

A POSITION PAPER ON GHANA'S CURRENT COMMITMENT ON THE MEASURES OF THE WTO TRADE FACILITATION AGREEMENT.

1.0. INTRODUCTION

The World Trade Organization (WTO) deals with the global rules of trade between nations. Its main function is to ensure that trade flows as smoothly, predictably and freely as possible.

On 7 December 2013, the WTO concluded negotiations on the Trade Facilitation Agreement at its ninth ministerial meeting in Bali, Indonesia.

It will be recalled that the adoption of the Trade Facilitation Agreement was subject to legal scrubbing and the adoption of protocol to amend it and insert it into the W.T.O Agreement Annex 1A. This legal scrubbing took

To this end, on *27th November 2014*, the WTO General Council adopted the protocol of Amendment to insert the Trade facilitation Agreement into Annex 1A of the WTO Agreement which was opened for acceptance until July 2015.

The mandate for the Trade Facilitation negotiations was to clarify and improve general agreement and type's *article 5 on freedom of transit, article 8 on fees and formalities* and *article 10 on publication and administration of Trade regulation*.

It takes effect after *two-thirds* of the WTO membership of 162(2015) members have ratified the agreement which is about 108. Currently, about 77 countries have ratified the WTO and Ghana is yet to ratify.

THE AGREEMENT

The Trade Facilitation Agreement is in two sections. The first Section deals with technical aspects of the Agreement and explains in detail the necessary improvement for an efficient and effective agreement.

The second section provides the basis for the special and differential treatment and for technical assistance and capacity building needed for the implementation of the Agreement.

Under section two members are required to undertake commitments under three categories of provisions consistent with their individual development and financial capabilities to implement them.

The three categories of provisions are

- Category A – This contains provisions that a developing country member designates for implementation upon entry into force of the trade facilitation agreement.
- Category B – This contains provisions that a developing country member designates to implement on a date after a transition period.
- Category C – This contains provisions for which a country needs transitional period and technical/capacity building assistance.

2.0. GHANA'S CURRENT POSITION

Ghana undertook a needs assessment exercise in 2013 to ascertain the country's needs in line with the various categories. The National Trade Facilitation Committee made up of all the relevant stakeholders in the industry met a number of times to deliberate and come out with the right position of Ghana, especially with the three categories and their appropriate measures.

For category A, Ghana is complaint in 6 measures constituting 17% in terms of readiness to implement. The measures identified included

6.3 Penalty Disciplines

9.0 Movement of good under Customs intended for imports

10.7 Common Border procedures and requirements and uniforms and documentation relating to clearance.

10.8 Rejected goods

10.9 Temporary admission of goods/inward and outward processing

13.2 National Committee on Trade Facilitation

Category B, Ghana is again complaint in 6 areas also constituting 17% and these measures are:

5.2 Detentions

7.1 Pre-arrival processing

7.3 Separation of Release from final determination of customs duties, taxes, fees and charges

10.2 Acceptance of copies

10.3 Use of international standards;

10.5 Pre-shipment inspection.

Under **Category C**, Ghana is non-compliant in 24 measures constituting 66% and needs Capacity and Technical Assistance, these include

1.1 Publication,

1.2 Information available through internet

1.3 Enquire points

1.4 Notification

2.1 Opportunity to comment and information before entry into force

2.2 Consultation

3.1 Advance Rulings

4.1 Right to Appeal or Review

5.1 Notification for enhanced controls or inspections

5.3 Test procedures

6.1 General disciplines on fees and charges imposed on or in connection with importation and exportation

7.2 Electronic payment

7.4 Risk Management

7.5 Post-clearance audit

7.6 Establishment and Publication of average release time

7.7 Trade Facilitation measures for authorized operators

7.8 Expedited shipments.

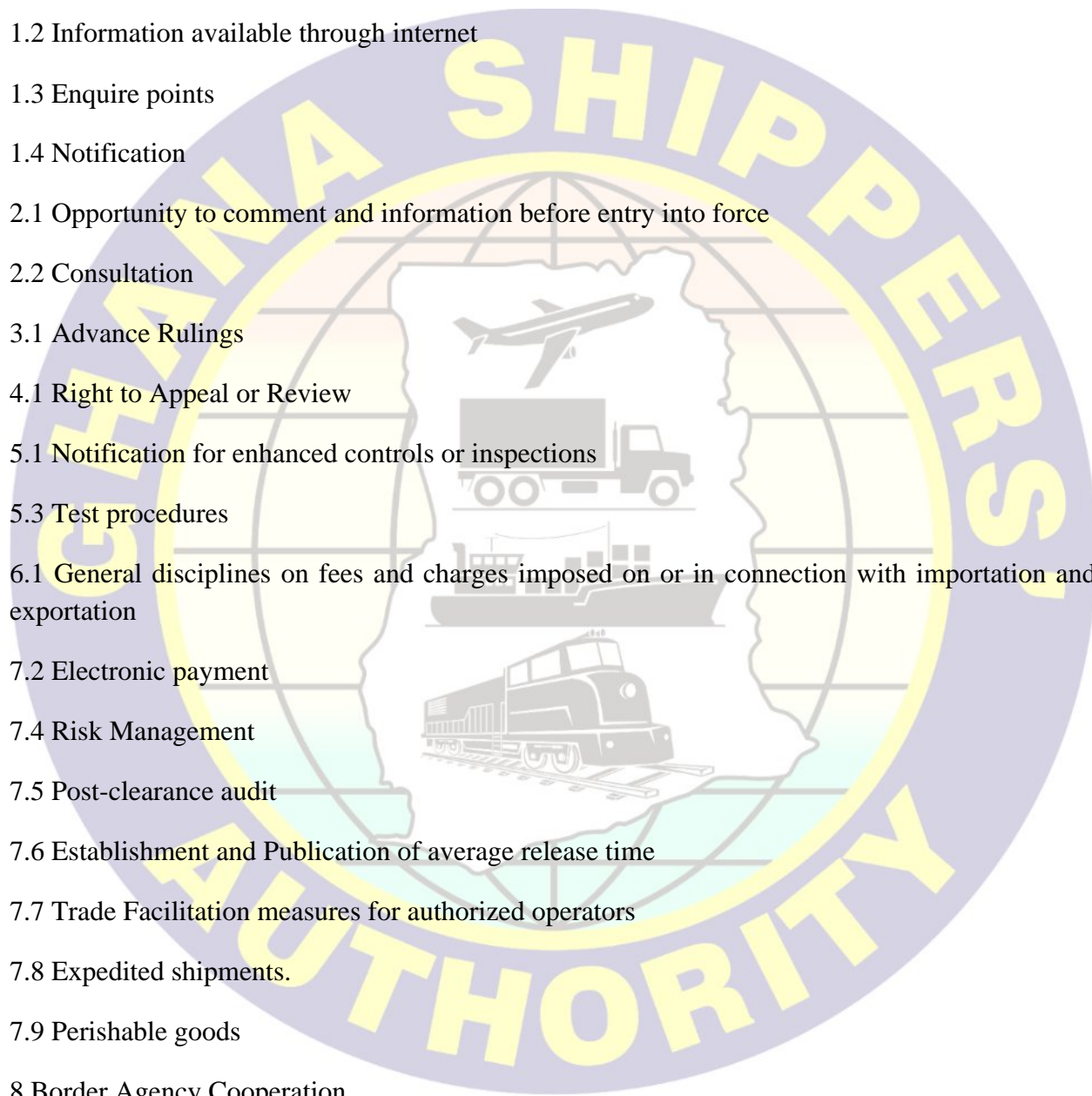
7.9 Perishable goods

8 Border Agency Cooperation

10.1 Formalities and Documentation requirements

10.4 Single window

10.6 Use of custom brokers



11. Freedom of transit

12. Customs cooperation

2.1. WORK OF OTHER MINISTRIES AND DEPARTMENTS RELATING TO WTO.

In accordance with the need for cooperation of relevant ministries and department for the smooth implementation of Ghana's commitment under the WTO, the Ministry of Roads and Highways organised a workshop on World Trade Organisation Trade Facilitation Agreement

The workshop was done in consultation and with the assistance of the World Customs Organization (WCO) and the United Nations Conference on Trade and Development (UNCTAD). The two day workshop was for Members of the National Road Transport and Transit Facilitation Committee (NRTTFC) on 3rd – 4th February 2016, at Marjorie Y hotel in Tema.

The workshop was meant to;

- Inform and raise awareness on the WTO Trade Facilitation agreement.
- Establish a mapping of key trade facilitation stakeholders in Ghana and assess the current committee structure against international standards.
- Identify and define the role of the NRTTFC in the implementation of the WTO TFA
- Ensure coordination with the development partners and trade facilitation stakeholders for future engagement in Ghana.

The membership of the NRTTFC comprised, Ghana Revenue Authority- Customs Division, Ghana Chamber of Mines, Ministry of Trade and Industry, State Insurance Company (SIC), Borderless Alliance, Ecowas Brown Card, Ghana Institute of Freight Forwarders and the Ghana Shippers' Authority.

2.2. THE ROLE OF THE NATIONAL TRADE FACILITATION COMMITTEE

- NTFC Mandate is derived from the WTO TFA under Section III, Article 23(1)(2), which requests the establishment of a National Trade Facilitation Committee to serve as a forum to discuss specific matters related to the implementation of the TFA .
- The National TF Committee is to monitor and evaluate the implementation of Ghana's commitments under the WTO TFA.
- There is the need for the support from Government, Ministries, Departments, Agencies, Customs, importers, exporters, transit operators, and the general public in the implementation of the agreement to enable Ghana to enjoy the full benefits associated with trade facilitation,

2.2.1 Best Practice for a National Trade Facilitation Committee

The meeting also discussed some best practices in establishing a National Trade Facilitation Committee. From the deliberations, the following recommendations were made.

1. Set up objectives and scope of a national trade facilitation body
2. Make it official and give the NTFC body a strong legal backing
3. Set clear rules- defined terms of reference in a comprehensive and inclusive way
4. Provide the national trade facilitation committee with a permanent secretariat
5. Meet regularly
6. Be inclusive- trade facilitation is a cross-divisional and cross sectoral endeavour
7. Take every opportunity to raise awareness about trade facilitation
8. Provide the national facilitation committee with the necessary resources
9. Establish monitoring and evaluating mechanisms to measure results
10. Always involve the private sector

2.3. A REVIEW OF GHANA's NTFC

The National Trade Facilitation Committee on 1st March 2016 met at the Ministry of Trade Conference Room to receive feedback from a team of consultants from the United States of America (USA) on Trade Africa Initiative to help with Ghana's Trade Regime.

Their main purpose was to identify the needs, the gaps and implementation of the World Trade Organization Trade Facilitation Agreement.

With respect to the WTO TFA their main aim with category C measure and also to review the categories A&B.

Their observations were in two parts

I. CO-ORDINATION

II. STRENGTHENING THE NATIONAL TRADE FACILITATION COMMITTEE.

2.3.1. CO-ORDINATION:

In order to do a proper assessment, the Team led by Dr. Bob Keller visited the offices of stakeholders and interacted with them to have first hand information on Ghana's clearing system in order for the USA to determine the appropriate assistance to offer Ghana.

At the Meeting, the team informed the Committee of their observations and made some recommendations. They observed that there was the need for better co-ordination especially among Border Agencies as well as stakeholder.

Need for consultations with stakeholder organisations within the clearing system especially so when fees and taxes have been increased.

Duplication of Efforts:

Dr. Bob Keller observed the duplication of efforts by stakeholders at the port especially in inspection of cargo and there seems to be a complete breakdown of communication between stakeholders. Inspection of containers at the port are not done together, sometimes a container has to be inspected or opened two or three times (2x/3x) by different agencies.

He expressed worry over the level of inefficiencies and delays by stakeholders at the port and cautioned the possibility of Ghana losing the transit business to the neighboring ports. The team indicated that foreign investors are moving to other countries such as Togo, Cote D'Ivoire etc. Time in doing business in Togo and Cote D' Ivoire is less though the cost of doing business is high.

2.3.2. Strengthening the National Trade Facilitation Committee

This the team indicated needed to be strengthen so that the articles in the WTO TFA are followed. Also that finally the Agreement would be ratified. The NTFC must be able to monitor the implementation of the Agreement. He also noted that most stakeholders were not aware of the existence of the National Trade Facilitation Committee.

2.3.2.1 NTFC Composition:

There is the need for representation from Government Agencies,

Private Sector representation, however it seems there are not enough private sector on the committee. Public/private partnership is necessary.

2.3.3 Recommendations for Ghana's NTFC

a. Hold regular meetings

The frequency of meeting can contribute to the sustainability of a trade facilitation committee as well as help the committee to monitor and follow up on their activities. Establishing that the committee will meet on the first Wednesday of each quarter, for instance will help members to plan their calendars based on fixed dates and ensure that they are present at all meetings.

b. The Political Will: In order to achieve reforms it is important that Ghana shows the political will that it is ready. Consideration should be given to higher level commitment for example from the office of the vice President. This will definitely raise the level of commitment

c. A representation from the office of the president

He recommended a representation from the office of the president since this will help bring the attention of the president to pressing issues that are discussed at the meeting. He cited the committee of the National Single Window as an example and said the committee has been able to achieve a lot because of the presidential backing.

iv. Initiatives of Individual Agencies- need to work on initiative and co-ordination as it seems certain agencies are taking on their own initiatives without reference to the NTFC. eg. National Single Window, there is the GCNet, and GRA-Customs all bringing out their initiatives. The NTFC needs to be aware of all these initiatives of these agencies and to bring them together.

v. Involvement of the private sector

He advised the committee to actively involve the private sector as this is the most important success factor for the committee. He said the private sector should participate in the formulation of the terms of reference and possibly chair or take leadership position in the committee.

Recommended on bringing in the shipping lines, SOAAG

vi. Put in place a monitoring mechanism

He said there the committee should put in place a monitoring and evaluating mechanism to measure its result especially category C.

vii. Define terms of reference in a comprehensive and inclusive way

He said the terms of reference should be defined and used as a tool to support the sustainability and efficient work of the trade facilitation committee. The terms of reference according to him should be concrete but flexible and be agreed by all involved stakeholders.

viii. Raise awareness about trade facilitation

Dr. Keller advised that the committee establishes a website to serve as a platform for coordination, awareness raising and information sharing. He said the committee could hold press conference or workshop to sensitize stakeholders about the activities of the National Trade Facilitation Committee.

ix. Trade Portal: It was also recommended that there was the need to have an official trade portal as a source of information for the maritime industry. There seems to be a number of trade portals eg. Customs, GCNet and others but only one is needed now for the NTFC to co-ordinate

all trade related information. It was recommended that GRA-Customs Division should be responsible for the Ghana Trade Portal. Custom to so be the main agency to handle this.

ix. Celebrate Achievements: Celebrate the achievement of any article that is well done so that everyone is aware and is in the known including the trade.

2.3.4. Technical Assistance

There is the need to request for Technical Assistance to hold consultations with identified stakeholder to have the current status move forward. TA to improve committee procedure amongst the Ministry and private sector.

TA to develop and build capacity and provide training.

2.3.5. Discussions

Category C: validation of category C is a problem because whereas for example Customs have indicated that Advance Rulings is being implemented Freight Forwarders indicate that this is not so.

Notification: MOTI is currently seeking approval from Parliament to do the notification so that no agency will do anything contrary.

Terms of Reference: MOTI indicated that they have received the TOR from the USAID Trade Hub and will study it. The TOR to include membership, meetings, Adhoc Committee, subcommittee and custom matters.

MOTI promised to hold monthly meetings of the NTFC until all gaps have been dealt with till the end of the year. Working so as to upgrade from B & C so there is the need to work closely with Customs.

With respect to the political will needed the consultant and information must be updated and accurate. Acts on the website were last updated on the website in 2012 and this will be updated.

3.0 INSTITUTION OF AWARD FOR THE BEST FACILITATING AGENCY

As part of measures to improve trade facilitation in Ghana, the Ministry of Trade and Industry in collaboration with the Ghana Community Network Services limited established a National Trade Facilitation Awards scheme aimed primarily at promoting an enhanced trade regime in Ghana and also encouraging actors in the trade industry to render first class efficient and transparent services.

4.0. UNCTAD EMPOWERMENT PROGRAM FOR NATIONAL TRADE FACILITATION COMMITTEES

This program is designed for the National Trade Facilitation Committee (NTFCs) with the main objective to help implement in a coordinated manner, trade facilitation reforms, including the provisions of the WTO Trade Facilitation Agreement (TFA).

The 4-day programme dwelt on the following:

1. a. Key definition and concepts in trade facilitation
- b. Benefits of trade facilitation
- c. Trade facilitation and development
- d. TF and sustainable development goals
2. The Short History and Overview of Committees in the Worlds; rational for creating NTFCs and the different types of NTFCs
3. How are NTFCs around the world set up: objectives and scope; degree of institutionalization
Terms of reference, coordinating agency and permanent secretariat, financing national TF bodies and composition of such
4. Success factors, main obstacles and lessons learned of NTFCs; implication of this for the Ghana National Trade Facilitation Committee.; definition of roles and functions with the NTFC; definitions of adoption of the process of ToR s and formal procedure.
5. The WTO TF and its structure, special ad differential treatment, nature of commitment
6. Categorisation, notification and ratification of the Agreement.
7. The provisions of the WTO TFA and the role of the NTFC in each of them (articles 1-12)

There were group exercises and examinations.

5.0. THE ROLE OF THE GHANA SHIPPERS AUTHORITY IN SENSITIZING SHIPPERS AND CREATING AWARENESS OF THE TFA.

The Ghana Shippers' Authority is a member of the NTFC and therefore contributes to the co-ordination of activities of the Committee. Other stakeholders within the Trade and Transport logistics sector are also represented on the Committee.

1. The Ghana Shippers' Authority is well positioned as the representative of the shippers promoting and protecting their interest through its many activities and programs aimed at improving services to shippers within the Trade and Transport Logistic chain, such as;

- Providing the platform for mutual consultations between the Authority and the various shipping service providers along the transport logistics chain in respect of international trade.
- 2. Through its stakeholder engagements the Authority has started creating awareness on the provisions of the WTO Trade Facilitation Agreement since 2015.
 3. In 2016 it is rolling out a program to sensitize shippers across the ten regions of Ghana, as well as hold press seminars for popularization of the Agreement.
 4. Will hold press seminars in the regions for the popularization of the WTO TFA
 5. The Authority is a part of the national single window for which we are involved in educating and training shippers on the use of the system.

6. WHAT IS THE ROLE OF THE GHANA SHIPPERS AUTHORITY AND THE WTO TFA PROVISIONS.

How compliant

ART: 1: PUBLICATION

- Publication
- Information available through internet
- Enquiry Points
- Notification

ART. 2: CONSULTATIONS

- Interval between publication and entry into force
- Opportunity to comment on new and amended rules
- Consultations

ART:6: FEES & CHARGES

- Disciplines on fees and charges imposed, specific discipline on fees and charges for Customs processing, penalty disciplines

ART 7: CUSTOMS PROCEDURES

- Pre-arrival Processing-ASHI
- Electronic Payment
- Authorized Operators

ART 9: INLAND-CUSTOMS TRANSIT- ICDs, dry ports

ART10: FORMALITIES AND DOCUMENTATION

- Single window

ART 11: FREEDOM OF TRANSIT

ART 23.2: NATIONAL TRADE FACILITATION COMMITTEE

7: CONCLUSION & RECOMMENDATION

Ghana seem to be lagging behind as even though it has done its assessment and is categorized its measures, it has not moved far with either notification of the category A measures or the ratification.

NTFC does not meet regularly, sometimes its once in a year. Without this it would be difficult for Ghana to derive the necessary benefits of the TF.

It is therefore recommended that the Ministry of Trade and Industry, should call meetings of the NTFC, and try and re-organise its members once again.

That it should obtain the necessary political will, and to request for a representation from the office of the President or even the Vice.

It should work hard on meeting with the Select Committee on Trade and Industry to sensitize them and to have their buy in so as to facilitate the ratification of the agreement as soon as possible

The Ghana shippers Authority can assist the NTFC with sensitisation and awareness creation of the agreement and to also undertake to work out measures that fall under their domain.

