



**WTO/ESCAP Second ARTNet Capacity Building  
Workshop on Trade Research, Bangkok, Thailand  
17-21 April 2006**

**Trade Facilitation  
and the WTO Negotiations  
[Day 2, Session 1]**

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# Overview of the session

- Part 1: Trade Facilitation?
- Part 2: WTO Trade Facilitation negotiations: an introduction
- Part 3: WTO Trade Facilitation Negotiations: state of play
- Part 4: ARTNeT Trade Facilitation Research Effort – year 1 and beyond

# Part 1 – Trade Facilitation?\*

Definitions?

Economic Benefits?

Main tools and  
International  
Organizations?



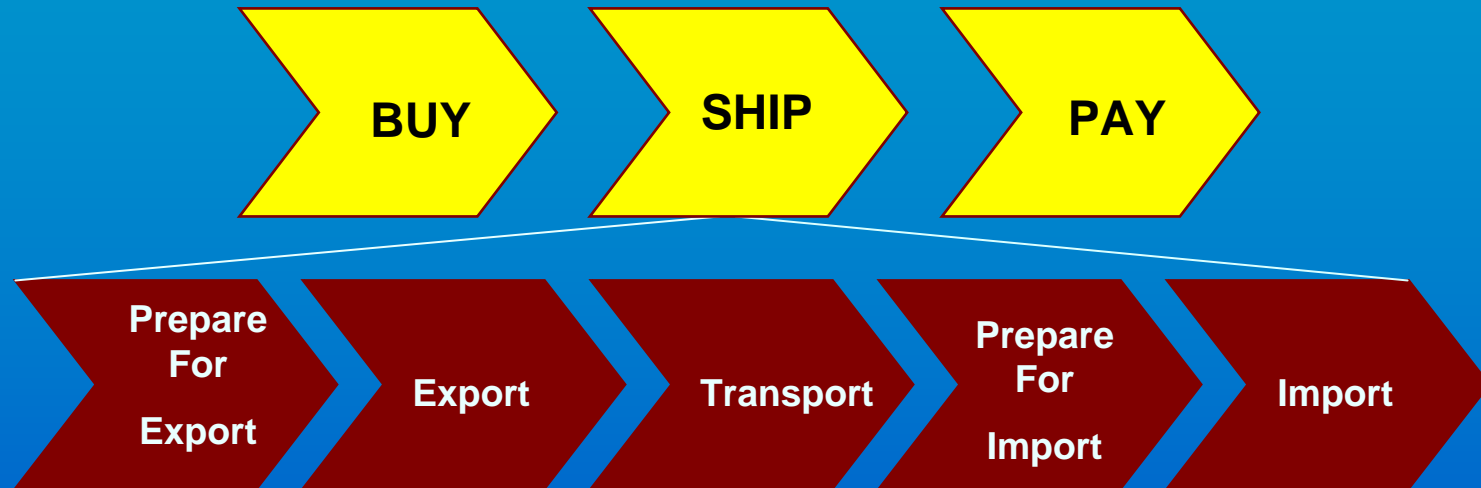
\*pictures from Tom Butterly,  
UNECE (oct. 2005)

# What is Trade Facilitation?



- No agreed upon definition
- “The plumbing of international trade” (Staples, 1998)
- “Any measure, or set of measures, that aims to increase the cost-effectiveness of international trade transactions”. <http://www.gfptt.org/Entities/TopicProfile.aspx>
- “the simplification and harmonization of international trade procedures.”, where trade procedures are the “activities, practices and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade.”  
(based on WTO documents)

# INTERNATIONAL TRADE TRANSACTION PROCESS



INVOLVES

## Commercial Procedures

- Establish Contract
- Order Goods
- Advise On Delivery
- Request Payment

## Transport Procedures

- Establish Transport Contract
- Collect, Transport and Deliver Goods
- Provide Waybills, Goods Receipts Status reports



## Regulatory Procedures

- Obtain Import/Export Licences etc
- Provide Customs Declarations
- Provide Cargo Declaration
- Apply Trade Security Procedures
- Clear Goods for Export/Import



## Financial Procedures

- Credit Rating
- Provide Insurance
- Provide Credit
- Execute Payment
- Issue Statements

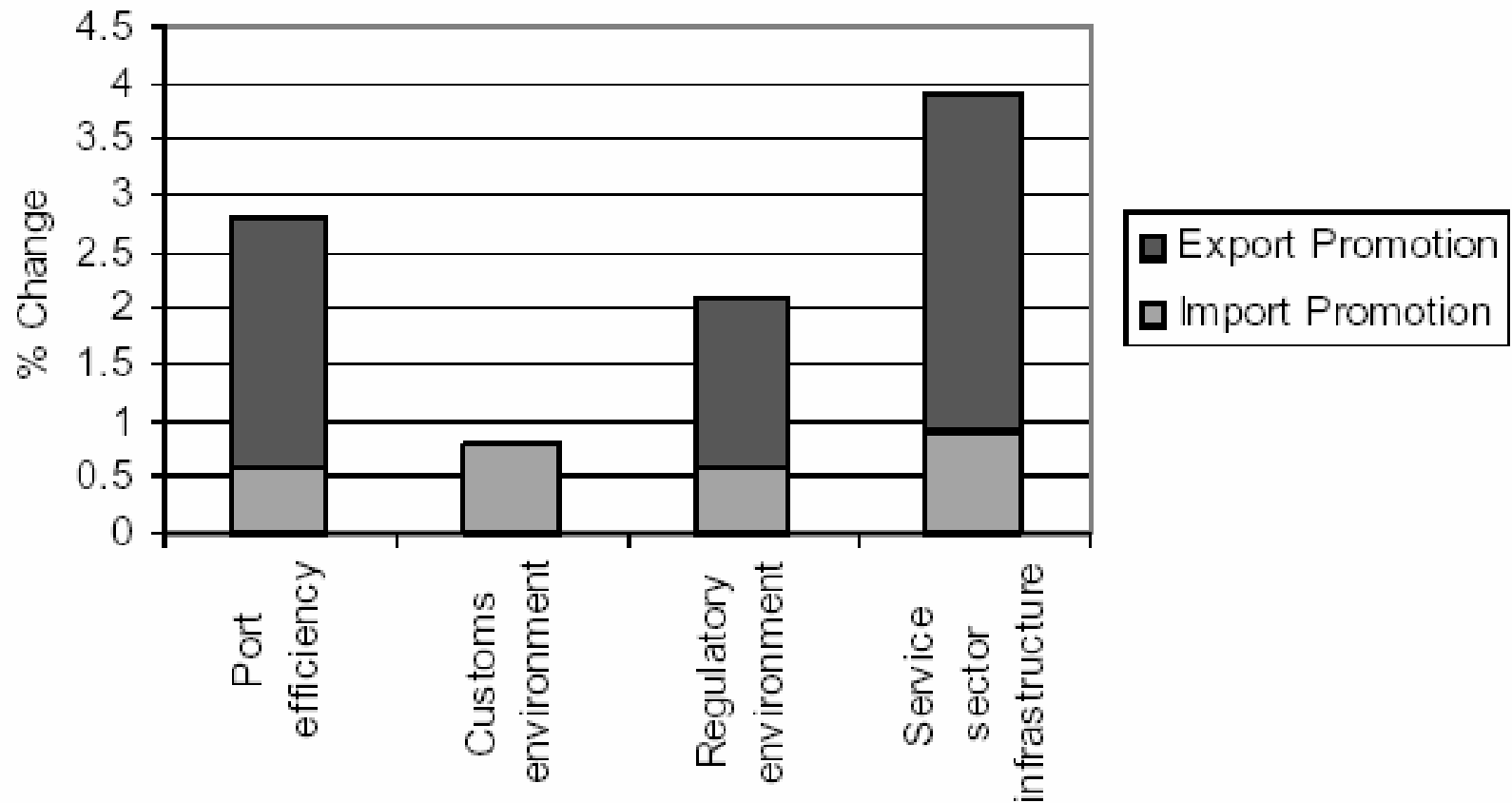


# Economic Benefits

- Trade facilitation costs estimated at between 1 to 15% of landed cost of imported good; even if only 1%, OECD estimates total gains to world economy of US\$40 billion
- UNCTAD (2001) focuses on fees charged for maritime and air transport services, and shows that a 1 percent reduction in the fees could increase Asian GDP some US\$3.3 billion.
- 1 day less in delivery times = 0.5% of landed cost of goods (Hummels, 2001)

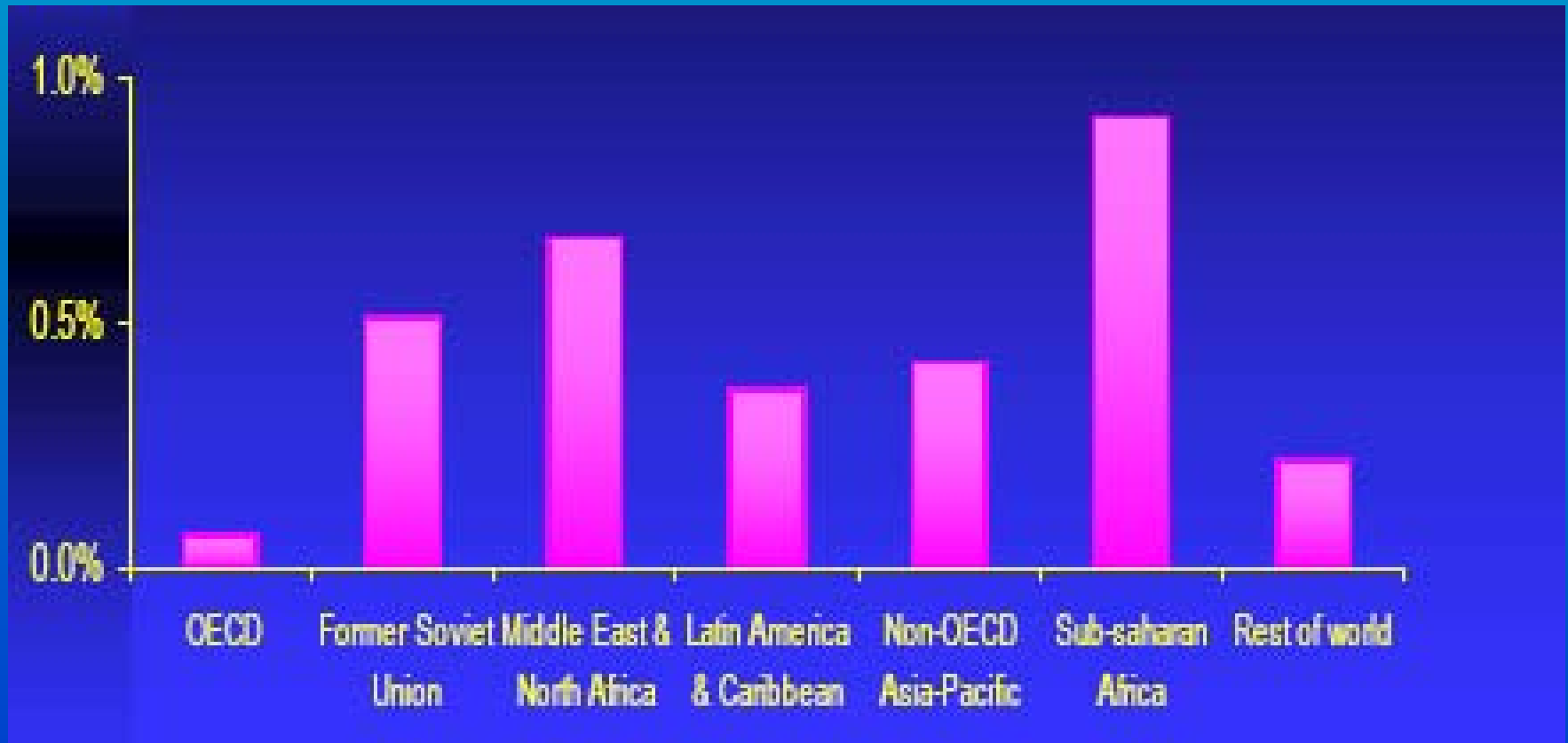
# Trade Gains from TF (broad definition)

Figure 3. Trade Gains from Capacity Building in Trade Facilitation



Source: Wilson, Mann and Otsuki (2004).

# Effects of TF on GDP (narrow WTO definition)





# Economic Benefits

- Benefits higher for developing countries and for SMEs
- APEC estimates gains of US\$46 billion from trade facilitation measures - adopted TF as key policy target.
  - Greater than the potential value of increased tariff reductions under future multilateral trade negotiations.
- Important factor in attracting FDI

# TF is not new: selected International organizations and tools

- The United Nations
  - UN/CEFACT (UNECE), UNCTAD
    - ASYCUDA, TF recommendations...
- The World Customs Organization
  - HS, Revised Kyoto Convention, WCO Data Model
- The World Bank
  - Financing of TF related projects and research
- The WTO
  - SPS, TBT, Customs Valuation, Import Licensing agreements
- Regional level: ADB, APEC, ESCAP...

**One good starting point: the Global Facilitation Partnership for Trade and Transport (GFPTT)**

**[www.gfptt.org](http://www.gfptt.org)**



**Transit  
of Goods**



**Fees and  
Formalities**

# Part 2 – WTO Trade Facilitation Negotiations

An Introduction



**Trade  
Regulations**



**Trade  
Facilitation**



**Customs**

# Introduction

- **Singapore Ministerial Declaration 1996**
  - Article 21: “We further agree to direct the Council for Trade in Goods to undertake exploratory and analytical work, drawing on the work of other relevant international organizations, on the simplification of trade procedures in order to assess the scope for WTO rules in this area.

# Main problems identified (for traders)

- Excessive documentation requirements
- Burdensome border-crossing procedures
- Lack of automation and scarce use of IT
- Lacking transparency and predictability
- Lack of cooperation and coordination

# Documentation requirements

- ...often lack transparency, are vastly duplicative, and differ widely between countries
- Some trade transaction can involve
  - 20-30 different parties;
  - 40 documents;
  - 200 data elements (30 of which are repeated at least 30 times);
  - and the re-keying of 60-70 percent of all data at least once

# Border crossing problems

- outdated legislation inhibiting change and reform
- wide array of discretionary powers for customs
- no effective redress against decisions by customs
- reliance by customs on transaction-based controls
- scarce use of “green channels”
- lack of co-operation between customs and traders
- lack of co-operation between customs and other government agencies

# Lacking automation and limited use of information technology

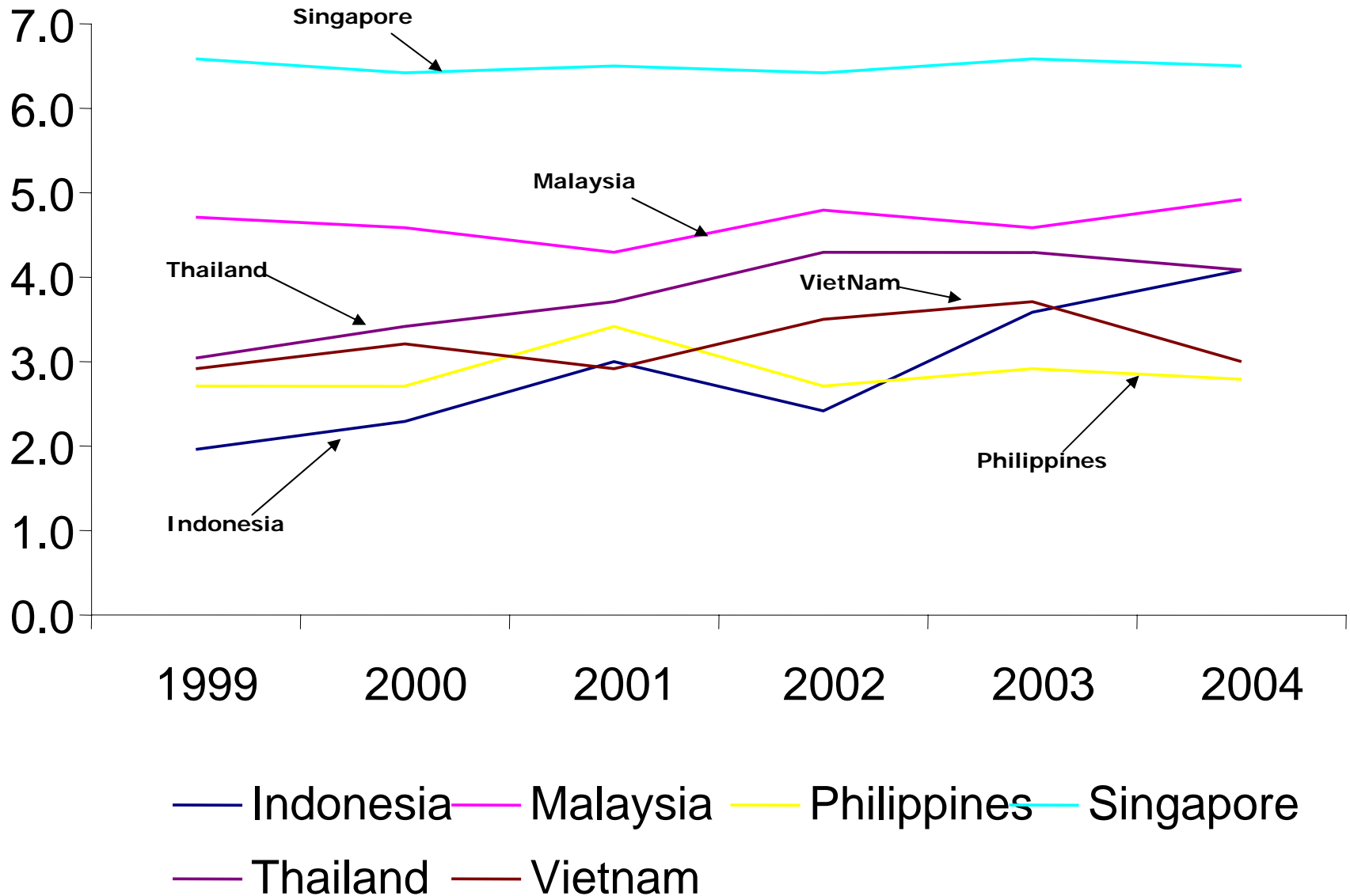
- Lack of automated processes and scarce use of information technology has potential to cause delays and reduce efficiency of administration
  - Delays: Time lost at borders accounts in some countries for 20 % of overall transport time



# Other problems

- Corruption
- Lacking human and financial resources
- Deficiencies in the area of infrastructure

# Frequency of Irregular Payments to Secure Trade Permits (1=common; 7=never occurs)



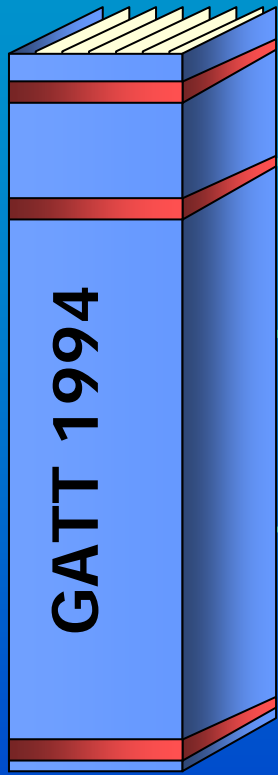
# WTO TF Negotiations

- ...8 years after the Singapore Ministerial Declaration, WTO members agreed to start negotiating on trade facilitation
- Part of the single undertaking of the Doha Round
- Trade Facilitation Negotiating Group
  - 13 meetings since its establishment in Nov. 2004
- Proposal-based negotiations
  - More than 80 proposals/contribution papers/notes so far; no established format
- Modalities of negotiations
  - July Package (WT/L/579) and its Annex D

# July Package, Annex D (1 Aug. 04)

- TF negotiations “shall aim to clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods...”
- TF negotiations also aim at “enhancing technical assistance and support for capacity building in this area,”
- and at developing “provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues”.
- The results “shall take fully into account the principle of special and differential treatment for developing and least-developed countries”, which would not be obliged “to undertake investments in infrastructure projects beyond their means”.

# An Overview of the GATT Articles V, VIII and X



★ <b>Art. V</b>	<b>Freedom of Transit</b>
★ <b>Art. VIII</b>	<b>Fees &amp; Formalities connected with Importation &amp; Exportation</b>
★ <b>Art. X</b>	<b>Publication and Administration of Trade Regulations</b>

# GATT Article X – Transparency main obligations (1)

- Requirement to
  - Promptly publish all trade regulations in such a manner as to enable governments and traders to become acquainted with them
- No enforcement of a measure of general application prior to its official publication

# GATT Article X – Transparency main obligations (2)

- **Uniform, impartial and reasonable administration of trade regulations**
- **Maintain or institute, as soon as practicable, tribunals or procedures for the prompt review and correction of administrative action relating to customs matters**
  - **Tribunals/procedures must be independent from enforcement agencies**

# GATT Article VIII – Fees & Formalities main obligations (1)

- **All fees and charges imposed on or in connection with importation or exportation (other than imp./exp. duties and taxes within the purview of Article III) must**
  - **be limited in amount to the approximate cost of services rendered**
  - **not represent an indirect protection to domestic products**
  - **not represent a taxation of imports or exports for fiscal purposes**



# GATT Article VIII – Fees & Formalities

## main obligations (2)

- **No imposition of substantial penalties for minor breaches of customs regulations or procedural requirements;**

**In particular, no penalty for omission or mistake in customs documentation that is easily rectifiable and made without fraudulent intent or gross negligence beyond the necessary to serve as a warning**

# GATT Article VIII – Fees & Formalities main obligations (3)

## ➤ **Recognition of the need for**

- **reducing the number and diversity of fees and charges**
- **Minimizing the incidence and complexity of import and export formalities and for decreasing and simplifying import and export documentation requirements**

# GATT Article V – Freedom of transit main obligations (1)

- Each Member shall grant freedom of transit
  - for goods (including baggage), vessels and other means of transport crossing its territory
  - via the routes most convenient for international transit
  - with no distinction based on (i) flag of vessel, (ii) origin, (iii) departure, (iv) entry, (v) exit, (vi) destination, or (vii) ownership of goods, vessels or other means of transport

# GATT Article V – Freedom of transit

## main obligations (2)

✘ (Except in cases of failure to comply with applicable customs laws and regulations):

### ➤ **Prohibition to**

- **Make such traffic in transit subject to any unnecessary delays or restrictions**
- **Impose customs duties, transit duties or other charges imposed with respect of transit**
  - ✘ except (i) charges for transportation, or (ii) those commensurate with administrative expenses entailed by transit, or (iii) with the cost of services rendered

# GATT Article V – Freedom of transit

## main obligations (3)

- **All charges and regulations imposed on traffic in transit shall be**
  - **Reasonable, having regard to the conditions of the traffic**
  
- **MFN treatment for traffic in transit**
  - **With respect to all (i) charges, (ii) regulations, and (iii) formalities**

# Issues with current GATT Articles

- ☹ Lack of clarity and precision
- ☹ Difficult (often impossible?) to enforce
- ☹ Not effective in ensuring/improving transparency and predictability
- ☹ Absence of requirements for cooperation among various stakeholders

# WTO members' proposals to the NGTF

- Compiled in TN/TF/W/43 series
  - 14 main areas; 28 groups of measures (some have sub categories (45))
  - Mainly GATT Articles V, VIII and X
  - Cross-cutting submissions
    - Needs and Priorities, TA/CB, Multiple areas
- Latest Compilation: Analytical Compilation of WTO Proposals (TN/TF/W/43/Rev.5) (3/2/06)
  - Include relevant document up to TN/TF/W/75

# TN/TF/W/43/Rev.5: Analytical Compilation of WTO Proposals (as of 3/2/2006)

- Builds on earlier WTO Secretariat compilations
- Follows same format as earlier versions:
  - Primary focus on clarification and improvement of Articles V, VIII and X, GATT
  - “Built-in Flexibilities”
  - TA/CB Elements
  - S&DT Issues
  - Cross-cutting Submissions, including Needs and Priorities Identification



# WTO Proposals related to Article X (transparency)\* - Areas covered

- Publication and Availability of Information
- Time Period between Publication and Implementation
- Consultation and Comment on New/Amended Rules
- Advance Rulings
- Appeal Procedures
- Measures to Enhance Impartiality and Non-Discrimination

\*Areas A to F in W/43 Ver.5 table

# WTO Proposals on Article VIII (Fees and Formalities)\* - Areas covered

- Fees and Charges Connected w/ Import/Export
- Formalities Connected w/ Import/Export
- Consularization
- Border Agency Coordination
- Release and Clearance of Goods
- Tariff Classification

\*Areas F to L in W/43 Ver.5 table

# WTO Proposals related to Article V (Freedom of Transit)\* - Areas covered

- Matters Relating to Goods Transit
  - Strengthened non-discrimination
  - Disciplines on Fees and Charges
  - Disciplines on Transit Formalities and Documentation Requirements
  - Improved Coordination and Cooperation
  - Operationalization and Clarification of Terms

\*Area L in W/43 Ver.5 table

# Part 3 – WTO Trade Facilitation Negotiation

State of Play (since Dec.05)

# Recent Developments

- WTO Ministerial Conference: Ministerial Declaration (22/12/05)
  - Paragraph 33, Ministerial Declaration
  - Annex E: Report of the Negotiating Group on Trade Facilitation
    - Primarily a stock-taking exercise
    - Progress in negotiations left to Negotiating Group on Trade Facilitation (NGTF) post-MC6

# Annex E: Stock-Taking Elements

- Most work done to date concerns clarification and improvement of Articles V, VIII and X
- Many WTO Member submissions also address TA/CB and S&DT issues
- Advances made on Customs Cooperation
- Identification of TF Needs and Priorities and Cost Implications
- National Experience Papers/Information-Sharing

# Annex E: Prospective Work Programme

- Identification of Individual Members' TF Needs and Priorities and Cost Implications
- Enhanced Role for other International Organizations
- Special attention to TA/CB Requirements
- Intensification of negotiations on S&DT issues
- Need for movement to focused drafting mode

# Recent Developments

- Two formal meetings of the WTO Negotiating Group on Trade Facilitation (NGTF) so far:
  - Emphasis placed on focused drafting at this stage
  - submission and discussion of Member Proposals re the so-called three pillars:
    - Articles V, VIII and X
    - Special & Differential Treatment
    - TA/CB Issues
- More than a dozen new proposals submitted to the NGTF since the last WTO compilation (ver.5)
  - As of 16 April 2005, 94 working documents (TN/TF/W/94)



# Overview of selected new proposals

- Canada, EC, Mongolia et al. (TN/TF/W/79)
  - Synthesis of Article V Issues
- ACP Group (TN/TF/W/73)
  - Synthesis of TA/CB Issues for Developing Countries and LDCs
  - Establishing an Inter-Agency Coordinating Mechanism for Trade Facilitation TA/CB
  - Key Areas for Funding of Trade Facilitation TA/CB
    - Support for identification of needs and priorities; for negotiations support; for commitments implementation

# Overview of selected new proposals

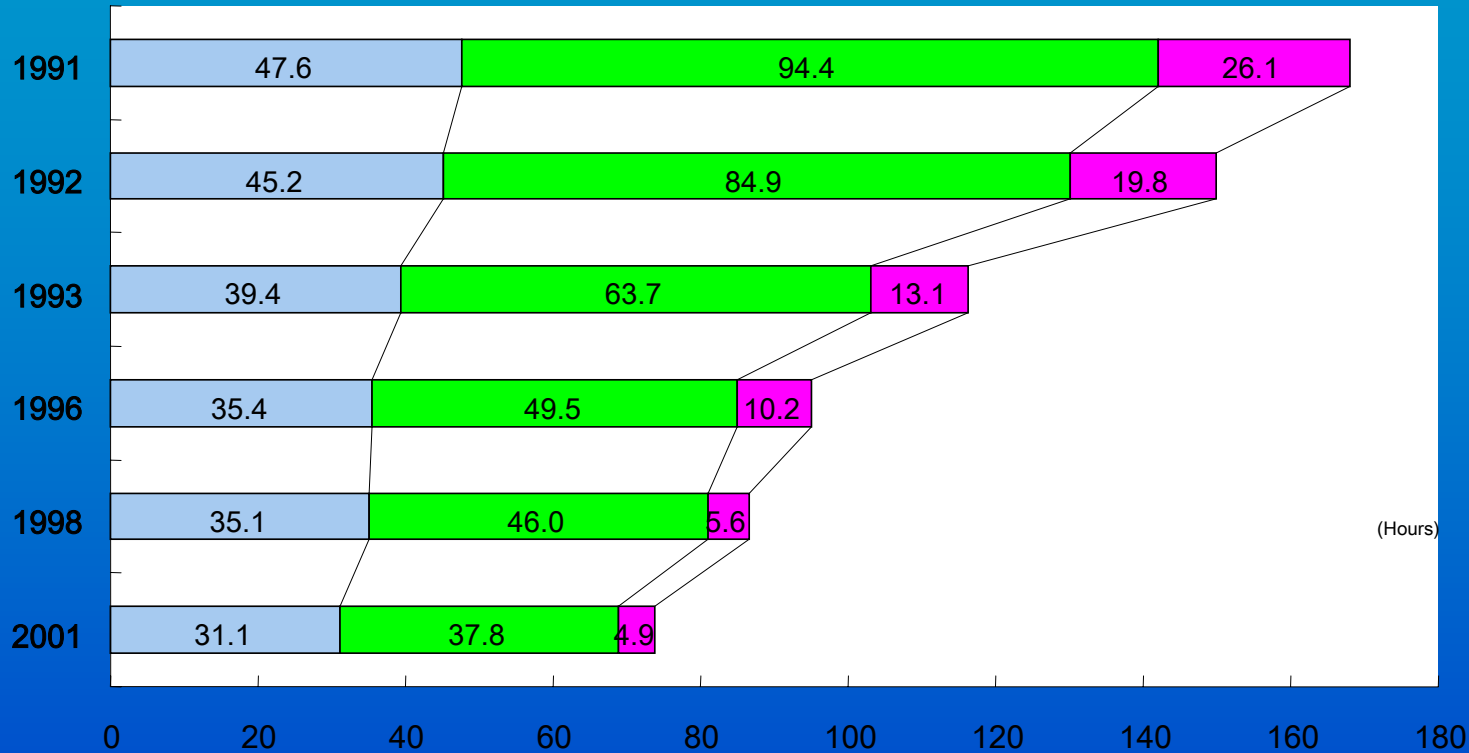
- Chile, Dominican Rep, Ecuador et al. (TN/TF/W/81)
  - Synthesis and specific proposals on S&D issues
  - 4 phases: (i) capacity self-assessment; (ii) notification; (iii) capacity development; and (iv) confirmation of capacity acquisition and compliance with the obligation.
- India (TN/TF/W/78 and 78)
  - Raise issues regarding transparency (art. X) and fees and formalities (art. VIII) in Customs Union
- Very specific focused and simpler proposals
  - Chile, Peru, USA (TN/TF/W/89) on Internet publication
  - EC, Korea, Hong Kong China et al. (TN/TF/W/94) on fees and charges

*...Consensus emerging through the formulation of joint proposals by Members*

# The Way Forward

- Near-Term Goal: Preparation of a draft text for negotiation (submitted by July 2006)
- Significant work accomplished on clarification/improvement of GATT Articles V, VIII and X; more work needed on TA/CB and S&DT issues
- ... Establishment of a trade facilitation committee (along the same lines as the TBT and SPS committees)?

# Changes in Time Required: Japan (Sea Cargoes)



-  Arrival of Cargo to Delivery to Customs Area
-  Delivery to Customs Area to Filing Declaration
-  Filing Declaration to Release of Goods (permission)



Source: Customs and Tariff Bureau, MOF, Japan and Florian Albuero, June 2005]



# Part 4 – ARTNeT Research Effort on Trade Facilitation

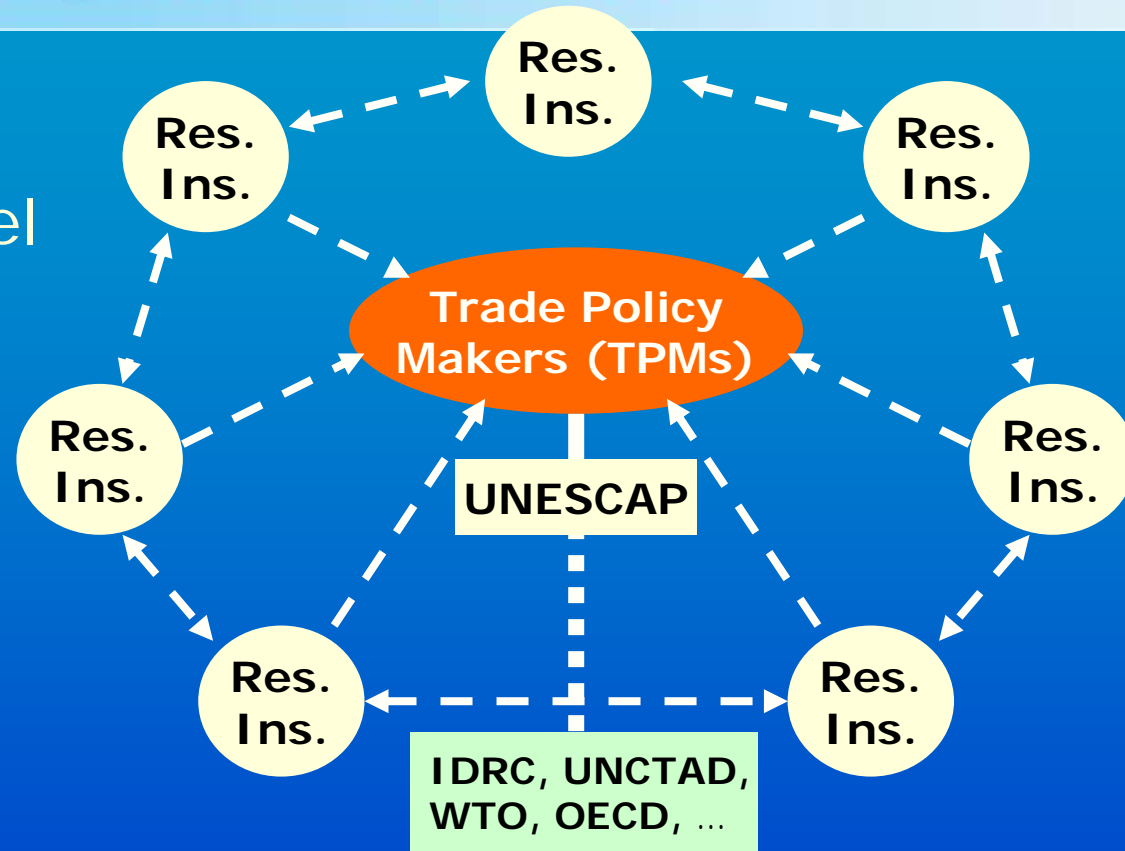
Year 1 and Beyond



# Asia-Pacific Research and Training Network on Trade

**ARTNeT?** An open network of national-level research institutions interested in trade policy and facilitation issues

**Objective:** to build National /regional trade research capacity... to provide trade policy makers with the high-quality analysis they need



For more information, please visit [www.artnetontrade.org](http://www.artnetontrade.org)

# ARTNeT Trade Facilitation Research Effort

- A 3-year thematic study on trade facilitation approved at the networks' launch on Oct. 2004
- **First-year focus: Need for and Cost of implementation of selected trade facilitation measures relevant to GATT articles V, VIII and X**
  - Many developing countries in the region reluctant to a WTO trade facilitation agreement, mainly because of implementation cost & capacity concerns
  - Most research has focused on macro-level benefits

# ARTNeT Trade Facilitation Research Effort

- **First-year focus: Need for and Cost of implementation of selected trade facilitation measures relevant to GATT articles V, VIII and X**
  - OECD conducted “implementation cost” surveys in late 2004, with additional studies planned in Cambodia, Thailand and the Philippines in 2005
  - **ARTNeT decided to conduct country case studies in:**
    - **Bangladesh (CPD, Bangladesh)**
    - **China (CAITEC, China)**
    - **India (RIS, India)**
    - **Indonesia (CSIS, Indonesia)**
    - **Nepal (IPRAD, Nepal)**



# Research Steps

- Assessment of current level of implementation of trade facilitation measures related to article V, VIII, and X
- Based on a short version of WCO Self-Assessment checklists (developed by the WTO)
- Need and priorities of the private sector
  - Based on a survey/interview instrument developed by the ARTNeT team
- Cost (for the government) of implementing selected measures
  - Based on the OECD survey and other instruments

# Findings from case studies

- Many of the TF measures discussed at the WTO have been PARTIALLY implemented (or there are plans for their introduction)
  - Regional initiatives have been a driver

# Findings from case studies

- Private sector perspective:
  - Customs regulations and procedures result in significant costs to business (Bangladesh: 65% agree)
  - Major difficulties faced are attributed to domestic regulations/procedures (up to 90% in some countries)
  - Improvements in export and import procedures/facilitation are reported in all countries, but there is room for improvement

# Findings from case studies

- Some of the most problematic factors identified by the private sector may go beyond the scope of the current TF negotiations

<b>Most problematic areas in trade facilitation</b>	<b>Rank</b>
<b>Customs valuation</b>	<b>1</b>
<b>Inspection and release of goods</b>	<b>2</b>
<b>Tariff classification</b>	<b>3</b>
<b>Submission of documents for clearance</b>	<b>4</b>
<b>Obtaining an import license</b>	<b>5</b>
<b>Payment of fees and penalties</b>	<b>6</b>
<b>Technical or sanitary requirements</b>	<b>7</b>
<b>Identification of origin of the goods</b>	<b>8</b>

*Source:* Debapriya Bhattacharya, CPD, ARTNeT member, Bangladesh

# Findings from case studies

- Needs and priorities of private sector:
  - TF measures that often come at the top of the list:
    - **Timely and comprehensive publication and dissemination of trade rules and regulations**
    - **Measures to enhance coordination among government agencies**
    - **Measures to improve the integrity of government officials**
    - **Computerization and automation of trade procedures**
  - **Some variation across countries**

# Findings from case studies: Implementation Costs

- Findings so far are consistent with OECD's
  - Costs associated with off-the-job training of officials and other stakeholders and those associated with ICT (hardware and software) are most problematic
- Hard to dissociate some of the basic infrastructure costs from trade facilitation as some key measures do require such investments (e.g., risk management; rapid clearance)
- Studies mostly unsuccessful in costing specific TF measures

# Experts Survey on implementation cost of selected trade facilitation measures

- Main objective: to provide unbiased qualitative estimates of the costs and time required for implementing selected TF measures being discussed at the WTO

## EXAMPLE

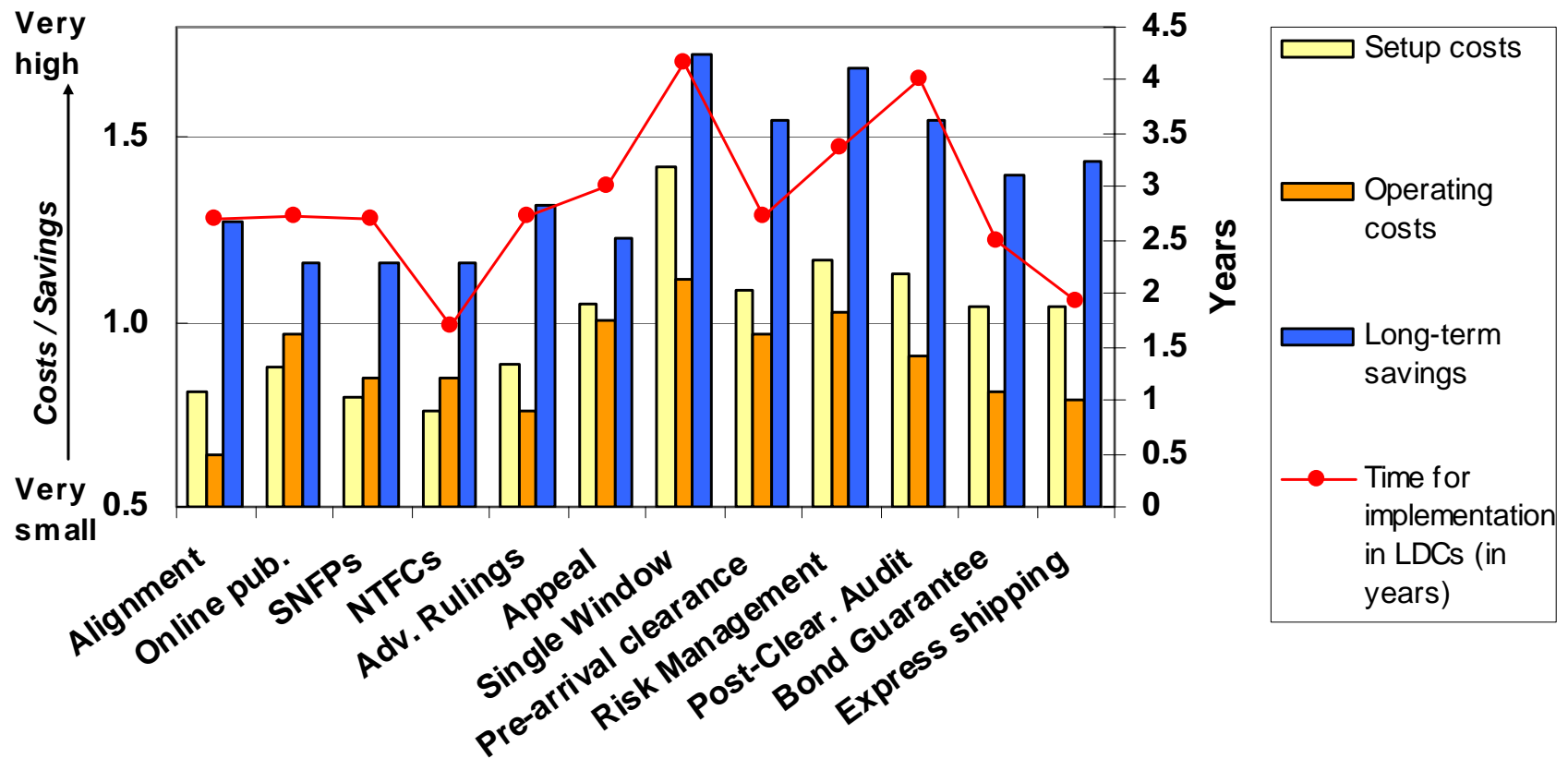
**TF measure: Alignment of trade documents according to the UN Layout Key for trade documents**

regulatory/ legislative costs	Startup/initial costs				Political cost	Recurring / operating costs	Long- Term savings potential	Suggested Time for implementatio n in LDCs (in years)
	Institutional costs	HR training costs	Equipment/ Infrastructure costs					
<b>VS</b>	<b>S</b>	<b>S</b>	<b>S</b>		<b>M</b>	<b>S</b>	<b>S</b>	<b>2</b>

### Comments:

*Translation into English will likely be the most costly aspect of this measure for many countries, and may require creation of positions for a small team of translators beyond the initial startup phase. Development and hosting of the web site could be done by WTO or one of the relevant international organizations.*

# Experts' Qualitative Assessment of the Relative Cost, Benefits and Time Needed for Implementing Selected Trade Facilitation Measures





# Some implications for the WTO Negotiations

- If priorities are based on the perceived need of the private sector and the expected cost of implementation for the Government, basic package of TF measures might include:
  - Timely and consistent publication of trade rules and regulations (online)
  - simplification/ standardization/ harmonization of trade documents
  - Enquiry points / single national focal points

# Some implications for the WTO Negotiations on TF

- Governments needs vary across TFMs
  - need more time flexibility for TFMs with high political costs; grants for the TFMs requiring infrastructure investment
- Adoption and use of international standards is top priority for experts
  - Convergence between experts opinions and private sector needs
- Some disagreement among experts on implementation details (and sequencing)
  - Need to establish a long-term institutional mechanism at the WTO
  - Mandatory TFMs + complementary list of TFMs

# ARTNeT

## Trade Facilitation

### Research Effort – Year 2

- Customs valuation
  - Top issue for private sector
  - Useful lessons may be learned from implementation of WTO Customs Valuation Agreement
- Trade facilitation and regional integration
  - Increasing number of PTAs
  - How is trade facilitation addressed in PTAs
- Trade logistics services liberalization for trade facilitation
  - Growing importance regional/global supply chains with complex logistics
  - Can liberalization in trade logistics services a determinant factor of trade facilitation

# Concluding Remarks

- TF is challenging area of research
  - Need for primary data collection
- But clearly promising and growing in importance
  - Need to go beyond Article V, VIII and X to look at all the transaction process
- Need to be very focused to answer policy makers' need, especially in the context of negotiations
- *Why is TF negotiated at the WTO?*