

**UNICE Roadmap to Hong Kong**

**UNICE Fiche:  
Trade Facilitation Negotiations**

UNICE ranks trade facilitation among its highest priorities in the DDA because it believes that rules to manage international movement of goods should be made compatible with the rapidity and fluidity needed for international trade. A WTO DDA trade facilitation agreement would be advantageous for all WTO members by improving the legal security and lowering the costs of trade transactions. The large and positive economic benefits of trade facilitation have been estimated by the OECD to represent as much as 2 to 15 per cent of the value of traded goods.<sup>1</sup>

Trade facilitation is a broad issue covering customs and border procedures as well as other rules affecting transport, physical infrastructure, information and communications capacities which may impede, slow down or increase the costs of trade. GATS negotiations on transportation services, development assistance programmes in the World Bank or the World Customs Organisation (WCO) and ratification/implementation of the revised WCO Kyoto Convention as well as other international conventions that aim to facilitate trade are essential elements of trade facilitation which UNICE supports. Consequently, trade facilitation goes far beyond the WTO DDA negotiations on Articles V, VIII and X of the GATT, which are the main focus of this paper.

UNICE believes that DDA trade facilitation negotiations should be based on three broad principles:

1. Transparency to reduce the discretionary and arbitrary powers of agencies involved in administering trade.
2. Non-discrimination to guarantee fair treatment for all operators.
3. Least trade restrictiveness and proportionality to ensure that customs and other relevant regulations are developed and applied with a view to facilitating trade.

**Transparency of Customs Administration (GATT Article X)**

A WTO trade facilitation agreement (TFA) should contribute significantly to improving the transparency of customs regulations by reviewing, clarifying and improving GATT Article X in line with the following recommendations.

- Transparency of existing customs regulations: As required by GATT Article X (1), WTO Members should publish all laws regulations, judicial decisions and administrative rules related to customs procedures. To improve on this, a WTO TFA could require WTO Members to publish these regulations on a website that is easily accessible to importers and exporters. Information on paper should also be available. Any regulation or generalised customs practice which is not duly published should be considered void and contestable before the national appeals procedure of the country concerned and the WTO dispute settlement mechanism.

---

<sup>1</sup> OECD (2003) "Trade Facilitation: The Benefits of Simpler, more Transparent Border Procedures", *OECD Policy Brief*, August 2003.

- Transparency of new customs regulations: GATT Article X (2) should be modified to require WTO Members to hold consultations (e.g. via a website) with legitimate business representatives and to notify new customs regulations to either the WTO or the WCO prior to adoption in order to allow all operators to understand and comment on the new regulations. This practice is already common in other areas of WTO work such as TBT or SPS regulations.
- Administration of customs regulations: GATT Article X (3a) should be strengthened to ensure that customs laws are applied in a uniform manner across a customs territory. UNICE members regularly note that this is not the case and that laws are often administered differently according to the point of entry.
- Right of appeal: GATT Article X (3b) should be reviewed to ensure that importers and exporters can have a right of independent judicial or administrative review of customs decisions based on specific guidelines on timing and costs of the procedures. The WTO should guarantee that appeals procedures do not discriminate against foreign operators. In addition, the WTO should consider creating an international arbitration procedure in conjunction with the WCO to mediate disputes between traders and WTO Members that could not be fairly mediated in the national appeals procedure.
- Mutually reinforcing trade facilitation and security measures: UNICE believes that the WTO should enshrine the principle that trade facilitation and security measures should be mutually reinforcing and that security measures should be proportionate to risk and regularly reviewed in-line with trade facilitation principles.

### **Simplifying and reducing the costs of Customs Procedures (GATT Article VIII)**

A WTO TFA should simplify and reduce the fees and formalities associated with customs regulations and related procedures.

- Reasonable fees and charges: GATT Article VIII (1) should be reviewed to clarify reasonable fees and charges to ensure that they relate to the approximate costs of services rendered rather than serving protectionist or revenue raising objectives. Fees and charges should therefore be levied as fixed fees rather than applied on an *ad valorem* basis and should be non discriminatory. In addition, access to information on fees and charges should be publicly available on a website.
- Coordinated administration of fees and charges: Given the broad range of agencies that may intervene in the administration of fees and charges, the GATT Article VIII should require WTO Members to coordinate this administration in a manner that reduce costly delays and storage for imports.
- International standards for documentation: To simplify documentation requirements, GATT Article VIII (3C) should be amended to require WTO Members to simplify import and export documentation requirements based on the relevant international standards.
- Authorised Trader: UNICE supports the introduction of an authorised trader principle in the WTO to enable fast track clearance procedures and reduced documentation. Authorised trader schemes should operate in a non discriminatory and transparent manner and should ensure that both big and small companies can benefit from them.
- Single Administrative Window: A WTO TFA should require WTO Members to establish a single administrative window to fulfil all import, export and transit regulatory requirements. Moreover, WTO Members should be required to allow importers and exporters to pay fees and charges electronically through the single window over a transitional period recognising the level of development.

## Facilitating Transit (GATT Article V)

A WTO TFA should ensure that GATT rules governing the transit of goods is facilitated and rendered as non discriminatory as possible based on the following recommendations.

- Fees: Reasonable transit fees should be clarified in the WTO so as to cover only the administrative costs of the transit procedure. Transit fees and formalities should be publicly available to traders and should not discriminate against foreign traders and between different modes of transport.
- National treatment for transport operators: The WTO should require WTO Members to treat national and non-national transport operators in a non-discriminatory manner for transit purposes in order to reduce trade transport costs and to make transit more efficient.
- International standards: Transit procedures could be significantly improved by developing international standards in this domain and requiring WTO Members to implement those standards.
- Broad coverage: UNICE believes that Article V (1) should be clarified to cover all traded goods – including goods such as energy which may be transported by vessels or by pipelines or similar networks.
- Landlocked developing countries (LLDCs): Special mention and consideration should be given to address the transit needs of LLDCs in a WTO TFA.

## Special and Differential Treatment

UNICE believes that a WTO TFA will provide substantial benefits to developed and developing countries alike, and particularly to developing countries, which suffer most from outdated custom procedures. However, it recognises that developing countries will need more time to implement commitments and that LDCs and weak and vulnerable countries will only be able to make reduced commitments. This is why UNICE has called for a ladder approach to trade facilitation which would require more advanced countries to facilitate trade more quickly than less advanced countries.

- Large commitments for large traders: UNICE believes that a WTO TFA should require large traders (more than three per cent of world trade) to make substantial commitments – including a commitment to introduce electronic customs over a defined period. Developing countries should be given more time to phase-in TFA commitments.
- Reduced commitments for small developing country traders: Small developing country traders and LDCs should only be required to adhere to the basic principles and requirements of a WTO TFA (transparency, non discrimination, least trade restrictiveness and proportionality). LDCs and weak and vulnerable developing countries should only be required to commit to a limited set of rules. However, special consideration should be given to rules in the field of transit to ensure that SDT does not undermine the legitimate concerns of LLDCs.
- Technical Assistance: UNICE welcomes the commitment to provide technical assistance and capacity building to developing countries (in particular to LDCs, LLDCs and weak and vulnerable countries) in the field of trade facilitation. UNICE believes that technical assistance should focus on improving the functioning of customs administrations as a priority rather than on customs infrastructure. The biggest gains from trade facilitation will be in improving customs management. UNICE calls on the EU to ensure proper coordination of international, EU and national technical assistance programmes to maximise their efficiency.

## **Conclusion**

UNICE believes that an ambitious TFA will contribute significantly to facilitating trade for both developed and developing countries and to reducing costs for importers and exporters. Once concluded, this agreement should be regularly reviewed and updated to take account of changes in international trade and technology as is done for the WTO TBT, SPS or GPA agreements.

UNICE is prepared to support this position in constructive dialogue with relevant EU officials and institutions, with partner business organisations around the world and with the EU's WTO partners to ensure that WTO DDA Trade Facilitation negotiations are a success.

---