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**UNICE PRELIMINARY POSITION ON *THE EUROPEAN COMMUNITY'S OBJECTIVES IN WTO
FOR TRADE FACILITATION***
*“The Assessment of the scope for WTO Rules in the field of Import,
Export and Customs procedures”*

SUMMARY

- In its position paper at annex, UNICE agrees with the Commission when it says that trade facilitation is necessary and can only make a large contribution to improving the situation of companies engaged in international trade.
- For UNICE this reform should involve a decrease, rationalisation and harmonisation of the documents requested of companies by customs. Customs regulations should be more transparent and uniform, and in conformity with WTO principles.
- UNICE is also of the opinion that formalities during customs controls should be simplified and the system of “risk analysis” should be used more often. For UNICE, negotiations on trade facilitation should be launched during the 1999 WTO Ministerial meeting. An agreement in this area would make it possible to streamline customs regulations in parallel with the progressive lowering of customs duties.
- The major priorities for UNICE in this field are:
 - administrative rules governing international trade, which are adapted to globalisation and modernisation of trade;
 - processing administrative formalities linked to international trade transactions notably in the field of transport, technical controls and means of payments;
 - an efficient fight against corruption and fraudulent traffic, without increasing the constraints and burden on companies;
 - co-operation between operators and customs, which should evolve towards true partnership.
 - “One-Stop Clearance” procedure, which will allow the delegation of controls;
- Lastly, for UNICE trade facilitation should clearly offer new business opportunities to companies and allow them to carry out their international transactions smoothly.

1. Introduction

- 1.1 UNICE supports the 22 September Communication from the European Community on trade facilitation submitted to the WTO entitled *“The Assessment of the scope for WTO Rules in the field of Import, Export and Customs procedures”* and proposals on this subject in the Commission's discussion document dated 27 November 1998. It shares the view of the European Community that trade facilitation is “an issue in which all gain”. It also supports the definition of trade facilitation as *“the systematic rationalisation of procedures, information flows and documentation for international traders and agencies in order to facilitate the international trade transaction process”*.
- 1.2 UNICE considers that incorporation of questions linked to simplification and harmonisation of customs procedures in the global and binding framework of WTO can only make a large contribution to improving the situation of companies engaged in international trade.

However, UNICE would like any obligations agreed in this context to be concrete and precise. The time has come to go beyond the stage of simple statements of principle and to agree on highly practical provisions to facilitate trade notably in the field of customs procedures.

- 1.3 UNICE considers that, in the light of soaring trade volumes, the progressive reduction of customs duties in the framework of bilateral, regional or multilateral tariff agreements, increasing trade liberalisation and mounting competitive pressures, customs procedures may have become one of the biggest non-tariff barriers to trade. To ensure that, in the fierce competition resulting from globalisation, companies obtain greater certainty in the administrative handling of their international transactions, UNICE wants to draw the attention of European institutions and customs authorities to the following recommendations in the field of import, export, transit and other customs procedures.

2. Documents and required customs information

2.1. How much information is necessary?

- 2.1.1. UNICE agrees with the EU suggestions detailed under point 2.3 of the Communication (*The scope for WTO rules*) which are: need to avoid procedural obstacles, adoption of international standards, and streamlining and harmonisation of messages. However, it points out that the wide and divergent range of documentation and data requirements needs to be reduced. The remaining requirements should be standardised. It should also be detailed what information is essential for moving goods (maximum data set), and how much information can be retrieved from commercial documentation or, where necessary, through an audit at a later stage. Customs authorities should rely on the same type of information.

2.2. How to obtain information?

2.2.1. UNICE believes that computerisation is a key element in this process of simplification. Networking of operators and administrations should be improved, notably by refining the EU Market Access database accessible through the internet. It would be also important to define customs documents and information required by the WTO and WCO member countries. The scope for companies to gain access and submit applications to customs databases should be created or expanded (e.g. in DGXXI's TARIC database). Customs officers as well as warehouses should be licensed and professional standards should be defined.

2.3. How to ensure transparency?

2.3.1. UNICE believes that lack of transparency in customs regulations is one of the main difficulties for business. Often administrative obligations are not made public, sometimes because they are in violation of WTO rules. Traders are defenceless against customs arbitrariness, as customs power to delay clearance of goods at borders is practically unrestrained, even in many developed countries. UNICE is therefore in favour of any measure which would allow a move towards a limitation of the discretionary powers of customs and other government agencies involved in administering trade. UNICE proposes the setting-up of an accelerated procedure for international arbitration on customs matters which is readily accessible to companies¹.

Greater transparency could also be ensured through systems comparable to pre-shipment inspection whereby non-administrative bodies carry out controls for customs purposes outside the regulatory framework of customs authorities. In this context also, the transparency rules applicable to inspection bodies (as defined in article 6 of the WTO agreement) should be developed and specified in greater detail in order to provide exporters with better guarantees.

2.3.2. UNICE considers that, within the tasks of customs administrations, apart from fulfilling their traditional tasks of revenue collection and enforcement of restrictions and prohibition, the facilitation of legitimate trade is also becoming increasingly significant. Effective trade facilitation would do more to discourage illegitimate trade, without harming revenue collection. Customs should therefore seek to make regulations and documentation as transparent as possible.

2.3.3 Significant improvements in transparency and predictability could be sought in the following areas:

- obligation on customs authorities to let operators know in advance what information they must provide on currency, value, origin and other essential aspects for customs clearance;
- greater flexibility in application of transition clauses when duties and customs rules are modified.

¹ In its 26 October 1998 position, UNICE details its proposal concerning the setting-up of a special procedure for international arbitration on customs matters.

3. Customs controls and formalities

3.1. *What scope for a possible Trade Facilitation Agreement?*

- 3.1.1. Generally speaking UNICE supports the proposals for consideration detailed under item 3.4. (Proposals for consideration in a WTO trade facilitation framework) which are: introduction of automated customs clearance, post clearance controls, simplified procedures and authorised operators. However, with the progressive reduction of customs duties and quotas in the framework of bilateral, regional or multilateral liberalisation agreements, it may seem excessive to apply comprehensive customs controls for collection of statistics on foreign trade. The quality of these statistics must be maintained but should not form a barrier to trade.
- 3.1.2. UNICE considers that trade regimes should be addressed in a set of provisions that state clearly the definition and scope of such regime, the eligibility of operators to benefit from them and how to ensure their application in a co-ordinated and harmonised manner (*e.g. preferential regimes and related rules of origin*). UNICE agrees that there would be merit in elaborating WTO provisions that progressively promote the universal introduction of these modern procedures and guide their development in a trade-enhancing and equitable manner. A WTO Agreement on Trade Facilitation could set parameters along these lines.
- 3.1.3. In addition, UNICE endorses the Commission's approach as described in its most recent discussion document for the 113 Committee on trade facilitation and which seeks to secure an agreement to launch negotiations on this matter at the 1999 WTO ministerial meeting. Regarding more particularly the rules relating to the other WTO agreements (origin rules, import licences, technical barriers to trade, customs value and pre-shipment inspection), UNICE would like their operation to be improved, notably in the areas of simplification and harmonisation of procedures and documents, implementation of controls and use of electronic media. UNICE also supports the proposed rationalisation of the structure of the committees for these WTO agreements, bringing them all under the umbrella of trade facilitation. Among other things, this would enable less developed countries to solve some of their problems of resources and management.

3.2. *How to ensure the efficiency of customs controls?*

- 3.2.1. To ensure efficiency in the customs controls of information and avoid high costs for both customs and operators, UNICE suggests that documentation requirements should be dissociated from border crossing whenever possible. This can be achieved in two ways: first increased co-operation between authorities of the exporting and importing country could allow export data to be verified in the exporting country, communicated to the authorities of the importing country, and thus become the valid basis for importation. Second, authorities could agree, at international level, to reduce the formalities in order to cope with increased trade flows. In this context "authorised traders", be it large multinationals or SMEs, could benefit from minimal formalities at borders while complying with the necessary administrative paperwork in audit-based controls. In addition, UNICE favours introduction of the concept of risk analysis for economic operators, which it believes to be an efficient method for ensuring the effectiveness of customs controls without adding excessive obstacles to trade flows.

3.3. What are top priorities for business ?

3.3.1 Transport and means of payment

UNICE believes that, in international trade, customs facilitation cannot be taken in isolation from facilitation of connected procedures such as transport, technical controls and means of payment.

UNICE supports the idea of coordination within WTO with a view to simplifying, harmonising and computerising transport documents.

In addition, UNICE supports an examination of how to simplify and harmonise rules governing means of payment.

3.3.2. Corruption and integrity

UNICE is firmly convinced that corruption and genuine fraud should be energetically combated, but efficiency must not be sought in an excessive increase in the obligations and constraints imposed on operators active in international trade. Because trade facilitation is an essential factor for companies' competitiveness on a global market, it is not ready to accept that operators are hampered by very strict legislative frameworks which do not correspond to today's flexible business practices. UNICE is aware that globalisation for governments also means budgetary constraints but does not favour the establishment in WTO of "hard rules" (*strong and demanding commitments which would not be compatible with situations always different*) as not only inappropriate but also as merely treating the symptoms. In fact, it is difficult to eradicate such problems via simple or short-term measures, or through the threat of dispute settlement. On the other hand, UNICE could support, in a trade facilitation framework, benchmarking via soft rules linked to fixed objectives and certain generally agreed standards of performance, so as to give political guidance to administrations as to the direction they should be taking in terms of medium-to long-term administrative reform.

3.3.3. Cooperation between trade and customs

UNICE is pleased that the revision of the Kyoto Convention moves in the right direction by suggesting that customs administrations seek to co-operate with representatives of business. This trend should be confirmed and made explicit in the framework of WTO. It also believes that, to be really effective, this "partnership" should be further developed in terms of requiring such co-operation and building "structured relations" with trade operators. Such co-operation should comprise the following actions: development of international support for economic operators (for example in the framework of international customs agreements), greater consideration for practical customs constraints in negotiations on and follow-up of international agreements on movement of goods, encouragement of transparency in implementation of rules, new working methods, common training policy and better communication with customs users.

3.3.4. Single clearance procedure (“One-Stop Clearance”)

UNICE favours the co-ordination of different agencies concerned with import and export. In view of the proliferation of regulatory controls worldwide, rationalisation of procedural aspects of controls is essential to streamline trade flows, while IT-based means of information exchange between traders and government makes it more feasible. UNICE very strongly encourages administrations to ensure, over time, a level of co-ordination and delegation of controls to customs, to enable all verifications to be carried out once only. Such a system should operate for exports as well as imports, and should be sufficiently flexible to allow the maximum number of businesses to take advantage of it, and harmonised to guarantee equality of treatment between economic operators.

International prototype projects which aim to establish single clearance systems between two parties, such as the one currently on-going between the United Kingdom and the US, could serve as a basis for reflection at global level. Any administration seeking to maintain separate or unharmonised control functions should bear the burden of proof.

4. Conclusion

- 4.1 UNICE shares the idea that trade facilitation is “an issue in which all gain” and that it can offer new trading opportunities, especially for small and medium sized enterprises. It also agrees that, for these benefits to be realised, co-operation at the multilateral level is required, “in order to develop harmonised solutions necessary for traders to most effectively carry out international transactions”. In this framework UNICE supports WTO political back-up to the WCO. UNICE is convinced that, to achieve trade facilitation, a permanent and trustful dialogue at national and international level is needed between customs authorities and operators.
- 4.2. Development co-operation and technical assistance are an important part of any agreement on trade facilitation. UNICE would like less developed countries – future emerging markets – to be able to play an active part in such an agreement. With that in mind, technical assistance should enable them to modernise their private and public infrastructures and meet their commitments more easily. European companies are prepared to work to that end with their partners.
- 4.3. These are UNICE’s preliminary reactions to the trade facilitation dossier. It is willing to examine its position in greater depth since it attaches great importance to the results that can be achieved in this area.
- 4.4. UNICE encourages the European Community to play an active role in this area and its experts are ready to reflect on any new EU proposals in order to find solutions which will fit into the proposed EU framework and which address the justified concerns of economic operators.