

IMPLICATIONS OF CURRENT WTO TRADE FACILITATION NEGOTIATIONS FOR PAKISTAN

John Raven, UNCTAD Consultant
Pakistan Trade and Transport Facilitation Project

This paper considers the implications of current trade facilitation discussions within the framework of the WTO and Pakistan's capacity to comply with and benefit from eventual trade facilitation rules.

1. Nature of WTO negotiations on trade facilitation

Work in UNECE, UNCTAD, ICAO and IMO¹, over the last thirty years, on "international trade facilitation" – as distinct from the much more general concept of "facilitating international trade" – has become "professionally" defined and recognised as "the systematic simplification and standardisation of international trade procedures and associated information flows".

Although all proposals for new WTO rule making on "facilitation", submitted to the Council on Trade in Goods, so far, fall within this definition, they also all focus on the relatively narrow sub-sector of Customs reform. This is at once understandable and very welcome, because, while commercial innovation and competition are the main driving forces behind the daily task of trade simplification, the global simplification and standardisation of authoritative, often penal, Customs interventions, would be a most acceptable contribution to facilitation, generally.

There is little point, therefore, in criticising or questioning the very loose-fitting "facilitation" description, now officially attached to these WTO negotiations.

2. Scope of Review

This analysis covers known developments up until July 2005. It deals only with substantive proposals, mainly originating with US and/or EU Delegations, that have had significant support from other WTO member States. It does not attempt to cover the many Communications from other sources that have been put forward as comments or to offer supplementary suggestion.

Pakistan WTO delegates, themselves, are uniquely well-placed to inform themselves about the political significance, objectives and progress of all relevant negotiations including the relationship at varying stages of discussion, between facilitation and much broader issues of agricultural subsidies and market access.

Assessments and conclusions, in this paper, are therefore directed to –

- (a) Assist Pakistani WTO representatives to link some of the more important WTO facilitation proposals to national trade development objectives and activities

¹ UN Economic Commission for Europe, UN Conference on Trade and Development, International Civil Aviation Organization, and the International Maritime Organization.

currently favoured by the Ministry of Commerce, Central Board of Revenue and the National Trade and Transport Facilitation Committee (NTTFC).

- (b) Afford the NTTFC and its supporting official and commercial constituents useful insight into the implications of potential WTO facilitation rule-making for their own current work programme and future operational resources and capacities.

Core information from WTO official documentation has been amplified and extended by informal opinions and comments from individual delegates and material gathered from a range of other official and trade contacts, including, notably, the World Customs Organisation, the International Chamber of Commerce, the International Federation of Freight Forwarders Associations, the Global Express Association, the International Air Cargo Association, ICAO, and participants in the Global Facilitation Partnership.

3. Reservations

All interpretations under (a) and (b) above are still speculative.

Current negotiations may fail at the level of such major issues as agricultural subsidies or market access and facilitation work would lapse accordingly.

The present extensive list of facilitation proposals will need to be assembled, pruned and prioritised. Many are argumentative and descriptive. They will need additional precision and clearer definition before they can figure in new or extended Rules.

Acceptance of any significant additional facilitation Rules has become conditional on the provision of associated Capacity Building. The exact nature, extent and any conditions attaching to such assistance are still uncertain.

Special and Preferential Treatment arrangements may add further delays and flexibilities.

Despite all these qualifications the elevation of systematic Customs reform to the level of WTO attention and debate, together with the almost certain early entry into force of the WCO Kyoto Convention and growing links between traditional national border control procedures and new anti-terrorist regulation, should ensure that political and public attention will remain focused on the previously very low-profile subject of international trade facilitation for many years to come.

These considerations should enhance the present and future importance of the overall Pakistani trade facilitation effort and lend particular added value to the NTTFC's status and activities.

Assuming steady progress with Customs reforms within continuing WTO Facilitation discussions it is important to note that negotiations can hardly ignore all other official agencies and controls, affecting international trade and transport. This is implicit in the widely supported EU proposal that the WTO should support the "Single Window" concept of grouping, co-ordinating or merging all official controls on good passing over national frontiers.

On the other hand, it may be impracticable, even undesirable, to complicate the current Facilitation debate with consideration of the as yet un-coordinated and highly detailed regulatory background of such other border control requirements as phytosanitary and public health protection, implementation of trade policy, repression of illicit drugs, and surveillance of dangerous goods, hazardous materials and nuclear substances.

The position of Customs themselves, as a service resource, in relation to other border control agencies, is demonstrably subsidiary and unstable. Some Customs, especially where they have been given national responsibility for value added tax collection, have been absorbed into central Revenue Departments. In the USA Homeland Security has swept Customs within integrated border management services. Canadian Customs, moved inland, just a few years ago into Canada Revenue, are now re-assembled at the frontier, under the Canadian Border Services Agency.

In these and additionally destabilising circumstances, proposals for international rule-making, now focused on the mechanics of Customs control, may well be followed at some future stage by proposals for additional analysis and regulatory review of other border control areas by the WTO or some alternative, perhaps more specialised, inter-governmental forum.

Even in the current Facilitation discussions some account needs to be taken of the practical need to link Customs reform to some similar, reinforcing improvements to standards and efficiencies in adjacent, contributory activities by commercial operators.

4. Political Background and Practical Benefits

The best overall account of all proposals put forward, so far, to the WTO Facilitation Negotiating Group are to be found in the Secretariat paper TF/TN/W/43 Rev 1. Examining and assessing all the contents of this compendium is a full-time task for expert WTO delegates.

It is immediately apparent, however, that the main thrust for Customs reform in the WTO comes from industrialised Member States, notably the USA and EU.

Politically unsympathetic observers might interpret this in terms of a relatively narrow self-interest by these WTO Members, in seeking to improve market penetration, for their own manufacturing and associated service industries, across traditionally inefficient and badly managed Customs barriers in a large number of other economies.

On the other hand few practising traders, from any operational background, doubt the urgent, pressing need, in many developing states, for early and radical reforms in current Customs practices and procedures to assist their own exports to compete in prime global markets and aid their trading and transit links with other developing economies, especially in emerging regional co-operative groupings.

In fact, WTO Facilitation negotiations are already being carried forward against the background of a general consensus and understanding that -

- National businesses in countries with inefficient Customs have to operate external trade transactions under constant, cumulative and unavoidable handicaps. These may make profitable and competitive export trade impossible for many otherwise fully competent small and medium-sized enterprises.
- In many countries the traditional economic truism “Exports – good; imports – bad” is being replaced by a much more complex calculation of beneficial participation in global trading networks. There are at least three distinct but inter-related manifestations of this new economic order –
 1. Sub-contracting, for large multinational companies in such industries as garment making and electronic assembly, where success of the overall activity depends on prompt, reliable Customs treatment at both import of materials and export of processed items.
 2. Establishment of branches and/or production units of multinationals with the same interests and requirements, but adding the substantial extra benefit of direct foreign investment.
 3. Direct participation and competition in global markets through the establishment and operation of integrated supply, production and distribution systems by duly competent national companies.

Within these broad consensual principles Pakistan has many substantial reasons to devise and promote a distinctive trade facilitation strategy, not only in respect of the issues currently presented to the WTO Council on Trade in Goods, but also, and more importantly, in terms of its own needs, priorities and objectives over a long-term international trading future.

5. Key Negotiating Proposals

It is easier to form a general view of the present complexities of WTO negotiations, because most of the main proposals for Customs reform feature in Communications from the US and European Union (EU) delegations.

The US has presented detailed suggestions on –

- Fees
- Appeals
- Transparency
- Express Shipments
- Release of goods subject to guarantee or security

EU Communications have made reference to all these subjects, except Express Shipments. There are additional proposals on –

- Standard, simplified procedures and associated information
- Customs/trade consultation
- Use of risk analysis and Authorised Trader concept
- Convergence of official controls
- Elimination of pre-shipment inspection procedures
- Non-discrimination between modes of transport
- Freedom of transit

Both sets of suggestions make pertinent references to Special and Preferential Treatment, technical assistance and capacity building.

There are substantial similarities between a number of these proposals and relevant Provisions in the revised WCO Kyoto Convention.

It is difficult to identify any element in the US/EU Communications that, as currently phrased, would pose any particular problems for Pakistani Customs, so attention has been focused, in this paper, on proposals directly relevant to Pakistani objectives and activities, figuring in the Development and Facilitation Project or of known interest to the NTTFC.

Given the focal importance attached in WTO negotiations to eventual Capacity Building resources and actions, and likely Pakistani needs for sustained future support under both these heads this paper includes some specific recommendations for advance consideration and planning. These should ensure that Pakistan can obtain a full and equitable share of international Capacity Building assistance, aligned on its own specific national commercial and administrative priorities, within appropriate applications of Special and Preferential Treatment.

It is noteworthy that all US and most EU proposals skirt round and avoid procedural reforms that could be seen as impinging on, and possibly contradicting, new constraints on international trade transactions arising from post 9/11 security regulations.

Any attempt to bring anti-terrorist security regulations within the scope of the WTO Facilitation agenda would need to be the subject of a later, separate analysis, based on the specific steps that might be taken in this direction.

6. Proposals particularly relevant to Pakistani interests and objectives and material for comment or Communications by Pakistan's WTO delegation.

(The comments given below are directed to a relatively small number of Communications, listed in the WTO Secretariat compendium, TF/TN/W/43 Rev 1 including, especially, the two supported by Pakistan, and to such other proposals as appear particularly relevant to current trade facilitation activities in Pakistan.

The material in this section of the paper may also be useful for oral interventions during WTO discussions or as the basis of additional formal Communications. Where a Communication is thought appropriate an initial draft could be prepared for comment and amendment by GOP WTO delegates

This analysis may also serve the NTTFC as an initial WTO Facilitation Position Paper, on the basis of which it can identify and assess relevant developments in later WTO negotiations and prepare a balanced set of Capacity Building requirements.

While Capacity Building may seem little more than an "add-on" feature of substantive facilitation negotiations to WTO delegates, concentrating on major Customs reforms,

it is, as already noted above, a very important, central consideration for the Pakistani Trade Development and Facilitation Project and the NTTFC.

It is, therefore, dealt with as separate item, following notes on individual proposals for substantive reforms.)

A. Transparency

The US Submission on Transparency (TN/TF/W/13) defines the scope of its proposal in terms of the specific procedural elements set out in GATT Article X and cites the new publication resources and techniques available through the Internet as a major means of achieving “robust implementation”.

It is by no mean certain, however, that the Article X items are now comprehensive, seen, for example, against the background of the complex and varied balances of compliance and facilitation characteristic of such modern, graduated arrangements as the Swedish Facilitation Stairway or the WCO Immediate Release Guidelines. Trade and transport operators are innovating daily and Customs must, over a period, make some corresponding adjustments to their own procedures and practices.

The resulting need for review and adjustment is not given any clear direction or focus by the suggestion that WTO Members “undertake country-specific diagnostics regarding implementation of the proposal, with the results to include an assessment of possible tasks, time line and resources necessary for each particular Member to achieve effective implementation”.

It will still be necessary to move from the very vague concept of “transparency” to define some coherent, preferably structured and standard, set of information items that should be included in national Customs websites. Without such guidance and relying on “country specific diagnostics” there could be enormous variations in the choice and spread of available and, under this Submission, obligatory information.

This lack of precision should give special importance to Communication TN/TF/W/8, formally supported by Pakistan, suggesting a set of “possible elements” for inclusion included in any Transparency regulations under an amended GATT Article X.

The listed elements demonstrate the difficulty of moving from such vague concepts as “transparency” or “publication” to reliable definitions of what is to be made public.

For example, “**Procedures and administrative rules of border agencies**” immediately poses the need to establish some sort of common agreement on which agencies are to be covered. In many countries, Immigration Services, a major border control agency, are quite separate from Customs, who, in some countries may now have moved even further away from them, as a result of absorption into a central revenue department services or be working alongside them within a new overall border security agency.

Many immigration rules are now the subject of sustained political debate and frequent associated legislative changes.

Would this proposal cover the immense volume of detailed and constantly updated set of international dangerous goods requirements, managed by the UNECE Working Party on the Transport of Dangerous Goods (WP.15)?

The period over which such measures would need to be introduced and the ease with which they could be managed and maintained will be strongly influenced by any other new WTO rules related to EU and other proposals for Single Window arrangements and operational convergence of official border controls.

It could be give rise to considerable commercial surprise and criticism if the WTO were to settle on a selection of elements for obligatory publication without seeking business opinion as to the specific pieces of information that are most useful and necessary, in published and easily accessible form, for daily practical purposes.

It might be sensible for the WTO to ask the WCO, to use its well-established Customs/trade consultative facilities to assemble a set of mutually approved items to respond to this part of the Communication. These should be selected as particularly relevant to the needs of commercial operators, including traders, carriers and agents and cover export, import, transit and all other routine Customs operations.

The suggestion for publication of **“Details of service contracts between PSI entities and governments”** will need to be subject to the outcome of the EU proposal in TN/TF/W/46 to restrict if not eliminate such contracts.

“Details of export inspection for safety standards” may raise queries as to the relationship between “safety” and “security”. What will be inspected, consignments, containers, aircraft, ships? Is the intention to shift inspection, normally carried out at import, back along the transaction to export, in line with current security requirements – for example the US Container Security Initiative – in some WTO member states?

The requirement for publication of **“Standard processing period for major trade procedures”** is extended by the EU proposal that “each Member would establish and agree progressively to reduce its domestic standard processing times for goods release and clearance.” There could be benefit in supporting the additional EU suggestion that measurement should be “based on a common instrument such as the WCO Time Release Study”.

The detailed complex nature of this WCO Study, now available in a software version, well illustrates the difficulties of accurate, credible Customs self-assessment of success in applying necessarily precise and rigid regulations to the constantly changing contours of modern trading practices.

Given the intensifying competition among all, especially developing, WTO Member States, for new foreign inward investment, the publication of Customs release times is bound to stimulate comparative commercial assessments of Customs and so related trading efficiencies. It follows that the WTO would have to produce a fully reliable, equitable and uniformly applied measurement system if it is to avoid serious criticism for possible unfair distorting consequences.

The various proposals under “**Establishment of inquiry points**” should be considered in the light of the accelerating growth of supply and demand in the use of information and communication technology.

UNCTAD Trade Points, originally purely physical focal places for relevant services, are now defined as “trade facilitation centres, where all participants in foreign trade transactions (e.g. Customs, banks, insurance companies, freight forwarders, transport companies, Chambers of Commerce) are grouped together under a single physical or virtual roof”. Even a few years of Trade Point practice have shown that a “virtual” presence is very much more in tune with modern official and commercial practice than any physical grouping. Given such a conclusion, it may be difficult to identify any specific benefits of Trade Points over and above the less “proprietary”, more comprehensive “Single Window” and “Convergence of Official Controls” concepts now gaining support in the WTO.

It could also be useful for the WTO to consider current World Bank initiatives to establish and support Information and Communications Technology (ICT) Agencies, with examples already in place in a number of developing countries.

The objectives of such Agencies, taking account of the focal importance of governments as regulators, facilitators and ICT users, is to establish a central focus to oversee, encourage and produce economical responses to a full range of ICT needs and developments.

While the present Agency model is comprehensive in scope and activity, it might be interesting and rewarding for the WTO to consult the Bank as to the possibility of designing a much smaller subsidiary Agency, dealing solely with the various ICT need and interests to be found in this Communication and at a number of other points in relevant WTO documentation.

B. Risk Assessment and the Authorised Trader

Any eventual WTO Rule under this head would have to be indicative rather than prescriptive. In WCO discussions, leading up to the revision of the Kyoto Convention it was evident that no new Provision could or should deprive Customs of the exercise of professional judgement, adjusted to individual national official and commercial environments, on what compliance standards should be set and what associated simplifications allowed.

If this was self-evident in the context of a non-enforceable WCO Convention it has even more weight in a potentially regulatory WTO ruling. It is questionable, therefore, whether this proposal can have more than referential or advisory value.

That should not detract from the need to pursue risk-assessment, in association with the development of Authorised Trader concepts, within “domestic” facilitation activities and programmes in Pakistan. The contacts already made between Pakistani and Swedish Customs, with a view to transfer of expertise and experience in respect of the now well-established Swedish Facilitation Stairway risk-assessment system, are encouraging and positive.

The basis of applying Authorised Trader principles, in many developing countries, lies in establishing a core of mutual Customs/trade confidence despite often long-standing traditions of mutual suspicion and mistrust, aggravated by widespread tendencies to low-level fiscal fraud on one side and endemic “facilitation payments” to Customs on the other.

It is not surprising that, given the extreme sensitivity of associated issues, little has been said or written in the WTO negotiations on facilitation links to, and dependence on, commercial and official integrity.

Yet such considerations set major obstacles to starting and sustaining reliable and equitable risk-assessment and Authorised Trader systems.

There are no hard and fast rules or principles for inculcating mutual confidence, either between traders, within the necessarily competitive atmosphere of day-to-day business operations or between Customs and trade in the confrontational situations characteristic in countries with high import duty rates.

On the other hand regular personal contacts and growing familiarity with the essentially interwoven obligations/benefits of simpler and better understood and managed official and commercial trade procedures, developed over substantial periods in such practical settings as the Pakistan NTTFC, are bound to help move Pakistan Customs and trade towards a modest, but critical core of mutual consensus if not confidence.

It might, therefore, be useful for Pakistan, to urge the WTO Negotiating Group to adopt a more positive and publicly supportive attitude towards Customs/trade consultative mechanisms and practices, however, modest, that could bring and keep otherwise distant if not opposed interests together for regular examination of the ways in which all concerned could benefit from more purposive and systematic exchange of information and consultation, leading eventually to genuine and sustained co-operation.

The costs and complications of unremitting mutual suspicion are patent and pervasive.

For example, frequent Customs disputes and expensive appeals add to selling costs and diminish profits. Comprehensive physical inspection of containers frustrates the whole principle of origin-destination system integrity and is wholly ineffective in interdicting fraud and smuggling.

Without entering into the often facilitation-unfriendly territory of anti-terrorist security regulation, is it reassuring to note that, even at this relatively early stage of international discussion, the most promising future prospects for relatively unhampered and easily running international trade and transport are being sought, and to some extent found, in requiring a set of demanding standards of good behaviour from traders and carriers, interacting with highly trained and fully responsible border control managers.

The WCO and several of its leading members, including the USA and EU Member States are advocating a global network of Customs-to-Customs co-operation,

responding to current security and facilitation strategies calling for the use of export declaration data to supply advance information to expedite import release and clearance.

A recent joint US-India Communication (TF/TN/W/57) brings such a proposal within the scope of WTO Facilitation negotiations.

One major feature of such proposals is to support agreements on at least a bilateral, if not regional or fully international basis, to give integrated origin-destination procedural simplicity to particularly trustworthy and compliant Authorised Traders or Economic Operators.

If such arrangements develop then countries that are unable to gain recognition, by major trading partners, for their own domestically designated exporters, carriers and agents, or to enter into mutual Customs assistance arrangements on the basis of reliable mutual confidence and approximately equivalent standards of professional behaviour will be at a growing and eventually crushing economic disadvantage.

Much importance is attached in this Analysis to Capacity Building. It has to be added that whatever may be expected from, and worked for, under that head, will, in Pakistan as in very other country, depend entirely on the quality of Customs/trade behaviour in their separate, frequently related activities, and the extent to which they are able and willing to co-operate.

One can even distinguish, in some recent debates in the WCO and elsewhere, a distinct hint that, sooner or later, the concept of the Authorised Trader will have to be supplemented and underwritten by international agreement on what constitutes and distinguishes an Authorised Customs Service.

C. Express Shipments

This US proposal (TJN/TF/W/15) will, at some stage, call for a reliable definition of “express” and “shipment”.

Experience of such considerations in WCO discussions leading up to the drafting of the Immediate Express Guidelines is both relevant and illuminating.

This work, undertaken some fifteen years ago, in the WCO – known then as the Customs Co-operation Council (CCC) – at the instigation of US and Canadian Customs and strongly supported by international express delivery services, began by an unsuccessful attempt to find a definition of “express carrier” that would not attract universal criticism as being unreasonably preferential. Attention then shifted to a possible definition of “express consignment” but this ran up against the accelerating commercial trend to offer express delivery services for consignments running well over the modest weights/volumes customary in early, largely documentary, express shipments.

Both commercial and Customs participants in these WCO meetings came to realise the need to reach some comprehensive standard procedural requirements that would be “mode neutral” and provide for a future in which practically every international transaction would look to rapid, reliable delivery services.

The core principle of the Guideline procedures was that, if a shipment were presented for immediate release, Customs would grant such a concession only on certain conditions, including, especially, the submission of a fixed set of control data at a stipulated time in advance of the arrival of the goods.

Exact Customs treatment, including the size and contents of the advance data submission, was fixed in relation to a scaled set of fiscal considerations ranging from non-taxable status, through *de minimis* allowances, to the highest ranges of tax liability.

In the light of these well-documented developments, WTO negotiators should take special care to avoid dangerously preferential and exclusive definitions. It is particularly important for developing countries that any new GATT Article VIII rulings should define the principle of expedited Customs treatment of “express” consignments in such way as to meet urgent cross-border road movements or the needs of global maritime container operators offering integrated origin-destination delivery services.

It would be sensible to draw the attention of the WTO negotiating group to the broad approach and structure of the WCO Immediate Release Guidelines and, in particular to the fact that the final text deliberately left the declarant, alone, to decide whether to present a particular consignment for expedited treatment.

The WCO could be asked to review their Guidelines in the light of any WTO discussions/decisions on the US proposal, with the aim of drafting a corresponding amendment to GATT Article VIII for further WTO consideration.

If this or some similar approach were adopted it would be unnecessary to speculate whether the probable US assumption that international “express delivery” generally implied primary reliance on air transport might constitute an at any rate partial contravention of any future WTO ruling in response to the EU Communication seeking non-discrimination in relation to means of transport.

At the same time Pakistan should not underestimate the commercial status and influence of narrowly defined “global express operators”. These are not just passive suppliers of defined services to existing customers. They are, themselves powerful, well-resourced catalysts, identifying and stimulating the sort of export and import activities for which they can provide advanced selling and delivery advantages. Their operational hubs elevate the global status of selected airports and provide substantial high-quality employment opportunities.

The Global Express Association, representing all four world-wide integrated express operators – DHL (a subsidiary of German Post), UPS, FedEx and TNT (a subsidiary of Dutch Post) – is conducting a detailed enquiry into difficulties experienced by Customs services in reconciling often intensifying border control responsibilities with rapid, reliable commercial delivery operations, now essential for many assembly, seasonal, sub-contracting and other time-sensitive industries.

Pakistan Customs have been included in this review and have furnished a full and informative reply to the initial enquiry form.

The GEA Director General is regularly in Geneva during WTO Facilitation Group meetings and it might be mutually beneficial if he were to meet with a member of the Pakistani delegation to explain the scope and purpose of this express industry Customs review and discuss possible implications and advantages for Pakistan business operations.

D. Transit

The EU Communication “Freedom of Transit” (TF/TN/35) is the main contribution on this subject within the ambit of current WTO Facilitation negotiations.

It cites transparency, fair charges, documentation data requirements and procedures, co-operation, non-discrimination between modes, routing, and clarification of terminology as subjects most amenable to treatment under Rules V, VIII, and X.

Pakistan, however, will want to step back and consider much wider issues posed by transit, before reaching any conclusions on such specific areas of regulatory intervention.

Transit policies and operations vary greatly in accordance with their political background.

Switzerland, for example, lives and trades within a stable community of friendly neighbour states. All concerned are anxious to provide, improve and benefit from available simplicities and to co-operate in applying mutually convenient control precautions. Competition to supply and enhance relevant services and facilities ensures that no-one ever refers to “poor little land-locked Switzerland”.

Other countries, however, may have to live and go about their global business in circumstances, constrained, if not frustrated, by political frictions or asperities in relationships with other countries alongside them and though which, if land-locked, they are obliged to move all their surface exports and imports.

In many developing countries there is little point in providing simple procedures for goods that cannot move efficiently or reliably because of gross inadequacies in the extent or state of essential physical infrastructure. Improved Customs requirements at both ends of lengthy, unimproved, road or rail connections, offer very superficial transit reforms.

Facilitation of transit, by definition, the easier through movement of goods, has to be viewed in the light of the economic and commercial needs, benefits and practicalities that would justify and support such flows. What sort and volume/value of trade could facilitated transit operations reasonably expect?

The answer to even a modest preliminary query may lead to some unexpectedly important answers, and these too, may be subject to broad political influences rather than neat procedural refinements.

Pakistan has common land borders with five countries – Afghanistan, China, India, and Iran – none of whom figure among the six largest export or import trade partners.

Its main internal trade artery, running along the course of the Indus, is isolated, politically, from its most geographically contiguous neighbour, India, and there are no immediate possibilities of reviving, by suitable transit arrangements, the substantial “natural” flow of goods and commercial dealings that, for example, linked the port facilities of Karachi to substantial adjacent parts of India in a pre-partition integrated economy.

India, Iran and China have their own direct access to international maritime transport and other options for road and rail exchanges some of which reflect substantial historical trade flows with other partner nations.

Afghanistan, being land-locked, is dependent on Iran, India and Pakistan for primary access to the sea and the powerful comparative economies of ocean transport. Its own internal geography and political and social make-up point clearly to Pakistan as the most convenient and logical transit partner.

It has to be taken into account, however, that an estimated 60% of Afghanistan GDP comes from products – opium and derivatives – that would normally call for tightly reinforced transit controls rather than any new facilitation measures devised by the WTO.

Looking further ahead, and assuming some effective international and national action to reduce the transit handicaps of illicit drug content in Afghanistan external goods movements, there are compelling, very positive reasons for the GOP to consider long-term transit policy and the prospective procedural benefits that may flow from WTO negotiations in the context of potential geo-economic regional developments.

There is now every prospect of adequate external support for substantial infrastructural improvements along the line of the Pakistan South-North Corridor. The resulting facilities could provide the basis of a carefully nurtured progressive linkage of the Pakistan Corridor through Afghanistan to the now much discussed and patently important modernisation of the Silk Road, not only as means of extending its traditional and current traffic, but as a vital commercial highway for newly Caucasian states, some of which, if left impoverished, could well pose major problems of political and social instability.

With this economic and political background in mind the GOP might wish, in the WTO negotiations to pay particular attention to regional co-operation

The EU Communication quite rightly stresses that “In many cases solutions to transit problems can only be found in regional collaboration....”

Such co-operation, difficult enough between two sovereign states, becomes very much more complex and potentially unreliable when three or more countries are concerned. It is a major regulatory problem to agree practical arrangements to manage and, in certain respects discipline, a daily interface between necessarily consistent administrative rules and constantly changing commercial needs and practices.

It would have been salutary if the EU had given this particular requirement its full focal importance, because all the subsidiary improvements proposed in transparency, non-discrimination and charges will depend entirely on the extent to which they can be applied, supported and enforced in practice.

The WTO, itself, cannot act as a sort of universal “transit auntie”. It may settle general rules governing some operational elements of a transit system. But any such system, once established, will need either the full force of free competition, operating in a completely stable and favourable political environment, or, in more unsettled situations, a central coherent, accessible, administrative and arbitral authority.

Sometimes, as in the notable precedent of the Rhine Commission, the European forum where questions relating to management of the Rhine River in Europe are discussed, competition will not, of itself, be enough, because there will be common, continuing commitments to sustain and improve infrastructural facilities.

Pakistan, contending with many regional complications, will have a particularly demanding task in relating any transit obligations to geo-political realities. It should seek to be among the architects rather than tenants of any new regional transit structures.

E. Documents and Data

The EU paper supports standard documentation and data requirements.

Practical experience and recent innovations in the EU transit system suggests that paper documentation is a very unsatisfactory basis for modern transit control and facilitation. The Commission themselves, were, in fact, forced to introduce a radical change to electronic import-export reconciliation by their national Customs services. This resulted from a massive and constantly mounting volume of notional debts to Customs, on the part of transit operators, because of tax obligations on goods admitted for transit but not then cleared, by correct documentary processes, at the point of export.

In fact the level of actual illegality was extremely modest and the spectacular fiscal shortfalls were simply the result of extremely lax record keeping and poor internal communication. Paper had to be replaced by electronic handling.

Pakistan could well make support for this part of the EU Communication conditional on general WTO acceptance of the superiority of electronic transit control systems, and the eventual provision of facilities, resources, and related capacity building.

The steps already in hand, within Pakistan Customs, to co-operate with and secure advice from Swedish Customs, primarily in respect of their Facilitation Stairway,

might be extended to include Swedish experience of, and expertise in, the administration of EU electronic transit procedures.

Pakistani carriers and forwarders, together with the Pakistani National Committee of the International Chamber of Commerce (ICC) have already initiated consultations with International Road Transport Union (IRU) and the UNECE, on how Pakistan can best move forward with optimal early implementation of the TIR Convention and other related international instruments.

The effort and investment needed for negotiation, agreement and application of transit arrangement will certainly call for associated expenditure. This will be greatly enlarged if and when there are significant moves to improve and extend physical infrastructure and related resources such as rail rolling stock, port appliances, road vehicles and, especially, computerised control systems.

It may or may not be possible and desirable to link these to whatever parallel plans are in hand for the South-North Corridor. Both would have to depend on some preliminary estimate of economic and commercial viability and prospects. What types of goods, in what volumes and forms are currently carried and what growth can be foreseen, under what heads and in what directions?

This could well be the subject of a joint enquiry by outside consultants, in consultation with commercial interests, particularly port managers, road operators, multimodal transport providers, agents and traders.

F. US and other security considerations

Any transit arrangements that facilitated exports from Afghanistan through Pakistan would certainly attract the attention of US, EU and a number of other states concerned at the international movement of illicit drugs and the often related dangers of terrorist activity. The US is also very interested in all available means of improving and extending Afghanistan's legitimate external trade performance and prospects.

Such considerations could have considerable bearing on US and EU Customs treatment of goods passing through the Port of Karachi and it would be difficult to restrict resulting judgements and arrangements solely to such transit shipments.

This new potential focus for US and EU attention could have very favourable results if Pakistan could use it to bring the US/EU into early informal discussions on Transit with a clearly expressed wish to arrive at agreements that would bring any new WTO transit facilitation rules into correct and constructive alignment with full economic exploitation of new investment in the South-North Corridor, better facilities for Afghan trade through and with Pakistan and special precautions in respect of illicit drugs and security.

7. Capacity Building

It would be sensible and economical of effort if Pakistan were to combine the mobilisation of technical assistance and capacity building to support any eventual WTO facilitation rule-making with similar arrangements to aid implementation of relevant provisions in the revised Kyoto Convention.

The recent arrangement with Swedish Customs to share their experience of risk-assessment as a link between control and compliance at varying degrees of trader competence (The Facilitation Stairway) is doubly useful, because the Deputy Director General of Swedish Customs, who is especially expert in Stairway principles and practice, has just been elected to manage the new WCO Capacity Building Directorate.

All these considerations underline the value of Communication TN/TF/W/29 from China and Pakistan, on **Identifying Trade Facilitation Needs and Priorities**.

All the concerns and suggestions in this Communication are valid, but could gain extra force and practicality for Pakistan, if they could be interpreted in the light of an early identification of national needs and priorities.

Since Capacity Building gained special attention and impetus from its appearance in WTO Facilitation negotiations, the WCO has assembled a set of relevant instruments, to identify and evaluate individual Customs services needs and assess their ability to profit from external assistance.

There are at least three examples, a short “desk-research” questionnaire, a larger structured enquiry, designed for use in an initial on-site study and a comprehensive, very detailed diagnostic tool, for major assessments, covering all aspects of Customs activities.

All depend on Customs self-assessment and there is a basic assumption, throughout, that any eventual assistance will be rendered by specialist teams of external Customs experts.

It is important to bear in mind that there are also several aids to structured assessments of Customs efficiencies, based on factors considered relevant and important by interests other than Customs themselves.

The International Chamber of Commerce (ICC) “Customs Guidelines” contain a summary, but very useful “rough grid” assessment tool citing some 60 key characteristics of an efficient Customs service, together with a series of supporting Explanatory Notes.

This can be taken as user-orientated and may, therefore, be a useful supplement and possibly corrective to results obtained from WCO self-assessment instruments.

The World Bank has published a Working Paper (No. 427) “Trade and Transport Facilitation – A Toolkit for Audit, Analysis and Remedial Action” that contains a section setting out a summary approach to assessing Customs efficiency in terms of

its effects on the overall trade transaction. This could be useful in identifying those particular commercial inefficiencies in, for example port and bank payment procedures that might usefully be brought within a wider Capacity Building programme.

There are obvious significant benefits for Pakistan in having such information available and well-understood and supported, in key official and commercial constituencies, including, of course, the NTTFC, well in advance of the final outcome of the current round of WTO negotiations.

It would be timely for Pakistan Customs to examine the latest WTO Secretariat analysis of Capacity Building proposals and principles (TF/TN/W/54) and, in close conjunction with the GOP WTO delegation –

- *Prepare a short list of those current proposals for WTO rule making that are seen by both trade and Customs as particularly important for Pakistani external trade development and facilitation.*
- *Identify the nature and extent of the assistance and resources needed to supplement and support compliance with potential WTO rulings under such heads*
- *Prepare any necessary proposals for associated Special and Preferential Treatment*
- *Link these steps to relevant items in the Pakistani Trade Development and Facilitation Project and the latest NTTFC work programme*
- *These links would be more easily identified and strengthened if Pakistani Customs, in consultation with trade interests in the NTTFC, could agree a carefully selected “shopping list” for use in –*
- *Early contacts and discussions with the new WCO Capacity Building Directorate.*
- *Any appropriate, recourse to the special bilateral aid promised by US Customs, in respect of implementation of security-related facilitation measures set out in the WCO Security Framework Any resulting Pakistani/US arrangements for implementing the WCO Framework would have the useful additional advantage of strengthening mutual understanding and personal contacts to the point at which it might be much easier to secure useful facilitation of Pakistani exports to the USA.*