitation covers all measures that can help to reduce the different cost components in the final price of goods to the consumer. With respect to multimodal transport, it considers that its regulatory framework requires a careful study of all possible solutions, including a possible reform of the United Nations Convention on International Multimodal Transport of Goods. This review would require the participation of all member States of the United Nations, the major international organizations and non-governmental organizations. The document contains a brief list of the main organizations with which UNCTAD collaborates, namely, UN/ECE, WCO (in terms of its customs reform and modernization programme), the World Bank and the International Monetary Fund (in conducting technical assistance missions) and WTO (in considering the advisability of establishing a regulatory framework within that organization).

4. Trade-facilitation activities of the United Nations Economic Commission for Europe (UN/ECE)

This Commission has been mandated, through UN/CEFACT, to develop the UN/EDIFACT Standard, the international standard used in Electronic Data Interchange (EDI). This work is based on efforts made earlier by UNCTAD (i.e., as far back as the 1960s) and which have given rise, among others, to the design of United Nations Layout Keys. UN/CEFACT was established in 1997 as a focal point for the United Nations for trade facilitation and electronic commerce. Its activities include the preparation of recommendations on best practices in this field. To date, 27 recommendations have been adopted particularly with respect to procedures and codes used in commercial documents and to the preparation and maintenance of standards for electronic data interchange. Work is being undertaken through six working groups responsible for commercial

procedures, codes, legal issues, the analysis of commercial, technical and methodological procedures, and UN/EDIFACT, respectively.

5. Trade facilitation in the World Customs Organization (WCO)

Established in 1952 as the Customs Co-operation Council, the World Customs Organization (WCO) is an independent, intergovernmental organization with 151 member countries, whose terms of reference are to increase the effectiveness and efficiency of customs administrations. To fulfill this mission, it establishes, maintains and promotes international instruments for the harmonization and standard application of simplified and effective customs systems. WCO introduced the Harmonized Commodity Description and Coding System (HS), which is the current standard for the classification of goods in international trade. It cooperates closely with UNCTAD and WTO and administers the latter's customs valuation agreement. The organization also conducts a vast programme for providing technical assistance to member countries wishing to modernize their customs services.

The Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention), which came into force in 1974, is the corner stone of this organization. In June 1999, the WCO Council adopted a revised version to bring it in line with the current exigencies of international trade. The amended version incorporates a number of modern concepts, including the application of new technologies, the implementation of a new approach to customs control and the willingness of private-sector organizations to cooperate with customs through mutually advantageous alliances. One of the new guiding principles of the Kyoto Convention is the agreement by customs administrations to provide transparency and predictability to all parties involved in international trade. The revised Convention also contains binding rules for its application in all signatory countries, without exception.

The General Annex to the revised Convention recommends the following principles that should be implemented by modern customs services: standardized and simplified procedures, development and continuous improvements of customs techniques for control and full use of information technologies. One of the approaches to be adopted by customs administrations is the intensive use of automated systems, electronic transfer of funds, full dissemination of laws and customs regulations and the setting up of a system that enables them to appeal against customs rulings and practices.

6. Trade facilitation in the International Monetary Fund (IMF) and World Bank

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