National Trade Facilitation Committees: From Recommendation to Obligation

“Implementing the WTO Trade Facilitation Agreement”
Section III - Art.23.2 of the TFA: National Committee on Trade Facilitation

WTO Members concluded negotiations on the TF Agreement in Bali
• December 2013

To have a TF Committees has been made a ‘binding obligation’
• This obligation cannot be categorized as B or C
• Must be implemented upon entry into force of the TFA

Art.23.2 - Each Member **shall** establish and/or maintain a national committee on trade facilitation or designate an existing mechanism to facilitate both **domestic coordination and implementation of provisions** of this Agreement. (emphasis added)
‘Obligation’ ….. What it means? (1/2)

‘SHALL’…… makes it mandatory

‘Establish and/or Maintain’ implies either to:
• Create new body
• Maintain existing one
• Designate an existing wing, setup, section to perform the functions

Obligation to have in place a mechanism to perform required tasks

NTFC responsibilities include (specified but not limited to) to facilitate:
• Implementation of Provisions of TF Agreement
• Not necessarily TF implementation Agency
‘Obligation’ ..... What it means? (2/2)

Agreement is silent about

- Structure & governance
- Funding and sustainability
- Membership and meeting frequency
- All these have been left to discretion of Members....

- Experience so far on these issues in different countries....can serve as best guidelines
Past practices and future work.......?
UNCTAD provides information about Trade Facilitation Bodies around the world

Link to the repository: www.unctad.org/TFcommittees
Rising number of TF Committees

Number of TF Committees would continue to rise... ...to equal the number of WTO Members over time

Source: UNCTAD study 2013
NTFC: Scope and mandate (1)

Overview of common practices

- **Coordinate**: Ensure coordination between agencies involved in TF and Enhance partnership and confidence between private and public sector 24%
- **Negotiate**: Improve position in trade facilitation negotiations 28%
- **Foster trade facilitation**: by simplifying, standardising and harmonising trade procedures 48%

NTFC Terms of Reference must include to facilitate ‘domestic coordination’ and implementation of TFA

Source: UNCTAD study 2013
NTFC: Scope and mandate (2)

• Any TFC **must include** in mandate to facilitate ‘**domestic coordination**’ and ‘**implementation of TF Agreement**’

• It can continue to perform already mandated tasks….especially if existing mechanism is designated

• By virtue of facilitating implementation, other areas could also be included which make part of the TF Agreement

• TF Committee can be the most suited instrument for implementing Article 2 (Consultations)
Ensure political will and commitment

• It brings credibility and status

• Authority vs. Availability

• Necessary for its establishment, to operate and for its effectiveness

• For establishment there is…’obligation’…

• But for operations and effectiveness … still required
Structure and Governance

- ‘Business like’ approach
- Overseeing vs. Implementation
- Turf issues – departmental influence
- Permanent secretariat
- Coordinating agency and secretariat
- Right mix of ‘regulators’ and ‘actors’
- BoD, Management Committee and Working Groups
- Chair principal link between committee and government .... can be head of lead TF implementation agency
- Alternate between Public and Private sector
Ministry of Trade is often the coordinating agency...

Overview of common practices

- Ministry of Trade: 66%
- Chamber of Commerce: 8%
- Customs: 6%
- TF body's secretariat: 6%
- Ministry of Transport: 4%
- N/A: 6%
- Other: 4%

Source: UNCTAD study 2013
In a majority of cases, NTFC maintain a permanent secretariat

Overview of common practices

- **Developed**
  - No: 27%
  - Yes: 73%

- **Developing**
  - No: 36%
  - Yes: 64%

- **LDCs**
  - No: 50%
  - Yes: 50%

Source: UNCTAD study 2013
Funding and Sustainability

- The ‘rebuttable presumption’ is that Governments would fund the TFCs on a sustainable basis in future to meet their obligation

- Core costs: salaries, office accommodation and operational expenses and non-core costs

- PPP model can be the most efficient and assuring

- Office accommodation by private sector and operational expenses by government

- Option of ‘seed money’ through some donor funded project and some recovery by ‘priced services’
## Membership & Meetings

### Balanced Public–Private Membership in a National Trade Facilitation Body

<table>
<thead>
<tr>
<th>Government Agency</th>
<th>Service Provider</th>
<th>Trader</th>
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<tbody>
<tr>
<td>Ministry of Trade</td>
<td>National associations of carriers and freight forwarders</td>
<td>Chambers of commerce</td>
</tr>
<tr>
<td>Ministry of Finance/ Customs</td>
<td>National associations of banking institutions</td>
<td>Manufacturer associations</td>
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<tr>
<td>Ministry of Works</td>
<td>National associations of insurance companies</td>
<td>Other associations of service users</td>
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<td></td>
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<td>(exporters, importers, etc.)</td>
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<tr>
<td>Ministry of Communications / Transport</td>
<td>Association of customs brokers</td>
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<td>Ministry of Agriculture</td>
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<tr>
<td>Other line ministries and agencies</td>
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<td>with export/import clearance authority</td>
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Meeting not dependent upon Chair’s availability: there can be an alternate Chair

Pre fixed schedules can be more efficient
  - e.g. first/second Monday of each quarter (i.e. January, April, July, October)
Success factors of TF bodies

Overview of TF bodies key success factors

1. Involvement of the private sector
2. Coordination
3. Strong political commitment
4. Qualitative participation
5. Knowledge/Awareness of key stakeholders
6. Training / capacity building
7. Work plan
8. Financial resources

Source: UNCTAD study 2013
Greatest obstacles faced by TF bodies

Overview of TF bodies main roadblocks

1. Lack of financial resources
2. Lack of participation
3. Lack of knowledge on trade facilitation
4. Lack of coordination among different institutions
5. Resistance to change
6. Low level of commitment by members
7. Frequent replacement of members
8. Lack of government commitment
9. Lack of work plan

Source: UNCTAD study 2013
To sum up…

• TFCs: a “must” for all WTO members

• Facilitating ‘Domestic Coordination’ and Implementation of TF Agreement must be part of mandate

• Political commitment (would still be) required for operations and effectiveness of TF Committees

• Agreement silent about structure, governance, funding, membership, etc……..

• The experience of different countries so far can be a good ‘guidance’
Further readings

- Trade facilitation handbook-national facilitation bodies: lessons from experience (UNCTAD 2006)
- Trade Facilitation Bodies around the world (UNCTAD 2013)
- Guidelines on Establishing and Strengthening National Coordination Mechanism for Trade and Transport Facilitation in the ESCAP Region (UNESCAP 2011)
- Online repository on National TF Bodies (UNCTAD), www.unctad.org/TFcommittees
- Recommendation No. 4 on National Trade Facilitation Organs (UNECE 1974)
Thank you for your attention