

Trade Facilitation

Nisha Taneja



Indian Council for Research on International Economic Relations

Chronology of events

2

- Singapore Ministerial Conference of WTO members (1996) :
“Four Singapore issues” trade and investment, competition policy, transparency in government procurement, and trade facilitation
- TF was the only issue that was retained in the Doha Round
- In July 2004, WTO members launched formal negotiations on trade facilitation; on the basis of modalities contained in Annex D of the so-called “July package”.

Chronology of events

3

- The negotiations aimed to:
 - ▣ Clarify and improve GATT Article V (Freedom of Transit), Article VIII (Fees and Formalities, and Article X (Publication and Administration of Trade Regulations)
 - ▣ Enhance technical assistance and support for capacity building
 - ▣ Provisions for effective cooperation between customs and other TF authorities.

Chronology of events

4

- The TNWG was set up in 2004 to discuss these issues
- Several draft texts have been prepared and revised
- The draft has 2 sections
 - ▣ Section 1 strengthens Articles V, VIII and X.
 - ▣ Section 2 lays down provisions relating to S&D and technical assistance
- Key issues include
 - ▣ Building consensus especially on areas such as customs cooperation and transit, as well as on other issues such as pre-shipment inspection, customs brokers and consularization fees.

Chronology of events

5

- While S&D provisions provide flexibility for developing countries to schedule commitments according to their ability to implement them, coupled with technical assistance based on needs assessments; **the key** now is to synergise both parts of the agreement so that the flexibilities in section 2 are used constructively to move the disciplines in Section 1.
- It is now being felt that assistance is available, but the challenge is to find a way to better link needs with available assistance.

Benefits of Trade Facilitation

6

- A multilateral framework of trade facilitation will boost trade and incomes across the world including the growth of production networks.
- WEF 2013 :Income gains from raising the average trade facilitation performance halfway to Singapore's could be six times larger than those from removal of all import tariffs
- Pascal Lamy said this year that a multilateral deal on trade facilitation could add \$1 trillion to the global economy
- There is consensus on benefits of TF but the issue concerning developing and least developed countries is linking of the commitments to SD treatment and technical assistance

Trading Across Borders Indicator

7

	2006	2007	2008	2009	2010	2011	2012	2013
Documents to Export (no.)	9	9	9	9	9	9	9	9
Documents to Import (no.)	11	11	11	11	11	11	11	11
Time to Export (days)	27	27	18	17	17	17	16	16
Time to Import (days)	41	41	21	20	20	20	20	20

Source: Doing Business Report, World Bank

- For India, the number of documents required, to import and export, has remained the same for the past eight years at 11 and 9 respectively.
- Though, the time taken for exports has reduced over the years from 27 days in 2006-07 to 16 in 2013.
- The time taken for imports has gone down drastically from 41 days in 2006-07 to 20 days for all the past five years (2009-13).
- India's cost to export is US\$1,120 per container and cost to import: US\$1,200. The best performer globally is Malaysia with US\$435 per container cost of export and US\$420 per container cost of import in 2013

The Draft Agreement

8

- **What are the key provisions related to Article V, VIII and X?**
- **What progress has India made?**
- **What are the concerns on S&D treatment and technical assistance?**

Publication and availability of information

9

- **Publication**
 - India publishes all relevant trade related information
 - Information available through internet on various websites

- **Single Enquiry Point**
 - India has submitted to the WTO that having a single enquiry point in a vast country like India may not be an effective mechanism. What seems feasible is a sectoral enquiry point with different agencies to start with and then move towards a single enquiry point eventually.

Prior Publication and Consultation

10

- **Opportunity to comment on new and amended rules**
 - The government now releases draft notices on customs procedures to solicit comments from stakeholders before taking final decision
 - Even though drafts are put up for comments; the participation is still not effective.

- **Regular Consultation between border agencies and traders or other stakeholders**
 - This is limited
 - A lot can be done to make this an effective input into the reform process

Advance Rulings

11

- **Advance Ruling has been in place since 2003**
 - Presently this mechanism is available to only certain identified categories like joint ventures

 - The current scope of the advance ruling mechanism is quite limited as such a provision is not available to a solely Indian owned company

Appeal or review procedures

12

- **Right to appeal or review**
 - There is a strong legal system with **two layers** of appeal- the first appellate level is **administrative** and the second is **judicial**. The various appellate authorities are Commissioner (Appeal), Revision Authority, Customs Excise and Service Tax Appellate Tribunal (CESTAT), High Court and the Supreme Court.
 - Beside the route of appeals, an alternative dispute resolution mechanism has also been provided by way of the settlement of cases by the **Settlement Commission**.

Disciplines on fees and charges

13

- **Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation**
 - While some fees and charges are based on non-advalorem basis, others continue to be charged on an advalorem basis but the upper limit has been lowered.
 - Charges should be reasonable :this raises the issue of what a 'reasonable' fee would be.

Release and clearance of goods

14

- **Pre-Arrival Processing**
 - e-BRC system allows transmission of realization of export proceeds details from banks to DGFT in electronically secured format. Made mandatory since 2012.
- **Electronic payment**
 - Application fee can be paid either in cash or through demand draft or through EFT.
- **Risk management**
 - 'Risk Management System' (RMS) introduced in 2005 at Customs locations where the EDI System (ICES) is operational.
 - With the introduction of the RMS, the practice of routine assessment, concurrent audit and examination is discontinued
 - Challenge: India has altogether 93 Land Customs Station, 155 Inland Container Depots (ICDs) and Container Freight Stations (CFS), 12 major ports, 187 minor ports and 37 international airports.

Contd.

15

- **Post clearance audit**
 - Available for importers registered under the Accredited Client Programme (ACP).
 - "Self-Assessment" in Customs, implemented in 2011

- **Establishment and Publication of Average Release Times**
 - India has started publishing data on release and clearance of goods which is being measured by the dwell time at ports.
 - The challenge is that it may not be possible to do it on all the ports.

Consularization and Border Agency Cooperation

16

- Consularization has been a non-issue for WTO negotiations as India has never had consular charges for exporters to India

- Border Agency Cooperation is a major problem area for the trading community as there is still no co-ordination between the customs authority and the port authority resulting in delay of clearance of goods. Lack of adequate infrastructure for allied agencies like testing laboratories further create delay at the border

Formalities connected with importation, exportation

17

- **Review of formalities and documentation requirements**
 - **Transmission of two key documents (Shipping bill from Customs and e-BRC from Banks) relating to Advance Authorization and EPCG Authorizations in secured electronic format to DGFT has been established**
 - Exporters can now file online Export Obligation Discharge certificate (EODC) applications.. This will obviate the need to have re-verification at the Custom's end.
 - There continues to be a trail of hard copy even though we are getting documents of different agencies electronically linked.

Contd.

18

- **Use of international standards**
 - India is a signatory to the Kyoto Convention.
 - India in its letter to the WTO proposed that **members of a customs union** should adopt the same border procedures which should include adoption of same standards including specifications, terminologies and definitions, inspection, sampling and test methods, for border clearance of agriculture and food products.
- **Single window**
 - To reduce transaction and handling costs, a single window system to facilitate export of perishable agricultural produce has been introduced.
 - Challenge: Single window clearance system for general commodities can be resource intensive and technologically challenging for big countries like India

Freedom of transit

19

- Transit does not include infrastructure
- Charges should not be more restrictive than are necessary to fulfill a legitimate objective.
- All provisions applicable under Article VIII should be applicable to transit goods as well.
- In the regional context, transit protocols are absent in most cases and these provisions will be applicable only when the agreements are signed.

Customs cooperation

20

- Whenever there is reason to doubt the accuracy of information supplied by customs, Members should make available information related to customs.
- India feels there should not be additional burden on the customs to divulge this information since it shall always be collected at the time of export / import by the member, and this information retrieval will be from the data and documents available with customs. The documents exchanged may be original, certified or authenticated copy. Original documents shall be exchanged in cases where the courts of law require them.
- A system of such information exchange is in place bilaterally through various agreements, though such an agreement in the multilateral system will be beneficial and complementary to the existing bilateral mechanisms.

Institutional Arrangement: National committee on trade facilitation

21

- As per United Nations Economic Commission for Europe (UNECE), the National Trade Facilitation Body/committee in India is:
 - ▣ INDPRO, Indian Institute of Foreign Trade, B-21, Qutab Institutional Area, 110016 NEW DELHI;

Special and Differential Treatment

22

- The draft consolidated negotiating text puts forward the following three categories of commitments:
 - ▣ **Category A:** Implementation of provisions upon entry into force of the Agreement
 - ▣ **Category B:** Implementation on a date after a transitional period of time following the entry into force of the Agreement
 - ▣ **Category C:** Implementation on a date after a transitional period of time following the entry into force of this Agreement, after acquiring implementation capacity through technical assistance and capacity building support

Special and Differential Treatment

23

- Provisional dates for B and C have to be given within 365 days
- Definitive dates have to be given within 300 days or []
- **There is an early warning mechanism: extension of implementation dates of provisions under Categories B and C**
- Members encouraged to provide information on domestic implementing agency and on donors with whom there is an agreement to provide technical assistance

Technical Assistance

24

- Assessment of financial requirement
- Need to prioritize
 - Measures that can be implemented immediately
 - Measures requiring transition time
 - Measures requiring technical assistance

25

- Two major requirements:
 - ▣ Electronic
 - ▣ Transparency
- These are much needed to give manufacturing and production networks a push.
- In fact TF scope is very limited: 40% of transport cost is inland haulage.

26

Thank You