

This paper is one in a series of briefing papers by the International Institute for Sustainable Development. Each of the papers focuses on an issue of particular importance for sustainable development in the South in the WTO's current round of negotiations—the so-called Doha Development Agenda. The aim of the series is to set out, in brief and uncomplicated style, what is at stake in those negotiations for those concerned with international development and the environment. The full set of papers, and more information about IISD's work on trade and sustainable development, can be accessed on IISD's Web site at <http://www.iisd.org/trade>.

Prepared by IISD for the Swiss Agency for Development and Cooperation (SDC)

The WTO, Trade Facilitation and Sustainable Development

1. What is the issue?

Trade facilitation (TF) is defined by the World Trade Organization (WTO) as “the simplification and harmonization of trade procedures, with trade procedures being the activities, practices and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade.”¹ At the WTO's Singapore Ministerial Conference in 1996, trade facilitation was introduced into the WTO process as an item for further study and analysis. The 2001 Doha Ministerial Declaration included a mandate for negotiations on TF to begin after the Fifth Ministerial meeting in 2003, provided there is an agreement at that meeting on modalities for the negotiation.

Business groups, several inter-governmental organizations and most developed countries are supportive of such negotiations going forward. Developing countries, while not opposing the concept of trade facilitation, generally oppose the negotiation of legally-binding TF rules that would be subject to dispute resolution. The issue in WTO terms, therefore, is whether such an agreement will be forthcoming and, if so, how it might look. The issue in a sustainable development context is whether progress on trade facilitation would advance a development and sustainability agenda for trade policy.

2. Background: The development of the trade facilitation issue

Traditionally, TF has been conceived of as a technical approach to reducing “red tape” for imports and exports. For many countries unclear, duplicative, cumbersome procedures impose significant costs and practical barriers to trade, whether imports or exports. In some cases, 20–30 parties may handle up to 40 documents per export or import. In addition, transportation of goods can often be delayed by several days at border crossings, adding significantly to transportation costs in addition to the delays.²

The current trade facilitation debates are also concerned with corruption. The greater the pressure to allow speedy move-

ment of goods, the more plentiful are the opportunities for extortion from officials capable of causing delays.

Two recent developments in business strategy have raised the prominence of trade facilitation in the WTO and other fora: “just-in-time delivery” as a strategy for inventory management, and the growth of e-commerce. Both of these business models rely upon fast and predictable movement of goods across borders. When delays and expenses hamper this movement, incentives for investment and trade can be lost or diminished, along with the associated economic development opportunities. Some studies suggest that trade inefficiencies now represent a more important development barrier than existing tariff levels.³ A number of developing countries, however, remain skeptical of this proposition.

Trade facilitation has clearly moved beyond technical “red tape” issues to become a broader policy-based subject, encompassing a range of administrative, financial, transportation, security, business-model and e-commerce concerns, and with implications for trade's potential for economic development.⁴ In essence, trade facilitation focuses on the speed and costs for getting goods from destination A to destination B, but such a simplified view of the issue misses its growing scope and complexity.

Several provisions of the General Agreement on Tariffs and Trade (GATT) already relate to TF issues. Article V deals with freedom of transit through States; Article VIII sets minimum standards for fees and formalities on importation and exportation of goods; and Article X sets minimum standards for the publication and administration of border trade regulations. Those in favour of seeing a negotiated TF agreement would like to amplify these rudimentary TF provisions in scope and detail.

Several international organizations have been considering TF issues, some for as long as 30 to 40 years. The United Nations Economic Commission for Europe plays a lead role within the UN system on this issue,⁵ while UNCTAD, the World Bank, OECD and others are also involved. APEC appears to play a

leading role integrating developed and developing country interests in TF into a single, but voluntary process. Indeed, APEC has identified several principles for focusing capacity-building activities and regulatory reform initiatives associated with TF.⁶ These include:

- transparency;
- communications and consultations;
- simplification, practicability and efficiency;
- non-discrimination;
- consistency and predictability (includes integrity and corruption concerns);
- harmonization, standardization and (mutual) recognition (of standards);
- modernization and use of new technology;
- due process; and
- cooperation.

The APEC, WTO and UN processes recognize that putting these principles into effect will require national-level capacity development and international cooperation.

3. What do the proponents argue?

Business groups, some intergovernmental organizations and developed countries support a broad WTO agreement on trade facilitation, with binding rules and capacity-building components. Proponents stress the two-track nature of this approach, as noted in the Doha Ministerial Declaration. This is consistent with the expanded view of TF as a broader policy issue that requires more than just reducing red tape, instead extending to positive steps to address a range of issues related to the speed and cost of importing and exporting. With tariff-related costs now significantly reduced, proponents of a TF agreement see the cost and time associated with many border processes as a primary issue in the “fight” against non-tariff barriers—one that produces consistent benefits for all parties.

4. How do the opponents respond?

As already noted, APEC has a voluntary TF program and a set of principles that bridges its developed and developing country membership. In addition, some developing countries and countries in transition have made submissions to the WTO that support further work on TF.⁷ However, developing countries continue to be extremely concerned with the assumption of new, legally-binding requirements linked to the dispute resolution mechanism when many have been unable to meet

existing requirements, and even unable to develop a sound understanding of all their obligations.

In addition, some developing countries remain skeptical about how they would benefit from a broad TF program, especially in the context of their own development priorities. This concern may be well based; many of these same countries were similarly sold on the distributional benefits of the Uruguay Round—benefits that have to date failed to materialize. Given this, many countries suspect that the real motivation for a broad TF agreement lies in developed country just-in-time production and retail strategies, and they are skeptical as to the scope of realistic mutual benefits. To argue that TF reform will, in itself, lead to increased investments and to an equitable distribution of foreign investments, is likely to significantly overstate the role of TF, which is in the end only one factor among many affecting investment decision-making.

5. Implications for development

As tariff levels in general have fallen, the pace at which goods move through borders has become a more urgent issue. UN and WTO studies suggest that addressing this issue can boost development opportunities, and it seems intuitive that this would be the case. However, this assessment does not consider the *opportunity costs* of a focus on trade facilitation strategies—that is, the forgone ability to focus on other development priorities.⁸ The need to weigh competing priorities is intensified if an agreement on TF is made legally binding and subject to dispute settlement, with the attendant potential consequence of punitive tariff measures. For most developing countries, assuming such obligations would entail a major effort to develop sophisticated domestic institutions. In a submission to the WTO’s Council for Trade in Goods, the Czech Republic called the process of creating a performing system of customs clearance “far from a simple and straightforward exercise,” and warned that “What looks like another quite simple technological operation at the beginning, proves to be a *de facto* customs revolution.”⁹ The extent to which a capacity-building component might address these concerns is, at best, unclear.

To the extent that addressing TF issues in a concerted way would force participants to address many corruption-related issues, this could also be a positive development benefit. But the overriding issue here remains the challenge of the task.

Trade facilitation appears to present much less scope for trade-offs than other areas of negotiation. In effect, implementing TF processes creates no losers *in a bargain-making context*. Hence, it can be argued that taking a capacity-building approach to this issue may be more effective than taking a

strict-rules-based approach subject to the dispute settlement processes. This would require a change in the current WTO model, where most agreements are subject to the dispute settlement mechanism. However, it would not be inconsistent with the type of flexibility shown in the establishment of plurilateral agreements in the Uruguay Round, which are not binding on all members. A capacity-building model would also be similar in many ways to the approach seen in relation to developing countries in multilateral environment agreements—an approach guided by the principle of common but differentiated responsibility.

6. Particular implications for sustainable development

If addressing TF issues were to attract the investment that its proponents suggest, this could help increase investment in developing countries, increased investment in those countries being a necessary (but not sufficient) pre-condition for sustainable development. However, there are at least two potentially negative outcomes that should be avoided. First, the TF-related focus on harmonization of standards should not intrude upon the guarantees for the setting of national standards already set out in the TBT and SPS Agreements. In particular, a TF agreement, if developed, should not be allowed to have any impact on environmental, human health and other public welfare legislation and regulation, matters much better left for the TBT and SPS Agreements and the GATT 1994.

Second, it must be recognized that many multilateral environmental agreements, as well as agreements relating to illicit drugs, organized crime activities and so on rely upon measures at the border to detect and prevent illegal activities. In the environmental context, this includes such critical agreements as the Basel Convention on hazardous wastes, the Montreal Protocol on ozone depleting substances, the Convention on International Trade in Endangered Species and others. TF should not become a barrier to the effective implementation and further development of such agreements.

Endnotes

- 1 WTO, "Trade facilitation," http://www.wto.org/english/thewto_e/whatis_e/eol/e/wto02/wto2_69.htm (2002)
- 2 UNECE, 2002. "Trade Facilitation in a Global Trade Environment," UNECE, TRADE/2002/21, March 21, 2002. The International Forum on Trade Facilitation, www.unecce.org/trade/forums/forum02/for02right1.htm
- 3 Several such studies are referred to in the UNECE document cited in note 2.
- 4 A 1998 WTO Trade Facilitation Symposium, undertaken in connection with the implementation of the Singapore mandate, produced a "Checklist of Issues," derived primarily from the interests and perspectives of traders. This document can probably be better understood as a shopping list of elements rather than an authoritative checklist of minimum or essential elements for an agreement. See "Checklist of Issues Raised During the WTO Trade Facilitation Symposium," WTO, G/C/W/113, April 20, 1998 (98-1577), Council for Trade in Goods, http://www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm
- 5 For example, the UNECE "Trade Facilitation in a Global Trade Environment" paper was background for a major UNECE-sponsored conference in Geneva in May 2002: The International Forum on Trade Facilitation.
- 6 "APEC Principles on Trade Facilitation," June 29, 2001 (available at <http://docsonline.wto.org/DDFDocuments/t/G/C/W/273.doc>).
- 7 "Trade Facilitation Experience: Paper by Costa Rica," World Trade Organization, G/C/W/265, May 17, 2001 (01-2527), Council for Trade in Goods; "Trade Facilitation: National Experience of Guatemala," World Trade Organization, G/C/W/248, February 14, 2001, (01-0716) Council for Trade in Goods; "Trade Facilitation: National Experience by the Czech Republic," World Trade Organization, G/C/W/247, February 1, 2001, (01-0516), Council for Trade in Goods. Available at http://www.wto.org/english/tratop_e/tradfa_e/ under the heading "General Documents."
- 8 The issue of defining priorities is well set out by Dani Rodrik, "The Global Governance of Trade: As if Development Really Mattered," United Nations Development Programme, October 2001.
- 9 "Trade Facilitation: National Experience by the Czech Republic," World Trade Organization, G/C/W/247, February 1, 2001, (01-0516), Council for Trade in Goods.

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