

ATPC

Work in Progress

No. 71



Economic Commission for Africa

African Trade Policy Centre

Leveraging WTO Negotiations on Trade Facilitation to Operationalise the Almaty Programme of Action

Robert Tama Lisinge

November 2008

ATPC

Work in Progress



Economic Commission for Africa

Leveraging WTO Negotiations on Trade Facilitation to Operationalise the Almaty Programme of Action

Robert Tama Lisinge

ATPC is a project of the Economic Commission for Africa with financial support of the Canada Fund for Africa

This publication was produced with the support of the United Nations Development Programme (UNDP).

Material from this publication may be freely quoted or reprinted. Acknowledgement is requested, together with a copy of the publication. The views expressed are those of its authors and do not necessarily reflect those of the United Nations.

Abstract

The Almaty Programme of Action (APoA) was adopted in August 2003 to address the special needs of landlocked developing countries and to establish a new global framework for action for developing efficient transit transport systems in landlocked and transit developing countries. In August 2004, the World Trade Organisation (WTO) General Council adopted the Doha Work Programme in which it decided by explicit consensus to commence negotiations on trade facilitation. This paper examines linkages between APoA and WTO negotiations focusing on how the negotiations could contribute to the implementation of APoA. A major difference between APoA and the WTO negotiations is that while no specific funds have been allocated for the implementation of the APoA, the modalities for negotiating trade facilitation at the WTO provides for capacity building and technical assistance to developing countries to enable them implement commitments resulting from the negotiations. Based on its modalities and the proposals made so far, this paper shows that WTO negotiations on trade facilitation provide a good opportunity to operationalise the APoA. This is because the commitments from the negotiations are likely to be similar to the actions recommended under the APoA.

Table of Contents

- I. Introduction 1
- II. Trade Facilitation at the WTO 4
 - 2.1 Africa’s Evolving Position on WTO Trade Facilitation Negotiations 7
 - 2.2 Expected benefits of WTO rules on trade facilitation 7
- III. Linkages between APoA and WTO Trade Facilitation Negotiations 9
 - 3.1. Coherence between APoA Priority Areas and Modalities for WTO Negotiations 9
 - 3.2 Coherence between APoA Recommendations and Proposals of WTO Members 14
 - 3.3 Policy Implications for Leveraging WTO Negotiations in Operationalising APoA 16
- IV. Conclusion 17
- Bibliography..... 18

Acronyms

ALCO	Abidjan-Lagos Corridor Organisation
ACIS	Advanced Cargo Information System
AU	African Union
AfDB	African Development Bank
APoA	Almaty Programme of Action
BAFICAA	Business Action for Improving Customs Administration in Africa
ECA	Economic Commission for Africa
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States
EABC	East African Business association
EAC	East African Community
GATT	General Agreement on Tariffs and Trade 1994
LDCs	Least Developed Countries
ODA	Official Development Assistance
PHRD	Policy and Human Resources Development
RECs	Regional Economic Communities
SSATP	Sub-Saharan African Transport Policy Programme
SIDA	Swedish International Development and Cooperation Agency
SITPRO	Simpler Trade Procedure Board - UK's Trade Facilitation Agency
USAID	United States Agency for International Development
WTO	World Trade Organisation
WCO	World Customs Organisation

I. Introduction

The Almaty Programme of Action (APoA) was adopted in August 2003 with the view to addressing the special needs of landlocked developing countries and establishing a new global framework for action for developing efficient transit transport systems in landlocked and transit developing countries.¹ The purpose of this paper is to illustrate the linkages between the APoA and the World Trade Organisation (WTO) negotiations on trade facilitation and to identify ways of leveraging the negotiations in delivering the expected results of the APoA, which are to: (a) secure access to and from the sea for landlocked developing countries by all means of transport according to applicable rules of international law; (b) reduce transaction costs and improve trade related services so as to increase the competitiveness of their exports; (c) address problems of delays and uncertainties in trade routes; (d) develop adequate national transport networks; (e) reduce loss, damage and deterioration of goods in transit; (f) open the way for export expansion; and (g) improve safety of road transport and security of people along corridors.

Over the years, several trade and transport facilitation initiatives at national, bilateral, subregional, regional and multilateral levels have been developed, aimed at achieving the same objectives as those of the APoA. Examples of such initiatives, most of which existed before the APoA, include transit transport conventions between African countries, Regional Economic Communities (RECs) trade and transport facilitation programmes, the Sub-Saharan African Transport Policy Programme (SSATP)² that has trade and transport facilitation as one of its priority areas; and the NEPAD Infrastructure Programme that also has trade facilitation as a main component. The major African continental development institutions such as the Economic Commission for (ECA), the African Union (AU), and the African Development Bank (AfDB) are also addressing the issue of trade and transport facilitation in their regular work programmes. Furthermore, African countries, subregional and regional institutions are benefiting from technical assistance related to trade and transport facilitation provided by several development partners (box 1).

¹ The APoA was adopted at the International Ministerial Conference of Landlocked and Transit Developing Countries and Donor Countries and International Financial and Development Institutions on Transit Transport in Almaty in August 2003. The Almaty Declaration was adopted at the same conference.

² SSATP is a unique partnership of 35 African countries, 8 regional economic communities, 3 African institutions - UNECA, AU/NEPAD and AfDB, national and regional organizations and international development partners - all dedicated to the goal of ensuring that transport plays its full part in achieving the developmental objectives of Sub-Saharan Africa: poverty reduction, pro-poor growth, and regional integration. The Program is currently funded by the European Commission, Denmark, France, Ireland, Norway, Sweden, United Kingdom, the Islamic Development Bank, and The World Bank.

Box 1: Examples of Support for Trade and Transport Facilitation

USAID

The United States Agency for International Development (USAID) financed a needs assessment study for the joint utilization of the Malaba border post (Uganda/Kenya), and the preparation of a draft business plan for the border post in 2004. USAID also provided funds to implement the pilot scheme of joint border posts along the Trans Kalahari Corridor, involving Namibia, Botswana and South Africa.

GTZ

GTZ provided funds to undertake a survey of vehicle overload in sub Saharan Africa. The survey was completed in August 2004. GTZ also provided the East African Business association (EABC) funding for a three years period to expand its activities on trade facilitation.

Japanese Government

The Japanese Government provided a Policy and Human Resources Development (PHRD) grant of approximately US\$1 million for the preparation of a transit facilitation programme in the Economic Community of West African States ECOWAS. A study to establish the legal status of joint border posts and management corridors has already been undertaken.

AfDB

The African Development Bank (AfDB) financed a feasibility study on the suitability of the Road Tracker module of the Advanced Cargo Information System (ACIS) in the ECOWAS region. AfDB has also agreed to fund a study on inter-State transit operations and guarantee systems in the region.

World Bank

The World Bank developed the Abidjan-Lagos Corridor Organisation (ALCO). One of the objectives of the project is to put in place policies aiming at facilitating the free movement of persons and goods. ALCO has already set up an observatory to monitor and audit bad practices along the Lagos-Abidjan Corridor.

PROINVST

PROINVET has funded a diagnostic study on the current transport and transit condition in the Economic Community of Central African States (ECCAS). The study was aimed at the establishment of a regulatory and legislative framework for transport and transit corridors, to promote investments and facilitate trade in ECCAS.

WCO, SITPRO, BAFICAA and SIDA

The World Customs Organisation (WCO) recently announced in early 2008 that funding has been secured to support an implementation programme for customs modernization in member states of the East African Community (EAC). The programme was developed by EAC countries, in close cooperation with the EAC Secretariat, the UK's Trade Facilitation Agency (SITPRO) and the Business Action for Improving Customs Administration in Africa (BAFICAA). The Swedish International Development and Cooperation Agency (SIDA) has agreed to contribute almost 5 million Euros towards capacity building for customs modernization in sub-Saharan Africa.

Although this box captures a broad range of development partners supporting trade and transport facilitation on the continent, its purpose is not to present a full list of those involved in such activities. It is intended to provide a snapshot of the nature and scope of ongoing assistance on trade facilitation provided to African countries and RECs.

Source: NEPAD 2004 Compiled by ECA (2008)

Some of these initiatives are already yielding positive results. For instance, the operating hours for border posts on the Trans Kalahari Corridor, linking the Port of Walvis Bay in Namibia to Gaborone in Botswana and Gauteng in South Africa, have been harmonized. A Single Administrative Document (SAD 500), which ensures a clearance time of between 20 to 30 minutes for commercial traffic at border posts on the corridor, has also been introduced. Similarly, in order to alleviate congestion at the Port of Djibouti, which almost exclusively handles Ethiopia's international trade, construction of a new container terminal is ongoing at Doraleh, a few kilometers away from the main port. Moreover, to speed up the physical movement of transit cargo along the Addis Ababa- Djibouti Corridor that serves the port of Djibouti, transport operators do not require customs bonds and are not compelled to travel in customs convoys, as is the case in some corridors on the continent. In addition, checkpoints are generally absent along the corridor and it takes on average less than 10 minutes for heavy goods vehicles to be cleared at the Djibouti border posts of Dewaleh and Galafi.

Obviously, these initiatives, to a varying extent, some deliberately and others simply due to similarity of objectives, have served as channels for implementing the activities set out in the APoA and thus have contributed to achieving the expected results. However, much more remains to be done in improving trade and transport facilitation as well as infrastructure development on the continent. As indicated by box 1, most of the support provided by the donor community to African countries and RECs has been in the form of studies and pilot projects. It is therefore essential to follow-up on these studies by implementing their recommendations. It is also necessary to transform pilot projects to permanent structures, where appropriate.

The WTO negotiations on trade facilitation could play an important role in sustaining ongoing efforts as it offers an additional avenue to operationalise the APoA. However, for this to be effective, it is necessary to clearly identify linkages between APoA and the WTO negotiations especially with regard to technical assistance related to capacity building and infrastructure development. The fact that APoA has no funds earmarked specifically for its implementation provides a compelling rationale for identifying linkages and ensuring coherence between it and WTO negotiations as well as other initiatives that could be used as platforms for its implementation.

Section two of this paper provides a brief history of WTO involvement in trade facilitation including the modalities and status of ongoing negotiations, and section three examines linkages between APoA and WTO negotiations, focusing on how the provisions of the negotiations could be used in operationalising the APoA. Section four concludes the paper.

II. Trade Facilitation at the WTO

The WTO has always dealt with issues related to trade facilitation, and WTO rules include a variety of provisions that aim to enhance transparency and set minimum procedural standards for international trade. Relevant WTO provisions are in the General Agreement on Tariffs and Trade 1994 (GATT) Articles V, VIII and X, which deal with freedom of transit for goods, fees and formalities connected with importation and exportation, and publication and administration of trade regulations, respectively. These provisions, explained in table 1, are the crux of the debate on trade facilitation. Article V underscores the need to allow transit traffic to move via the most convenient route; exempt it from customs or transit duties; and ensure that it is free from delays or restrictions. Article VIII emphasizes the need to decrease and simplify customs documentation requirements, and Article X provides that restrictions on imports should not be enforced prior to official publication of such measures.

Table 1: Extracts from WTO trade facilitation related articles

GATT Articles	Provision
Article V: Freedom of Transit	Freedom of movement through the territory of each contracting party is to be assured for goods (and their conveyance), which are destined to or come from any other contracting party. Such traffic must be allowed to move via the most convenient route; is to be exempt from customs or transit duties; and is to be free from delays or restrictions
Article VIII: Fees and Formalities Connected With Importation and Exportation	In order to minimize impediments to trade due to customs procedures, fees charged by customs officials must be limited to the approximate cost of customs services; they are not to be used for protective or fiscal purposes. Contracting parties are expected to decrease and simplify their documentation requirements, and are not to impose substantial penalties for breaches of customs regulations such as clerical errors
Article X: Publication and Administration of Trade Regulations	The basic “transparency” obligation requires contracting parties to ensure prompt publication of laws and regulations affecting imports and exports so that foreign governments and traders may clearly understand them. It provides that increases in customs duties and more burdensome restrictions on imports may not be enforced until such measures have been officially published.

As a separate topic, trade facilitation is a relatively new issue for WTO. It was added to the organisation’s agenda when the Singapore Ministerial Conference in December 1996 directed 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 that regard.

At the Fourth WTO Ministerial Conference in Doha, in November 2001, Ministers recognized the case for further expediting the movement, release and clearance of goods in transit, and the need for enhanced technical assistance and capacity building in this area. They also agreed that negotiations would take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that session on modalities of negotiations. The Ministers further agreed that in the period until the Fifth Session, the Council of Trade in Goods would review and as appropriate, clarify and improve relevant aspects of Articles V, VIII and X of GATT 1994 and identify the trade facilitation needs and priorities of members, in particular developing and least-developed countries.

The Fifth WTO Ministerial Conference in Cancun ended on 14 September 2003 without a consensus, but this notwithstanding, Ministers reaffirmed all their Doha Declarations and Decisions and recommitted themselves to working to fully implementing them.

On 1 August 2004, the General Council adopted the Doha work Programme. Among other things, the Council took note of the work done on trade facilitation by the Council on Trade in Goods and decided by explicit consensus to commence negotiations on the basis of the modalities presented in Box 2.

Box 2: Modalities for negotiations on trade facilitation

1. 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, including goods in transit. It is understood that this is without prejudice to the possible format of the final result of the negotiations and would allow consideration of various forms of outcomes. Negotiations shall also aim at enhancing technical assistance and support for capacity building in this area. The negotiations shall further aim at provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues.
2. The results of the negotiations shall take fully into account the principle of special and differential treatment for developing and least-developed countries. Members recognize that this principle should extend beyond the granting of traditional transition periods for implementing commitments. In particular, the extent and the timing of entering into commitments shall be related to the implementation capacities of developing and least-developed Members. It is further agreed that those Members would not be obliged to undertake investments in infrastructure projects beyond their means.
3. Least-developed country Members will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.
4. As an integral part of the negotiations, Members shall seek to identify their trade facilitation needs and priorities, particularly those of developing and least-developed countries, and shall also address the concerns of developing and least-developed countries related to cost implications of proposed measures.
5. It is recognized that the provision of technical assistance and support for capacity building is vital for developing and least-developed countries to enable them to fully participate in and benefit from the negotiations. Members, in particular developed countries, therefore commit themselves to adequately ensure such support and assistance during the negotiations. In connection with this paragraph, Members note that paragraph 38 of the Doha Ministerial Declaration addresses relevant technical assistance and capacity building concerns of Members.
6. Support and assistance should also be provided to help developing and least-developed countries implement the commitments resulting from the negotiations, in accordance with their nature and scope. In this context, it is recognized that negotiations could lead to certain commitments whose implementation would require support for infrastructure development on the part of some Members. In these limited cases, developed-country Members will make every effort to ensure support and assistance directly related to the nature and scope of the commitments in order to allow implementation. It is understood, however, that in cases where required support and assistance for such infrastructure is not forthcoming, and where a developing or least-developed Member continues to lack the necessary capacity, implementation will not be required. While every effort will be made to ensure the necessary support and assistance, it is understood that the commitments by developed countries to provide such support are not open-ended.
7. Members agree to review the effectiveness of the support and assistance provided and its ability to support the implementation of the results of the negotiations.
8. In order to make technical assistance and capacity building more effective and operational and to ensure better coherence, Members shall invite relevant international organizations, including the IMF, OECD, UNCTAD, WCO and the World Bank to undertake a collaborative effort in this regard.
9. Due account shall be taken of the relevant work of the WCO and other relevant international organizations in this area.
10. Paragraphs 45-51 of the Doha Ministerial Declaration shall apply to these negotiations. At its first meeting after the July session of the General Council, the Trade Negotiations Committee shall establish a Negotiating Group on Trade Facilitation and appoint its Chair. The first meeting of the Negotiating Group shall agree on a work plan and schedule of meetings.

2.1 Africa's Evolving Position on WTO Trade Facilitation Negotiations

Many African countries at the Doha WTO Ministerial Conference in 2001, while appreciating the importance of trade facilitation as an “economic phenomenon”, expressed reservations as to the need for a “multilateral framework” on trade facilitation.

They recognized the importance of issues like trade and investment, competition, transparency in government procurement, trade facilitation, trade and environment, and e-commerce but agreed that such issues were not their priority at that stage. Although their general assessment was that trade facilitation measures were necessary and beneficial to all countries, they preferred to address trade facilitation outside the WTO framework. They pointed out that improved facilitation required increased technical and financial assistance to narrow the technology and human resources gaps that existed between developed and developing countries, and expressed concerns about the ability of WTO negotiations to ensure that such assistance was provided. Generally, Least Developed Countries (LDCs) argued that the thinking on trade facilitation pre-supposes the establishment of common procedures, rules and regulations on the movement of goods and that to implement such laws and procedures would be very costly for LDCs.

Efforts were made to address the concerns of developing countries in general and African countries in particular, in the modalities for trade facilitation negotiations (box 2). As a result, these countries are now fully engaged in the negotiations process with the support of institutions such as ECA. Their main challenge is to exploit the negotiations modalities with the view to deriving maximum benefit from the process. One way of benefiting from the process would be to channel technical assistance and capacity building, including for infrastructure development, towards the implementation of relevant aspects of the APoA.

2.2 Expected benefits of WTO rules on trade facilitation

Overall, the benefits of trade facilitation to both governments and the business community are widely acknowledged. Government benefits include: increased effectiveness of control methods; more effective and efficient deployment of resources; correct revenue yields; improved trader compliance; accelerated economic development; and encouragement of foreign investments. Benefits to traders include: reduced costs and delays; faster customs clearance and release through predictable official intervention; simple commercial framework for doing both domestic and international trade; and enhanced competition.

However, African governments and business communities have generally not fully enjoyed these benefits due to the persistence of extensive and deep-rooted problems related to trade facilitation . These problems have been noted for a long time, and studies and proposals on how to improve the situation are numerous. Trade facilitation solutions generally require political support from the highest government levels, but

bilateral and regional agreements have not necessarily brought this support. However, commitment to WTO rules could trigger a renewed political impetus to address the situation.

WTO also provides a platform for better coherence in the activities of international organizations involved in trade facilitation related activities in Africa. Indeed, it recognizes that the provision of technical assistance and support for capacity building is vital for developing and least-developed countries to enable them to fully participate in and benefit from trade facilitation negotiations. Members, in particular developed countries, have therefore committed themselves to adequately ensure such support and assistance not only during the negotiations but also in implementing the resultant commitments. This is relevant to the APoA as some of these commitments are likely to be in line with its recommendations.

While the concerns of African countries in connection to a multilateral framework for trade facilitation are well founded, WTO rules on trade facilitation may signal a long-term commitment to greater discipline by African countries in facilitating trade and thus integrating the continent into the global economy. However, in order to maximize benefits from the negotiations, it is necessary to ensure that the resultant provisions are coherent with those of existing trade facilitation initiatives such as the APoA. An important first step in doing so is to identify linkages between the negotiation process and the APoA.

III. Linkages between APoA and WTO Trade Facilitation Negotiations

The APoA is structured around five priority areas namely: fundamental transit policy issues; infrastructure development and maintenance; international trade and trade facilitation; international support measures; and implementation and review. The programme document discusses the relevance and recommends specific actions for each of the identified priorities. This section reviews the APoA priorities and suggests ways by which WTO negotiations could be used in implementing specific recommended actions under each priority area. The section also presents proposals by WTO Members that could contribute to achieving the aims of APoA, as well as the policy implications for African countries, development partners, multilateral institutions and RECs in leveraging WTO negotiations to operationalise the APoA.

3.1. Coherence between APoA Priority Areas and Modalities for WTO Negotiations

Priority 1: Fundamental Transit Policy Issues

The APoA stresses the need for landlocked and transit developing countries to increase transparency of transit and border regulations; establish streamlined administrative procedures; further simplify border control and procedures; promote the use of information technology and promote training programmes in the sector. In this regard, it recommends the following actions:

- Modernising existing facilities and increasing the commercial orientation of transport and infrastructure by eliminating non-physical barriers to transit transport;
- Establishing regional transport corridors and adopting common rules and standards; and
- Further strengthening existing institutional mechanisms at the policy and operational levels to monitor and promote the implementation of agreements and arrangements involving landlocked and transit developing countries.

There is coherence between these recommendations and the views echoed at the Doha WTO Ministerial Conference held in 2001 in the sense that the conference recognized the case for expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in that connection. This is essentially about eliminating non-physical barriers to transit transport, as called for by the first APoA recommendation above. One way of expediting the movement of goods on transit is to harmonise and simplify related rules and documentation.

Generally, international conventions on transport and transit, as well as regional and bilateral agreements, ratified by landlocked and transit developing countries are the main vehicles by which the harmonization,

simplification and standardization of rules and documentation can be achieved, as called for by the second APoA recommendation. Several common rules and standards related to trade facilitation have been adopted in Africa, mostly through bilateral conventions and RECs trade and transport facilitation programmes. However, WTO provides a broader platform for adopting and implementing common rules and standards. Indeed, existing WTO rules cover the fundamental transit policy issues identified by APoA. For instance, the elimination of non-physical barriers to the transportation of goods on transit is addressed by GATT Article V (see table 1), which provides for freedom of movement of goods through the territory of each contracting party for goods. According to GATT Article V, such traffic must be allowed to move via the most convenient route, is to be exempt from customs or transit duties; and is to be free from delays or restrictions.

Similarly, the strengthening of institutional mechanisms at the policy and operational levels to monitor and promote the implementation of agreements and arrangements involving landlocked and transit developing countries as called for by APoA is addressed by the modalities for WTO trade facilitation negotiations. This APoA recommendation is related to WTO in two ways. First, the WTO rules on trade facilitation could be considered as an agreement involving landlocked and transit developing countries and thus should be promoted and implemented within the framework of APoA. Second, Modality 6 of the WTO trade facilitation negotiations states that support and assistance should be provided to help developing and least-developed countries implement the commitments resulting from negotiations. Such support and assistance could cover the monitoring and promotion of these commitments, some of which could be the same as actions recommended by APoA. In this case, support arising from the negotiations would effectively be used in monitoring the implementation of the APoA.

Priority 2: Infrastructure Development and Maintenance

The APoA acknowledges that inadequate infrastructure, including the deterioration of existing stocks, constitute a major obstacle to establishing efficient transit transport systems in landlocked and transit developing countries. It recognizes that addressing these needs requires considerable investments, capacity building, and new policies and institutional reforms. It further recognizes that the share of national resources and Official Development Assistance (ODA) allocated to infrastructure development in many landlocked and transit developing countries is limited. Also, addressing the challenge of establishing adequate infrastructure facilities and of remedying the deterioration of existing transport infrastructure in both landlocked and transit developing countries requires the setting up of partnerships between the public and private sectors. Moreover, the financial and technical support of donors, international financial institutions and development assistance agencies remains critical.

The APoA recommends landlocked and transit developing countries to make every effort to provide a conducive environment for using all modes of transport in transit services in order to encourage competition among different support modes, particularly road and rail transport. These countries are

urged to give particular attention to constructing “missing links” in regional and subregional transport networks. Several specific actions are also recommended in the areas of railways, roads, ports, inland waterways, pipelines, air transport, and communications.

Ports are particularly important for transit transport and the efficiency of their operations depends on adequate infrastructure and good management. Many seaports are critical bottlenecks in transit systems because of a range of physical inadequacies and operational constraints. Problems of quality of handling and storage facilities for transit cargo, cumbersome procedures for the clearing and release of cargo, congestion and the shortage of skilled manpower, are particularly relevant.

The APoA recommends the following specific actions with the view to improving ports efficiency in transit developing countries:

- Landlocked and transit developing countries should seek cooperative arrangements to improve port facilities and services for transit goods, including the modernization of existing terminals, the establishment of new ones and the simplification of procedures where appropriate;
- Expanding the capacity to handle transit trade and allowing private terminal operations to promote competition and encourage efficiency;
- Promoting greater cooperation and coordination between public and private institutions dealing with transit traffic in ports (customs administration, security personnel, port authorities, commercial banks, clearing and forwarding agents, insurance companies);
- Promoting the establishment of dry ports in landlocked and transit developing countries; and
- Expanding training programmes for port workers to enable them to adapt to new technologies and procedures.

WTO negotiations on trade facilitation provide an opportunity for landlocked and transit developing countries to implement some of these recommendations and thus could contribute to addressing a major bottleneck to their transit systems. Modality 7 of the negotiations recognize that the negotiations could lead to certain commitments whose implementation would require support for infrastructure development on the part of some Members. In that regard, it states that developed-country Members will make every effort to ensure support and assistance directly related to the nature and scope of the commitments in order to allow implementation. It is understood, however, that in cases where required support and assistance for such infrastructure is not forthcoming, and where a developing or least-developed Member continues to lack the necessary capacity, implementation will not be required. The infrastructure development requirements related to commitments from the negotiations are likely to be the same as the infrastructure needs of landlocked and transit developing countries identified in the APoA. Therefore, assisting African countries in developing its infrastructure in the context of WTO will also result in achieving the objectives of the APoA.

Priority 3: International Trade and Trade Facilitation

The APoA acknowledges that trade is an important engine for economic development but that the participation of landlocked and transit developing countries, which is crucial for their development prospects, is not as significant as it could be. It also recognizes that trade and transport are inextricably linked with transport being a key sector for international trade, regional integration and for ensuring a balanced national development. The APoA identifies high trade transaction costs as one of the main causes of the marginalization of landlocked developing countries from the international trading system.

The causes of high transaction costs and inefficiency identified by the APoA include excessive transport costs, cumbersome border-crossing procedures, inadequate infrastructure facilities, and costly bank transactions. Landlocked developing countries, with additional border crossings and transit dependence can be at a particular disadvantage, depending on the state of their own and their neighbours' border procedures and the level of bilateral cooperation, as well as regional cooperation or integration.

In light of the above, the APoA recommends as follows:

- More efforts are required within available financial resources to facilitate transit traffic through border posts, to expand the use of information technology, to implement efficient customs control systems and simplification of documents and procedures, and to strengthen the capacity-building of government agencies in the field of trade facilitation;
- Landlocked and transit developing countries should consider becoming parties to and implementing effectively the international conventions and instruments that are applicable to various transport sub-sectors, including road, rail, inland waterways and multimodal transport; and
- Landlocked and transit developing countries should consider establishing, where appropriate, or strengthening existing national trade and transport boards or committees involving all major stakeholders, including the private sector.

To a large extent, these recommendations are addressed by WTO negotiations on trade facilitation. Indeed, and as mentioned earlier, a major aim of the negotiations is to expedite the movement, release and clearance of goods, including goods in transit. The negotiations also aim at enhancing related technical assistance and support for capacity building as well as effective cooperation between customs and other authorities dealing with trade facilitation and customs compliance issues.

In essence, the negotiations seek to achieve free movement of goods, minimize impediments to trade due to customs procedures, and to ensure that fees charged by customs officials are limited to the approximate cost of customs services and are not used for protective or fiscal purposes. In addition, contracting parties are expected to decrease and simplify their documentation requirements, and promptly publish laws and regulations affecting imports and exports in order to ensure transparency. Full compliance with such provisions by WTO Members will result in the implementation of a substantial part of the APoA. This demonstrates coherence between WTO negotiations and the APoA.

Priority 4: International support measures

The primary responsibility for implementing the APoA rest with landlocked and transit developing countries. To that end, it is essential that they seek to create conditions in which resources can be generated, attracted and effectively mobilized to address their development challenges, including those that result from being landlocked. This notwithstanding, landlocked and transit developing countries by themselves are unable to meet the cost requirements for establishing and maintaining an efficient transit transport system. Many of the landlocked developing countries are among the poorest countries in the world while most of the transit countries are themselves developing countries with limited resources. The APoA therefore underscores the need for development partners to play an important role in supporting transit transport development programmes. It also highlights the importance of ensuring that such support fully takes into account the special vulnerabilities and developmental needs of landlocked and transit developing countries.

Specifically, the APoA urges the international community, including financial and development institutions and donor countries to:

- Facilitate an external environment supportive of the full and timely achievement of its objectives;
- Facilitate access to, and encourage transfer of, technologies related to transit transport systems, including information and communication technology; and
- Provide technical support through partnership.

Overall, the above recommendations are consistent with the modalities for WTO negotiations on trade facilitation. For instance, as part of the modalities for the negotiations, Members agreed to review the effectiveness of the support and assistance provided to developing countries and its adequacy for the implementation of the results of the negotiations. In order to make technical assistance and capacity building more effective and operational and to ensure better coherence, Members also agreed to invite relevant international organizations to collaborate with each other. The technical assistance and capacity building generated through WTO negotiations could be harnessed to operationalise the APoA.

Priority 5: Implementation and Review

The APoA recognizes that its implementation requires individual and concerted efforts by the landlocked and transit developing countries; their development partners; the organizations and bodies of the United Nations system; relevant international organizations, such as the World Bank, the regional development banks, WTO and WCO; the Common Fund for Commodities, regional economic integration organizations, and other relevant regional and subregional organizations. It also recognizes the importance of bilateral, regional and subregional cooperation in establishing efficient transit transport systems and the need to promote such cooperation on the basis of the mutual interests of both landlocked and transit countries. The APoA calls for the strengthening or establishment of arrangements, where necessary, for

regular review and monitoring of the implementation of transit agreements through public and private sector dialogue and consultations. Furthermore, relevant international organizations, including the World Bank, and WCO are invited to give priority to requests for technical assistance to supplement national and regional efforts to promote the efficient use of existing transit facilities, including the application of information technologies and the simplification of procedures and documents.

The modalities for negotiating trade facilitation at the WTO also recognize the important role of international organisations and the donor community – mostly the same as those identified as key for transit transport development by APoA, in building related capacity and providing technical assistance to developing countries (Modalities 7 and 8 in box 2). The fact that the same institutions and donors are expected to support both the APoA and the implementation of commitments resulting from WTO negotiations underscores the need for coherence in their actions.

3.2 Coherence between APoA Recommendations and Proposals of WTO Members

As part of the ongoing negotiations on trade facilitation, WTO members have already made several concrete proposals, which could contribute to the achievement of the objectives of APoA (WTO – TN/TF/W/133/Rev.1). One of such proposals calls for freedom of transit through the territory of each Member via the routes most convenient for international transit. Only when it considers such a measure to be an important part of a measure taken in conformity with GATT Article XX or XXI, shall a Member: (i) require goods to follow a prescribed route; or (ii) require goods to be transported under escort.³ A similar proposal calls on each Member to accord to traffic in transit to or from the territory of any Member, treatment no less favourable than that accorded to domestic goods, and their movement. Another proposal stipulates that Members shall publish information on all transit fees and charges. This information shall include the reason for the transit fee or charge (the service provided), the responsible authority, the transit fees and charges that will be applied, and when and how payment is to be made. According to the proposal, Members shall make this information readily available to all interested parties and inform other Members where this information is available. In addition, the information shall be published via an officially designated medium, and to the extent practicable, an official website. Also, except in urgent circumstances and other limited exceptions, which are made public, Members shall

³ GATT Article XX sets out fields of regulation in which WTO members are free to employ trade measures that would otherwise be inconsistent with GATT obligations. This limited freedom to use trade measures can be exercised at the national level or in other international agreements.

Article XXI of GATT 1994 permits WTO members to breach their GATT obligations for national security reasons. The broadest and most controversial of the exceptions included in Article XXI states that the GATT will not prevent a WTO member “from taking any action which it considers necessary for the protection of its essential security interests . . . taken in time of war or other emergency in international relations.

accord an adequate time period between the publication of information on new or amended transit fees and charges and their entry into force. Furthermore, each Member shall periodically review its transit fees and charges to ensure that they are in line with WTO commitments and with a view to reducing their number and diversity, where appropriate.

WTO members have also made important proposals related to the promotion and monitoring of regional transit agreements or arrangements. One of such proposals calls on Members to promote bilateral and regional transit agreements or arrangements, which are consistent with all other commitments on Trade Facilitation and with a view to reducing trade barriers. Another proposal recognises the importance of efficient implementation of such transit agreements or arrangements and encourages the parties involved to incorporate monitoring mechanisms into their agreements or arrangements. Such mechanisms could include, among other things, the appointment of national transit coordinators, performance indicators such as target clearance times, or public private partnerships to manage and monitor the arrangement. This particular proposal is in line with the recommendation of APoA for landlocked and transit developing countries to consider establishing, where appropriate, or strengthening existing national trade and transport boards or committees involving all major stakeholders, including the private sector.

With regard to technical cooperation and capacity building, proposals have been made for needs assessments to be conducted prior to signing the trade facilitation agreement. To that end, and in the spirit of mutual partnership, development partners and developed Members are called upon by WTO to provide technical assistance and capacity building to those developing Members that require and request such support in connection with implementation of commitments. In undertaking self-assessments, landlocked and transit developing countries could use the APoA as an important starting point, given that it has identified the priority areas of transit transport development, which is a key component of trade facilitation. In essence, the specific actions recommended under each of the five priority areas of the APoA could serve as checklists in the capacity building and technical assistance assessment process. An advantage of this approach is that it could help in avoiding duplication of effort given that most of the capacity building and technical assistance needs of developing countries have already been identified by the APoA. Indeed several African countries, subregional and regional organisations, participated in preparing a continental action plan that fed into the APoA.⁴ Another advantage is that the approach provides a mechanism for mainstreaming APoA in capacity building and technical assistance related to WTO negotiations on trade facilitation.

⁴ The plan of action was prepared during the African Regional Meeting Preparatory to the International Ministerial Conference of Landlocked and Transit Developing Countries and Donor Countries and International Financial and Development Institutions held from 5 to 7 May 2003 in Addis Ababa.

3.3 Policy Implications for Leveraging WTO Negotiations in Operationalising APoA

The APoA clearly states that the primary responsibility for its implementation should rest with landlocked and transit developing countries. It is therefore essential that they seek to create conditions in which resources can be generated, attracted and effectively mobilized to address their development challenges, including those that result from being landlocked. To that end, and as mentioned in the previous section, they could use the APoA as a checklist for undertaking needs assessments in the context of WTO negotiations. This should be complimentary to the use of trade facilitation assessment tools developed by WTO and WCO. In doing so, African countries would ensure that the recommendations of the APoA are mainstreamed in capacity building and technical assistance programmes related to WTO negotiations. In addition, these countries should seek to ensure that proposals made at WTO negotiations are coherent with the provisions of the APoA.

In line with the Monterrey Consensus, donor countries and multilateral financial and development institutions should provide landlocked and transit developing countries with appropriate financial and technical assistance in the form of grants and/or loans on the most concessional terms possible, for the needs identified in the APoA. They should ensure that capacity building and technical assistance programmes provided to developing countries within the framework of WTO negotiations on trade facilitation are coherent with the recommendations of the APoA. This is feasible because the same development partners and multilateral organisations are relied upon to finance capacity building and technical assistance in both the APoA and WTO.

There is a limit to the participation of RECs at WTO since the negotiations are primarily undertaken by Member States. However, RECs could ensure that their members adopt positions at WTO that are coherent with the recommendations of the APoA. In essence, they have an important advocacy role to play.

IV. Conclusion

The APoA and the WTO negotiations have the same objective, which is⁽²⁾ to expedite the movement, release and clearance of goods, including goods in transit. The main difference is that APoP focuses on landlocked and transit developing countries while WTO deals with all Member States. Another difference is that while no specific funds have been allocated for the implementation of the APoP, the modalities for negotiating trade facilitation at the WTO clearly include provisions for capacity building and technical assistance to developing countries to enable them to implement commitments resulting from the negotiations. Based on the proposals made in the ongoing negotiations, it is likely that the resultant commitments would be similar to the actions recommended by the APoP. Therefore, WTO negotiations on trade facilitation provide a good opportunity to operationalise the APoA.

However, a good number of landlocked and transit developing countries are not members of the WTO and will therefore miss out on the benefits that membership in and the rules of the organization provide. For instance, six African countries, three of which are Island States (Comoros, Equatorial Guinea - capital city of Malabo is located in an island, and Seychelles) only have observer status at the WTO. Four other African countries including Ethiopia that is landlocked, Cape Verde, and Sao Tome & Principe, both Island States, are still in the process of accession to the WTO.

Bibliography

- Economic Commission for Africa (ECA) (2004), “Economic Report on Africa: Unlocking Africa’s Trade Potential”, Addis Ababa
- Economic Commission for Africa (ECA) (2007), “Economic Report on Africa: Accelerating Africa’s Development through Diversification”, Addis Ababa
- International Ministerial Conference on Transit Transport Cooperation (2003) “Almaty Declaration”, Almaty
- International Ministerial Conference on Transit Transport Cooperation (2003) “Almaty Programme of Action”, Almaty
- Robert T. Lisinge (2005), “Facilitation du commerce intra-africain : Demanteler les barrieres pour le commerce intra-africain », Centre Africain de Politique Commerciale, Commission economique pour l’Afrique, Addis Ababa
- United Nations General Assembly Resolution, A/RES/57/242 (2003), ‘Preparations for the International Ministerial Conference on Transit Transport Cooperation’, New York
- United Nations General Assembly Resolution, A/RES/58/201 (2004) ‘Almaty Programme of Action: Addressing the Special Needs of Landlocked Developing Countries within a New Global Framework for Transit Transport Cooperation for Landlocked and Transit Developing Countries’, New York
- United Nations General Assembly Resolution, A/RES/59/254 (2005) ‘Specific actions related to the particular needs and problems of landlocked developing countries: outcome of the International Ministerial Conference of Landlocked and Transit Developing Countries and Donor Countries and International Financial and Development Institutions on Transit Transport Cooperation, New York
- World Trade Organisation (WTO) (2008), “TN/TF/W/Rev.14, 08-1123, Negotiating Group on Trade Facilitation, Compilation of Members’ Textual Proposals”

