



## Discussion paper

# Updated ICC recommendations for a WTO agreement on trade facilitation

*Prepared by the Commission on Customs and Trade Regulations*

ICC welcomes the substantive progress in the WTO negotiation on trade facilitation toward a rules-based agreement that contains meaningful disciplines. The most recent version of draft text, the so-called “Third Generation Text Proposals,” incorporates many of the measures and objectives that the ICC has supported. The current text is a good foundation for a final agreement that would be a major step toward full realization of the benefits of trade liberalization.

### **Trade Facilitation**

ICC’s preferred definition of “trade facilitation” focuses on improvements in the efficiency of the processes associated with trading in goods across national borders. This requires the adoption of a comprehensive and integrated approach to simplifying and reducing the cost of international trade transactions, and ensuring that all relevant activities take place in an efficient, transparent, and predictable manner, based on internationally accepted norms, standards and best practices. Trade facilitation is not just a matter of improving customs procedures but should also target the growing range of controls being implemented at national borders by other authorities.

International transactions often span a series of countries, some not necessarily directly concerned with the manufacture or use of the goods. Specific issues may arise through the goods’ physical transit of intervening territories and the availability or not of arrangements linking initial export and final import. Facilitation of trade therefore concerns not only the countries directly involved in a transaction but also others indirectly linked to the transaction. An important role for an International Trade Facilitation Agreement (ITFA) will be to define the responsibilities of governments involved in complex transactions covering export, transit, and final import of the goods. *ICC’s aim is to encourage the establishment of a trade facilitation agreement that benefits all WTO Members through the establishment of mutually agreed rules covering trade procedures that improve the management of traded goods as they cross national borders.*

### **Benefits**

ICC is convinced that an ITFA will deliver very significant benefits to all Members -- especially those that suffer from commercially damaging delay or lack of predictability due to inefficient border or transit procedures.

The more specific benefits will be:

- more gross revenue collection
- greater cost effective revenue collection
- more effective detection of non-compliance
- improved security of international transactions through improved control of high risk transactions
- more efficient and correct application of regulations, thereby ensuring that any differential treatment of traders is based on objective criteria
- more predictable and faster movement of goods
- more efficient transit procedures
- increased trade, increased revenue, and improved economic performance, and
- more efficient and predictable border procedures encouraging increased foreign direct investment.

*The bottom line is increased trade, increased foreign direct investment, enhanced competitiveness, overall reduction in costs, and enhanced government revenues. (For more details on benefits see the ICC statement “Trade liberalization, foreign direct investment and customs modernization: a virtuous circle,” October 1999.)*

The largest potential for improvement in trade facilitation exists in, and therefore the main potential beneficiaries are generally likely to be, developing countries. *An ITFA will augment the capacity of developing countries to handle and grow their share of international trade, not least in trade with other developing countries.* Increased efficiency will enable higher volumes of both imports and exports to be managed with the same level of resources, resulting in higher compliance and lower costs for both governments and business. In addition, *an ITFA will bring about significant benefits and opportunities for small to medium sized enterprises, which will greatly benefit from more efficient procedures and reduced costs.*

## **Scope of an agreement**

Not only is there huge scope for improving the efficiency of the current international trade process but there is also a compelling need to improve customs efficiency to deal with disciplines covering emerging and potentially costly new areas of control, such as security issues and agricultural goods. For example, modern customs administrations are an operational necessity to ensure that security and trade facilitation objectives are integrated in ways that maintain both objectives. (See also ICC Policy Statement on “Supply Chain Security,” November 2002.) *Binding commitments are essential because only the WTO can ensure the political support required for durable improvements in global trade facilitation.*

***ICC believes that a WTO agreement covering trade facilitation should encompass the following general principles:***

- rules should have sufficient impact to cause a measurable improvement in trade facilitation;
- measurement of the improvement in trade facilitation, for example through the measurement of release times, is in the interest of all WTO members as it will quantify improvement and help ensure the sustainability of improved border procedures;
- rules should set global standards in facilitation, encourage sustainable progress, and assist in the progressive adoption of those standards;
- rules should be non-discriminatory, and must be based on objective criteria;

- rules should not undermine the efficiency and reliability of traders and transport or impose unnecessary costs;
- implementation of a rules-based trade facilitation agreement must be linked to increased overall economic benefits and capacity building to help fund and enable sustainable improvements in those countries with the greatest need; and
- implementation of the rules should include objective assessment and enforcement through the WTO dispute settlement process and policy review mechanism.

***In particular, ICC recommends that the WTO seek to improve efficiency and facilitation with reference to the following trade facilitation objectives:***

- transparent conduct by customs and other government agencies, with easily accessible procedures and regulations, including an open, independent and efficient process for appeal of customs decisions open to all importers;
- an authorization for legitimate traders, allowing operators to cross national borders with minimal interference, through the use of pre-arrival declarations and post release audits, enabling customs to concentrate their resources on the key target of illegitimate trade;
- the measurement of release time at the frontier and, the introduction of targets to encourage governments to reduce release time;
- use of modern customs techniques such as risk assessment and profiling, enabling administrations to make direct resources gains, while reducing the time for legitimate trade to cross borders;
- utilization of commercial systems for customs controls including sophisticated information technologies, the Internet and integrated information systems more rapidly adaptable to business and government needs than independent customs information technology systems;
- adoption and implementation of international standards in the trade transaction process such as those of the United Nations, WCO and ICC;
- global automation to create a paperless environment, with data transmitted and processed by Electronic Data Interchange (EDI) or over the Internet;
- administration of official frontier controls by a single agency, preferably customs; and
- consideration where appropriate, of a “Seamless Integrated Transaction” where a core set of identification control data can be generated, submitted and processed at any time during the transaction, to avoid duplication of the traditionally separate export and import procedures.

*The third generation WTO text (TN/TF/W/43/Rev. 10, pp. 107-145) incorporates many comprehensive WTO member proposals that are supportive of trade facilitation. As a result, the text goes a long way toward addressing the general and specific objectives recommended above. For example, the third generation text on transparency and publication would address the ICC recommendation on transparency and appeal process, and the language on measurement would address the ICC recommendation on the importance of using systematic measurement of goods release time as a tool for progressive improvement of facilitation.*

***There are some areas, however, that need improvement to meet ICC objectives:***

- Paperless environment: Members should make a stronger commitment to replace paper documents with electronic submissions as soon as possible, which would provide a tangible boost to facilitation and also support improvements in integrity. Text section H.1.(f) provides that there would be no need for additional paper documents if documents are accepted electronically but ICC would like to see a broader and stronger commitment to move to

- dematerialization of formalities -- that is, automation should replace paper-based processes.
- Minimum Data Requirements: The text addressing minimization of formality requirements tends to focus on documents (e.g., H.1. (c)). ICC seeks strong commitments to minimize data requirements as well, particularly for release of goods.
  - Single Window: ICC welcomes the inclusion of commitments for achieving “single window” capabilities for managing the border transaction, in H.1. (h). However, to minimize the emergence of “silo” capabilities, that text should be linked directly to commitments to incorporate interoperability standards that would eventually enable national single windows to share information. Such sharing of information between WTO member authorities is a necessary step toward eventual achievement of the “Seamless Integrated Transaction” in the specific ICC objectives outlined above.
  - Express Shipments: ICC appreciates that efficient express shipments have a commercial and economic significance that greatly transcend the express delivery sector. Businesses in all sectors rely on express services daily and these services are a vital element of business models based on just in time inventories and global supply chains. The provisions on express shipments (K.1. (b), now blank, should support state-of-art facilitation for express delivery shipments.
  - Risk Management: The text should be clearer that risk management practices should apply to all consignments, not only to authorized trade consignments, e.g., in K.1. (c).
  - Tariff Classification: ICC supports universal adoption of the updated (2007) HS Convention on classification. This should include timely implementation of agreed upon changes such as HS 2007.
  - Other Government Agency Requirements: Many compliance “certificates,” “licenses,” and “approvals” are linked to the HS number declared at the time of import, and the requirements to facilitate the application, approval and acceptance of these documents is not transparent. We suggest an independent process for the procurement of import licenses such that import processing time is predictable.

## **Securing commitment**

For agreement to be secured on an approach that is sufficiently ambitious and comprehensive to deliver the benefits described, it is essential to take account of the needs and capabilities of all WTO members. *All members should sign up to a significant set of core commitments and timelines for implementation that will bring about progressive improvements in international trade. In addition, there should be a commitment to assess facilitation through the measurement of release times and to reduce them over a period of time.* This approach allows improvements to be made within the structure of the existing processes and legal systems.

ICC recognizes that an ITFA should acknowledge the state of development and ability of some WTO member countries to implement the agreement. In such cases it may be necessary to make appropriate accommodation both in transition time and support to ensure that all member countries are capable of implementing and benefiting fully from the agreement.

## **Capacity building**

In line with the commitment made in Doha to establish this round as the “development round,” capacity building for those countries unable to finance improved border management is vital. Capacity building should not just consist of a package of training. It must be a project that takes

due regard of the infrastructure development of countries and builds both capability and competence in a way that will lead to sustainable improvement. *ICC urges that the agreement include commitments to capacity building based on member needs, with designated funding and WTO coordination of donor activity to ensure efficiency and common standards.*

The third generation text addresses many of the recommendations to improve the efficacy of capacity building initiatives outlined in the ICC Statement on “Capacity building to improve trade facilitation,” (September 2003). ICC welcomes the proposal for a public “Trade Facilitation Register” for notifications, and technical assistance and capacity building requests. *Donor coordination remains a difficult challenge and the Agreement should encourage coordination of donor efforts under its auspices.* While most of its recommendations are addressed, *ICC continues to believe that private sector consultation at the national level, including in assessments, is a key element of efficient capacity building. The Agreement should encourage WTO members to integrate the private sector perspective in their efforts to improve facilitation.*

Another important element that needs more emphasis is *the need to build capacity to manage change in member customs authorities.* Many of the core substantive commitments outlined in the third generation text present important managerial challenges to implementation. For example, changing from an “inspect all” system to one that relies on risk assessment, targeting, and post-entry audit requires a significant change in management approach, including, among others, management systems, internal measurements, and employee reward systems. Implementing this sort of management change often is the most difficult part of making process improvements. Building capacity to execute this kind of change is a prerequisite to effective implementation of a TIFA. While a key focus of capacity-building in developing countries will be on building capacity in member customs authorities, it is likely that the private sector in developing countries will also need to improve capacity in order to fully understand and utilise improved trade facilitation rules and practices.

Business very much supports the process of capacity building and will work energetically together with international organisations and local administrations to help manage the process of change and contribute expertise where required. *To ensure that capacity building really produces benefits on a sustainable basis, a system of measuring the benefits achieved through this process should be implemented.*

## **Conclusions**

A trade facilitation agreement is fundamental to the establishment of an improved and more efficient management process for international trade in goods on a global basis. All WTO member countries will benefit from it -- especially those burdened with the least efficient trading processes, either through infrastructure or managerial limitations or because of procedural barriers being imposed by trading partners. *ICC is committed to assisting the WTO and its member countries to realize the full benefits of international trade through a trade facilitation agreement that encourages improved border management and discourages both inefficient and artificially complex or burdensome border procedures. To realize these benefits for all parties, the WTO trade facilitation negotiations should be concluded as soon as possible.* The elements of a strong agreement are already in the third generation draft. WTO members should make binding commitments to as many of these elements as possible. *In view of the high level of*



*benefit for all members, it would be in their interest to begin the process of implementing the elements of such an agreement without waiting for the formal conclusion of the Doha Development Agenda.*

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### **About ICC**

ICC is the world business organization, a representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world. ICC promotes an open international trade and investment system and the market economy, and helps business corporations meet the challenges and opportunities of globalization. Business leaders and experts drawn from ICC's global membership establish the business stance on broad issues of trade and investment policy as well as on vital technical subjects. ICC was founded in 1919 and today it groups thousands of member companies and associations in 130 countries.