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Negotiating Group on Trade Facilitation

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COMMUNICATION FROM THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU

The following communication, dated 16 September 2005, from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, is being circulated in advance of the Negotiating Group meeting of 19-20 September 2005.

ESTABLISHING A LONG-TERM MECHANISM ON TRADE FACILITATION MATTERS

I. INTRODUCTION

1. We all recognize the potential benefits of trade facilitation measures, especially for small- and medium-sized enterprises, but there remain two difficult issues associated with the implementation of these measures, to which Members need to find a lasting, long-term solution: (1) the provision of technical assistance and capacity building, and (2) the use of international standards. It would be difficult, for example, for some Members to make any commitment if they are not sure whether sufficient technical assistance will be provided, especially beyond the negotiations phase. Likewise, Members may not be able to implement international standards if they are in any doubt about the specifics of these instruments. This paper is intended to contribute to Members' current deliberations on a lasting mechanism that can be put in place to deal with relevant matters on the subject of trade facilitation over the long term.

II. TECHNICAL ASSISTANCE AND CAPACITY BUILDING

2. Technical assistance and capacity building for developing and least-developed Members is a critical element of the negotiations on trade facilitation.¹ The point cannot be over-emphasized that a successful conclusion to these negotiations hinges upon whether the amount of technical assistance and capacity building sufficient to the needs of these Members can actually be provided. In this context, Members have agreed to review the effectiveness of the support and assistance provided, and to evaluate its ability to implement what is agreed in the negotiations.²

¹ Paragraph 1 of Annex D requires that "Negotiations shall aim to clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including goods in transit.1 Negotiations shall also aim at enhancing technical assistance and support for capacity building in this area...".

² Paragraph 7 of Annex D.

3. Previous contributions from Members are a useful source of ideas on how to ensure the effective provision of technical assistance and capacity building in the long term. For example:

- (a) The EC has recommended that "the WTO and other organizations (the World Bank, WCO, UNCTAD, and others) should well in advance of the implementation of the results of the negotiations, establish and operate jointly a platform for international cooperation and coordination of technical assistance in the field of trade facilitation..." (TN/TF/W/46).
- (b) At the meeting held in June 2005, the United States informally raised the question of whether Members should now commence an examination of what type of surveillance would be most appropriate to monitor support and assistance that will be provided to help developing and least-developed countries implement the commitments resulting from the Trade Facilitation Negotiations. The United States also queried whether Members could perhaps consider exploring an informal open-ended "steering committee" or "task force" type of approach, to inform the NGTF of work on technical assistance and contribute to keeping such work on a practical, problem-solving path.
- (c) India has also informally suggested "a possible mechanism for making available technical assistance under Annex D". Paragraph (v) of India's paper suggests "members could identify their needs of technical assistance and capacity building in a particular area and approach the NGTF (during the negotiations) or the relevant committee dealing with trade facilitation (upon completion of the negotiations) which would ensure that the need for such assistance is adequately met by discussing with Members that have expertise in that field and in relevant cases, also coordinate with relevant multilateral agencies".
- (d) The African Group also urges Members to consider the idea of establishing a coordination/collaborative mechanism or building upon any existing mechanism involving various partners engaged in trade facilitation in order to enhance synergies and ensure efficient use of available resources. The African Group also suggests that there should be long-term sustainability of technical assistance programmes (TN/TF/W/56).

4. We believe that the establishment of such a mechanism, as proposed, would be, amongst other things, the appropriate platform for ensuring that in the long term the needs are being met by the assistance provided. This mechanism should be the forum where all Members can continue to consult on matters relating to technical assistance and capacity building, as well as share national experiences.

III. USE OF INTERNATIONAL STANDARDS

5. We have recently conducted a survey among several hundred of our own stakeholders, including manufacturers, traders, brokers and forwarders. They were questioned on the issue of trade facilitation and what they would like to see coming out of the negotiations. Not surprisingly, one of all possible outcomes they desire most strongly is "to establish a harmonized international rule on customs procedures". Over 50 per cent of those interviewed place "a harmonized international rule" in the top three of their priorities, with as many as half of them regarding this proposal as the most needed of all.

6. We appreciate all the proposals contributed by Members, which share the common goal of further expediting the movement, release and clearance of goods. Several of the contributions have made relevant proposals specifically on "establishing a harmonized international rule on customs procedures":

- (a) Japan, Mongolia, Peru and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu have jointly suggested that Members use international standards, to the extent possible where international standards have been already set up by other relevant international organizations, with a view to minimizing the incidence and complexity of import and export formalities (TN/TF/W/17).
- (b) Korea goes one step further to recommend the adoption of the "WCO Customs Data Model" and "UN Layout Key for Trade Documents" so that WTO Members can work to a standard list of data, and a common format and layout for documentation (TN/TF/W/18).
- (c) New Zealand's proposal requires Members to adopt the WCO's Convention on the Harmonized Commodity Description and Coding System ("the HS Convention") to ensure that decisions on tariff classification are made on an objective basis (TN/TF/W/24). New Zealand, in conjunction with Norway and Switzerland, also suggests that "the development or use of already existing standardized formats on documentation should be considered." An example of the latter is the UN Layout Key for Trade Documents". (TN/TF/W/36).
- (d) Bolivia, Mongolia and Paraguay jointly propose use of international standards for transit formalities and documentation requirements. They suggest "use of international standards applied in most WTO Members to the extent possible, where other relevant international organizations already have set up international standards, with a view to minimizing unnecessary delays or restrictions on traffic in transit". (TN/TF/W/28) Peru also recommends "promotion of the use of international instruments relating to customs transit, including the possibility of acceding to such instruments, where applicable". (TN/TF/W/30).
- (e) The EC recommends that "members should agree to use international standards and instruments as the basis for their import and export procedures and requirements, except where such international standards would be an ineffective or inappropriate means to fulfill the legitimate objectives sought". (TN/TF/W/46).
- (f) India and the United States jointly propose to establish a multilateral mechanism for the exchange and handling of information between Members. The information exchange mechanism will ultimately be built upon implementation of the WCO's Customs Data Model (TN/TF/W/57).

7. The goal of establishing "a harmonized international rule on customs procedures" is a worthy ideal, but the task of achieving it is by no means easy. By applying already existing international standards, Members may be able to avoid some duplication of work, but there are also serious shortcomings, which must be taken into account. For example, some WTO Members may not necessarily be members of the relevant international organizations. New Zealand mentions, for example, that only two-thirds of WTO Members are Contracting Parties to the HS Convention. Moreover, a mere thirty-eight parties have so far contracted to the revised International Convention on the Simplification and Harmonization of Customs Procedures (the revised "Kyoto Convention").

8. This is another important reason why we believe it necessary to establish a long-term mechanism on issues of trade facilitation, as a forum to help bridge the gaps that currently exist.

IV. PROPOSAL

9. We are convinced that trade facilitation is such an important issue that it deserves continuous attention of all Members. In fact, the harmonization of international standards and rules, as well as the provision of the technical assistance needed by Members, are nothing new to the WTO. The Committee on Sanitary and Phytosanitary Measures (the "SPS Committee") and the Committee on Technical Barriers to Trade (the "TBT Committee") are two very relevant examples. We are of the view that it is equally important that Members consider establishing a long-term mechanism, in the form of either a committee, a working group, a task force, annual periodic meetings, any other appropriate structure, or even recourse to an existing mechanism, in order to deal with trade facilitation issues, especially customs matters.

10. The functions of the long-term mechanism might include, but would not be limited to, the following:

- (a) Review the effectiveness of the support and assistance provided to developing Members, especially least-developed Members, so as to ensure progress on the implementation of the results of the negotiations. If difficulties in implementation are encountered by developing or least-developed Members, the mechanism, in conjunction with additional developed Members and/or relevant international organizations, shall ensure provision of the necessary technical assistance and capacity building.
- (b) Grant to developing Members, especially LDCs, upon request, specified, time-limited exceptions from obligations, in whole or in part, taking into account their financial, trade and development needs with a view to ensuring full compliance with the final results of the negotiations.
- (c) Provide a regular forum to allow Members to consult on any matters relating to trade facilitation.
- (d) Maintain close contact with the relevant international organizations in the field of trade facilitation with the aim of securing the best information on trade facilitating measures, and thus avoiding unnecessary duplication of efforts.
- (e) Encourage the use of international standards, guidelines, or recommendations by all Members.
- (f) Serve as a forum for Members to share national experiences and exchange views on trade facilitation matters. The mechanism shall also promote effective cooperation between customs, or any other appropriate authorities, on trade facilitation and customs compliance issues.
- (g) Serve, as appropriate, as a platform for the coordination of matters relating to trade facilitation with other WTO Committees.

V. CONCLUSION

11. We recognize the fact that the provision of technical assistance and capacity building, as well as the harmonization of international rules on trade-facilitating measures are worthy long-term goals. While we are very hopeful that the results of this round of negotiations will further expedite the flow of legitimate trade, we are convinced that, for the reasons mentioned above, the establishment of a mechanism that will continue to work over the long-term is a very necessary element in the

painstaking processes of establishing harmonized international rules on trade and customs procedures, and in ensuring that the assistance provided to developing Members, and especially least-developed Members, is effective in implementing the results of the negotiations. In the meantime, we would encourage Members to continue to discuss these issues in further detail, as well as the functioning of the mechanism both during and beyond the negotiations phase.

12. Having said that, we would like to emphasize that this proposal is without any prejudice to the possible form of the long-term mechanism on trade facilitation matters, or the possible format of the final result of the negotiations, as stipulated in Footnote 1 of Annex D.³

³ Footnote 1 of the Annex D states, "It is understood that this is without prejudice to the possible format of the final result of the negotiations and would allow consideration of various forms of outcomes."