

Agreement on Trade Facilitation: Implementation Issues

6th Feb 2014

Commerce

Department of

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 - i. Enquiry Points
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Part A: Background

Background

- Negotiations on Trade Facilitation concluded on 6 December 2013 at Bali Ministerial
- Agreement finalized **subject to legal review**
- It consists of
 - ▣ Preamble
 - ▣ Section I (Operative part) with 13 articles
 - ▣ Section II (Special & Differential provisions)
 - ▣ Final Provisions (Cross-cutting issues)
- To be inserted into Annexure 1A of the WTO Agreement as a “covered agreement” through a Protocol



Part B:
Implementation steps at
WTO

Bali Ministerial Decision

- Announces conclusion of negotiations
- Establishes a Preparatory Committee on Trade Facilitation (PCTF) under the GC open to all Members
- Specific functions of PCTF
 - ▣ Legal Review of the Agreement
 - ▣ Receipt of notifications of Category A commitments
 - ▣ Draw up a Protocol for inserting the TF Agreement into Annex 1A of the WTO Agreement (Marrakesh Agreement)

Bali Ministerial Decision

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- GC shall meet no later than 31 July 2014
 - ▣ to annex to the Agreement notifications of Category A commitments,
 - ▣ to adopt the Protocol, and
 - ▣ to open the Protocol for acceptance of the Members until 31 July 2015

- In terms of Article X:3 of the WTO Agreement, the TF Agreement shall take effect for the Members that have accepted it upon acceptance by two third of the Members, and thereafter for each other Member upon acceptance.

Legal Review of the Agreement

- Mandate: *“legal review for rectifications of a purely formal character that do not affect the substance of the Agreement”*
- Would be one of the first activities to be taken up by PCTF- may start by the second week of February 2014
- **Issues:**
 - **What is the scope of review? Only correction of grammatical errors, typos and consistency in usage of terms/ expressions? What about textual changes for improved clarity?**
 - **What if the work of legal review is not completed by 31 July 2014?**

Category A notifications

- PCTF will receive Category A notifications
- GC should meet *“no later than 31 July 2014 to annex to the Agreement notifications of Cat A commitments”*
- It is advisable to finalize Category A notification well before 31 July 2014
- Developed country Members are likely to exert pressure on the PCTF to prescribe a date prior to 31 July for the submission of notifications
- This would give them time to “discuss” (and negotiate) with Members in whom they have an interest to frontload obligations under Cat A

Issues on notifications

- **Do we support the idea of prescribing a common format for notifications?**
- **The Agreement text uses 18 different legal expressions to describe the nature of the obligation. Lack of clarity about whether they are binding e.g. “shall to the extent possible and as appropriate”, “shall, as appropriate”, “shall, to the extent possible” etc.**
- **Do we support the idea of a signalling conference or exercise that is likely to be demanded by some Developed countries in the name of transparency?**
- **What is the implication if ALL developing country Members do not file Category A notifications by 31 July 2014?**

Protocol of Amendment and Entry into Force

- Ministerial mandate is to bring the Protocol of Amendment in terms of Art X:3 of Marrakesh
- By this logic, it should enter into force on the date on which 2/3rd of the Members accept the Protocol **which cannot be a predetermined date**
- Yet the Ministerial decision prescribes a fixed deadline for the acceptance of the Protocol viz. 31 July 2015
- As such, this date appears to be indicative- meant to persuade Members to expedite their internal processes
- **What is implication if 2/3rd Members do not accept by 31 July 2015?**
- **What is implication if a few Members do not accept by 31 July 2015?**



Part C: Domestic Implementation

Needs Assessment

- No Member is a beginner in TF.
- However, gaps may exist w.r.t. the WTO disciplines on TF
- Important to repeat Needs Assessment as the text has undergone many changes in run up to Bali
- This exercise should cover:
 - ▣ Need for changes in laws and regulations
 - ▣ Need for changes in practices and procedures
 - ▣ Need for infrastructure improvement
 - ▣ Manpower requirements

National Committee on Trade Facilitation

- National Committee on Trade Facilitation is a requirement under the Agreement
- The Committee will oversee the process of domestic coordination and implementation
- An existing mechanism may be designated as the National Committee on TF
- It is important to take all relevant Ministries/agencies on Board – Customs, Quarantine, Port authority, Shipping, Drug Controller, Food Authority, Foreign Trade Control ... etc.

Drafting of Notifications on A/B/C

- Need to hold inter-ministerial consultations to assess, on which provisions/sub-provisions, the Government
 - ▣ is already compliant
 - ▣ requires additional time (and how much) to implement
 - ▣ requires additional time as well as external assistance and support (and what?) to implement
- Generally either trade ministry or customs participated in the negotiations
- Important to explain other ministries the implications of TF disciplines
- Draft the notifications in a format that suits your needs and covers WTO requirements in the matter

Domestic Implementation

Category A

- Notification to be filed before 31 July 2014
- Provisions will have to be implemented before Eif
- National TF Committee should monitor and ensure implementation in a time bound manner

Domestic Implementation

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Category B/C

- First notification to be filed upon EiF
- Notification must account for requirements of all concerned agencies in phasing of commitments
- For Category C, it is important to identify the donor in consultation with the concerned Line Ministry and the National Nodal Authority on Foreign Aid, well in advance
- Important B/C provisions will have to be treated as independent projects requiring proper planning, evaluation and execution
- National TF Committee should monitor and ensure implementation in a time bound manner



**Part D:
A few important
provisions**

Enquiry Points

- At least 2-3 enquiry points would have to be set up
- Enquiry points could be
 - ▣ dedicated enquiry offices within the concerned agencies such as Customs and DGFT, with facility of postal, telephonic as well as web-based services; or
 - ▣ they could be established on the model of call centre; or
 - ▣ dedicated enquiry portal of individual agencies may also be established.
- Enquiry Points will have to be notified domestically by the concerned agencies
- Rules and procedures for sending enquiries and providing responses may have to be framed
- Requirements - infrastructure; additional manpower;

Review of Formalities and Documentation

- The proposal mandates that each agency involved in release and clearance of goods at the borders shall review its formalities and documentation requirements relating to import, export and transit.
- Such formalities and documentation requirements should be adopted or applied with a view to rapid release and clearance, and in a manner that aims at reducing time and costs of compliance.
- Many Members probably complies with the proposed discipline, in view of their endeavor of continuous improvement of formalities and documentation requirements
- However, a mandate may be needed through executive instructions requiring regular compliance by all concerned agencies.

Single Window

- The implementation of SW entails participation of all concerned agencies
- It necessitates intricate harmonization of formalities and documentation, and designing of compatible software
- Changes will be required in rules and procedures of participating agencies
- Implementation will face leadership challenges
- The project will have to be implemented in phased manner (3-4 phases), with subsequent phases progressively building upon the learning of the previous ones and encompassing more number of agencies.
- The project requires investment in IT infrastructure – both hardware and software – by all concerned agencies.
- Capacity building will be required for training of officials in handling



THANK YOU