

**Business Facilitation:  
Concrete Progress in the  
FTAA Process**

Jane Thery

A Publication of the  
Organization of American States  
**Trade Unit**  
March 2001



## OAS TRADE UNIT STUDIES

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First Edition, March 2001

OEA/Ser.D/XXII  
SG/TU/TUS-12

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**EXECUTIVE SUMMARY**

Business facilitation emerged in the Free Trade Area of the Americas (FTAA) as a parallel process to the negotiation of this ambitious trade agreement in 1997. The thirty-four countries participating in the FTAA negotiations have defined business facilitation broadly as any measure they deem useful to ease business transactions in the Hemisphere and not subject to negotiation within the comprehensive package of an eventual FTAA agreement. In 1999, these countries approved a set of business facilitation measures consisting of eight customs modernization provisions to lower the costs to businesses of importing and exporting goods and ten “transparency” measures aimed at giving the business community easier access to government information. This major regional agreement on business facilitation has received little attention in trade policy circles. However, it may prove to make a significant contribution to meeting the goals of the FTAA of promoting trade and investment in the Americas.

The FTAA customs measures are similar to those discussed in other multilateral and regional forums under the title of trade facilitation. The customs measures approved by trade ministers at their 1999 meeting in Toronto, Canada are:

- ?? temporary importation/temporary admission of certain goods related to business travelers;
- ?? express shipments;
- ?? simplified procedures for low value shipments;
- ?? compatible electronic data interchange (EDI) systems and common data elements;
- ?? harmonized commodity description and coding system;
- ?? customs information dissemination/hemispheric guide on customs procedures;
- ?? codes of conduct for customs officials; and
- ?? risk analysis/targeting methodology.

A commitment was made by countries to implement these measures by the April 2001 trade ministerial meeting in Buenos Aires, Argentina and to facilitate the provision of technical assistance for this implementation. As of March 2001, most of the customs measures were at least partially implemented and technical assistance requests were received primarily for six of the eight measures.

This paper contains a brief introduction to the subject of business and trade facilitation, a history of the treatment of business facilitation within the FTAA and a summary of the business facilitation measures and their related technical assistance requests as of this stage in the FTAA process.

## INTRODUCTION

Business or trade facilitation is a rising star in the world of international trade. The combination of lower worldwide tariffs, improved technology for information management and increased international competition has spurred the private sector to push governments to adopt trade facilitation measures. In fact, the point is often made that the cost of delays and paperwork requirements for traders exceeds the cost of tariffs in the international marketplace today. International, as opposed to national, approaches to business facilitation are favored because of the increasingly global nature of trade and production. Cooperative efforts among countries are encouraged and sought by the international business community as they can more effectively address the challenge of managing cross border trade.

### **What is trade or business facilitation?**

There is no set definition of this term. However, at the Singapore World Trade Organization Ministerial in December 1996 a series of symposia on the subject was launched. Out of one of these symposia came the following definition:

“Trade Facilitation is often defined as ‘the simplification and harmonization of international 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’. This definition relates to a wide range of activities such as import and export procedures (e.g. customs or licensing procedures); transport formalities; payments, insurance, and other financial requirements.”<sup>1</sup>

This definition is a good starting point although it is narrowly focused on trade in goods. In practice, discussions at trade forums such as the Asia Pacific Economic Community (APEC) on trade facilitation go beyond this to include other measures such as easing requirements for business travelers in the region, standards, professional accreditation and electronic commerce.<sup>2</sup>

Although work in international forums covers this range of issues, the primary focus has been on improving customs procedures to allow international business transactions to be conducted in a rapid, transparent and stable manner, leading to lower costs for traders. The increased attention to this set of issues is note-worthy. Early advocates and contributors to promoting trade facilitation were the International Chamber of Commerce (ICC) and the World Customs Organization (WCO). In the 1990s, the ICC worked with the WCO to establish guidelines for countries to improve customs and to facilitate trade. These guidelines include sections on: Strategic Planning, Workforce Structure; General, Inward, Outward and Transit Cargo Processing; Transparency of Regulation and Administration; Automation; Tariff Classification and Valuation; Origin; Disputes and Sanctions; International Cooperation; and Passenger Processing.<sup>3</sup> The WCO also stepped up its training programs as countries accelerated their customs modernization in the 1990s. Over two hundred and fifty seminars, training courses and expert missions are offered each year by the WCO worldwide.<sup>4</sup>

### **Reducing the Costs of International Trade**

Private sector interest in this area is growing and is driven by price competition among international traders. As trans-border trade increases, the related costs are of greater concern to the

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<sup>1</sup> *Overview of Trade Facilitation in the WTO*, 25.02.00 [http://www.wto.org/english/tratop\\_e/tradfa\\_e/tradfac2\\_e.htm](http://www.wto.org/english/tratop_e/tradfa_e/tradfac2_e.htm).

<sup>2</sup> APEC Workshop on Trade Facilitation: New Directions and the Development Challenge, 13-14 September 2000, APEC Secretariat, Singapore.

<sup>3</sup> International Chamber of Commerce, *International Customs Guidelines*, Commission on International Trade and Investment Policy, 10 July 1997, No. 103/190 Rev.

<sup>4</sup> World Customs Organization: <http://www.wco.org>.

business community. In Latin America and the Caribbean the business environment has been described as, “characterized by very large transaction costs that include imperfect information and very uneven distribution of access to information; lack of transparency; diversity and sometimes, even inconsistency, in regulatory frameworks; costly and protracted procedures in customs, for new investment undertakings and for the establishment of new enterprises; inconsistent certification procedures; and many other aspects that at best produce nightmares for business and, at worst, function as real disincentive especially for small and medium-sized enterprises.”<sup>5</sup>

The cost to business of this reality is quite high. Consider that the border between the United States and Canada is one of the most open in the world and is served by professional, well-funded customs offices yet, according to a recent article in *Foreign Policy*,

“Studies on trade between U.S. states and Canadian provinces find that simply crossing the U.S. – Canadian border is equivalent to adding 4,000 to 16,000 kilometers worth of transportation costs.”<sup>6</sup>

Another key study on cross border transactions found that the existence of a national border between Canada and the United States reduced trade between the countries by about 44% and that national borders of the industrialized countries reduced trade by about 30%.<sup>7</sup> These studies reinforce the analysis of international business groups that the reduction in cost related to crossing borders will have a significant impact on the cost of doing international business.

Beyond lowering business costs, studies have also shown that countries implementing trade facilitation policies can achieve overall economic gains. In an APEC Economic Report, the authors’ economic modeling results show US\$46 billion in income gains if APEC members implement their trade facilitation obligations. A 1994 UNCTAD study claims potential worldwide savings from trade facilitation measures of up to US\$75 billion per year.<sup>8</sup> Of course, the European Union has placed heavy emphasis on reducing, and some in areas eliminating, the cost and time delays of crossing borders among its member states in order to capture these economic gains.

From both the private sector position of lowering transaction costs to compete successfully and a national welfare position of capturing income gains for the economy as a whole, trade facilitation is high on the international trade agenda.

## HISTORY OF BUSINESS FACILITATION IN THE FTAA

As is clear from the introduction to this paper, trade facilitation was high on the agenda of the business community and of trade negotiators at the WTO and APEC.<sup>9</sup> The business community and national governments seeking to promote trade and lower the costs of cross-border transactions are giving high priority to these initiatives in recognition of their importance in making a strong contribution to successful trade liberalization. The business community has enthusiastically supported the customs, standards and business visa exercises in these other forums and in initiatives such as the Trans-Atlantic Business Dialogue, a private sector group formed to discuss and ease US-European trade relations.

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<sup>5</sup> José Manuel Salazar-Xirinachs, *The Challenge of Business Facilitation in the Western Hemisphere*, Comments at the Caribbean Latin American Action Conference: Business in the Hemisphere – From Talk to Action, Miami, December 8, 1998.

<sup>6</sup> Ricardo Hausmann, *Prisoners of Geography*, *Foreign Policy*, January/February 2001.

<sup>7</sup> James E. Anderson and Eric van Wincoop, *Gravity with Gravitas: A Solution to the Border Puzzle*, National Bureau of Economic Research Working Paper No. W8079, January 2001.

<sup>8</sup> Data contained in the APEC Workshop on Trade Facilitation: New Directions and the Development Challenge, Workshop Objectives, 13-14 September 2000, APEC Secretariat, Singapore.

<sup>9</sup> All countries in the Western Hemisphere, save the Bahamas, are members of the WTO and Canada, the United States, Mexico, Peru and Chile are members of APEC.

In the Western Hemisphere, the Business Network for Hemispheric Integration (BNHI) took up the idea of promoting a business facilitation agenda within the FTAA. The BNHI is an association of business organizations from Latin America, the Caribbean, the United States and Canada. They were joined in this effort by other business groups such as the US Chamber of Commerce, the Association of American Chambers of Commerce in Latin America and the Latin American Business Council (known by its Spanish acronym CEAL).

An important source of political support for the business facilitation initiative was the Americas Business Forums. These meetings began in conjunction with the first trade ministerial in Denver, Colorado in 1995. The concept was to bring the business community from across the Americas together to discuss and articulate their recommendations for the FTAA, to network with each other and to interact with trade negotiators. The Denver business forum was held after the trade ministerial. In Cartagena, for the next trade ministerial, the business community and organized the business forum before the ministerial and established the practice of presenting the Americas Business Forum recommendations to ministers in a formal joint session. In Cartagena in 1996, the business community proposed a number of business facilitation measures to ministers.

To respond to this interest, vice ministers directed the pre-negotiation working groups of the FTAA to expand their work programs to include identification of business facilitation measures before the 1997 meeting of trade ministers in Belo Horizonte. This was the first action on business facilitation by governments within the FTAA process.

Within this FTAA process, no definition of business facilitation was established. The narrow definition of customs modernization was not adopted. Instead, a general approach to business facilitation with an open agenda including aspects of transparency, customs, standards or other issues put forward by country delegations was taken. In other words, the business facilitation exercise could include common initiatives that were not seen by country delegations as part of the FTAA negotiating process per se and therefore agreement could be reached without violating the FTAA principle of conducting the negotiations as a "single undertaking." At this stage in the FTAA process, negotiations had not been officially launched so the negotiating agenda was also in the process of formulation.

As part of the effort to enhance transparency, at the Belo Horizonte ministerial meeting the FTAA official home page was launched ([www.ftaa-alca.org](http://www.ftaa-alca.org)), providing a modern vehicle for disseminating information that might be useful to the business community via the Internet.

In preparation for the March 1998 ministerial in Costa Rica, the vice ministers instructed countries to make specific recommendations on business facilitation. In addition, the Costa Rican Trade Minister and Chair of the FTAA process, Jose Manuel Salazar, commissioned a paper on the topic that was prepared by Jorge Ramirez Ocampo, the private sector organizer of the Americas Business Forum in Cartagena and a member of the Business Network for Hemispheric Integration. The vice ministers also agreed to request Marco Vinicio Ruiz, the organizer of the Americas Business Forum in Costa Rica, to focus the work of this forum on business facilitation measures.

All of these actions laid the groundwork for the first mention of business facilitation in a ministerial declaration. In addition, the ministerial mandate to make "concrete progress...by the end of the century" – originally put forward at the Summit of the Americas and reiterated at each subsequent trade ministerial – was linked to the goal of agreement on a business facilitation package. Ministers in Costa Rica stated, "We instruct the Trade Negotiations Committee (TNC) to agree on specific business facilitation measures to be adopted before the end of the century."

The international trade policy community, customs specialists and the private sector combined to support what was recognized as a strong business facilitation initiative that would have an immediate impact on allowing goods to move more easily across borders.

There is an interesting political backdrop to the discussion of business facilitation within the FTAA. Although business facilitation was not in the original design of the FTAA as announced by heads of state in the Miami Summit of the Americas in 1994, there was a phrase about a mid-term deadline for the FTAA before the final agreement was to be reached in 2005. The phrase "concrete progress.... by the

end of the century”, according to Richard Feinberg who at the time was serving as senior United States National Security Council staff member for Latin America and the Caribbean, was a compromise between countries favoring an earlier deadline for the FTAA and those who held that this position was too ambitious. Business facilitation was to become this concrete progress six years later.<sup>10</sup>

Under the mandate to the TNC (consisting of the vice ministers of trade), over two hundred business facilitation measures were collected for consideration by the countries. At their meeting in Suriname in December 1998, this list included recommendations from the countries, the FTAA working groups, the paper commissioned by the Costa Rica chair and from the Americas Business Forums. It was compiled by the Tripartite Committee as one of its tasks in providing technical support to the FTAA process.<sup>11</sup> The measures on this list varied in nature with some being quite specific and others calling for general improvements in trading and investment conditions. However, the list of measures captured the most important elements of the ongoing trade facilitation discussion at the global level.

After extensive discussion of the list of potential business facilitation measures by the TNC, the decision was made to focus, as a first stage, on the customs-related measures and transparency measures. Transparency measures included the publication of inventories of national laws and regulations in many of the areas of negotiation in the FTAA. Additionally, links to national websites were included in the FTAA Home Page providing access to information of interest to the business community and others on trade-related issues.

The decision to embrace the customs measures was made in recognition of their important impact on trade, the work already accomplished in this area in other international forums and strong support from the business community. This decision to focus on customs measures and leave aside issues in standards, anti-corruption, services, etc. is also not surprising in the light of the international treatment of trade facilitation at the time. At the WTO and APEC, trade facilitation was primarily in the area of customs modernization. Trade facilitation measures that could be implemented through regulatory and administrative changes as well as government purchases to modernize customs facilities, were well-recognized for their potential to have a solid and immediate positive impact on improving conditions for international trade.

The eight customs measures selected were referred to a newly established ad hoc group of the TNC comprised of customs specialists. The mandate of this group was to provide detailed information on the steps needed to implement the customs recommendations in the countries of the Western Hemisphere. This ad hoc group determined what would be called the “primary elements” of each of the eight customs measures to be approved at the November 1999 Toronto ministerial.

In Toronto, ministers stated,

“We agree to a number of specific business facilitation measures as part of our continuing efforts to achieve progress in creating an FTAA. These measures reflect the substantive work that has emanated from the FTAA process to date. We have adopted a thematic approach to business facilitation and have concentrated our initial work in the areas of customs procedures and enhanced transparency in response to the priorities identified by our business communities.”

Agreement on these eight measures, which will be discussed more fully below, was a significant accomplishment of the FTAA process. At the Toronto ministerial in November 1999, thirty-four countries agreed to implement eight important customs measures by the target date of their next ministerial

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<sup>10</sup> Feinberg, Richard E., *Summitry in the Americas: A Progress Report*, Institute for International Economics, Washington, DC, April 1997.

<sup>11</sup> The Tripartite Committee consists of the Organization of American States (OAS), the Inter-American Development Bank (IDB) and the United Nations Economic Commission for Latin America and the Caribbean (ECLAC).

meeting. This was a key investment by the FTAA process in trade liberalization in the Americas as well as the “concrete progress” mandated by the heads of state in 1994 and reiterated at their meeting in Santiago, Chile in 1998.

The next stage was also important for the strength of the FTAA process. The ad hoc group designated by the vice ministers before the Toronto ministerial took a substantive and serious approach to making the customs-related measures clear in their application. The spirit of the group was to identify end products for business users of each of the measures and to break down each measure into elements that could clearly be implemented by customs officials. Twenty-six “primary elements” of the eight approved measures were identified. At the Toronto ministerial, this ad hoc group was given a new task. Ministers agreed that business facilitation should be an ongoing process including implementation of the approved package, facilitating the provision of technical assistance for implementation of the package and identifying a new set of business facilitation measures.

Ministers in Toronto stated,

“We agree that business facilitation is an ongoing process and we have directed the TNC:

- a. to supervise the full implementation of these measures by the target date of our next Ministerial meeting;
- b. to facilitate the provision of technical assistance for implementing the measures, in particular for the smaller economies;
- c. to review progress and report to us at our next meeting; and
- d. to identify, consider and recommend additional business facilitation measures, calling on experts as appropriate, and report to us at our next meeting.”

In 1994, heads of state declared that the FTAA would achieve concrete progress by 2000. By the end of the century, trade ministers adopted a set of business facilitation measures, established a mechanism to oversee their implementation and called for another set of measures to be identified by countries. The FTAA process had succeeded in establishing an important and solid package of customs and transparency measures in the Americas.

### THE CUSTOMS-RELATED BUSINESS FACILITATION MEASURES

The customs measures approved by trade ministers in Toronto in 1999 are a mix of technological and regulatory initiatives familiar to customs officials who have embarked on modernizing their practices to meet the demands of increased global trade. The measures are described briefly below. The approved measures and their “primary elements” as presented in Annex II of the Toronto ministerial declaration are attached as reference. Each of these areas has a long and detailed history. More comprehensive information on their history and worldwide application can be found through the home pages of the World Customs Organization, the World Bank and the UNCTAD.

The customs measures approved through the FTAA process have been implemented to a varying degree by the countries in the Americas. Table 1 presents a summary of the percentage and degree of implementation based on submissions by country delegations. Implemented measures are those fully in place according to these country submissions. Partially implemented measures may have almost all of their elements in place or may be at an initial stage of implementation. Measures that have not been implemented have had no action taken according to the country submissions. No response indicated that no information was provided on the measure’s implementation status.

Many of these measures have been partially implemented by the countries in the region. The full matrix of implementation is available on the FTAA Home Page for review of each country’s implementation status.<sup>12</sup> The summary of this table is:

**Table 1**  
**Business Facilitation Implementation Status:**  
**Percentage of Countries in Each Implementation Category for**  
**Each of the Eight Customs Measures**

<b>Implementati on Status</b>	<b>1. Tempor ary Entry</b>	<b>2. Express Shipme nt</b>	<b>3. Low Value</b>	<b>4. Data Intercha nge</b>	<b>5. Harmoni zed System</b>	<b>6. Hemispher ic Customs Guide</b>	<b>7. Codes of Condu ct</b>	<b>8. Risk Analys is</b>
Implemented	35%	26%	44%	24%	85%	6%	47%	21%
Partially Implemented	56%	62%	38%	44%	0%	94%	32%	56%
Not Implemented	0%	3%	9%	26%	3%	0%	6%	15%
No Response	9%	9%	9%	6%	12%	0%	15%	9%

The following descriptions of the eight business facilitation measures provide a brief summary of each and a note on the status of implementation of the measure.

<sup>12</sup> [www.ftaa-alca.org](http://www.ftaa-alca.org) under business facilitation.

### **Temporary Importation / Temporary Admission of Certain Goods Related to Business Travelers**

This measure would ease the entry of promotional materials and samples used by business travelers by not treating these materials as imports. This allows for the separate designation of these goods, the suspension of duties and simplification of paperwork. Businesses presenting their wares at trade fairs or on trade missions can be faced with paying import duties and having their goods held in customs which are two major disincentives for bringing in samples and promotional materials and therefore participating in these events or missions. Practices have been established to allow for this type of temporary entry and are now in the process of being more comprehensively implemented in the Western Hemisphere. Thirty five percent of the countries in the region have fully implemented this measure. Many of the smaller economies in the region are in the process of developing customs procedures to provide this service to traders doing business in their countries.

### **Express Shipments**

The second customs measure is key to the rapid delivery of goods across borders and has significant support from the powerful express shipment industry. The Express Shipments measure calls for expedited treatment in customs of shipments designated as express. Key goals of the express shippers in the customs area are: to be able to process all information concerning the shipment electronically and in advance of its arrival, to arrange for payment of any required duties after the goods have been released from customs, to guarantee the release of goods no more than six hours after arrival and to have extended customs hours of operation for handling their shipments. These goals are embedded in the primary elements of the express shipment customs measures. Achievement of these goals is closely related to other approved customs measures described below that are designed to facilitate electronic filing of customs information, speed inspections and professionalize customs management. The express shipment industry is growing rapidly to respond to international customers' orders through companies such as Amazon.com and to international production facilities that depend on just-in-time delivery of inventory.

Express shipment procedures have been implemented by twenty-six percent of the countries in the region. The express shipment industry, represented primarily by DHL, Federal Express, TNT and UPS, has lobbied governments to improve express shipment treatment, especially over the last five years as this business has grown. Express shipment management requires a high level of electronic filing and modern customs facilities. An important industry group in the region, the Latin American Council of Express Shippers (known by its Spanish acronym of CLADDEC) developed a survey to measure implementation of customs practices influencing their industry. The results are presented in a matrix listing elements important to the express shipment industry such as whether there are separate and expedited procedures for express shipment, a country has a weight limit for express shipment and there are extended hours of operation of the customs facilities.<sup>13</sup> This private sector matrix and the FTAA data on implementation show that many smaller economies are still upgrading these systems.

### **Simplified Procedures for Low Value Shipments**

The third customs measure is to simplify procedures for low value shipments. The idea behind this measure is that low value shipments are unlikely to be subject to significant duties or import controls and therefore should be able to pass through customs quickly and easily. The first step in this measure is to be able to quickly determine value. This information is most rapidly available through electronic filing. The second step is to establish an efficient customs review system to minimize risk and allow the good to enter the country. Forty-four percent of the countries in the region have fully implemented this measure.

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<sup>13</sup> [www.cladec.org](http://www.cladec.org).

### **Compatible Electronic Data Interchange (EDI) Systems and Common Data Elements**

The fourth measure is to establish compatible Electronic Data Interchange (EDI) systems and common data elements. This measure is an essential element for electronic filing of customs information. Customs officials need certain information about each good to determine duties, risks, rules of origin, etc. A common set of data elements across all countries simplifies the process for shippers to prepare the appropriate documentation for their shipments. The Electronic Data Interchange (EDI) systems, allows this data to be exchanged efficiently among all parties with an interest in the shipment such as importing and exporting country customs officials, insurance brokers, agricultural inspectors and freight forwarders. The EDI system was developed by the United Nations Center for Facilitation of Procedures and Practices for Administration, Commerce and Transportation. This measure has been fully implemented by twenty-four percent of the countries in the region.

### **Harmonized Commodity Description and Coding Systems**

The fifth measure is application of the Harmonized Commodity Description and Coding System. This system is well defined by customs specialist Brian Rankin Staples as follows:

“The Harmonized System (HS) is a legal and logical international product nomenclature developed through the World Customs Organization. Introduced in 1988, contracting parties committed to apply the HS at the specified 6-digit level, which covers 1,241 headings. Changes and additions to the HS must be approved by the HS Committee and the WCO Council. Although the HS is primarily designed for tariff classification purposes, it is also used extensively for alternative applications such as identifying goods subject to import and export controls, freight tariffs, the application of, or exemption from, value-added tax regimes, trade statistics and origin determination.

The single largest advantage of the HS is that it provides a single trade language for all public and private actors in the international trade arena. The concept of trade facilitation is dependent on the complete understanding and mastery of the HS.”<sup>14</sup>

The highest level of full implementation is for the adoption of the harmonized system of customs classification. Eighty-five percent of the countries are now working with this system which is widely used in the region and worldwide.

### **Customs Information Dissemination/Hemispheric Guide on Customs Procedures**

The sixth measure is somewhat different from the other seven measures. The Customs Information Dissemination/Hemispheric Guide on Customs Procedures initiative originally came from the working group or preparatory phase of the FTAA process. The FTAA Working Group on Customs Procedures, as in the case of most of the other eleven FTAA working groups, began by collecting information on the status of customs procedures in the Hemisphere. The Working Group established a survey and, with the assistance of the Inter-American Development Bank (IDB) as part of the Tripartite Committee, compiled a document with customs procedures of each country presented in a clear and comparable manner. As the business community was interested in transparency and access to customs information, the Customs Guide was revised and is now available on the FTAA Home Page ([www.ftaa-alca.org](http://www.ftaa-alca.org)).

The figure in Table 1 showing that only six-percent of the countries have implemented the customs guide measure is somewhat misleading. All countries have provided information for the customs guide but most have not provided a mechanism via hyperlinks to update the information. Since this is one of the primary elements of the measure, most of the countries have therefore not fully implemented this measure. However, most have provided the other required information. Therefore this measure is ninety four percent partially implemented.

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<sup>14</sup> Brian Rankin Staples, Trade Facilitation, October 19, 1998, draft paper, World Bank.

### **Codes of Conduct for Customs Officials**

The seventh customs-related business facilitation measure is the establishment of codes of conduct for customs officials to address corruption problems in this area. All countries in the Hemisphere have some type of law or regulation regarding the ethical conduct of government officials. This measure seeks to encourage the strengthening and modification of these laws or regulations as applicable to customs officials. The World Customs Organization in its Arusha Declaration presents twelve elements recommended for inclusion in codes of conduct for customs officials. These included standards, conflict of interest and possible sanctions and disciplinary action. The Arusha Declaration has been recognized in the FTAA process as a guide for instituting effective codes of conduct for customs officials. Forty-seven percent of countries have fully implemented this measure.

### **Risk Analysis/Targeting Methodology**

The eighth and final measure is to encourage risk analysis/targeting methodology systems. Although the idea of separating high risk from low risk goods and travelers seems very straightforward, the method for doing this in a rapid and effective manner is a highly developed area of customs modernization. Under this measure, customs services are asked to establish mechanisms such as combining random and targeted searches, to avoid the delays of thoroughly searching each shipment and traveler completely while maintaining customs control to avoid risky, illegal or fraudulent imports. Implementation of this measure obviously requires good documentation, well-trained personnel and an effective code of conduct for customs officials.

Twenty-one percent of countries have fully implemented this measure. These systems require modern hardware, software and trained personnel. Smaller economies are working to upgrade these systems and a number of the medium economies have only partially implemented this measure.

### **Private Sector Response**

The commitment by countries to adopt these eight measures is a significant contribution to business facilitation in the Americas. The private sector has lauded this initiative and also instituted several innovative mechanisms to monitor the implementation of these measures from their perspective. For example, a private sector group has established a complementary implementation status exercise to gather information from the business community on their experiences as users of these customs procedures. This group is the Business Network for Hemispheric Integration (BNHI) mentioned earlier as a proponent of the FTAA business facilitation process. The survey is being conducted with assistance from the United States Chamber of Commerce and is available on [www.ftaa-customs.org](http://www.ftaa-customs.org).

### **Technical Assistance**

As is evident, the eight measures described above are interrelated in terms of the need for high quality data, organized in a consistent and common way by all countries, processed rapidly using electronic means and handled by well-trained, professional customs officials. Full implementation of the measures is a challenge, especially for the smaller economies of the region. In response to this reality, discussion of business facilitation within the FTAA process has included an examination of technical assistance.

Recognizing that technical assistance in this area is extremely important, especially for the smaller economies, the TNC ad hoc group of experts recommended that efforts continue to facilitate the provision of technical assistance to complete the process of implementation. The experts' group dedicated a significant amount of time to collecting information on the technical assistance requests of countries. As noted in Table 2, a majority of countries are requesting technical assistance to implement the data interchange and risk management measures. Almost half of the countries are also requesting assistance in the areas of express shipments and low value shipments. Most of the technical assistance requested is for consultants for regulatory drafting, training of customs personnel, software and hardware. Details on these technical assistance requests are available to potential providers of assistance in the derestricted document "Dissemination of Implementation and Technical Assistance Information on

Customs-Related Measures" -- FTAA.TNC/cbf/w/01/Rev. 6 -- on the FTAA Home Page [www.ftaa-alca.org](http://www.ftaa-alca.org).

**Table 2**  
**Technical Assistance Requests for**  
**Implementation of Business Facilitation Measures:**  
**Percentage of Countries Requesting Assistance**

Technical Assistance	Requested
1. Temporary Entry	32%
2. Express Shipments	44%
3. Low Value	47%
4. Data Interchange	68%
5. Harmonized System	9%
6. Hemispheric Customs Guide	6%
7. Codes of Conduct	21%
8. Risk Analysis	59%

Several offers of technical assistance were discussed. The most significant technical assistance program is the IDB's Multilateral Investment Fund facility designed specifically to assist with the completion of this FTAA mandate.<sup>15</sup> The facility will provide grants to Latin American and Caribbean countries for implementation of the FTAA business facilitation measures. Total grant funds of \$3 million are available with an additional \$2 million to be provided by recipient countries as matching funds. Other sources of technical assistance are the World Bank, the Inter-American Development Bank, the World Customs Organization, the World Trade Organization, the International Monetary Fund, the United Nations Conference on Trade and Development (UNCTAD), the Organization of American States, the Latin American Integration Association (known by its Spanish acronym ALADI), the Andean Development Corporation (known by its Spanish acronym CAF), the Central American Economic System (Spanish acronym SIECA), the European Union, the French Customs Service, the Spanish Agency for Cooperation, the United States Customs Service, and the Canadian Customs Service.

Many smaller economies are facing significant constraints in implementing the customs measures and in accessing available technical assistance. The steps needed to identify needs, negotiate among government agencies to achieve mandates to seek external assistance, complete procedures for providers of technical assistance, follow up with these providers and execute complex customs modernization projects are often difficult for smaller governments to take. This has raised the risk of reaching the declared target implementation date of April 2001 without full implementation of the business facilitation measures. In fact, the efforts to complete implementation of these eight measures will continue well beyond the ministerial meeting in Buenos Aires.

## CONCLUSION

Business facilitation was adopted as an exercise of the FTAA process in response to interest by the business community as expressed at the Americas Business Forums and through national consultations. Significant support for a business facilitation package was manifested from the private sector and from government officials working on similar proposals being put forward at the WTO, the WCO, APEC and the Trans-Atlantic Business Dialogue. As the end of the century neared, countries sought a way to achieve tangible, substantial results from the FTAA process in the important area of business facilitation and to show progress in the FTAA as originally mandated in the Miami Summit of

<sup>15</sup> The *Centro Inter-Americano de Administración Tributaria* in Panama is responsible for the administration of the program. The program coordinator is Pablo A. Illarietti Cengale. Contact e-mail: [aduanas@ciat.org](mailto:aduanas@ciat.org).

1994. Eight key customs measures were adopted and a mechanism established for monitoring their implementation and providing technical assistance to facilitate their implementation. Together with the transparency measures to provide government information to the private sector and other interested parties in civil society via the official FTAA home page, these initiatives are the first specific common agreements of the FTAA and mark a major step in the direction of achieving a hemispheric agreement on the full range of trade issues under negotiation by the year 2005.

**APPENDIX****DECLARATION OF MINISTERS  
FIFTH TRADE MINISTERIAL MEETING  
Toronto, Canada  
4 November 1999**

## ANNEX II

Customs-Related Measures

## 1. Temporary Importation / Temporary Admission of Certain Goods Related to Business Travellers:

Establish new or streamline existing customs procedures for the entry of, and suspension of duties on, promotional documents and other goods related to business travel, whether or not these goods accompany the business traveller.

Primary Elements:

- i. Provide for suspension of customs duties
- ii. Identify promotional documents and other goods that do not require guarantees upon entry
- iii. Establish streamlined procedures for promotional documents and other goods that remain in the country
- iv. Establish an allowable time period for temporary importation/temporary admission
- v. Where possible, minimize the cost and administrative complexity of obtaining guarantees for temporary importation/temporary admission. Where possible, the amount of guarantees required should not exceed the amount of duties otherwise payable
- vi. Under normal circumstances, documentation and approval should be provided upon entry of the business traveler

## 2. Express Shipments:

Develop and implement procedures to expedite express shipments, taking into account the WCO Customs Guidelines for Express Consignments Clearance and the Cancun Memorandum, while maintaining the appropriate control and customs selection.

Primary Elements:

- i. Provide for separate expedited customs processing for express shipments
- ii. Provide for pre-arrival processing of information and data related to express shipments
- iii. Permit submission of a single manifest covering all of the goods in the shipment by the express service company, through electronic or other means

- iv. Where possible, and with the appropriate guarantees, provide for the release of certain goods through submission of minimal documentation and/or deferred payment
- v. In normal circumstances, express shipments should be released by customs authorities within 6 hours of the submission of necessary customs documentation provided the goods have arrived
- vi. In response to requests from express shipment companies, consideration could be given to providing extended hours of service and/or customs processing at premises under the control of the customs authority, at the discretion of customs authorities

### 3. Simplified Procedures for Low Value Shipments:

Establish simplified, streamlined and expedited procedures for low value shipment transactions while maintaining the appropriate customs control and selection.

#### Primary Elements:

- i. Establish minimal documentation, data and procedural requirements based on value of goods while maintaining the appropriate customs control and selection
- ii. Develop procedures to permit the electronic submission of information

### 4. Compatible Electronic Data Interchange (EDI) Systems and Common Data Elements:

Establish compatible electronic data interchange systems between traders and customs administrations that foster expedited clearance procedures. Develop a core set of data elements required for the administration of national customs regulations and requirements associated with the customs clearance of goods.

Encourage the establishment of compatible electronic data interchange systems between customs administrations that foster increased cooperation and information exchange. Develop parameters for the bilateral or plurilateral exchange of information related to compliance with customs regulations and requirements.

#### Primary Elements:

- i. Develop electronic systems accessible to the trading community
- ii. Develop capacity for electronic submission and processing of information and data prior to arrival of the shipment
- iii. Develop capacity for customs electronic/automated systems to work in conjunction with risk analysis and targeting
- iv. Work towards developing compatible electronic systems among customs administrations
- v. As an initial phase, identify current data elements used in electronic systems established per elements (i) to (iv) required by each customs administration, including, if feasible, those data elements required to determine admissibility of entries or those required by other agencies
- vi. Work towards developing a set of common data elements for customs clearance of goods

#### 5. Harmonized Commodity Description and Coding System:

Apply the 1996 Harmonized Commodity Description and Coding System, at the six digit level.

#### 6. Customs Information Dissemination/Hemispheric Guide on Customs Procedures:

Disseminate widely in the most user-friendly manner, basic up-to-date information on customs procedures, laws, regulations, guidelines, and administrative rulings, taking into account the Hemispheric Guide on Customs Procedures prepared by the Working Group on Customs Procedures and Rules of Origin.

##### Primary Elements:

- i. Update the Hemispheric Guide on Customs Procedures
- ii. Disseminate the updated Hemispheric Guide on Customs Procedures through the FTAA Home Page
- iii. Establish hyperlinks from the FTAA Home Page to national customs administrations' homepages for future updates to the country-specific information contained in the Hemispheric Guide on Customs Procedures

#### 7. Codes of Conduct for Customs Officials:

Elaborate and implement national codes of conduct applicable to customs officials, taking into account the Arusha Declaration.

##### Primary Elements:

- i. Introduction of, or amendment to, national codes of conduct, legislation, policies or regulatory instruments applicable to customs officials with provisions on standards of conduct, conflict of interest, and possible sanctions and disciplinary action
- ii. Review of the 12 elements contained in the WCO Arusha Declaration for assessment of current practices and development of national implementation programs

#### 8. Risk Analysis/ Targeting Methodology:

Encourage risk management systems used as criteria for required verification activities, while respecting the confidentiality of information. The objective would be to allow for focusing of customs enforcement activities on high-risk goods and travellers while facilitating clearance and movement of low-risk goods.

##### Primary Elements:

- i. Develop processing and release customs procedures and systems that include risk analysis and targeting to identify high-risk goods, shipments and travellers
- ii. Risk analysis through pre-arrival processing of information and data to identify or target high risk-goods, shipments and travellers that will be subject to inspection and/or other customs procedures



## ANNEX III

Transparency-Related Measures

1. Disseminate and periodically update information on tariffs and trade flows prepared in the context of the Negotiating Group on Market Access through the FTAA Home Page.
2. Publish and disseminate the document “National Practices on Standards, Technical Regulations and Conformity Assessment in the Western Hemisphere” prepared by the FTAA Working Group on Standards and Technical Barriers to Trade.
3. Disseminate and periodically update the list of national contact points that provide information on national legislation and other measures affecting trade in services. This information will include name, title, office, address, telephone, fax and e-mail.
4. Disseminate through the FTAA Home Page the existing procedures and requirements for temporary entry of business persons in each of the FTAA countries.
5. Periodic dissemination of the statistical “Report on Foreign Investment in Latin America and the Caribbean” prepared by ECLAC by linking it to the FTAA Home Page.
6. Disseminate through the FTAA Home Page and periodically update information on commercial arbitration regimes existing in the countries of the Hemisphere, including the institutions that provide commercial arbitration services.
7. Disseminate through the FTAA Home Page and periodically update the “Compendium on Antidumping and Countervailing Duties Laws in the Western Hemisphere”, which includes information on national legislation and contact points.
8. Disseminate through the FTAA Home Page and periodically update the “Inventory of Domestic Laws and Regulations Referring to Competition Policies in the Western Hemisphere.”
9. Disseminate through the FTAA Home Page and periodically update the “Inventory of Dispute Settlement Mechanisms, Procedures and Legal Texts Established in Existing Trade and Integration Agreements, Treaties and Arrangements in the Hemisphere and in the WTO.”
10. Make information on government regulations, procedures, and competent authorities more accessible, including via the use of Internet links to the FTAA Home Page, in the following areas:
  - a. government procurement;
  - b. subsidies, antidumping and countervailing duties;
  - c. competition policy;
  - d. services;
  - e. intellectual property rights;
  - f. investment;
  - g. market access, which includes standards;
  - h. agriculture, which includes sanitary and phytosanitary measures; and
  - i. dispute settlement.

In addition to the above, a number of related inventories are also included on the official FTAA Home Page. New documents and inventories will be posted on the FTAA Home Page as they become available. Existing information will be updated periodically to ensure that they are kept current and relevant to our business communities and other interested stakeholders.



## OAS TRADE UNIT STUDIES SERIES\*

1. *Small and Relatively Less Developed Economies and Western Hemisphere Integration. / Economías Pequeñas y Relativamente Menos Desarrolladas e Integración del Hemisferio Occidental.* April /Abril 1997.
2. *Harmonization and Competition Policies Among Mercosur Countries.* José Tavares de Araujo Jr. and Luis Tineo. November 1997
3. *Standards and the Regional Integration Process in the Western Hemisphere. / Las Normas y el Proceso de Integración Regional en el Hemisferio Occidental.* Sherry M. Stephenson. November / Noviembre 1997.
4. *Mechanisms and Measures to Facilitate the Participation of Smaller Economies in the Free Trade Area of the Americas: An Update. / Mecanismos y Medidas para Facilitar la Participación de las Economías Más Pequeñas en el Area de Libre Comercio de las Américas: Actualización.* March / Marzo 1998.
5. *Constructing an Effective Dispute Settlement System: Relevant Experiences in the GATT and WTO. / Creación de un Sistema Eficaz de Solución de Controversias: Experiencias Pertinentes en el GATT y la OMC.* Rosine M. Plank-Brumback. March / Marzo 1998.
6. *Approaches to Services Liberalization by Developing Countries.* Sherry M. Stephenson. February 1999. OEA/Ser.D/XXII, SG/TU/TUS-6; ISBN: 0-8270-3991-3
7. *Towards Financial Integration in the Hemisphere.* Sylvia Saborío. September 1999. OEA/Ser.D/XXII, SG/TU/TUS-7. ISBN 0-8270-3990-5.
8. *Multilateral and Regional Investment Rules: What Comes Next?* Maryse Robert. March 2001. OEA/Ser.D/XXII, SG/TU/TUS-8.
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12. *Business Facilitation: Concrete Progress in the FTAA Process.* Jane Thery. March 2001. OEA/SER.D/XXII, SG/TU/TUS-12.

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\* These publications may be found on the Trade Unit web page at <http://www.sice.oas.org/Tunit/tunite.asp>.



## The Organization of American States

The Organization of American States (OAS) is the world's oldest regional organization, dating back to the First International Conference of American States, held in Washington, D.C., from October 1889 to April 1890. The establishment of the International Union of American Republics was approved at that meeting on April 14, 1890. The OAS Charter was signed in Bogotá in 1948 and entered into force in December 1951. Subsequently, the Charter was amended by the Protocol of Buenos Aires, signed in 1967, which entered into force in February 1970; by the Protocol of Cartagena de Indias, signed in 1985, which entered into force in November 1988; by the Protocol of Managua, signed in 1993, which entered into force in January 29, 1996; and by the Protocol of Washington, signed in 1992, which entered into force on September 25, 1997. The OAS currently has 35 Member States. In addition, the Organization has granted Permanent Observer status to 48 States, as well as to the European Union.

The basic purposes of the OAS are as follows: to strengthen peace and security in the Hemisphere; to promote and consolidate representative democracy, with due respect for the principle of non-intervention; to prevent possible causes of difficulties and to ensure the pacific settlement of disputes that may arise among the Member States; to provide for common action on the part of those States in the event of aggression; to seek the solution of political, juridical and economic problems that may arise among them; to promote, by cooperative action, their economic, social and cultural development, and to achieve an effective limitation of conventional weapons that will make it possible to devote the largest amount of resources to the economic and social development of the Member States.

**MEMBER STATES:** Antigua and Barbuda, Argentina, The Bahamas (*Commonwealth of*), Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica (*Commonwealth of*), Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States, Uruguay and Venezuela.

**PERMANENT OBSERVERS:** Algeria, Angola, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Equatorial Guinea, European Union, Finland, France, Germany, Ghana, Greece, Holy See, Hungary, India, Ireland, Israel, Italy, Japan, Kazakhstan, Korea, Latvia, Lebanon, Morocco, Netherlands, Norway, Pakistan, Philippines, Poland, Portugal, Romania, Russian Federation, Saudi Arabia, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukraine, United Kingdom, and Yemen.

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