

WORLD TRADE ORGANIZATION

G/C/W/115
29 May 1998

(98-2210)

Council for Trade in Goods

WTO TRADE FACILITATION SYMPOSIUM

9-10 March 1998

Report by the Secretariat

A. INTRODUCTION

1. On the initiative of the Council for Trade in Goods, the WTO Secretariat organized a Trade Facilitation Symposium on 9 and 10 March 1998. At the Symposium, twenty-seven speakers from private enterprises and industry groups gave an overview of a number of areas where traders face obstacles when moving goods across borders. Speakers from six intergovernmental organizations (IMF, ITC, UNCTAD, UN/ECE, World Bank, and World Customs Organization) reported on the experiences in their work on trade facilitation.

2. About 350 delegates from around 75 Members and more than 20 observers were present over the two days of the conference. Delegations comprised Geneva based trade diplomats, experts on customs and commerce affairs, as well as interested private sector representatives.

3. The following report consists of the agenda of the Symposium, indicating the subject areas covered (B), a factual summary of the proceedings of the Symposium (C), a full compendium of all presentations (D), and a detailed agenda identifying the speakers for each subject area (E). Separate communications from Australia, UNCITRAL and the Chairman of the APEC Committee on Trade and Investment, which were circulated at the Symposium, are also included in Section D. A checklist of issues raised at the Symposium has been circulated in document G/C/W/113.

B. AGENDA

I. INTRODUCTION OF THE TRADE TRANSACTION PROCESS

Factual overview of the different stages of the transaction chain.

II. ISSUE-ORIENTED PRESENTATIONS BY THE PRIVATE SECTOR AND OTHER EXPERTS

PANEL 1 Physical Movement of Consignments (Transport and Transit)

- a. Problems of freight-forwarders and providers of multimodal transport in facilitating trade with reference to regional differences in the transport sector.
- b. Differences between express carriage of goods and non-express freight forwarding; overview of the main problems express carriers face in different world regions.
- c. The main rules and practices which govern the air transport sector - International Air Transport Association (IATA).
- d. The main rules and practices which govern the sea transport sector - International Chamber of Shipping (ICS).
- e. The main rules and practices which govern road transport and road transit - International Road Transport Union (IRU).
- f. The main rules and practices which govern the rail transport sector - International Union of Railways (UIC).

PANEL 2 Import and Export Procedures and Requirements, including Customs and Border Crossing Problems

- a. Private sector views on the most important practical problems their businesses face in the area of customs and border-crossing.
- b. Practical problems for traders in the area of customs valuation.
- c. Practical problems for traders through customs irregularities - costs for business, consumers, and governments and the impact of customs irregularities on small and medium-size enterprises.
- d. Persisting obstacles for trade caused through documentation requirements and procedures.

PANEL 3 Payments, Insurance and other Financial requirements which affect Cross-Border Movement of Goods in International Trade

- a. Overview of the facilities and problems related to payments, insurance and other financial requirements in the developed world.
- b. Overview of the facilities and problems related to payments, insurance and other financial requirements in the developing world.

- c. The role of exchange control formalities and other formalities related to payments, insurance and other financial requirements which could create obstacles to trading, with reference to opportunities to reform.
- d. Financial requirements related to international trade - Avenues to reform; Experiences with "Bolero" and its potential for the future.

PANEL 4 **Electronic Facilities and their Importance for Facilitating International Trade**

- a. The importance of electronic facilities for the conduct of international trade - A view from a user of such services.
- b. The role of EDIFACT for facilitating international trade, with reference to its potential for small and medium-size enterprises.
- c. Modernization of customs administrations by use of information technology - The Chilean experience.
- d. Trade Facilitation and Electronic Commerce - A perspective from Asia.

III. PRESENTATIONS BY INTERGOVERNMENTAL ORGANIZATIONS

UN/ECE

UNCTAD

WCO

ITC

IMF

World Bank

WTO

IV. GENERAL DISCUSSION

C. SUMMARY OF THE PRESENTATIONS AND DISCUSSIONS

I. *INTRODUCTION TO THE TRADE TRANSACTION PROCESS*

1. Michael Doran, Chief Executive of SITPRO, UK, defined Trade Facilitation as the systematic rationalisation of procedures, information flows and documentation for international traders and agencies in order to facilitate the international trade transaction process. The conduct of international trade was far more complex than the domestic transaction process, where official controls were usually audit- and not transaction-based, and where a single set of trading and legal practices existed. Trade facilitation aimed at providing business with greater trading efficiency at lower cost, improved customer service and the ability to introduce new business strategies. Governments would benefit through better control, more effective use of resources, increased revenue, as well as accelerated trade growth and increased incentives to foreign direct investment. Outdated trade procedures were responsible for delays as well as higher inventory and other costs, accounting for an estimated 2-10 per cent of the transaction value. The main costs on trade were imposed by complex trade procedures - different for each market - and lack of transparency, the use of preshipment inspection, irrational documentation requirements, and prescribed payment methods such as mandatory use of letters of credit. Mr. Doran explained that a lot improvement could be brought about by simplifying and rationalizing trade procedures, aligning and standardizing documents, and the greater application of electronic commerce to assist official procedures. While a lot of work was going on at both national and international level, the WTO's contribution to trade facilitation was of special importance. WTO Members should realize their responsibility for removing trade barriers and put the removal of barriers in the trade transaction process firmly on its work programme. Ideally, a new WTO agreement should integrate existing standards and recommendations on aligned documents, customs and other procedures.

2. Mr. Fermin Cuza, Senior Vice-President of Mattel Inc., said that customs barriers were often more costly to traders than tariffs. Traders, and especially also small businesses, were not able to overcome the costs imposed on them through complex local procedures and documentation requirements, unnecessary inspections, the threat of an inconsistent application of the WTO Valuation Agreement and tariff classification, insufficient service hours of customs offices, and the resulting delays in getting their goods to foreign buyers. The solution to this problem was simplification, harmonization, and automation of the trade transaction process. Numerous regional and world-wide initiatives were seeking to address customs barriers. The revision work of the Kyoto Convention in the WCO, the ICC Customs Guidelines and the work in APEC were projects of special importance in this context. As the most important organization for the liberalization of trade, the WTO had a critical role to play in overcoming the persisting administrative barriers. A Working Party on customs modernization, harmonization and simplification should be established, with the mandate to analyze the impact of customs barriers on WTO commitments, to seek ways to improve customs transparency as outlined in Article X of the GATT, and to promote efforts to develop and implement initiatives which aimed at simplification and harmonization of trade procedures. The work of APEC should be used as a benchmark for other regions to follow. In the long run, a WTO Agreement, providing a comprehensive set of binding and enforceable rules for insuring high standards for customs procedures and practices was urgently needed by the world business community.

Discussion on I

3. The representative of Mexico stated that small and medium-sized enterprises (SMEs) were particularly concerned by administrative barriers to trade, as they lacked the infrastructure, the means, the financial resources as well as many other things to find their place in international trade, which was increasingly conducted by electronic means. Electronic trade was putting SMEs at considerable disadvantage, as they lacked the resources to participate in it. He wondered whether the private sector could provide technical assistance in order to help these SMEs cope with electronic commerce?

4. In response to a question regarding electronic and other standards, the Chief Executive of SITPRO stated that the UN/EDIFACT standard was the global standard for Electronic Data Interchange (EDI). There were a total of 25 recommendations by the UN/ECE, dealing with standards for documentation, standard procedures, etc. Many of the issues had already been addressed and solutions were available. With regard to standards available over the internet, he gave two examples of such initiatives, one being the Internet Engineering Task Force which was essentially a technical group working on techniques for use of the internet, the other being the World-Wide-Web Consortium which was involved in many other different aspects of a technical nature. To his knowledge, no standards were currently available for electronic document interchange and for that reason SITPRO was carrying out a project to produce electronic equivalents for the UK's aligned documents. There was considerable interest to use the UN aligned document system and introduce their electronic equivalents in different national markets.

5. In the discussion, the importance of customs management for both business and customs was underlined. In the case of the Chilean and New Zealand customs, law prescribed that certain public management indicators were to be published. These indicators covered not only the collection of customs fees or how to deal with internal deficiencies, but were also addressed towards the users. For example, the law would stipulate that customs clearance must be effected as quickly as possible. Setting performance-oriented goals had two objectives: user-benefit, and, if achieved, increased revenue for the government. In the area of customs management, customs administrations could learn from each other through cooperation, e.g. new techniques regarding trade facilitation and enforcement. Likewise, working closely with the business community could also serve customs management very well. Business representatives stressed that the business community was supporting and encouraging that customs administrations set out a management programme with clearly defined goals. Business would support those goals and strive to make the objectives contained therein work for both customs and the private sector. It was mentioned that for instance in the U.K., customs were represented on the SITPRO board and cooperation was very close. Customs even provided a number of staff to work with SITPRO. There was cooperation between business, trade facilitation experts, and customs in many areas, e.g. regarding single point of lodgement, prototyping of unique documents (between the EU and the US).

II. *ISSUE-ORIENTED PRESENTATIONS BY THE PRIVATE SECTOR AND OTHER EXPERTS*

PANEL I: Physical Movement of Consignments (Transport and Transit)

(a) Problems of freight-forwarders and providers of multimodal transport in facilitating trade with reference to regional differences in the transport sector

1.1 Mr. Raghu Dayal, Corporate Director of the Lemuir Transport Group, India, stated that a host of problems typical for developing countries were plaguing the Indian trade environment: reliance on duties as source of income, too many official requirements, and arbitrariness in the application of rules and procedures resulted in grave structural problems for traders. Poor port management, technological backwardness, and also irrational transport legislation which was responsible for a system of numerous checks and double-checks of consignments were adding to the costs of trading and substantially delaying the movement of goods. Customs needed to devise a practical and pragmatic, helpful and honest framework conducive to the furtherance of trade. Much improvement in this respect could be garnered through an internal reform processes which would cut down handling time significantly. One of the most important aspects in this respect was the unhindered movement of freight on the basis of self-assessment through any port or airport in the country around the clock. For developing countries, not only needed infrastructure to be improved, but also procedures and official requirements. Computerization could only be successful when procedures and requirements were rationalized beforehand. Wherever possible, government agencies should be located together. In order to help customs enhance their controls and facilitate clearances, a bilateral or multilateral format may be suggested for a routine electronic transmission of export data from the country of export to the customs administration in the country of import. Electronification needed to be well thought through, and supporting legislation (e.g. on legal validity) needed to be put in place. Publications by the WTO, the WCO, or other organizations on different aspects concerning trade and commerce, would help generate awareness and understanding of trade related developments. The WTO or the WCO should disseminate case studies of good practices and effective facilitation measures that existed in various countries.

1.2 Mr. Jürg Hammer, Senior Vice President of the Swiss freight forwarding company Gondrand Ltd., highlighted numerous points of concern for the freight-forwarding industry. He suggested to harmonize national tariffs beyond the 6-digit level contained in the Harmonized Commodity Description and Coding System. Regarding dangerous goods, a variety of complicated national documentation requirements persisted on top of existing international rules, causing additional costs and work, and effectively barring the transport of such goods through certain countries. A large number of transport documents could be either harmonized or abolished. Shipping lines providing multimodal transport were operating under rules not suitable for this kind of transport, while the UNCTAD/ITC rules were not applied. Shipping rules like Hague, Hague-Visby, Hamburg, or COGSA should be replaced by world-wide valid and acceptable rules. In reference to the amendment of the US COGSA rules, he argued that national laws should not seek to extend their scope of application to foreign countries. The international imposition of national rules would set up new barriers to trade. Veterinary prescriptions should also be harmonized world-wide and the documentation to be provided should be streamlined.

(b) Differences between express carriage of goods and non-express freight forwarding; overview of the main problems express carriers face in different world regions

1.3 Mr. Kenneth Glenn, Manager of Global Regulatory and Trade Affairs, Federal Express, explained that international express carriers operated mainly through air transport. In recent years, express freight forwarding had been growing in scope and importance. Information about express goods was so important that information technology-based methods had been devised to control these goods closely and track them individually at all stages of their movement. While reducing damage

and loss probability, these modern computer systems had also facilitated better communication with customs and other government agencies in several of the more IT-progressive countries. While the express carriage industry was itself applying state-of-the art technology, governments could facilitate trade through increased use of risk assessment. A concentrated initiative, including the support of the IMF and the World Bank, was necessary to focus attention on customs' malpractice. Official controls should be concentrated at one location. Electronic data submission should be broadened, thus disconnecting time and place of filing from the port of arrival. The increased acceptance of payment guarantees would expedite cargo release from entry formalities and ease the flow of goods across borders. To a much larger extent could compliance be guaranteed through post-audit controls. More generally, equal treatment of private and public operators was needed to ensure efficient global trade development. To assist these objectives, the WTO should support an enforceable Kyoto Convention and the efforts undertaken by the G7 to establish standard minimal data requirements. Finally the WTO should take the leading role in rationalizing the regulatory framework of goods in circulation.

(c) **The main rules and practices which govern the air transport sector - International Air Transport Association (IATA)**

1.4 Mr. Robert Davidson, Assistant Director, Facilitation Services, IATA, explained that, while carrying merely around 1% of all internationally moved consignments, the air transport industry was moving particularly high-value and time-critical items. Speed was of particular importance to the movement of these goods. Air carriers had to comply with various non-compatible sets of documentation requirements of both the importing and exporting country. Delays caused by a lack of risk-assessment and paper-based documentation flows were particularly damaging to the high-speed air carriage of goods. The air transport industry would particularly benefit from (1) paperless transaction processing; (2) the harmonization of information requirements; and (3) pre-arrival processes or expedited clearances upon arrival. In order to handle documentation flows electronically, the Montreal Protocol IV was an existing international instrument which would provide the legal basis upon which electronic Air Waybills could be established. This critical document needed to be ratified and put into force by more states. Industry had developed EDI programmes to assist governments in introducing such electronic data exchange. Electronic submission of data would allow carriers to concentrate their cargo documentation experts at one or few centres, thereby increasing accuracy and speed, while reducing costs. Regarding harmonization of information requirements, little had been achieved to date even in advanced trading blocs such as the EU or NAFTA. Diverging requirements resulted in greater processing demands on shippers, carriers and customs administrations and were increasing the potential for errors, resulting in clearance delays and unwarranted financial liabilities. Such requirements prevented opportunities to explore processes under which outbound and inbound clearances could be accomplished by a single filing. Risk assessment and selectivity would ease the burden on both the bulk of traders and focus the resources of customs authorities. Technology was available that allowed to release the great majority of goods, in some countries as much as 99 %, for home use with minimum formalities, separating the release of goods from the collection of taxes and duties, which could reliably be paid thereafter. The air transport industry would rely on the successful revision of the Kyoto Convention by the WCO. The WTO should watch closely the emerging convention and seek to ensure compliance by its Members.

(d) **The main rules and practices which govern the sea transport sector - International Chamber of Shipping (ICS)**

1.5 Mr. Brian Parkinson, Head of Trade Facilitation of the ICS, estimated that 10% of the cost of maritime transport related to the preparation and transfer of information on these goods. Administrative problems and additional cost were not limited to the movement of the cargo or the consignments, but a whole range of regulations and reporting requirements controlled the movement of vessels in and out of ports including crew and passengers on board the vessel. The IMO

Convention on the Facilitation of International Traffic (FAL) sought to establish common criteria in that respect. The shipping industry also sought improvement in diverging national legislations concerning the movement of crews and passengers. Regarding movement of cargo, genuine cooperation between customs and industry was required to ensure that goods flow through the ports quickly and efficiently. The shipping industry was committed to cooperate with customs in the battle against narcotics trafficking. A Memorandum of Understanding (MOU) with the WCO was signed in this respect. The ICS would wish that the formation of customs unions would make transactions within those unions as easy as a domestic transaction. In reality, however, national requirements were merely replaced by customs union requirements, and in some instances, additional information requirements had been imposed. Additional documentation would rarely discourage dishonest traders while additional costs were imposed on the vast majority of honest businesses. In addition to the official requirements of governments, there were continuing needs for commercial information requirements on the movement of goods by shippers, consignees, banks, insurance companies, or port authorities. In most cases, it should be possible to satisfy commercial information demands by using official documents. Regarding documentation, improvement could derive from better document design, standardization, and use of non-negotiable documents. Regardless of whether information was transferred on paper or electronically, it was necessary to re-evaluate the structure of the information flow rationally: the reason for documentation requirements; its content; who was the recipient? The use of international standards for the exchange of information should be considered, whether this was standards definitions of individual data elements, standard messages, or standard codes. Likewise, internationally standardized procedures would help the shipping industry streamline its operations. A greater focus should be put on customs integrity and a re-evaluation of customs penalties for the provision of inadvertently incorrect information was required.

(e) **The main rules and practices which govern road transport and road transit - International Road Transport Union (IRU)**

1.6 Mr. Peter Krausz, Officer for Central and Eastern Europe of the IRU, spoke about the problems of road transport in Europe. A lack of harmonization regarding technical requirements for vehicles, which still differed across EU member states, as well as varying fiscal charges (vehicle taxes, road use charges and tolls, excise duties on fuel) were still distorting competition of trucking in Europe. Road transport was faced with numerous daily traffic problems, which increased costs and delayed the delivery of goods. One point in case were divergent rules on traffic bans and restrictions applied across EU and CEEC countries, which often artificially increased the length of road journey in time and distance. A supra-national commitment to prevent road-blockages was necessary, including an internationally harmonised system to control and sanction blockades and regulate compensation for losses incurred. Other obstacles were created by complicated visa requirements for drivers. These requirements should be either abolished or simplified by a number of measures, e.g. the introduction of a professional driver document issued by IRU member organizations in the countries concerned. Numerous border-crossing problems persisted all over Europe. In part, these were politically motivated. Often, the reason for the problems was simply insufficient border capacity along international transport corridors. However, harmonisation, simplification and acceleration of border-crossing procedures could significantly reduce waiting times. Cooperation between national control services on either side of borders, introducing "one-stop" technology, and improved training of border personnel and transport operators regarding the use of transport and customs documentation, e.g. TIR and other documents subject to border control, would further accelerate border-crossing. Other suggestions by Mr. Krausz were to improve the quality and increase the capacity of border infrastructure by inviting international financing institutions and private investors to finance them, given their great importance for the functional operation of international trade. He urged governments to accede to international agreements and conventions governing international road transport and to apply these instruments in a smooth and harmonized manner.

(f) **The main rules and practices which govern the rail transport sector - International Union of Railways (UIC)**

1.7 Mr. Manfred Erdmann, Freight Director of the UIC, stated that the reorganization of the EU railway system would aim to provide non-discriminatory access to rail infrastructure. The UIC was currently working on the resolution of technical problems associated with this freedom, regarding the technical standard of the rolling stock, safety aspects of the infrastructure, and new regulations for the exchange of rolling stock between railway undertakings on a contractual base. An important aspect of reform was the establishment of six Trans-European Rail Freight Freeways, which were expected to accelerate freight movement throughout Europe. In the 15 EU Member states plus Norway and Switzerland and the four Visegrad countries, border stops were no longer needed for incoming or outgoing traffic. Rail transport was enjoying a simplified customs declaration system. Numerous railway undertakings in Europe cooperated in relying on the good condition of each others wagons, also for the transport of hazardous goods.

Discussion -Panel 1

1.8 Representatives from the private sector stressed that international cargo forwarders of all modes of transport shared the objective to provide seamless movement of goods in the supply chain and to move freight in the interest of their customers. For this, better cooperation was necessary among transport operators, between the transport industry and its suppliers, as well as the transport industry and its clients. Clients and consumers needed to understand that the losses incurred were ultimately losses to them.

1.9 The question was raised whether all modes of transport enjoyed equal treatment by customs and other authorities. Some discussants argued that it took longer to clear a maritime shipment than an express cargo shipment, as customs were generally under-resourced at maritime terminals and in comparison over-resourced at airports. Therefore one could not speak of equality. Others believed that equal treatment was to be granted where equal capabilities existed. It was normal and inherent that express services were being better placed by administrations. In areas where basic infrastructure needed to be developed, certain transport modes were naturally at a disadvantage.

1.10 The representative of the European Commission stated that apart from issues directly related to the facilitation of access for products such as documentation, transparency, or customs procedures, a second theme was access conditions for transport services. During the Uruguay Round and in its aftermath, the WTO had looked at market access in services, but the negotiations on transport services had not been particularly successful. He wondered whether it was difficult to estimate the relative importance of access of the services versus facilitated access for the goods transported? Should the focus of work on transport facilitation be put on the improvement of market access conditions for services, or rather on customs procedures and transparency for product-related trade regulations?

1.11 Private sector representatives stated that transport operations would be facilitated if transport and border-crossing regulations for transport were internationally harmonized. Many problems could be solved by training, not only on the customs but also the trade side. Private trade terms under which most businesses operated today, namely INCOTERMS 1990, could be adjusted in some points and probably the ICC would have to do some work to modernize them until the year 2000. Also, the banking aspects of trade and transport needed to be addressed.

1.12 The Moderator, summarizing the outcome of Panel 1, stated that two main elements had come out clearly in the discussions, one being too much paper and documents circulating, some of which were no longer appropriate for the transit and transport of goods and, secondly, customs. The presentations had shown that customs was seen as being one of the major elements holding up the

passage of goods across borders. Other problems identified related to information requirements, visas, and the movement of crews and drivers involved in transport. Also, the problem of extra-territoriality of legislation needed to be addressed.

PANEL 2 Import and Export Procedures and Requirements, including Customs and Border Crossing Problems

(a) Private sector views on the most important practical problems their businesses face in the area of customs and border-crossing

2.1 Mr. Juan Antonio Morales, Director of the Lima Chamber of Commerce, elaborated on the efforts to reform the customs and trade administration in Peru. Plagued by incoherent legislation and procedures, red tape and corruption, unqualified personnel, and inadequate infrastructure and logistics, the Peruvian government had made a concerted effort to reform and modernize its trade administration on all those accounts. An improved legislative framework, along with simplified procedures, computerisation, and substantial staff training had led to shorter clearance times and resulted in the collection of more revenue. Of particular importance in this process had been the limitation of discretionary powers of customs and other government agencies involved in administering trade. While problems persisted and the overall Peruvian customs administration had not reached state-of-the-art quality yet, the reforms had proven to be a step in the right direction.

2.2 Mr. Danny Meyer, President of the Zimbabwe National Chamber of Commerce, described border-crossing difficulties in Sub-Saharan Africa. For long, political unrest, poor infrastructure development -particularly roads, rail and air links - together with a public climate hostile to private sector initiative had been the prime obstacles to trade development. In recent years, a more trade conducive environment was emerging, frequently driven by economic structural adjustment programmes with IMF and World Bank support. The success of most of these programmes was heavily dependent on export performance. Within regional economic groupings such as COMESA and SADC, trade activity had significantly picked up over the last decade. Persisting predicaments for border-crossing existed mainly because of unclear, unspecified, bureaucratic and irrelevant customs (and immigration) procedures; underdeveloped facilities at, and understaffing of, busy border posts; inadequate security at border posts and along major transport routes; excessive charges, levies and fees; corruption and lack of transparency; and attitudes of officials.

2.3 Mr. David Wakeford, International Trade Manager of Imperial Chemical Industries (ICI), stated that in light of soaring trade volumes, increasing trade liberalization and mounting competitive pressures, customs procedures had become the single biggest non-tariff barrier for trade. For the chemical industry world-wide, estimated losses related to border crossing had represented US\$ 37 billion in 1996. Improvement in the customs environment was not only of benefit to companies, but would also reduce costs for governments, enhance enforcement of regulations and support revenue collection. One of the key problems for business was the lack of trust. Customs procedures and information requirements appeared to be based on the premise that all traders were villains, instead of focusing specifically on high risk consignments. He recommended that low-risk consignments should be handled with minimal intervention. The multiplicity of documentation and data requirements needed to be curbed and the remainder should be standardized under consideration of what information was essential for goods to move, and how much information could be retrieved from commercial documentation or through audits at a later stage. Improved liaison between customs and business would assure compliance and help to build trust. In principle export data should be accepted also for the import of goods. A lack of transparency in regulation and procedures created uncertainty for businesses, and a potential for unpredictable application of procedures, which in turn often would induce corruption. The resulting inability to predict costs and delivery time reduced commercial certainty and was all in all a huge disincentive to do business internationally. Transparency could be improved by establishing a data-base, accessible through the Internet, defining customs requirements of WTO and WCO member countries. International harmonization was still very modest, and the implementation of a revised Kyoto Convention by all WTO Members could be a first stepping stone in the right direction. Modern technology was essential to accelerate the data flow between businesses and government agencies. The US-EU prototype project was a good example for

future use of electronic data transmission. The WTO's primary objective of trade liberalization would position it uniquely to engage in trade facilitation. Its political drive and ability to enforce rules made its efforts more likely to succeed than efforts undertaken elsewhere.

2.4 Mr. Nicolas Ozanam, Deputy Director-General of the Federation of French Wine and Spirits Exporters, listed the lack of transparency in customs regulations as one of the main difficulties for traders. Often, administrations would apply new regulations ahead of publication, and often administrative instructions were clearly not published because they were in violation of WTO rules. Traders were defenceless against customs arbitrariness, as customs' power to delay clearance of the goods at borders was practically unrestrained, even in many developed countries. In the absence of internationally accepted standards, documentation related to sanitary and technical requirements was too extensive. Often, the scope of the information to be provided was inadequately defined, leaving the trader uncertain whether he inadvertently had not provided the correct information. It was necessary to harmonize the format and content, and limit the number of the various certificates needed. A single authority should be established in the territory of each WTO Member, competent to administer sanitary and technical authorizations and the corresponding import permits. To a much greater extent could data be transmitted electronically. Regarding SPS and TBT questions, much improvement could be gained by harmonizing the sanitary and technical standards, as well as methods of analysis used, possibly on the basis of the work of the Codex Alimentarius or other competent international organizations. Alternatively, it could be considered giving states the opportunity to register the characteristics of their products with the WTO. Such registration would then hold good for all the enterprises exporting that product to the territories of other WTO Members. Regulations that demanded the dispatch of numerous samples for product registration could become effective trade restrictions when applied to high-value, low-volume consignments, and labelling requirements often demanded unreasonable measures from importers. Where labels had to be approved or registered, additional delays, and often intellectual property problems were common, before the import could take place. Work towards greater standardization of the wording of compulsory labelling should thus be undertaken. In this respect, alignment on the technical and sanitary standards could make a valuable contribution. Labelling requirements could sensibly be fulfilled by attaching secondary labels in the language of the importing country. Prior registration should be abolished or, at least, be processed in a single location. The requirement to leave deposits with customs (instead of producing a bond) was needlessly costly for traders. Also, the application of customs valuation rules was often lacking transparency.

(b) Practical problems for traders in the area of customs valuation

2.5 Mr. Peter Zubrin, Corporate Customs Counsel of General Motors, addressed the effect of the WTO Custom Valuation Agreement on the cross-border transactions of a large automobile producing enterprise. Despite a certain degree of harmonization through the transaction value method, numerous problems persisted in the area of customs valuation. In many countries, valuation was still done on a transaction by transaction basis instead of treating several transactions over a period of time involving one particular trade-flow. Traders would benefit from being able to certify values on a periodic basis and the availability of post-importation batch processing would be a far more effective way for customs services to verify dutiable values. It was definitely a win-win solution to which the WTO should give serious consideration. Likewise, a lack of implementation was visible when identical transactions were valued differently in different countries, or customs authorities would arbitrarily and automatically uplifted the invoice prices by a fixed percentage and required the importer to demonstrate that such prices were acceptable, notwithstanding the relationship. The proof required to establish transaction values differed from country to country, with some countries seeking information regarding prices or cross-affecting home market sales which was clearly contrary to the Customs Valuation Agreement. Poor fiscal management or budgetary constraints resulted in serious practical problems in receiving a duty refund once a transaction value was established. One area where the Customs Valuation Agreement was silent and where procedural reform would be beneficial was the introduction of a process for valuation reporting similar to an income tax reporting approach where at the close of a period the tax payer or importer would get a period of time in which to reconcile and

perfect its filings. Amending the Valuation Agreement to allow importers the alternative of applying tax rules for this purpose would be a major breakthrough for traders, saving them the additional cost and work of doing parallel valuation analysis of the same transaction. The Valuation Agreement specified that retroactive payments may, from time to time, be dutiable. It was silent, however, on the procedures for reporting such payments to the customs authorities. In the US, importers would soon have the flexibility to file entry declarations based on estimated values and reconcile those entries within a 15-month period thereafter by means of a post-importation review process. A provision in the WTO Agreement similar to the US Modernization Act would facilitate an efficient valuation reporting process by allowing all transactions covering a specific trade flow during a one year period to be reviewed as a single project.

(c) **Practical problems for traders through customs irregularities - costs for business, consumers, and governments and the impact of customs irregularities on small and medium-size enterprises**

2.6 Mr. David Phillips of Crown Agents, speaking on behalf of Transparency International, named as the main impediments to cross-border trade what he described as poorly framed, inconsistent and out-of-date legislation, and overly complex, highly bureaucratic controls and procedures. This created an environment with little transparency and large discretionary powers of customs officers, where duty rates and additional charges were often difficult to predict. These conditions, prevalent in many developing countries, were responsible for a substantial loss of time and money for trade. Customs inefficiency would also induce irregularities from the trade side, hurting legitimate traders even more. The costs for importers and exporters, consumers, governments, and the national economies as a whole were very high. Often, governments had resorted to PSI to overcome these inefficiencies. For a modern customs department to fulfil its traditional tasks of revenue collection and enforcement of restrictions and prohibitions, also the facilitation of legitimate trade was becoming increasingly significant. Effective trade facilitation would increase revenue collection and discourage illegitimate trade. Customs should seek to make regulations, documentation, and procedures as transparent as possible. Cooperation with trade should be improved to ensure compliance and reduce loss of time due to misunderstandings. International standards should be followed as much as possible in documentation, and where possible, a single document for all import and export regimes should be developed, and common documentation between importing and exporting countries be created. The introduction of one-stop border controls for immigration as well as for customs purposes was currently explored by Crown Agents. Direct trader input and electronic applications should be introduced or expanded, and brokers and warehouses should be licensed and their professional standards regulated.

(d) **Persisting obstacles for trade caused through documentation requirements and procedures**

2.7 Mr. Adriaan Snoodijk, External Customs Adviser with Coopers & Lybrand, said that too many official control functions were exercised in connection with border-crossing. Such a policy was not only old-fashioned and a wrong use of human resources, but also a waste of time, and altogether a costly exercise for both customs and trade. He suggested that documentation requirements could be dissociated from border-crossing in two ways: first, increased cooperation between authorities of the exporting and importing country could provide that export data could be verified in the exporting country, communicated to the authorities of the importing country, and thus become the valid basis for importation. Such an idea was being explored in the context of a prototype project between the US and some Member States of the European Union. Secondly, international facilitation was needed to cope with increased trade-flows and thus increased workload of customs. In this context, "authorized traders", be it large multinationals or small and medium sized enterprises, could benefit from minimal formalities at borders while complying with the necessary paperwork in audit-based controls. A WTO Agreement on Trade Facilitation could set the parameters for becoming an authorized trader. Through such a WTO Agreement the status of authorized trader could be recognized internationally and would enable such traders to clear their goods through a "green

channel". The WTO should coordinate all facilitation initiatives including those already undertaken by other international organizations.

Discussion - Panel 2

2.8 Several discussants stated that a number of countries had made and would continue to make significant improvements in several of the problem areas addressed by the panellists. It was suggested to focus on successful initiatives which had been introduced in both developed and developing countries and to use those models as platforms to build on for the future. Future efforts should be based on the many examples of successful work that had already been carried out rather than starting from scratch. The prototype agreement on data exchange between customs administrations of the US and some member states of the EU was mentioned as one of the initiatives which, if successful, could evolve into a multinational or multilateral practice.

2.9 The representative of Switzerland noted that the format of the WTO Trade Facilitation Symposium offered a historic opportunity to address in the WTO the problem of irregularities and corruption through an interaction between business and governments. The issues discussed in this panel - in particular with regard to traders' problems arising from customs irregularities - were not only related to trade facilitation, but also dealt with the problem of corruption. The WTO as an institution was not directly charged with work against corruption. However, the implementation of various agreements under the WTO - such as on Customs Valuation, Preshipment Inspection, Import Licensing Procedures, Government Procurement and Rules of Origin - as well as the progressive liberalization of world trade in general were directed to make corruption more infrequent and could help overcome certain shortages in customs administrations. There was a short saying that "corruption equals monopoly plus discretion minus responsibility". Trade facilitation had the potential to influence some of these parameters and was therefore an instrument to help overcome the corruption problem. For example, fewer or easier rules would result in less discretionary power with policy implementing agencies and would give rise to more responsibility because it was easier to check the administration of simpler rules. Trade facilitation was not only important for developed countries but also for developing countries. It was Switzerland's belief that the following thoughts needed further reflection in the WTO: whether the existing rules in the WTO were sufficient; what contribution in the fight against irregularities and corruption could the WTO make? His delegation was looking forward to further pursuing this debate beyond the Symposium.

2.10 Discussants acknowledged that both the private and the public sector needed to address the corruption problem. As an example, the case of Chile was referred to, where the administration had considerably increased punishments in the public as well as in the private sector for those involved in corruption. The private sector had set up ethics and good business practices committees. There was agreement that there should be no tolerance for either private sector law or public sector law perpetrators. It was suggested that some of the trade facilitation measures advocated at the Symposium would free up time and government resources which could be utilized to proceed with aggressive and comprehensive measures against perpetrators in both the public and the private sectors.

2.11 On the question of preshipment inspection, speakers remained sceptical regarding the use of preshipment inspection as a means of ending corruption and cutting costs. A speaker stated that PSI user countries in the Americas had experienced an increase in the cost of trade and business. In a neighbouring country to Chile, the preshipment inspection costs would run to some US\$ 200 million a year, which was roughly four times the Chilean customs budget. Customs revenues had been only half of those collected in Chile. Secondly, preshipment inspection standards were applied to all products. It was much easier to control if one took the commodity prices published on a daily basis in the newspapers. Practical experience in the Americas suggested that PSI had driven up the cost of trading, and only initially had increased customs revenues, an increase that was not sustained over time. Another speaker stated the private sector in Peru was trying to put an end to this system and the

government was little by little exempting commodities from PSI. However, voluntary preshipment inspection by the importer in order to establish the value of the goods passing through customs remained important, because after an evaluation by the preshipment inspection company, it would be possible to use the green channel which would facilitate the customs process. Other private sector discussants stated that efforts to increase transparency and simplify procedures actually helped avoid bringing in preshipment inspection companies and would also make corruption a lot harder.

2.12 On the question whether a (partial) privatization of customs services was imaginable, it was stated that this was actually being seriously thought of in various administrations around the world. As customs had to implement legislation, there should be no real difference whether this was done privately rather than publicly. It was also mentioned that Crown Agents was operating customs on behalf of the government of Mozambique. The policy parameters were set by the government and Crown Agents was implementing that policy with the support of the British government and many serving British customs officers.

2.13 In the area of customs valuation, several speakers referred to the widespread practice of double-invoicing to evade duty payments. As a possible solution to this systematic under-valuation, it was suggested to verify export data at the moment of export and pass it on to the country of importation. Greater cooperation of customs administrations and the use of commercial documents for verification of official information requirements would help to control the problem. It was further mentioned that problems persisted with the implementation of the transaction-value rule, as mandated in the WTO Customs Valuation Agreement. In the case of Bangladesh, it was reported, customs was generally not prepared to accept the invoice value, except when done through preshipment inspection. However this was very expensive and thus not possible in all cases. Usually customs would impose a tariff value, based on a higher value found with some other importer, even if the latter had received the goods from a different source in a different country. As a possible solution, it was suggested to lower duties and switch to a value-added tax system focusing on the inland sales. The revenue for government could effectively amount to the same, but due to the low tariffs, the incentive to bypass the duty barrier would be eliminated.

2.14 On the concept of authorized traders, it was stated that many commercial requirements existed not due to a lack of trust between trade and customs, but because traders were not trusting each other either. Importers themselves called for preshipment inspection to verify that quality or quantity of the goods matched the descriptions paid for. The idea of authorized traders was thus also relevant for the private part of transactions. An independent authorization for traders could establish trust within the trading community, so that it would be no longer necessary to build the many commercial requirements and safeguards into the trade deals.

PANEL 3 Payments, Insurance and other Financial requirements which affect Cross-Border Movement of Goods in International Trade

(a) Overview of the facilities and problems related to payments, insurance and other financial requirements in the developed world

3.1 Mr. Norman Rose, Director-General of the Business Services Association (BSA), UK, outlined some of the methods which were available in the developed world to assist in the payment cycle and to protect the seller and highlighted some of the pitfalls and problems which existed in international payments. In a trade transaction, importer and exporter had inverse interests. The importer would want to receive the goods as early as possible and pay as late as possible, while the exporter would wish the exact opposite. The use of the Letter of Credit was significantly reducing the payment risk for exporters. Documentation was a necessary safeguard for all parties involved. Before trading, importers and exporters needed to assess all endogenous and exogenous factors that could prevent the contract partner from keeping its commitment. Likewise, a foreign currency strategy and credit as well as cargo insurance was necessary. Payment issues were frequently the most important factors in successful trade, domestic as well as international. Cross-border payments were much more complex than domestic ones. It seemed unlikely that this would change within the near future. International payment delays were often very long and due to financing of the exporters' funding gap through credits, could represent a substantial amount of the value of the goods. Statutory interest on debt existed in some countries. Taking into account future business relations, it was normally difficult to enforce payment of interest on late payments and would only become the norm as international standards such as the ISO 9000 series included it as part of their accreditation criteria. Trade facilitation should aim to make international trade procedures and documents as similar to and as simple as their national domestic equivalents. The WTO should propose procedures to rationalize international banking procedures, to reduce red tape, bureaucracy and unnecessary banking complications. It could espouse the latest electronic techniques and champion a new form of electronic "Letter of Credit" for the 21st century.

(b) Overview of the facilities and problems related to payments, insurance and other financial requirements in the developing world

3.2 Mr. Henrique Rzezinski, Director of External Relations and International Trade, Xerox Brazil Ltd., addressed the impact of Brazil's recent stabilization and growth measures on the international trade and commerce environment. An improved macroeconomic framework, most importantly the reduction of hyper-inflation, as well as increased privatization and deregulation had provided a more solid base for transactions. Lower mfn tariffs, as well as progressive trade liberalization in MERCOSUR, as well as several specific trade facilitation measures had boosted trade activity. In particular, credit facilities - while still remaining too low overall - had been expanded, and an export credit insurance company had been founded to cover commercial and political risk of international trade. An electronic system was introduced in 1997, automating exporters and importers registration, licensing, pricing, customs valuation, dispatches and exchange controls. That system contributed significantly to cutting red tape, thus reducing costs while providing fast access to statistical information. Among necessary structural improvements, Mr. Rzezinski stated that effective implementation of the WTO Customs Valuation Agreement was vital for the trading community. A substantial increase in credit facilitation for exports, especially for small and medium sized exporting companies was needed. Credit insurance mechanisms needed to be strengthened, using the already existent credit records and files of companies presently operating in the developed world. Import payment terms needed to be deregulated, and the operation of the Integrated Electronic System for Foreign Trade needed to be refined and expanded.

(c) **The role of exchange control formalities and other formalities related to payments, insurance and other financial requirements which could create obstacles to trading, with reference to opportunities to reform**

3.3 Mr. Moses Pelaelo, Director of the Financial Institutions Department, Bank of Botswana, said that exchange control formalities typically created high compliance and transaction costs for firms and individuals. An additional layer of documentation and official requirements added further processing delays. Administrative costs were high for authorities and commercial banks, who needed to maintain extensive and costly infrastructure for the implementation of the controls. Exchange controls created a perception of a badly managed national economy, likely to face foreign exchange problems and suggested a lack of confidence in the future performance of the economy. Thus, export prices could carry an exchange control "risk premium" which would translate into additional cost to the consumer, exacerbating net social welfare. While exchange controls clearly hampered trade activity, it was also clear that greater scope for trade would in many cases help a national economy to move toward a current account surplus, high level of foreign reserves and a strong external balance. Technological change and globalization of international financial markets made enforcement of exchange controls increasingly difficult, and effective regional integration and cooperation could not be pursued with exchange controls in place; governments should therefore devise strategies to eliminate these systems. In liberalizing exchange controls, it was important to sequence deregulatory measures properly to avoid macroeconomic shocks. Prudent money supply and exchange rate management was crucial in this context. Legislation addressing potential problems of money laundering and strengthened prudential regulations were important elements of a deregulation process.

(d) **Financial requirements related to international trade - Avenues to reform; experiences with "Bolero" and its potential for the future**

3.4 Mr. Åke Nilson, Director of Marinade Ltd., UK, believed that the main trade facilitation problem today was the acceleration in the volume and transport of trade consignments. Driven by competition, customers would demand quicker solutions for transport and payment solutions. Goods in transit were non-performing assets. The speed with which a trade cycle can be completed had a direct impact on bottom line profitability. Currently, there was no global legal framework which addressed the issues in those areas where electronic commerce was different from traditional commerce. This was a subject that needed to be worked on. BOLERO was a cooperation project between the Through Transport Club and SWIFT. The project was aiming to provide a guaranteed and secured electronic delivery of trade documents. This service would take place globally and would be based on common procedures in a binding, trustworthy legal environment. BOLERO would create such an environment by private contract between all user-parties. BOLERO was an "open" project, encouraging competition and new participants. Its main benefits were quicker delivery of goods because delays arising from documentation requirements would be eliminated. This would reduce inventory time and therefore result in a more efficient performance of capital, faster settlement by electronic means, savings on the document management (handling and storage, etc.), savings on the communications costs because internet protocols were used which allowed traders to communicate at lowest cost, and reduced errors as well as enquiries and other time wasted in following up documents.

Discussion - Panel 3

3.5 Several discussants from private industry emphasized the importance of payments issues for trade facilitation. Delays in international financial transactions caused additional costs because of interest payments added to the final product. Delays in payments also held up Bills of Lading and Letters of Credit which were essential in many countries to receive the goods bought. This increased the cost of the final product.

3.6 It was proposed that the WTO's analytical work on trade facilitation should also include an analysis of payment procedures. For example, one could think of a single document which would function in most circumstances. A lot of work had already been done in a number of countries and fora which showed that there were ways to harmonize payment systems. A future working party could pursue this work and also look at the introduction of electronic commerce. This was the ideal opportunity to harmonize traditional payments systems and to set a new standard which would be a breakthrough for the next century and provide a new way in which cross-border trade could be operated reasonably simply and safely.

3.7 Regarding the question how the BOLERO system would approach the question of original signature which was required by banks, customs and maritime agents, and shipping companies throughout the world, it was clarified that signature verification was conducted through state of the art cryptography technology which created a so-called "digital signature" on documents. A digital signature had the same effect as a manual signature, in that it would uniquely prove that the signature stemmed from a specific person. In addition, it also guaranteed that the content of the document remained unchanged in course of transmission. In that sense, digital signatures would actually provide more security than manual signatures. However, digital signatures were not yet fully recognized in all countries as being legally equivalent to manual signatures. That was the reason why, for the time being, the acceptance of the digital signature was subject to a private agreement between the members of the Bolero trading community. In the meantime, a great deal of work was under way in the OECD and UNCITRAL, with the objective of putting in place various models whereby digital signatures would become fully recognized as the equivalent of manual signatures.

3.8 The Moderator, Mr. Negrea from the Romanian Banking Association, summarized that the Symposium was only part of the exploratory stage of WTO activity. Perhaps it was possible to create, in the future, a rule book not only for electronic commerce, but more generally for international trade. Payments, insurance and other financial requirements were sometimes hidden barriers because they would impose unexpected expenses and create negative conditions for cross-border movement of goods. Clear international rules concerning not only goods, customs and transport but also the essential financial elements such as payments and insurance were a challenge for WTO. The WTO should accept the challenge to rewrite the international trade procedures for the 21st century.

PANEL 4 Electronic Facilities and their Importance for Facilitating International Trade

(a) The importance of electronic facilities for the conduct of international trade - A view from a user of such services

4.1 Mr. Nick Mansfield, Principal Consultant of Shell Services International B. V., presented an overview of the benefits a large user (e.g. a multinational corporation) can draw from electronic facilities for trade. Communications inside Shell were principally conducted through the Shell Wide Web, a private network using internet technology to connect approximately a quarter of a million computers in 120 countries. Standardization of software would allow for communication inside the company by use of e-mail, standard forms of letters, messages and spreadsheets. The use of the Shell intranet had resulted in tremendous benefits in supply chain automation, as transport and delivery were optimized by minimizing time and cost, and improving responsiveness and flexibility to the demands of the market. Moreover, it had enabled closer connections with both customers and suppliers. Every sale in one part of the world would automatically trigger a sequence of messages in the supply chain. A second aspect of Shell's intranet was that it allowed for re-engineering of the business process which was a necessity as the demands of the market place were changing rapidly. In order to adapt to change, electronic facilities had become indispensable. Shell was working in global virtual teams who were working on business solutions around the globe together, and optimizing other information flows in the business process. Inside Shell, very little paper was used today. However, in many countries the legal and regulatory environment still demanded paper, which would severely reduce the benefits of the automated system. Another big obstacle to doing business electronically was the unpredictable and uncertain global legal and regulatory environment. In order to make effectively use of electronic commerce applications, security was essential to verify the identity of participants on public networks, to ensure that information was not accessed or could not be altered without authority. Global implementation of cryptography rules such as the 1997 OECD Guidelines for Cryptography Policy met these concerns.

(b) The role of EDIFACT for facilitating international trade, with reference to its potential for small and medium-size enterprises

4.2 Dr. Nadadur Janardhan, Regional Adviser on Trade Facilitation, UN/ESCAP, stated that the appreciation of information technology, including electronic data interchange (EDI) as a business tool was still very low among small and medium-sized enterprises (SMEs) in Asia. In order to allow SMEs to exploit the potential EDI offered, awareness of what EDI could do needed to be raised. It was important to overcome tight financial resources, for example by aiming at generating very short-term returns, and developing tools with maximum utility for the SME business community. Principally, EDI benefits were business benefits, including reduced processing delays from re-keying data to and from documents, eliminating errors and red-tape, and improving inventory control, thus lowering average processing workload substantially. It was important to use a common standard for EDI to enable connectivity with multiple partners. UN/EDIFACT was the most common and fastest growing standard world-wide, and 155 standard messages had been developed by the UN. The growth of internet-based transactions increased the potential for EDI, because all automatic processing of an order and all communication between computers involved the use of EDI. Today, use of the internet for electronic commerce purposes was still suffering from a lack of security of the information exchange, and a lack of certainty whether a message sent had actually arrived. Value-added networks (VANs) between a defined number of users did not have these problems. Governments should increasingly use EDI for communication among firms and regulatory authorities in the conduct of international trade. The WTO should encourage governments to tackle payments, tax liability, as well as legal and social issues in a multilateral environment through development of a global electronic commerce strategy.

(c) Modernization of customs administrations by use of information technology - The Chilean experience

4.3 Mr. Enrique Fanta Ivanovic, National Director of Customs, Chile, gave an overview of the reform and modernization process the Chilean customs had undergone over the last few years. Since 1990, the country's customs had been confronted with external trade growth of about 130%, proliferating the total number of documents and transport activities accordingly. At the same time, the customs' human resources had remained unchanged. In order to cope with this two-fold increase in transactions, Chilean customs had decided to overhaul its system. The start-up costs of around 5 million US\$ were borne by more than two-thirds by the private sector, which had been well integrated in the discussions and the planning that surrounded the reform process. Customs had introduced modern technology with data interchange facilities based on EDIFACT for import handling, risk assessment, and management control. The use of EDI had been entirely accepted by clients, with the result that the information for 90% of the import volume was today handled electronically. As a result of EDIFACT use, customs' response for processing an import declaration had been lowered from an average of 10.8 hours to 2.2 hours. Errors resulting from typing had been eliminated, and much fewer people were today needed to handle import data, allowing for re-assignment to other tasks. Likewise, electronic data reception allowed for much more efficient risk assessment, thus improving the quality of customs controls while reducing the necessity for physical intervention. In an initial evaluation, Mr. Fanta concluded that customs revenues had risen despite lower tariffs, and business was benefitting through 80% cheaper data submission than in the paper-based system. Together with fewer controls, business savings in time would translate into money savings of more than one million US\$ monthly. Both customs and the private sector had hence recovered their initial investment within a year of operation of the modernized customs operations. The third element of Chilean customs reform had been the introduction of an internal management control model. Each department's performance was measured by indicators related to operational tasks such as quantification of data processed, collection and control results, efficiency results, which included user satisfaction. Through application of such a system, customs was in a position to effectively assess its needs for improvement on a continuing basis.

(d) Trade Facilitation and Electronic Commerce - A perspective from Asia

4.4 Dr Chun Kwong Han, Senior Manager of Borderless Marketing, Multimedia Development Corporation, Malaysia, explained that the Malaysian government had recognized the new opportunities in global trade that were being opened up by electronic commerce and was actively taking steps to build up capacity in that area. One of the main initiatives was the establishment of a Multimedia Super Corridor (MSC), where businesses would benefit from a world-class information technology environment. Malaysia had put in place modern laws and incentives, a modern information technology and telecommunications network, and was creating a top quality urban development site. The Multimedia Development Corporation was mandated with the management of the project. Incentives for companies would include a 10-year tax free package to locate in the area, duty-free import of information technology products, the cheapest telephone rates world-wide, etc. A large number of multinational information providers had already set up shop within the corridor, and others were certain to follow. Malaysia supported a global framework for electronic commerce and envisaged that the WTO could be a major catalyzing force in this area. All intergovernmental discussion on electronic commerce, particularly regarding harmonization and regulation should be brought within a multilateral framework in the WTO.

Discussion - Panel 4

4.5 Participants from Members and the private sector agreed that electronic commerce was a challenge that would need to be analyzed much more closely in the future. Several speakers stated that UN/EDIFACT was becoming the world standard for building EDI messages. There were more than 200 standard messages for all kinds of conceivable interactions. Governments should play a

pro-active part in the promotion of EDIFACT internationally and as a national standard with the help of the national standards organizations. It was underscored that compatibility of the various different systems for electronic message processing needed to be ensured. An illustration of the use of EDIFACT was a current project between the European Union and the United States with the objective that customs authorities could exchange commercial data obtained from traders to each other to build a seamless transaction. Other countries had been invited to observe this process. EDIFACT was used in this process.

4.6 Concerning a question regarding the relation between EDI and the internet, it was noted that several distinctions existed between these two concepts. The first difference was that EDI arrangements were bilateral agreements between the parties. These bilateral agreements could be multiplied between a multitude of participants, but they were basically founded on contracts between businesses. One problem of EDI was that initially, when started off with a small number of users (companies or organizations), the costs were low, but as the number of users would increase, the costs would go up almost exponentially. Electronic commerce on the internet on the other hand was a many-to-many situation and a much more open system. The infrastructure to support electronic commerce was quite expensive, which made it not profitable if used only by few. Infrastructure was consisting not only of technology but also of the legal, regulatory framework around it and the best practices and procedures to operate it. The value of electronic commerce was on its economies of scale, as the marginal cost of adding participants was very low. In cases involving about half a million to a million users, electronic commerce was obviously the appropriate means. If a small number of participants was involved aiming to speed up the orderly flow of business in supply chain automation, then EDI was more suitable.

4.7 The representative of ESCAP stated that one had to understand that the internet was a transport mechanism. EDI could operate on any protocol. For small or medium-sized enterprises who were executing only one or two transactions per day and were not particularly concerned with security and speed, the internet was a very good option. In a few years, when security concerns were sorted out, the internet would be a key transport mechanism which would propel EDI forward. EDI messaging was one of three core technologies in electronic commerce, the others being identification and numbering (e.g. of locations or goods) and the other was coding to survey where the physical goods were flowing in tandem with information. A project sponsored by the Asia EDIFACT Board called "Internet Working Customs" had been conducted in Asia. It was an experiment with five countries based on the idea to make use of the internet in customs administration. The result of this project was that technology was not a problem and all problems in this respect could be resolved. The issue was to discover what the technology could actually do for customs. This was a debate not at the technical level but at the highest management level.

4.8 Regarding the question of preshipment inspection, the representative of Mexico recalled that this important issue was already included in the WTO legal framework. While the use of PSI in certain circumstances was recognized by the World Bank and in the context of the Columbus Conference on Trade Efficiency as a necessary means to assist the work of customs, it was also considered as a temporary measure and governments should avoid using such services over longer periods of time because of the cost and the delays that this could entail. How long was "temporary" in this context? On the question whether information technology - as foreseen in the revised Kyoto Convention and other legal instruments - could help accelerate the phasing out of preshipment inspection, the Director of Customs, Chile, stated that the cost of preshipment inspection to external trade was equivalent to raising average tariffs by one percentage point, equivalent to a 15% tariff increase in the case of Chile. More effective ways of control were available. In Chile, the import customs declaration was accepted beforehand, through fax for instance. Secondly, the information exchange with customs had been improved. Chilean technical specialists worked in neighbouring countries customs in order to get prior relevant knowledge to conduct effective customs control. These methods were much cheaper than operating with external agents. The government had fully supported the reform of the Chilean customs service. It had intervened by not intervening, in particular in the management of the customs services. Management measures were always supported

and backed up, and customs was given a great deal of autonomy. The government had accepted a project-based budget discussion which permitted long-term planning for customs. Also, cooperation between different public authorities administering parts of foreign trade activity had improved. Customs participated in the discussion of any external trade arrangements. Also, together with other customs administrations in the Americas, Chilean customs was engaged in international cooperation. A WCO programme for customs reform was seeking to assist developing countries and would draw on Chilean customs officers amongst others.

4.9 The Moderator, Mr. Van der Valk of the ICC, concluded that information technology and electronic commerce were important elements in the discussions on trade facilitation in the WTO. In addition, it was also in itself a subject that many feel should be looked at by the WTO. From a business point of view the multilateral framework needed for electronic commerce should perhaps be based on the notion described by one of the speakers as "intervening by not intervening."

III. PRESENTATIONS BY INTERGOVERNMENTAL ORGANIZATIONS

United Nations/Economic Commission for Europe

1. Dr. Carol Cosgrove-Sacks, Director of UN/ECE's Trade Division, and Mr. Henri Martre, Chairman of the Centre for the Facilitation of Procedures and Practices in Administration, Commerce and Transport (CEFACT), gave an overview of the trade facilitation work UN/ECE had been undertaking over the last 30 years. UN/ECE covered a geographical area where two-thirds of world merchandise trade and commercial services were conducted. The main facilitation work related to procedures and practices, as well as transport and transit. CEFACT provided a forum for cooperation between the private sector and governments. One of CEFACT's main trade facilitation instruments were its 26 Recommendations on the simplification, harmonization, and standardization of trade procedures, most prominently the UN Layout Key for Documents and UN/LOCODE, for the identification of trading locations around the world. These recommendations not only facilitated traditional, paper-based trade, they were also a prerequisite to computerization and the use of Electronic Data Interchange (EDI). CEFACT was currently working on recommendations for audit-based controls and risk management to facilitate goods clearance. A second area of work was electronic commerce where CEFACT concentrated on business-to-business communications by means of EDI. UN/ECE had developed the only international standard for EDI, known as UN Electronic Data Interchange for Administration, Commerce and Transport, or UN/EDIFACT. More than 150 standardized messages had been developed in this standard. In addition to these areas, CEFACT was developing a model of the international trade transaction covering thousands of data flows between all parties involved in international trade. On transport, the Inland Transport Committee of UN/ECE had prepared more than 50 multilateral UN Agreements and Conventions, which were applicable also outside UN/ECE's geographical reach and constituted the core of international transport law. The most prominent Convention was the TIR Convention which aimed at facilitating transit by minimizing physical checks at borders. Other areas of UN/ECE work included standard setting for agricultural produce, and coordination of statistics to avoid duplication of work in all areas of statistics.

2. UN/ECE was committed to working with the WTO in order to achieve increased transparency in the trade transaction. CEFACT could provide the necessary technical expertise where the WTO needed standards or procedural solutions to overcome imperfections in the trading process. CEFACT recommendations should be endorsed by and embedded in WTO Agreements. The WTO's Trade Policy Review Mechanism should put increasing weight on trade facilitation, and include CEFACT's recommendations into the scope of its analysis.

United Nations Conference on Trade and Development

3. Mr. Hans Carl, Chief, Trade Facilitation Section, UNCTAD, introduced several products UNCTAD had developed to assist developing countries to leap-frog various stages in the modernization process of their administrative bodies. The Automated System for Customs Data (ASYCUDA) significantly simplified customs procedures, speeded up cargo clearance and helped augment government revenues. ACIS, the Advance Cargo Information System, was a transport facilitation tool. Shippers using passwords could access railway data bases over the PTT networks to determine the whereabouts of their goods, allowing for quick removal of the goods once trains have arrived at destination. Users of ACIS reported substantial savings in operational costs, better use of rolling stock, as railways would now know where their wagons were, and traders were able to take delivery of their goods faster. Another trade facilitation device were Trade Points, developed since UNCTAD VIII in 1992. To date, 44 operational Trade Points existed as information centres assisting traders in identifying trading opportunities and provide information on the trade procedures involved. Some hundred more Trade Points were in the process of implementation. The emerging network of Trade Points would allow today for the electronic exchange of information about trade opportunities. In addition to these products, UNCTAD had played a key role in the promotion of the multimodal

transport concept over the last 20 years, and had in cooperation with the private sector (e.g. ICC, FIATA) set up voluntary model rules for multimodal transport documents. Success in implementing trade facilitation programmes generally depended on careful, long-term preparing of the ground, by assisting governments to create a legal and administrative environment able to support large projects, investments and new ideas. The WTO could be an ideal vehicle for converting the many existing trade facilitation recommendations, particularly those developed at the UN International Symposium on Trade Efficiency (UNISTE), into legally binding rules.

World Customs Organization

4. Mr. Douglas Tweddle, Director of Compliance & Facilitation, World Customs Organization (WCO), explained that under the roof of the WCO, customs administrations from 146 governments were supporting and developing a range of instruments and programmes to reform and modernize customs practices, including the Harmonized System, the management of the WTO Customs Valuation Agreement, the development of non-preferential rules of origin on behalf of the WTO, the revision of the Kyoto Convention on the harmonization and simplification of customs procedures, and the development of a Customs Reform and Modernization Programme which was designed to assist committed administrations in reforming and upgrading their operations on the basis of modern facilities. To address the remaining administrative barriers to trade effectively, the combined influence of intergovernmental organizations such as the WTO, UNCTAD and the WCO, as well as effective cooperation with private sector representatives such as the ICC, would make a significant contribution to both trade facilitation and trade compliance. Trade Facilitation was a priority area for the WCO. Numerous programmes supported this objective. In coordination with the private sector, the WCO had developed Express Consignment Guidelines, which supplied a ready-made set of customs procedures for all express consignments. Regarding customs corruption, the Arusha Declaration of 1993 delineated some of the adverse economic and social consequences of customs malpractice and sought to rally concerned Members behind a call for progressive reform. Other WCO initiatives included the WCO Information Technology Guidelines, the promotion of Memoranda of Understanding between trade and customs, and a study on the time required for the release of goods. This study was a tool intended to help customs speed up goods release. The priority task currently undertaken by the WCO was the revision of the Kyoto Convention. The revision process took into account the intervening radical changes in trade, transport and administrative techniques of the last 20 years, and included modernizing provisions for electronic commerce, risk management and audit-based controls. The revised Convention also contained new implementation guidelines which should facilitate adoption of the modernized procedures. The revision process also examined how to make the provisions more binding on customs administrations than under the existing system.

International Trade Centre

5. Mr. Carlos Cattani, Senior Adviser on Trade Financing of the ITC, described the ITC as the focal point for technical cooperation in developing and transition countries as regards trade promotion. While the ITC's programmes occasionally also dealt with the removal of administrative barriers, the thrust of its activity was to increase trading capacity and set up the appropriate infrastructure that would allow for trade liberalization. Its main task was to assist exporters to increase their volumes by identifying markets, to export better products by adapting them to market needs, and to import more cheaply by improving management techniques which made traders internationally more competitive. By providing analyses, a variety of information tools, and databases the ITC had supported regional integration initiatives, seeking to further trade between geographically close potential markets, which were lacking information and contacts to effectively establish trade links. Several trade information tools had been developed to create trade opportunities. Another focus was trade finance. Here, the ITC had programmes providing for trade funding to developing countries, and was getting involved in the simplification of procedures for banks in

rationalizing trade credit requests, preparing diagnostic tools enabling SME bankers to speed up the analysis of transactions submitted for financing, and harmonization of bank guarantees.

International Monetary Fund

6. Mr. Adrien Goorman, Senior Economist, Tax Administration Division, IMF, explained that the IMF was involved in trade facilitation because foreign trade was one major instrument to achieve growth. Obstacles to foreign trade operations resulting from regulations, rules and border procedures, would run directly counter to that objective. IMF involvement in trade facilitation extended to policy advice in the context of consultations and economic and financial restructuring programmes with member countries, and through its technical assistance programmes. Policy advice was given on the foreign exchange and payments regime, seeking to remove exchange controls. In the context of trade liberalization policy, the IMF recommended the removal of quantitative restriction and other non-tariff barriers; the reduction, rationalization and simplification of tariffs; deregulation; and the establishment of open, transparent, and easy to administer trade regimes. Fiscal policy advice aimed at establishment of tax systems that provided adequate revenue while being economically efficient, simple, transparent and easy to administer. Technical assistance aimed mainly at the efficient collection of tax and tariff revenues, as good fiscal performance was of crucial importance in achieving economic stability. The main problems usually were to be found in restrictive and complex trade regimes and tax and tariff systems; in inadequate or obsolete customs legislation and procedures; in the belief that computerization was the answer to all problems; in regulations of various departments that required non-coordinated controls and checks at the time of importation; in old-fashioned attitudes of the customs administration; in old-fashioned organization and management systems; in lack of integrity; and in inadequate infrastructure. IMF strategies saw the need to address all issues together, as a piecemeal approach would rarely result in the desired improvements. In order to be successful, governments had to accept ownership of the process and make it a priority policy implementation project. Concrete measures that had to be undertaken was the establishment of transparent legislation, aligned to international conventions, as well as simple and up-to-date procedures. To support these objectives, computerization, and reform of organization and management systems was essential. IMF programmes had led to modernized procedures with drastically reduced clearance times in many countries. The main obstacle to the successful implementation in other countries was usually to be found in heavy human and financial resource constraints in developing countries.

World Bank

7. Mr. Jayanta Roy, Principal Economist for the Middle East and Northern Africa, World Bank, explained that trade facilitation was part of several World Bank activities - project lending (transport), adjustment lending (customs, quality standards and simplification of procedures), technical assistance loans (modernizing -customs) and economic and sector work (export promotion and competition). The World Bank had focused its trade facilitation activities in the 1980s mainly on transport facilitation, though merely accounting for 2% of non-infrastructure transport operations. Increasingly since the early 1990s, customs modernization and reform programmes had been conducted. In the case of Jordan, a new customs law based on best practices, was being worked on. The law would be WTO-consistent, and require that customs valuation be based on self-declaration by the importers. The government was planning to allow importers to use the services of a selected pre-shipment certification provider on a voluntary basis. The certificates issued by this agency would then have to be accepted by Jordanian customs. Such services would be financed by the importer. A scheme was being devised to permit "green channel" for imports of materials, equipment, and components used in the production of exports. A computerization programme with use of UNCTAD's ASYCUDA was in progress. A project in Lebanon had brought significant progress by simplifying documentary requirements by development of a Single Administrative Document.

World Trade Organization

8. Mr. Heinz Opelz, Director, Market Access Division, WTO, gave an overview of WTO rules related to trade facilitation. He referred to Articles V (Freedom of Transit), Article VII (Valuation for Customs Purposes), Article VIII (Fees and Formalities connected with Importation and Exportation), Article IX (Marks of Origin), and Article X (Publication and Administration of Trade Regulations) of the GATT 1994, as well as to the relevant provisions of the Agreements on Customs Valuation, Import Licensing Procedures, Preshipment Inspection, Rules of Origin, Technical Barriers to Trade, and the Agreement on the Application of Sanitary and Phytosanitary Measures. He stated, furthermore, that a number of commitments under the General Agreement on Trade in Services (GATS), and under the rules of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) also addressed aspects of trade facilitation.

IV. GENERAL DISCUSSION

1. The representative of Switzerland stated that in the view of his delegation the Symposium provided an opportunity for a very interesting first exchange of views between business, traders, international organizations (both intergovernmental and non-governmental), and also between different agencies within governments, i.e. trade policy and customs administrations. A sometimes puzzling picture had emerged of numerous complaints on the side of business and, on the side of the international organizations, of numerous examples of trade facilitation work being undertaken and sometimes successfully completed. This was not the place or time to debate who was right and whether customs administrations really were as bad as some had claimed during the Symposium. Many issues had been raised, and many proposals been made, i.e. the establishment of single documents, valid world-wide, universal rules and certificates and, in a very convincing manner, the need to focus WTO attention on the rapidly growing importance and the various forms of electronic commerce and EDI. The Swiss delegation had noted the high expectations from all parts of business, producers, traders and forwarders who seemed to expect the WTO to solve all the problems which had not yet been settled in other fora, but nobody had warned against the possible implications for the contractual autonomy of trading partners if indeed the WTO would decide on forms and on the substance of their business relations.

2. He welcomed that the WTO Trade Facilitation Symposium had provided one of the all too rare opportunities for the international trade diplomacy for a direct interface with people from the "real world". Trade diplomats working in the WTO would have to take very seriously what had been suggested over the last two days. One question would emerge: what can really be done in the WTO? It was clear that the WTO would not and could not substitute others. But the WTO could and should improve coherence between customs and trade policy and WTO rules already existed which could be used to address quite a few of the queries that were raised during the Symposium. Those rules could be developed further if need be. To name but two examples, one could just think of the numerous notifications and transparency obligations, of the rules against "trade harassment" and against the abuse of discretionary power, e.g. obligations on non-automatic import licensing. One important aspect on the agenda of the Symposium was the trade promotion role of trade facilitation. Indeed, to the Swiss delegation it was quite clear that technical assistance for countries in need of modernising their trade and customs administrations in order to facilitate their traders' lives needed to be provided on an increased scale. Switzerland stood ready for this task which should be entrusted to those agencies which could best provide such assistance. In conclusion, the hard work of implementation and follow-up to this Symposium should start without further delay. Switzerland had been active in the preparation of the Symposium, and also intended to further contribute to the work as it would progress.

3. The representative from the European Commission noted that the Symposium had covered a broad range of issues, from transportation to electronic data transmission, from technical barriers to trade to import licensing etc. The enormous breadth of the problem had been illustrated well in the work of this Symposium, and the EC delegation was impressed by the expectations of many speakers regarding improvement to be brought about by the WTO. The recognition of a very clear role for the WTO in trade facilitation had been a common theme in the various interventions. Future WTO involvement would certainly merit further reflection. The presentation by the WTO Secretariat had highlighted the very different and numerous areas where, within the WTO, attempts had already been made to address the issues that the so-called real world faced, from transparency to requirements not to impose procedures stricter or more burdensome than necessary etc. All of this called for further analysis and echoed the decision taken at Singapore to analyze the room for trade facilitation within this organization. In addition to all the presentations made, a thorough report by the WTO Secretariat on the proceedings of the Symposium would be beneficial and provide a basis for the Members to develop their ideas and solutions as to what could be done within the WTO. The Symposium had been informative and had enabled an exchange of views, but was not the forum in which decisions were to be made. While the EC position on Trade Facilitation was well known and documented, he hoped that those Members who had hesitations before the Symposium had heard the expectations by

the private sector and had heard the story of the Chilean experience which illustrated how the simplification and modernisation of customs procedures was a win-win situation for all the operators. Growing world trade required development in the management of handling this growth. Growing documentation and the explosion of paperwork with the growth of world trade as well as further requirements on human resources were all reasons that should allow governments to move jointly forward in the direction of trade facilitation, because all governments were working under very tight budget constraints and should jointly work out solutions that addressed these questions in the most rational manner. In accordance with the point raised by Switzerland, there were perhaps too many expectations, and the WTO could not solve all the problems. One should not fall in the trap of trying to simply use the WTO as the means to enforce solutions developed in other international organizations with the help of its much envied dispute settlement system. He further highlighted the importance of technical assistance. The upgrading of human resources and increased use of information technology was important while streamlining procedures. This would require technical assistance for many Members, one should think how best to provide this. Also in this particular area, more focus should be put on the least developed countries, on which a WTO high level meeting last year sought ways to involve these countries more thoroughly in the world trading system. This Symposium had delivered some messages of how to better coordinate the different activities in favour of those countries by the different organizations present.

4. The representative of Bangladesh noted that in the pursuit of trade globalization and in moving toward borderless business, the developed countries had made dramatic advances in information technology, harmonization and modernization of customs and tariff rationalisation. They had also developed infrastructures for faster movement of goods and services, etc., which all contributed greatly to trade facilitation. In order to compete more effectively, steps had been taken to introduce Electronic Commerce, EDIFACT, or to build Multimedia Super Corridors.

5. To the developing and least developed countries (LDCs), not only were such modern devices far from reality, they also had not had the opportunity to having market access in their regions, let alone in the developed countries who often imposed various extra conditions related to labour issues, child labour, environment issues, and many other barriers like eco-labelling, or the levying of countervailing duties. Thus the less developed countries had been suffering from lack of trade facilitation and market access although they were equally keen to build their capabilities and come into the mainstream of international trade. As Members of the WTO, they should receive equal opportunities from the developed countries. Many of the developing countries had a lot of natural resources and skilled, educated manpower which they would like to make best use of, in developing their economies. But they would need to have modern technology, faster infrastructure development and above all financial support from the developed countries.

6. In the light of requirements for equitable share of technology and resources, he recommended that the LDCs and developing countries should be allowed to have preferential treatment in transfer of technology; building capabilities of enhancing the base of production and base of exports for quality products; free access to markets in countries of the region, as well as to the developed countries; suitable schemes for creating motivation and providing incentives for market access for the LDCs; financial support from international agencies like IMF/World Bank for developing the private sector of the LDCs and the developing countries; technical assistance support from the ITC and similar organizations to enhance the technical capabilities of the SMEs for product development as well as for building information technology systems.

7. He requested the WTO to set up a Trade Facilitation Centre for the LDCs in Dhaka, since Bangladesh had a very strategic location in South Asia, from which a number of LDCs could benefit. The Dhaka Chamber of Commerce and Industry (DCCI) could work as the local partner.

8. The representative of the United States agreed that a wide range of issues had been addressed over the course of the Symposium. He took note of the prominence of ongoing work in the WTO, especially regarding customs valuation, preshipment inspection, TBT and other issues. He also took note of the emergence of electronic commerce, which was a steadily growing area, holding an enormous promise. Emerging opportunities in electronic commerce had the potential to help remove corruption and other unwanted practices world-wide, and improve efficiency. This would help growth, especially in developing and least developed countries. Another important element of the Symposium involved coherence. There was a definite growing need for coherence among governments, between agencies, between trade ministries and customs administrations. There was also a need for coherence in the work of the various international organizations whether it was providing technical assistance in a coherent and coordinated manner, or even dispensing trade policy and ensuring its coherence across the board. He agreed that the private sector held high expectations for WTO involvement in trade facilitation. The analysis that needed to follow this message would take some time for WTO Members to absorb. What was presented was neither new nor uncommon to the work of the WTO, which was ensuring the existence of a rule-based environment to enhance the trading system. More analytical work needed to be done and the process needed to be looked upon as a journey. There was an enormous amount of work going on, but there was a clear call for the WTO to examine and further study where its role was in trade facilitation.

9. The representative of Egypt acknowledged the important and vital role trade facilitation would play in enhancing trade efficiency, thus enhancing the development efforts in particular in developing countries. The conclusions and recommendations of the Symposium should take into consideration the mandate of the WTO work drawn up by the Ministerial Declaration in Singapore. He reminded that Members were still in the process of analytical and exploratory work, and expressed his belief that unfinished work in many areas under WTO Agreements should be completed before any new commitments were added to the WTO agenda.

10. The representative of India stated that the international community had been working on many areas relating to trade facilitation in the last 2-3 decades through international bodies such as the WCO and UNCTAD. Electronic data management technologies addressed old problems, but through innovative and appropriate means. With reference to the various problems of trade facilitation in India, which had been raised during the first day of the Symposium, she believed that the solutions suggested would not in all cases present appropriate means. Indeed, India's federal structure would throw up many problems if it were assumed that all domestic markets were necessarily single markets. In a developing country of such social and economic diversity as India, inter-state border problems and delays were inevitable, and their solutions would lie in development and the creation of infrastructure which was a necessity for the introduction of paperless trading. While she agreed that exchange controls were a relic of the past, she argued that a certain degree of exchange controls was necessary for a country like India.

11. The changes proposed concerning the simplification of procedures, alignment and standardization of documents, introduction of electronic commerce and the development and application of international standards were more radical than the recognition of the real problems would suggest. There were suggestions that automation, risk assessment and audit-based controls must underpin these changes. The reality, however, was that systems designed on these premises addressed specific types of international trade transactions, while excluding from real gains the vast majority of small and medium-sized entities and their transactions. The suggestion that these systems might be introduced within the legitimate business community of major multinationals and other qualifying entities, would only bring forth a new and highly destabilising set of reservations in the conduct of international trade, which could not be held to be the objective of the WTO. The WCO had assessed that there existed 1500 reservations to the Kyoto Convention; the priority was to try to understand why these reservations remained, and how they could be progressively eliminated. The existence of barriers in trade facilitation in the broader context of the non-tariff barriers should first be

examined, both in their old and new incarnations that restricted trade and added to the costs of transactions.

12. The representative of Zimbabwe noted that the Members of the WTO were at different levels of development, with many - particularly African - developing countries lagging behind. It was a challenge to the WTO to integrate trade facilitation procedures in all these countries. Africa, in particular, would require clear rules and practises to govern road, rail, air, and sea transportation.

13. In reply to questions addressed to the representatives of the IMF and the World Bank on how experts were chosen to conduct work on customs reform and from what standards or best practices recommendations were made when grants were made conditional on customs improvements, the representative of the IMF replied that every single measure in structural adjustment programmes was negotiated between the responsible IMF department and the respective national authorities. Only some of the programmes included conditionality on improving customs administration. The measures proposed were normally not very specific, although they might include the introduction of a transaction-based customs valuation system by a certain date. As only general policies were recommended, the definition of the measures at the moment of programme negotiation would not require detailed expertise in the area. In cases where there was a need to include measures that affected administrative organisational procedures, those would be checked with specialists of the fiscal affairs department.

14. In this connection, the representative of the World Bank emphasized that it was important to understand that the programmes were "owned" by the respective governments and were not imposed without regard for the good of the country. Trade facilitation came hand in hand with tariff rationalization. In many programmes, the World Bank had been trying to reduce the duties on capital goods, and was including questions of tariff exemptions, or fees and surcharges into their programmes. In order to improve customs laws, the World Bank was contracting the best available experts to work with the governments and the customs departments for 3-6 months to draft customs laws. Once a law was drafted, the private sector would be invited to comment, and after their inputs have been taken into account, the law would be passed onto the cabinet and from there to the Parliament. The World Bank was not trying to impose a specific design in trade facilitation, but to ensure arrival at the solutions. In this area, conditionality was introduced, and technical assistance offered to implement the prescriptions. For example, in Jordan, the World Bank was administering a US-\$ 15 million technical assistance programme over the next three years.

15. It was stated that one could divide the suggestions made at the Symposium into two particular segments. One was a long-term, high-cost suggestion. The other concerned short-term, low-cost operational matters regarding which a number of specific tasks could be considered. Human resources were a critical factor and were fortunately an accepted item for all technical assistance programmes. Regarding non-tariff barriers, also the export customs regime had become increasingly difficult, particularly in the context of newly emerging barriers. A third big problem laid in the lack of transparency of the legal framework in customs affairs, where laws were complemented by innumerable references to notifications, administrative orders, etc., frequently subject to different interpretations at different customs houses. It should be contemplated to produce a compendium of all rules and requirements. Fourthly, case studies of successful reform projects, such as in Chile, could perhaps be compiled by WCO, WTO, UNCTAD or any other organization and disseminated. One coordinating agency should serve as a clearing house and develop a mechanism for collecting good examples and make them known among the users, customs administrations and licensing agencies.

16. The International Express Carriers Conference (IECC) strongly supported the idea of making the revised Kyoto Convention binding and enforceable on all WTO Members, as this would help to harmonize and modernize customs procedures. The revision process of the Kyoto Convention had started in 1994 and would most likely be concluded in the year 2000.

17. A private industry representative welcomed the Symposium as an important and unique exercise for the private sector to express its views. He assured the Swiss delegation that by no means would commerce seek to refer all its problems to the WTO for solution. Trade and business were very interested in carrying their part of the burden in trade facilitation procedures and trade facilitation development, both through self-regulation and also regarding the interface between commerce and governmental bodies such as customs.

18. The Director of Customs, Chile, stated that quite often the customs had taken on functions that were beyond the law and had sometimes forgotten their basic mission - collecting customs revenue in an effective and efficient way - by taking on additional duties. In Chile, customs had tried to stick to the basic mission and leave the rest to the private sector. Also functions such as customs valuation could be contracted out to the private sector, for reasons of cost and maintaining independence. As regards exchange restrictions, valuation had often been done by the central bank itself. It would have been very difficult for customs to do this. One should not forget that still a lot remained to be done. One key part to the progress of his administration had been the ability to learn from what was done by more advanced customs administrations. Experts from Chilean customs were observing the work of other administrations, and it was not so much customs technique that was learnt, but rather expertise in administration itself. Before thinking about new systems or procedures for the customs administration, one would need to develop a clear strategic plan discussed both with the public sector and the private sector. After such prior consultations, there was normally less opposition once various measures were introduced.

19. The representative of Mexico stated that one conclusion from the Symposium was that liberalization and facilitation of trade were complementary in terms of sustainable development of world trade. Another conclusion was that the legal framework (documentation and procedures) for international trade had become more complex despite the lowering of tariffs. Thirdly, the elimination of artificial barriers and the simplification and harmonization of procedures and documents was essential for competitiveness, for economic growth, and for the success of enterprises, in particular small and medium-sized enterprises. He noted that activities related to trade facilitation involved all foreign trade operations. Customs and electronic commerce were key issues. Little benefit would be derived from setting up a WTO Working Group on customs issues as it would result in duplication of efforts as the WCO was currently revising the Kyoto Convention and was the appropriate body to carry out such an analysis. Instead, perhaps the Customs Valuation Committee could cooperate with the WCO in respect of the possible revision of the Kyoto Convention. As regards the suggestion that the WTO should include in its trade policy reviews whether EDIFACT recommendations had been followed, the TPRM was not appropriate for this purpose. More analytical work needed to be carried out in the future.

20. The Chief Executive of SITPRO argued that trade facilitation was of a non-exclusive nature and must not be considered to be an exclusive club for the benefit of the developed economies and multinational corporations. By definition, trade facilitation must be mutually inclusive between countries from both the developed and less developed areas of the world. The work of international organizations was designed to benefit all trading partners regardless of the state that their economies had evolved into until today. For example, a SITPRO project creating electronic equivalents for aligned documents was specifically aimed at small and medium-sized enterprises and could be used anywhere where a trader had the ability to handle the electronic dimension of the project. Consequently, the complementarity of trade facilitation and electronic commerce needed to be discussed together. As far as electronic commerce and electronic data interchange was concerned, he disagreed with some of the answers given in the Symposium. It could be understood that the two were separate, whereas in fact they were part of the same set of enabling tools, which was very clearly demonstrated by the representative of CEFACT in his presentation.

21. It was also stated that electronic commerce consisted of two parts, (1) as a facilitator, e.g. when EDI was used in customs for modernization, and (2) as a new method of trading, which had been growing very fast over the last few years. In fact, electronic trading was widely encouraged and faced only a minimum of restrictions. It was necessary to ensure that there was no discrimination between trade undertaken electronically and trade undertaken in the more classical, physical manner. Perhaps the best way to ensure that there was no discrimination was to establish a close relationship between electronic commerce on the one hand and trade facilitation actions on the other.

22. The representative of the WCO said that his organization was looking very closely at the 1500 reservations placed on the current Kyoto Convention and the reasons for them. It was imperative to try and make sure that the new convention would not encounter any problems with those reservations. The revised Kyoto Convention would be a comprehensive set of customs procedures covering both exports, imports, transit and warehousing, and other customs procedures. One of the big changes to the current convention would be that in support of the standards and recommended practises within the convention, there would be a set of guidelines covering best practises with specific examples from particular countries and customs administrations. One of the big steps forward would be to actually use all the experience which was available to the benefit of other countries. He expressed the hope that the WTO would be able to support the Kyoto initiative in some way.

23. In closing the Symposium, the Chairman, Mr. Hoda stated that the presentations and discussions over the last two days had provided descriptions of a large variety of problems as well as a host of suggestions for future work on trade facilitation. Several familiar themes had been addressed but also some new issues had been raised. Most of the views expressed by the private sector as well as by the international organizations and other experts would provide the basis for the future analytical work on the simplification of trade procedures and would be a valuable input in the deliberations of WTO bodies in future. In the discussions, several delegations had stated their views on the future course of action to be taken in the WTO. First and foremost, the thought had been expressed that the WTO Agreements had to be complied with, and further work had to be done in areas such as rules of origin. That itself would contribute to the trade facilitation. As regards the work of other organizations, the suggestion had been made that the WTO should play the role of a coordinator, or promote adherence to and awareness of instruments by other organizations, that there should be a working party, or that the WTO should make these instruments enforceable; but there had also been suggestions that the WTO could not be used just as a means to enforce solutions developed by other organizations. The view was also expressed that the WTO agenda was already too full to add new items to it. He stated that all these views would be carried over to the discussions in the Council for Trade in Goods which was charged with the subject. In closing the Symposium, he thanked speakers and moderators who had freed themselves of other obligations and whose presentations had been of excellent quality. He also thanked the donor governments - Hong Kong, China and Norway - whose contributions had enabled a number of participants to attend.

D. COMPENDIUM OF ALL PRESENTATIONS

I. *INTRODUCTION OF THE TRADE TRANSACTION PROCESS*

Michael Doran, Chief Executive, SITPRO, United Kingdom

The international trade transaction - Introduction

Developing foreign trade and the identification of new market opportunities are amongst the highest priorities in all countries.

In order to achieve the necessary growth - substantial improvements in the efficiency and effectiveness of the overall trading process are required to meet the needs of world trade which is now being conducted in a global market place.

At the UNCTAD Symposium on Trade Efficiency (Columbus, 1994) it was stated that efficiency can only be achieved as a result of combining 3 activities:

- Trade Facilitation;
- Better Market Information;
- New Business Concepts.

What is trade facilitation?

Trade facilitation is the systematic rationalisation of procedures, information flows and documentation for international traders and agencies in order to facilitate the international trade transaction process.

Why is international trade so complex?

- Large number of government bodies involved and delays in shipments are often caused by lengthy checks being carried out by government agencies;
- Large amounts of information are required of traders;
- Often only paper versions of documents are acceptable;
- Incompatible procedures in exporting and importing countries create extra burden on traders;
- Language Barriers.

International trade is not just the physical movement of goods by whatever mode. Underlying are controls and regulations. This is an invisible infrastructure of information handling and exchange manifested by a great variety of documents or their electronic equivalents.

Today's paper world is costly and inefficient because of high error rates and delays in the movement of goods and in the associated payment process.

The most frequent result of inefficiencies in international trade is delay i.e. goods blocked for want of a document.

Why is domestic trade less complex?

In domestic trade there are essentially:

- Fewer parties involved;

- National government controls, audit *not* transaction based;
- Single set of national trading and legal practices;
- No exchange control requirements;
- No language barriers.

The objective of trade facilitation is to ensure that the international trade transaction process becomes simpler by easing the flow of information:

- Eliminating errors;
- Relating procedures to the trading communities needs.

What are the benefits traders expect?

Traders expect to get their goods to their customers:

- Cheaply;
- Quickly;
- Safely.

The benefits of trade facilitation include:

- Greater trading efficiency (just-in-time logistics);
- Lower costs (operating and inventory costs);
- Better customer service;
- Ability to introduce new business strategies.

What are the benefits governments expect?

- Better control;
- More effective use of resources;
- Accelerated growth in Global trade;
- Increased revenues;
- Increased incentives to inward foreign investment.

What are the costs of not facilitating trade?

The cost of burdensome trade procedures on business has been assessed at between 2 and 5 per cent of the transaction value¹. For example:

- Increased error rates in documents (which lead to delayed payment or loss of the contract);
- Inefficient use of staff time;
- Impossibility to reduce goods in stock (operating just-in-time systems less feasible).

A further estimate cited at the UNCTAD Symposium on Trade Efficiency in Columbus in 1994 placed the costs of trade transactions at between 7-10 per cent of the total value of world trade.

The lost opportunity cost of bureaucratic procedures is such that it is *the major deterrent* to companies considering entering into international trade, consequently they remain in their domestic markets.

¹Source: The European Challenge - 1992 The Benefits of the Single Market, Paolo Cecchini, 1992, Chapter 2

The benefits of having reduced tariff barriers are *not* obtained, as a result of *over complicated trade processes*.

What are the costs to government of not facilitating trade?

- Failure to compete in the Global Market;
- Loss of Market Share;
- Decreased Economic Activity;
- Social and Economic Decline.

The *real cost* of not facilitating trade has always been vastly underestimated. It results in *high costs* and *lower revenues* to government, which can lead to social and economic decline.

Globally, trade facilitation has been assessed by UNCTAD as saving up to US\$ 75 billion per year².

Costs are greater where transaction values are lower - this is particularly relevant to SME's and developing countries.

Non-tariff barriers to trade³

There is evidence to suggest that with the reductions in the levels of duty which may now be levied on importation's of goods, trade procedures are being used as an economic barrier. Examples include:

Complexity and lack of transparency - In any export market - Different procedures for each market, lack of information more costly to the trader - not knowing what to expect.

Transaction requirements - Pre-shipment Inspection (PSI), makes the trading process complicated and should not be seen as a permanent requirement - it is much more costly in terms of economies and efficiencies to using countries. The Columbus Ministerial Declaration called for governments to "avoid as far as possible to use PSI agencies to carry out customer related activities - it should be regarded as an interim measure and conducted in conformity with ..."

Documentation - increased costs and lower efficiency, requirements such as negotiable documents (Bill of Lading instead of Seaway Bill) and invoice declarations for origin and special requirements.

Prescribed payment methods - Such as requiring the use of letters of credit, prolonged payment.

Breaking down non-tariff barriers to trade

Simplifying and Rationalising the Procedures: Trade procedures are activities, practices and formalities involved in collecting, presenting, communicating and processing data required for the movement and payment of goods.

Simplifying procedures is about the requirements related to the movement of the goods, for example, the requirement to lodge a detailed transaction-based customs declaration at the port or airport.

²Source: UNCTAD Recommendations and Guidelines for Trade Efficiency, 1994, Chapter V, page 67. The document was prepared for the UN International Symposium on Trade Efficiency, Ohio, 1994.

³Source: UN/ECE Recommendation No. 12.

By rationalising official and commercial procedures significant costs can be saved. For example, official requirements no longer being carried out at ports, but at traders' premises.

Airports/Seaports can arrange their operations solely related to their commercial requirements rather than having them overlaid on official transaction requirements.

Aligning and Standardising Documents: Approximately 60 documents are used in an average international trade transaction. Although all of these documents have varying purposes, 80 per cent of the information contained within them is the same. However, often the document layouts differ, and this makes them difficult and costly to complete and process.

By rationalising and aligning the information required in documents to the United Nations Layout Key for Trade Documents⁴, errors in completion and costs are reduced.

In the UK there are over 70 such aligned documents.

Electronic Commerce: Once the procedures have been simplified and the documentation aligned and standardized, then the whole process can be computerised.

SITPRO is currently carrying out a project to produce electronic equivalents of the UK's Aligned Documents, the Aligned Documents and their Electronic Equivalents Project (ADEEP). In this project, SITPRO are designing simple messages which allow traders to interchange paper documents and their electronic equivalents with their trading partners and official bodies. It would maintain the benefits of aligned documents, while allowing for electronic transmission without excluding those who lack IT capabilities.

As an example of the potential cost savings of using *electronic commerce*, a paper-based purchase order can cost US\$200 to generate and process, whereas its electronic equivalent can cost as little as US\$20.

- Simplify)
- Standardize) Vision
- Computerise)

Whether a trader is currently at the beginning, or at the end of that process, a coherent strategy can be put in place and achieved over time, if the vision is clear and the trader has an end to end view of it.

Trade facilitation policy

- Include trade facilitation issues when formulating trade, transport, customs and other policies.
- Trade facilitation work MUST be co-coordinated at the national level and government agencies MUST play a pro-active role.

The work on trade facilitation policy includes:

Participation in international work on standards and trade facilitation recommendations (trade/customs/other government bodies - WCO, e.g. revision of Kyoto Convention)

⁴See UN/ECE Recommendation No.1.

Kyoto Convention Revision necessary due to:

- radical changes in trade, transport and administration techniques;
- the view that the Convention has not significantly contributed to the harmonization and simplification of customs procedures world-wide;
- small number of contracting parties to the individual annexes.

What needs to be done

Commitment to address International Trade Transaction Procedures: As tariff and other non-tariff barriers fall away, differing international trade procedures are now seen as more costly and problematic. A commitment is needed to address the international trade process and reduce costs for business, governments and consumers.

Overall Approach Based on the Trade Transaction: The whole of the trade transaction must be considered, from the point of quotation to the point of payment, with both official procedures and commercial practices included.

Commitment to Apply Simplified Procedures: There must be a commitment both by government and within various ministries and businesses involved in the trade transaction to apply simplified procedures.

Development and Application of International Standards: International standards and generally observed common practice should enjoy fully international observance.

Examples of new trade facilitation initiatives

Audit Based Controls: based on commercial records - eliminates systematic intervention during the movement of goods (similar to the Single European Market). The evolution should therefore be to audit based controls.

Risk Assessment: applying official and commercial controls based on the perceived risk. (e.g. trader compliance with customs requirements)

Current initiatives include:

- EDILITE) Simpler Electronic
- SIMPLEDI) Data Interchange
- ADEEP) UK Aligned Documents and Electronic Equivalents

In order to reap the benefits of electronic commerce, internationally agreed standards are vitally necessary, and it is also vital that government and businesses make every effort to have binding agreements. EDIFACT is a world standard for electronic data interchange (EDI). There is currently no agreed standard for electronic document interchange. WEB based initiatives are being developed, however there is a danger of the proliferation of new proprietary, as opposed to open standards, evolving.

Current international trade facilitation work

There are many activities being undertaken by trade facilitation organisations and private businesses, these include:

National trade facilitation organisations: For example, SITPRO, which is the United Kingdom's trade facilitation organisation.

Regional trade facilitation organisations: such as the UNICE, the European Commission (EC) and EUROPRO, which is the trade facilitation organisation of the European Union (EU) and European Free Trade Agreement (EFTA) countries. UN Economic and Social Commission for Asia and the Pacific (ESCAP).

An example of ESCAPs activities is a project to increase trade efficiency and services on trade facilitation for least developed, land locked and island developing countries and disadvantaged economies in transaction.

Global trade facilitation: Through the ICC, WCO, UNCTAD, IATA and the United Nations Economic Commission for Europe (UN/ECE) specifically through the Centre for Administration, Commerce and Transport (CEFACT). This body produces international recommendations, setting out the world standards for best practice.

WTO role in trade facilitation

The current situation in world trade is that:

- The free flow of goods is being hampered;
- Many different initiatives exist which need to be brought together at a global level;
- The advantages of global commerce will never be attained if non-mandatory recommendations do not evolve into enforced rules at a global level.

The WTO can facilitate the international trade transaction process by:

- *Realising its responsibilities* for removing trade barriers, increasing global trade and increasing economic efficiency.
- *Putting trade facilitation firmly on its work program* and committing itself to cutting business and consumer costs and removing trade barriers in the trade process - an area not covered by current WTO rules.
- *Integrating existing standards and recommendations* on aligned documents, customs and other procedures into a new WTO agreement, involving international trade bodies, businesses and governments in formulating new global rules.

Fermin Cuza, Sr. Vice President, International Trade and World-wide Government Affairs, Mattel, Inc.

Mattel Inc. is the world's largest designer, manufacturer and distributor of toys and makes almost all of its own products in its 17 manufacturing plants in Asia, North America and Europe, supported by 26,000 employees and 2,000 vendors and suppliers. We sell our products in 150 countries resulting in US\$5 billion in annual sales. This background information shows that Mattel is a global corporation and customs is a big part of its life. Dealing with trade barriers obviously has an impact on the economic well being of such a company.

Although our headquarters are located in the US, Mattel's future is in the global marketplace. Why is this? The answer is simple. Only 3 per cent of the world's children live in the US. The average girl in the US already owns 9 Barbie dolls. This is why our future is in the global market and why we have set a goal to double our international sales in 5 years. Because of this global vision we are very much dependent on the success of the WTO and its efforts to promote global economic prosperity by reducing obstacles to trade.

Mattel and the toy industry have already benefited from the WTO's efforts. For example, when the Uruguay Round went into effect on January 1, 1995, US toy tariffs went down from 12 per cent, three times the US average of 4 per cent, to FREE. However, an average tariff rate of 10 per cent still remains for us around the world. We are hopeful that these remaining tariffs will be eliminated in the next round of WTO multilateral negotiations.

This presentation, however, will talk about customs barriers which often are more costly to traders and toy companies than tariffs. Customs barriers were not addressed under the Uruguay Round, and therefore many of the benefits and opportunities for expanded trade which were negotiated during the Round are not being realized today. Global traders, especially small businesses, are constantly faced with the costs of unnecessary inspections, the complex local procedures and documentation requirements, the threat of an inconsistent application of the WTO Valuation Agreement and tariff classification, and the delays in getting their goods to foreign buyers.

In order for the WTO to maximize the potential benefits of global trade, it must help simplify the customs process, so that small businesses, not just Mattel and other multinational companies, can compete and prosper.

Before addressing specific examples of customs barriers and international efforts to reduce these barriers, let me first describe in very simple terms, the typical international trade transaction which includes both the physical movement of goods as well as the physical movement of data required by customs authorities.

Before a good reaches the customer, it passes several other locations. Typically, it gets transported from the factory to the port of departure, then enters a ship or aeroplane which carries it to the port of arrival. There it gets transported to the customs checkpoint, then the distribution centre, and finally the customer.

The other part of the international trade process is the movement of documents. Sometimes this takes a greater effort than the actual physical movement. Today, many customs administrations around the world are allowing the submission of data to be handled on a paperless basis. Mattel is able to take advantage of this wherever it is available. In the U.S. for example, where 50 per cent of our sales occur, Mattel is able to submit the data required by customs before the ship actually arrives and to get a preliminary indication as to whether the goods will be inspected or not. That allows a

company to make local arrangements for transportation of the goods to our customers. A typical cargo ship also carries 500lbs of paper (invoices, bills of lading, packing lists, certificates of origin or conformity, etc.) which is required for customs so that the goods can be cleared upon arrival as well as for other elements of the trade process.

A U.N. study on trade efficiency showed that an average transaction includes 27 to 30 parties including such groups as customs brokers, vendor suppliers, banks, carriers, sureties, freight forwarders etc. Forty documents were necessary, many of these not just for governments but for carriers, bonded warehouses and other components of the trade process. Of approximately 200 data elements, 15 per cent were re-keyed up to 30 times, and 60-70 per cent were re-keyed at least once. In addition, a large number of unnecessary inspections persist, which happen when customs has not established risk assessment concepts which would allow that high risk shipments be segregated from low risk consignments and customs enforcement activities concentrated on those shipments with a perceived high risk. Another barrier that is frequently overlooked is hours of service. Ships operate 24 hours a day, companies operate 24 hours a day, business activities are taking place 24 hours a day, but frequently customs operations are limited to Monday to Friday, 8-5 p.m., excluding holidays. The hours of service of customs administrations should correspond to a larger extent to the reality of international business. In addition, certificates of every kind imaginable are frequently required to allow the goods to enter, labelling requirements and a different set of health and safety standards have to be observed in each and every country. Frequently, additional accounting and finance documentation is required in order for an importer to take advantage of reductions of tariffs and fees. All of these obstacles contribute to the high cost and long delays in the international trade process. The cure is to try to make this complex environment simpler. The goal should be to simplify the international process so that it becomes more like a much simpler domestic transaction. And obviously we need to harmonize. Not all of the WTO countries have adopted the harmonized tariff system or the WTO Valuation Agreement. Thirdly, automation is required wherever possible. In addition to these three suggestions, greater WTO participation is needed, as is an understanding that customs is an integral part of the international trade process.

Obviously customs efficiency promotes economic prosperity -- especially also for small businesses. Small business has an important role in the global marketplace and great potential for economic benefits on a global scale. In the U.S., for example, small businesses are responsible for 50 per cent of all jobs and in the last 15 years two-thirds of all new jobs have been created by small businesses. However, when it comes to international trade, small business is at a major disadvantage. Multinational corporations like Mattel employ customs experts, attorneys and consultants, and can overcome trade or customs barriers much more easily. Small business does not have the resources to do the same. After one bad experience with the impediments in international transactions, many may just withdraw from the international marketplace, therefore hurting that company, hurting that country, hurting the growth of jobs and undermining the benefits of the Uruguay Round and other international trade agreements.

There are numerous current initiatives to reduce customs barriers. The International Chamber of Commerce (ICC) published customs guidelines which are intended to help the business community to work with their customs administrations around the world to have an exchange of information and of views to achieve greater efficiency in customs. Customs administrations need to hear from the private sector. The private sector is customs only client, after all. In this context, the WTO trade facilitation Symposium is an important event. This Symposium brings together government officials from many countries, officials from international organizations and representatives from the private industry. In organizing this event, the WTO is setting a wonderful model for all of us to take back to our countries and try to promote this kind of exchange of views and cooperation. The APEC organisation has also been working very hard to come up with customs guidelines for the various countries. The Transatlantic Business Dialogue (TABD) process is also contributing towards

reducing customs and trade barriers. The revision of the Kyoto Convention is going to make a huge contribution to this objective. However, it is important that the WTO is becoming more involved with the customs process. Up until now it has not been involved, perhaps for the good reason that it was mainly interested in tariff reductions which have been contributing towards greater economic prosperity. Much as we see when the tide recedes in a harbour and sometimes it exposes the rocks, we are seeing today, as we clear the deck of some of these major obstacles that we have experienced over the centuries, is that the customs process can be a real obstacle to trade. It may be undermining the important benefits for which WTO Members have worked so hard.

The ICC customs guidelines are a comprehensive set of recommended customs practices to facilitate trade and improve customs effectiveness and efficiency. They cover, inter alia, the importance of automation for making the customs process more efficient, the importance of professionalism within the customs administrations, transparency, public outreach, and the importance of separating the physical inspection of the goods from the review of documents so that goods can be released while the documents are reviewed. And of course the ICC strongly endorses the adoption of the Harmonized Tariff System and the WTO Valuation Agreement by all WTO Member countries. In the APEC area, important progress is also being made in customs facilitation, and activities include the enhancement of transparency of customs procedures, introduction of clear appeals provisions, development of harmonized data elements, and guidelines on express consignments clearance. APEC has even developed a business travel card, or Visa, for business people to use to facilitate their travelling to conduct international business without the inherent delays which we have experienced today in obtaining Visas and other travel documents.

Looking ahead, two key areas are of special importance. First, the world business community urgently needs a comprehensive set of binding and enforceable rules for ensuring high standards for customs procedures and practices in the form of a WTO Agreement. There is much going on already under the leadership of the WTO, e.g., Rules of Origin, preshipment inspection, or Customs Valuation. This work has served the international business community well. We strongly recommend a focus on a WTO mandate to simplify trade procedures and we also hope that the Kyoto Revision, once complete, may soon become binding on all WTO Members.

The international business community hopes that the WTO will consider establishing a Working Group on customs modernization, harmonization and simplification. The Working Group should analyze the impact of customs barriers on WTO commitments, seek ways to improve customs transparency as outlined in Article X of the GATT, and promote efforts to develop and implement initiatives to simplify and harmonize trade procedures using APEC as a benchmark for other regions to follow.

The WCO has done much to promote harmonization and modernization to customs administrations around the world, but one of the difficulties that the WCO encounters is that their rules are not binding on its members. This is why it is important that the WTO should consider playing a leadership role in this area and working with the WCO to make some of these things that are so important to trade, binding on WTO Members.

In conclusion, customs is a major component of the international trade process and all traders know this. It is important for trade policy makers in all countries to recognize the potential impediments that customs can create. Trade policy must work with national customs administrations and with the private sector to make the customs process more efficient. No one is suggesting that we eliminate customs administrations. We are simply looking at and talking about making the process more efficient, more conducive to facilitating trade. The second conclusion is that inefficient customs obviously adds to the cost of international trade and undermines the benefits of international trade agreements. Thirdly, customs modernization is essential if these international agreements are to be fully successful. Finally, WTO Agreements in the future need to include customs modernization requirements. International business hopes that this Symposium that allowed a coming together of the

private sector, governments, customs administrations, and international organizations, will generate an environment in which we can all recognize the importance of working together and the importance of dealing with customs as a trade barrier. In the future, we may look at today as a very important step towards making the WTO and all of us in the international business community more successful in promoting trade, jobs and global economic prosperity.

II. ISSUE-ORIENTED PRESENTATIONS BY THE PRIVATE SECTOR AND OTHER EXPERTS

PANEL 1 Physical Movement of Consignments (Transport and Transit)

(a) Problems of freight-forwarders and providers of multimodal transport in facilitating trade with reference to regional differences in the transport sector

Mr. Raghu Dayal, Corporate Director, Lemuir Group, India

Logistics today is an integral part of the main productive process. There is an ever expanding demand for cycle-time compression, for eliminating delays and waste.

According to a survey by Ohio University, the average time for US domestic shipments - order-to-cash cycle - in 1990 was 120 hours; by the year 2000, the average will be 57 hours. Also, average transit time will shrink from 60 hours to 38 hours.

Then, there is a growing accent on value-added manufactures exports, which itself demands commensurate logistics sophistication, capable of bridging time and space.

The new key words today are: outsourcing, global sourcing, modular sourcing. With this unprecedented emphasis on outsourcing, on value-added export activities, the role of customs becomes far more crucial: sub-assemblies and semi-manufactures may need to be imported for re-export after the requisite value addition, particularly in sectors like apparel, automobiles, engineering and electronics. Customs need to devise a practical and pragmatic, helpful and honest, framework conducive to the furtherance of trade in this direction. Risks are, no doubt, inherent in all customs functions. The need to manage risks is clear and loud. Appropriate risk-management mechanisms need to be devised with overall economic interest of the country kept supreme.

The one important element, indeed a touchstone, is unhindered movement of freight - be it imports, exports, or transshipments - on the basis of self-assessment or declaration through any port or airport in the country round the clock; only for physical examination of cargo, working hours may be specified, if at all. Customs control has to be audit-based, rather than transaction-based. There is a crying need for the number of declarations, certificates and documents to be drastically pruned.

In this context, inefficiencies of transport and trade-related services such as customs, transportation, banking, insurance, telecommunications and information become a major impediment, and roadblocks to the integration of developing countries into the global economic mainstream. The major constraints are of a micro-economic nature; they typically connote prohibitive costs and complexity of commercial transactions.

To remain competitive, industry must be able to reduce the various transaction costs. There are hidden costs such as costs of time lost in preparing documents, grappling with complex and labyrinthine procedures, obtaining myriad licences and authorizations, of delays in transit, of trucks idling at borders, of high costs of container handling and transportation, delays at ports and airports.

To reduce or eliminate such hidden costs, it is essential to focus not only on improving the physical features (the "hardware") of the transport network, but also - and more importantly - on improving the "software" of trade and transport. Investments alone in infrastructure facilities and equipment do not help reduce commercial transaction costs. Computerising the activities involved in the control or monitoring of external trade flows, as an example, will yield the desired results, only if existing administrative and commercial practices are first reformed.

Infrastructure is indeed the Achilles' heel of the Indian economy. Infrastructure as the wheels of trade, if not the engine of its growth, is beset with problems of low productivity, in fact, self-inflicted wounds. The crisis that trade and industry in India, as in many other developing countries, face in this sector is three-dimensional: of capacity, cost and quality: costs have constantly escalated; capacities eroded; and quality receded.

It has been estimated that, after adding other costs such as inventory, insurance and documentation, total logistics cost amount to as much as 40 per cent of the delivery cost of Indian commodities to foreign markets, that about 10 per cent of the value of trade commodities is spent on paper work and for complying with procedures. Inefficiencies in trade logistics thus severely impair and undermine India's export competitiveness.

The Central Board of Excise and Customs have put out a "Customs Vision" to propel customs administration in India to the new millennium. The main thrust by way of the Mission statement is their aim for "facilitating commerce by re-engineering customs processes leading to faster movement of goods and passengers"; and "creating a climate for voluntary complianceand building mutual trust".

The "Vision" envisages a focus on key activities like the promotion of electronic commerce, streamlining of customs procedures, encouragement of voluntary compliance, evaluation of co-operative initiatives, assistance in the formulation of tariff policies, effectively combatting revenue evasion, commercial frauds and social menace, measuring conformance to service delivery standards, and developing professionalism.

They have come out with a special notification for a "fast track" import clearance regime. There is also a provision for a "green channel" facility for selected trading houses on condition of an unblemished record. The "green channel" facility is equally applicable to multi-product Bills of Entry. Customs have also permitted movement of stuffed and sealed containers to move by road on request of the custodians executing a bond. The number of containers destuffed at factory/godown is steadily increasing; it has reached a proportion of over 50 per cent.

Nevertheless, problems loom large. There is little uniformity in interpretations from port to port; there is this unique confusion and complexity created, for example, in regard to kits *versus* components in the automobile sector. There is a difference of as much as 68 per cent in the duty on kits and components, not to talk of the licensing constraints; in addition, there is immense discretion exercised in actual appraisals; ever new ingenious interpretations are found and loopholes discovered and exploited.

True, these salient concerns have not gone unnoticed on the part of the policy makers: there has been much discussion and debate; there have been many groups and committees set up to resolve and streamline; but somehow little actual resolution is evident in reality. Characteristic of typical Indian penchant, the problems have been well articulated; yet the bureaucratic hurdles persist. There is a huge hiatus between the precept and the practice.

Customs is an important agency in this transaction, one of paramount concern and importance, no doubt the main whipping boy; another is the foreign exchange control system; it presents formidable administrative barriers, generating much of the paper work; the licensing system takes its own toll, and there is a multiplicity of licences which adds to the woes. Accustomed for long to a State intervention and a habit of seeking concessions, Indian industry clings to facilities and rebates that, in turn, exacerbates the situation.

There has been steady rationalisation of customs duty structure - simplification of tariff system; reduction of peak rates in the general level of tariffs, and liberalization of import procedures. An active member of WTO and WCO, India subscribes to the GATT valuation regime, the Harmonised System, the customs conventions - even so, it finds it difficult to fully adhere to all conventions and exemptions. In common with other developing countries, India has to adapt its facilitation framework in terms of the ground realities, of the importance of customs revenues in the national economy, of the concerns for the growth of indigenous industry.

Customs as a revenue - garnering arm of the Government is well acknowledged. Notwithstanding a substantial scale-down of the tariffs during the last few years, customs revenues in India (at about Rs. 440 billion in a year) form 3.5 per cent of the country's GDP. Together, customs and excise collections are over 7 per cent of the GDP - while the Income Tax and Corporation Tax constitute only 3 per cent of its GDP.

In the context of a new wave of Citizen's Charter elsewhere, customs need to devise service delivery standards compatible with international norms; customs need to clearly enunciate these norms; they need to subject their performance to responsible public audit, to impartially monitor and publish the results of actual compliance with the delivery norms.

A few simple administrative rearrangements can help improve productivity. Those agencies dealing with quotas and certificates could as well be located at or near the customs house itself. So also the shipping agents may submit the Inland General Manifest (IGM) on a computer diskette which can be directly read and recorded in the customs computer system. There should be no need for a transshipment permit to be obtained by the shipping lines for transfer of containers booked through to Inland Container Depots (ICDs). If required, the sub-manifest of such containers may itself constitute the necessary permission for their further movement from a port to an ICD. Even some rudimentary arrangement of offices layout may help a lot, facilitating efficient unidirectional flow of documents and productive utilization of manpower.

In order to help customs enhance their controls, and facilitate clearances, a bilateral or multilateral format may be suggested for a routine electronic transmission of export data from the country of export to the customs administration in the country of import.

The gateway ports and airports likewise have an intimate relationship with cross-border trade and commerce. Ports in India have high labour costs, low productivity, inefficient maintenance, obsolete technology, inadequate co-ordination, and a highly politicised and bloated labour force. The staffing pattern at the ports itself is skewed: the ratio of professionals to other staff including dock labour is, on average, 1:21, indicating extreme overstaffing at lower levels. The staffing levels at different facilities and in offices are indeed unproductive and arbitrary.

According to a study carried out for the World Bank, against a labour requirement of one manhour per container at efficient international ports, the Indian ports involve as many as 59 manhours per container. For a port like Mumbai, a gang of 22 labourers needs to be allocated to handle a container for stuffing/destuffing. The norm of three containers for a 22 person gang during a shift of 8 hours is clearly a "tall" order.

Obviously, low capital and labour productivity results in cargo and ship delays. The cost of technological backwardness is estimated to be US\$250 million per year. Majority of containers discharged and loaded in Indian ports are transhipped at Colombo, some of them at Dubai or Singapore. The actual cost of moving an import container from Indian ports involves a cash outlay of about US\$500-520; for other ports in the region, it costs only about US\$330-350. Does it not explain why the maritime freight costs incurred by India's import trade have been as high as over 10 per cent

against the less than one-fourth of it in the case of Canada, UK, Germany and one-third that of USA and France.

As per the World Bank, again, "increased productivity at existing facilities would divert the need for major new investments in infrastructure". A few simple solutions are indicated: harmonised work schedules and synchronised holidays between port trusts and customs; all holidays be abjured except, at best, the three national holidays; strict punctuality in the daily work, to be done all 24 hours, 7 days of the week; adequate and efficient maintenance to enable the operators to perform with zero-failure equipment; ruthless elimination of wasteful practices like the valuable working time lost in change of shifts and meal breaks. Some of the ports equipment yields meagre utilization - many a time as low as 20 per cent. An analysis done at JNPT (Nhava Sheva) has assessed a loss of as much as 23 per cent of the working time, rendering both men and machines idle on account of late starts, meal breaks and waste of time during change of shifts.

The world over, ports are becoming value-added service ports, above and beyond the traditional pier-to-pier movement of goods. A number of ports are transforming themselves into VASPs (value-added service ports). Ports in India can ill afford to remain a bottleneck in its trade transactions.

For optimal efficiencies of operations at gateways as much as for multimodal growth, the landside facilities and those for inland transit assume importance. Running of container block trains on fixed schedules is of critical importance. Turnaround time of such liner trains at port terminals needs a special attention. CONCOR (the Container-Corporation of India), the public sector agency for rail haulage of containers between ports and ICDs, needs to arrange, in conjunction with Indian Railways, liner trains with guaranteed transit time coupled with instant trace and track facility.

The smooth flow of road freight traffic in India is hampered by a large number of detections to vehicles - for checking the essential documents like registration books, driving licences, and permits; for checking the payment of commercial taxes such as sales tax, octroi, other local levies; also for booking drivers for violation of traffic rules; and at State borders. The National Transport Policy Committee (1980) quantified part of the cost of delays of road vehicles at checkpoints: it admitted that, on selected routes, as much as 30 to 46 per cent of effective travel time of truckers was lost on this account.

There is a lot that needs to be streamlined for due development of multimodal transport in the country. Although a relatively slow and sluggish growth it has had, its fundamentals are sought to be put in place. Of the overall throughput of 1.7 million Twentyfoot Equivalent Units (TEUs) handled at Indian gateway ports in the year 1996-97, about 219,000 or 13 per cent of the total, originated from, or terminated at, ICDs.

The multimodal infrastructure by way of ICDs and Container Freight Stations (CFSs) is dominated by the State sector CONCOR and CWC (Central Warehousing Corporation), with private sector performing a supplementary role in developing a CFS network for aggregation and consolidation of cargoes. A need is apparent for such facilities as ICDs and CFSs to extend a real "single window" service, with most of the regulatory and facilitating agencies for licensing and customs, and others like those for certification of the country of origin, textiles quotas, etc., being represented in the same complex.

Notwithstanding an extensive awareness of multimodal developments world-wide that exists in the country, and the thrust that has been imparted to it by CONCOR in particular, the basic multimodal document in terms of the MT Goods Act has still to take the final shape. One main reason for India to have opted for its own home-grown legislation on the subject, instead of adopting the FIATA Bill of Lading, or the MULTIDOC'95, is the desire of the government to broadly fall in line with the UNCTAD/ICC - based FIATA B/L, incorporating also the shipper-oriented provisions of

the UN Convention on the Carriage of Goods by Sea (1978), popularly known as the Hamburg Rules. These provisions negate the immunity extended to the ocean carriers under the Hague/Hague Visby Rules.

The problems and constraints, which the users of essentially surface modes encounter, are also faced by those who opt for air transport of freight. Some 35 per cent of total exports of India and 25 per cent of imports - both by value - are carried by air. Instances are not uncommon with delays caused to ocean freight for some reason or the other compel the shippers to switch to much costlier alternative of air transportation. Extremely time-sensitive air freight has to be literally kept in "cold storage" for the mandatory 24 hour "cooling" period in view of the threat of explosives in the consignments.

Recognised as an essential ingredient for managerial and operational systems, the advent of low-cost, high-volume data processing and transmission is revolutionising logistics control systems. Customs in India initiated in 1994 a pilot project for EDI at Delhi airport for imports. India obtained in early 1992 an "observer status" in the Asia EDIFACT Board, and later became a member of Asian Edifact Board (ASEB) in August 1992 following which the UN/EDIFACT standard was adopted. Exports and duty drawback payments have now been automated. In Delhi alone, now nearly 135 users log in into the National Informatics Centre-EDI gateway and 55 per cent of the documents are logged in through it. By the year end-1998, the Indian customs plan to implement automated customs clearance across 18 locations.

Exporters are able to make electronic applications to DGFT (Director General of Foreign Trade) for licences. Some pilot EDI projects are under way at several gateway ports and at the AAI (Airports Authority of India) offices, besides RBI (Reserve Bank of India), insurance companies, air and sea carriers, and Customs House Agents. Electronic banking services have been initiated with the launch of ICICI Bank's Infinity services. This allows the transfer of funds through the Internet, although only within the branches of the bank. RBI is gearing up for electronic funds transfer, for which RBI will use encrypted floppies due to security concerns.

Indeed, security concerns, antiquated laws and the outdated infrastructure hold back electronic commerce. The Evidence Act requires a document to be "signed and sealed" in order to command legal validity. Further, according to the Telegraph Act, messages cannot be encrypted. Government has, therefore, set up a legal committee on EDI and electronic commerce to look at the laws to be amended.

There is somehow a feeling that persists among the shippers and the Customs House Agents that the introduction of limited EDI facilities has, if anything, made matters slower. In addition to the teething problems, these delays are attributable to the physical movement of documents from one office to another and the sequential processing of documents by various regulatory and operational agencies, instead of electronic transmission thereof.

Customs are a dominant factor in the transport chain; what customs do with respect to EDI has critical relevance not simply on electronic communications mechanism, but as a tool to bring about managerial innovations and procedural rationalisation. EDI as an effective instrument for facilitating trade and transport has hitherto been a laudatory concept; it has a lot of ground to cover, ere it permeates different aspects of integrated transactions, and yields the benefits it is expected to.

In regard to trade and transport-related services, a lot has been studied; a great deal has been understood. Somehow, what has actually been done is too little, too late, too slow. The country has a lot of catching up to do. Problems and constraints are immense; the cost for infrastructure projects to materialise is phenomenal. One may well say: the mountains will look after themselves; let us first

address ourselves to the mole-hills. The imperative today is to find short term solutions for problems which deeply hurt. Such solutions can be achieved to a large extent by low cost innovations, or even no-cost operational improvisations.

As one never lives long enough to learn by oneself, there is a need to look at what has happened elsewhere. One can look westwards or eastwards. Ports like Singapore expect to reduce the processing time for imports and exports from an incredible 15 minutes, as of now, to as low as 2 minutes. They show what an uneven race which the Indian shipper encounters. It is like a sack race, with Jesse Owens as the competitor!

One may look westwards: in spite of long traditions of hostility and enmity, barriers and walls across the countries in Europe have been torn down. They are at the threshold of a United States of Europe with a Single Common Market, and a political and economic union. Germany is what it is today because of Zollverein brought about over 100 years ago. India has erected barriers within the country, among its federal States. Despite a clear constitutional provision of free trade flows, India has created hurdles of octroi, sales tax, checkpoints and other barriers. Somebody has said the Checkpoint Charlie was friendlier!

Indian psyche is generally oblivious of the value of time. India is perilously poised between tradition and modernism. As Italian writer Tomaso di Lampedusa put it aptly, "If we want everything to stay as it is, it is necessary for everything to change". There is now a sudden, and happy, realisation also of the relevance of Thomas Jefferson's view that "the government is best that governs least". Most problems have to be redressed by the country itself. Yet, organisations like WTO, WCO, UNCTAD and others may chip in, to great advantage.

Multimodalism is a growing new feature especially relevant to international trade flows. An appropriate international agency may encourage and help the establishment of competent Multimodal Transport Operators to unravel intricacies of varying practices and transactions, and to generate healthy competition and competitiveness, improve the standing and recognition of freight forwarders and other agencies in the trade and transport sectors, establish accreditation schemes, set up professional and financial barriers to entry of the professionals in order to safeguard competence and reliability.

For transparency and convenience, there can be a compendium of customs rules and regulations brought out as a self-contained reference. A compendium such as this could be available both for customs staff for uniform application of rules, as well as the shippers and agents, in simple and practical terms without a recourse required to be made to the Customs Act and numerous amendments, notifications and administrative orders.

Of late, some new important barriers have surfaced militating against unhindered flow of cross-border trade, for instance, hazardous wastes or goods incorporating carcinogenic dyes. Difficulties have come up in certification and quantity control. Packaging itself has new rules to conform to. There is no clear transparent yardstick to determine what really constitutes a barrier in this genre. It would call for viable standards for packaging and azo dyes, for example, to be multilateralized at the instance of WTO with involvement of the developing countries, which bear the brunt of legislations promulgated by the industrialised countries.

A free flow of information compiled or published by WTO, WCO, etc. on different aspects concerning trade and commerce, if ensured with no cost or at affordable prices, will help generate due awareness and understanding of trade related developments.

No doubt, there would be numerous instances of good practices and facilitation measures adopted in different countries. All such case studies, if duly disseminated by WTO or WCO among the different countries through governmental or other agencies, could be of considerable help and advantage.

One among over a billion children of lesser gods in South Asia, I have attempted to articulate a perspective of the Third World in general and India in particular. As you know, South Asia is home to 22 per cent of the world population; it has but a paltry 4 per cent share of world GNP; its share in world exports is a measly 0.9 per cent; and in world imports 1.1 per cent.

There is a peculiar paradox, a cruel dilemma one faces: the severe capital crunch these countries face, and yet huge resources are frittered away. The misdirected human resource inflicts a debilitating blow; the graphomaniac's paradise continues to flourish; the warped priorities are reinforced. The damage that these countries unwittingly inflict upon themselves must be a challenge for all countries, rich and poor. A truly globalised economy will demand the wisdom and commitment from all. All are equal; those who are more equal than others may deem it a job to do. If aid and alms have to yield place to trade as an instrument of healthy and equitable growth across the globe, a WTO, a WCO, an UNCTAD may too lend a hand of genuine help.

Mr. Jürg Hammer, Senior Vice President, Gondrand Ltd., Switzerland

After the presentation from my Indian colleague, who spoke of problems in a huge developing country, this paper will make some practical comments from the view of a much smaller country, that is Switzerland. Being a land-locked country outside the Common Market, Switzerland has to move all import and export cargo (except, of course, air-cargo) through other countries.

Forwarding agents are important specialists in the conduct of international trade, and have facilitated trade as long as commerce existed. In line with technological developments, freight forwarders have adapted their transport techniques, which is why they are also called "architects of transport." Freight forwarders are using all types of carriers: rail, truck, ship and air. In principle, forwarders could be interested in administrative trade barriers, because these would provide more work, more jobs, and more income, but in practice the forwarder is more interested in the free flow of goods because he likes to fulfil his assignments without big problems.

Administrative barriers still loom high today. As regards customs tariffs, the Harmonized Commodity Description and Coding System reaches down only to the 6-digit level, while the national tariffs of many countries are specified in greater detail beyond these six digits. There should be greater harmonization among these additional national levels, which are causing substantial problems. Another area concern is dangerous and hazardous cargo. There are international rules for air, sea, road, rail, and still, every country has its own rules. We realize that, especially for international traffic, some countries also in Europe are still insisting on their local rules and shippers have to provide not only the international documents but also the local documents for each country. This involves additional charges and additional work and perhaps this is the reason why cargo is not moving through certain countries in Europe. A further point relates to veterinary prescriptions. The Common Market has identical prescriptions in all countries, yet they are applied in different ways. Moreover, the documents are also quite different, the layout apparently being from the last century. Therefore, there is no real harmonization in this area.

More generally on documentation, a lot of work needs to be done. Numerous documentation requirements persist in all countries today, e.g. commercial invoices, certificates of origin, custom invoices - these are still requested by certain countries in addition to the commercial invoices - or consular invoices. Many of these documents do not support any meaningful control function. Then, of course, in addition packing certificates or inspection certificates are our daily business. You have already heard of the Bill of Lading. There are at least 200 different forms with different rules. Shipping lines are providing multi-modal transport with rules which are not suitable for multi-modal transport. There are modern UNCTAD/ITC rules which are not used by the shipping lines. The first organization introducing this document was FIATA. Matters would be greatly simplified, if in the future the new rules were used.

Regarding shipping rules, a multiplicity of different legal instruments exist. We have the Hague Rules, the Hague-Visby Rules (used for roughly 70% of all movements), the Hamburg Rules and the US COGSA Rules (Carriage of Goods by Sea Act). It is sometimes difficult to recognize which rules are apply to which trade. In addition, if the current reform of the US COGSA Rules goes through, there will be extra-territorial application of US Law and this would be in violation of EC regulations. This change would mean that US ports would have the right, despite foreign arbitration, to sue any business related with USA. Goods loaded or discharged at US ports, carriers received or delivered goods in US ports could be sued in US courts. These are new barriers coming up.

There is another case where the so-called "Non-Vessel Operating Common Carriers - NVOCC," are facing problems because they have to file their tariffs within the US, they have to sign a bond. There about 35,000 forwarders. If all would have to sign a bond of US\$ 50,000, a large amount of money would be involved. Maybe, as of today, about 2000 forwarders have already signed

a bond of this kind. This means again that foreign forwarders are forced to follow US law outside the US. The freight forwarding industry is seriously concerned about these problems.

One positive thing is the cargo reservation for national shipping lines. There we have seen a lot of change in favour of a free trade and I feel this is also the right way as it is better to keep shipping lines efficient in state to reserve the cargo by law.

In conclusion, customs tariffs should be better harmonized than they are now. Documents should be also harmonized or abolished. Shipping lines should be forced to use documents with the new, modern rules in case they provide multi-modal transport. The shipping rules like Hague, Hague-Visby, Hamburg, COGSA should be replaced by world-wide valid and acceptable rules. National laws should not seek to extend validity to foreign countries. Rules for dangerous transit cargo should also be harmonized. Veterinary prescriptions should also be about the same in the whole world and the documentation should be about identical.

(b) **Differences between express carriage of goods and non-express freight forwarding; overview of the main problems express carriers face in different world regions**

Mr. Kenneth Glenn, Manger, Global Regulatory and Trade Affairs, Federal Express, USA

The Economist declared recently that "the vast expansion in international trade owes much to a revolution in the business of moving freight."⁵ The ongoing revolution in transportation was traced to two causes: (1) a trend towards deregulation of the transportation industry, and (2) a rise in inter-modalism, that is, the development of transportation systems that seamlessly unite different modes of transportation. As the Economist kindly noted, express companies like FedEx and UPS have been leaders in this transportation revolution.

This paper will address three basic issues:

- What is "express", and what distinguishes it from traditional freight operations?
- What are some facilitation measures that would improve today's situation?
- What can the WTO do to improve the framework of rules affecting the express industry?

Though historically considered quite unglamorous and "low-tech", the freight transportation industry has indeed become exceedingly sophisticated and "high tech". The express sector has driven, and continues to drive this movement. Since its inception less than 30 years ago, the express industry has helped transform the conduct of business around the world, and has itself experienced phenomenal growth and success.

The growing importance of all types of airfreight is evident from a glance at the numbers:

Since 1985 airfreight has grown 9.1 per cent annually and is expected to grow at about 7 per cent per year through the year 2010. World economic growth has been about 1.5 per cent per year during this period. Air transport now accounts for a full 37 per cent of the value of global trade. To give you a perspective of the global express industry, including domestic and international operations, it currently:

- picks up, transports, and delivers more than 25,000,000 pkgs./day;
- employs more than 800,000 people world-wide;
- owns and operates more than 1200 aircraft;
- completes more than 2000 commercial flights per day.

Boeing Company research estimates that the air express industry alone will account for 30 per cent of total world air cargo by the year 2010.

A key factor in the rising economic importance of airfreight is the increasing value of items carried. Virtually all cargo transported by express is "high value", though it may be intrinsic or extrinsic. There is little distinction in the value of a computer that is sold for US\$100,000 and the value of a US\$10 mechanical part that has a manufacturing plant shut down. Both are high value. As such, the parties to the transaction essentially define the nature of express goods.

Perhaps the most distinguishing characteristic of air express is reflected in their nickname within the airfreight industry, INTEGRATORS. All functions from order entry or dispatch, through delivery are part of an integrated and closely controlled system. For the international segment that typically means pick-up, documentation review, local transport, export clearance, submission of export declarations, international transport, import clearance, payment or verification of payment of

⁵The Economist, 15 November 1997.

duties and taxes, and delivery to the ultimate consignee. No mention of "warehousing" or "staging for consolidation" or "build up" is made in this context, because a further distinguishing characteristic is that goods are rarely at rest. They are also individually tracked, and are directly traceable by the shipper or the consignee, throughout the entire process. This is all possible because it became clear that information about these urgent, high value goods in transit was just as important as their physical movement. As a result, enormous investments were made in state-of-the-art computer and communications systems. These systems also enable express operators to provide customs with information and controls that enable many progressive administrations to sharpen and enhance their enforcement efforts while simultaneously improving facilitation results.

It is also worth noting that while these integrated and closely controlled systems are meeting the priority transportation needs of business they are also yielding one of the lowest damage and loss claim rates in the transportation industry.

What facilitation measures would improve today's situation?

The use of risk management (or cargo selectivity) by customs. It must be acknowledged that the vast majority of global trade is legitimate, and the use of advanced information processing and selectivity routines afford customs the ability to focus enforcement efforts in truly higher risk areas.

An aggressive and concentrated initiative to focus attention on customs' malpractice, and address the systemic or intrinsic issues that perpetuate them. A poorly trained, ill-equipped and underpaid customs inspector is a victim of his working environment. At the same time, bring to bear the potent influences of major lending institutions, the IMF and the World Bank, to secure the highest government agreement for genuine reform and modernization, thus obviating the need for temporary expedients such as preshipment inspection.

The convergence of the majority of official controls into the hands of customs would serve to focus and improve the efficient application of the full range of required controls, and to optimize resource utilization.

The acceptance and processing of electronic data submissions, from declarant to customs, prior to cargo arrival and also disassociating the place of filing from the port of arrival. Also, informal or low-value entry limits should be progressively increased consistent with the costs to government and industry to process them.

The general use of payment guarantees, such as bonds, to enable the separation of cargo release (after determining admissibility) from the completion of entry formalities, thus speeding the flow of merchandise to its ultimate destination and end use.

The extensive use and reliance upon post-entry audits to monitor compliance and enforce regulations within the legitimate business community of major multi-nationals and other qualifying entities.

Finally, equal treatment of all competitive services is the key to efficient global trade development. The internet and electronic commerce will enable even more explosive growth, particularly in direct marketing. Genuine simplification will continue to elude us until the public operators have to live with the same rules as the private operators.

What can the WTO do to improve the framework of rules affecting the express industry?

First and foremost, the WTO should stand behind an obligatory and enforceable Kyoto Convention. The cultural and geographic challenges of doing business in over 210 countries are complex and daunting in and of themselves. A predictable and rules-based system regulating customs procedures is urgently needed and long overdue.

Secondly, the WTO should support the enormously important work undertaken by the G7 to establish standard minimal data requirements and consider how far these could be made internationally obligatory, either through later association with a revised Kyoto Convention or on a stand-alone basis. These standards are essential for pending applications of advanced customs-to-customs and customs-trade cooperation projects.

Finally, move to rationalize the regulatory framework affecting goods circulating in international commerce. Current regulations have evolved, quite understandably, in a disjointed and often duplicative manner. Today's global marketplace begs for coordination and rationalization of the labyrinth of disparate regulations that now exist.

I hope this forum and these discussion help further the interests of international trade. True trade facilitation requires a partnership between governments and private enterprise.

(c) **The main rules and practices which govern the air transport sector - International Air Transport Association (IATA)**

Mr. Robert Davidson, Assistant Director, Facilitation Services, IATA

This presentation is limited to only a few main issues which IATA and its 259 member air carriers believe are critical in any effort to realize enhanced trade facilitation.

For each of the points discussed, the industry believes there to be reasonable solutions, many of which have already been implemented by forward-thinking states. In some instances, these solutions have required changes in national legislation. In others, the solutions have been the result of simple modifications in the way processes are conducted. However, in every case, the solutions have required a greater level of cooperation and trust between governments and the trade, as well as a shared vision of what changes were necessary and how they could best be implemented. Such a shared vision is the reason for the presence of all participants in this Symposium.

General introduction:

In the greater scheme of things, we must all recognise that aviation carries but a small percentage of the total goods transported over international borders. In fact, somewhere in the neighbourhood of 1 per cent of movements. Whilst that number might initially sound less than impressive and rather unimportant compared against the amount of goods carried by other modes of transportation, it is the nature of the goods moved by air that makes our industry so vital to shippers, manufacturers and yes, even to the states to which those goods are ultimately destined.

As compared to other modes of transport, such as shipping and rail, the percentage of high-value and time-critical consignments moved by air is significantly higher. Shippers, and their customers, depend on the speed inherent in aviation to meet the needs posed by just-in-time inventory controls, perishable products movements, critical parts replacement - to name just a few.

Unfortunately, the benefits that shippers and their customers depend upon for their economic well-being are often lost because of inefficiencies in clearance processes that are employed when goods are released into home use. In too many cases today, in countries all around the globe, it takes longer to release consignments following arrival at the final destination than the total time spent moving the goods from their point of manufacture to the customs office where they have been produced for clearance and release.

This paper is supposed to address the main rules and practices which govern the air transport sector. Whilst they vary from State to State, they can be distilled down to their base generic components and presented in just a few seconds. In reality, when moving goods, the air transport sector must:

- Accept goods from shippers;
- Document those goods;
- Comply with export control regulations;
- Comply with import control regulations;
- Produce the goods with necessary support documentation at destination for entry, clearance and release.

In each step, the process involves capturing specific data, creating paper documents for each consignment, creating additional paper documents to reconcile the original documents, presenting the documents to customs authorities at each step and then archiving the documents for varying lengths of time after the goods have been moved. Needless to say, this is not an efficient or labour-friendly process. And it is made worse by the fact that a set of documents created for one phase in the process

often cannot be used to satisfy the requirements of subsequent phases, resulting in the need for even more documents.

What I have just outlined is a process that occurs thousands of times each day, and one that is not limited only to movements by air. It is the same process relied upon by governments since the days of the sailing ships. It was slow and man-power intensive then, and in today's environment of instant electronic communication and ever-shortening delivery deadlines, the impact of paper-based data exchange and inspection processes that do not rely upon risk assessment and selectivity criteria have the potential to bring the cargo industry to its knees.

The past thirty years have given rise to remarkable developments within the aviation industry, the business community and in how states view themselves and the world around them. The world has changed in so many ways. New opportunities are being discovered almost daily. It is regrettable, we believe, that the methods under which goods move over international borders have failed to keep pace. What has always been - is not necessarily how it should be today, or in the future.

We believe it is time that states and the trade, with an eye to the needs of the future, undertake the necessary task of reviewing existing policies and practices and jointly seek to implement new methods, using new technologies, which will facilitate the trade, whilst at the same time, protect the national interest.

Specifically, the Air Transport Sector asks for your assistance in realising the following achievable goals.

(a) Paper-less transaction processing

As I described earlier on, today air carriers must gather great quantities of data from shippers which is often provided in electronic format, enter it manually on paper documents, attempt to verify its accuracy and then transmit that information to the appropriate authorities. At the other end of the spectrum are the authorities, who often must do the same thing in reverse. The entire process is plagued by unavoidable data input errors, duplication of effort, waste of critical human resources for carrier and customs alike and unnecessary costs for everyone.

A solution exists and the framework for resolution has been developed to realize the goal of making paper-less transactions the norm, instead of the exception. With the Montreal Protocol IV, we have an international convention which provides the legal basis upon which electronic Air Waybills can and will be established. For that to become a reality, we need your support in the on-going drive to ratify this critical document and see it put into force.

We in the industry recognise that such change will not come easily. We understand that many States will need to modify national legislation to allow for exchange of electronic data. We also understand that many States have yet to begin work on development of electronic data interface (EDI) systems that can allow for Cargo Manifest processing.

Together, industry and government representatives have developed specific EDI programmes, that is, computer-to-computer language formats and standardized messaging guidelines to reduce the time needed for States to develop their own capability in the critical area.

Many States have made these choices, resulting, we believe in significant cost reductions for governments, airlines and shippers by reducing inefficiencies inherent in existing paper-based processes. Manpower, so scarce in today's environment of shrinking budgets, has been re-directed to productive activities such as enhanced customer service for the industry and increased enforcement opportunities for States.

(b) Need for harmonised information requirements

One of the most difficult and costly aspects of cargo movements is the lack of standardization in the data requirements related to the movement of goods that are imposed by States. Differing requirements generally mandate that separate documents be created for export and import controls. Additional documentation is often required for goods transferring at intermediate points.

One might think that the emergence of trading-blocks of nations, such as the European Union or NAFTA, would have resulted in harmonised requirements and a reduction in required documentation. That has not been the case, and systems developed within these economically - based groups continue to be essentially incompatible because of variations in data element and formatting requirements.

The industry believes that these variations in data requirements increase the risk that data collection and transmission errors will occur, resulting in clearance delays and unwarranted financial liability. We further believe that divergent requirements prevent opportunities to explore processes under which outbound and inbound clearances can be accomplished by a single filing.

Obviously, under such systems, trade efficiency is inhibited, resulting in:

- greater processing demands on shippers, carriers and the customs;
- reduced performance in clearance of goods and
- incremental cost increases for all.

(c) Pre-arrival processes or expedited clearance upon arrival

And last, but possibly most critical in any effort to enhance trade efficiency, the industry seeks support for processes that will permit States to screen consignments whilst en route, and by use of risk assessment and selectivity, expedite the release of low-risk goods forwarded by known shippers upon arrival.

For this ultimate goal to be realized, the first two points I have raised today will, by necessity, have to be adopted. The benefits of such a program are immediately apparent. First, by utilising technological advances, States would have the ability to screen consignments in advance of arrival and focus dwindling inspection resources on those posing a real threat. The great majority of goods, in some countries as much as 99 per cent, could be released for home use with minimum formalities, subject, of course, to periodic unscheduled checks.

Various methods exist that could be adopted to support expedited clearance of goods. Electronic commerce programmes can support post-release payment of taxes and duties, which often slow release of goods cleared in the existing manner. Precedents exist for such schemes and are based on shipper's past performance history, adequate financial guarantees and a reliable post-clearance audit procedure.

To further enhance the facilitation of trade, States should consider adoption of procedures which would permit electronically transmitted filings of release documents from locations other than the airport of importation. Such remote filing procedures would allow shippers and carriers to concentrate their Cargo documentation experts into national or regional centres, and would likely result in increased data accuracy, reduced costs and enhanced service levels.

Summary

There are many more areas of concern faced by the Air Transport sector which I won't speak about - however, most of them will be resolved by implementation of the key issues raised here today.

In closing, how does the industry envisage the solutions to these issues becoming a reality? Whilst there are no easy answers, we believe the best opportunities lie with the work undertaken and in progress by the World Customs Organisation to revise the Kyoto Convention. That document, when completed and ratified by its contracting parties, will provide customs organisations around the world with a vision for the future and the guidance necessary to solve many of the problems we all face today. It is a process which IATA endorses without reservation.

However, to be fully effective as a tool to enhance trade facilitation, the Kyoto Convention and all of its Annexes must be made obligatory and enforceable on all States. Whilst the WCO is the body which is most competent to revise the Convention, it cannot serve effectively as the international body tasked with maintaining oversight to ensure compliance in the various States. We firmly believe that the World Trade Organisation is best suited for that role, and ask that it undertake this difficult, yet essential obligation. Without the support of the WTO and other internationally sanctioned governmental bodies, the opportunities for harmonization of requirements and convergence of practices, which are so necessary for enhanced trade facilitation, will continue to be nothing more than a dream.

(d) The main rules and practices which govern the sea transport sector - International Chamber of Shipping (ICS)

Mr. Brian Parkinson, Head of trade facilitation, ICS

The largest man-made moving object is a 500,000 ton Crude Oil Carrier. Everything else made by man which can possibly be transported, can be transported by sea. The international shipping industry is, therefore, the prime mover of materials and manufactured goods throughout the world. This massive movement, estimated at some 80 billion tons of cargo, and expected to grow further, is almost all transported internationally. Export and import procedures at both ends of the trade are necessary. Thousands upon thousands of individual consignments are handled in shipping offices throughout the world each day with detailed information on each consignment being passed to and fro.

It has been estimated that around 10 per cent of the total cost of moving goods relates to the preparation and transfer of information on these goods. The objective of facilitation is to make maritime trade easier and more efficient by attacking this cost element. Reducing the overall costs of trade increases trade. I put it to you that this is a noble cause.

The objective of the International Chamber of Shipping in this area is, first of all to identify areas of concern to the industry. Are customs procedures efficient? Are port systems efficient and effective? Are there areas which warrant further examination?

Having identified these areas of concern we then need to determine what the industry believes should be done about them. Collecting industry and other views in analysis of problem areas is one of our main functions. The next step is to represent that view and, in part, that is why I am here today. It is certainly why we attend meetings of the Trade and Development Board of the United Nations Economic Commission for Europe and its working party, which we see as the focus for our trade facilitation efforts. That so far is the easy bit. The most difficult part, of course, is to get our view on the problem areas adopted by representatives of nations and international representatives of other participants in the international trade transaction.

It is not just the movement of the cargo or the consignment that presents administrative problems and adds cost. The movement of vessels in and out of ports is controlled by a whole range of regulations and reporting requirements as is the movement of crew and passengers on board the vessel. We should not ignore either the oil that keeps this whole transport system working - the movement of money. Cargo, vessels and people move in one direction and money, generally, moves in the other - from buyer to seller.

The simpler and more efficient we in the shipping industry, and all our many partners in the international trade transaction, can make trade, the more trade there will be - a benefit to us all - including that most vital participant in the trade transaction, the ultimate customer.

It is not just Government and administrative procedures that are necessary to move goods by sea internationally. There are a whole range of commercial organizations involved in the international trade transaction and a whole range of commercial procedures, dealing with information and other needs, to satisfy their requirements.

So let's look at our main areas of concern. First of all, the international movement of cargo.

This is covered by a whole range of official information requirements from customs and other national government authorities at both ends of the trade route, such as statistical and health and safety requirements. These requirements can be established by national and international law and, in

certain areas, the requirements of the law of a trading community, such as, for example, the European Union. National customs authorities are one of the major players in this area.

The shipping industry recognises that customs administrations have to create a balance between their roles and responsibilities with respect to the enforcement of national and international law and the need to keep goods moving through the port. We do not see customs authorities as a barrier to trade but, recognising their responsibilities as a participant in the international trade transaction, as a partner. Clearly, when enforcement becomes a priority, such as with drugs and other illicit activities, facilitation, for all the fine words that are spoken, takes second place. We in the industry understand this.

To create a balance here what is required is cooperation between all parties to ensure that goods flow through the ports as quickly and efficiently as possible bearing in mind customs responsibilities.

An example of this partnership has been the commitment by my industry to a partnership in combating the trafficking in illicit drugs. To this end, the International Chamber of Shipping was the first organisation to sign a Memorandum of Understanding with the World Customs Organisation. We have worked closely with them on this issue since.

Those of us involved in international trade look with envy at the relative ease with which domestic transactions can be carried out and we had hoped that the developing trends towards Customs Unions would make some inroads into the administrative transport burden, making it as simple to move goods throughout the Customs Union as it is to move them between two places in the same country. So far, we have been largely disappointed in this area. National requirements for trade and transport information have, to a large extent, merely been replaced, and in some cases added to, by Customs Union demands-for information for which the industry itself has no need.

In some cases, Customs Unions have imposed additional information requirements to combat fraud within their internal transport systems. Mistakenly, in my view, some have focused on additional documentation to be completed, all of which is a chore for the vast majority of innocent traders and of little deterrent to the guilty.

The increase in documentation has seen no reduction in national requirements and the industry is in danger of being submerged in a tidal wave of forms. Far from being a paperless system or even a more modest 'less paper' system the need for official requirements for information appears to continue to grow.

In addition to the official requirements of governments there are continuing needs for commercial information requirements on the movement of goods. Shippers, Consignees, banks, insurance companies, port authorities all require information to carry out their functions. We have to ensure that their requirements are satisfied in the most efficient and economical way. They can be satisfied by means of paper documents such as Bills of Lading or Sea Waybills, related to the individual consignment, consolidated documents covering all the cargo on the vessel, such as manifests and cargo declarations - all commercial documents - or by official forms. Increasingly, the industry is expanding its involvement in the computer to computer transfer of information using electronic data interchange and other means of electronic communications.

On the documentation side we need to examine document design. Are the forms completed for whatever reason easy to complete?

Secondly, we need to examine standardization - can the same design of document used in one country for a specific purpose - be used by all. Can we develop, and, importantly, introduce an international standard and, thirdly, specifically in the shipping industry, can we move to non-

negotiable transport documents so that the physical movement of a piece of paper from the port of loading to the port discharge becomes unnecessary.

Furthermore, we have to look at the reason for the information exchange, the data content, who gets it, the number of turns they get it and perhaps most importantly standardization.

With electronic data interchange we are now able to move the information faster than we can move the goods. Even so, we need to examine exactly the same list of criteria when looking at the electronic interchange of information: the reason for it; its content; who gets it; and the use of international standards for the exchange of information whether this is standards definitions of individual data elements, standard messages and importantly standard codes.

The major issues facing the industry in respect of the movement of cargo are:

- encouraging the use of non-negotiable documentation;
- resisting demands for more and more information on the movement of goods;
- to try to monitor national and international legislation which is having more and more impact on the operational side of shipping and increasingly proposing additional demands on information systems;
- we need customs authorities at both ends of the trade route to come to a balance between the need to keep goods moving and the need for custom authorities to enforce national and international legislation. In this area we have to rely on the absolute integrity of customs personnel. There can be nothing so denigrating to the image of a nation to foreigners as a lack of integrity in their public servants;
- and finally we need to establish standards not just for electronic data interchange but for all areas of maritime operations.

There is no doubt that national administrations can help in all these areas.

But facilitation in the maritime area is not just confined to the movement of goods although clearly it is that part which interests the Members of the World Trade Organisation. Ship owners are concerned also with reporting requirements related to the movement of vessels which we find differ in different countries and even between ports in the same country.

We are fortunate that in this area we have an International Convention, IMO's Convention on the Facilitation of International Traffic which was completed in 1965, commonly called the FAL Convention. This Convention seeks to establish the maximum information requirement in respect of the goods, vessels and persons arriving at ports which all national administration should adhere to. The committee meets every 18 months or so at IMO to monitor the effectiveness of the Convention.

We are also concerned with the movement of people whether this is passengers, crew or other persons on board, who perhaps should not be, such as stowaways. National Immigration rules governing the movement of persons are also of vital interest to us.

I mentioned earlier the need for efficiency perhaps, the most important flow of all the flow of money from buyer to seller which pays for the goods and the movement of those goods. An efficient documentary credit system used for around half the world's trade, is an essential part of this. This brings us back to one of the earlier problems I mentioned, the continuing need in the maritime trade only for an negotiable transport document the Bill of Lading. We continue to encourage, as does the United Nations Economic Commission for Europe, the use of non-negotiable transport documents.

So, to summarise, our main concerns are:

- national and international legislation;
- immigration formalities;
- demands for information from commercial and official interests;
- Customs penalties for the provision of inadvertently incorrect information, which, in some countries, can have a great financial impact on a shipping operation;
- and, a need for standards - standards in documentation, standards in procedures and standards in electronic data interchange.

One of the main ways to meet these objectives is the development of international conventions. Anything which can establish standards and best practise in this area is welcomed. We, in the shipping industry are strong supporters of the Kyoto Convention, applicable to customs authorities and the IMO Convention on Facilitation, applicable to information requirements related to the movement of the vessel and the work of ISO and UN/ECE WP4. All this work is aimed at establishing international standards for use by all nations.

This work seldom hits the headlines but, nevertheless, it is a vital area of our activities. It is an area which if we get it right can greatly increase the efficiency which goods are moved from one part of the world to another which effects the price in the shops, thereby increasing world trade.

(e) **The main rules and practices which govern road transport and road transit - International Road Transport Union (IRU)**

Dr. Peter Krausz, Central and Eastern Europe Officer, IRU

For over 30 years following World War II, road transport was strictly regulated even in the then Common Market (now European Union), not to mention planned economies.

The reason, apart from purely political and even ideological considerations in eastern European countries and the former USSR, was to protect the railways and to take into account the strategic importance of the sector for economy as a whole, which made it difficult to leave that activity entirely up to free market forces.

Stringent limitations were characterised by quantitative operator licensing regimes as well as permit quotas both in national and international transport. In many countries obligatory tariffs and prices accompanied such measures (e.g. in Germany).

Changes came along in this respect by the mid 1980s whereby the liberal UK model of qualitative requirements for the admission to the occupation was introduced in the whole of the European Community. This system, despite the changes that have since taken place in EU legislation, has kept its three main requirements for obtaining an operator licence:

- Financial reliability;
- Professional competence;
- Good repute.

Applying these purely qualitative requirements without any quantitative limitations caused many difficulties for the road transport sector (drop in profit margins, fierce competition and bankruptcies), in particular in the early stages of liberalization and in less prosperous periods of general economic development in Europe throughout the 1980s and the 1990s. But these requirements are there and have been widely accepted as converted into national legislation in all EU member countries both for national and international operators. Tariff and price regulations now belong to the past.

The set of qualitative rules of the admission to the occupation, coupled with a liberalized access to markets all over the EU, forms the core regulation of fair competition in the trucking industry today. It is well known, however, that other matters with indirect influence on market competition have also been widely regulated in the past 30-40 years in the EU by a large amount of directives, regulations and decisions. This is what we call the "acquis communautaire".⁶

With the opening of the eastern economies, the qualitative requirements for admission to the occupation have also gained ground in CEEC. It seems that qualitative regulation is the best means also for non-EU countries despite the fact that this type of regulation is also far from being perfect.

⁶The main fields of EU regulation concerning the freight transport industry:

1. FUNCTIONING OF THE MARKET 1.1. ADMISSION TO THE OCCUPATION; 1.2. ACCESS TO THE MARKET; 1.3. SPECIFIC OPERATIONAL CONDITIONS; 1.3.1. COMPETITION RULES; 1.3.2. STATE AID; 1.3.3. PUBLIC SERVICE OBLIGATION; 1.3.3. LIABILITY AND INSURANCE; 2. FISCAL HARMONIZATION; 2.1. VEHICLE TAXES, TOLLS AND ACCOUNTING OF INFRASTRUCTURE COSTS; 2.2. DUTIES AND EXCISE ON FUEL; 2.3. CUSTOMS AND VAT; 2.4. COMMUNITY TRANSIT AND TIR; 2.5. CUSTOMS AND BORDER INSPECTION, VETERINARY CONTROL; 3. SOCIAL HARMONIZATION; 4. TECHNICAL HARMONIZATION; 4.1. SAFETY; 4.2. WEIGHTS AND DIMENSIONS; 4.3. EMISSIONS AND NOISE; 4.4. SPECIAL TRANSPORT; 4.4.1. ANIMAL TRANSPORT; 4.4.2. DANGEROUS GOODS; 4.4.3. TRANSPORT OF WASTE; 4.5. TYPE APPROVAL; 5. ROAD TRANSPORT STATISTICS; 6. ROAD INFRASTRUCTURE; 7. COMBINED TRANSPORT AND TELEMATICS; 8. R&D; 9. PUBLIC PROCUREMENT; 10. ROAD TRANSPORT RELATIONS WITH THIRD COUNTRIES.

A weak point in the EU regulation is to be found, for example, in its implementation that differs from one member country to another.

In fact, in most of the CEEC the euphoric period of "laisser passer, laisser faire" of total deregulation, a sort of "ex lex" situation, after long decades of over-regulation and centralisation, is over. Regulatory measures have been taken everywhere, although in several countries, the regulation of admission to the occupation for hauliers in the domestic market is still lacking. But it is there for those operators who want to engage in international traffic: in the majority of CEEC they must have a special operator licence (technically sound vehicles, bilateral or multilateral transport permits, TIR carnets, etc.).

In CEEC, just as in the EU (crisis mechanism), temporary exceptions to an excessively liberal approach and special solutions (even quantitative limitations) are, however, admissible and even advisable, in order to avoid over capacity which leads to chaos. Such preventive measures do much less harm to individuals and the transport industry as a whole than irrational over-capacities.

Admission to the occupation and access to the market in international road transport were long subject to specific restrictions in the form of a separate operator licence, bilateral permits and quotas, including in the European Union. Liberalization started in parallel with the introduction of qualitative operator licensing explained above. First, Community (multilateral) licences were issued in growing quantities for international operations to be finally completely abandoned at the beginning of the nineties with the creation of the Single Market. The last piece of this heritage should disappear 1 June 1998 when the Community quota of cabotage permits is abandoned and this type of transport also becomes fully liberalized.

Bilateral agreements and permit/quota requirements, however, still strictly regulate east-west road goods transport. Protectionist limitations imposed on bilateral traffic very often also include restrictive provisions on transit traffic; these arrangements, although described as "mutually advantageous bilateral arrangements", very often influence trade between one contracting party and third countries in an unacceptable way. Furthermore, "mutual advantages" in bilateral traffic imply setting the size of permit quotas at the lower level needed by one of the contracting parties.

However, a growing number of CEEC can now enjoy the benefits of multilateral permits under the aegis of the European Conference of Ministers of Transport (ECMT), although the limited number of such permits only covers a fraction of actual demand. This instrument should be used for a gradual liberalization of access to the international market, always according to the pace of harmonization of conditions of competition.

The recent agreements concluded between CEEC and the European Union on their general relations (Europe Agreements, trade and cooperation agreements) should also be mentioned since they include provisions on transport cooperation. These, however, have not really modified the bilateral character of control on east-west goods transport by road. Furthermore, special negotiations have been going on for years to conclude a transit agreement between the Union and a few CEEC, the purpose of which should be the creation of a multilateral quota of transit permits. No results have been achieved in these negotiations so far due to the diverging national interests of CEEC.

Real and dramatic change in this respect (and in many other regulatory matters) can only be expected by the time the selected CEEC accede to the EU. The accession countries are to adopt the "acquis communautaire" which will be the price to pay for a liberalized access to the international transport market. The bilateral regulatory structure will, however, certainly remain in place in respect of those countries that do not become members of the EU.

Lack of harmonization

The great dilemma for European transport decision-makers has long been how to liberalize (go for qualitative regulation only for the sake of ensuring sustainable development, environmental protection and road safety) while ensuring the harmonization of conditions of market competition. With the imminent extension of the European Union, and its already existing closer links with other parts of Europe, this problem has become even more acute.

It has to be acknowledged that while harmonization is a precondition of fair international competition, much is still to be done in this respect also within the EU.

Two classical examples can be quoted: the first regarding technical requirements for vehicles and the second concerning fiscal matters.

An important element of technical harmonization is the standardization of the maximum permissible weights and dimensions of vehicles. Even in the European Union full harmonization in this respect has not been achieved, not to mention the rest of Europe.

The same comment applies to fiscal charges, i.e. vehicle taxes, road use charges and tolls, as well as excise duties on fuel. Relevant EU directives prescribe only minimum or maximum values that do not inhibit Governments from applying widely differing national rates. CEEC differ even more from each other and EU values. Furthermore, in CEEC a multitude of fiscal charges is imposed on hauliers and discrimination often occurs.

The IRU has long been fighting for harmonization in these areas. Indeed, efforts are being undertaken by the European Commission itself by modifying and improving directives concerning admission to the occupation, technical requirements and fiscal issues as well as equal social conditions (driving and rest times) in road transport.

On a pan-European scale covering EU and non-EU states, the solution to many difficulties could also be found in the proper and harmonised implementation of a great number of international UN conventions and agreements⁷ that govern goods transport by road on this continent.

Day-to-day traffic problems- the 'non-tariff barriers'

A few specific daily impediments to free movement and efficient supply by road are described hereafter. These are traffic restrictions (bans), road blockades, border crossing problems and visa issues. These represent everyday problems for transport operators either on a pan-European scale or related only to east-west traffic.

⁷Important UN agreements in the field of trucking:

European Agreement on main international traffic arteries (AGR), of 15 November 1975; Convention on Road Traffic, of 8 November 1968; European Agreement supplementing the Convention on road traffic (1968); Convention on road signs and signals, of 8 November 1968; European Agreement supplementing the Convention on road signs and signals (1968); Agreement on minimum requirements for the issue and validity of driving permits (APC), of April 1975; Agreement concerning the adoption of uniform conditions of approval and reciprocal recognition of approval for motor vehicle equipment and parts, of 20 March 1958; European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR), of 1 July 1970; Convention on the contract for the international carriage of goods by road (CMR), of 19 May 1956; Customs Convention on the international transport of goods under cover of TIR carnets (TIR Convention), of 14 November 1975; International Convention on the harmonization of frontier controls of goods, of 21 October 1982; European Agreement concerning the international carriage of dangerous goods by road (ADR), of 30 September 1957.

Agreement on the international carriage of perishable foodstuffs and on the special equipment to be used for such carriage (ATP), of 1 September 1970.

On traffic restrictions

There is a multitude of traffic restrictions on the movement of heavy goods vehicles in EU and non-EU countries alike. They might relate to certain dates, regions, parts of infrastructure, type of vehicles, weather conditions, goods carried, etc.⁸ Furthermore, Governments are increasingly introducing divergent rules on traffic bans and restrictions, varying even between regions in the same State. International harmonization is obviously lacking in spite of its legal justification and possibilities.⁹

The introduction of bans happens very often in a chain-reaction by Governments that take retaliatory measures against their neighbours who introduce similar restrictions. Thus, many restrictive measures are introduced without any special reason. Derogation is frequent and often arbitrary and may lead to discrimination.

The length of road journeys is artificially increased in time and distance. The consequences in the form of direct cost increases for transport operators alone are very serious.¹⁰ Peripheral regions are most affected by such restrictions.

In this respect, no supra-national competence exists in Europe, except in relation to cases of discrimination. National and even local Governments are free to introduce traffic restrictions as they deem necessary.

Part of the traditional reasoning in favour of traffic restrictions (e.g. inadequate safety, noise and pollution) has significantly lost in importance over recent decades, thanks to technological progress in vehicle construction, the improvement of infrastructure and the measures taken to promote road safety as well as improvements in the field of logistics.

Congestion is, however, a problem at certain times and on certain road sections. This phenomenon is, in fact, caused more by private cars than by commercial vehicles. Reducing the restrictions on the movement of the latter would lead to a smoother distribution of their traffic pattern and would, therefore, contribute to easing congestion e.g. during critical peak hours on weekdays.

The following measures mainly by national Governments and the European Commission could greatly contribute to diminishing the problem:

- refrain from further measures restraining the demand for mobility and trade, thus contributing to the best use of existing highly expensive road transport infrastructure and vehicle fleets;
- reduce driving restrictions, where they currently exist at weekends and on public holidays, to the period from 6 a.m. to 10 p.m. on Sundays and public holidays themselves only;
- create a supra-national system of arbitration to assess the justification of driving restrictions, taking into account road safety and environmental requirements;
- establish a uniform regulatory framework for vehicles involved in international transport to be exempted from restrictions.

⁸See the latest IRU publication on traffic restrictions in Europe dated 1997.

⁹For example Article 75.1 (a) of the Treaty of Rome that says that the same rules should be applicable for international transport in the country of departure, destination or transit.

¹⁰According to a discussion paper of the European Commission dated June 1997, annual losses in road transport between Portugal and Germany only, due to traffic bans, can be estimated to be ECU 43 million (for 1.1 million tons of goods transported by road).

On blockades

Roads blockades have recently become frequent in many countries as they are considered to be a highly efficient tool for social protest, since roads have become the lifelines of society and the economy.

The IRU and its national associations honour the right of every citizen in a democratic society to freedom of expression and demonstration; nevertheless, the freedom of one group of individuals ends when it restricts the freedom of others.

The blockades in certain parts of the European Union in 1996 and 1997, as well as in non- EU countries, caused US\$ hundreds of millions of direct losses¹¹ to transport companies, shippers and retailers, industrial companies and agriculture as well as to consumers of all kinds of goods and services. Indirect losses were certainly even greater for branches of the economy relying heavily on just-in-time deliveries.

It is the responsibility of Governments to maintain freedom of movement on all roads and no distinction should be made between their types.¹²

Experience has shown that, once blockades occur, the related problems cannot be solved in the framework of national legislation because, even in the few countries where the compensation of victims of blockades is provided for in law, the State has proved unable to assume its legal responsibility and the procedures have been too bureaucratic.

A supra-national commitment to prevent blockades and to act in a harmonised way if they still occur is therefore essential.

In order to remedy the situation, a package of measures for national and international instances should include:

- the obligation for Governments to keep transport infrastructure free of all blockages, including those resulting from political and sectorial demonstrations on the public highway;
- prevention of road blockades, and in case they occur, lifting them as quickly as possible, especially on international ("E" roads in Europe) and national highways;
- supranational control mechanisms and sanctions to be implemented in respect of Governments which fail to maintain freedom of movement;
- internationally harmonised system to regulate the compensation for losses due to road blockades should they occur.

On border (crossing) difficulties

Border-crossing problems constitute a major hindrance to the smooth flow of traffic and trade as well as international tourism. This phenomenon has recently become a matter of concern at the external borders of the European Union and between the States of Central and Eastern Europe.

¹¹IRU estimate, 1997.

¹²E.g. In the EU, blocking of roads is an infringement of Articles 3 (c) and 5 of the Treaty of Rome with regard to the free movement persons and goods within the internal market. Furthermore, in December 1997, the European Court of Justice reprimanded France for failing to ensure that fruit and vegetables transported in lorries pass through French farmers' frequent blockades since the mid 1980s.

Apart from evident cases of politically motivated impediments to cross-border movements, the growth of trade and goods traffic by road, e.g. between east and west on the European continent, has simply overtaken existing border capacities.

Efforts by national and international bodies aimed at simplifying procedures, enhancing training and motivation of all those involved, as well as increasing physical throughput capacities at borders have so far proved insufficient, in particular, along international transport corridors.

Economic losses resulting from border delays are significant.¹³ It has been proved that the rate of return on investment and other improvements at frontiers is extremely high, and that such expenditure can very often be recovered by increased productivity within a few months to a year.¹⁴

National road transport associations and transport companies should also play their part to accelerate control procedures at borders. Thus they should:

- ensure that all documents needed for border controls are on board;
- seek alternative routes, if necessary, to avoid border congestion;
- refrain from illegal action (blockades, etc);
- use combined transport to ease border congestion when and wherever they consider it appropriate and economically viable;
- feed back information on practical difficulties to national associations and the IRU so that joint action can be taken to remedy the situation;

Only joint efforts by all parties involved can resolve border-crossing difficulties in order to enhance trade and tourism across frontiers.

Governments and the European Commission should:

- promote the harmonization, simplification and acceleration of border crossing procedures;
- develop cooperation between national control services on either side of borders, introducing "one-stop" technology;
- provide for the improved training of border personnel and transport operators regarding the use of transport and customs documentation, e.g. TIR and other documents subject to border control;
- improve the quality and also increase the capacity of border infrastructure by inviting international financing institutions and private investors to finance them, given their great importance for the smooth operation of international trade;

accede to international agreements and conventions governing international road transport and apply them in a smooth and harmonised manner.

¹³In the EU, at the end of 1992, the total cost to hauliers of frontier delays is estimated to have been running in the region of ECU 900 million a year. In 1996, following the creation of the Single Market and the abolition of internal frontiers, it had fallen to ECU 55 million, representing a total saving approaching ECU 850 million. (The Single Market Review Series Sub-series III - Dismantling of Barriers, Customs and Fiscal Formalities at Frontiers, Summary, Price and Waterhouse July 1996).

¹⁴If even a major investment were made at an important border crossing post at the PL-BY border along an important E-W Trans-European transport corridor, investment costs could be amortised by the reduction in the loss to the income of transport operators, resulting from extremely long waiting times for their trucks to be cleared, in less than a month (from gross lost income) to around a year (from profit before tax). In this estimate, indirect benefits for traders and consumers were not taken into account. (IRU estimate, 1997).

On visas for professional drivers

The particular problem of visas is the result of reciprocal arrangements between States: the citizens of the State concerned are treated in the same way as those of the other party. Therefore, any facilitation of visa issue would be mutually beneficial to international transport operators from both countries.

The ideal solution would be to abolish the visa requirement for all professional drivers working in the field of international transport. They could be identified by an officially acknowledged driver identification document (similar to the "seaman's passport"), issued e.g. by national road transport associations. Such a document could be combined with a basic health and accident insurance.

The second best solution would be the facilitation of visa issues. The present difficulties concern the over-complicated application formalities¹⁵ and procedures, the long delays, taking weeks and months, the failure to issue annual and multi-entry visas, the obligation for drivers to appear in person at consulates to hand in applications and receive visas, increased costs and the refusal to accept the national road transport associations as intermediaries.

The consequences of such a situation are detrimental to:

- the economy, trade, tourism and transport: cancelled commercial and other contracts, waste of time and loss of income;
- human relations: frustration, growing lack of confidence and mutual distrust among all involved (partner companies, embassy/consulate staff, ministries concerned and, last but not least, individuals who just want to drive their vehicle according to their work contract);
- Employment: technically unemployed drivers temporarily "laid off" to wait for their valid travel documents;
- Traffic and international trade: slow control procedures at frontiers where waiting times are, in any case, already too long for other reasons;

Despite the goodwill of certain Governments and the relentless efforts by the IRU, these problems still exist both in western and eastern Europe as well as other regions of the world.

Solution could be achieved by the following measures:

- abolish the visa obligation for professional drivers holding proper driver identification documents;
- introduce, in an appropriate international convention (e.g. the Vienna Convention on Road Traffic, 1968), provision for a special driver identification document, to be issued e.g. by IRU member organisations in the countries concerned;

In case the requirement for visas cannot be abolished:

- create multilateral visa systems covering a group of countries; accelerate the practical integration of the Schengen Agreement into the EU Treaty as revised by the Amsterdam Summit in 1997 enabling the competent services of the European Union institutions to intervene if necessary;

¹⁵In Romania, a professional driver must provide 16 different documents to receive a Schengen visa. These include: 2 application forms and photos, original invitation letter from abroad, passport, driver licence, legalised copy of certificate of company registration, copy of operator licence, copy of company statutes and administrative decision on company funding, copy of transport licence, signed and stamped confirmation of the driver being employed by the transport company, medical insurance for six months, the driver's valid work book, copy of the driver's personal identity document, verbal note by the transport association to the consulate, copy of certificate of registration of the foreign company abroad, copy of transport contract, CMR consignment note and TIR carnet. (Information received by the IRU from its member association UNTRR/R/).

- issue multi-entry visas valid for one year;
- acknowledge the role of national road transport associations in acting as intermediaries to obtain visas for their members; accept the use of a special driver identification document;
- simplify the procedures and reduce the number and type of supporting documents required; reduce the time needed for professional drivers to obtain a visa; reconsider the prices of visas to set them at a reasonable level.

Measuring losses

It is generally known that goods transport by road is the leading transport sector in developed economies whether measured in tonnes or tonnes-kilometre. Following a long railway focused development of transport services in the CEEC, a dramatic shift in favour of road haulage is also taking place in these countries.

Modal split developments prove beyond doubt the importance of the road option when it comes to meeting the transport needs of modern economy and society at large.

According to a study that the IRU has recently initiated with an external consultant on "Barriers to Road Transport",¹⁶ added value in the road haulage sector represent around 2 per cent of GDP in developed economies. In the UK, this is comparable to 1.79 per cent added value produced by the agricultural, forestry and fishery sector, or 1.35 per cent by textiles and clothing, as related to total GDP. The gross output of the road haulage sector, i.e. total expenditure on road transport, is approximately twice the value added by the same sector.

Other economic indicators might also be used to identify the relative importance of road transport in national economy (e.g. share of total number of employees engaged in the road transport sector that is around 4-5 per cent in developed economics).

Losses caused by traffic impediments mentioned in this paper and other factors should be put into this perspective.

According to the study, in the UK it has been found that for every 1£ increase in total road transport costs, UK GDP will fall by fl.66 (quite important negative elasticity of (-) 0.5).

As part of the study mentioned, a 5-country survey was also carried out among freight operators, producer and traders. Survey results show that traffic congestion accounts for between 4 per cent and 12 per cent of total transport time, the same value for border delays is particularly high in CEEC, e.g. 5.4 per cent in CZ and 5.7 per cent in PL. French companies (!) estimate that they lose 12 per cent of total transport time due to road blockades. Similar calculations were made to estimate the impact of speed limits and traffic bans. Total freight time losses reported in eastern Europe (between 17 per cent and 22 per cent) were substantially higher than in western Europe (between 7 per cent and 16 per cent). These time values were converted into annual costs based on value-of-time estimates, completed with eventual lost revenues.

The cost of these impediments varies between countries, accounting for between 1 per cent and 7 per cent of total transport costs in Western European countries and between 8 per cent and 29 per cent of transport costs in CEEC. Thus, impediment costs vary between 0.1 per cent and 0.3 per cent of GDP for the western European countries and 1.3 per cent and 2.6 per cent for CEEC.

¹⁶Manuscript, not yet published: Barriers to Road Transport: DRAFT: by the Hague Consulting Group, Cambridge, January 1998.

By means of the negative elasticity figure mentioned earlier, costs savings from a reduction in impediments can be converted into increases in GDP. Such GDP gains would be between 0.1 per cent and 0.6 per cent for western European and 1.8 per cent and 4.4 per cent for CEE countries.

Since these percentages cover billions of US\$ (billion = one thousand million), no need to say that lifting barriers and creating fairer conditions of competition on the freight market in Europe would increase the competitiveness of European economies on the world market. This is all the truer since it has been estimated that trucking in Europe is a more expensive exercise than in other parts of the world.

This is in part certainly due to still existing restrictive regulation coupled with a lack of harmonization, narrow-minded fiscal measures (see latest development: EU-Swiss agreement on the trans-Alpine tax), bureaucratic procedures, insufficient infrastructure development programmes, lack of political will to solve administrative difficulties and an often populist approach to mitigating the harmful impact of road traffic on the environment.

(f) **The main rules and practices which govern the rail transport sector - International Union of Railways (UIC)**

Dr. Manfred Erdmann, Freight Director, UIC

Introduction

As the subject "The main rules and practices which govern the rail transport sector" would be too large to be covered in this framework, this paper will single out three major items which are of general interest for trade facilitation: (1) The reorganisation of the railway system and the possibilities for third entrants to become Railway Undertakings (RU); (2) Reform of international rail transport law; and (3) Progress with interoperability

Reorganisation of the railway-system

The reorganisation of the railway system is mainly driven by EU Directive 91/440 and subsequent Directive 95/18 on the licensing of Railway Undertakings and 95/19 on the allocation of railway infrastructure capacity and the charging of infrastructure fees.

The first named Directive imposed the separation between Infrastructure Management (IM) and Railway Undertakings (RU) at least at the accounting level. This has been accomplished in the past years, but many IM have become autonomous companies, like e.g. BS (Denmark), BV (Sweden), Railtrack (Great Britain), RFF (France).

Others will become autonomous but remain for the present under the umbrella of a Holding Company, like the future DB-Infrastructure AG (Germany). In Belgium business units - e.g. for infrastructure - have been created but without their own legal status.

The Right of non-discriminatory access to rail infrastructure has been stipulated, which brings with it the need to define:

- the technical standard of the rolling stock;
- the safety aspects of the infrastructure;
- new RIV (Regulations for the exchange of rolling stock between RU) on a contractual base.

The new regulations will be drawn up by UIC bodies. Three working groups have been set up to this end. The regulations covering safety and technical aspects will have to be authorised by a neutral, international body, like the Organization of International Freight Transport (OTIF). The new RIV will become a contractual agreement between RU. A lot of work has to be done to separate these contents, which are now spread over a multitude of UIC-leaflets, the existing RIV, and other regulations. We firmly hope that the work will be finished by the year 2000.

Existing RU and new entrants are entitled to run on the rail infrastructures. According to Article 10 of Directive 91/440 there is a differentiation to be made between "combined" and "conventional" traffic :

"1. International groupings shall be granted access and transit rights in the Member States of establishment of their constituent railway undertakings, as well as transit rights in other Member States, for international services between the Member States where the undertakings constituting the said groupings are established.

2. Railway Undertakings within the scope of Article 2 shall be granted access on equitable conditions to the infrastructure in the other member States for the purpose of operating international combined transport goods services."

This means that there already exists open access throughout the EU for RU which operate combined traffic.

Six Trans European Rail Freight Freeways (TERFFs) were created at the end of 1997/the beginning of 1998. They offer the following advantages:

Creation of ONE STOP SHOPS (OSS), providing

- non-discriminatory path allocation for RU;
- unbureaucratic pricing;
- quick response.

However, the TERFFs are facing some problems, resulting from the fact that no major "pool" of new paths exists. Due to the low priority for freight trains, quality problems may arise in certain cases. Moreover, no computer-assisted international planning system exists as of today. Matters get further complicated, because different levels of infrastructure access charging persist. Customs problems for third party entrants are also likely to slow down access to the TERFFs. Access rights are only open to licensed RU, not to "operators or marketing companies".

Reform of international rail transport law

A reform of the International Freight Convention (CIM) (an appendix to the Convention concerning International Rail Transport) which contains the provisions of international rail transport law is being carried out by the OTIF, Bern.

A first draft has been defined, a second reading will follow in spring. The 5th General Assembly of OTIF will take position on this document in 1999. The new CIM will not come into force before about 2003. I shall therefore describe the main trends by the following headlines:

- There will be as much harmonization with the International Convention on Road Transport as possible;
- The rail transport contract will become a consensual contract;
- There will no longer exist an obligation to carry nor an obligation to publish a tariff;
- The liability provisions basically remain as at present, but
- Higher amounts for damages are foreseen, as well as an
- Adaptation to inflation rates;
- The liability of the RU will also cover damage caused by defects of the infrastructure and security systems, but of course the RU will have the right to be compensated by the IM;
- Finally subcontracting will be incorporated into the CIM.

While there exists no common rail transport law in Europe and Asia, thirty-nine, mainly Western-European countries, adhere to the CIM regime, 27 mainly Central European and Asian countries, adhere to the SMGS regime (Convention concerning the International Carriage of Freight by Rail, mainly applied in Eastern Europe), 6 countries apply either of the two systems.

Efforts towards complete harmonization have failed until now and will probably not make significant progress in the near future. They should not however come to a complete stop.

More promising progress is being made in adapting the CIM and SMGS *consignment notes* and obtaining mutual recognition of each. A joint OSJD / CIT Group is working in this field.

Until now, consignments have had to be re-forwarded at the eastern Polish border and a new consignment note produced.

In rail traffic between Germany and Belarus and Russia in transit via Poland, the RU concerned (DB, AG, PKP, BC and RZD) have agreed to adopt a common set of contractual transport law provisions. A single consignment note, mainly based on the CIM, can be used and two languages, Russian and German, are recognised. The liability clauses are based on remaining CIM and SMGS legislation. So it is important to know where the damage has occurred.

The agreement was concluded in Berlin on 21 January 1998. The new transport law will come into force on 01 September 1998, beginning with a pilot service for combined traffic between Berlin and Moscow which will later be extended to conventional traffic.

The agreement itself already makes provision for its full application in either of the two transport modes.

Other railways will very probably be invited to join, once the new regulations have proved themselves in practice.

The most helpful solution from a UIC point of view is of course for countries to join the OTIF and the CIM. In March 1998 Ukrainian Railways (UZ) are to sign up for a transit line of about 120 km in length between Cierna and Tisou / Slovakia and Djakovo and for the short border crossing line Zahony / Hungary and Cop / Ukraina. Lithuanian Railways (LG) became member of OTIF about 2 years ago for a transit line between the Polish border in the South and the Latvian border in the North.

Progress with interoperability

In 21 Western and Central European countries, rail transport enjoys a simplified customs declaration system. No border controls are needed for incoming or outgoing traffic among the 15 EU member states, Switzerland, Norway and the 4 Visegrad countries. The consignment note serves as customs document. It is obvious that the 21 countries want to maintain this advantage and that an SMGS consignment note will have to be accepted by the relevant customs authorities as an equivalent document.

12 RU have agreed in the RIV convention to ensure good condition and maintenance of their wagons on mutual trust and not to conduct their own inspections at the borders. 10 RU have agreed similar terms for dangerous goods, which means that they trust the RU which hands over the wagon to have fulfilled all the respective regulations.

On some international routes freight trains already nowadays have no technical problems with border crossing. On routes between Germany and Italy for instance Austrian or German locomotives can haul a train up to the Italian border. In other cases multi-current locomotives or diesel engines are in service. Systems for changing over the wheelset gauge are in use in some cases, and studies are under way into a wider application of this type of solution. In the longer term the European Rail Traffic Management System (ERTMS) will lead to harmonised signalling and control systems. European RU are expected to make use of the new possibilities. 10 corridors, defined by the Paneuropean Conference of Transport Ministers, will help to improve traffic with to the Eastern countries.

A large number of commercial operating companies, mainly for intermodal traffic, have been created in the past few years.

In conclusion, it is evident that there is great interest for rail transport, especially in long-haul-traffic to and from the maritime ports and with Eastern countries. Global rail traffic in Europe from January to June 1997 increased by 4,1 per cent, the combined traffic by 10,6 per cent. The RU and IM are prepared to handle even more traffic in the future.

PANEL 2 Import and Export Procedures and Requirements, including Customs and Border Crossing Problems

(a) Private sector views on the most important practical problems their businesses face in the area of customs and border-crossing

Juan Antonio Morales, Lima Chamber of Commerce, Peru

As the topic of problems facing the developing countries with respect to trade facilitation and customs procedures is broad, and in order to avoid merely listing isolated occurrences or situations which probably do not apply to customs procedures in all countries, this presentation concentrates on those issues common to all developing countries in Latin America and probably elsewhere. In a second step, this paper will then analyze the measures which are essential for dealing efficiently with the problem of the international transit of goods.

In the current context of globalization, customs should be a tool in promoting the harmonious and balanced development of countries. Efforts should be made to ensure that the traditional objectives of customs procedures, i.e. the proper collection of duties, effective control of the entry of goods and the maintenance of reliable statistics, are supplemented by administrative streamlining, trade facilitation and the promotion of foreign trade.

To illustrate this scenario, let us take the example of Peru in 1990, where customs operations, i.e. the clearance of the goods, took from 10 to 30 days or more depending on the type of goods, the goodwill of the customs official concerned, the skill of the customs broker responsible for interpreting the regulations and following up the procedure, and the amount of money invested in accelerating the formalities. I shall outline and discuss the various problems according to the following topics:

- Legislation and procedures;
- organization and administration;
- personnel;
- infrastructure and logistics.

With respect to rules and procedures, we find scattered and contradictory legislation; cumbersome and bureaucratic procedures; presumption of bad faith; excessive control in clearance procedures; complete discretionary authority of the customs officials; proliferation of tariff rates; numerous non-tariff measures; and limited efforts to combat smuggling and undervaluation.

As regards organization and administration, the biggest problems are a corrupt and bureaucratic organization; a lack of a suitable customs policy and institutional development plan; centralization of decision making; budgetary dependence on the Ministry of the Economy or on entities with different objectives and priorities, and, no sources for financing investment.

With respect to personnel, and here I mean both public and private trade operators, the main scope for improvement lies with the large proportion of very under-qualified personnel (in Peru, qualified staff accounted for less than 3 per cent); complete lack of educational opportunities in the sector; low pay; low ethical standards; lack of institutional identity, and lack of training programmes.

Finally, an analysis of infrastructure and logistics reveals a lack of investment and purchasing programmes; a precarious or non-existent real estate infrastructure; lack of equipment (transport) for enforcement officers; a shortage of communication systems and computer software linking the customs posts with headquarters and the various trade operators with each other.

The description of customs in this scenario also largely applies to private sector operators (such as customs brokers or freight forwarders) involved in foreign trade transactions on behalf of their principals.

The result is that international goods traffic is slow, processing corrupt, collection of duties inefficient, documentary registration useless and statistics unreliable.

The only solution for dealing with such situations is drastic reform focusing, as in the case of Peru, on the following objectives: professionalization, improvement of ethical standards and modernization. It should aim at facilitating foreign trade and ensuring timely and efficient collection of duties.

Within this context, the targets should be:

- A new institutional image based on professionalization, modernization and improved ethical standards;
- reduction of the time required for customs operations to a minimum;
- enhancement of the role of collector of duties and efficient monitoring of collection;
- technological innovation and interconnection of shipment operators, the banking system, customs, trade operators; and
- an all-out effort to combat undervaluation and smuggling.

In pursuing these objectives, aims and targets, a number of basic principles must, in my view, be respected:

Customs must be administratively and technically autonomous and endowed with a functional and coherent institutional organization integrated in the national system. Likewise, customs requires economic, budgetary and administrative autonomy and allocation of a percentage of duties collected to cover operational expenses and investment. (In Peru, the amount was about 3 per cent). Adequate pay and, where necessary, a switch to private-sector labour management for the sake of greater flexibility would also be of benefit.

At the operational level, the success of the Peruvian reform can be attributed, essentially, to the following factors:

With respect to legislation

- The reorganization of customs regulations through the promulgation of a framework customs law (enacted by the Peruvian Congress) setting forth the objectives, the chief targets and the generic definitions of customs operations, thereby providing the system with a certain amount of stability;
- Regulations issued by the Executive, following consultations with the private sector, and therefore more easily modifiable; and
- Operational regulations of a technical nature, issued by the customs authorities themselves, enabling them to make such timely adjustments as may be necessary according to changes in the dynamics of trade.

With respect to simplification

- The tariff-rate structure must be simplified in order to reduce the margins of "negotiation" and simplify control. There should be greater transparency in the general conditions in which

- foreign trade takes place. In the case of Peru, the number of tariff rates was reduced from 39 to 3 (today there are 2: 12 per cent and 20 per cent on the c.i.f. value).
- Efforts must be made to repeal all of the non-tariff measures in force, such as prior licensing and the various forms of registration and authorization.
 - A random lottery system must be introduced for a certain percentage of transactions according to the regime to which the goods are subjected.
 - The principles of good faith and presumption of truthfulness must be introduced into customs legislation with an express statement to the effect that their application to customs matters is mandatory.
 - Customs bureaucracy must be streamlined and the responsibility for files transferred to the customs brokers, who should be appointed as officials in the public service and custodians of the documents in their possession.
 - Operational procedures and flow charts must be completely reviewed and brought into line with the objectives and targets described above and with modern trade promotion mechanisms.
 - Another very important aspect of the Peruvian experience was the introduction of legislation aimed at streamlining administrative procedures on the basis of the principles of good faith and presumption of truthfulness, establishing the details of the administrative silence procedure and imposing compulsory time-limits for action and for the completion of formalities.

As regards computerization

It is essential to acquire the equipment and systems needed to interconnect all of the foreign-trade operators and to follow up a shipment from the moment of its arrival until it is cleared. The cargo manifest must constitute the backbone of the information. The network should include the customs warehouses, private-sector customs brokers, the customs authorities, the banks (as the receivers of customs duty payments) and, of course, the customs posts and customs headquarters.

As regards personnel

Any reforms in this area must begin with a thorough evaluation of the qualifications of customs personnel.

Peru began by evaluating and dismissing a considerable portion of customs personnel, after which it opened the National Customs School that has become a prerequisite for both technical staff and private-sector customs brokers wishing to work in that area, who must pass a number of rigorous examinations. In addition, all such persons must have attended university courses in areas such as law, administration, accounting or economics. As can be seen, this requirement calls for a reform in itself.

It is important to stress the concept underlying these reforms: discretionary power.

Because Peru was dealing with new procedures and new trained staff with theoretical knowledge but no experience, it was important to ensure that all of the rules and procedures introduced imposed an absolute limit on the discretionary power of officials, i.e. on their right to apply their own judgement to transactions in which they were involved.

However, following a precautionary trial period for these new professional staff members with more solid ethical training, the combination of theory and practice led to a process of natural selection in accordance with their skills, and the new officials were expected to use their own judgement within the limits of the relevant laws and regulations. Indeed, it is well known that reality always goes beyond the scope of any previously established regulations, and officials must apply such regulations according to their own judgement and, of course, on their own responsibility.

As regards valuation

Although I know that this subject is going to be dealt with at length by the next speaker, I would nevertheless like to mention our own experience in this respect. In connection with the reform, a system of compulsory inspection of origin was temporarily introduced (it is now more than five years old) with a view to controlling the under-valuation and under-counting of goods and to developing a database which would provide customs with the elements needed to enable them to conduct customs valuation directly in the future. In spite of the genuine and considerable deterrent effect of the system of inspection of origin, I consider the above measure (the establishment of a data bank) to be unfounded, since the regulations of the Brussels Definition of Value System attribute little validity to the data entered in the data bank in analysing the time factor of valuation.

At the same time, this inspection system has been more costly to trade in terms of time and money since the authorized inspectors collected 2 per cent (now 1 per cent) of the f.o.b. value and a minimum of US\$250, representing close to 12 per cent of the value of the goods in certain cases. In fact, the amount paid often more than counter-balanced the utility of the operation. Moreover, delays and errors in issuing authorizations tended to disrupt and delay trade transactions.

In spite of the above considerations, I consider that inspection of origin can be very useful in countries where the State recognizes and approves inspection enterprises, providing it is understood as a voluntary act by the user and accepted as a customs valuation method in which the inspectors are given the responsibility for any adjustment in value as a result of a review by customs.

As mentioned above, the introduction of these reforms has clearly been the key to the success achieved in my country.

This success has been reflected in the reduction of the time required for customs clearance, which now varies from one to three days; in the increase in duties collected, in spite of lower rates, of approximately 200 per cent in five years; and in the increase in the share of customs revenue in overall public revenue from 23 per cent to 33 per cent.

Nevertheless, we are faced with other controversial issues that are not strictly related to customs, but which affect international trade in goods, in areas such as transport, health, agriculture, environment, etc., as well as excessive costs resulting from monopolies and oligopolies in the logistics of cargo-handling operations.

However, I am sure that by maintaining a permanent policy of communication and transparent dialogue between the public sector and the private sector through its associations, many of the underlying problems can be revealed and solved, and trade turned into a fluid mechanism which could provide the basis for combating the extreme poverty affecting many of the developing countries and contribute to the trade in goods and opportunities, thereby favouring unity among nations.

Danny Meyer, President, Zimbabwe National Chamber of Commerce

For decades attention has been drawn to the low level of trade between countries on the continent of Africa. Poor infrastructural development, particularly roads, rail and air links, has often been cited as the major obstacle. In Southern Africa, the region where my people have lived and operated business enterprises for the past six generations, hostilities during the 70s and 80s and the resultant political instability were clearly a contributing factor.

Low and slow growth of the private sector in Sub-Saharan Africa over the past three decades resulted from the hostile environment, where entrepreneurial initiative was stifled and public sector involvement in economic activity encouraged by way of the creation of monopoly state-owned enterprises. The business activity emphasis was import substitution driven, and cross-border trade ignored or discouraged.

But the emphasis has changed since the commencement of the last decade of this century. The "winds of change" again blow on the continent, save this time it is economic and not political. There is now a general acceptance that the role of government is to create a conducive environment, enabling the private sector to create wealth, to drive economic development.

Economic groupings, such as COMESA, now exist in all the geographical areas of the continent and indeed in other parts of the developing world. Other groupings which started life with a political agenda, such as SADC (formerly SADCC) have now transformed, with the focus shifting to regional economic development.

Most countries in Sub-Saharan Africa have, over the past decade, embarked on some form of economic structural adjustment program, driven by offers of IMF-World Bank support. The emphasis is now on providing support for private sector growth. It must, however, be noted that most structural adjustment programmes are heavily dependent on export performance. In this regard, and in consideration of the level of economic development of most third world regions, it seems as if accelerated inter-regional trade and investment is the way forward.

Whilst geographical areas, such as Southern Africa, have registered regional trade growth, the percentage in global terms remains insignificant. I set out below trade statistics between my country, Zimbabwe, and neighbouring markets, which does show impressive growth, particularly where bilateral trade agreements exist and despite numerous non-tariff barriers.

<u>Zimbabwe Regional Trade (Z\$Mil.)</u>	<u>Exports</u>	<u>Imports</u>
Botswana	(90) 219 - (95) 788	(90) 159 - (95) 488
Malawi	174 - 433	12 - 47
Mozambique	133 - 448	2 - 40
Namibia	3 - 141	1 - 85
South Africa	322 - 2012	902 - 8790
Zambia	126 - 807	27 - 133
COMESA	574 - 2176	114 - 560
SADC	715 - 4883	233 - 9807

Export promotion and support programmes for the private sector like those managed by ZimTrade (Zimbabwe Trade Promotion Organization) have positively impacted on inter-regional trade promotion.

It is important to acknowledge the high level of informal trade (smuggling?) which takes place between countries on the continent.

Problems presently obstructing the moving of goods across borders, thereby retarding inter-regional trade and economic development, can no longer be blamed on poor infrastructural development or political instability only. Speaking from practical experience, let me now highlight some of the other obstacles:

Unclear and unspecified procedures

(a) Unclear and unspecified procedures

This is undoubtedly the most frustrating of all the non-tariff barriers. Much time is spent (usually at great expense as the transporter merely passes on the cost to the client) waiting for a document to have the "correct" and impressive rubber stamp. At times a document essential to facilitate import procedure is required, but the only official able to issue the document happens to be based in the provincial capital some distance away. Rules and regulations are regularly changed without due notice. The poor telecommunications infrastructure causes further delays, unless the transporter has fitted vehicles with radio equipment, to facilitate swift communication with the home base.

(b) Bureaucratic and irrelevant customs (and immigration) procedures

Much has been done to encourage the harmonization of systems and credit must go to the Brussels-based World Customs Organization (WCO). However, in many countries in our region, and mainly as a result of low capacity, staff training and development frequently receives low priority. System changes are often not clearly communicated to personnel at distant border posts.

(c) Undeveloped facilities at, and understaffing of, busy border posts

Few border posts in Sub-Saharan Africa have been upgraded or expanded to cope with the increased level of goods and people traffic. Opening hours are unrealistic and result in congestion. Road and rail bridges can no longer cope with the volume of traffic.

As some of the border posts are located in isolated and undeveloped parts of a country, the social infrastructure in the form of housing, schools, clinics etc. has not been developed. The result is low staff morale and a high turnover of personnel.

(d) Inadequate security at border posts and along major transport routes

This unpredictable "cost" places a further burden on business but sadly and frequently results in loss of life. It also discourages enterprises, with export potential, from developing business outside of their domestic markets.

(e) Excessive charges, levies and fees

In contravention of international regulations and in pursuance of an exploitation strategy, business in landlocked countries are regularly subjected to charges, levies and fees. New and creatively thought-out fees which I have come across, include a "gate fee" and a "parking fee". Despite warning that such practices undermine tourism promotion strategies, the practice unfortunately continues with short-term financial gains seemingly being the priority.

(f) Corruption and lack of transparency

Delays are costly and "greasing the palm" of an official (usually poorly remunerated or not paid for months) becomes an attractive alternative. Unfortunately, this often leads to more serious problems such as duty evasion, smuggling, drug trafficking, etc.

Prescribed fees are deliberately not displayed at border posts and Officials "negotiate" the rate on a case-by-case basis. Receipt books seem to often be "out of print" and no documentary proof of being overcharged is the result.

The problem extends beyond the border post as traffic police along the route and officials at toll points (bridges and roads) seem to pursue similar "revenue" collection strategies.

(g) Attitudes

The story is told by former USA Ambassador to the UN, Andrew Young, of a question asked by an official at an entry point in a country on the continent he visited, who enquired why he was on an investment promotion mission? What was the reason for not rather investing in his homeland, the USA?

In consideration of the need to promote inter-regional trade, the perception is often that products manufactured abroad in developed countries must be superior to those produced in neighbouring countries.

The way forward

In conclusion, there can be no doubt that increased regional trade investment and longer term business initiative such as joint ventures, licensing agreements and business alliances, will underpin economic development in Sub-Saharan Africa. However, and as a matter of urgency, solutions will have to be found to the problems highlighted and to other obstacles which inhibit cross border business.

Assistance to underpin economic growth, in the form of revamping customs and immigration services, staff training and development, reconstruction and upgrading of border posts, are practical solutions. Enterprises from developed countries will not find customers in, or secure orders from, a poor and underdeveloped third world region like Sub-Saharan Africa, even if entry barriers are removed and duties substantially reduced!

David Wakeford, International Trade Manager, Imperial Chemical Industries (ICI), United Kingdom

Introduction

International trade has increased 15-fold since the inception of the GATT and over this period its characteristics have changed fundamentally. Increased competition has resulted in businesses needing to adopt just-in-time production and delivery. Speedy customs clearance is now more crucial than ever before. To some extent in the past customs has been a bit of a backwater in international trade, hidden behind the larger commercial burden of high tariffs and other non tariff barriers. This is no longer the case, customs procedures are now in full view because they pose the biggest non-tariff barrier to trade. In some countries they are becoming more costly to implement, than the duties they collect. They have yet to be adapted to respond to business and governments needs, and to utilize the stunning progress made in information technology. Goods are frequently the subject of lengthy delays at national borders which impose enormous and unnecessary costs on companies, consumers and importing countries. Reducing and eventually eliminating the barriers created by customs procedures should not divide countries or companies.

It is one of the few reforms left where virtually everyone should gain.

It should encourage and enable smaller and less sophisticated companies and countries to become involved in international trade, currently the domain of large more sophisticated operators.

Facilitation of trade does not mean a reduction in enforcement of regulations, it does not mean a reduction in revenue being collected, but it will enable more cost effective enforcement and revenue collection. Improved border procedures should also assist in generating growth, creating wealth and enable increased benefits for all countries without needing a round of trade negotiations.

Problems with international transactions

This afternoon I have been asked to focus on the most important practical problems that businesses face with customs procedures, but I do not intend to spend all my allocated time talking about problems. I would also emphasise that because I am primarily focusing on customs issues it does not mean that there are no other border problems.

Whilst it is important to identify and reflect upon the key problems, it is more important to focus on the future.

The problems that international trade faces, I believe, are due to the incompatibility of antiquated and bureaucratic customs procedures with modern business practice, combined with the with the lack of enforcement of any generally accepted international guidelines on customs procedures. There have been numerous estimates of the cost of inefficient customs clearance to industry, all are very approximate, and represent at least 10 per cent of the sales turnover of international trade. For the chemical industry alone this represented a cost of at least US\$37 bn in 1996. Whilst this cost will have to be absorbed by the companies undertaking international trade, where commercially possible it will be passed on in the cost of the goods being sold, thereby increasing the costs for the importing countries.

Everybody who has had anything to do with international trade knows just how bureaucratic, time consuming, costly and unpredictable the procedures can be. Whilst there is evidence of improvement, progress is very patchy, both customs authorities and industry face increasingly difficult roles, with industry being subject to severe competitive pressures, and customs needing to cope with more trade in a wider variety of goods with more complex regulation. I must also say that the antiquated regulations combined with insular views of both customs officials and governments tend to be an additional inhibition to trade and few countries are exceptions to this.

The concern of business about customs barriers was recently demonstrated in the European Union when the Commission initiated a Market Access program. This program was designed to address a broad range of trade barriers faced by European exports. The high level of concern about barriers caused by customs procedures led the Commission to create a database, specifically focused on customs issues.

So what are the key problems that business faces related to customs issues?

Trust

At this stage I believe it is important to emphasise that the vast majority of companies involved in international trade rely on undertaking regular, predictable and lawful international transactions. It is not in their interest to defraud customs or smuggle goods. They undertake international trade to succeed over the long term. I emphasise this because customs procedures and information requirements appear to be based on the premise that all traders are villains.

In order to facilitate trade and achieve efficient enforcement, customs attention should be focused on the transactions having a high risk of being illegal, rather than coping with all the transactions. Risk assessment should be a high priority.

Documentation

The massive increase in the volume and variety of international trade has led to a proliferation of documentary and information requirements. The data required differs depending on the goods, the mode of transport and the local customs requirements. Data requirements for exports are different to those for imports. If a single data element is slightly wrong, or if there is a small discrepancy in the paperwork, it leads to significant delays. Demurrage, especially on a ship, is not cheap!

Whilst I am aware there is a huge amount of work being undertaken to design international documents, the impression I have is that they are being designed to cover all the requirements of all the customs authorities world-wide. Little consideration is given to what information is essential for the goods to move, and how much can be obtained from commercial documentation, or at a later stage.

The use of commercial documentation and audits of company records at either end or both ends of the transaction could offer a simpler approach.

Transparency

Customs legislation is usually fairly complex and the documentary requirements, duties, taxes and procedures are not always easy to identify. This is all part of the mystique of international trade! If you are an exporter far removed from the country of destination of the goods, it is not easy to establish exactly what is required. Lack of transparency tends to result in uncertainty for businesses and the potential for unpredicted procedures, and this might very well be corruption.

Predictability

The inability to predict the costs, delivery time and exact data requirements for a large proportion of international transactions is a huge disincentive to business. Without predictability there is no commercial certainty, if the costs are unpredictable so is the profitability of the transaction.

The delivery time is becoming even more critical now that companies operate with minimum levels of stock. Customs clearance times can vary considerably, with the worst examples being well in excess of a week and the best being only a few hours.

Customs officers have a huge ability to influence individual transactions. It is, therefore, vital that they are high calibre, well motivated professionals, able and paid to cope with the pressures of modern business, and to ensure the smooth and predictable management of international transactions.

Lack of harmonization

The lack of harmonization of procedures unnecessarily complicates the process of trading internationally. The Kyoto Convention, was drafted to establish standards for customs procedures, but was only adopted by a few countries who tended to pick and choose what they wanted from it. The revision of this Convention is currently underway and when completed, provided all WTO members are committed to implementing it, will give comprehensive guidelines that should produce uniformity of approach and thereby predictability.

Whilst the Kyoto Convention is a good foundation to build from it remains as essentially a code for the guidance of customs administrations. I believe it should only be regarded as a stepping stone to far simpler, and modernised procedures, based on current commercial practice.

Use of modern communications

The ability of data to be stored and transferred electronically is a major benefit for business and customs alike. The current need to continue to use documents and paper records is a clear disadvantage for some companies and I have no doubt it will soon be a disadvantage for all companies and authorities dealing with international transactions.

Problems with customs procedures are a constant concern for companies undertaking international trade and I have just highlighted a few of the areas of concern.

So what changes would business like to see?

- (a) Business is not calling for the immediate implementation of sophisticated data interchange. What it would like to see initially is a commitment to fundamentally reform the approach and practice of managing customs requirements related to international trade. These reforms will not only benefit business but they will also benefit customs authorities, countries and the global economy. The only people that have anything to fear are those involved in illicit transactions.

We would like to see a reduction in the bureaucracy through:

- reduced documentation and data requirements;
 - elimination of out-dated and superfluous practices;
 - the standardization of all data requirements;
 - acceptance of the same data for exports and imports;
 - the use of standard commercial information and documentation.
- (b) Procedures should be adopted that recognise that the majority of trade is legitimate and thereby allow low risk transactions to be undertaken with minimal intervention.
- (c) Audits of the traders records should be used to ensure full compliance.
- (d) Improvement of transparency by establishing a data-base, accessible through the Internet, defining all the WTO, if not all the WCO member countries, customs requirements.
- (e) Use risk analysis to target high risk transactions and liaise with responsible traders to assist in the elimination of illicit trade.

- (f) Standardize, and simplify customs procedures by adopting the revised Kyoto Convention.
- (g) Where possible use electronic data transmission using minimal data elements. The prototype project between the European Union and the United States is an excellent example of this.

So why do we believe the WTO should be involved with trade facilitation and in particular customs issues?

So why do we believe the WTO should be involved with trade facilitation and in particular border issues?

There are a considerable number of organisations working to simplify trade procedures. Unless these laudable activities are focused into a coherent approach by an influential trade organisation then they could easily complicate rather than facilitate trade.

The World Customs Organisation is an invaluable asset to the technical management of international transactions and the elimination of illicit trade. It continues to contribute to the maintenance of high standards of customs procedures especially through the revision of the Kyoto Convention *but* its technical precision can tend to inhibit its vision of trade facilitation.

I believe it is imperative that the WTO gives political motivation and direction to this dossier. The world of international trade is moving forward in so many other areas the WTO cannot afford to have progress stifled by lack of multilateral reform in such a key area.

If the World Trade Organisation is serious about eliminating trade barriers, improving economic efficiency, and taking the trading system into the 21st century its future work program must address these barriers. [A Committee should be created to do this!]

If I were to compare customs to the railway system I would say that we are in the age of 'steam' and we need to be in the age of the 'TGV' or the 'Bullet Train'. The WTO must not fail to decide to supply some electricity to this track to get the train moving faster for everyone's benefit.

Nicolas Ozanam, French Wine and Spirits Exporters, France

Clearance through customs continues to be a critical phase of the export process. It is, so to speak, the moment of truth when even a grain of sand can cause the machinery to jam. This usually happens when the regulations are opaque or unclear. This lack of transparency, which often results in arbitrary interpretations, may affect both the determination of customs value and the verification of the conformity of imports with national standards.

To avoid difficulties, the exporter's first concern is as far as possible, to remove any uncertainty, in particular by seeking to familiarize himself with the details of the regulations applicable in the importing country.

The publication of regulations, for which incidentally the WTO Agreements provide, would give operators greater security. In practice, however, publishing all the provisions, whatever their legal nature, is not a practical possibility. This is particularly true of administrative instructions, which are sometimes not intended for general publication and often include provisions that do not comply with WTO rules. This situation can be illustrated with two examples:

- (i) New regulations, including increases in customs duties, are frequently applied before the text is officially published, sometimes even before it has been signed by the competent authorities!
- (ii) Import licences are issued only when the f.o.b. price reaches a minimum threshold. This measure, which is contrary to WTO rules, has not of course been the subject of an official publication, only instructions. The goods remain locked up in customs, adding to costs and creating commercial supply problems. In these circumstances, the exporter soon gives way: he does not want his container to stay blocked for the sake of a few crates considered to be "non-conforming" because the price is lower than the unofficial floor, and does not want to upset the customs officers when he knows that he will have to clear other consignments in the future.

Goods may also be held up in customs as a result of the application of sanitary and/or technical regulations. In fact, in the absence of an internationally accepted minimum standard, many countries demand a whole series of documents in order to verify the quality of the product. In the best case, it may be sufficient that the product can be sold in the country of origin. Unfortunately, this tends to be the exception and, in general, a quite lengthy list of documents has to be submitted. In the wines and spirits sector, there are as many as a dozen different certificates which the exporter may be asked to produce: certificate of analysis, certificate of conformity, sanitary certificate, certificate of origin, certificate of purity, certificate of free sale, age certificate, certificate of good practice, nuclear non-contamination certificate, certificate of quality, free movement certificate, inspection certificate, the certificates of certain suppliers, etc. These certificates are rarely well defined and the operators do not always know where to obtain them or what they should contain. The competent authorities themselves do not know precisely what they should certify.

The other especially demanding requirement in the wines and spirits sector, associated with product control, is the dispatch of numerous samples in order to register the product. Without going into details, I would simply like to mention one telling example: an exporter received an order for 12 bottles, each containing a different, but high-value product, the total order amounting to about US\$6,000. Well, this export order could not be satisfied because, for certifying purposes, the importing country demanded three samples of each product, that is to say, with a total value of US\$18,000. This example shows, by reduction to the absurd, the aberrations to which disproportionate or unsuitable controls can lead.

It is not just the product that is controlled. The enterprise itself, together with its production methods, is examined by the importing countries in an overscrupulous and often disproportionate fashion. Thus, quite frequently, the exporting enterprise must provide a certificate describing its production and processing techniques. But the requirements can go much further, up to and including an inspection of the exporter's plant paid for by the latter and conducted directly by the authorities of the importing country.

In view of these considerations, there would, no doubt, be much advantage in seeking:

- (i) To standardize the format and content and limit the number of the various certificates;
- (ii) to establish a single authority in each WTO Member State competent to administer sanitary and technical authorizations (note that this aspect should not be divorced from the administration of import permits, where these exist, since the sanitary or technical components often form a large part of the documentation to be provided);
- (iii) finally, to facilitate the transmission of these data by electronic means.

Moreover, certain measures relating more especially to the TBT and SPS Agreements could also help to facilitate trade, specifically:

- (i) Harmonizing the sanitary and technical standards (in particular, product definitions) adopted by the WTO Member States, for example on the basis of the work of the Codex Alimentarius or other competent international organizations (CIO);
- (ii) harmonizing the methods of analysis used, in particular by referring to the existing international standards (Codex Alimentarius, CIO, for example);
- (iii) failing that, giving States the opportunity to have the characteristics of their products (Community definitions, AOC production standards) registered with the WTO. This registration would then hold good for all the enterprises exporting that product to other WTO Member States.

Apart from the product itself, the way in which it is packaged for the consumer is also the subject of numerous rules. The labelling gives the consumer the information he needs, but also conveys an image of the product and the enterprise. However, each country has its own idea of how much information the consumer should be given. Moreover, among the different requirements, it is not always easy to distinguish between those which actually meet a legitimate need for information and those which constitute a technical barrier to trade. There are labelling requirements to which the operators can hardly object, even though the cost they represent should not be underestimated. This is the case, for example, with the frequent obligation to affix labelling in the national language or in a language which can be locally understood. This requirement is acceptable to the extent that it can be satisfied by affixing a secondary label with a translation of the mandatory wording in the language required. However, it should be noted that this obligation to provide a translation should not be accepted where it is a question of a trademark or geographical indication covered by the provisions of the TRIPS Agreements. At the same time, the need to display certain other information is less obvious and may, in particular, be inopportune, taking into account the specific characteristics of wine and spirit products or pre-existing equivalent obligations. What is the point of a "use by" date on a bottle of vintage Bordeaux or Cognac? Other labelling requirements are real barriers to trade, whether they involve sanitary information (warnings), environmental information (logos of all kinds), tax information (operator's registration number) or information relating to certification (logo and/or identification number).

Finally, presentation constraints (size and colour of characters, location of items of information, spacing of items of information) are becoming increasingly frequent. Apart from the fact that they are often difficult to reconcile with the actual "design" of the product, it is questionable whether such requirements are consistent with the idea of legitimate intended objective, now incorporated in the TBT Agreement.

These various constraints increase the amount of packaging which the operators must produce in order to satisfy all the labelling requirements. Each operator must review all of his packaging whenever a particular country changes its regulations. This involves the creation of new packaging; the destruction of the old; or the "upgrading" of already labelled stocks that have not yet been sold, including stocks already shipped.

The cost rapidly mounts up, especially in the wine trade where the product ranges are generally very wide, which means a large number of labelling references. When the costs and their recurring and often unforeseeable nature are taken into consideration, labelling constraints constitute a real barrier to trade, especially for the small- and medium-sized enterprises of which there are many in our sector.

Many countries also require labels to be registered or approved, which creates numerous difficulties:

- (i) At the procedural level, because of the delays and the number of agencies that can be involved;
- (ii) with respect to the confidentiality of these controls, which relate not only to the labelling but also to the packaging, that is to marketing elements which form an integral part of a business's commercial policy. Thus, there is always the risk of a "leak", especially as drawings, models or designs are often deposited after approval. Moreover, in some countries, three-dimensional marks (bottles) are not protected.

Finally, although it is not strictly speaking a question of labelling, it should be noted that some countries require the affixing of their national tax marks in the country of exportation. This requirement transfers the responsibility for actually carrying out this operation to the exporter. This is not a neutral transfer since the technical requirements relating to these tax marks can lead to special investment and even to very expensive modifications of the production process.

In conclusion, the recommendations that could be made result directly from these observations:

- (i) Work towards greater standardization of the wording of compulsory labelling, i.e. that required by every State. In this respect, alignment on the technical and sanitary standards could make a valuable contribution;
- (ii) allow labelling in the language of the producing country, with the possibility of providing information in the language of the importing country on some other part of the packaging (secondary label, neck tag, booklet, etc.);
- (iii) abolish prior registration or, at least, have a single centre for processing the applications.

When all these requirements have been met, the exporter can start thinking of shipping his goods. However, other obstacles still remain. Thus, some countries oblige importers of wines and spirits to lodge a deposit as a guarantee of the subsequent payment of customs duties and domestic taxes. This obligation, a source of liquidity for the importing country, imposes a very heavy burden on the importer and, consequently, on the exporter who has to put up with often considerable delays in receiving payment. This situation is sometimes aggravated by delays in returning the deposit, after payment of customs duties and taxes at the time of customs clearance.

To a considerable extent, this behaviour is harming the development of trade, since the delays in payment are leading operators to slow down the pace of their transactions in order to limit the level of outstanding debt and the associated risks. Furthermore, the delays in customs clearance sometimes encountered, which also add to the time that must elapse before the goods become available to the importer, represent really significant costs.

Even if this question is to be taken up later, it is difficult not to mention the problem of the valuation of goods based on criteria other than the invoice or quantity. This problem is especially acute in the wines and spirits sector, as alcoholic beverages are generally an important source of State revenue. Despite the provisions of the GATT/WTO Agreements, customs valuation is often arbitrary and left to the discretion of the customs services. No transparent rule has been established for the determination of the values used for applying *ad valorem* customs duties. This barrier is certainly a major obstacle insofar as the level of taxation determines, to a greater extent than any other measure, both market access and competitiveness with competing products.

(b) Practical problems for traders in the area of customs valuation

Mr. Peter Zubrin, Corporate Customs Counsel, General Motors, USA

By way of background, when I left the US Customs Service to join GM during the summer of 1979, the US had already passed legislation to implement the GATT Valuation Code in 1980. Prior to that, the customs worked with a large selection of valuation rules. There was the Tariff Act of 1930 or "Old Law" as we called it back then, the "New Law" a modified Brussels value rule, and American Selling Price that applied to benzynoid chemicals, canned clams and footwear. Thus, when I moved to GM, I had to relearn valuation and one of my first major assignments was to implement appropriate procedures for converting from reporting customs valuation based on cost of production, to transaction value. Let me assure you that the conversion to transaction value was, as members of the GATT intended, a major benefit to GM eliminating thousands of hours of work devoted to developing cost of production figures and generally lowering dutiable values due to the elimination of the required statutory minimum uplifts for general expenses and profit of 10 and 8 per cent respectively.

In 1979, GM was a much different company than it is today. Back then, and we were a large international company featuring US and Canadian operations with a high level of product and functional integration, a large European subsidiary functionally isolated from Detroit, and a handful of other smaller subsidiary operations. Each operation was responsible for its own customs matters and compliance with uniquely crafted customs laws. Just to give you an example of just how opaque our operations were, I never met or spoke to my European customs counterpart at our Adam-Opel subsidiary until 1994. Although we still have a long way to go, today GM is a much more globally integrated company focused on the development of common vehicle platforms and operating our enterprise by employing common processes and systems to the greatest extent possible. Regarding the management of our customs compliance function, our objective is to establish a globally integrated customs process that features a global centre of expertise, common process and systems and with your continued support, even more extensive application of harmonized rules and transparent procedures affecting the admissibility, clearance and duty assessment of imported merchandise. In this connection, the harmonized tariff schedule and WTO valuation code are giant steps forward as they have effectively "globalized" the expertise of local customs professionals, thereby allowing experts in the valuation rules in one country to address valuation issues and manage controversies halfway around the world. However, there is still much to do before GM can reach its goal of operating a globally integrated valuation process. Although the WTO Valuation Agreement itself is not overly complex, the volume and complexity of import transactions to which it must be applied continues to increase. For your information GM files about 800,000 import transactions each year with an annual duty liability of about US\$1 billion and for globally integrated manufacturers such as GM and its competitors, off-the-shelf purchases from a published price list are exceptions, while purchases of unique made to order merchandise pursuant to complex contracts with related parties, dealing with prices, royalties, technology transfers and a host of other issues are the rule. Thus for an importer to report the correct dutiable value often requires extensive fact gathering and analysis to be completed within an unrealistic short time frame. Also, the expertise required to do customs valuation includes not only in-depth knowledge of the Valuation Agreement and related laws, but an understanding of financial, accounting and general business principles and the ability to apply the valuation rules to a complex set of business facts.

Since we regularly search for this expertise I can report to you there is a critical world-wide shortage of people matching those skills and that the shortage of these experts exists in both the public and private sectors in practically all countries in which GM does business.

The substantial duty liability, high volume of transactions, and shortage of experts demands that we look for the most efficient ways to process transactions to ensure that they are correctly reported to the customs authorities. Achieving compliance within the strict time-limits is becoming increasingly difficult because the filing deadlines restrict our ability to analyze and process complex

transactions in batches and forces us into more of a one transaction at a time mode. GM would definitely benefit from being able to certify values on a periodic basis. Moreover, I am convinced that the availability of post-importation batch processing would be a far more effective and efficient for customs services to verify dutiable values. It is definitely a win-win solution to which the WTO should give serious consideration.

What are the most significant customs valuation problems that we encounter? It is very easy to be misled by the statistics that I have seen suggest that more than 90 per cent of all customs transactions are routinely appraised on the basis of transaction value and that transparency is no longer an issue. Our experience as well as bench-marking from several other large global manufacturing companies suggest that it is not true. We have experienced a number of situations where we are subject to different customs valuations on identical import transactions to two different countries. For example, identical transactions involving sales to a "middleman" are accorded the benefit of the first sale for export rule in some countries while in others, duty must be paid against the last sale for importation. In fact, at least one country in which we trade has enacted a law that effectively eliminates consideration of the original sale in a serial transaction. The Agreement seems clear enough to characterize this as an example of a lack of uniform and consistent implementation.

As a large and increasingly integrated global company, hundreds of thousands of GM's import transactions involve sales between related parties.

In a number of countries the authorities arbitrarily and automatically uplift invoice prices by a fixed percentage and require us to demonstrate after the fact that such prices were acceptable notwithstanding the relationship. The proofs required to establish transaction values differ from country to country with some countries seeking information regarding prices or costs affecting home market sales which is clearly contrary to the agreement. This is further complicated in some countries by the fact that poor fiscal management or budgetary constraints could mean that even if we succeed in convincing customs, receiving a duty refund once transaction value is established could take years. Clearly there is a lack of implementation with regard to these arbitrary uplifts. Moreover, although the agreement does not cover general customs administration, including collection and refund procedures, this is another area of major concern to traders that cry out for uniform rules and transparent global application.

Continuing with related party transactions, GM and other global traders are required to devote more attention to the special requirements for sustaining related party prices for both customs and tax purposes. The complexities and shortage of expertise has made this difficult and very costly since independent analyses must be done. Like us in the customs and trade profession, the tax professions and organizations such as the OECD are leading an effort towards transparent taxation rules. What amazes me, however, is how little interest the tax and customs authorities in most countries have for developing a harmonized approach for establishing the bona fides of a related party transaction. I might also add, there seems to be relatively little interest in the private sector for this.

There should be no reason why a transfer price established under OECD guidelines that passes the arms-length test under the income tax laws of the exporting and importing country should not be acceptable as a price actually paid or payable for customs purposes. Amending the Valuation Agreement to allow importers the alternative of applying tax rules for this purpose would be a major breakthrough for traders, saving them the additional cost and work of doing two parallel valuation analyses of the same transaction.

A couple of other issues that we encounter in several countries point out the limitations of a global code such as the Valuation Agreement. When this uniform agreement is implemented in any one country it becomes only a small portion of the whole set of laws and regulations affecting import transactions within that country.

For example, the Valuation Agreement specifies that retroactive payments may be dutiable under certain circumstances. It is silent, however, on the procedures for reporting such payments to the customs authorities. In the United States, thanks to the Customs Modernization Act, for which GM was a strong proponent, importers will soon have the flexibility to file entry declarations based on estimated values and reconcile those entries within 15 months thereafter by means of a post-importation review process. If additional duty is due for retroactive payments or any other adjustment, we will be required to pay it with interest. In other countries paying additional duty to amend an entry after its original due date automatically exposes the importer to substantial monetary penalties. A mod-act styled provision in the WTO Agreement would facilitate an efficient valuation reporting process by allowing all transactions covering a specific trade flow during a one year period to be reviewed as a single project.

There you have it, a snapshot of the difficulties experienced by one very large and customs proficient importer in complying with the rules and managing controversies under the WTO Valuation Agreement.

As you continue your fine work in world-wide trade facilitation by promoting transparent rules and common processes, I ask that you seriously consider the development of appropriate amendments to the Valuation Agreement and other WTO provisions that would enable traders to apply leading edge information and process technology to the customs valuation process and would certainly enhance the effectiveness and efficiency of customs work in the public and private sectors alike. And General Motors stands ready to assist you in your endeavours.

WTO Valuation Agreement

Inconsistent implementation

- rejection of first sale for export
- arbitrary uplifts to related party transactions
- rejection of book values for used equipment

Not covered by the agreement

- procedure for reporting retroactive payments
- protection from penalties
- harmonization of tax and customs rules for related party transactions
- no post entry reconciliation

Complexity and volume of import transactions
World-wide shortage of expertise

(c) **Practical problems for traders through customs irregularities - costs for business, consumers, and governments and the impact of customs irregularities on small and medium-size enterprises**

Mr. David Phillips, Member of the Board, Crown Agents, speaking on behalf of Transparency International

Transparency International (TI) is a non-profit making independent organization whose objective is to counter corruption in international business transactions and through its national chapters at national levels. Its headquarters are in Berlin and there are now over 50 national chapters around the world. Its global mission is to curb corruption through international and national coalitions encouraging governments to establish and implement effective laws, policies and anti-corruption programmes. Transparency International seeks to strengthen public support and understanding for anti-corruption programmes and to enhance public transparency and accountability in international business transactions and in the administration of public procurement. We want to encourage all parties to international business transactions that operate at the highest levels of integrity, guided in particular by TI's own standards of conduct. Above all, we seek to promote the message that corruption needs to be and can be overcome. At a £200 per annum joining fee for private members, Transparency International is not exactly a barrier to trade.

This presentation will address some of the practical problems for traders with customs irregularities and especially the costs for business, consumers and governments and the specific impact of those irregularities on small and medium sized enterprises. The main problems in many of the countries in which Crown Services provides advisory services, especially in relation to customs, lie in poorly framed, inconsistent and out-of-date legislation, and overly complex, highly bureaucratic controls and procedures. When it comes to actually importing to or sometimes exporting from countries, traders find themselves often confronted with multiple duty rates and unpublished additional service charges that nobody was aware of before reaching the border or the customs post. Inconsistent and discretionary application of procedures, poorly trained and equipped staff who is itself subject to destitute working conditions and insufficient remuneration are not uncommon in numerous developing countries. Little liaison with the private sector or and a lack of trader awareness programmes can be found all over the place. Low standards of accountability and transparency in many administrations, and insufficient rotation of staff leading to over-familiarity of traders and customs officers complete the not uncommon worst-case scenario in large parts of the developing world. The low efficiency of many customs administrations has led governments to rely heavily on preshipment inspection. While this has obviously led to some improvements in efficiency, it is overall not a solution to the problems previously suffered.

The lack of transparency creates an atmosphere in which inefficiency is overlooked and fraud, corruption and nepotism flourish, but if government is often to blame, traders equally often contribute to the problem, especially since the relaxation of import controls and trade liberalization. Not enough has been done to introduce an effective lobby, and a discussion such as in this forum, on what the WTO could do to improve matters is obviously something that is very important. Too often traders do provide incomplete or inaccurate documentation and often this is done with fraudulent intentions. Also, transfer-pricing is still widely practised. Many investors demand sweeping tax exemptions and whilst there may be justifications for those tax exemptions, it is also quite obvious that a large number of other transactions enter the country under the remit or guise of that tax exemption. Deliberate under-valuation and mis-declaration to payment of duty or tax is another problem customs has to deal with effectively. PSI has not disappeared with trade liberalization, and the schemes have now grown to support a new form of support to developing country governments, that is to validate or verify tariff classifications and to ensure that duty rates quoted are correct.

What are the costs of all this? They are very difficult to assess, but obviously they are very large indeed. Poor protection against sub-standard, counterfeit, dangerous or prohibited imports and the smuggling of both imports and exports undermines, in many countries, the legitimate trade. High tax and duty rates often discourages legitimate trade and investment. There are frequently, delays in clearance and insistence on far too high a level of inspection by customs at port of import. And the high level of corruption and economic crime undermines the social and economic fabric.

What does it actually cost the national economies plagued by such a deficient infrastructure? Examples that we have seen estimate the direct loss to the fiscus is anything from 30 to 100 per cent. Poor supply chain management, arising as a result, delays in clearance, theft or damage in transit obviously brings with it considerable extra expense. It is impossible to calculate the broader economic social and even political cost, yet it is clear that attempts to create effective regional trading blocks or reduce tariffs will be undermined, employment and investment opportunities are adversely affected, and efforts to introduce simplified administration, enforcement, or mutual cooperation, are spoilt.

The costs for importers and exporters are to be found mainly delays in clearance, bribes paid or demanded, loss of market share to other companies who deliberately evade duties or licensing regimes and in demands for bonds or advance duty payment and to many companies limited access to trade finance because of the difficult circumstances under which they are operating. The small and medium sized enterprises also suffer all those losses, and may well lose access to reliable, reasonably priced sources of raw materials or other imports. Their competitive position will be eroded and any attempt to export, particularly if the regime also requires licenses or export taxes will be made more difficult.

What is the role of a modern customs department? Obviously to assess and collect revenue legally due, to enforce prohibitions and restrictions, to pursue offenders against customs law, to operate in an impartial and transparent fashion and, logically given the losses incurred by inefficient trade administration, customs administrations need to assist trade facilitation.

In the area of regulations and legislation, government should ensure that regulations are clear and well publicised, and should, to the extent possible, follow international standards. Customs needs to apply regulations in a consistent manner, assist trade within the confines of the law, and operate in a transparent fashion. The role of the trader is to seek to improve its understanding of customs legislations and comply with the regulations operate honestly. Traders should seek to understand and comply with the regulations.

Regarding documentation, governments need to adopt sensible international standards, and seek to create common documentation between importing and exporting countries. Traders need to present the necessary documentation accurately, clearly, complete and in originals wherever possible. Customs should publish guidance on the documentary requirements and assist trade in compliance.

Declarations should be completed accurately and honestly by traders, the goods should be well described, the value should be reflected accurately and the calculations should be correct. Customs should, wherever possible, use a single document for all regimes. This document should be simple to complete and preferably computer friendly. There should be guidelines on completion and far more attempts given to assisting companies with the process, particularly small and medium sized enterprises. Therefore, the customs' role is to publicize and apply procedures consistently, standardize the approach and communicate their compliance activity.

On procedures, customs should publicize and apply procedures consistently. There should be fast-track clearance for compliant trade. An effective post-clearance audit should be introduced, Direct Trader Input and EDI should be encouraged, and brokers agents and warehouses should be licensed and monitored to ensure that they comply with the terms of those licenses. It is very important that

customs administrators actually specify the terms under which they are there to assist the trade that is being conducted. A customs charter, as many OECD countries have, is absolutely vital.

To summarize, the solutions to many problems include a risk based systems approach wherever possible, effective use of computerization, the onus on the compliance should be with the trade. If the trade does comply, everything should be done to facilitate its activities. There should be real harmonization of procedures. Crown Agents is currently working on the introduction of a one-stop border control for immigration as well as for customs control between Mozambique and South Africa. If we are going to make things work, it requires a commitment particularly on behalf of the developed world to assist developing countries' customs administrations through a number of different means.

(d) Persisting obstacles for trade caused through documentation requirements and procedures

Mr. Adriaan Snoodijk, Federation of Dutch Entrepreneurs (VNO-NCW) and UNICE, Netherlands

This paper will give a bird's eye view on the persisting obstacles to trade caused by documentation requirements and procedures.

It goes without saying that apart from the import declaration and the invoice, many accompanying documents, often depending on the trade sensitivity of the goods, need to be presented by the importer at the moment of the import of goods. Many of these accompanying documents relate to origin - preferential or non-preferential - or support trade policy measures and other obligations that stem from international agreements (be it bilateral or multilateral) that does not solely relate to the goods traded. As a customs expert I am not in a position to condemn them all the legal instruments that cause this red tape. I am convinced, however, that a thorough screening of the rules could demonstrate that some documentary requirements have become obsolete. Insofar international agreements cover subjects that are of importance to international trade, it seems worthwhile to analyze if these agreements can be reformed and adjusted to the needs of modern trade practise.

The mere fact that I call these supportive documents "red tape" indicates that apart from their usefulness, I question if is effective that these documents need to be produced at the moment of border crossing.

The classic view on international trade by customs administrations is that asserting control over international transactions is only possible at the border. Even when the main objective is to collect revenue, this view is in my opinion old-fashioned, a wrong use of human resources, a waste of time, and last but not least a costly exercise for both customs and trade. Apart from the need to distinguish between the sense and nonsense of rules that cause the paper flow, it is necessary to find ways and means to administer this flow in such a way that efficient border crossing management will reduce and, where possible, remove this obstacle of documentation requirements.

In my view, to achieve such an objective two aspects should be considered, i.e.:

- (a) increased cooperation in the countries of export and import; and
- (b) international facilitation.

Cooperation between the country of export and import could yield a reduction in the number of documents when it is borne in mind that quite often the documents to be submitted are official statements duly signed by the competent authorities in the country of export. It seems out of date that at a time when more and more people surf on the Internet, hard copies of export data need to be produced and often reproduced separately as import data. The situation could drastically improve when the export country involved in the international transaction could verify export data and other data from the exporter and needed by the importer at the moment of exportation. The authorities in the country of exportation could communicate (preferably through electronic mail) these verified data to the authorities of the country of importation who will then accept the data as verified import data.

I do not believe that this is utopia, as this idea is being explored already in the context of a prototype project between the US and some Member States of the European Union. If in time such a prototype would demonstrate that facilitation along these lines is feasible, an international agreement, politically endorsed and stimulated by the WTO, could consolidate it.

International facilitation is also necessary to accommodate the increased flow of international transactions and seems to me the logical spin-off from the necessity to cope more efficiently with the resulting increased workload for customs administrations. It is often said that trade facilitation is the

sole wish of the economic operators as a means for simplification in dealing with customs legislation and other regulatory barriers. I think the picture is incomplete and there is another side of the coin that needs to be discussed. As mentioned before, the world is increasingly becoming a global marketplace, in which the volume of trade is continuously expanding, also stimulated by electronic commerce. This has as a consequence that the workload of customs administrations increases as well. In addition to pure customs work, customs administrations often act as 'agents' to enforce rules in the domain of other governmental bodies. To cope with this increased workload the options left to customs administrations are either to ask for a higher budget or to find ways and means to modernize and work more efficiently. In most countries the answer is clear and as a result customs must go for more efficiency.

It is this need for efficiency that could be an excellent means to further facilitation. If customs administrations would become more selective in enforcing the rules at the border, the bona fide importers could be excluded from fiscal border-crossing activities. Even in the situation where no reduction of import data would take place, this type of facilitation is feasible. In such a situation authorized importers could be allowed to submit only a small number of essential import data. In combination with the cooperation between the country of exportation respectively country of importation, pre-entry information sent by electronic mail will even further reduce the time necessary for the interface with customs at the border of the country of importation. In this approach an authorized trader would submit post-entry declarations preferably periodically while audits would discharge the importer from his responsibilities. Quite a number of documents nowadays submitted at the border could be audited in the administration of the importer.

It is quite obvious that in order to become an authorized trader, risk analysis will be required. Such risk analysis should demonstrate that the trader can offer a sound administration and administrative organization and is committed at executive level to comply fully with the customs legislation.

The concept of the authorized trader can become an international means for trade facilitation in a legal instrument. A WTO Agreement on trade facilitation could be created, setting the parameters for becoming an authorized trader. Through such as the WTO Agreement the status of authorized trader could be recognized internationally and enable this trader to clear his goods through customs through a "green channel". The status of authorized trader should not be restricted to multinationals but should also be granted to small and medium sized traders that need the parameter set. Bone fide traders that are engaged regularly in international transactions should be in a position to benefit as much as possible from facilitation measures that aim to reduce documentary requirements and should be eligible for post entry clearance and auditing through their administration.

In conclusion, I wish to express as my view that trade facilitation of this type and scope can only be realized where the WTO gives political impetus and will coordinate all facilitation initiatives including those already undertaken by quite a number of different international organizations. It goes without saying that traders are one of the most interested parties in international trade want to be involved in the development of trade facilitation.

PANEL 3 Payments, Insurance and other Financial requirements which affect Cross-Border Movement of Goods in International Trade

(a) Overview of the facilities and problems related to payments, insurance and other financial requirements in the developed world

Mr. Norman Rose, Director-General, Business Services Association, United Kingdom

All traders know that it is useless having a good product if we cannot sell it. We also know that it is pointless to be able to sell a good product if we do not receive payment for it. We all have experience of the cost to our companies where that payment is not received on time. But, how do we navigate within this choppy channel?

The purpose of this presentation is to outline some of the methods which are available in the developed world to assist in the payment cycle and to protect the seller and also to highlight some of the pitfalls and problems which exist in the international payments arena.

When a trader sets an overall target of being paid in full and on time, its financial manager accepts this as an input to the financial targets of:

- maximising its liquidity;
- minimising its interest costs;
- controlling its foreign exchange risks.

It is important at the outset to have in place the necessary financial strategy and backing necessary to enable trade to commence and continue. There are different methods of achieving this. An importer and an exporter will have different priorities for this which reflect their exposure to risk.

An importer will favour open account trading where the goods and documents are sent directly to him allowing him to withdraw his goods from customs. Unfortunately, for the exporter, the importer has no incentive to pay him other than the fear of further supplies being stopped or of legal action.

An exporter, on the other hand, will prefer cash in advance - though he is rarely going to have his wish granted!

In between are the Documentary Collection where a third party, usually a collecting bank, is used to act as an honest intermediary, exchanging the documents of title for payment or for a promise to pay; and the Letter of Credit which is a written undertaking given by a bank at the request of a buyer to pay up to a stated sum of money within a prescribed time against stipulated documents. The use of the Letter of Credit significantly reduces the payment risk.

It is not uncommon that a period of 130 days passes between the conclusion of the sales contract and the receipt of payment, while the goods have been cleared and delivered to the importer after 80 days. In international trade transactions, the exporter is usually confronted with a "funding gap," - a period of time where he has given up control over the goods but has not received payment for them. No wonder that an exporter prefers cash in advance!

The mention of documentation causes many traders to blanch. It can be complex and certainly appears not to be 'user-friendly'! However, if the transaction is to proceed smoothly and successfully, correct and appropriate documentation is necessary. It is a necessary safeguard for all parties that it be wholly accurate, despite the practical problems this may give rise to in the course of a transaction.

Regardless of the payment strategy or documentation used there are two fundamental risk assessments which have to be in place:

- know your customer ;
- know your marketplace.

Before embarking on any transaction or series of transactions the trader must ask itself questions about its trading partner. Is the customer likely to go out of business? Can it pay on time? Is it growing or declining? Traders also need to establish whether the government in the importer's country can generate the foreign exchange necessary for the transaction.

An exporter must also know the marketplace into which it intends to sell and identify and quantify any risks associated with that marketplace. Is there a non-transfer of hard currency? A debt-moratorium or rescheduling? What are the chances that import licence requirements will be imposed, or existing import licenses be cancelled? Is there a record of asset expropriation or is there any likelihood that other government action will prevent contract performance?

It is also necessary to have a foreign currency strategy. This is not an added extra; it can make or break the profitability of a deal. It probably requires expert help and advice from the bank; but the trader must also have an idea of how it wishes to deal with this. It cannot exist by passing the buck to the bank because the trader, not the bank, is in business and we all know how important it is to own a strategy rather than to have one imposed on us.

The insurance provision which a trader has in place to cover the potential of non-payment, loss of goods in transit or misuse of its brand name can be vital in protecting it from financial loss or exploitation. Credit insurance takes into account both the commercial (buyer) risk and the political (country) risk. The cost of marine cargo insurance usually depends on the type of cargo, the scope of the insurance, and the reputation of the insured party.

Time after time payment issues are named as the most important factors in successful international trade. Since they are fundamental in domestic trade, why should they be otherwise in the international dimension? The problem is their complexity. Cross-border payments are not the same as domestic ones and look unlikely to become so within the near future.

The European Union has closely examined the issue of the time taken by banks to clear cross-border payments and has issued guidance to banks as to the timescale within which customers should be entitled to payment, normally 6 days. If this does not work legislation is threatened.

Delays in payment processing can be long, causing cash-flow unevenness. These will vary according to the method of money transfer used - e.g. cheque, banker's draft, airmail transfer or telegraphic transfer. Correspondent banking arrangements may be clear and simple to the bank manager, but they are not to a trader when it fails to receive payment for days - or weeks.

Currently, the time taken between delivery of the goods and payment can vary from 88 to 208 days. At an interest rate of 12 per cent, this represents between 3 per cent and 7 per cent of the total price of the goods.

Some countries have a law imposing statutory interest on debts; many do not. The European Commission is likely to issue a draft law on this subject in the next few months. The United Kingdom is consulting on this now. It is an important but often overlooked source of diminution of profit. But, who is going to enforce it? A trader does not wish to jeopardise future trade by taking the customer or supplier to court - and they know it. Payment of interest on late payments will only become the norm as international standards such as the ISO 9000 series include it

as part of their accreditation criteria. This issue cannot be left only to national governments or international trade bodies, like the WTO to enforce; corporate culture must lead the way.

These are all fundamental issues which need to be considered before starting to trade and which need to be revisited regularly during the trading cycle. These difficulties have existed for years. Despite many attempts to remedy them they still exist. Decisive action is required - NOW.

Trade facilitation has many facets. They all should have the same aim - to make international trade procedures and documents as similar to and as simple as their national domestic equivalents.

Only one body has the international breadth, the political backing and the delivered mandate to undertake this enormous and important task - the World Trade Organisation. It can propose procedures to rationalize international banking procedures, to reduce red tape, bureaucracy and unnecessary banking complications. It can espouse the latest electronic techniques and champion a new form of electronic "Letter of Credit" for the 21st century. As a result of this Symposium, the WTO should accept the challenge to rewrite international trade procedures for the 21st century.

(b) **Overview of the facilities and problems related to payments, insurance and other financial requirements in the developing world**

Mr. Henrique Rzezinski, Xerox Brazil, Brazil

Brazil's recent economic growth, especially during the five last years, is closely related to the opening and stabilization of the Brazilian economy and its consolidation in the international trade arena, which is also reflected in the important participation of Brazil in the WTO. This presentation will outline the main trade facilitation measures in Brazil and the major issues related to the panel theme, from the viewpoint of Xerox Brazil. Our company, a 2 billion dollars revenue operation, is presently the third biggest operating company among the more than 70 Xerox operating companies all over the world, right after the US and Japan. Not only imports increased exponentially but we were able to consolidate four important industrial facilities for local manufacturing for the domestic and export markets.

In recent years, several trade facilitation measures by the government have positively affected the import and export climate:

First, substantial tariff reduction measures were introduced starting in 1991. The average tariff dropped from 44 per cent to 14 per cent. Secondly, MERCOSUR, the Southern Zone Treaty between Argentina, Brazil, Paraguay and Uruguay, effective since January 1995 and the so called 4+1 Agreements already in place with Chile and Bolivia that multiplied regional trade by four. Also, a privatization program that is presently ongoing, which includes facilities such as ports and roads, is expected to reduce what we call "the Brazil cost".

Maybe the most important trade facilitation measure is the Economic Stabilization Program (Plano Real) which succeeded in reducing the inflation rate from 1200 per cent in 1991 to 7 per cent in 1997.

The expansion of credit facilities to the level of 2.0 billion dollars by the Export Financing Agency (BNDES - EXIM), although important, is still very low to meet the country's needs.

At the important field of export credit insurance, finally an alternative to the letter of credit does exist now. The creation of the Exportation Credit Insurance Company, a private company composed of a pool of 6 Brazilian insurance companies and the French COFACE is an important step in the coverage of the commercial and political risks of international trade. The Foreign Trade Integrated Electronic System (SISCOMEX) was successfully concluded in 1997 and is automating exporters and importers registration, licensing, pricing, customs valuation, dispatches and exchange controls, and is reducing red tape, thus reducing costs, and providing fast access to statistical information.

The Air Cargo Electronic Management System (MANTRA) was introduced in 1995 and has been improving customs services and reducing handling and storage costs.

These measures have succeeded in ameliorating the parameters for trade and commerce in Brazil. However, major structural issues, need to be addressed in the future.

Several structural problems are currently undermining further growth of commerce and trade. First, the very high domestic interest rate, characteristic of this stage of the stabilization process, is certainly one of the major barriers for the international competitiveness of Brazilian products. Secondly, the heavy and complex tax and fiscal structure needs to undergo immediate and urgent reform. High inland transportation costs due to precarious or insufficient road and railway systems are also critical and need to be addressed by faster deregulation and privatization.

Recent government measures to protect the stabilization program are also creating problems, that we hope, will be transitory.

The first is the reduction on import payment terms. Those with less than 360 days have to be paid within 180 days and those with less than 180 days have to be paid cash.

Although fully automated, import of some products still require prior authorization, e.g. automobiles or used materials.

The recent increase of 3 percentage points on the external common tariff of MERCOSUR is, we all hope, also a transitory shift in the decreasing trend of tariffs, consistently implemented since 1991.

The following measures would improve the current situation for traders and the business community.

- The effective implementation of the Customs Valuation Code;
- The substantial increase in credit facilitation for exports, especially for small and medium sized exporting companies;
- Creation or strengthening of credit insurance mechanisms, using the already existent credit records and files of companies presently operating in the developed world;
- Deregulation of import payment terms;
- Strengthening of the Foreign Trade Integrated Electronic System for purposes of registration of importers and exporters, licensing, dispatches and exchange controls.

(c) **The role of exchange control formalities and other formalities related to payments, insurance and other financial requirements which could create obstacles to trading, with reference to opportunities to reform**

Mr. Moses Pelaelo, Director, Financial Institutions Department, Bank of Botswana

Background

Exchange controls refer to administrative arrangements and restrictions on the ability of residents and non-residents to exchange domestic currency for foreign currencies, and vice versa. They are generally classified as current account or capital account transactions. Current account transactions refer to international payments and/or transfers for purposes such as external trade, travel, dividends to foreign shareholders, payments for technical or management services, consultancy fees, franchise fees, royalties, etc. Capital account transactions refer to payments, essentially, for investment purposes such as purchase of shares by non-residents in the stock market of a given country (inward portfolio investment) or direct investment outside one's country.

The origin of most exchange control regimes can be traced to post World War II situations; they were first introduced in response to exceptional circumstances, to enable authorities to cope with perceived economic weaknesses, conserve foreign exchange and thereby avoid balance of payments crises. They were also used to support the post 1944 Bretton Woods system of fixed exchange rates between the major international currencies. For example, Botswana introduced its own exchange controls system in 1976, when it withdrew from the Rand Monetary Area, and introduced its own national currency, the Pula. At that time, exchange controls were established as a cautious move reflecting uncertainty about the level of confidence that would be displayed in the new currency; they served as a precaution against possible capital flight, as well as to conserve foreign currency and a means to ensure that foreign investors brought into the country a certain amount of capital from external sources. During that time the widespread use of exchange controls to ration availability of foreign exchange was understood.

Since the collapse of the Bretton Woods system of fixed exchange rates, in 1973, and in particularly over the past two decades, the international environment and perceptions about exchange controls have changed dramatically. Exchange controls are neither considered desirable nor effective means to address either shortage of foreign exchange or balance of payment crises. As of 15 September 1997, of the 181 IMF member countries, 36 had no exchange controls and 141 had acceded to Article VIII status of the IMF Articles of Agreement.¹⁷

The obligations of Article VIII of the IMF require that a member country cannot impose restrictions in the making of payments and transfers for current international transactions without the approval of the Fund, or engage in discriminatory currency practices, and should always be prepared to purchase its currency from other members, by making payments in the currency requested by the other member. Article VIII status, thus, provides an assurance to the domestic and international financial community that the country's system of current account convertibility is permanent and irreversible. In this regard, the IMF's declared objective is the promotion of a multilateral system of payments for current account transactions between members, in the interest of achieving balanced growth of world trade. A member country is to notify the Fund whether it is prepared to accept the obligations of Article VIII immediately or whether the country intends to avail itself of the transitional arrangements under Article XIV.

¹⁷Botswana acceded to Article VIII status on 17 November 1995.

The transitional arrangements under Article XIV permit a member country to maintain restrictions on payments and transfers for current international transactions that were in effect on the date on which the country became a member of the Fund. However, the member may not introduce restrictions that had been withdrawn, without prior approval of the Fund. Also, a member that takes advantage of the transitional arrangements is expected to strive to develop with other members commercial and financial relationships that facilitate international payments and promote a stable system of exchange rates. In accordance with this requirement, a member should seek to remove its restrictions on current account transactions as soon as it is satisfied that its balance of payments position is strong enough to allow this.

The irony, however, is that many member countries adapt inward looking strategies when faced with balance of payments problems. There is no recognition that the easier and more efficient arrangements for making payments for trade purposes, the greater the scope for trade and consequently, a current account surplus, high level of foreign reserves and a strong external balance. More often, a policy response to balance of payment problems or shortage of foreign exchange is to impose more, rather than less exchange controls.

Some exchange control arrangements that adversely impact on trade

(a) Prescription of currency or permitted methods of payments

Exchange control regulations often prescribe that payments to or from residents of foreign currency must be made or received in foreign currency or through a non-resident domestic currency account in the country. If it is required to vary the method of payment or engage in barter deals or any other form of counter trade, specific approval of the authorities must be sought.

As a result of this restriction, traders are not able to benefit from recent innovations in methods of payment. In some cases, traders are not permitted to use domestic currency denominated cheques to pay for imports i.e. banks are not permitted to settle local currency denominated cheques sent for collection by correspondent banks outside the country. Also, the use of credit cards, smart cards, etc. for payment for international transactions are restricted. The rationale for such restrictions being that such forms of payment could be used for illegal export of capital; residents should not use foreign currency to purchase goods freely available in the domestic market, etc. These restrictions bring rigidity and inefficiencies in the payments for goods and services.

(b) Export proceeds and surrender requirements

Exchange control rules often mandate that export proceeds must be received in the country within a specified period (six months in the case of Botswana), and surrendered to an Authorised Dealer (banks), to be converted to domestic currency, thus, making the trader to acquire, in certain cases, "valueless" currencies. Specific approvals are required for what are referred to as abnormal payment terms, e.g. goods for sale on a consignment basis, for lease or hire to non-residents, trade samples, etc. Consequently, exporters are burdened with the process of completing forms, declaring value, terms of trade, etc.

(c) Payments for imports, import related costs, etc.

Many exchange control regimes require that payments be made within a specified period (e.g. three months) after the clearance of the goods through customs. While foreign currency might not be restricted, the documentation required to prove the reasonableness of value of the goods, receipt of goods into the country, etc. are often onerous and a source of irritation to traders.

Advance payments for goods also require prior approval of the authorities, and are often restricted to a specified period of importation.

(d) Forward contracts

Forward purchase of foreign currency to cover payments for imports and other known commitments, are also restricted to specified maturity date, e.g. six months, matching the period of intended shipment of goods. This restriction imposes undue costs on exporters and/or importers because of the inhibition to use their own commercial judgement to hedge against possible adverse exchange rate fluctuations.

(e) System of authorised dealers (buying and selling of foreign currency)

Where exchange controls exist, no person, other than an Authorised Dealer (usually commercial banks) is permitted to buy or sell foreign currency. Residents must offer for sale to an Authorized Dealer any foreign currency which they own or receive as payment for goods or services. This often creates problems and inconveniences to traders, such as limited banking hours, inefficiencies at banks, lack of convenient access to banks, a limited number of banks, etc.

The above are just a few examples of exchange controls that could create obstacles to trading. The intensity scope and/or coverage differ from one country to the other. Though countries, such as Botswana, have liberal exchange control arrangements, the fact that capital controls do exist means, as a practical measure, that monitoring of certain current account transactions must be done, to make sure that they are not disguised capital account transactions. As a result, bureaucracy is still widespread even in countries which have acceded to Article VIII status of the IMF.

While the problem alluded to above can be ameliorated by, e.g. (i) delegating most of the powers of exchange control authorities to banks (decentralizing the approval process from the central bank to commercial banks or customs where appropriate), (ii) removing documentation requirements for small transactions, (iii) allowing offshore retained accounts, (iv) introducing on-shore foreign currency accounts, etc., the ultimate objective should be to remove all exchange controls when the economic conditions are favourable. (Incidentally, Botswana has removed exchange control restrictions on forward contracts and greater reliance is being placed on post-transaction verifications rather than ex-ante approvals).

Opportunities for reform

There are a number of reasons, which, in my view, suggest that every country should consider removing exchange controls, as summarised hereunder.

(a) Global and technological changes

Financial integration, economic liberalization, technological advancement and globalization of international markets have made financial systems porous and, thus, made effective enforcement of exchange controls difficult. Consequently, exchange controls are "leaky". Repatriation of capital is likely to occur through all kinds of mechanisms, including over-invoicing of imports, etc. The advent of sophisticated technology in the area of payments and settlement systems has made exchange control administration a futile exercise, eliminating whatever social value exchange controls could have.

(b) Economic and financial costs

Exchange controls impose unwarranted economic and financial costs to the rest of the economy. Firstly, the cost of compliance, on both firms and individuals, though difficult to quantify,

are high. Secondly, the restrictions impose unnecessary transaction costs by requiring export proceeds to be converted to domestic currency, and then back to foreign currency when firms make payments for imports. Thirdly, both the authorities and the commercial banks are forced to maintain extensive, expensive administrative infrastructure for the implementation of the controls. Fourthly, the maintenance of irksome bureaucracy, completion of forms, delays in processing applications, etc., frustrate business people and act as "sand in the wheels of business". Finally, exchange controls create a perception of a badly managed economy, likely to face foreign exchange problems. They could suggest a lack of confidence in the future performance of the economy. Consequently, export prices could carry an exchange control "risk premium" thus, an additional cost to the ultimate consumer, to the detriment of the net social welfare.

(c) Sound and prudent macroeconomic policy management

It is sound and effective macroeconomic policy management, not administrative controls, that will determine the extent of successful intervention in dealing with any potential balance of payment crisis. To the extent that a country continues to experience current account surpluses, pursue prudent fiscal policies, maintain stable and competitive exchange rates and adopt sound monetary policies, the exchange controls are not necessary. Reliance should be placed on good governance, stable macroeconomic situation and sound financial infrastructure and prudential regulatory framework, to conserve and/or build foreign exchange reserves.

(d) Restriction on savers and optimal investment decisions, regional integration, etc.

Exchange controls prevent domestic private savers and institutional investors from making optimal portfolio diversification, as between domestic and offshore investments, thus, disadvantaging residents in the competition for viable opportunities, globally.

Regional integration agreements or cooperation - Effective regional integration or economic blocks cannot be pursued with exchange controls in place.

Issues to consider in an Exchange Control Liberalization Programme

(a) Risk management and survival of domestic firms

The process of economic and financial deregulation offers opportunities while also exposing market participants to risks which, in the short run, could threaten their very survival. With exchange controls, and other trade related restrictions in place, domestic firms are somewhat "protected" from the vagaries of international competition and international money and capital markets. The abolition of exchange controls, if not properly sequenced, could produce macro-economic shocks (e.g. a sudden reduction in money supply leading to a sharp increase in interest rates), adversely affecting both private and public sector institutions.

(b) Exchange rate policy and speculation

The authorities must ensure, where the exchange rate is managed, that it is not over-valued, inefficient or unsustainable. Such an outcome could attract speculation against the domestic currency, with damaging consequences for the domestic firms and, consequently, the financial sector. A careful analysis of the levels and composition of foreign reserves must be undertaken. Also, domestic interest rates must closely mirror those prevailing in the international markets, net of inflation and other risks peculiar to that economy.

(c) Money laundering and other forms of financial crises

Any country which has liberalized exchange controls, in a geo-political or economic environment that is unstable, is vulnerable to being used for money laundering or as a channel for illegal export of funds from other countries. It is, therefore, important for a country to adopt and/or strengthen anti-money laundering measures (including legislation and enforcement mechanisms) as part of the process of exchange control liberalization. In this regard, the work of the Financial Action Task Force of the G30 countries must be recognized.

(d) Strengthening of prudential regulations and supervision

Increased openness in the capital account may expose banks and other financial institutions to increased risks, due to either deposit volatility and/or foreign exchange risks. It is, thus, imperative that prudential regulations and supervisory infrastructure are robust, to create proper incentives for strong internal corporate governance and market discipline of financial institutions necessary for safe and sound banking practices. Liberalization of exchange controls would not be able to produce the desired effect on economic development if public confidence in the banking system is as a consequence eroded and banks are not able to play a meaningful intermediation role. I should note that the efforts made by the international banking supervisors to harmonize banking supervision standards and practices are likely to be valuable in this regard.

Countries need to pay attention to their taxations systems; there may be a need to move from a source-based to a world-wide taxation basis to ensure that income from offshore investments is subject to tax.

A surge of capital flows: countries must create capacity to deal with potential volatile capital flows, particularly portfolio investment funds.

Conclusion

Exchange control formalities have, in general, outlived their usefulness and where they exist, impose undue burden and costs on both the economy and individual firms. Further, technological advancement, globalization, regional integration and economic liberalization render exchange controls ineffective and undesirable.

Notwithstanding the above, there is a need to ensure proper sequencing before the controls can be removed, noting, in particular, that macroeconomic stability, competitive exchange rates, sustainable fiscal budgets, a strong external balance as well as sound financial system and prudential regulatory framework are pre-conditions for the successful liberalization of exchange controls.

(d) **Financial requirements related to international trade - avenues to reform; experiences with "Bolero" and its potential for the future**

Mr. Åke Nilson, Director, Marinade Ltd., UK

The Bolero project is an example of what can be achieved in trade facilitation *through* a purely private initiative. This presentation will also point to areas where there are definite opportunities for the WTO to help the private sector forward and areas where experiences between the WTO and private initiative such as the Bolero project could be exchanged as well as areas where we simply would like to ask the WTO for assistance.

In this presentation, I would like to cover these issues: What are the problems in trade finance, and why would anybody want to do something such as the Bolero project? What is hindering a solution in other ways?; where does Bolero fit in?; and how will Bolero make it possible to overcome some of the difficulties that we see in international trade. I would also like to tell you who the T.T. Club and SWIFT, the current parents of the Bolero project, are and to explain why they are such suitable parents for this project. In closing, I would elaborate very briefly what has been done so far in the project, particularly what has been going on over the last year and what we hope to achieve in the course of this year.

The main problem today is the acceleration in the volume and speed of trade consignments. This acceleration is the result of a globalization of supply and sales channels. Thanks to the reduction of tariffs and other trade barriers, it has become more easily possible to globalize supply chains and the activities of international trade activities. We are moving to a "pull" strategy versus a "push" strategy. In other words, customer demand is becoming king rather than the push of internal technology solutions and the push of getting a product to the market. It is rather what is the customer demanding that is driving forward the development of sales. There's a demand for just-in-time technology in the logistics area, therefore we simply need to speed up transport and payment solutions. That is because goods in transit are essentially non-performing assets. Once the exporter has put the goods onto the means of carriage these goods are tied up capital which are not producing a return, unless of course they are covered by a negotiable document, - this is incidentally one of the few areas where negotiable documents still have a justification - but you can see therefore that whilst the goods are in transit the speed with which we can get a complete trade cycle directly impacts the bottom-line profitability of cooperations. This demand for speedier solutions is the driving force behind the Bolero project.

Managing trade documents is a highly complex process. Something like 27 different parties are involved in a single trade transaction, and for moving a single consignment, more than 40 documents plus copies of all those documents, with over 200 individual data elements - most of which will be repeated multiple times - need to be submitted. This information has to be shared internally among various departments concerned such as manufacturing, inventory, purchasing, accounting, etc., and externally with buyers/suppliers, banks, carriers, customs, ports and so forth. There is a tremendous amount of data flow going around in the system. The cost of administering all this is generally estimated to around 7 per cent of the value of international trade, approaching US\$400 billion annually. If one bears in mind that the margins on an international trade transaction can be considerably smaller than 7 per cent, it becomes clear that any reduction in cost here would have a tremendous impact on the profitability of all organizations involved in international trade.

What is getting in the way of a solution? While there are several partial, unconnected proprietary and community solution attempts, which unfortunately do not link together. For instance, there are port communication systems dealing with logistics data for trade going through a specific port, and then there are electronic banking systems for handling financial instructions related to the same trade; but there is no interlinkage. The EDIFACT standard certainly does exist but is not used by a sufficient percentage of international traders to have become a real success as yet. There is a

lack of agreed international electronic business protocols. These are rules that can keep business together and harmonize the way which we do trade by electronic means, and provide a secure legal framework in addition to the tools provided by technology. This is a subject that the ICC Electronic Commerce project is addressing.

There are security concerns regarding the confidentiality and privacy of data, for example how can I verify that the person I am dealing with over an electronic link is really who they say they are? All those concerns need to be addressed. Currently, there is no global legal framework addressing the issues that we have to deal with in those areas where electronic commerce is different from traditional commerce. This is obviously a subject that needs to be worked at. There's no ubiquity of electronic connection. This may sound a bit strange coming from people like me who are great internet believers and you can say that internet is a ubiquitous electronic connection but (a), it requires a certain amount of infrastructure to access the internet and (b), very many companies today do not allow access to the internet by their own employees simply because there are so many distractions on the internet, not to speak of viruses another harmful things that can come with it.

Finally there is a general attitude in the minds of international traders that we have always been doing things in the traditional ways, there is something almost magical about the paper and the way in which we handle international trade. That attitude is difficult to change overnight.

So let me get on to the current parents of the Bolero project. The Through Transport Club (TT Club) is a mutual insurer for transport operators, chiefly those in the container industry. It covers ship operators, freight forwarders, non-vessel operating carriers, terminal operators, ports and container lessors. The TT Club covers the majority of the world's container fleet both for physical loss or damage and also for the liability arising out of their operation. As a mutual insurer, the company is owned by all the insured people. It's in other words a sort of cooperative of transport operators.

SWIFT on its part is a cooperative organization of banks and has been running since 1973. Today it relays everyday something like US\$2.5 trillion. Approximately it turns over the total annual value of international trade in 2 days. So we have two parents who are both cooperatives. They consist of a very large part of their respective communities which are the transport, the logistics operators and the banks. They together are standing behind the development of the Bolero project.

What is the Bolero company mission? Bolero is aiming to provide a guaranteed and secure delivery, in electronic form, of trade documentation. In other words, the Bolero service will guarantee that if you send an electronic message to it, it will be delivered electronically and securely to its ultimate recipient. This service will take place globally will be based on common procedures and take place in a binding trustworthy legal environment which Bolero will create by private contract between all user-parties. Bolero is intended to be an infrastructure for cross-industry services. It's very important that this should be cross industry but they should be seen as being a neutral infrastructure for all geographical and all industry participants. Bolero is a global project.

We are currently in the process of setting up a Bolero company. Its principles are simply that it wants to be there as a founder but it will be a company that will be open to other investors if they can show the same sort of credentials of being representative of industry and being open to the entire global international trade world. It will have cross industry governance and will not be biased in favour of any particular industry or geographical area. It will have an open approach towards competition. We welcome competition in the sense that competition will open up greater understanding and willingness to use this sort of services to facilitate trade, to act as a trusted third party. It will, like SWIFT be relied upon to deliver messages neutrally and safely and it will provide some legal framework for traders.

What has happened so far? The Bolero project can trace its origins to an initiative by BIMCO in 1991, and it was sponsored generously by the EC between 1993-1995. Since 1997 it has been sponsored and operated by the TT Club and SWIFT. We have been developing a business

requirements specification which was a consultative document to get full buy-in from all sectors of world trade, and the Bolero rule book which provides a legal framework. We have carried out commercial validation to prove that this is worth doing, functional and technical validation and it has resulted in a business plan.

The results of the commercial assessment show that there are positive impacts on importers and exporters, for instance quicker delivery of goods because there will be no delays for documentation. This will reduce inventory days and therefore result in a more efficient performance of the capital. Faster settlement by electronic means, savings on the document management (that's handling and storage and so forth), savings on the communications costs (simply because we are able to use the internet protocols which allow trader to communicate for next to nothing), reduction in errors and reduced occurrences of queries and other time chasing up of things that takes management time.

Let us look also at what the logistics industry and other service providers may be able to benefit from Bolero. They can increase their through-put of booking processes. Again, they will save from reduced errors, reduction in queries, they can turn over their containers faster, they will fill more of the slots available on ships another means of transport. They will be able to communicate in a more direct manner with customs and will achieve faster and lower cost internal reconciliation.

So finally where are we going to? We had last year the business planning phase that led up to the Bolero business plan. That was approved by the boards of the SWIFT and the TT Club and we are now in the Bolero company start up phase where a company to be jointly owned by SWIFT and TT Club being set up to finalize the technical specifications appointed technology supplier, agree the long-term structure governments and funding of this company, and that will all be in place by the 30th April and then we will go out and realize the project. It is the current aim of the Bolero company to have a live service available at the end of November this year. It will then start in small number of countries but in the course in 1999 we will roll this out so that it becomes a truly global service.

PANEL 4 Electronic Facilities and their Importance for Facilitating International Trade

(a) The importance of electronic facilities for the conduct of international trade - A view from a user of such services

Nick Mansfield, Principal Consultant, Information Security, Shell Services International

The Shell Group of Companies

The parent companies of Royal Dutch/Shell Group of Companies comprise the Royal Dutch Petroleum, Netherlands, 60 per cent and The Shell Transport and Trading Company p.l.c., United Kingdom, 40 per cent. There are Shell Group Service and Operating Companies in over 120 countries. Shell Services International provides information technology advice and services to Group companies and third parties. In terms of income, revenues and market capitalization the Royal Dutch/Shell Group of Companies is the largest in the industry. The Group is vertically integrated and engaged in the Exploration and Production, Oil Products, Gas and Coal, and Chemical industries. Electronic facilities play a vital role in the efficiency of the operational activities and maintaining a competitive edge.

Electronic facilities in the Shell Group

The annual expenditure on information technology services is over 2 billion US Dollars per year. Shell has several global networks. The Shell Wide Web (SWW) is a private network using Internet technology to provide reliable sources of knowledge covering every aspect of the business. Effective knowledge management enables Group companies to have fast access to the information required for conducting business. Knowledge sharing via the SWW enables Shell companies and their enterprise partners to operate at lowest cost and maintain an effective competitive edge. Electronic mail services are used to enable the orderly flow of business at all levels. Nearly one million electronic mail messages pass across Shell networks on a monthly basis. This number is growing at a rapid rate. Connection to public electronic mail services, such as the Internet, means that electronic mail is now the primary means of business communication. Standard user desktop and server configurations enable Shell companies to take advantage of the latest technology. The Shell Group common directory allows personnel at all levels to locate and communicate with each other on a global basis. The common electronic infrastructure interconnects the Group securely and efficiently.

The benefits

The benefits can be measured in time and costs, both for improving supply chain automation and business process re-engineering. Supply chain automation and optimization has resulted in reduced cost of delivery, improved time to market and closer connections with both customers and suppliers. Each improvement brings closer to reality the notion that oil sold in the retail business triggers a whole sequence of events in the supply chain with minimum stocks being held at all levels. Transport and delivery are optimized by minimizing time and cost. Responsiveness to the demands of the market is improved by directly linking what is traded or sold in the marketplace to the output of refineries and chemical factories. Without the best in information technology and services it would be impossible to orchestrate business activities on a near real time global scale.

The demands of the market place are changing dynamically at a rapid pace. New market environments often demand new ways of doing business. To be a market leader requires a constant process of business re-engineering. Continuous learning and the ability to adapt to change have become necessities for survival. Electronic facilities have become essential to survival. Today we have global virtual teams; for example, groups of engineers gathered into virtual communities to complete a project without ever meeting. Vast reservoirs of knowledge and experience are brought to bear on the project of the day before dissolving to reform for the next. Management has the minimum

layers of bureaucracy, instead there is a reliance upon a sense of community and common purpose. Gone is the hierarchical machine organization, replaced by an organism-like structure exhibiting life like characteristics in terms of responsiveness and flexibility. Information technology provides the neural network to bind the business together.

Obstacles to trade

There are obstacles to trading in this way. The global legal and regulatory environment for trading electronically is unpredictable, uncertain and metamorphic. Currently, no trusted global information infrastructure (GII) currently exists within which to conduct business. The cornerstone of business confidence is trust. Trust is built on three basic security requirements:

- strangers communicating over open, insecure public networks must be assured of each other's identities;
- enterprises must be assured their business partners cannot retract or deny what they communicate;
- and all parties must be assured that their communications cannot be altered or read by electronic intruders.

Use of cryptography in the GII can fulfil these requirements. It provides the ability to create unique digital signatures that may authenticate originators and communication contents. It can also be used to protect the privacy of communications. Government controls on the export, import and usage cryptography are major obstacles to trading electronically. In 1997 the OECD published Guidelines for Cryptography Policy. Global implementation of these guidelines would contribute to the removal of some of these obstacles.

The possibility to closely monitor activity on electronic networks, such as the Internet raises society issues such as privacy. Collecting information to enable close market profiling allowing suppliers to optimize the delivery of goods and services is generally recognized as a good thing. Tracking and tracing the detailed actions of individuals and companies in the process is regarded by some as an invasion of privacy. Until there are global standards and guidelines to differentiate between good or bad behaviour there will be uncertainty and consequently business risk.

Despite the massive investments in creating global electronic networks and services there is still an enormous amount of paper in business transactions which cannot be avoided. In many countries the legal and regulatory environment still demands paper. The use of paper is often bound up with customs agents and bureaucracy, and causes delay which translates to increased costs and reduced business efficiency. Organizations such as the Shell Group of companies are very close to being a paperless business internally. However, the use of paper on many external business interfaces severely reduces the benefits. In many instances these are transactions with governments such as payment of taxes and import duties.

(b) **The role of EDIFACT for facilitating international trade, with reference to its potential for small and medium-sized enterprises**

Dr. Nadadur Janardhan, Regional Trade Facilitation Advisor, ESCAP

Introduction

The importance of small and medium enterprises (SMEs) to national economies is well known and by now well documented too. Due to their size however, SMEs suffer from constraints that lower their resiliency to risks and prevent them from attaining economies of scale. These challenges are particularly significant in the area of human resource development and access to markets, technology and information.

Left on their own SMEs face difficulties arising from the liberalization induced adjustments.¹⁸ With SMEs varying widely in size, capabilities, environment (urban or rural based) and organisational structures, coherent region wide and nation wide strategies to address their problems have been difficult to craft. As a result, SMEs are still far from realizing their full potential. SMEs therefore need enhanced support, in order to harness the opportunities arising from the liberalization and facilitation of trade and investment, and in adjusting to a fast changing business environment.¹⁹

No wonder, there is renewed thinking on ways to assist the SMEs to:

- encourage successful SMEs to retain competitive edge through integration of electronic commerce based technologies in their business activities; and
- help avoid uncoordinated developments of underlying technologies which could cause incompatibilities and exacerbate problems of SME integration with the global market.

"There is a need to identify a real benefit before using electronic commerce in general and EDI in particular"

The terms "electronic commerce" and "electronic data interchange" (EDI) are still difficult to conceptualise in a practical sense for the SMEs. Even with increasing media coverage of the Internet and the information superhighway, it is clear that SMEs have only superficial knowledge of the emerging global business communications and information infrastructure. The link to EDI, and the implications for their business, is appreciated even less.

EDI is not high on the agenda of successful and innovative small businesses in Asia, nor at the present time is it considered to be an important contributor to their success. Whilst SMEs are aware of increased use of technology for business, they are predominantly concerned with more immediate and fundamental issues like staying in business "this week", endeavouring to make a profit, coping with regulatory and taxation matters and thwarting perceived competition. Beyond the use of simple fax technology, which most consider to be an essential business tool, SMEs do not perceive that EDI can substantially assist them with these primary concerns. SME's appreciation of the

¹⁸Trade matters much more to the well-being of economies in the region than it did a few decades ago. There is thus an increasing pressure to become internationally more productive and efficient. Successful trading in the global environment, which relies on speed of delivery and quality of service, cannot be achieved without the use of modern and effective information systems. 'Just-in-time Systems' require the firms to review all their procedures affecting the supply of products or services to the customers. Strategic architectures designed to realize these goals need to identify the tools required for the same. In this, electronic commerce tools are emerging both as an answer to well-defined market needs and as the result of new standards and technologies.

¹⁹Small businesses are no doubt disadvantaged in comparison with multinational firms, in international trade. They face barriers that the larger firms can easily cross. A list of some important barriers would include language and culture, large physical distances, access to business information, and differing business and administrative practices.

potential for EDI to provide competitive advantage and support export opportunities is still relatively low.²⁰

The only way then for the "supply driven" solution providers to hide their failure in enticing the SMEs to embrace electronic commerce in general and EDI in particular has been to apportion part of the blame on the behavioral pattern of SMEs and the rest on the State! Some of these oft repeated charges would include:

- Inertia and resistance to change;
- Technology phobia;
- Lack of a "critical mass" of EDI and communications partners;
- Immaturity of telecommunications and IT infrastructure.

There is a need to make a decisive shift from such supply side solution frameworks. Of course, the journey to any demand driven solution would have to begin with an understanding the profile of the customer - in our case the SMEs. What is their business activity context?

SMEs can usually be classified in five basic types:

- Long standing family business;
- Offshoot from larger enterprise;
- Growth of self employed individual;
- Franchise start up;
- Global start up.

Their customer base can also be as varied. It could be narrow; broad and local; niche but international; or wide and international. The management structure would mirror the business activity context. Thus it could be the 'working in, NOT for' style; or a management that is product skilled and nothing else. It could as well be the service agency dependant variety that focuses on its core competency and out sources everything else. Presupposing that a 'one size solution that will fit all' will be the first major mistake.

The Paradigm Shift

From Supply Driven To Demand Driven: The discussion above should make it clear that the pillars of a needs based approach for SMEs to embrace EDI as an integral part of their business strategy would necessarily include focus on awareness, access, utility and competence.

Awareness

The "rationale" for any "needs based approach" is sustainability. No one would be willing to put money in any initiative or participate in it unless they are absolutely certain as to what it is; and what they can get out of it.

²⁰A proactive approach to implementing EDI would mean improved bottom line (due to increased volume of business and sales as well as reduction in costs due to more efficient use of personnel); drastic reduction in transaction time and costs and improved quality of information on goods in the logistics chain; strategic advantage (through time savings, reduction in errors and consequent litigation, more time for quality support); links with suppliers contributing to the creation of strategic alliances; and most important of all, strengthened customer relations through quality and quantity of timely information.

Access

SMEs are typically strapped for cash. For them the resulting project has to pay for itself in a short period of time. Return on investments in less than a year would be most ideal. Then only can the SMEs be expected to own the project. Thus a perceived demand of high ROI is very important to the SMEs.

Utility

The four basic solution sets of a demand driven strategy for SMEs to embrace electronic commerce in general and EDI in particular include:

- Pre transaction information;
- Corporate communication;
- Transaction processing for direct sale to the customer;
- Transaction processing for inter corporate sales.

The role of electronic commerce and EDI in its application in pre transaction information processing is rather passive. It would typically include the use of Internet as a notice or billboard for products and services. One could send or receive such information as supply chain opportunities, business directories, web page design and maintenance, tourism and leisure marketing, export market intelligence, training facilities, inward investor service for FDI flows, best practice, technology briefing, service provider register, E-mail directory, and legal and regulatory provisions. The last mentioned would cover areas such as statutory information, acts relating to data protection, liabilities of the publisher, information ownership and unfair competition.²¹

Corporate communication would cover electronic conversation, contact making, expressing opinion, requesting and receiving information from news groups, on line fora as well as feed back on services provided.

Transaction processing for direct sale to the customer is the ultimate dream of every SME. This is still not easy to realize in spite of the hype about its possibilities. In any case such a possibility would also involve ability for direct distribution of product and product support. Its main use now would be for products and services which can be digitized. It can also be used for value addition through product support.

The last mentioned application of electronic commerce for transaction processing to support inter corporate sales is very real and full of possibilities for the SMEs in Asia. The vast majority of SMEs have only limited contact with consumers; they derive the greater share of revenues from delivering products and services to other firms, which then deliver their products more efficiently to the consumer. Thus, practical application of electronic commerce would involve using EDI for all the cycles of any inter-corporate trade transaction - from ordering, invoicing through payment.

²¹The availability of universal and low cost access to the Internet and World Wide Web, using non-proprietary technology, is widely seen in Asia as providing the basis for development of major global business opportunities and enabling the widespread implementation of cost-effective EDI for SMEs. There has been a dramatic growth in the use of the Internet both by governments and the private sector in Asia as a means of providing access to information. This has not percolated to transacting business electronically. This growth is destined to continue, underpinned by the low cost of the Internet compared to other electronic networks and its availability twenty-four hours a day, seven days a week. Based on non-proprietary technology, the Internet provides SMEs with the ability to communicate electronically on a global basis with the same ease that larger organisations communicate internally using their internal local area networks. It also enables on-line access by SMEs to information databases and for transacting business with both customers and suppliers without any geographic restriction. Access to the Internet by SMEs gives governments the means whereby they may involve SMEs in their EDI initiatives in the most cost-effective manner using a communications infrastructure that enables SMEs to pursue global business opportunities.

Realization of this needs an integrated cross sectoral strategy. Benefits arise since EDI can significantly reduce many of the barriers to trade identified earlier for the small businesses. Since traders will be using transactions that are internationally accepted and in a transparent manner, the possibilities for misinterpretation that arise through culture and language is diminished. Similarly, as business and administrative processes get harmonized, the need to keep track of hundreds of practices is no longer a consideration. Finally, with EDI, data gets transferred at near the speed of light. Therefore, physical distances do not matter much. Business Facilitation based on EDI offers the best hope for the small firms.

Competence

It has to be realized that the messaging applications for SMEs are not always the simple ones. The reasons are not far to seek. Consider the SME that is nimble, fast, flexible to be able to cater to an unpredictable, volatile demand market. If such a firm is part of a value chain, the characteristics of that chain would be to fulfil market mediation function and not the physical function alone. The focus will be to avoid stock outs and mark downs and improve customer service.

If the business plan centres on a firm operating as a low-cost provider where price is a critical factor, then the procurement function may be the place to start investigating the benefits of EDI. This is because purchased parts and materials are usually at least 50 per cent of overall production costs. There is a lot of room for improvement as can be seen from figure 1 below. That is why world-class firms, small or big, try to manage procurement efficiently.

Figure 1: Benchmarking to Assist Improved Procurement		
	Typical firm	World class firm
Cost Factors		
Suppliers per purchasing agent	345	5
Agents per US\$100 million of purchases	5.4	2.2
Purchasing costs as a% of purchases made	3.3%	0.8%
Time Factors		
Supplier evaluations (weeks)	3	0.4
Supplier lead times (weeks)	150	8
Time spent placing an order (weeks)	6	0.0001
Quality of deliveries		
Late	33%	2%
Rejected	1.5%	0.00001%
Materials shortages (# of instances per year)	400	4

Way ahead

EC and EDI Awareness (Summary of Recommendations)

- . Electronic commerce and EDI needs to be demystified for the SME sector.
- . EDI must meet criteria similar to those which led to widespread adoption of fax machine: low cost; ample benefits; simplicity of installation; universal use.
- . The apparently confusing terms applied to a multitude of technologies must be clarified through a steady, simple-to-understand, campaign of education and awareness.
- . Jargon-free demonstrations, with 'see, touch and feel' elements highlighting familiar forms of electronic commerce and EDI, will be important for the demystification process.
- . Government must also embrace EDI technologies.

Source: Advice on Electronic Commerce Programs for SMEs, Monash University, Australia 1996.

Eighty percent of EDI implementation issues are business issues. Eighty percent of EDI benefits are business benefits (e.g., reducing inventory, cycle times, working capital). Successful campaigns to gain executive commitment to EDI should start by emphasizing business over technical opportunity. SMEs investigating EDI definitely would like to consider the short-term benefits first. These benefits are not inconsequential. **EDI:**

- Reduces processing delays resulting from re-keying data to and from documents;
- Eliminate re-keying errors and the time spent resolving those errors;
- Reduces telephone charges and unproductive man hours;
- Reduces paper forms, mailing costs and hassles of dealing with bureaucracy;
- Improves inventory control and shipment scheduling;
- Minimizes premium freight costs.

Let us try to put these benefits in perspective. Consider a scenario where two trading partners perform a transaction in a manual system (that is with out EDI). Let us also assume that both the firms are not totally archaic and that they do have computer systems capable of generating purchase orders, creating accounts payable entries, producing cheques, entering orders, producing packing slips, generating invoices, creating account receivable entries and applying payments against these entries.

Then, in such a system, the purchaser:

- prepares a requisition;
- obtains approvals;
- enters requisition data into system;
- prints purchase order;
- mails purchase order to supplier.

The supplier at the other end:

- receives purchase order;
- enters purchase order into system;
- prints packing slip and ships products;
- produces an invoice that creates an account receivable entry;
- mails invoice to purchaser.

Following the receipt of the products, the purchaser:

- enters the receipt of the product into inventory systems;
- receives the invoice;
- enters invoice into accounts payable systems;
- prints a cheque;
- mails the cheque to the supplier.

Finally, the supplier:

- receives the cheque;
- acknowledges receipt of payment;
- enters the cheque into accounts receivable system to offset the entry.

When EDI is introduced into the above scenario, the following steps will be replaced:

- printing of purchase order;
- mailing of purchase order;
- receiving of purchase order;
- entering of purchase order into system;
- printing of an invoice;
- mailing of invoice;
- receiving the invoice;
- entering the invoice into accounts payable system.

This represents an improvement of around 42% on the processing workload

When Financial EDI is introduced into the above process, the following steps will be replaced:

- printing of cheques;
- mailing of cheques;
- receiving the cheques;
- acknowledging receipt of payments;
- entering the cheques.

These represent an additional improvement of 21 per cent on the processing workload!

Still, the recounting of the benefits have been general. SMEs normally prefer more concrete methodologies to assess exactly what immediate benefits they will get by introducing EDI in a typical fashion. Experience shows that SMEs begin with Purchase Order and Invoice and later on add Despatch Advice. The methodology below explains how an awareness program could put concrete dollar value to the benefits.

Business benefits of EDI in order fulfilment

Ordering is the central activity of efficient order fulfilment strategy. Its singular objective is to "provide the right product to the right place at the right time in the right quantity, and in the most efficient manner possible."

The reasons for implementing EDI-based ordering vary by firm; however, both the sender and receiver of EDI messages can receive substantial benefits. Ordering messages can support the following components of business strategy:

Order fulfilment

Firms using EDI may increase value chain responsiveness and take out the costs of manual processing. By reducing the cycle time between ordering and fulfilment, importers can manage inventories more effectively.

By accepting the EDI Purchase Order message, an exporter can:

- Reduce clerical support: Receiving EDI Purchase Order messages direct into an order-entry system may eliminate the task of transforming an order into a data format suitable for internal processing.
- Reduce data-entry errors: No longer having to enter data manually, an exporter also may eliminate the possibility of introducing errors into an order.
- Reduce order cycle time: Eliminating manual data entry will speed up the exporter's order processing system. This can improve the exporter's responsiveness to the importer's order and reduce purchase order lead time for the importer. It also may enable an exporter to manage his inventory and raw materials' procurement more efficiently.

By sending the EDI Purchase Order message to its exporter, an importer can:

- Reduce cost
- Reduce inventory: Reducing the cycle time from order to delivery can allow the importer to manage inventory more closely.
- Improve order integrity: Since the errors of manual order processing by the exporter can be eliminated, the importer can be more confident that exactly what is ordered will be delivered.

Figures 2, 3 and 4 provide a guide to the measurement of the savings due to the introduction of EDI in automating Purchase Order and Invoice messages. They look at the benefits of sending and receiving orders and Invoices electronically, and highlight savings in staff time, reduced telephone and fax costs, and reduced stock levels.

Figure 2: Receiving Orders Electronically (For Exporters)				
Cost Area	Current Cost	Potential Savings	Time Saved	Value
Staff time receiving and opening mail	Man hours per month	100 Percent	Man hours per month	US\$ Per month
Staff time keying orders in computer	Man hours per month	100 Percent	Man hours per month	US\$ Per month
Staff time checking that orders are keyed correctly	Man hours per month	100 Percent	Man hours per month	US\$ Per month
Staff time filing orders	Man hours per month	50 Percent	Man hours per month	US\$ Per month
Reduced incorrect deliveries				US\$ Per month
Improved customer service				US\$ Per month
Benefit from freeing sales staff off routine	Potential for increased sales*	Achievable increase in sales*	Value to the business*	US\$ Per month
			TOTAL	

Source: Quantifying the Benefits of EDI - GE Information services, 1995.

*A straightforward way of calculating this benefit is to start by making an assumption about the percentage of sales staff's time that will be freed up and then calculating the potential increase in sales if this time could be used to increase sales pro rata. The achievable increase is a function of the potential increase reflecting customer base, market conditions etc. The value to the business can be estimated from the cost of producing increase sales by other means such as employing additional sales outlets, advertising, discounting etc.

Figure 3: Sending Orders Electronically (For Importers)				
Cost Area	Current Cost	Potential Savings	Likely Saving	Value
Staff time printing and mailing orders	Man hours per month	80 Percent	Time saved man hours per month	US\$ Per month
Paper and postage of fax costs		50 Percent		US\$ Per month
Reduced stockholding costs	No. Of days stock held	5 days	Monthly stock holding costs*	US\$ Per month
Reduced incorrect deliveries	Cost of incorrect deliveries	80 Percent		US\$ Per month
Improved customer service	Potential value of 100% stock availability	Percentage of this available**	US\$ Per month	US\$ per month
			TOTAL	

Source: Quantifying the Benefits of EDI - GE Information services, 1995.

*Monthly stockholding costs can be calculated by taking the average value of stock held and then estimating the main costs: interest on capital tied up, warehousing, insurance, shrinkage etc. A figure of 1.5 to 2% per month would be expected.

**The potential value of 100% stock availability may be easy to estimate if records are kept of business lost. Alternatively an estimate of the business lost or competitive advantage to be gained may be possible.

Figure 4: Benefits from Sending Invoices Electronically (For Exporter)				
Staff time Spent	Current Cost	Potential Savings	Likely Saving	Value
Preparing Invoices	Man hours Per month	100 Percent	Man hours Per month	US\$ Per month
Data Entry	Man hours Per month	100 Percent	Man hours Per month	US\$ Per month
Matching invoices to orders	Man hours Per month	80 Percent	Man hours Per month	US\$ Per month
Resolving queries	Man hours Per month	80 Percent	Man hours Per month	US\$ Per month
Reduced errors	Man hours Per month	80 Percent	Man hours Per month	US\$ Per month
			TOTAL	

Source: Quantifying the Benefits of EDI - GE Information Services, 1995.

Awareness on Issues of EDI & EDIFACT and the Role of Internet

The essence of EDI is that data can be transferred from one application to another in a structured manner. From a technical point of view, this is easy - any file in a previously-agreed format will do. The matter becomes a bit more complicated when firms want to send the same file to all its business partners. Then, they have two problems:

- formatting the file;
- coordinating the content to meet the information needs of all the partners.

The first problem cannot be solved by letting market forces decide - that would lead to every supplier needing a different format for every client. The sufferer is the weaker party - usually the SMEs. The solution is to have a generally-accepted format, laid down in an International Standards Organization (ISO) standard. This format is actually a syntax in which different types of messages can be written.

The most common standard is UN/EDIFACT, and, while there are some national standards, many countries are switching over to the UN/EDIFACT standard. In the United States, ANSI X12 is the local standard, and still the most used, but the UN/EDIFACT looks like the one to come out ahead as the standard for international EDI traffic. Incidentally UN/EDIFACT is an ISO standard (ISO 9707).

The second problem, the content of the message, is less easily resolved. In order to know which data elements a message must contain in the exchange of data among companies in every business sector in the world, it is necessary to make an extensive model of each transaction. This is where hundreds of specialists have been busy for years under the auspices of the United Nations. They describe in United Nations Standard Messages (UNSMs) what the content of a transaction must be in order to be universally applicable. The knowledge contained in these UNSMs is of crucial value for EDI.

As of September 1997, there were 210 UN/EDIFACT messages! A message may have one of the two status - either it is a United Nations Standard Message (UNSM) or it is a Message in Development (MiD). Of the 210 messages, 155 are UNSMs and 55 are MiDs. One of the best sources for getting an overview of these messages is "Henry's Yellow Book" and is available on the Internet at: <http://www.edishop.com.hk/henry.html>

The strengths of UN/EDIFACT

From a software point of view, the UN/EDIFACT syntax is not the only possible way to exchange data - computers are able to process much more compact and flexible formats. The UN/EDIFACT syntax development no doubt began based on the idea that one should be able to exchange messages by telex. That thought has clearly been overtaken by technology - today one wants to be able to exchange not only text elements, but also drawings, sound, photographs and even video. This was a problem gripping the attention of the UN/EDIFACT standardization process - figuring out how binary elements can be included in an UN/EDIFACT message. Fortunately, this issue has been satisfactorily resolved with the International CALS Congress (ICC) formally signing an MOU with CEFAC, agreeing to use UN/EDIFACT for their messaging needs and jointly developing it to suit their applications. However, the importance of the UN/EDIFACT standard lies not just in the syntax. More important is the knowledge embedded in the standardized messages, the UNSMs. Phenomenal amount of work has gone in among the trade practitioners around the world in bringing about consensus on the information content in the messages and methods to uniformly represent them in the form of internationally accepted codes. EDIFACT should really be the standards standard- the meta standards- in which the content is definitely established and content to follow suit.

Incidentally, the greatest strength of UN/EDIFACT has been its ability to flexibly tackle the needs of the time, by actively cooperating with relevant institutions and following a demand oriented approach. This is possibly due to the very process that led to the birth of UN/EDIFACT - the need to reconcile varying approaches to EDI standardization process in the United States and Europe and bring out a syntax acceptable to all.

EDI on the Internet²²

There is a clear role for EDI on the Internet. When discussing communication between applications, the first thought should be "EDI." When a computer must be able to process the transaction, EDI is the only way to do it. When a consumer goes through an electronic catalogue on the Internet to order products, they see the information in Hypertext Markup Language (HTML). The basic data such as packaging, number of units, and other technical specifications are given in text, and, if possible, the catalogue is enriched with pictures, images and sounds. This gives humans the possibility to process the information, but the same information must be in EDI format for an *application* to process.

When someone decides to order a product, a chain of events is set in motion. In the first place, the product suppliers must process the order. They really only need to know which article number is involved, the quantity and who the client is. Secondly, the in-house application needs to know that the order has been made – internally, several things have to be taken into account: warehouse space must be made available, shipping and receiving must know and accounting has to be made aware. EDI is the only way to do this well.

This means that information on the Internet must be available not only in HTML but also in EDI format. If electronic catalogues are compiled on the basis of the data model incorporated in the UNSM, it is guaranteed that they are universally applicable. Hence, Internet servers should be equipped with the possibility to generate not only HTML, but also UN/EDIFACT format.

It seems obvious to send orders and other messages via Internet to the supplier, but there are a number of difficulties with the Internet. The problem on which the whole Internet world is now focused seems to be: Security. The Internet is, quite simply, not secure...anyone can intercept and read all the data that can be sent via the Internet relatively easily. This problem will one day, once and for all, be solved, but that is still ahead of us.

A second problem is the reliability of the connection itself – there is no guarantee that a message sent via Internet actually arrives. The Internet is a collection of linked networks. There is no "owner" of the Net - no single organization can take the responsibility to ensure that a message arrives. For business applications this is not always acceptable; firms which exchange important business documents need the guarantee that messages arrive in a timely fashion. That is the strength of the Value Added Networks (VANs) which have been used for years for EDI. VAN providers can make a "Service-Level Agreement" with the users, in which they take responsibility to deliver all messages securely, completely and timely to addressees.

Future EDI systems will encompass concepts for multi-faceted electronic commerce, with EDI in its rightful place as the backbone of the system and utilizing all the electronic communication

²²The ideas in this section are essentially from the writings of Mr. Dick Raman, President of EDI-TIE B.V, Netherlands in his recent book on the subject of the Internet and EDI. A brief synopsis of the book was presented by him for the fifth meeting of ESCAP Network on trade facilitation. This write up can be found in 'Studies in Trade and Investment (No. 31)' entitled "Business Facilitation Needs" and brought out by ESCAP.

tools and technology that will be available on the Information Superhighway. The business users must be able to send messages via the Internet or a VAN or an X.400 system with equal ease. An access point which allows them to communicate with both systems over the same physical connection would offer this capability.

The Internet and the VANs would need to remain completely separate in order to guarantee security and reliability. The choice is then up to the users to determine whether they want to send a particular message securely and reliably but at a cost, or whether they consider the security and reliability of the Internet adequate to can send their message virtually cost-free. It is obvious that important messages (both EDI and E-Mail) should be sent through the VAN and that the Internet should be used for less critical applications and for downloading large files.

In such Internet based EDI scenarios, the Internet would be used to solve the problem of keeping basic product data files up-to-date. The files are supplied by the information supplier and can be accessed in a structured format that can be processed by the in-house application. There are two ways in which this information can be found:

- The first is that one goes looking for it and finds the information with the help of a powerful "search engine" which seeks out where the files can be found in HTML in order to later download the information in EDI format.
- The second method is to use an EDI-Agent that is configured to go at a pre-determined time to a particular Internet address and there to check if the available information has been changed since the last visit. The EDI-Agent is intelligent enough to know what to do when the information has been processed: it can offer the information – after having done the EDI translation – to a given in-house application, alert a human operator, send a message and much more.

It is especially the ability of the World Wide Web to make Hypertext connections between files that offers untold possibilities for Internet based EDI. By maintaining their product information on their own system, suppliers can use this sort of hyperlinks to set up a "Virtual Information Warehouse" to lead clients to the right supplier and the right product.

Although EDI is especially designed for communication between companies, there is already a lot of experimentation with EDI in the relationship between consumers and suppliers. When consumers place orders, EDI offers the possibility to let suppliers receive the orders in a structured way so that they can be immediately processed. The consumers have no idea that they are using EDI and the suppliers only have to implement one method to handle incoming orders. Powerful Query-Response applications offer the possibility to do this and will take on great importance in the future.

To sum up, with the explosion in the use of Internet, there is hope yet for the SMEs. The role of EDI in this world is crucial. Electronic commerce will only be significant for business-to-business when EDI is an integral part of it. EDI is really the backbone of electronic commerce, though this appears to be not yet clear to the Internet world. EDI organizations have the mission to make this clear at all levels in our society. For Asian firms, it means they must grab the opportunity now to become familiar with EDI, in order to be ready for the arrival of the Information Superhighway. The investments that have already been made in setting up EDI relationships will pay off in the future. The introduction of ideas such as Internet based EDI will enrich efforts already made in EDI with an untold number of attractive applications which will lead sooner to an enormous increase in the importance of EDI.

Key elements for EDI Access

The key elements for access to EDI technologies across industry sectors and national boundaries for the SMEs include infrastructure, standards, rules, software and legislation.

Key elements for EDI access (Summary of Recommendations).

- SMEs need access to secure, efficient and reliable communications services at similar rates if not lesser to larger organisations.
- Implementation of available EC standards (particularly EDI) must be consistent across governments and their agencies and the private sector, and cater for the simple functionality of packaged SME software applications.
- A more concerted effort is needed to coordinate and standardize the EDI implementation of government agencies and private industry as they affect SMEs.
- SMEs need 'shrink-wrapped' EDI software that is simple-to-install, operate and maintain. The software must be relevant to each industry group and able to communicate across industry groups and national boundaries.
- Differences in legislative requirements across national boundaries need to be addressed.

Source: Advice on Electronic Commerce Programs for SMEs, Monash University, Australia, 1996.

So is electronic commerce and EDI an issue for trade promotion policy? Electronic commerce is a key trade promotion policy issue because of its potential to transform the way large chunks of world trade are undertaken. Electronic commerce is still in its infancy, but is the fastest growing type of international, value added trade. Estimates of the potential global value of Internet transactions by 2000 vary widely, but most lie in the range of US\$100 billion to US\$150 billion per year compared with around US\$3 billion per year currently.²³

With EDI, transactions in the form of digital information will flow freely over global networks across national boundaries. This will inevitably generate pressures to establish an international order based on integrated rules covering the placement and acceptance of orders, conclusion of contracts, and settlement of accounts.

Development of the principles governing electronic commerce as well as the specific technologies and their standards are already being undertaken through inter-organisational cooperation across national borders. However, it is a fact that in markets that depend on intellectual assets and know-how, products that once take the market lead inevitably capture increasingly larger shares. Those who have established the international de facto standards win. Thus, there is always the incentive to forge ahead individually.

There is active debate in the developed countries on how to make the future promised by electronic commerce a reality. Two examples are provided to serve to illustrate this interest. The United States has taken a leading role in promoting electronic commerce with most Internet hosts, highest volume of data communication, most service providers, and highest total number of Internet connections. The United States government released its "Framework for Global Electronic Commerce" in July 1997. The report sets out the US Administration's vision of the emerging electronic marketplace; outlines the principles that will guide the US Government's approach to electronic commerce; and suggests an agenda for international discussions and agreements to facilitate the growth of electronic commerce. The time frame for the US Administration's strategy and agreement on issues raised in the report is the end of 1999. This framework document is a critical element of the US Administration's agenda on trade and technology, and of its hopes to work with

²³Because in many instances online commerce will provide more efficient and cost effective mechanisms for companies to undertake their current business activities, it is difficult to predict how much of this increase will represent new trade, as distinct from replacing transactions currently occurring through traditional mechanisms.

international trading partners to develop a free and open global electronic marketplace. The five principles of the framework are:

- Private sector should lead development;
- Governments should avoid undue restrictions on electronic commerce ;
- Where government involvement is needed, it should aim to support and enforce a predictable minimalist, consistent and simple legal environment for commerce;
- Existing laws and regulations that may hinder electronic commerce should be reviewed and revised or eliminated to reflect the needs of the new electronic age;
- The legal framework supporting commercial transactions should be facilitated on a global basis - consistent and predictable, regardless of the jurisdiction in which buyer and seller reside.

The principles are guided by nine recommendations on tariffs and taxation, electronic payment systems, uniform commercial code for electronic commerce, intellectual property protection, personal privacy, security on the information highway, telecommunications infrastructure & information technology, content and technical standards.

The European Commission launched its Electronic Commerce Initiative, in April 1997.

This initiative aims to encourage the vigorous growth of electronic commerce in Europe; provides a policy framework for future Commission actions in electronic commerce; and seeks to raise awareness and stimulate dialogue between all stakeholders. The initiative also aims to establish a common European position to achieve global consensus on developing an enabling environment for electronic commerce through international negotiations. The Commission aims to implement this framework by the year 2000.

Many governments, along with industry in the region too are actively creating an environment in which electronic commerce can flourish. What is perhaps needed is a coordinated strategic response at the regional level.

Possible role for World Trade Organization

Governments in the countries are potentially the major implementors of EDI through their public sector, and hence they are in a privileged position to foster the same. Accordingly WTO's first role would seem to catalyze work on three major issues that stand out for immediate attention by the Governments. These include:

- The need for a vision to catalyze introduction of micro level efficiencies using EDI among firms and regulatory organisations in the conduct of international trade;
- The need for appropriate institutional mechanisms to monitor and coordinate trade facilitation developments, promote better business practices as well as foster mutual understanding and trust between the many partners in complex trade relationships;
- The need for a pilot EDI project that will provide the learning space to sort out all problems - whether it be technical, organisational, legal or those relating to change management.

Vision

A vision that could revitalize the efforts to cause radical facilitation improvements in the countries could begin with the obvious:

The seamless flow of product matched to consumption supported by integrated information and financial flows.

Assuming that the EDI initiatives, whatever its final configuration, will consist of elements that seeks to re-engineer regulatory processes associated with trade, the goal for the regulatory bodies could be:

"Drastic reduction in transaction time for getting regulatory approvals of International trade transactions- from days to hours"

The focus is on the word "drastic." This forces the attention on the results rather than on technology. After all, technology is only a tool to achieve an end. The way the goal has been formulated, comprehension is easy, and the benefits from this pilot project needs no further elaboration. What is more important, by setting an upper limit on the total transaction time, it forces an upper limit for the grant of regulatory approvals and clearances on each of the organisation involved in the trade transaction cycle. Also, the issue of coordination and integration is neatly taken care of. For, just as the strength of a chain is determined by its weakest link, so it is with the transaction chain. The cycle time will be determined by the slowest player in the value chain.²⁴

Developing a trade promotion policy framework for electronic commerce

There is a need for multilateral action to create an environment in which electronic commerce can flourish irrespective of the size of the firms. Because of the newness of Internet-based electronic commerce, no comprehensive framework currently exists to regulate and safeguard cross-border electronic commerce. As a result, EDI through the Internet is subject to legal and regulatory mechanisms developed principally for trade in goods - yet EDI is overwhelmingly in services - and occurs within national and international systems of law, regulation, standards and commercial policy developed prior to the advent of the Internet.

Developing a borderless or seamless international environment that supports the growth of EDI, especially its more sophisticated offerings, will require action on a number of fronts, including on financial payment systems, data protection and privacy, electronic transaction law, technical standards, consumer protection, content regulation, taxation, and cross-border trade issues. The three examples described below show why these types of issues are critical to develop effective cross-border electronic commerce. They also reveal some of the complexities that will confront negotiations.

Financial and payment systems

Payment systems are central to developing EDI and electronic commerce because transactions in goods and services are matched by the transfer of some form of money. Accordingly, payments technology is being developed in parallel with technology connecting consumers and businesses around the world. The most important developments are in relation to electronic substitutes for cash, which may be stored in intermediate forms such as stored value cards before entering an electronic commerce communications network. The willingness of consumers to use stored value cards for electronic commerce will depend critically upon consumer confidence. The main public policy issues associated with these electronic cash are soundness of issuer and systems, security of the payment instrument and the transaction, the need for legal recognition of digital signatures, privacy issues, international compatibility of standards and international interoperability of systems and law enforcement.

²⁴The above formulation however, would not do for the technical purist. For such an information system specialist the following rewording might help: "An integrated international transaction, based on a single submission of minimal, standardized data for both official and commercial purposes alike."

Tax liability issues

Inter-governmental cooperation is essential to define and agree to the principles of governance for cross-border electronic commerce. These principles cover issues like what the tax liability of online companies is; how online companies are audited; how to monitor and enforce internationally agreed practices and the like. These issues are extremely complex. Take, for example, the tax liability of a German travelling in the USA, ordering Laotian handicraft through the Internet for delivery to a holiday residence in Malta. In which national jurisdiction would the tax be paid and what would be the implications, if any, if payment was made anonymously using electronic cash? These issues are mainly of academic interest so long as trade over the Internet is relatively modest, but should become highly relevant to policy formulation as the value of Internet-based electronic commerce increases.

Legal and social issues

Some legal and social issues for electronic commerce policy include:

- applying statutory provisions which mandate paper or paper-based concepts, such as a signed original document, to electronic communications;
- recognizing the legality of transactions formed using electronic technology;
- addressing questions relating to the formation of contracts and their validity;
- assessing the admissibility and evidential value of electronic communications;
- authenticating, verifying the integrity of and providing for the non-repudiation of electronic communications;
- addressing questions of applicable law;
- assessing the liability of third parties, such as the operators of value added networks;
- confirming the time, place, receipt and dispatch of electronic communications, especially as they are relevant to contract formation.

WTO could encourage the Governments to take cognizance of the above issues and play an active role in defining the domestic elements of their electronic commerce strategy. Practical ways in which WTO supported electronic commerce policy could assist the region's firms include:

- ensuring that the domestic regulatory and legal environment created supports online economy;
- increasing business awareness of electronic commerce and the opportunities it offers for firms;
- consulting and involving the private sector in strategizing to advance electronic commerce;
- ensuring the close integration of trade, economic, industrial and social policies.

With active participation from all the players throughout the world will emerge the international elements of an online transaction strategy. Meaningful elements of such an online strategy would include:

- ensuring that all the regions makes a robust contribution to the technical work underpinning the international environment;
- developing principles for the conduct of cross border electronic commerce to minimize the risk; of countries developing fundamentally different approaches;
- promoting liberalization of trade in services in a manner benefitting all the regions' firms.²⁵

²⁵The ideas here are drawn heavily from "Putting Australia on the New Silk Road", Commonwealth of Australia, 1997 which I consider to be an essential reading on electronic commerce issues for the serious policy analysts in trade.

Conclusion

Firms, small or big, have to be at the forefront to compete. They cannot respond quickly enough without EDI and that is their main motivation. While EDI promises to make the accessing of business information and transmission of commercial documents as easy as a conversation on the phone, the challenges to be met to tailor it to the needs of SMEs are indeed major. It calls for concerted and coordinated investments, of effort and capital at the national level. Electronic commerce, with electronic data interchange (EDI) as its core, will be the most important element of the information infrastructure that will meet the business needs of a paper less world.

A beginning has been made in many countries of the world. They require time to come to grips with all the multi - disciplinary aspects of electronic commerce. Countries need time for hands-on experience with the domestic elements of on-line strategy before they can contribute effectively to the debate on International elements of an online transaction strategy. WTO can definitely help in this process.

(c) **Modernization of customs administrations by use of information technology - the Chilean experience**

Mr. Enrique Fanta Ivanovic, National Director of Customs, Chile

This presentation on the reform of the customs administration of Chile will show the practical consequences of some of the suggestions for customs reform which several speakers had voiced in their presentations during the first part of this Symposium. An introductory section will show how the Chilean national customs services operates. Subsequently, practical examples of three information technologies which apply to the facilitation of external trade will be explained. These are (1) Electronic Data Interchange (EDI) and how it is practically applied in the customs environment, (2) a future and present Control Model for revenue collection and the production of statistics as well as (3) the application of information technology in the context of a Management Control Model in the customs services.

The Chilean customs has been operating in an environment which is marked by steeply expanding trade activity. Since 1990, Chilean trade has increased by 130% from US\$ 17,252 million to 39,642 million in 1997. The Chilean economy has been growing since 1990 at an average rate of 7% per year, but external trade far outpaces GDP growth. It doubles every 5 years. This steep rise in imports and exports brought with it a duplication of the total number of documents, and of transport volumes. Land cargo traffic increased by more than 100% during this 7-year period. As regards income tax, part of which is customs taxes, the growth has been even greater, thanks to income growth, as well as a modification of the tax structure and improving compliance.

Customs collects duties of 11% across the board for all goods except those coming from countries with free trade agreements, such as Canada, Mexico and the countries of MERCOSUR, which represent some 30% of Chilean trade. The overall average tariff rate is thus 7.5%. Customs also collects indirect taxes such as VAT at national level.

Over the 7-year period in question, the capacity of human resources has remained at the same overall level. This zero-growth in staffing shows clearly that Chilean customs had to modernize in order to be able to cope with a two-fold increase in transactions. Laws have been passed that permitted us to change our personnel structure by increasing the number of qualified professional staff relative to other staff. As a result, we have achieved a greater degree of professionalism in the customs service today. Chilean customs has significantly increased the training of its staff. Today, more than twice the amount of what private enterprises invest in training of their employees has been devoted to staff education. This education not only covers subjects such as customs technique, but includes also training to improve the management skills of the staff which ensures an altogether better-run service.

The technological structure of the Chilean customs includes a new data-processing centre which is on-line with all our customs offices that cover our country from north to south on a distance of more than 5000 kilometres. This is complicated by the geographical structure of Chile which has the customs headquarters at sea-level while other offices are situated at an altitude of up to 4500 metres above sea-level. Every customs office is connected to a local network as well as to a wider network, so that all customs offices are connected with each other. All data is ultimately transmitted to our central processing office. The architecture of the system is centralized but its use is decentralized, and the processes are being designed so that the information is processed immediately. In other words, as soon as goods come to a customs office its data starts moving. We are also starting internet and e-mail communications. The national customs service has three specific applications of computer support, (1) EDI, (2) control filters to have specific risk-assessment and risk control and (3) management system control to know how the assigned tasks are executed in order to assess the quality of the public service provided. There are a number of other applications which implement, e.g. the payment of salaries or the facilitation of internal communications. It needs to be highlighted that, in general, customs and enterprise devote a great deal of resources to their information.

Before making any investment decisions, the Chilean customs put all their efforts into process re-engineering and developed a strategic plan. We are still in the process of changing our structure.

The first results regarding the use of EDI for import handling have been reported. The process started in February 1997 in one customs post and was extended to all other offices within four months. In this process, customs agents, forwarders, brokers input the import declaration at their office and send it through a value-added network (VAN) to the national customs service. Compared to the traditional paper-based system, EDI presents clear advantages. Firstly, the time of response for an electronic transaction takes on average 2.2 hours, up to a maximum of three hours. A declaration can be fully processed over that period of time. In the old days, if there were no errors in the paper-based system, the response time was around 10.8 hours. If there were errors, and customs found them at 5 o'clock in the afternoon, the officers would hand the document back and tell the importer to correct it and come back the next day, which could mean a two to three day period being involved. Today, if there is a mistake, the document is immediately sent back electronically, with an indication of the type of mistake that was found. As the various errors are now classified, the user can correct them quickly and re-mail the document back in the course of the same day.

Secondly, seventy-five percent of customs agents are making use of this system, the access to which is voluntary. Eighty per cent of import declarations are put through the system (3000 to 3200 a day), representing some 90 per cent of the total import volume. The time of reception for documents, which was originally limited to one hour per day has now been extended to a five-hour period and with the new secure data-processing centre, it is intended to be on-line 24 hours a day by the end of the year.

Also, the need for providing copies of documents has been eliminated. Before, there were nine copies of an import declaration required. This has been brought down to two copies and customs does not keep any of them. The customs broker keeps the paper, and customs requests the documentation from the broker, when it is needed for subsequent taxation purposes.

Finally, the number of people who manually check and input declarations internally at the customs offices has been reduced. These persons are now carrying out other functions in the system, with the result that control is far more accurate. There is a significant reduction in the volume of paper pushed through the system and we are satisfying all the requirements of APEC, of which we are a member, and are prepared to exchange data with any customs throughout the world, thanks to our value-added network.

What does this system cost customs and private enterprises? The total investment costs for the public and the private sector was US\$ 5 million, out of which some US\$ 2 million was invested by customs in setting up the system and in designing and building a certain amount of software. The private sector invested in the value-added networks; each customs agent needs basic software plus a PC to work with EDI. The private sector was well integrated in this process. The entire process was run not only by the Chilean customs, but was also driven forward by the business community. At all project meetings, input came from representatives of the Chamber of Customs, which represents brokers, or of the Importers Association of Industry, the Banks and, of course, computer companies. The VANs themselves are privately owned and work like a post office which receives and forwards mail, only electronically. Customs only established a few basic requirements, such as security information protocols. Anyone who meets these requirements can set up a VAN.

In order to keep transaction costs of the system as low as possible, we decided to leave the establishment and working of the VANs to the private sector. Elsewhere, the monopoly has been given to some operators which tends to increase transaction costs. Or else customs managed it. And the job of the Chilean customs is not to be in the data transmission service, but to collect tariffs and exercise control functions. The transaction cost for customs are US\$ 2 per completed export/import

declaration which is far less than the mere paper-handling and filling-in thereof used to cost. We have not yet been able to evaluate the impact of EDI as regards savings for external trade, such as savings in time or savings in paperwork. However we believe that the full investment of US\$ 5 million was written off at the end of the first year, thanks to the savings.

In the future, other institutions will be integrated into the system, for example banks. Today, the payment of duties and taxes is still verified by the presentation of a paper receipt, but the modern terminals allow for banks to get linked for electronic verification of the payment made for the release of the goods. The banks can draw up risk models so that they can guarantee that a company can withdraw its goods and the bank is guaranteed that the payments will be made.

Our Control Model is applied on the basis of risk management. The first thing we did was to carry out sectoral studies with the assistance of the internal revenue service. We noticed that the same "bad boys" exist for internal taxes and for customs duties and that the majority of traders comply with all the rules. A review of the non-compliant traders led us to set up some 700 risk filters which have permitted us to reduce errors in declarations by 36%, thus reducing the need for physical inspection by 5-12%, which is a direct cost savings of more than one million dollars per month and the effectiveness has increased by more than 40%. The motto is: "Check less, but know more". We have eliminated the subjectivity and discretion of official inspections. Where before we had an individual customs officer deciding to look into a container, a data base will in the near future help us determine which consignments are to be inspected, and traders can be informed about this and plan the timing of their deliveries accordingly. In sum, we collect far more revenue and have facilitated the imports and exports of those who comply with the regulations.

The Management Control Model was born out of the idea to measure what we are doing overall and in the different departments. Law obliges us to publish the goals and achievements over a certain period. We have regular reports and executive reports which permit us to take decisions on the basis of objective facts rather than subjective feelings. The main indicators relate to the operations level (e.g. asking how many documents had been processed), collections level (looking at the amount and number of claims, or the physical inspections undertaken), and the productivity and effectiveness level, including user satisfaction. The main achievements of the Management Control System are the establishment of objectives in a long term vision, the establishment of commitments and the adoption of management level controls. Each department's performance is being evaluated over time, and deviations are corrected. Our final objective is to satisfy our users inside and outside the country.

(d) Trade facilitation and electronic commerce - A perspective from Asia

Dr. Chun Kwong Han, Multimedia Development Corporation, Malaysia

Malaysia has started a major national initiative to move from an industrial age economy to an information economy in the near future. At the policy level, the government is pursuing the National Information Technology Agenda, aimed at evolving a learning culture of IT utilization for quality of work and life improvement and at the project level one of the major projects is the Multimedia Super Corridor (MSC). The idea is to establish a unique, world-class multimedia environment, consisting of four components: a legal framework, an IT-network, a management agency responsible for the project implementation, and a top quality urban development to provide an agreeable physical environment.

Cyberlaws

In setting an IT-conducive legal environment, the government has been putting in place leading-edge cyberlaws (and financial incentives). A Digital Signature Act has been approved by the Malaysian parliament. The Act makes digital signatures legally equivalent to hand-written signatures, and will enable broad usage of electronic documents in commercial transactions and in court. It facilitates electronic commerce in the areas of digital contacts and signatures, cyber payments and intellectual property protection. The Computer Crimes Act aims to clearly define cyberfraud, unauthorized access, interception, and illegal use of computers as crime. It will provide special rights of interception to law enforcement agencies. A computer crime unit has been set up in Malaysia's Royal Police Department to enforce the Act. The Copyright Amendment Act seeks to guarantee full copyright protection for multimedia works. It clarifies cyberspace/multimedia specific issues such as the legal status of digital transmissions and reasonable use of licensed multimedia works and their components. The Act adopted recent WIPO treaties. The Telemedicine Act spells out who are the qualified personnel to practise telemedicine and the associated legal liabilities for misconduct. An Electronic Government Act specifying how public services should be provided in the multimedia age and how confidential civil information can be shared and protected is in the drafting stage. The Act will guide the implementation of the Electronic Government Flagship. Also, a Data Protection Act and a Multimedia Convergence Act are in the final drafting stage.

In addition to a clear, transparent, and IT-friendly legal environment, the government of Malaysia offers a number of fiscal and related incentives to enhance the competitiveness in IT and multimedia industries. The package of fiscal incentives includes a 10-year exemption from income tax. In addition, no duties will be levied on the import of multimedia equipment. Another incentive offered is an extensive R&D grant programme to assist MSC-status companies especially small and medium-sized enterprises.

Information Technology Network

Malaysia is putting in place a world-class information technology and telecommunication network. It will link the MSC to regional and global centres world-wide and will support its physical framework for the rapid distribution of information, products, and services. At the moment, 150 routes-kilometre of fibre-optic cable are in place; by September of this year some 700 route kilometre of cable would in place. Some other key features will include a fibre-optic backbone with a 2.5-10 gigabit-per-second capacity, powerful enough to handle all kinds of multimedia communication traffic, high-capacity direct fibre links to all important international centres; open standards, high speed switching and multiple protocols that bring power and flexibility to the development and implementation of multimedia applications. Regional satellite communications services will offer telecommunications, broadcasting and data services over a huge footprint covering most of the Asia-Pacific region. Internationally competitive telecommunications tariffs offer low flat-rate pricing for basic network services with other regional centres, and an open-entry policy for

value-added network services to ensure competitive edge. Companies in the MSC are offered international direct dialling rates which is the cheapest in the world at the present time.

International eco-friendly environment and lifestyles

Malaysia is putting in place top quality urban development in the greenfield site for conducive living in the MSC. It is located where the future seat of the government will be. Cyberjaya is the area where the companies will be operating from. It is effectively a greenfield site, built from a oil palm plantation that will do away with the problem of legacy information systems and infrastructure. Instead, it is a start from a clean slate where a 2.5 gigabyte telecommunication infrastructure is being built.

Multimedia Development Corporation

As a government-appointed, government-backed corporation, the Multimedia Development Corporation (MDC) leads the development and management of the MSC. Its mission is to shape a world-leading environment for information technology and electronic commerce, and to attract and nurture leading-edge and world-class companies. It aims at facilitating knowledge transfer and wealth creation and seeks to build a well-mandated, value-based, highly effective institution. In working with companies setting up operations in the MSC, the MDC will serve as promoter and facilitator and ensure that enterprises in the MSC have what they need to succeed.

Seven flagship applications

Seven primary areas for multimedia applications have been identified to lead the development of the MSC and accelerate Malaysia's progress toward the Information Age. These "Flagship Applications" will initially be developed by the government in partnership with companies, both Malaysian and international, to create opportunities for the development of leading-edge multimedia applications. Companies are invited to help shape and develop these applications, using MSC as a global test bed.

- Electronic Government is an initiative aimed at reinventing how the government works. It seeks to improve both government operations and how government delivers services to the people. Electronic Government targets dramatic improvements in the quality of interactions with citizens and businesses by enhancing the convenience, accessibility and efficiency of its services. Simultaneously, information flows and processes within the government will be improved, as will the speed and quality of policy development, coordination and enforcement. The vision of Electronic Government sees the civil service, businesses and citizens working together using multimedia technology for the benefit of all Malaysians. Among the pilot projects identified to lead the development are: electronic delivery of driver and vehicle registration, licensing and summons services, utility bill payments and online information by the Ministry of Health, electronic procurement.
- Multi-Purpose Card. The MSC will be the test bed for the world's first national multi-purpose card which will be issued to all Malaysian citizens. Through this application, a single common technology platform will be developed that will enable government and private application providers to implement smart card solutions without duplication of effort and investment. The "Smart Card" will serve as a national ID, driving license, immigration and health card, electronic cash, debit, ATM, and credit card. Its full commercial release is targeted for before the year 2000.
- The Smart Schools flagship application will enhance the potential for participating in an information-based economy, where a technology-literate, thinking workforce would be essential.

- The Telemedicine initiative aims to keep people in the "wellness" paradigm. Through seamless availability of information and virtual services, it will dramatically change the way health care services are traditionally delivered and accessed.
- The R&D Cluster flagship application will help to ensure that the MSC establishes itself as an attractive location for innovative companies developing next-generation multimedia technologies. Dedicated facilities, funding and fiscal incentives will provide a favourable environment in that respect. A Multimedia University will provide links between corporate and academic R&D activities, as well as build a strong base of local knowledge workers. Large-scale R&D projects will be strongly encouraged and developed to provide companies with opportunities around significant projects.
- The World-Wide Manufacturing Web is an initiative to provide a conducive environment for high value-added manufacturing activities and related service operations, and will create the ideal platform using multimedia and information technology. Companies will have the opportunity to locate manufacturing and manufacturing service hubs within the MSC, and encourage them to build links between their national and regional operational centres around a wide range of support services - including R&D, design engineering support, manufacturing control, procurement, and distribution and logistics support.
- The Borderless Marketing Flagship Application is an initiative to create a world-best environment in the MSC for companies using multimedia technology to create and deliver marketing messages, customer services, and information products to their customers.

Strategic directions for electronic commerce in the MSC

As far as strategy for electronic commerce is concerned, the Malaysian government is taking three broad strategy positions. First of all, Malaysia recognizes the enormous opportunities in global trade opened up by electronic commerce and is taking steps to build up capacity in that area.

Malaysia will work with regional and strategic partners to develop a consensus towards a global framework for electronic commerce. In doing so, the government recognizes that countries have different levels of capability in and readiness for electronic commerce.

Thirdly, Malaysia believes that all intergovernmental discussion on electronic commerce, particularly those pertaining to harmonization and regulation should be brought within a multilateral framework such as the WTO. The WTO could be a major catalyzing force for that global framework.

The message to the WTO is that electronic commerce is essentially about commerce. The information technology part is simply the new medium to facilitate commerce. It is the new means for facilitating commerce. Electronic commerce is borderless, it is global in nature and it is my wish that it should be part of the agenda of the WTO and on that note I shall conclude my talk.

III. PRESENTATIONS BY INTERGOVERNMENTAL ORGANIZATIONS

United Nations/Economic Commission for Europe

Dr. Carol Cosgrove-Sacks, Director Trade Division, UN/ECE

Overview

The purpose of this presentation is:

- to introduce you to the UN/ECE and the Centre for the Facilitation of Procedures and Practices in Administration, Commerce and Transport, known as CEFAC;
- to explain how we cooperate and work with other organizations; and
- to make concrete proposals as to how WTO and the UN/ECE could work together in the area of trade facilitation.

Background: two thirds of world trade

Two-thirds of world trade takes place between member States of the United Nations Economic Commission for Europe (UN/ECE) both in terms of merchandise exports and of commercial services. These same countries also pioneered the reduction of tariff barriers to trade. However, as tariff barriers have become less important, there has been a growing realization of the importance of procedural trade barriers and a great interest in seeing these barriers reduced or eliminated. Thus, for well over 30 years, the UN/ECE has been developing trade facilitation techniques, recommendations and norms which have been implemented in governmental and commercial sectors across the world. The goal is to make international business easy.

The UN/ECE's trade facilitation work

The UN/ECE undertakes trade facilitation related work in three areas: procedures and practices, transportation and, in particular, transport conventions, and statistics.

Process and procedures facilitation

Simplification and codification of procedures and practices is undertaken by the Centre for the Facilitation of Procedures and Practices in Administration, Commerce and Transport, known as CEFAC. The Centre's ultimate goal is to improve the ability of business, trade and administrative organizations to exchange products and relevant services effectively. This in turn leads to the growth of global commerce. Our aim is to promote borderless business. CEFAC focuses on removing procedural barriers to trade and delivers effective solutions via (1) analysis; (2) simplification; (3) harmonization; and (4) standardization. In its work on the trade transaction process, procedures and information flows are key components since, within a process, procedures often mark the points where information is gathered, distributed, interpreted or acted upon.

The results of the Centre's work are encapsulated in recommendations for best practices and in standards for process-related information. The best known among its recommendations are: the UN Layout Key for documents, UN electronic data interchange for Administration, Commerce and Transport (UN/EDIFACT), and the UN Location code (UN/LOCODE), for the identification of trading locations around the world. An important new recommendation that we are developing is one on audit-based controls and risk management for cargo clearance.

Although everyone supports global commerce, making it happen is a daunting challenge. It requires open and effective business and administrative processes, which are the goal of CEFACT. Such processes combined with information technology provide substantial benefits to enterprises and governments alike. Some of these benefits are:

- simplified procedures;
- integrated supply chains;
- reduced trade cycle times;
- streamlined business; and
- lower costs.

Transport facilitation

UN/ECE is also very active in Transport Facilitation. Under the Inland Transport Committee of UN/ECE more than 50 multilateral agreements and conventions have been prepared and have entered into force. Today, these United Nations treaties provide the international legal framework for the facilitation and the development of international transportation, not only in Europe, but also in many other regions of the world. We are dedicated to reducing transit times at the frontier.

One of the most important of these treaties, which abolished unnecessary procedures and harmonized those that were indispensable at border crossings for road, rail and inland water transport is the TIR Convention of 1975. TIR stands for "Transport International Routier". This Convention, accepted by 62 countries world-wide, permits the international carriage of goods by road from one customs office of departure to a customs office of final destination, transiting through as many countries as necessary, without any intermediate frontier check of the goods carried and without the requirement for national guarantees. At present, more than 2.5 Million TIR transit operations take place each year -the majority of them between eastern and western Europe.

When we speak about facilitating trade, we mean, of course, "legitimate" trade. It is not the purpose of trade facilitation to make it easier for 'illegitimate trade' to cross national borders. For this reason, the UN/ECE maintains close ties with the UN Office for Drug Control and Crime Prevention, as well as the World Customs Organization. Our recent collaboration with these two institutions in support of the Southeast European Cooperative Initiative (SECI), to cite one example, reinforces our conviction that facilitating legitimate trade will free resources to focus on controlling crime and drug trafficking.

Agricultural quality standards

UN/ECE sets international standards for fresh and dried agricultural produce. These agricultural quality standards are an important part of our trade facilitation work, ensuring that producers, traders and consumers have confidence in grading standards for such diverse products as asparagus, oranges, dried apricots and hazelnuts.

Statistics facilitation

UN/ECE is also home to the Conference of European Statisticians, another body that includes countries from outside Europe. The Conference coordinates the statistical work done by the UN/ECE, Eurostat, OECD and a number of other organizations in order to avoid duplication of work in all areas of statistics. In this context, it also works to minimize the statistical data requirements imposed on participants in the trading process.

Global scope - CEFACT

Over the years since it began, the scope of UN/ECE's trade facilitation activities has become global. This has occurred because member states have realized that standards and procedures in international trade need to be global, not just regional, and also because countries from outside the UN/ECE became interested in participating in its work. Member States have also realized that creating real, practical solutions to trading problems requires private sector participation on a global scale.

CEFACT was created with the objective of incorporating all interested parties in order to create a thorough, practical approach to the technical and policy areas of trade facilitation.

To achieve this goal, within CEFACT all participants are treated as equals, including:

- all United Member States;
- private-sector associations recognized by Economic and Social Council (ECOSOC) of the United Nations;
- intergovernmental organizations and other United Nations bodies.

All of the above can nominate as many experts as they wish to CEFACT's technical working groups where much of the work actually takes place.

As a result, in CEFACT's working groups we have hundreds of private-sector technical experts working together with experts from government administrations. This expert participation, together with the private sector's participation at a policy level, is a unique feature of the Centre which is forging new cooperative relationships between private business and public organizations. CEFACT's working methods are designed to permit the needs of business to be met, whether this means technical support for international supply chains to manufacture automobiles (e.g. Volvo) or for international logistical chains to deliver express mail packages (e.g. FedEx).

CEFACT's open structure provides a forum for institutional cooperation between intergovernmental and UN bodies in formulating and recommending international trade facilitation strategies and for reconciling commercial and official governmental requirements. For example, the World Customs Organization has contributed most of the initial work related to customs. Other organizations, and the private sector, have been able to contribute so that the final result was agreed upon and compatible with commercial processes that interface with customs. Other examples are the implementation of CEFACT Recommendations by UNCTAD's Trade Points and the valuable input that UNCTAD is providing to the revision of CEFACT's recommendation on national trade facilitation organizations.

CEFACT's international partnerships

In a world of increasing liberalization, trade facilitation has become an even more critical factor in improving trade performance. At the same time, larger and larger trading areas are being created, with enormous economic power, such as the European Union; MERCOSUR, the Common Market of the South; NAFTA, the North American Free Trade Area; and APEC, the Asia Pacific Economic Cooperation grouping.

This proliferation of trading areas could result in regional procedures and a variety of overlapping and different agreements for improving trade procedures. Unfortunately, the national or regional use of different standards can create procedural barriers to trade. Thus, the full benefits of trade facilitation can be achieved only through partnership, cooperation, and extending what has been developed within CEFACT to all regions.

As trade facilitation has increasingly been the focus of international attention, several initiatives, in specific areas, have been taken by other organizations to eliminate or reduce procedures which hinder trade. As a result, the UN/ECE has been placing increased emphasis on international partnership and communications. The creation of CEFACT has given it the opportunity to renew and enlarge existing partnerships with organizations that have provided a wide range of expertise to our work for many years, including: the World Customs Organization (WCO), the International Organization for Standardization (ISO), the International Article Numbering Association (EAN) and the Society for World-wide Interbank Financial Transactions (S.W.I.F.T.). In addition, we have also worked on strengthening close collaboration and coordination with our sister organizations within the UN family like the other Regional Commissions, UNCTAD, ITC and UNCITRAL.

In the field of standardization, the UN/ECE has a special relationship with ISO and IEC, (the International Electrotechnical Commission). All three organizations are signatories to a Memorandum of Understanding that establishes a framework for the highest level of cooperation and coordination in their work related to electronic data interchange. The results of this cooperation are reflected in a number of joint groups and ISO's endorsement of the basic standards underlying UN/EDIFACT. It is also interesting to note that discussions are currently taking place on the expansion of this MoU to cover "electronic business" as a whole. Moreover, the international Continuous Acquisition and Logistics Support (CALS) community has recently recognized UN/EDIFACT as integral to commerce at light speed!

Facilitating international trade means agreeing common rules and standards and then ensuring that these standards are respected.

Cooperation between UN/ECE and WTO

The UN/ECE is committed to working with the WTO to achieve increased transparency in trade. Never before has trade facilitation attracted so much interest and attention. The subject is on the agenda of many international organizations and is part of many national plans and initiatives. The significance of trade facilitation is also made clear by recent WTO discussions on what role this organization should play and the fact that this very Symposium has been organized.

In this context, I am pleased to inform you that the UN/ECE has observer status with WTO's Committee on Trade and Development as well as its Committee on Technical Barriers to Trade where, in conformance with the TBT Agreement of WTO, UN/ECE is recognized as an international standardization body. In addition, the process has been launched to grant observer status to the UN/ECE in other WTO committees, notably the Council for Trade in Goods.

Three proposals

The purpose of this Symposium is to help identify the main areas where traders face obstacles when moving goods across borders and to support the mandate from the WTO Singapore Ministerial Declaration of 1996 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 area".

The question of how WTO and the UN/ECE can, together, "add value" and improve the international trade transaction process is one to which we have given a great deal of thought. The following are some proposals on how the UN/ECE and WTO could cooperate to promote and implement trade facilitation measures:

- Over the years a substantial amount of know-how on trade facilitation issues has been developed by CEFACT. Its experts and the UN/ECE secretariat have technical expertise and,

in this area, are a centre of excellence within the UN. In the WTO environment circumstances will often arise where recommendations or standards are required to provide solutions for imperfections in the trading process. In such cases, WTO could exploit CEFACT's competence in this area and get CEFACT to function as the expert body to whom requests for standards or procedural solutions are addressed - much in the same way as it does with the WCO for the Technical Committee on Customs Valuation. In this case, rather than setting up an alternative machinery, WTO could issue requests for standardization actions which are then taken on board by CEFACT and addressed by its experts. These solutions could subsequently be issued as recommendations and, potentially, be embedded in the WTO legal framework.

- In order to avoid a duplication of effort, and to make the best use of expertise in centres of excellence outside of the WTO, it has been suggested that solutions and recommendations coming from these organizations could be used by WTO. The discussions have focused on how rules and recommendations created by other organizations could be made a part of the WTO legal framework. In the case of the UN/ECE, this would allow CEFACT recommendations to be endorsed and embedded in WTO agreements.
- A third area where WTO could benefit from cooperation is the Trade Policy Review Mechanism (TPRM). The function of the TPRM is to examine the impact of a member's trade policies and practices on the multilateral trading system. The trade policy review mechanism analyses not only the economic environment and trade policy regime of a country, but also trade policies and practices which include measures affecting imports and exports. Some of these measures fall within the trade facilitation domain. However, so far no discussion has taken place on introducing trade facilitation issues into the present trade policy review mechanism. Against this background, it would be beneficial for the TPRM to include CEFACT's trade facilitation recommendations.

Conclusion

These three initiatives would contribute to the development of cybertrade and to the goals which we all share: a flexible and fair trading system open to all.

May I conclude with three clear messages:

- UN/ECE is ready to cooperate;
- WTO is welcome to participate in CEFACT;
- CEFACT does not discriminate between members, whoever or wherever they are.

Mr. Henri Martre, Chairman of CEFACT

CEFACT: An International Private/Public Sector Partnership

Purpose

To explain the importance of CEFACT's partnership between the public and private sectors, how that partnership works and the trade facilitation Instruments it has created.

Background

- Private companies are the actors in trade, they are the manufacturers, transporters, banks and importers while public administrations act both as customers, in public procurement, and as protectors of the public good.
- This is a partnership of mutual benefit. For the private sector, working with governments to improve trading is critical to improving international competitiveness. For governments, working with the private sector to reduce procedural barriers to trade is critical to improving both their own administrative effectiveness and the economic well-being of their countries.
- As Chairman of AFNOR, the French standards organization and the former Chairman of Aerospatiale, I am familiar with the public and private sectors. Both wish to see trade grow. While at a theoretical level they may have differences of opinion as to how to improve trade, these differences can often be resolved at an operational, trade transaction level. As a result, in CEFACT, we have worked together, in very practical ways, to improve and grow our companies and economies through trade facilitation.

Outline

In this presentation I will cover the following:

- How the private and public sector work together in CEFACT;
- What trade facilitation instruments CEFACT has created;
- How the private sector makes extensive use of CEFACT's work.

How the private and public sector work together in CEFACT

Government representatives participate through their delegations in the CEFACT plenary, where the rules allow non-UN/ECE member countries to participate on an equal footing with UN/ECE member countries.

For the private sector, there are three main channels for participation, the last two of which are also available to national representatives. These are:

- (a) Participation in the CEFACT Plenary of international private sector organizations recognized by the UN's Economic and Social Council such as the:

International Chamber of Commerce;
International Article Numbering Association;
International Chamber of Shipping;
Society for World-wide Interbank Financial Communications.

- (b) Participation in mandated working groups of nominated technical experts from private industry. Since many of these nominated experts represent larger constituencies in the form of national or sectoral user groups which may have anywhere from ten to several hundred members, the end result is the position of thousands of experts being represented.
- (c) National and regional trade facilitation organizations, with large private-sector memberships, who promote CEFAC T's work locally, often participate in national delegations, and maintain ongoing communications with the secretariat.

In addition, we have ongoing communications with large industry groupings. For example, in industries such as shipbuilding, aerospace, defence and power plant construction, globalization is increasingly supported by Continuous Acquisition Life cycle Support, often referred to as CALS. This concept covers all parts of a project, from engineering and production to maintenance, but includes large EDI and electronic commerce elements. Recognizing the importance of addressing the global transaction chain from production to delivery UN/CEFACT is working together with the CALS community and ISO to make full use of the potential synergy between our organizations in order to make global transactions easier and more transparent.

CEFACT's trade facilitation instruments

CEFACT has three basic areas where it develops trade facilitation instruments, these being: Recommendations, electronic commerce and modelling.

Recommendations

UN/ECE has issued 26 trade facilitation Recommendations on how to eliminate cumbersome trade procedures and then simplify, harmonize and standardize remaining procedures and data.

These steps not only facilitate traditional, paper-based trade, *they are also a prerequisite to computerization* and the use of related techniques such as Electronic data interchange. Contradictory procedures cannot be computerized; difficult to fulfil procedures are not any easier to fulfil when computerized; and the automation of unharmonized procedures and data leads to incompatible systems that cannot communicate with one another. These problems are eliminated when trade facilitation principles are applied prior to automation.

Today, CEFAC T continues to work on new recommendations. For example, priority is currently on the development of a recommendation for audit-based controls and risk management to facilitate good clearance. CEFAC T is also integrating new technologies such as data modelling into its analytical work and its new recommendations take into account the effects of electronic commerce on trade procedures.

Electronic commerce

Based on constantly advancing telecommunications and computer technology, electronic trading and electronic commerce are rapidly becoming commonplace. For the majority of these activities, which are business-to-business exchanges, electronic data interchange (EDI) forms the communications backbone.

"Electronic commerce" is often used to refer to consumers communicating with businesses via the Internet World Wide Web, known as the Web, even though this is only one part of the overall picture. The Web provides a human to computer interface for manually entering the data for one transaction at a time. This is suitable for customer to company communications, but when businesses communicate with one another, or with an administration, the data to be exchanged often is of a large

volume and already exists in one of their computers. In this case, of business-to-business communications, EDI is the most effective electronic commerce technology.

The UN/ECE has developed, and maintains, the only international standard for EDI which is known as UN electronic data interchange for administration, commerce and transport or "UN/EDIFACT". There are now over 150 UN/EDIFACT messages covering many domains of private and public sector interest.

In addition, UN/ECE is already looking towards new technologies and is working to develop the next generation of EDI standards which it expects to be based upon new approaches to data representation and exchange.

Modelling

In order to provide users with practical solutions to trade facilitation problems, CEFACT has recently adopted several new techniques. Among the most important is the development of computer-based business models and scenarios.

The basis of this work is a model of the International Trade Transaction which covers thousands of data flows between trading partners, banks, transporters and national administrations. This International Trade Transaction model is composed of many smaller models at the micro-economic level that allow the structured analysis of procedures and data flows. As work progresses on this model, and related analyses, it is being used to integrate the work on procedures and documentation with the work on electronic data interchange and UN/EDIFACT and, as a result, improve the effectiveness of both.

The private sector makes extensive use of CEFACT's work

Globalization of the market place is taking place rapidly, with companies sourcing components in one part of the world, assembling them in another and selling them in yet another. Indeed, the increased use of telecommunications-based technologies has resulted in the recent emergence of a new concept that is linked to electronic commerce: "virtual" enterprises. These are enterprises that customers and suppliers "see" as being one company; but which may, or may not, exist as a single physical entity. The "virtual" enterprise is based upon an invisible web of communications and relationships between many different computer systems and companies. To function effectively on a global scale, this invisible economic web must be built upon a solid infrastructure of internationally recognized norms in business information and practices. UN/ECE provides much of this foundation with UN/EDIFACT, the UN Layout Key and its other trade facilitation instruments.

How some of these trade facilitation instruments are used, and by whom, is described in more detail below.

Recommendations: The UN Layout Key (UNLK)

The UN Layout Key is a guideline for designing documents, that allows the use of rationalized methods for preparing documents where information is typed only once for a full set of export documents. Today, as a reflection of the increasing automation of trade data flows, the UN Layout Key is also used by information systems either for converting data records to printed output or in the screen displays used for data entry.

CEFACT has not forgotten that much of the world's trade and data exchange still takes place on paper (even if the data are from, or are eventually stored, on a computer). Therefore, it continues to develop recommendations, based on the UN Layout Key, for the design of key international trade documents such as bills of lading, invoices, purchase orders and dangerous goods transport declarations.

Some well-known documents based upon the UN Layout Key include: the European Union's Single Administrative Document, the General System of Preferences Certificate, the IATA air waybill and the International Bill of Lading. In addition, many countries have based some or all of their national administrative documents on the UN Layout Key including: Canada, China, France, Japan, India, the Philippines, Singapore and Tanzania.

The growing use of the UN Layout Key for electronic forms on the Web shows that this is a valid approach, regardless of the technology in which it is implemented. CEFACT's current work program includes ensuring the development of electronic equivalents for all aligned paper documents.

Recommendations: the UN Location Code (UN/LOCODE)

The UN location code includes codes for over seven thousand specific locations around the world where international trade takes place. These codes are widely used by companies in the banking, tourism and transport industries as well as by statistical agencies. Users include Calberson, Hapag-Lloyd, P&O Containers, S.W.I.F.T., the United States Bureau of Transportation Statistics, and most of the major shipping lines in Asia and Europe.

Other recommendations

Some other CEFACT recommendations are those for the country code, which has been adopted by ISO, shipping marks which are used almost universally within the shipping industry, units of measure, and guidelines for the agreements between organizations that wish to exchange information using EDI.

UN Electronic Data Interchange for Administration, Commerce and Transport (UN/EDIFACT)

A really powerful combination exists when the Internet WWW and EDI are combined and integrated. One example of this is WEB EDI where electronic forms are created for entering data on the WWW and then the data entered into the form is automatically translated into a UN/EDIFACT message for sending. The two technologies complement one another, giving consumers an interface which is easy to access and use, while providing data to companies in the same communications "backbone" format that they use with their business customers and suppliers.

To achieve effective information flows covering international markets a company must use standard procedures and techniques together with efficient procedures and best practices. In this context, UN/EDIFACT is the only international standard for electronic data interchange and is widely used in international trade.

UN/EDIFACT has been adopted by the European Union as well as by many individual countries such as Brazil, the Republic of Korea and Singapore, which was a very early implementor. It is also the preferred EDI standard within the US government as outlined in Federal Information Processing Standard FIPS 161-2 for EDI.

Other major users of UN/EDIFACT include:

- Banks who are members of the Society for World-wide Interbank Financial Telecommunications (S.W.I.F.T.) who use it for communication between themselves and customers;
- The International Article Numbering Association and over 13,000 retail and wholesale companies belonging to their national member associations;
- The international electronics industry; for example, IBM, HP and DEC;
- The International Air Transport Association (IATA);
- Customs administrations, as the agreed upon EDI standard for the over 100 countries belonging to the World Customs Organization. Examples of some countries who have already

implemented UN/EDIFACT for customs include: Australia, Korea, Malaysia, the United Kingdom and the United States. In addition, Germany and Japan are currently in the process of implementing UN/EDIFACT based systems;

- National statistical administrations and central banks for the exchange of statistical data among themselves and with organizations like Eurostat, the International Monetary Fund and the Bank for International Settlements; and
- A variety of national administrations who use UN/EDIFACT in areas including transport, health care and taxation.

As more and more industries and administrations implement UN/EDIFACT new opportunities open up for improving world trading processes. For example, many ports in the North Sea now exchange advance information about cargos that take less than a day to move from one port to another and a number of countries in East Asia are discussing the possibility of aligning their customs data so that source country's export declaration can be used as the import declaration in the receiving country.

Conclusion

CEFACT is both a powerful and a productive partnership between the private and public sector. Its work has resulted in the international implementation of better business practices, improved administrative processes and modernized legal procedures related to trade. By reducing procedural barriers it has also facilitated the opening of markets for new operators in international trade such as small- and medium-sized enterprises.

United Nations Conference on Trade and Development

Mr. Hans Carl, Chief, Trade Facilitation Section, UNCTAD

Over the last day and a half we have listened to a litany of complaints over short-comings in today's trading system:

- Too many parties involved and a lack of synergies between the public and private sectors, while private initiatives are being hampered by tedious administrative processes.
- Too many forms, too many copies of each form, too many signatures, and too rigid an application of existing rules, often used to extract "ex-gratia" payments to underpaid civil servants.

Most of these problems are not new and solutions have been proposed. Some solutions (e.g.: "the Container revolution" and the Internet) have become standard practices and in the process potential benefits have turned into real ones.

So, time is working for trade facilitation. Our world is shrinking, but at the same time, a large number of developing countries (and countries in transition) are in danger of becoming marginalized.

Our world is becoming ONE, yet, at the same time, new borders are being erected. Many Governments hesitate between changing the rules.....and doing nothing.

UNCTAD is working to help developing countries "leap frog" various stages in the modernization process. We have developed instruments of global application and provide world-wide substantive assistance in trade facilitation, leading to tangible systems with a real impact.

Our success stories are generally based on a careful, long term preparing of the ground, by assisting Governments to create a legal and administrative environment that is able to support large projects, investments and new ideas. We often do so in close cooperation with donors and lending institutions.

Many countries are now facing different problems in the institutional organization of their foreign trade. They require thorough reformation of their trade and transport sectors.

Based on the ECE/UNCTAD Recommendation No.4 more than 35 "SITPRO-type" National Facilitation Committees have been established. However, some of these may not be effective as one would have hoped, particularly because their basic areas for action are: trade document alignment and automatic data processing and coding.

UNCTAD has, together with the World Bank, tried to overcome the lack of effectiveness, for example, through making the FUNCTIONING of such committees a conditionality for the granting of infrastructure loans. We have had quite some success with this in Africa, Asia and Latin America.

By being required to meet regularly and reach consensus decisions, they overcome misunderstandings and propose widely acceptable solutions to trade and transport problems and thus promote transport efficiency.

ASYCUDA significantly simplifies customs procedures, speeds up cargo clearance and helps enhance Government revenues. During these two days UNCTAD is holding a world-wide meeting in Manila with participants from more than 100 countries to discuss the achievements of ASYCUDA and how to enhance it further.

In the first year of operations in Manila, the reforms, which the installation of ASYCUDA initiated, helped increase the customs revenues by more than US\$215 million and saved the private sector additional tens of millions of dollars through more efficient use of its equipment.

Similar experiences in many other countries prove ASYCUDA's value: Sri Lanka reported more than US\$100 million in increased customs revenues; Panama reported an increase of 3 per cent of customs revenues, in spite of a 50 per cent reduction in tariffs, etc.

ACIS facilitates transport. Shippers using passwords can access railway data bases "live" over the PTT networks to determine the whereabouts of their goods. This makes quick removal of the goods possible, once trains have arrived at destination.

ACIS can "talk" ASYCUDA and "flag" when, for instance, transit goods across borders.

Users of ACIS report substantial savings in operational costs, better use of rolling stock (because railways now know where their wagons are), and traders are able to take delivery of their goods faster.

Since the meeting of UNCTAD VIII in Cartagena, Colombia, UNCTAD has been developing the Trade Point concept.

Today there are some 140 Trade Points in the process of being implemented in 115 countries.

They are grouped into a Global Trade Point Network (GTPNet), which allows the exchange of electronic trade opportunities (ETOs). Around 1.000 ETOs are being exchanged every week by some 10.000 subscribers from 148 countries.

Over the past 20 years, UNCTAD has played a key role in the promotion of the Multimodal Transport concept.

UNCTAD has worked closely with the private sector and international institutions such as ICC and FIATA to set up voluntary model rules for multimodal transport documents.

We have also assisted countries or regional groupings to develop regional transit agreements, e.g. the Northern Corridor in Eastern Africa, or the recently developed Framework Transit Transport Agreement, likely soon to be implemented in the Central Asian Republics and their neighbours.

UNCTAD assists countries in identifying possible solutions to trade and transport problems, base on appropriate, validated and concrete technologies and policies; and in developing management capacity with local needs in close coordination with Governments, the private sector and donor institutions.

UNCTAD offers a globally coherent and harmonized approach to trade facilitation. It contributes to standard-setting as a key to efficiency, and recognizes the need to change such standards if, over time, they become barriers to improvement.

As one vector for change, UNCTAD relies on its TRAINFORTRADE and TRAINMAR programmes.

UNCTAD has been working for decades with the ECE developing TF recommendations that have been issued as joint ECE/UNCTAD recommendations. We have then worked with all the Regional Commissions on implementing them.

In 1994, UNCTAD organized an international symposium on trade efficiency (UNISTE) in Columbus, Ohio, to identify solutions to the micro-economic issues of international trade in the six areas of Customs, Transport, Banking and Insurance, Business Information for Trade, Business Practices and Telecommunications. Areas chosen because the public and private sectors felt they were ones where intermediate action was most likely to generate tangible results.

Together with the municipality of Lyon, UNCTAD will organize a summit called "Partners for Development" in November. It will bring together representatives from Governments, NGOs, the private sector, academia, the media and international organizations to launch joint projects where market forces serve the cause of development. It will focus on concrete partnerships and practical solutions.

However, there is still much to be done, both in encouraging the use of already developed recommendations and tools as well as in new development based upon the changing technological and business environment of today.

CEFACT is ready to face these challenges. We also believe that both CEFACT and the WTO would benefit from working together to promote the simplification, harmonization and standardization of trading procedures so that all traders have access to modern, facilitated trading processes. In other words, access to information, efficient procedures, and adequate support services.

World Customs Organization

Mr. Douglas Tweddle, Director, Compliance and Facilitation Directorate, WCO

The WCO contribution to trade facilitation and the reform and modernization of customs practices

Customs Administrations have an important responsibility to recognize the needs of legitimate trade and to ensure that import and export procedures and systems facilitate the international movement of goods to the maximum practical extent.

The World Customs Organization, bringing together the Customs Administration of 146 countries, is supporting and developing a range of instruments and programmes to reform and modernize customs practices. These include:

- the administration of the Harmonized System of Nomenclature for classifying goods;
- the management of the WTO Valuation Agreement;
- the development, on behalf of the WTO, rules of origin for non-preferential trade;
- the revision of the Kyoto Convention on the harmonization and simplification of customs procedures;
- the development of a Customs Reform and Modernization program to assist Customs Administrations bring themselves up-to-date.

WCO mission statement

The World Customs Organization is an independent intergovernmental body with world-wide membership whose mission is to enhance the effectiveness and efficiency of customs administrations in the areas of compliance with trade regulations, protection of society and revenue collection, thereby contributing to the economic and social well-being of nations.

In order to fulfil this mission the WCO:

- establishes, maintains, supports and promotes international instruments for the harmonization and uniform application of simplified and effective customs systems and procedures governing the movement of commodities, people and conveyances across customs frontiers;
- reinforces Members' efforts to secure compliance with their legislation, in particular by endeavouring to maximize the level and effectiveness of Members' cooperation with each other and with international agencies in order to combat customs and other transborder offences;
- assists Members in their efforts to meet the challenges of the modern business environment and adapt to changing circumstances, by promoting communication and cooperation among Members and with other international organizations, and by fostering integrity, human resource development, improvements in the management and working methods of customs administrations and the sharing of best practices.

History

The history of the WCO began in 1947 when the thirteen European governments represented in the Committee for European Economic Cooperation agreed to set up a Study Group to examine the possibility of establishing one or more inter-European Customs Unions based on the principles of the General Agreement on Tariffs and Trade (GATT).

In 1948, the Study Group, set up two committees - an Economic Committee and a Customs Committee. The Economic Committee was the predecessor of the Organization for Economic Cooperation and Development (OECD), the Customs Committee became the Customs Cooperation Council (CCC).

The CCC began operations in 1952 when the Convention formally establishing it came into force. The Council is the governing body of the CCC and the inaugural Session of the Council was held in Brussels on 26 January 1953. Representatives of seventeen European countries attended the first Council Session of the CCC.

In 1994, the Council adopted the working name of the World Customs Organization for the Customs Cooperation Council, in order to give a clear indication of the world-wide nature of the 146 Member Organization.

Organization

The WCO is directed by the Council (146 Members) and the Policy Commission (24 Members) with financial advice from the Finance Committee (18 Members). The WCO works through its Committees and its Secretariat to complete the work set forth in the key activities of the WCO Strategic Plan which is approved annually by the Council.

The principal Committees of the WCO are the:

- Permanent Technical Committee plus its Information Management Sub-Committee
- Enforcement Committee;
- Harmonized System Committee plus its Harmonized System Review Sub-Committee and its Scientific Sub-Committee;
- Technical Committee on Customs Valuation;
- Technical Committee on Rules Origin.

The Council has determined that the work of the WCO and its Secretariat falls into two general categories:

- Development, Promotion, Implementation and Maintenance of International Customs and Trade Instruments;
- Guidance and Assistance to Members for the achievement of optimum results in the areas of trade compliance and trade facilitation;

Background on WCO activities

For many years, the WCO has been making progress on the harmonization of international customs procedures. These efforts have met with considerable success. The WCO developed and introduced the Harmonized Commodity Description and Coding System, which is used world-wide as the basis for classifying goods and for the collection of customs revenue. The WCO administers the WTO Valuation Code, and is currently developing the Harmonized Rules of Origin which will be used by all WTO Members. The WCO is also in the process of revising the Kyoto Convention on the simplification and harmonization of customs procedures. Approximately 90 per cent of international trade transactions are governed by these international instruments which are applied by most of the 146 Members of the WCO.

Many WCO Member customs administrations around the world are actively simplifying, auto-mating, streamlining, re-engineering their operations, and developing partnerships with members of the international trade community. The Asia-Pacific Economic Cooperation (APEC) Customs Sub-Committee (which is made up of WCO Member Customs Administrations) has developed a 9-point action plan which includes several elements for standardization and harmonization within the APEC region. The goals set within the customs group of the Free Trade Area of the Americas (FTAA) call for harmonization of customs procedures within the Americas region. These efforts are resulting in more efficient and effective customs administration and better, faster service to international traders.

The WCO, WTO and UNCTAD are co-ordinating their efforts to remove the remaining barriers to trade by working together to simplify and harmonize customs procedures and processes throughout the world. Combining the influence of the WTO, UNCTAD and the WCO will make a significant contribution to both trade facilitation and trade compliance.

Recognizing the need to standardize and improve the level of customs capabilities world-wide, the WCO and the International Chamber of Commerce (ICC) have signed a Cooperation Agreement. This Cooperation Agreement is seen as complimentary to and supportive of the WCO work on the revision of the Kyoto Convention.

Although significant progress has been made, the successes have not spread evenly among all customs administrations, or in all regions of the world. In fact, many customs administrations are still suffering the ill-effects of inefficiency and corruption. To address the issue of continued poor performance by some customs administrations the WCO developed its Customs Reform and Modernization Program (CRM). The CRM Program is intended to assist those WCO Member customs administrations which are truly committed to reform and modernization to become more self-reliant through better use of resources, strengthening of management capabilities, and designing appropriate and efficient customs processes and procedures.

Facilities

International trade volumes and values are a key index of economic performance. International trade is simply the sum of individual transactions. Overall national performance will depend on transactional efficiency.

Transactional efficiency will depend on economical, reliable and rapid delivery systems, as well as, on classic market indices such as, product availability, quality and price. Customs procedures and their management by traders and carriers are central to the attainment and support of a number of these market requirements.

Complex customs procedures, administered by badly trained or dishonest customs officials, impose prolonged, unpredictable delays on import and export consignments. These delays which prevent speedy, predictable delivery, present increased opportunities for pilferage and damage and raise insurance charges. They could rule out a country's participation in time-sensitive industries such as garments or electronics.

These on-costs, with additional, unnecessary interest on capital, will raise transport and handling charges and so market prices, with direct, adverse effects on competitiveness. Simple, well-timed customs procedures, with good documentation and/or electronic reporting will supply ample, accurate and timely trade, revenue and exchange statistics. Without good customs systems, such statistics, vital for many international trade purposes, will be either unobtainable or, if obtainable, be out of date and dangerously unreliable.

Poor customs procedures will degrade revenue collection, present opportunities for other types of cross border crime such as smuggling and intellectual property violations, and discourage foreign investment in international trading and transport activities or facilities.

Information

The WCO is a unique source of high-quality - Information, Advice and Expertise on customs matters.

The WCO has a comprehensive store of up-to-date information on its 146 Member customs administrations.

WCO databases include details on its Member customs administrations including their legislative authority, Directors General, and lists Customs Conventions ratified and Annexes accepted. It can be amplified, on request, to cover additional, more detailed information, for example, whether a Customs Administration:

- Has aligned its customs documentation on the UN/ECE Layout Key;
- Has undertaken a WCO Diagnostics study to establish strategic priorities and to assess the strengths/weaknesses of its processes and procedures;
- Operates computerised/EDI systems and, if so, on what lines and for what purposes;
- Has applied the WCO Time Required for Goods Release Study and if so with what (publicly available) results;
- Uses the WCO Express Consignment Guidelines to facilitate clearance of time-sensitive imports
- Operates Memoranda of Understanding to define and manage partnership arrangements with traders and carriers to interdict illicit drug movements and other types of customs commercial fraud;
- Has responsibility for applying other official governmental controls - e.g. security, dangerous goods, public health - and if so which;
- Has lost any of its usual functions to pre-shipment inspection agencies, and if so which.

Advice

Members of the WCO Secretariat staff can offer a range of expert advice on subjects, such as origin, valuation, nomenclature, compliance and facilitation, border controls, IPR, intelligence networks, training, targeting and risk-assessment, computerisation, integrity, smuggling, commercial fraud, money laundering.

Expertise

While the extremely large workload of the WCO Secretariat staff and the relatively small staff of the Secretariat place strict limits on their availability, their close personal and professional relationships with WCO Members over the full range of customs activities enables them to identify competent experts in many customs subjects and a variety of languages.

The status of the WCO among its Member administrations ensures that requests or enquiries for relevant experts receive a sympathetic response from any Director General.

The WCO can also help to establish the exact type of customs expertise which may be needed to deal with a particular difficulty.

Products and activities

Products

The WCO mission to simplify and harmonise customs practices and to enhance the effectiveness and efficiency of customs administrations is an important contribution to the facilitation of international trade. The WCO has a substantial and steadily growing number of practical facilitation tools which can be used as an index of efficiency of individual customs administrations.

Such measures as the Diagnostic Study, the Time Required for Release Study or the Express Guide-lines can be used as specific contributions to practical problems in customs training or to meet identified customs problems.

The following products are particularly relevant -

Harmonised System (HS)

Use of the HS ensures that a customs administration produces statistics in exact accord with international classification standards. This simplifies economic analysis and comparability. It is used by customs administrations responsible for about 98 per cent of world trade.

The system is backed by Explanatory Notes and a compendium of WCO Classification Opinions. This helps to ensure a rational, uniform application of classification rules, and so, trouble free export and import clearance and is a major element in good customs/trade working relationships.

All up-to-date, computerised declaration systems depend on the HS classification. Common use of the HS in such systems will be essential in the development of the sort of customs-to-customs information exchanges which trade interests see as the basis of progressive elimination of unnecessary export/import complications in favour of seamless end-to-end, integrated international transactions.

WTO Valuation System

Valuation at import is a classical source of dispute and delay in customs release and clearance.

It is now increasingly customary, in the event of a valuation dispute, to release the goods from physical custody, while making clearance - that is the formal completion of customs requirements in respect of a particular consignment - dependent on eventual agreement.

There are still many developing countries, however, where goods can be held in customs custody for a long time. This out-dated and restrictive attitude can be bolstered and perpetuated by association with customs malpractices, setting an arbitrary value and then conceding a lower - perhaps the correct -figure in response to an irregular personal payment. Valuation is so sensitive in this respect that it is the main procedure normally passed to pre-inspection agencies.

Initial international agreement on standard valuation rules was negotiated by the WCO, then the customs Cooperation Council, in the Brussels Valuation Convention which came into force in 1953. Under these rules the declarant had to prove that his invoice value reflected the open market price, in the face of any objection by customs.

The revised GATT Valuation rules, now embodied in the WTO Agreement, establish the price actually paid or payable by the buyer to the seller (i.e. transaction value) as the value for customs purposes and place the onus of contrary proof, subject to certain specific reservations, between the customs authority and the declarant. All WCO members who are WTO Members are obliged to apply the WTO Valuation rules.

The WCO is appointed, in the WTO Agreement, as the international body responsible for interpreting and giving technical support to the valuation rules.

The WCO has prepared a Compendium to assist members in practical interpretation of the agreement, a study on the economic and fiscal impact of the system, an index of valuation rulings, a study of Customs Valuation Fraud and a Handbook on Customs Valuation Control. These are intended for use by customs, but are also of interest and use to declarants.

Any assessment of customs efficiency in developing countries should bring the application of valuation rules under close scrutiny. Critical examination of associated dispute procedures and penalty assessment and settlement systems will help identify any prevailing malpractices which obstruct and delay international consignments and means of transport.

Effective revenue collection is impossible without good valuation practices.

Columbus Declaration

The WCO participated in an UNCTAD Inter-Ministerial Symposium held in Columbus, Ohio, in October 1994. On that occasion the WCO Secretary General presented a set of detailed Recommendations for action by individual customs administrations to facilitate the movement of goods through customs controls and across national frontiers.

These Recommendations were adopted by the Symposium and the WCO was asked to promote their implementation. They set out almost all the basic elements on good customs practice.

Express consignment guidelines

In order to diversify and enter global markets, many developing countries depend on reliable, rapid delivery systems, notably modern express services. Some of their industries find their niche inside international "just-in-time" supply, production and distribution systems which are managed by major global companies.

In almost all developing economies payment and transport efficiencies depend on the timely arrival of certain key documents from abroad. Documents posted from Europe to North Africa typically take a minimum of five days, while express companies can guarantee Europe/USA movements in less than twenty four hours. In some countries commercial express systems are excluded or made commercially impracticable by postal monopolies or protectionist licensing charges.

Even where these major deterrents are absent customs procedures in many developing countries are still based on old fashioned import and export operations which degrade or nullify the advantages of swift transport by delays in processing the goods.

The WCO has negotiated with global carriers to produce a special set of guidelines to cover express consignments. These guidelines apply, quite simply, to all consignments which are presented to customs for immediate release and which are authenticated by a specified set of high-quality control data, available to customs at a specified time in advance of the arrival of the goods to which these data relate. The guidelines are not restricted to any particular type of item or declarant.

The Express Guidelines supply a ready made set of customs procedures, and the WCO can secure specific support for their implementation from a number of Member administrations and interested commercial organisations.

Diagnostic study

The WCO manages an extensive training program under its Strategic Plan. It focuses on systematic and selective transfer of information, advice and expertise through training courses, seminars and technical assistance in developing Member countries.

These activities are very expensive in terms of staff time as well as travel costs. The WCO devised a Diagnostic Study approach, designed to secure reliable assessments of individual administrations' priority requirements. While this approach was designed to guide training policies, it

has acquired a much wider application to customs needs and objectives generally so the Diagnostic Study is now an essential tool of the CRM Program.

If a customs administration is selected for a Diagnostic Study, it receives a short visit from a core WCO team comprising experts from a number of volunteer customs administrations. This team, directed by the WCO and enjoying, as a necessary condition of its appearance, the personal support of the Finance Minister and the Director General, helps the client customs administration to mobilise its senior staff resources to assess weaknesses and strengths, identify the legitimate expectations of stakeholders, define measurable objectives and set out action plans.

Conventions

The most relevant of these to trade and transport operations involving customs is the Kyoto Convention. This Convention sets out the broad objectives of customs in this sector with a range of Annexes to guide customs administrations on practical applications through simplified and harmonized procedures. Customs administrations in countries which have ratified the Convention are bound to observe those Annexes which they have accepted.

The Kyoto Convention is now over twenty years old and the WCO has begun a necessarily lengthy process to review and revise it. This process will take into account the intervening radical changes in trade, transport and administrative techniques, and will include modernizing provisions for electronic commerce, risk management and audit-based controls. The revised Convention will also have new implementation guidelines which should facilitate adoption of the modernized procedures in detail. The revision process will also examine how to make the provisions more binding on customs administrations than under the existing system.

Study on the time required for the release of goods (Time Release Study)

The WCO has designed a detailed systematic analytical tool to enable a Member customs administration, possibly with the cooperation of certain outside experts, to establish the time taken to release cargo after its arrival in the customs territory and to identify, quantify and interpret the components and causes of any unnecessary intervening delays.

Arusha Declaration

In 1993, the WCO Council meeting in Arusha, agreed and issued a detailed Declaration on customs Integrity. Given the delicate position of an international institution addressing the failings within its own membership, the Arusha Declaration was designed to define some of the adverse economic and social consequences of customs malpractices and rally the majority of concerned Members behind a call for progressive reform.

Computerisation and EDI

Customs computerisation can be a major step towards high operational and performance standards. However, in certain countries, it has proven to be a superficial transfer of paper documents and manual procedures into electronic equivalents.

To assist countries in developing and implementing computer applications, the WCO has produced a comprehensive Information Technology Handbook which comprises a series of publications on the use of electronic technology for customs. These include such topics as the WCO Data Mapping Guide, EDI Security for customs, the I.T. Guidelines for the Kyoto Convention, earlier introductory and EDI development publications and a guideline on computer-based audits.

The WCO's Information Management Sub-Committee and Electronic Commerce Advisory Group meet regularly to develop standards and guidelines for customs administrations in the application of electronic commerce and to discuss all aspects of customs use of these techniques. Member administrations from both developed and developing countries make presentations on recent initiatives or advances.

The WCO also represents the needs of customs at UNCTAD and the UNECE in the development of standard UN/EDIFACT messages, and actively promotes use of UN/EDIFACT to its Members.

Compliance

The WCO has a very active program to assist customs administrations to combat revenue fraud which is seen as a strategic priority for customs Directors General particularly in developing countries. Customs fraud in many countries is very extensive and considerably reduces the revenue available to Governments. It has been demonstrated in a number of countries that the development of customs control, audit and investigation skills can have a very positive impact on revenue flows. The WCO has a five year Commercial Fraud Action Plan with the aim of improving customs professionalism in this area.

Customs/trade alliance

The WCO has formed practical partnerships with a number of international trade organisations including the International Chamber of Commerce, IATA, the International Association of Ports and Harbours, the International Chamber of Shipping and the International Express Carriers Conference to take day-to-day cooperation against illicit drug smuggling and other customs offences, beyond the strict limits of legal and regulatory requirements.

The central instrument of progress at the national level has been Memoranda of Understanding (MOU) setting out, in some detail, the ways in which customs and traders/carriers can secure better standards of physical security, staff awareness and communication behind specified common objectives.

So far the main use of these MOUs has been in "receiver" countries, backed by well-resourced and motivated customs administrations.

International Trade Centre

Mr. Carlos F. Cattani, Senior Adviser on Trade Finance Services, ITC

The International Trade Centre, which is possibly one of the smaller organizations compared to the others who have been addressing this forum, can be described very briefly as the focal point or the United Nations system for technical cooperation in developing and transition countries for trade promotion. Since the beginning of its operations more than 30 years ago, (its parent bodies are the WTO and UNCTAD), ITC has concentrated its efforts on all aspects of trade export, by assisting exporters to export more, by identifying markets; to export better products, by adapting them to market needs to import more cheaply, by improving import management techniques; to become more competitive, by making them know better their strengths and weaknesses and by measuring their competitive hedge. It has also devoted time and resources to teach simple and more complex trade procedures through a number of technical assistance programmes and by working jointly with local business organizations and industrial associations. In this respect it has been almost a forerunner by contributing to the present effort to remove obstacles and simplify procedures, as trained service providers, including custom officials the work of which, or its absence, was debated yesterday morning, are a precondition to better and simpler practices.

One of the guiding principles of ITC's interventions has been the support to regional integration initiatives as instruments for the development of whole areas and fragmented domestic markets. One of its strategies has been to promote regional and subregional markets to allow the exploitation of economies of scale, the creation of new jobs and technologies, and the expansion and diversification of economic activities. To combat a common belief of the 70's that trading with your neighbours i.e. regional trade was insignificant and bearing no potential, ITC has developed trade flows analysis techniques leading to the organization of highly specialized buyers and sellers meetings. This exercise being repeated over and over it has de facto introduced a strong practical element of trade facilitation by bringing potential markets close by the vicinity but still distant by lack of information and contacts. A striking example: A careful analysis of the trade flows originating and directed to Africa reveals that more than 500 products that Africa currently sells to the rest of the world are also those that African countries buy from outside the continent. It has also been estimated that if such intra-African trade potential were to be exploited, it would inject US\$10 billion in the economies of Africa

One of the major obstacles to regional as well as global trade is the lack of adequate information about existing commercial opportunities. If we move then to a group of developing countries, it is for them easier to gather information on business opportunities, market access conditions, rules and regulations concerning industrialized countries than about your neighbouring country. Such lack of information has the effect of maintaining traditional trade flows directed to traditional partners in the industrial north, at the disadvantage of potentially interesting and promising new markets, possibly in the same region. So information is vital in many areas such as markets, prices, timing of sales, sourcing raw materials. In addition to answer these "traditional needs", ITC's most recent programmes are aimed at assisting developing countries to take full advantage of the new information processing and communication techniques, such as Internet, LAN applications, CD ROM etc. Training programmes are organized regularly to provide developing countries the necessary guidance in applying these new technologies in a cost-effective way.

Still, in the attempt to reduce the Information barriers, significant efforts are being sustained in cooperation with UNCTAD, and are devoted to the establishment of electronic trade information networks and Trade Points, where enterprises around the world can search for business partners and other information relevant to the conduct of trade operations. Another example based again in Africa, concerns the development of TINET, an electronic information network providing the business community and the public sector with information on intra-COMESA trade opportunities. TINET provides trade statistics for over 6000 products, useful contact addresses, tariff rates, country profiles, etc., and can be accessed through TINET's cooperating agencies, such as chambers of commerce, manufacturers' associations and other trade-related organizations. The project has been quite

successful, and ITC is currently examining the possibility of establishing links between the African network and similar initiatives in Asia, such as the A-NET operated by the Association of Asian Development Banks (ATFIAP).

Another major constraint to the full development of international trade is finance. When an enterprise from a developing country sells or buys from an industrialized country in Europe or the United States, it usually gets financial support from that country. If it tries to sell to the same group of developing countries, its major obstacle is the lack of finance, or rather the lack of adequate routes to get the finance it needs. The lack of appropriate trade financing mechanisms are, as we have seen yesterday, one of the essential ingredients of a successful commercial transaction. In this field, which incidentally is my area of expertise, ITC carries a few programmes, aimed not only to remove the information barrier, i.e. where to get the funds, but also to remove the capacity barrier i.e. how to get those funds. ITC is also getting involved in simplification of procedures for bankers in rationalizing trade credit requests and preparing diagnostic tools enabling SME bankers to speed up the analysis of transactions submitted for financing. (Another example is the harmonization of Bank Guarantees).

ITC has also developed a Virtual Exhibition Centre, accessible freely and widely through Internet. Some 300 images and descriptions of artisanal products are currently included in this virtual exhibition, where they can be seen by potential buyers. In the field of internet sales, again procedures and standards have to be set up as we have said yesterday and this opens up a new area of development.

As you can see, a number of ITC's technical cooperation programmes are aimed at removing, or at least easing the constraints that hamper the full expression of developing countries' commercial potential, by helping businessmen to identify trade opportunities and translate these opportunities into business. This is mainly achieved by programmes that bring potential trading partners together, therefore filling the information gap, that promote the development of products and services with a significant trade potential, and finally by projects supporting the creation of an environment conducive to foreign trade transactions. Frequently, ITC's interventions are channelled through programmes at the national level. More recently ITC has developed a product-network approach, under which generic tools (the so called "products") are developed by ITC in its headquarters here in Geneva, in collaboration with developing countries, to be subsequently customized to the specific needs of individual countries and sectors by the "network" of ITC multipliers. Network organizations comprise business associations, trade promotion agencies, chambers of commerce and training institutions in partner countries, charged of adapting and disseminating ITC products on a local basis, ideally using their own funds and resources. The involvement of local network agencies ensures that ITC's generic products are tailored to fit local exporter's needs, and the joint ownership of the output increases the sustainability of the program and its multiplier effects in terms of usefulness and coverage of enterprises.

Another set of projects developed by the International Trade Centre and that I would like to introduce to you, is the so-called International Competitiveness Program for small and medium exporting enterprises (ICPS). The program addresses the information, training and advisory service needs of small and medium sized enterprises to improve their competitiveness on international markets. The ICPS under the International Competitiveness Program for SMEs practical guides, has been completed on how to "Approach Financial Institutions" and how to export through "Export Trading Houses". The generic version of these guides has already been finalized, and arrangements for their local adaptation and dissemination have been signed with a number of partner organizations in different developing countries. Another generic product under development within the International Competitiveness Program for SMEs is the "Trade Secrets" publication, a reference book whose aim is to provide a simple but in the meantime exhaustive answer to the 100 most frequently asked questions by exporting SMEs. Several countries, including Kenya, Zimbabwe, India, Brazil and Mexico have already completed the production of the national versions jointly with ITC.

The above mentioned program also has led to the development of some diagnostic computer-based tools, such as the International Competitiveness Gauge, used to assess and monitor the

international competitiveness of a sector or a specific enterprise on the basis of the firm's competencies and resources, but also of the state of the macro environment of the industry and the economy as a whole.

Another interesting diagnostic and learning tool has been developed to optimize the conduct of purchasing and supply operations, which account on average for 50-60 per cent of the total production costs, and whose efficiency heavily influences the company's international competitiveness. The International Purchasing and Supply Management Diagnostic and Learning Tools are particularly designed to spot the weaknesses of the supply process, and identify training measures to improve the efficiency and reduce the costs of outsourcing.

Several ITC programmes focus on the strengthening of the capacity of national institutions, to achieve efficient foreign trade operations by improving the knowledge and skills both at the enterprise and institution level. Currently developed by our Human Resource Section, is the so-called Global Competitiveness Curriculum, a training program addressing the knowledge and skill requirements of the owners and managers of small to medium export-oriented enterprises. The Global Curriculum consists of five training modules, each of which focus on the skills required in the various phases of the export transaction, from organizing for export to ensuring payment. The program concentrates on practical, rather than conceptual aspects of international business, and in particular on the improvement of the planning, organizational and monitoring activities for the management of the various functions within the enterprise, such as marketing, production, distribution and finance. The Global Curriculum is being developed in the generic version, and will be adapted by local trainers and business counsellors to the needs of the individual countries, under the lead of a central coordinating institution.

As a conclusion, trade facilitation involves removing barriers, increasing the capacity of actions and setting up the appropriate infrastructure to allow liberalization to take place.

A concerted action, as requested during the present Symposium, and where WTO is somehow the conductor, would go a long way to reach our goal.

International Monetary Fund

Mr. Adrien Goorman, Senior Economist, Tax Administration Division, IMF

This presentation summarizes the aspects of the IMF's activities that are relevant to trade facilitation and explains why and how the IMF, directly or indirectly, is involved with trade facilitation issues.

Why is the IMF interested in the issue of trade facilitation?

IMF's interest in the area of trade facilitation derives directly from its primary objective, which includes the promotion of foreign trade, as a major way to achieve growth. The hindrance of foreign trade operations resulting from regulations, rules and border procedures, goes counter to that objective and calls for reform. The issue of trade facilitation is a microeconomic objective that falls under that broader macroeconomic objectives pursued by the IMF.

Which aspects of IMF's activities are relevant to trade facilitation?

The IMF has an impact on trade facilitation in two ways: (1) through its policy advice in the context of consultations and economic and financial restructuring programmes with member countries, and (2) through its technical assistance programmes.

Policy advice

As regards policy advice, at least three aspects have an impact on trade facilitation: advice on the foreign exchange and payments regime; trade policy advice, and fiscal policy advice.

The removal of foreign exchange controls, liberalization of foreign trade, and the fiscal performance (achievement of fiscal balance) are key elements of the IMF's economic and financial restructuring programmes, and its surveillance activities.

(1) Fund advice in the foreign exchange area aims at removal of exchange controls; (Mr. Pelaelo of the Bank of Botswana highlighted that issue very clearly in his presentation yesterday).

(2) Fund advice in the trade liberalization area aims at: the removal of quantitative restrictions and other NTB; reduction, rationalization and simplification of tariffs; deregulation, decontrol; and the establishment of open, transparent trade regimes, easy to administer.

These measures are all necessary ("First Order") conditions, without which not much trade facilitation can be expected, because it are the restrictive trade and exchange regimes that require the application of numerous permits, documents and controls.

(3) Fund advice in the fiscal area aims at establishing tax systems that provide adequate revenue and at the same time are economically efficient, simple and transparent, and easy to administer.

Here again, simplicity and transparency are First Order conditions for making trade facilitation efforts effective (complex systems do not allow for much trade facilitation).

Technical assistance

As regards technical assistance, the IMF provides technical assistance to its member countries in customs administration (and in tax administration and the whole fiscal area for that matter), because the weakness of the revenue administrations is often a major cause of the poor fiscal performance, and good fiscal performance is of crucial importance in achieving economic stability.

In the majority of countries receiving technical assistance from the IMF, revenue mobilization is a critical task and the advice of the Fiscal Affairs Department (FAD) related to customs administration reform, therefore, focusses primarily on the legislative and procedural changes required to secure revenue in the most efficient way possible (efficient from revenue collection point of view and from trade facilitation point of view).

Through our technical assistance programmes in the area of customs administration, we try to achieve two objectives: better performance in revenue collection, and increased efficiency in processing imports and exports and in customs administration overall. Following all the progress made in reducing tariffs and NTB, in many countries Customs now has become the biggest stumbleblock faced by foreign trade operators.

There is no contradiction between strengthening revenue performance, and liberalizing and facilitating trade, because the most effective customs control systems are at the same time the least cumbersome (such systems include, amongst other things, selective checking based on risk assessment, with emphasis on the accounts-based post-release checking).

To sum up: the Fund provides policy advice that aims at open trade regimes, and simple and transparent tax systems (including tariffs) that create the conditions under which further trade facilitation measures (simplification of trade-related border or other formalities) can be effective; and technical assistance, especially in the tax and customs administration areas, that directly aims at operational efficiency and includes trade facilitation measures.

What are the main problems in the customs administration area that we try to address in the context of FAD technical assistance and what are their causes?

I will not expand much on the problems to be addressed, as they have been mentioned several times already in the presentations and discussions yesterday and this morning. Let me just enumerate what in our experience are the main causes of the delays, the bureaucratic behavior, etc.

- Restrictive and complex trade regime and tax and tariff systems.
- Inadequate or obsolete customs legislation and procedures, not adapted to present days requirements, e.g. the law requires to check all shipments (100 percent still exists!); use of ill-adapted, complicated declaration forms; numerous procedural step and signatures (instead of selective checking, post-release checking, advance declaration, periodic declaration).
- The belief that computerization is the answer to all problems: while a modern administration is not thinkable without computerization, in many countries, little thought is given to understanding the role of computers: often, procedures have not been adequately simplified; the information produced by computerization is not effectively used for control and to accelerate operations; furthermore, effective management and the necessary training to operate the computers is often missing.
- Regulations of various departments (ministry of health, security, agriculture ...), that require controls and checks at the time of importation, that are not coordinated. Moreover, the need for some of these controls is questionable. The lack of coordination of rules, and/or the carrying out of controls, slows down the clearance process.
- Old fashioned attitudes of the customs administration (and for that matter, other administrations involved in the foreign transaction process): a belief that all shipments are suspects and therefore need to be checked, rather than a service oriented attitude.
- Old fashioned organization and management systems and the failure to give adequate attention to the organization and staffing needs of a modern administration: many administration accept passively the civil service rules including the controls on organization structure, job classifications, and salary levels. This makes it difficult, if not impossible, to take the reform measures necessary to establish a responsible, accountable, efficient administration.

- Lack of integrity that continues to plague many administrations. Lack of integrity undermines the administration's efficiency and credibility; it causes an unhealthy environment in the foreign trade operations, and thwarts trade facilitation efforts.
- Inadequate infrastructure, that does not allow for implementation of efficient procedures and for an integer working environment. For instance, customs offices crowded not only with officers, but also declarants.

How are these problems addressed in the context of FAD technical assistance?

FAD technical assistance in customs administration is not limited to designing and proposing reform plans, but also concentrates on implementation. FAD advice is, therefore, based on a comprehensive approach.

The problems and inefficiencies normally cannot be solved by changes in only one segment of the administration, e.g. it is not enough to introduce the most sophisticated technology as this alone will not guarantee success; or to dismiss one or two officers and then expect that the problem of corruption will be solved.

For the administration to function well, all its components must be in place, that is, its operational procedures; organizational structure; management systems, including information system, supervisory system and internal control; human and financial resources; and the legislative basis.

Only when all these components are in place, can technology be effective, and the administration become really efficient.

Need for strategy

Reform of customs administration is a complex task, and requires a well-defined strategy and a plan of action to implement change. The same strategy is not necessarily appropriate for every customs administration, nevertheless, there are certain requirements and priorities (principles for the system) that should be addressed first.

What are the requirements for successful reform?

It is important that the government/administration has ownership of the reform program, which requires commitment of both the political and administrative levels of government:

- the administration itself needs to be involved in the design and implementation of the changes, and the organization fully kept informed;
- sufficient and dedicated resources (i.e. the best people) need to be assigned full time to the project team. Reform should not be a part-time undertaking!
- the required investments need to be estimated at the outset and committed.

What are the priorities for reform?

There are three major elements in the strategy for the reform of a customs administration that must be addressed to support development of a modern administration:

- existence of appropriate and transparent legislation: simplicity and transparency of customs management laws and procedures, and alignment to international agreements, conventions and instruments (including WTO, WCO agreements and conventions);
- simple and up-to-date procedures: procedures should be simple, transparent and easily understood by the trade community. Procedural reform needs to include, amongst other things:

- principle of self-declaration;
 - reducing the number of processing steps to a minimum;
 - selective checking;
 - release of goods in the least amount of time possible.
- a new control strategy that allows for minimal interference with trade, yet ensures proper enforcement of fiscal and trade laws. It should be based on selective controls based on risk assessment, and effective post-release reviews. (Also: advance declaration, periodic declaration ...).

What changes are required to support the priorities for reform?

Once these principles are agreed upon, they should be supported by changes in:

- computerization: a reformed customs administration should operate in a fully automated environment; enterprises should transmit data electronically to the customs administration through EDI; electronic information should be available to support post-release reviews.
- organization and management: adopting innovative and flexible organization and management systems. This involves decentralization of responsibilities and decision taking, and providing a degree of autonomy to the administration, linked with greater accountability, allowing them to have control over their own resources, provide better salaries and incentives to their personnel than the general civil service, and authority to hire and fire. Such management systems also ensure a much higher degree of integrity.
- management should develop strategic and operational plans, and performance criteria (service standards, targets...); create internal audit and take other measures to ensure integrity.
- recruitment and training: investments need to be made in human resources. Traditional approaches to recruiting and training have to change. Relying on technology and post-release audit based systems requires new skills in the customs administration.
- and service: the customs administration must be service oriented and establish good relations with the trading community, including appeals procedures, help desks, distribution of information, and a trade facilitation committee.

A coordinated effort to undertake significant changes in all of these areas will result in a “new way of doing business” for the customs administration. For instance, you cannot simply introduce computerization and expect that it will result in a reform of the customs administration. Similarly, changing the organization and making it part of an autonomous revenue authority will not in itself achieve the results expected from a major reform.

The Fund’s technical assistance programme

How is the fund’s technical assistance program organized?

Organized by professional expertise: Fiscal Affairs Department (FAD), IMF Institute (INS), Money and Exchange Arrangements Department (MAE), Statistics Department (STA), Legal Department (LEG) and Bureau of Computing Services (BCS), and coordinated by the Technical Assistance Secretariat (TAS).

How do we select countries to be assisted?

Technical assistance is often related to Fund programmes: nearly all countries having an Extended Structural Adjustment Facility (ESAF) with the Fund are supported by technical assistance. Furthermore, the main focus is on transition, post crisis, and newly independent countries, but the technical assistance is open to all countries.

Technical assistance is only provided on request. This ensures ownership and (hopefully) commitment.

Not all request result in assistance. The track record of the requesting country in implementing reform is taken into account. Priorities among the many requests are discussed with the area departments.

What is the size of the programme?

In total (all Fund TA departments) technical assistance delivered amounts to some 300 person/years (per year), of which the FAD accounts for 100 person/years, including 5-10 person/years for technical assistance in Customs. Technical assistance in Customs is increasing: 1998 counted 10 person/years, as against 3 person/years in 1993.

How is the TA programme financed?

Two thirds of the assistance is internally financed. The remainder is financed externally, in particular:

- UNDP (country and project specific);
- Japanese Administered Account (JAA) (under general guidelines);
- WB (country specific, within project loans);
- Other.

How do we assure the quality of the advice?

Fund technical assistance is highly focussed and only covers the areas in which the Fund has a mandate and the expertise.

Short-term missions for carrying out initial studies, identification of problems, and drawing up of strategies and programmes for reform are carried out by the Fund's own specialized staff (often accompanied by a panel expert), and culminate in technical assistance reports.

For long-term assignments, the Fund draws on experts from FAD's panel of experts. The panel of experts consists of professionals from a wide origin. Selection is based on the CV, interviews, and testing out of the candidates during a mission.

How do you obtain lasting results?

Through:

- Aiming at capacity building, in particular enabling the member country to face the problems;
- Seeing to it that the Government has ownership of the reform program, and commitment;
- A strategic and comprehensive approach, with detailed program and implementation timetable, to be achieved often with one small steps at a time (in a 1-3 year timeframe depending on the size of reform program).
- Follow-up and supervision of experts on long-term assignments, through backstopping and follow-up missions.
- Help in finding training providers. As regards materials, IMF assistance is advisory and does not allow for financing the supply of computers or other materials, except under some externally financed projects.

Does our technical assistance have an impact?

Many countries that received technical assistance have implemented the intended reforms to a greater or lesser extent. In particular, progress has been made with the modernization of customs procedures and the reduction of clearance times. In many cases, implementing reform has been

difficult to achieve, and progress has been slow, due mainly to the heavy human and financial resource constraints many developing countries are faced with.

World Bank

Mr. Jayanta Roy, Principal Economist, Middle East and North Africa Department, World Bank²⁶

"The UNCTAD has estimated that the average customs transaction involves 29-30 different parties; 40 documents; 200 data elements (30 of which are repeated at least 30 times); and the rekeying of 60-70 per cent of all data at least once." Douglas M. Browning, U.S. Customs Service.

Introduction

This paper will first cover very briefly some of the work in this area the World Bank has been involved with. It cannot, of course, claim to be exhaustive, since trade facilitation features in several of the Bank's activities-project lending (transport), adjustment lending (customs, quality standards and simplification of procedures), technical assistance loans (modernizing -customs) and economic and sector work (export promotion and competition). It will then focus on two country cases, Jordan and Lebanon, and highlight which of the areas have worked well.

World Bank experience with trade facilitation in a nutshell²⁷

Trade facilitation covers a wide area-simplification of trade procedures, modernization of customs, conformity with quality and safety standards, trade logistics, duty-free importation schemes, electronic data interchange (EDI) and use of telecommunications. Hence there is not one focal point in the Bank where the issue is housed or tackled.

There have been three phases of World Bank involvement:

- Transport Focus. During the 1980's, most Bank activities concerning trade facilitation had transport facilitation as their goal.

The very first transport sector work facilitation took place in Latin America in 1976. But it was not until 1989, in India that the first effort was made to assess the effects of service industry and related infrastructure management practices in a developing country.

- Governance Reform. In the mid-1980's isolated trade facilitation components, particularly focusing, on governance reform, have been included more and more in structural adjustment loans (Metrology, Standards, Deregulation of Prices).
- Trade Enhancement. Since 1990, Bank initiatives have explored ways of addressing the wide range of policy and administrative issues involved in trade enhancement, leading, to useful conditionalities in adjustment loans (Jordan), new types of technical assistance (Lebanon) and new types of projects (India: Container Transport).

Lessons from the Bank's experience in transport facilitation

In 1987, the Bank's Transportation Department prepared a general review of projects in transport facilitation and logistics which only accounted for 2 per cent of the World Bank's lending, for non-infrastructure transport operations. The review concluded the following, observations:

²⁶The author is happy to be in the same forum with WCO, IMF, UNCTAD, UN/ECE, ITC and, of course, WTO since the Bank's approach to reforms in trade facilitation is consistent with, and is aided by, efforts of these institutions.

²⁷The details are available in Tables I and 2 in the Annex.

- The Bank's role in transport facilitation should promote the following:
 - Intermodal coordination;
 - Increasing, operational efficiency;
 - Promote trade between neighbouring countries;
 - A catalyst for participation in international agreements;
 - The role of the private sector with emphasis on encouraging some amount of deregulation within highly regulated areas.
- The Bank must set realistic objectives - Due to the many government institutions involved in the decision making, greater efforts must be placed on providing long-term support and clear emphasis on implementation and supervision of transport facilitation through successive projects.
- The key prerequisite to acceptable communication and decision making across these agencies is a high level of government commitment and participation.
- Whenever transport facilitation is part of the structural adjustment loan the following factors arise:
 - programmes are not always realistic in their objectives;
 - flexibility may be needed to adapt to changes in country circumstances;
 - borrower willingness and capacity to implement the program may be insufficient.
- The Bank has been more responsive to the need for tangible investment within the transport sector than with resolving the efficiency bottlenecks of the transport system.

In conclusion, the 1987 review restates the importance of the transport facilitation agenda, both for the Bank and for other multilateral agencies, and also recognizes the complexity of the issue and the great challenge of implementation that is usually involved. Recommendations for designing a facilitation program emphasize the need for realistic objectives, risk assessment in project development and fall-back strategies, as well as the need to recognize the scarcity of technical expertise in this field.

Another review was conducted in 1992 which focused on transit traffic facilitation in Sub-Saharan Africa.

The key conclusions were:

- Donor assistance is delivered more efficiently when planned as an integrated package and not as an isolated component in the transport project. (The reason being that investment loans are not a good way to carry on a policy dialogue or initiate policy reform.);
- Bank intervention should focus not only on technical assistance and privatization of functions performed by parastatal agencies but also the relaxation of Institutional barriers;
- In respect to operational policy the Bank needs to emphasize less on regulation and more on staff training, and career development.

A recent Bank report evaluates experiences in improving efficiency of land and maritime transport services of Sub-Saharan economies. Their conclusion was that a regional Multi-disciplinary approach needs to be stressed - The key components that need to be adopted when creating the right environment for the development of national or a sub-regional trade and multi-modal transport system are:

- Regulatory measures - to harmonize transport liability regimes and insurance practices;
- Trade and Transport Facilitation measures - (customs regulation, trade documentation etc.);
- Development Policy measures - to address misallocation of resources;

- Fostering - harmonization and integration among, the different national actors.

Experience with recent initiatives

Since the 1990's trade facilitation has featured prominently in adjustment operations (modernization of customs) and innovative technical assistance loans (customs reforms, development of teleports and EDI applications). Among these initiatives two have been chosen for a more detailed discussion presented below.

Jordan Economic Reform and Development Loan (ERDL)-ERDL II²⁸

The Government of Jordan recognized that the success of outward-oriented reforms relies heavily on the performance of exports which would help facilitate a smoother flow of imports by being, able to pay for these. Also, it realized that the reduction of transactions costs to exporters is an essential prerequisite to bolster trade. With this aim in view, it accorded the highest priority to trade facilitation. The major policy directions agreed with the Bank under EPDL loans were:

- As of mid-1996, application of a reference price database for valuation of Goods has been initiated by customs. A new Customs Law, based on best practices, has been drafted and approved by the Cabinet and is being, discussed in the Parliament. The new law requires that valuation be based on self-declaration by importers. The law is consistent with WTO rules and will ensure that protection will only be granted if it is considered to be in the interest of the economy as a whole. In addition, a Safeguard Law is also being, discussed in the Parliament.
- The temporary entry and duty drawback systems were improved during 1996 through the introduction of computerization as part of a USAID-supported project. The bonus system for customs officials has also been revised to reduce the incentive for officials for "overzealous" enforcement. Collected fines are now deposited in a central fund for "merit based" salary increases and officials are required to substantiate decisions to impose penalties.
- The Government is planning, to allow importers to use the services of a selected pre-shipment certification provider on a voluntary basis. Such services would be financed by the importer. Acceptance by Jordanian Customs of documents establishing the classification and value of goods provided by certification bodies accredited by the Government of Jordan would be mandatory. Inspection or opening of containers sealed by certification bodies by customs would be limited. This voluntary pre-shipment inspections scheme will provide bona fide importers with an opportunity to avoid any -delay and uncertainty concerning customs clearance. Moreover, the intensity of its use will provide information on the extent to which customs procedures regarding valuation and clearance are a significant burden on the private sector.
- The Government has also implemented a scheme under which it permits established exporters to benefit from a "Green Channel" for imports of materials, equipment, and components used in the production of exports. The green channel involves acceptance of invoices presented by exporters on the basis of trust, with reliance on export random auditing of factory premises.
- The Customs Department is closely involved with GTZ in a program to simplify procedures, computerize customs, and upgrade and expand training facilities for customs officials. Simplification of procedures will be pursued in conjunction with the adoption of the new Customs Law, and build upon EU experience and documentary requirements. Computerization is programmed to be completed by July 1999.

²⁸ERDL went to the Board on September 15, 1995 and ERDL 11 was presented on November 14, 1996. Some of the background work carried out under Jordan: Export Development Project (1996) also fed into ERDL.

- Raising product standards by strengthening the Jordan Standards Institution, obtaining international accreditation of product testing laboratories, establishing a calibration system, facilitating ISO 9000 certification services, and establishing a Standards Extension Service to help firms raise the quality of their products to international standards. Partial funding for the program is provided by GTZ.

The trade facilitation component of Jordan's ERDL and ERDL II has drawn praise from within the Government and the private sector and is being applied in other Bank operations. The main reasons for success are as follows:

- Green channel is a simple, yet effective device and has reduced the transaction costs of established exporters. As against 26 companies receiving this benefit in September 15, 1996 when the scheme was initiated, 52 companies are enjoying the facilities as of June 1, 1997. The Government's aim is to get all exporters in this net.
- The range of counterpart agencies involved with the implementation of trade facilitation reforms is large and includes both the public sector and private sector.
- Government participation and commitment are demonstrated by the legal changes accompanying the operations. Jordan has drafted new Customs and Safeguard Laws consistent with WTO and international best practices.
- The informatics component is large: computer systems are installed or upgraded in most of the agencies touched by the project. Jordan is creating a system that would serve as a central reference source on all trade-related information. UNCTAD's ASYCUDA trade facilitation software is helping the government to introduce full computerization of the customs procedures. The new Jordanian Institution of Standards and Metrology (JISM) is a central provider of access to MSTQ-related information database and access systems as well as a link to the quality management system registration service.
- The initiative directly addresses the need for close coordination with other multilateral agencies programmes in trade facilitation: coordination with IMF recommendations for tax structure, a legal framework for customs administration, and other administrative and enforcement procedures. There is also consistency with WTO guidelines in the formulation to the customs law. Finally, the reforms address implementation of UNCTAD's Automated System for Customs Data (ASYCUDA) software.

Lebanon-Revenue Enhancement and Fiscal Management Project 1995

The World Bank's Revenue Enhancement and Fiscal Management Technical Assistance Loan is for US\$19.9 million of which about US\$4 million is earmarked for customs modernization. To date about US\$2.5 million covers payment to UNCTAD for technical assistance, payment to IMF customs Adviser and to cover cost of equipment needed for ASYCUDA. UNDP funds the fees of the local project team.

The project's prime objective was to rehabilitate the management of the Ministry of Finance, targeting internal taxation, the cadastre department and customs with a view to Lebanon regaining its trade competitiveness in the region through reforms focusing on trade facilitation.

As part of this project, the customs' step-by-step modernization process was started as of mid 1995, with:

- the adoption of ASYCUDA++ software;
- the application of the International Harmonized System (IHS); in 1996

- and the adoption of the Single Administrative Document (SAD); early in 1997, thus paving the way for the implementation of a complete computerized information system for automated customs clearance, best known as NAJM (ASYCUDA++ plus IHS plus SAD).

The objective of the Ministry of Finance is to make the customs clearance process simple, rational and transparent to the outside, thus reducing cost and time for the client and ensuring that revenues are collected justly and fairly.

In this respect, a NAJM pilot system was implemented, September 1, 1997 in the Port of Beirut. A long and tedious process composed of numerous steps was replaced with a few basic operations:

<u>Old customs</u>	<u>New customs</u>
26 SAD/customs clearance declarations	1 single SAD
Lack of transparency	Total transparency, of SAD after the adoption of IHS
2 cashiers	9 cashiers
Several days for customs clearance process	Maximum 3 days for completion of CCP
Local complex tariff, example: to import X goods:	One single rate ad valorem, example: to import the same X goods:
30 per cent customs Tax	15 per cent Global customs Tax
3.5 per cent Port Tax	
1.5 per cent Reconstruction Tax	
1 per cent Stamp	
The tax was calculated on the basis of the Customs dollars = 800 LP	The tax is calculated at market rate (Central Bank of Lebanon)= 1530 LP

The NAJM system has been further developed in order to reduce clearance time by creating a "green line" process based upon a risk analysis module. Thus, clients acknowledged by the computer information system as having a trouble-free customs record (based on previously entered data) can skip the Inspection step and go directly to the Cashier step. The whole customs clearance process will only take them a few hours, instead of the 2 or 3-day normal procedure.

Lessons from the Lebanon Project:

Significant progress is being made to simplify documentary requirements. The SAD has eliminated the need to use multiple forms. The ASYCUDA system and the shift to a "green" and "red" channel system will provide a good base for a substantial improvement in the import clearance process. The government recognizes that to be fully effective, some further reforms are needed in terms of customs procedures and regulatory requirements imposed by other agencies. These measures are not specific to Lebanon but are applicable to other countries embarking upon the modernization of customs.

These measures are:

- Streamline and reduce the trade impeding impact of regulatory requirements imposed for reasons of public health, safety, and the environment. There is a plethora of such regulations, all of which require importers to obtain time consuming approvals from the relevant institutions prior to the release of goods from customs. These approvals have the potential to reduce the scope of "green channel" treatment of imports (see below). Agencies that are involved include the Ministries of Economy and Trade (consumer protection); Health (food, medicines, hazardous materials); Defense; Telecommunications; and Agriculture. The potential for such requirements to delay import can be reduced by ensuring that representatives from these agencies are located in one part of the port (as has been suggested by the Ministry of Finance). Given the possible need to sampling and testing of products, a complementary step would be to allow importers to have goods certified prior to shipment by -internationally recognized inspection firms and to require customs to accept such

certificates. This is a practice commonly used in all successful exporting countries. There are also several accredited institutions with a good track record. Enforcement of mandatory health and safety standards is important in order to ensure that imports are safe for human consumption and the environment. But care must be taken to ensure that health and safety objectives are reached with the least possible impediment to trade. Allowing the use of the services of PSI companies would provide importers of foodstuffs with a mechanism to eliminate uncertainty regarding imports. Imports would also be facilitated by accepting foreign standards and test results/certification.

- The reach of security control of goods should be greatly reduced. Security-related inspection should be delegated to customs, which in turn should use risk assessment and sampling techniques to enforce security concerns. The Current practice of inspecting goods again before leaving the customs area is duplicative and redundant.
- The current customs practice of providing inspectors with individual incentives to find infractions and impose fines should be abolished since it provides perverse incentives (a premium on control rather than on trade promotion). It is the normal duty of a customs official to detect violations of the rules. The current system of providing customs officials with bonuses linked to fines imposed is seen as one way -to compensating for low salaries. This is very costly to the economy. Efforts should be made to find more efficient methods of rewarding good performers.
- Greatly reduce the incidence of inspection of goods for export. Experience throughout the world indicates that such inspections are an inefficient method of detecting illegal activities (e.g., smuggling of drugs). Customs should instead rely more on risk assessment and random spot checks of 2 to 3 percent of all shipments.

The road ahead

Information technology is revolutionizing the work on trade facilitation. Cargoes, containers, and goods are being tracked around the globe by a variety of automatic identification devices. EDI and electronic commerce are replacing the tedious paper trail. In Jordan, for example, customs modernization plans for the future are considering the use, of smart cards, and satellite tracking system whereby containers are locked electronically and tracked via satellites.

There is no dearth of desire to help by international agencies. But, at times, countries get a little confused with duplicity of efforts and the lack of coordination by agencies. It is now time to bring, the objectives, work plans, and resources into line, to agree on priorities, and then to implement a joint plan between all the international agencies concerned. This will lead to the optimum use of skills and resources, minimum overlap, and effective international liaison on projects, technology, best practice and implementation guidelines. This Symposium is clearly an eventful step in that direction.

Annex

Table 1. World Bank Operational Lending Related to Customs Administration

Country	Project Name	Objective	Date of Approval	Commitment (# million)
Albania	Tax Administration Modernization	To assist in the implementation of the tax and custom departments' institutional strengthening programmes, as well as providing support needed to establish efficient tax collection, audit and information systems.	07/94	US\$4.0
Colombia	Public Sector Management-93S	Reforms in public sector management, with particular attention to: budget programming and execution, tax administration, public enterprise monitoring and MIS: and customs administration.		US\$10.0
Colombia	Public Financial Management	Design and implementation of an integrated budgeting and financial management system for the central government. The project also includes elements to strengthen revenue collection and management of resource mobilization agencies including tax and customs agencies.	12/93	US\$30.0
Cote d'Ivoire	Private Sector Development	Policy and economic reforms to improve the business environment for the private sector (settlement of domestic arrears, reforms of business laws and legal environment; streamlining of port/customs procedures, simplification of investment code and procedures, liberalization of maritime transport and removal of other restrictions to free trade.	04/96	US\$180.0
India	Container Transport	To improve container handling and transport by the provision of railway rolling stock and the equipping of inland container terminals, related technical assistance, streamlining of customs and inland container procedures; and expanding the role of the private sector in intermodal container transportation.	06/94	US\$94.0
Jordan	Economic Reform and Development Loan (ERDL)	Modernization of customs and improving quality standards.	09/95	US\$80.0
Jordan	ERDL II	Modernization of customs. "Green Channel" for Exporters. Voluntary PSI.	11/96	US\$120.0
Kenya	Kenya Ports	Establish container terminal subsidiary, handling equipment maintenance contract, provision of handling equipment, terminal management contract, rehabilitation of BRRTHS, streamline customs procedures.	07/97	US\$48.8
Lebanon	Technical Assistance for Revenue Enhancement	To enhance revenues and improve fiscal management by providing technical assistance in the areas of customs administration, cadastre and land registration, and public expenditure management.	06/94	\$19.9
Peru	Structural Adjustment	Reforms in the areas of fiscal policy, public administration, customs and tax reform, labour market, financial sector and agricultural marketing.	03/92	\$300.0

Country	Project Name	Objective	Date of Approval	Commitment (# million)
Sri Lanka	SMI IV	To provide funding for BMR of existing SMI operations and for the establishment of new small scale enterprises. The project will also support GOSL's efforts to improve the efficiency of its customs and excise operations, and of the banking system.	05/91	\$45.0

Table 2. Examples of Diverse Trade Facilitation Components Found in Some Recent World Bank Projects

	Cote D'Ivoire	Kingdom of Morocco	Hungary	Republic of Cape Verde	India	Jordan	Mauritius
	1991 Competitiveness and Regulatory Reform Adjustment	1992 Second Structural Adjustment	1992 Product Market Development	1993 Transport and Infrastructure	1994 Container Transport Logistics	1995 1996 Economic Reform and Development Loan (ERDL) ERDL II	1994 Technical Assistance to Enhance Competitiveness
	PROGRAM	LOAN	PROJECT	PROJECT	PROJECT	PROGRAM	PROJECT
The transport dimension: Post modernization Highway sector improvements Railways modernization Intermodal coordination Reform of shipping industry Facilitation for container companies Development of freight forwarding				##### #	##### ####		
The governance dimension: Metrology Standards Calibration Quality Deregulation of prices Liberalization of trade Rationalization of taxes and tariffs Rationalization of public expenditure Improving commercial legal framework Reforming customs procedures	##### ##### ##### ##### ... ##### ##### #####	##### ####			##### ##### ##### ##### #### ##### ##### ##### #####	##### ##### ##### ##### ##### ##### ##### ##### ##### #####	

	Cote D'Ivoire	Kingdom of Morocco	Hungary	Republic of Cape Verde	India	Jordan	Mauritius
	1991 Competitiveness and Regulatory Reform Adjustment	1992 Second Structural Adjustment	1992 Product Market Developmen t	1993 Transport and Infrastructur e	1994 Container Transport Logistics	1995 1996 Economic Reform and Development Loan (ERDL) ERDL II	1994 Technical Assistance to Enhance Competitiveness
The financial dimension: Suspending to private entities involved in marketing, trade and distribution Improving export incentives Reforming access to foreign currency	##### ####					##### ##### ##### ####	
The management dimension: Technical assistance in inventory management Technical assistance in cost accounting Technical assistance in business logistics practices Container company creation			##### ####		##### #####		
The communications dimension: Implementation of new customs systems Framework for development of teleports EDI applications						##### #####	##### ##### ##### #####

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World Bank Technical Paper Number 316

World Trade Organization

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Introduction

The legal framework of the WTO contains numerous Articles and Agreements which have a direct relation to facilitating the movement of consignments across borders. In the GATT 1994, Articles V (Freedom of Transit), Article VII (Valuation for Customs Purposes), Article VIII (Fees and Formalities connected with Importation and Exportation), Article IX (Marks of Origin), and Article X (Publication and Administration of Trade Regulations) contain obligations for Members which are aimed at easing the conduct of international trade transactions.

In addition, several WTO Agreements have a direct bearing for trade facilitation. These are the Agreements on Customs Valuation, Import Licensing Procedures, Preshipment Inspection, Rules of Origin, Technical Barriers to Trade, as well as the Agreement on the Application of Sanitary and Phytosanitary Measures.

The General Agreement on Trade in Services (GATS) with its annexed schedules provides for liberalization in a number of service industries which are vital for the facilitation of trade, e.g. transport, financing, telecommunications. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) contains a section on border measures which allows Members to take specific measures to prevent the inflow of counterfeit and pirated goods.

Article V - Freedom of Transit

Article V deals with "traffic in transit". It states that "there shall be freedom of transit through the territory of each Member for traffic in transit to or from the territory of other Members...". Further, it states that "...except in cases of failure to comply with applicable customs laws and regulations, such traffic coming from or going to the territory of other Members shall not be subject to any unnecessary delays or restrictions and shall be exempt from customs duties and from all transit duties or other charges imposed in respect of transit, except charges for transportation or ... administrative expenses ...". It establishes Most-Favoured-Nation (MFN) treatment for such transit with respect to all charges, regulations and formalities.

Article VIII - Fees and Formalities connected with Importation and Exportation

Agreement on Import Licensing Procedures

Article VIII of GATT 1994 stipulates that all fees and charges (other than import and export duties and taxes covered by Article III) imposed on or in connection with importation or exportation

- (a) must be "limited in amount to the approximate cost of services rendered";
- (b) must not "represent an indirect protection to domestic products";
- (c) must not "represent ... a taxation of imports ... for fiscal purposes".

Members recognize that the number and diversity of such fees, and the incidence and complexity of import and export formalities should be reduced. Further, documentation requirements should be lessened and simplified.

"Service" in the sense of Article VIII is not to be taken in the economic sense of "service", but as "government activities closely enough connected to the processes of customs entry".

The Agreement on Import Licensing Procedures deals more specifically with some of the procedural aspects of Article VIII. It recognizes that import licensing procedures can have acceptable uses, but also that their inappropriate use may impede the flow of international trade. It establishes disciplines on the users of import licensing systems to ensure that the procedures applied for granting both "automatic" (where a license is granted in all cases, used normally to establish trade statistics) and "non-automatic" import licences (which usually serve to administer quantitative or other restrictions on imports) do not in themselves restrict or distort trade. WTO Members commit themselves to simplifying and bringing transparency to their import licensing procedures and to administering them in a neutral and non-discriminatory manner. The Agreement sets up time-limits for the publication of information concerning licensing procedures, for processing of licence applications, and for notification to the Committee on Import Licensing.

The Agreement requires prior publication of rules and all information concerning procedures for the submission of applications for licences, including the eligibility of persons, firms or institutions to make such applications, the administrative bodies to be approached, and the list of products subject to the licensing requirement, in such a manner as to enable governments and traders to become acquainted with them. The Agreement further requires application forms for import licences and renewal forms to be as simple as possible. Foreign exchange is to be made available for licensed imports on the same basis as for goods not requiring import licences (Article 1.9).

Article IX - Marks of Origin

The Article establishes MFN treatment with respect to marking requirements. It emphasizes that the difficulties and inconveniences to the commerce and industry of exporting countries of adopting and enforcing laws relating to marks of origin should be reduced to a minimum. Whenever practicable, required marks should be permitted to be affixed at the time of importation. In addition, Members should cooperate to prevent the use of trade names in such manner as to misrepresent the true origin of a product, to the detriment of protected distinctive regional or geographical names of products.

Article X - Publication and Administration of Trade Regulations

The purpose of this Article is in the first place to achieve transparency. It requires each Member to promptly publish all laws, regulations, judicial decisions and administrative rulings affecting imports and exports. In addition, "agreements affecting international trade policy which are in force" between two Members shall also be published. Measures imposing a new or more burdensome requirement, restriction, or prohibition on imports, or on the transfer of payments, shall be published before enforcement. Each Member shall further maintain or institute "judicial, arbitral or administrative tribunals or procedures for the purpose, *inter alia*, of the prompt review and correction of administrative action relating to customs matters".

Article X:3 provides for uniform, impartial, and reasonable administration of laws, decisions and rulings affecting import and export.

Article VII - Valuation for Customs Purposes and Agreement on Implementation of Article VII of the GATT 1994

Article VII lays down the main principles governing the valuation of imports for assessment of duties or other charges (not including internal taxes). It establishes that this assessment should be based on the "actual value" of the imported merchandise, or of like merchandise, and should not be based on the value of merchandise of national origin or on arbitrary or fictitious values". The Article defines "actual value".

Interpretation and application of this Article has been more clearly specified in the Tokyo Round and Uruguay Round Agreements on Implementation of Article VII of GATT 1994"

Agreement on Customs Valuation which establishes the rules for valuing imports for the assessment of ad valorem customs duties. As most countries today assess duties on the basis of an ad valorem system, the method in which customs authorities value imported goods is of paramount importance. Harmonization of the methodology used by countries for valuing imports creates predictability and transparency for exporters and importers transacting in the international marketplace. The Agreement stipulates that the price for customs purposes shall be the transaction value, that is the "price actually paid or payable for the goods when sold for export to the country of importation adjusted in accordance with the provisions of [the Agreement]". When effectively implemented and enforced, use of the transaction value assures exporters and importers that duty will be assessed on the basis of the price agreed between them, under competitive conditions, rather than on the basis of reference or minimum prices. The Agreement provides for the establishment of an adequate legal and judicial framework which would ensure the right of appeal for importers. In addition, the Agreement stipulates that customs authorities must release goods to importers with the posting of a guarantee or surety, in cases where further investigation is required.

Currently, the WTO is in the process of initiating a major technical assistance program to enable those developing countries which have invoked a 5-year delay period for the application of the Agreement, to implement the Agreement when their transition period expires.

Agreement on Preshipment Inspection

The Agreement on Preshipment Inspection was negotiated with the aim of reducing any non-tariff barriers that could result from the use of private agents to conduct quantity, quality and price inspection of imports. The Agreement does not encourage countries to use such agents, but recognizes that some countries might employ such private entities on a transitional basis. As the WTO applies among governments, the Agreement can only be implemented through Members imposing its provisions on these entities through their contracts with them. In establishing a code of conduct for the carrying out of these inspection activities, the Agreement harmonizes the rules for the carrying out of preshipment inspection activities world-wide. A Working Party has been established to review the functioning of the Agreement. The Working Party has produced a report which contains recommendations which should lead to an improvement of the practices surrounding PSI activities.

Agreement on Rules of Origin

The Agreement on Rules of Origin aims mainly at harmonization of non-preferential rules of origin, and seeks to ensure that such rules do not themselves create unnecessary obstacles to trade. The Agreement sets out a 3-year harmonization work program for non-preferential rules of origin to be undertaken in conjunction with the WCO. The underlying principle is that the originating status of a good should be either the country where the good has been wholly obtained or, when more than one country is concerned in its production, the country where the last substantial transformation has been carried out. Harmonization work started officially in July 1995, which means that the work has a deadline for completion by July 1998.

Until the completion of the harmonization work program, Members shall ensure that their rules of origin do not discriminate between Members; the rules of origin shall be clearly defined and transparent; they must be administered in a consistent, uniform, impartial and reasonable manner and be based on a positive standard. Members have to publish their rules of origin promptly; any administrative action in relation to the determination of origin shall be promptly reviewable by judicial, arbitral or administrative tribunals or procedures independent of the authority issuing the determination; such findings can modify or reverse the determination. Upon request, assessments of origin shall be issued as soon as possible but no later than 150 days after such a request is received.

The Agreement on Rules of Origin contains also a Declaration on preferential rules of origin which does not foresee harmonization of such rules, but establishes disciplines very similar to the ones for non-preferential rules of origin.

Agreement on Technical Barriers to Trade

The TBT Agreement recognizes that product standards, technical regulations and conformity assessment procedures are essential for the functioning of modern economies. The WTO does not develop product standards, nor does it require its Members to have such standards. Rather, the TBT Agreement allows Members to develop their own technical regulations, standards and conformity assessment procedures for certain legitimate purposes, such as the protection of human, animal, plant life or health, of the environment, or for the prevention of deceptive practices, and seeks to ensure that no unnecessary obstacles to trade are constituted. Technical regulations shall not be more trade restrictive than necessary to fulfil a legitimate objective. Product regulations shall, where appropriate, be specified in terms of performance rather than design or descriptive characteristics.

The Agreement lays down the principle of non-discrimination between Members and encourages them to use existing international standards in the development of their national regulations. Members are to give positive consideration to accepting, as equivalent, technical regulations of other Members, even if these regulations differ from their own, provided they are satisfied that these regulations adequately fulfil the objectives of their own regulations. Finally, the Agreement encourages Members to enter into mutual recognition agreements for the acceptance of conformity assessment procedures; the idea, of course, being that, if a product is tested only once in its country of origin, and the testing results are accepted in all importing countries, a significant impediment to trade, in particular also at the stage of moving of goods across borders, would be removed.

Agreement on the Application of Sanitary and Phytosanitary Measures

The SPS Agreement contains several provisions which relate to facilitating the flow of goods across borders. A fundamental obligation in this respect is that Members shall ensure that their sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between Members, where identical or similar conditions prevail, including ensuring national treatment. Moreover, sanitary and phytosanitary measures shall not be applied in a manner which would constitute a disguised restriction on international trade (Art. 2.3). In addition, there are a number of more specific provisions related to trade facilitation, particularly regarding harmonization of SPS measures, equivalence, recognition of disease-free areas, transparency, and control, inspection and approval procedures.

The Agreement encourages the use of international standards, guidelines and recommendations, thus enhancing transparency and security. The Agreement provides that Members shall accept SPS measures of other Members as equivalent, even if these measures differ from their own or from those used by other Members. The onus to demonstrate equivalence rests with the exporting Member. Moreover, the Agreement encourages Members to enter into consultations with the aim of achieving bilateral and multilateral equivalence agreements (Art. 4). Members are required to notify any new or changed sanitary and phytosanitary requirements which affect trade. They also have to set up Enquiry Points to respond to requests for any additional information on new or existing measures, including on how they apply their food safety and animal and plant health regulations. Annex C to the Agreement establishes detailed provisions aiming at rendering the control, inspection and approval procedures non-discriminatory and as efficient as possible taking into account legitimate commercial interests.

General Agreement on Trade in Services (GATS)

Under the general obligations of the GATS, the Most-Favoured-Nation rule (Article II) applies to all service sectors, regardless of whether a Member has undertaken specific commitments; this means that if a Member has no market access and national treatment commitments it must still not discriminate between suppliers of other Members. The obligation of transparency (Article III) requires Members to publish all measures of general application affecting trade in services and to notify the WTO of any changes in laws and regulations affecting trade in services in sectors where specific commitments have been undertaken. The rules on domestic regulation (Article VI) require Members: (i) to administer all measures of general application in an reasonable, objective and impartial manner; (ii) to maintain or institute appropriate procedures and remedies for the review of administrative decisions affecting trade in services; (iii) to provide for adequate procedures to verify the competence of professionals of other Members in sectors where specific commitments have been undertaken.

Under the specific commitments, the GATS covers all types of transport services, with the exception of air traffic rights. In the Uruguay Round 46 Members made commitments in maritime transport services, 51 in air transport, 32 in rail transport and 48 in road transport. The maritime transport sector includes sub-sectors such as international freight and passenger transport, maritime cargo handling, storage and warehousing services, customs clearance services, container station and depot services, maritime agency services and maritime freight forwarding services. Lower costs and better quality in such services, which normally follow liberalization, can go a long way in facilitating trade in goods. It has been agreed that negotiations on maritime services will resume in the year 2000.

Most commitments in value added services, including EDI, were undertaken during the Uruguay Round. Fifty-four WTO Members have commitments in electronic data interchange (EDI), a value added telecommunication service.

Obviously, modern telecommunications systems do provide new opportunities and means to facilitate trade in goods and services. Internet services are a sub-sector on which some Members have undertaken specific commitments in the Uruguay Round or in the recent telecommunications negotiations. Internet services include at least three value-added telecommunications services covered by the GATS: electronic mail, on-line information and data base retrieval and electronic data interchange (EDI). Currently 61 WTO Members have commitments in electronic mail, 63 in on-line information and data base retrieval and 54 in EDI.

As concerns Financial Services, at the end of the negotiations on 12 December 1997 a total of 70 countries made commitments.

As concerns Distribution Services, a total of 47 Members, including all industrialised economies, have undertaken commitments in the Uruguay Round (45 in wholesale trade services, 44 in retailing services, 34 in franchising and 32 in commission agents' services).

Agreement on Trade-Related Aspects of Intellectual Property Rights

The TRIPS Agreement establishes minimum standards for intellectual property rights protection and enforcement. In WTO terms, these are internal policy instruments that do not, in general, give rise to action at the border. There is, however, one significant exception, in Section 4 on Special Requirements Related to Border Measures. It concerns a specific procedure, commonly known as "special border measures" by which right holders can obtain the assistance of customs authorities in suspending the release of goods, suspected of being counterfeit or pirated, into free circulation. This acts as a sort of "safety net" to deal with cases where there has been no effective enforcement in the country of production.

The special border measures have two basic objectives: one is to ensure that effective means of enforcement are available to right holders; the second, which is more directly relevant to trade facilitation, is to ensure that enforcement procedures are applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse. The provisions on special border measures stipulate certain requirements designed to this effect. These are intended to dissuade right holders from making groundless applications and to protect the position of the importer, owner and consignee of the goods, whilst still permitting effective action at the border against counterfeit trademark and pirated copyright goods.

Communication from the delegation of Australia

Australia would like to take the opportunity presented by the WTO Trade Facilitation Symposium to offer some ideas on the process and suggest some areas of potential value which could be taken up in the exploratory and analytical work stage. These suggestions derive from our assessment of the process to date and our experience of and activities in other multilateral organisations and regional forums. We consider that work in these forums can provide an additional perspective to those in communications to date from other WTO Members regarding trade facilitation.

Initially we would note that the WTO Singapore Ministerial Conference's direction to the WTO Council for Trade in Goods was "... to undertake exploratory and analytical work drawing on the work of other relevant international organisations on the simplification of trade procedures in order to assess the scope for WTO rules in this area." While Australia is keeping an open mind on the need and scope for WTO rules in this area, we consider that it is essential for the exploratory and analytical work to be undertaken in as comprehensive and thorough a manner as possible. We are committed to this process as it has so far developed, including the 9 to 10 March Symposium.

A general observation is that it is important to work in partnership with the business community in setting the priorities for work on any trade facilitation agenda. In this respect, a major, positive feature of the WTO Trade Facilitation Symposium is that it provides an forum for the open exchange of views and the identification of relevant issues and problems with emphasis on the experience and input of business participants.

Value of work on trade facilitation

While WTO work on trade facilitation is at an early stage, universally consistent, coherent and transparent rules and procedures in this area, could help to enhance certainty for international traders, minimise their transaction costs, speed up trade flows and potentially open up markets. Benefits could include:

- minimising the number of parties involved in transaction processes, the amount of documentation and the need for re-entering of data, particularly in different formats;
- more reliable knowledge of tariffs, customs charges, times for clearances et cetera, enabling exporters to make decisions on entering new markets or exporting new goods; and
- expedited and/or advance clearances through electronic means, of considerable advantage in shipping perishable goods.

A fundamental point is that work on trade facilitation in the WTO must add value, rather than duplicate, work undertaken in other forums such as the WCO and APEC.

The World Customs Organisation and revision of the Kyoto Convention

The areas outlined above are largely concerned with matters related to the simplification, modernisation and harmonisation of customs procedures. The EC paper (G/C/W/85) and the Swiss paper (G/C/W/92) focus very well on the key issues involved in the trade facilitation work from this perspective. The alignment and modernisation of customs procedures is a critical element in simplifying trade procedures. Work being undertaken in the World Customs Organization to harmonise customs procedures (revision of the Kyoto Convention) is important and should be supported by the WTO.

The Kyoto Convention on the Simplification and Harmonisation of Customs Procedures (in force as of 25 September 1974) is the current international statement of standards on customs procedures. It has been under review since 1994 with the objective of having a revised Convention in

place on and from 2000. The revised Convention is intended to represent a model of best practice for Customs administrations world-wide and to have a greater proportion of the Convention mandatory rather than recommended practice as is currently the case.

It would not be appropriate for the WTO to revisit the substantive issue of customs procedures given the work already completed by the WCO in reviewing the Kyoto Convention. However, there are ways in which the WTO could assist this process.

WTO endorsement of a revised Kyoto Convention would send a clear message of the WTO's support for best practice administration of customs systems. It could also provide the political leverage necessary to encourage the broadest possible accession to the Convention. In this respect, we note that so far only 60 out of 145 members of the WCO have signed the Kyoto Convention.

This has obvious implications for its utility as a best practice model and as a benchmark for the WCO's Customs Reform and Modernisation Program. It will be critical to maximise accession to the revised Kyoto Convention so that harmonisation and simplification of customs procedures can be achieved as widely as possible.

APEC trade facilitation initiatives

Through its experience in the forum, Australia considers that APEC provides a good model of the type of activity that has a significant potential payoff for traders. APEC Trade Ministers reaffirmed the primacy of an open, multilateral trading system under the WTO at their meeting in Montreal in 1997. It would therefore seem appropriate for Members to examine carefully APEC's work in trade facilitation to see whether some of its projects could be taken up in the WTO context.

APEC Customs Action Plan

APEC has an ambitious program of international and domestic measures to harmonise and simplify Customs procedures and to raise the efficiency and standard of Customs administrations on an APEC-wide basis. Following are four items in the action plan of the APEC Sub-Committee on Customs Procedures which we suggest might be studied by WTO Members for their potential to contribute to WTO work on trade facilitation.

(i) Public availability of information

It is important for the international business community to have full and unimpeded access to all pertinent information regarding customs processes in international trade. The provision of accurate, consistent and transparent information will assist the business community in making appropriate trading decisions. This should eventually lead to costs savings and therefore cheaper commodity prices. APEC has developed an online tariff database which provides sophisticated search and comparison capabilities and which is available free on the Internet.

(ii) Clear appeal provisions

It is important that the business community has access to mechanisms for transparent, independent and timely appeals against erroneous Customs decisions. This transparency and openness in decision making assists in providing the trading community with a platform of confidence in customs processes and assessments. APEC is working to ensure that clear appeal provisions exist in all APEC customs administrations by the year 2000.

(iii) UN/EDIFACT

It is important that all parties involved in international trade adopt one electronic messaging standard for automated systems. World-wide adoption of UN/EDIFACT will promote one electronic communication highway which will lead to a reduction in transaction duplication and transaction costs for the trading community. APEC is working to introduce computerised message systems based on UN/EDIFACT by 1999.

(iv) Common Data Elements

Once an electronic messaging standard (UN/EDIFACT) is adopted, it is important that all parties involved agree to a common comprehensive data directory. This directory will include a simplified 'core set' of data elements, largely derived from commercially available data which would satisfy the standard data requirements of a majority of international trade transactions. This will facilitate the exchange of information and provide a foundation for common forms and electronic commerce and should lead to a reduction in trade transaction costs. An APEC objective is to develop a comprehensive directory supported in UN/EDIFACT, largely derived from commercially available data, that will provide a foundation for common forms and electronic commerce.

Business mobility

It is of considerable importance to business people that they be able to travel easily internationally in pursuit of business opportunities. Globally, visa and entry requirements vary considerably and application processes can be time-consuming and cumbersome. The red tape involved in travel can be a major irritant, and sometimes a deterrent, to the frequent business traveller. APEC is undertaking work to facilitate the movement of business people across international borders. This involves streamlining and accelerating visa processing for short term travel and arrangements for temporary residency of business people. APEC members have been simplifying the processes associated with business travel in several ways; by instituting special travel pass schemes, setting up special immigration lanes for business travellers or introducing new security technology.

Standards and conformance

Standards and conformance are an important part of APEC's trade facilitation agenda. This reflects the fact that differing standards can be very costly to export-oriented businesses and accordingly it is important to redress these differences. The WTO Agreement on Technical Barriers to Trade encourages Members to engage in trade facilitation activities, including but not limited to Mutual Recognition Agreements, relating to standards. As an active contributor to regional activities, Australia would encourage continuing attention to these matters in the WTO examination of trade facilitation.

Communication from UNCITRAL

The work of UNCITRAL towards facilitation of international trade

Mandate and composition of UNCITRAL

The United Nations Commission on International Trade Law (UNCITRAL) was established by the General Assembly in 1966. In establishing the Commission, the General Assembly recognized that disparities and inadequacies in national laws governing international trade created obstacles to the flow of trade, and it regarded the Commission as the vehicle by which the United Nations could play a more active role in reducing or removing these obstacles. It thus gave the Commission the general mandate to further the progressive harmonization and unification of the law of international trade. The Commission has since come to be the core legal body of the United Nations system in the field of international trade law.

The Commission is composed of 36 member States elected by the General Assembly. Membership is structured so as to be representative of the world's various geographic regions and its principal economic and legal systems. States not members of the Commission, intergovernmental organizations and relevant non-governmental organizations actively participate in the discussions of the Commission. All the Commission's decisions are taken by consensus.

Examples of UNCITRAL texts designed to facilitate international trade

International sale of goods

The principal legislative text designed to facilitate the export and import of goods is the United Nations Convention on Contracts for the International Sale of Goods of 1980. The Convention provides a uniform law governing sales of goods between parties whose places of business are in different States, provided that both of those States are Contracting States or the rules of private international law of the court applying the Convention lead to the law of a Contracting State.

The Convention relieves exporters and importers of goods from having to adjust their conduct in the course of performing sales contracts to the national law on sales that would otherwise apply to the contract. If the Convention does not apply and the parties have not agreed on the applicable law, the rules of the private international law would determine which law is applicable. Usually the rules of private international law lead to the applicability of the law of the seller (e.g. because that would be considered as the law most closely connected with the contract) unless there exist special circumstances indicating that another law should apply. If a party exports goods to, or imports goods from, several countries, the laws of all those countries are potentially applicable to the contracts. It is likely to be difficult for a party to familiarize itself, and adapt its actions to, all those laws. Even if a party succeeds to include in its contracts clauses to the effect that its national law on sales will apply, the other contract parties may not be familiar with that law. In all these cases, the application of a law with which one of the parties is not familiar may create misunderstandings and mismatched reactions to problems that from time to time arise in the performance of sales contracts.

Because it is universally known and widely understood, the Convention allows exporters and importers to operate under a transparent and easily understandable legal regime that is acceptable in countries of different legal and social traditions and at different levels of economic development. Its use reduces the need for parties to seek legal advice on foreign laws, which reduces the cost of administration of international sales contracts.

Matters dealt with by the Convention include the formation of a sales contract, the form of contract, rights and obligations of the buyer and the seller arising from the contract, remedies for

breach of contract, the passing of risk of loss of or damage to goods, exemptions from liability for a failure to perform a contract, effects of avoidance of a contract, the obligation of a party to preserve the goods if the party is in breach of contract. The Convention is not concerned with the validity of the contract, the effect which the contract may have on the property in the goods sold or the liability of the seller for death or personal injury caused by the goods to any person.

The Convention has become the law in 51 States, a good number of which are major trading nations. The experience with the use of the Convention has been excellent and there is every reason to expect that the Convention will be adhered to by many more States.

The companion treaty to the United Nations Sales Convention is the Convention on the Limitation Period in the International Sale of Goods (1974), amended by a Protocol of 1980, which establishes uniform rules governing the period of time within which legal proceedings arising from an international sales contract must be commenced. There are currently 23 States parties to the Convention.

International commercial arbitration and conciliation

Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958)

The main purpose of the Convention is to establish a legislative basis for enforcement in a State party of foreign arbitral awards. Thus, the Convention presents a confidence-building instrument assuring business parties that, should an arbitral award resulting from a commercial dispute require enforcement, the claiming party will be able to enforce the award in the State where the debtor has assets. Without the applicability of the Convention, parties are exposed to the risk that their rights may ultimately not be enforced, which would pose a serious obstacle to establishing commercial relations.

The Convention sets out the reasons for which the court seized with a request for enforcement of a foreign arbitral award may refuse enforcement. The reasons include the violation by the arbitral tribunal of rules on arbitral jurisdiction, arbitral procedure, arbitrability, as well as incompatibility of the award with the "public policy" of the enforcing State. The Convention sets a minimum standard in that a member State commits itself not to impose an enforcement regime that is more onerous than the one specified therein. The enforcement of domestic awards, i.e. awards made in the State where enforcement is sought, is not covered by the Convention.

In addition to providing the regime for the enforcement of awards, the Convention commits the contracting States to recognition of arbitration agreements, provided the agreement meets the writing requirement defined by the Convention and concerns a matter capable of settlement by arbitration.

The Convention has been accepted by countries with different legal, social and economic systems. As of 5 March 1998, 116 States have adhered to it, and there are indications that the membership will continue to grow. The Convention served as a model for provisions on recognition of awards in the UNCITRAL Model Law on International Commercial Arbitration of 1985, and solutions of the Convention have been incorporated into other international treaties, such as the Panama Convention on International Commercial Arbitration of 1975 and bilateral treaties.

The broader the membership of the Convention, the better the chances of claimants to enforce awards in States where debtors have assets. It is thus in the interest of potential claimants to promote adherence to the Convention by new States, in particular those with which trade is to be promoted. Circumstances that illustrate the benefits of the Convention and speak in favour of further expansion of its membership are, for example, the following:

- Without the confidence provided by the Convention that awards will be enforced, it is riskier to deal with persons whose assets are located in States that are not party to the Convention. As a result, potential claimants entering into transactions with those persons will want to obtain additional security backing their obligations, which will increase the transaction costs and generally make it more difficult to establish trade relations with persons from those States.
- By adopting the Convention, the State provides a legal basis for enforcing awards made in its territory in those contracting States that have declared to be ready to enforce foreign awards on the basis of reciprocity. The enforceability of awards in the contracting States is also a reason why parties entering into arbitration agreements often prefer to arbitrate in a State party to the Convention and avoid agreeing on a place of arbitration in a State not party to it.
- Refusal by the losing party to comply with an award often does not prevent eventual enforcement, since the claimant can often obtain enforcement on the basis of the Convention in the contracting States where the party in default has assets; such enforcement is typically possible many years after the award has been made.

Some States have adhered to the Convention with reservations. The reservation confining the Convention to commercial matters is most common. The reservation requiring reciprocity has been used by a number of States but, since the reservation may have undesirable results, there have been cases of withdrawal of the reservation.

UNCITRAL Model Law on International Commercial Arbitration (1985)

The purpose of the UNCITRAL Model Law on International Commercial Arbitration is to improve and harmonize national laws on commercial arbitration with a view to meeting the internationally accepted needs of international commercial arbitration. By enacting the Model Law the State facilitates holding international commercial arbitrations in its territory and gives confidence to foreign partners that the arbitral process will be fair and speedy.

The UNCITRAL Model Law on International Commercial Arbitration was adopted on 21 June 1985, after several years of extensive preparatory work and consultations with interested circles. The project was undertaken because many national laws on arbitration are inadequate for international commercial disputes. Many national laws have been drafted primarily on the basis of policies oriented to disputes between domestic parties; such policies, however, may not be compatible with the special needs of parties involved in an international arbitration.

National laws may contain mandatory provisions that constitute an undue obstacle in establishing or carrying out an arbitration as agreed by the parties. Also non-mandatory provisions may be a source of difficulty in that the parties might not displace them by agreement because they were not aware of them or because they were reluctant to deal with details of procedure at the time of entering into the arbitration agreement. Furthermore, national laws may lack a minimum set of provisions that would give answers to the principal procedural questions that may arise in an arbitration.

The inadequacy of laws, whether arising from existing mandatory or non-mandatory provisions or from a lack of provisions, are further aggravated by the fact that those laws are not "transparent" and easily ascertainable in one piece of legislation. This is a particular source of concern in international commercial arbitration, where the procedural arbitration law is often a foreign law for at least one party, arbitrator and counsel.

One consequence of the described situation is that parties are inhibited from agreeing to hold an arbitration in a country just because they are not comfortable with the procedural law at that place,

even if that place would be the most appropriate, for example, because of the availability of evidence and convenience of the participants. This contributes to the concentration of arbitrations in potentially distant traditional arbitration centres, instead of where the disputes originate.

The main features of the Model Law include: provisions on the form and validity of the arbitration agreement; broad autonomy of the parties in shaping the rules of procedure within the confines of the mandatory provisions of the law; broad discretion of the arbitral tribunal to conduct the proceedings as it sees fit within the rules agreed upon by the parties and the mandatory provisions of the law; a minimum set of non-mandatory rules for cases where no procedural rules have been agreed upon or the agreed upon rules do not provide a solution; court assistance, e.g. as regards the appointment, challenge or replacement of an arbitrator; action for setting aside is the only recourse against the arbitral award; regime for recognition and enforcement of awards closely traces the 1958 New York Convention.

Since the Model Law is not a treaty, it allows flexibility in incorporating the uniform text into the national legal system. However, restraint is advisable in deviating from the uniform text in order not to lose the benefits sought to be achieved by the Model Law.

UNCITRAL Model Law on Procurement of Goods, Construction and Services (1994)

The UNCITRAL Model Law on Procurement of Goods, Construction and Services was adopted by the Commission in 1994. The Model Law is offered to States wishing to modernize their domestic legislation on procurement. Its objectives include the following: (a) maximizing economy and efficiency in procurement; (b) fostering and encouraging participation in procurement proceedings by suppliers and contractors, especially, where appropriate, participation by suppliers and contractors regardless of nationality, and thereby promoting international trade; (c) promoting competition among suppliers and contractors for the supply of the goods, construction or services to be procured; (d) providing for fair and equitable treatment of all suppliers and contractors; (e) promoting the integrity of, and fairness and public confidence in, the procurement process; and (f) achieving transparency in the procedures relating to procurement.

The general provisions of the Model Law (Chapter I) deal with general issues such as the scope of application of the Model Law, definitions, international obligations of the enacting State relating to procurement. This chapter also contains a set of provisions destined to ensure the public accessibility of legal texts governing procurement in the enacting State, as well as the transparency and proper record-keeping of procurement proceedings. It also contains provisions on prequalification proceedings.

Competitive procurement methods, such as tendering, are widely recognized as best suited to achieve economy and efficiency in the award of public contracts. Accordingly, the Model Law elected tendering as the main method for procurement of goods and construction. Chapter III (Tendering proceedings) contains provisions on solicitations of tenders and applications to prequalify; submission of tenders, period of effectiveness of tenders; modification and withdrawal of tenders, tender securities; opening of tenders, examination, evaluation and comparison of tenders, prohibition of negotiations with suppliers or contractors, acceptance of tender and entry into force of procurement contract. The principal method for the procurement of services, which is provided in (Chapter IV) of the Model Law resembles in many aspects the tendering method. There are, however, two significant departures from the tendering method: the emphasis placed on criteria other than price to evaluate the best proposal and the possibility of conducting negotiations for the purpose of determining the best proposal.

The Model law is not limited to those two procurement methods. In fact, it allows for the use of other alternative methods, under certain circumstances. Such methods include two-stage tendering, request for proposals or competitive negotiation, restricted tendering, request for quotations and single-source procurement. Chapter V (Procedures for procurement methods other than tendering) provides the procedural framework for alternative procurement methods.

Lastly, chapter VI (Review) sets forth, in general terms, the procedure to be followed by the review of decisions taken in connection with the procurement of goods and construction; it contains provisions on the right to review; administrative review; certain rules applicable to review proceedings; suspension of procurement proceedings and judicial review.

With the procedures prescribed in the Model Law incorporated in its national legislation, an enacting State may create an environment in which the public is assured that the Government purchaser is likely to spend public funds with responsibility and accountability and thus to obtain fair value, and an environment in which parties offering to sell to the Government are confident of obtaining fair treatment.

UNCITRAL Model Law on Electronic Commerce

The UNCITRAL Model Law on Electronic Commerce, adopted in 1996, is intended to facilitate the use of modern means of communications and storage of information, such as electronic data interchange (EDI), electronic mail and telecopy, with or without the use of the Internet. With a view to assisting executive branches of Governments, legislative bodies and courts in enacting and interpreting the Model Law, the Commission has also produced a Guide to Enactment of the Model Law.

The use of modern means of communication such as electronic mail and electronic data interchange (EDI) for the conduct of international transactions has been increasing rapidly and is expected to develop further as technical supports such as information highways and the Internet become more widely accessible. However, the communication of legally significant information in the form of paperless messages may be hindered by legal obstacles to the use of such messages, or by uncertainty as to their legal effect or validity. The purpose of the Model Law is to offer national legislators a set of internationally acceptable rules as to how a number of such legal obstacles may be removed, and how a more secure legal environment may be created for what has become known as "electronic commerce". The principles expressed in the Model Law are also intended to be of use to individual parties in the drafting of some of the contractual solutions that may form part of the legal framework of electronic commerce. The decision of UNCITRAL to formulate model legislation on electronic commerce was taken in view of the fact that, in a number of countries, the existing legislation governing communication and storage of information is inadequate or outdated because it does not contemplate the use of electronic commerce. In certain cases, existing legislation imposes or implies restrictions on the use of modern means of communication, for example, by prescribing the use of "written", "signed" or "original" documents.

The common perception that electronic commerce is developing in a legal vacuum is generally unfounded, since the traditional paper-based rules governing the form of legal transactions are likely to be extrapolated by national courts and other domestic authorities to cover paperless trade. However, the real difficulties come from the uncertainty as to the consequences of such extrapolations and, more importantly, from the lack of harmonized solutions at an international level. International disharmony may be the main obstacle to the conduct of legal transactions in "Cyberspace", which knows no borders and transcends the traditional legal concepts based on paper and territoriality. The Model Law will help to remedy those disadvantages. Disparities among, and uncertainty about, national legal regimes governing the use of such communication techniques contribute to limiting the extent to which businesses may access international markets.

Furthermore, at an international level, the Model Law may be useful as a tool for interpreting existing international conventions and other international instruments that create obstacles to electronic commerce, for example, by prescribing that certain documents (e.g., transport documents) or contractual clauses (e.g., arbitration clauses) be made in written form. As between those States parties to such international instruments, the adoption of the Model Law as a rule of interpretation might provide the means to recognize the use of electronic commerce and obviate the need to negotiate protocols to the international instruments involved.

The objectives of the Model Law, which include enabling or facilitating the use of electronic commerce and providing equal treatment to users of paper-based documentation and to users of computer-based information, are essential for fostering economy and efficiency in international trade. By incorporating the procedures prescribed in the Model Law in its national legislation for those situations where parties opt for the use of electronic means of communications, an enacting State would be creating a media-neutral legal environment.

The Model Law relies on what is referred to as a "functional-equivalent approach", which is based on an analysis of the purposes and functions of the traditional paper-based requirements (e.g., "writing", "signature" and "original"), with a view to determining how those purposes or functions can be fulfilled through electronic-commerce techniques. For example, among the functions served by a paper document are the following: to ensure that information remains unaltered over time; to allow for the reproduction of information so that each party would hold a copy of the same data; to allow for the authentication of information by means of a signature; to warn parties about the significance of certain information; and to provide that information in a form acceptable to public authorities and courts. The Model Law does not attempt to define a computer-based equivalent to any specific kind of paper document. Instead, it singles out basic functions of paper-based form requirements, with a view to providing criteria which, once met in respect of certain electronic data, enable such data to enjoy the same level of legal recognition as the corresponding paper documents.

While it was adopted as recently as 1996, the Model Law (together with its Guide to Enactment) has already been used to prepare draft legislation in a number of countries. It is internationally recognized as a reference in legal thinking on electronic commerce. It is expected to be complemented by other work products from UNCITRAL, such as a more detailed set of provisions on electronic signatures, currently in preparation.

UNCITRAL Model Law on Cross-Border Insolvency

The increasing incidence of cross-border insolvencies reflects the continuing global expansion of trade and investment. However, national insolvency laws have by and large not kept pace with the trend, and they are often ill-equipped to deal with cases of a cross-border nature. This frequently results in inadequate and inharmonious legal approaches, which hamper the rescue of financially troubled businesses, are not conducive to a fair and efficient administration of cross-border insolvencies, impede the protection of the assets of the insolvent debtor against dissipation, and hinder maximization of the value of those assets. Moreover, the absence of predictability in the handling of cross-border insolvency cases impedes capital flow and is a disincentive to cross-border investment.

The UNCITRAL Model Law on Cross-Border Insolvency, adopted by the Commission in 1997, is designed to assist States to equip their insolvency laws with a modern, harmonized and fair framework to address more effectively instances of cross-border insolvency. Those instances include in particular the cases where the insolvent debtor has assets in more than one State or where some of the creditors of the debtor are not from the State where the insolvency proceeding is taking place.

The Model Law respects the differences among national procedural laws and does not attempt a substantive unification of insolvency law. It offers solutions that help in several modest, but nonetheless significant ways. These include:

- providing access for the person administering a foreign insolvency proceeding ("foreign representative") to the courts of the enacting State, thereby permitting the foreign representative to seek a temporary "breathing space", and allowing the courts in the enacting State to determine what coordination among the jurisdictions or other relief is warranted for optimal disposition of the insolvency;

- determining when a foreign insolvency proceeding should be accorded "recognition", and what the consequences of recognition may be;
- providing a transparent regime for the right of foreign creditors to commence, or participate in, an insolvency proceeding in the enacting State;
- permitting courts in the enacting State to cooperate more effectively with foreign courts and foreign representatives involved in an insolvency matter;
- authorizing courts in the enacting State and persons administering insolvency proceedings in the enacting State to seek assistance abroad;
- providing for court jurisdiction and establishing rules for coordination where an insolvency proceeding in the enacting State is taking place concurrently with an insolvency proceeding in a foreign State;
- establishing rules for coordination of relief granted in the enacting State in favour of two or more insolvency proceedings that may take place in foreign States regarding the same debtor.

In order to make the Model Law a more effective tool for legislators, the Secretariat has prepared a Guide to Enactment of the Model Law, which gives background and explanatory information and an article-by-article comments.

Privately financed infrastructure projects

One of the topics on which the Commission is currently working relates to private participation in infrastructure development through build-operate-transfer (BOT) and similar projects. These projects are attracting increasing interest, particularly in developing countries and economies in transition, as an opportunity for achieving savings in public expenditure and higher standards of service, as well as for re-allocating resources in order to meet more pressing social needs. However, those projects are usually complex, often with lengthy negotiations, and their implementation requires a favourable legal framework.

Therefore, the Commission considered it useful to provide legislative guidance to States interested in promoting private investment in infrastructure. The purpose of the legislative guide is to assist Governments and legislative bodies, at the national, provincial or local level, in reviewing the adequacy of laws, regulations, decrees and similar legislative texts relevant to the execution of privately financed infrastructure projects. For that purpose, the legislative guide will consider a number of issues often addressed in national laws and regulations pertaining to those projects, such as essential elements of enabling legislation, procedures for the award of privately financed infrastructure projects, general terms of project agreements, changes in circumstances, settlement of disputes. The legislative guide will discuss the desirability of dealing with those issues in legislation and will offer examples, as appropriate, of possible legislative solutions.

The advice provided in the legislative guide aims to achieve an appropriate balance between the need to attract private investment for infrastructure projects and the need to protect the interests of the host Government and the public. The legislative guide will not provide a single set of model solutions for the issues considered, but will help the reader to evaluate different approaches available and to choose the one most suitable in the national context.

A general outline of the topics proposed to be covered by the legislative guide, as well as initial drafts of the introduction and four of its substantive chapters (documents A/CN.9/444 and Add. 1-5) have already been issued. In its preparatory work, the Secretariat of the Commission has compiled and studied a number of national laws and regulations pertaining to privately financed infrastructure projects. The Secretariat is also working in close consultation with outside experts and

international organizations interested in this subject, such as UNIDO, the World Bank and the regional development banks.

Other work products of UNCITRAL

Other major results of work of the Commission include the following:

International commercial arbitration and conciliation

UNCITRAL Arbitration Rules. Adopted in 1976, the UNCITRAL Arbitration Rules provide a comprehensive set of procedural rules upon which parties may agree for the conduct of arbitral proceedings arising out of their commercial relationship. The Rules are widely used in ad hoc arbitrations as well as administered arbitrations. In order to facilitate the use of the UNCITRAL Rules as the rules of an arbitral institution, the Commission adopted in 1982 "Recommendations to assist arbitral tribunals and other interested bodies with regard to arbitrations under the UNCITRAL Arbitration Rules".

UNCITRAL Conciliation Rules (1980). When parties to a commercial dispute wish to settle their disputes amicably through conciliation, they may agree upon this set of procedural rules to govern the conciliation proceedings.

UNCITRAL Notes on Organizing Arbitral Proceedings (1996). The Notes are designed to assist arbitration practitioners by providing an annotated list of matters on which the arbitral tribunal may wish to formulate decisions during the course of arbitral proceedings. The text, which is in no way binding, may be used whether or not the arbitration is administered by an arbitral institution.

International countertrade

UNCITRAL Legal Guide on International Countertrade Transactions. The purpose of the Legal Guide, adopted in 1992, is to assist parties negotiating international countertrade transactions. It identifies contractual issues involved in such transactions and discusses possible contractual solutions.

International transport of goods

United Nations Convention on the Carriage of Goods by Sea, 1978 (the "Hamburg Rules"). This Convention establishes a uniform legal regime governing the rights and obligations of shippers, carriers and consignees under a contract of carriage of goods by sea. It was prepared at the request of developing countries and its adoption by States has been endorsed by such intergovernmental organizations as UNCTAD, Asian-African Legal Consultative Committee and the Organization of American States. The Convention entered into force on 1 November 1992. There are currently 25 States party to the Convention.

United Nations Convention on the Liability of Operators of Transport Terminals in International Trade. This Convention sets forth uniform legal rules governing the liability of a terminal operator for loss of and damage to goods involved in international transport while they are in a transport terminal, and for delay by the terminal operator in delivering the goods. The draft Convention was adopted by a diplomatic conference and opened for signature, ratification and accession on 19 April 1991. The Convention will enter into force upon the deposit of 5 instruments of ratification, acceptance, approval or accession. Up to now only 1 instrument of accession has been deposited.

Construction contracts

UNCITRAL Legal Guide on Drawing Up International Contracts for the Construction of Industrial Works. The Legal Guide was published in February 1988 and is available in all six United Nations official languages. It discusses the many legal issues that arise in connection with the

construction of industrial works, covering the pre-contractual, construction and post-construction phases, and suggests possible ways in which the parties may deal with these issues in their contracts. It was prepared with the special problems of buyers from developing countries in mind.

International payments

United Nations Convention on International Bills of Exchange and International Promissory Notes (New York, 1988). This Convention provides a comprehensive code of legal rules governing new international instruments for optional use by parties to international commercial transactions. It is designed to overcome the major disparities and uncertainties that currently exist in relation to instruments used for international payments. The Convention applies if the parties use a particular form of a negotiable instrument indicating that the instrument is subject to the UNCITRAL Convention. The Convention was adopted and opened for signature by the General Assembly at its 43rd session in December 1988. 10 ratifications or accessions are necessary for the Convention to come into force. The Convention has been acceded to by 2 States to date.

UNCITRAL Legal Guide on Electronic Funds Transfers. The Legal Guide, published in 1987, identifies the legal issues arising from the transfer of funds by electronic means and discusses possible approaches for dealing with those issues.

UNCITRAL Model Law on International Credit Transfers (1992). The Model Law, adopted in 1992, deals with operations beginning with an instruction by an originator to a bank to place at the disposal of a beneficiary a specified amount of money. It covers such matters as the obligations of a sender of the instruction and of a receiving bank, time of payment of a receiving bank and liability of a bank to its sender or to the originator when the transfer is delayed or other error occurs.

United Nations Convention on Independent Guarantees and Stand-by Letters of Credit (New York, 1995). The Convention was adopted by the General Assembly on 11 December 1995 and is now open for signature and ratification/accession. It is designed to facilitate the use of independent guarantees and stand-by letters of credit, in particular where only one or the other of those instruments may be traditionally in use. The Convention also solidifies recognition of common basic principles and characteristics shared by the independent guarantee and the stand-by letter of credit. The Convention will enter into force upon the deposit of 5 instruments of ratification, acceptance, approval or accession. Currently, one State has acceded to the Convention and a number of them are considering doing so.

Assistance to countries considering adoption of texts

On request, the UNCITRAL Secretariat is prepared to give technical assistance and advice to States that may be considering adoption of one of the legal texts prepared by the Commission. Such assistance often involves review of proposed legislation. The UNCITRAL Secretariat is also willing to receive government officials at its seat in Vienna in order to give them an opportunity to become familiar with the work of UNCITRAL and increase their knowledge of specific areas in the field of international trade law.

The Secretariat of UNCITRAL is the International Trade Law Branch of the United Nations Office of Legal Affairs. It is located at Vienna.

Communication from APEC

Trade and investment facilitation in APEC

Report from the Chair
APEC Committee on Trade and Investment

Introduction

Trade facilitation is an integral part of APEC's economic cooperation agenda - one of the "three pillars" of trade and investment liberalisation, trade and investment facilitation and economic and technical cooperation. It has developed progressively since APEC's inception in 1989 so that it now encompasses a wide variety of cooperative activities and mechanisms directed at removing impediments to trade and investment in the region, reducing the costs of doing business, and so promoting the free flow of goods, services and investment in the Asia-Pacific region.

APEC's trade and investment facilitation work looks beyond traditional border protection to address the myriad of administrative, regulatory and structural barriers that impede trade. It comprises action on a wide range of impediments that are often best addressed by governments acting collectively and in partnership with the community. It includes actions such as simplifying and harmonising customs procedures, harmonising product standards and reducing the cost of product testing and certification, improving the mobility of business people through the region, and improving business access to strategically important information about laws, regulations and market conditions.

The trade facilitation program directly supports APEC's goal of free and open trade and investment in the region by 2010/2020. Much of it is also directed at advancing APEC's economic and technical cooperation aims, developing human resources and building technical and administrative capacities of member economies in support of trade liberalisation.

APEC's business advisory bodies have consistently argued for greater emphasis to be placed on trade facilitation, stressing the importance of dealing with non-border impediments as tariffs and non-tariff measures come down. In its 1997 report on the Impact of Trade Liberalisation in APEC, APEC's Economic Committee estimated that existing trade facilitation programs will generate gains of about 0.26 percent of real GDP to APEC (or about US\$45 billion), while the gains from trade liberalisation will be about 0.14 percent of real GDP (or about US\$23 billion).'

This paper briefly traces the origins of APEC's work on trade facilitation, outlines the way it is organised and managed, and surveys the main elements of ongoing activity.

Origins

Trade facilitation as an element of Asia-Pacific Economic Cooperation can be traced back to APEC's first Ministerial-level meeting in Canberra in 1989, when Ministers called for work to review differences in regional customs practices and procedures and possibilities for harmonisation, including the liberalisation of business visa requirements. The Seoul APEC Declaration of 1991 established a mandate for the development of strategies to reduce impediments to the flow of goods and services and investment world-wide and within the region. More detailed work was set in train in Bangkok in 1992 to identify and discuss the administrative aspects of market access, with a view to reducing the impediments and costs of these measures.

The 1993 Report of the Eminent Persons Group called for the establishment of trade facilitation as a core APEC activity. At the same time, APEC Ministers in Seattle endorsed a series of recommendations aimed at improving access to tariff data, reducing administrative barriers to trade,

streamlining customs procedures, harmonising the diverse approaches to standards and conformance issues and encouraging the flow of investment. They adopted the Declaration on an APEC Trade and Investment Framework, establishing the Committee on Trade and Investment (CTI) to manage the growing trade liberalisation and facilitation agenda. CTI Sub-Committees on Customs Procedures and Standards and Conformance were established the following year. In Bogor in 1994, APEC Leaders committed to working towards free and open trade and investment in the region by 2010/2020 - the Bogor goal.

Between APEC's meetings in Bogor and Osaka in 1995, a great deal of work was done to further define and develop the trade facilitation agenda. This culminated in the adoption by Ministers of the Osaka Action Agenda (OAA), which sets out the "roadmap" by which APEC members are to achieve the Bogor goal through a unique mix of individual and collective actions encompassing trade and investment liberalisation, trade and investment facilitation and economic and technical cooperation. Part One of the OAA details APEC's liberalisation and facilitation activities, and notes that these are treated together "due to their inseparable nature in achieving our goal of free and open trade and investment in the Asia-Pacific."

APEC Principles

Like all activities covered under Part One of the OAA, APEC's trade facilitation activities are guided by nine general principles:

- comprehensiveness;
- WTO-consistency;
- comparability;
- non-discrimination;
- transparency;
- standstill;
- simultaneous start, continuous process and differentiated tables;
- flexibility; and
- cooperation.

Trade Facilitation Mechanisms

The OAA sets out specific objectives, guidelines and collective actions for both liberalisation and facilitation in fifteen issue areas: tariffs, non-tariff measures, services, investment, standards and conformance, customs procedures, intellectual property rights, competition policy, government procurement, deregulation, rules of origin, dispute mediation, mobility of business people, implementation of the Uruguay Round outcomes, and information gathering and analysis. These establish the framework for APEC's trade facilitation work and are elaborated in a series of Collective Action Plans (CAPs). The CAPs represent the specific trade facilitation steps that all APEC members have agreed to carry out collectively. These, however, do not represent bound commitments throughout APEC nor by any of its individual members.

As noted above, the trade facilitation work program is overseen by CTI. Much of the work is detailed and technical, and CTI has set up a number of sub-committees and experts groups to carry it forward. These are:

- Sub-Committee on Standards and Conformance;
- Sub-Committee on Customs Procedures;
- Investment Experts Group;
- Group on Services;
- Intellectual Property Rights Experts Group;
- Government Procurement Experts Group;
- Dispute Mediation Experts Group;

- Market Access Group; and
- Informal Experts Group on Mobility of Business People.

Each of these groups has developed a CAP which is updated on a regular basis as work programs evolve and as particular activities are completed. These form the basis of the CTI's annual Report to Ministers, detailing the progress made in trade facilitation and liberalisation activities and recommending new areas of action. The CTI's 1997 Report to Ministers provides a comprehensive picture of APEC's work in the facilitation area and can be accessed through the APEC Secretariat website (<http://www.apecsec.org.sg>).

A number of APEC's sectoral Working Groups (which are principally responsible for carrying forward the ecotech agenda) also have significant trade facilitation components in their work programs and have produced valuable facilitation outcomes directly relevant to business. These include the Working Groups on Telecommunications, Energy, Transport, Human Resources Development, Tourism, Fisheries, Trade and Investment Data, and the Policy Level Group on Small and Medium Enterprises. This work is also detailed in the CTI Report to Ministers.

Regional business communities have an important place in defining APEC's trade facilitation priorities. Business is directly involved in the work of the Customs and Standards and Conformance Sub-Committees, and increasingly in that of other CTI experts groups and Working Groups. The APEC Business Advisory Council, and its predecessor the Pacific Business Forum, have made a number of detailed recommendations on trade facilitation issues like business mobility, investment, intellectual property, standards and professional qualifications. These are now incorporated in the CTI's ongoing work program.

Scope of Activity

As noted above, APEC's facilitation work is broad-ranging and encompasses a variety of activities and measures addressing particular aspects of the regional trade and investment environment. Compiling databases and guidebooks providing strategic business information, promoting policy dialogue and best practices on issues like government procurement and competition policy, harmonising standards, developing mutual recognition arrangements, simplifying and harmonising customs procedures, and developing technical infrastructure development and training programs: all are examples of APEC work that can be described broadly as trade and investment facilitation.

A number of activities are directed at assisting implementation of WTO agreements. An extensive series of Uruguay Round implementation seminars has been held since 1995, including on GATS, rules issues, TRIPS, rules of origin, agriculture, SPS and TBT, dispute settlement, customs valuation, anti-dumping and TRIMs. The Sub-Committee on Customs Procedures has commenced a major training program to assist enforcement of the TRIPs agreement, and the Intellectual Property Rights Experts Group is also undertaking technical cooperation activities in order to aid TRIPs implementation. APEC members have committed themselves to adopting the WTO Customs Valuation Code by 2000, ensuring regional consistency in valuing traded goods, and training programs are being developed by the SCCP to facilitate this.

The following is a sample of trade and investment facilitation activities recently completed or now underway in APEC.

CTI and CTI Subfora

Standards and Conformance

- Implemented Umbrella Arrangement for Mutual Recognition of Conformity Assessment of Food and Food Products.
- Completed APEC guidelines for the preparation, adoption and review of technical regulations.

- Commenced in 1997 the progressive alignment with international standards of standards on the following priority areas: electrical and electronic appliances, food labeling, rubber gloves, condoms and machinery.
- Compiled in 1997 a survey on technical infrastructure development for measurement standards, laboratory management and accreditation, inspection bodies, quality systems and product certification bodies accreditation.
- Completed arrangement for the Exchange of Information on Toy Safety between APEC member economies.
- Completed an APEC guide on alignment of member economies' standards with international standards.

Customs Procedures

- Developed a Blueprint for APEC Customs Modernization which seeks to ensure that work moves in the direction that will best facilitate trade.
- Launched the APEC Tariff Database on the Internet.
- Initiated multi-year technical assistance activities to developing APEC economies on customs matters.
- Published a handbook on "best practices" in customs laws, regulations, administrative regulations and rulings.

Intellectual Property Rights

- Disseminated through the APEC Homepage the lists of government, business/private sector and academic contacts on IPRs.
- Launched IP (Intellectual Property) Information Mall on the APEC Homepage.
- Launched in 1997 an Internet publication of a survey on the current status of IPR protection in the APEC region.

Competition Policy

- Established an APEC Competition Policy and Law Internet database.
- Published on the Internet the 1997 report on Deregulation Initiatives in APEC Member Economies.

Investments

- Adopted the APEC Non-Binding Investment Principles.
- Published on the Internet a Guidebook to APEC Investments Regimes on Internet, which is regularly updated.
- Adopted the Framework for Enhanced Public-Private Partnership in Infrastructure Development at the Economic Leaders Meeting in Vancouver in November 1997.
- Agreed in 1997 on an APEC Protocol Agreement for Cooperation Among Export Credit Agencies to facilitate transactions, spread and manage risks and provide technical assistance in institutional strengthening.

Government Procurement

- Developed a set of non-binding elements of transparency in government procurement, together with a list of practices illustrating how these could be put into practice. This was submitted to the WTO Working Group on Transparency in Government Procurement for reference at the study phase.
- Developed and expanded the APEC GP Homepage, making comprehensive GP information in the APEC region easily accessible to suppliers all over the world.

Rules of Origin

- Published Compendium on Rules of Origin.

Dispute Mediation

- Developed Principles for APEC Work on Dispute Mediation.
- Published the guidebook on dispute mediation services in the APEC region.

Mobility of Business People

- Published APEC Business Travel Handbook in print and on the Internet.
- Undertook trial of the APEC Business Travel Card amongst five members as a pioneering effort to address private concern in the area of mobility of business people, particularly short-term entry and temporary stay for business purposes.

Implementation of the Uruguay Round Outcomes

- Held a number of seminars/workshops to promote understanding and implementation of Uruguay Round outcomes, with special emphasis on capacity-building and human resource development.

APEC Working Groups

Human Resources Development Working Group

- Developing means for mutual recognition of skills and qualifications to facilitate the mobility of qualified persons.
- Strengthen cooperation and training to support trade and investment insurance, facilitation, e-commerce, advance technology particularly for SMEs.
- Development in 1997/98 of a Labour Market Information Internet Homepage and associate database.

Energy Working Group

- Developed best practice guidelines to streamline and make more transparent tendering, approval and regulatory processes for independent power producers.
- Publishing a comprehensive outlook report on regional energy supply and demand for 2010.

Telecommunications Working Group

- Develop by 1998 a model Mutual Recognition Arrangement (MRA) for conformity assessment of telecommunications equipment.
- Developed in 1997 the Guidelines for Regional Harmonization of Equipment Certification.
- Conduct ongoing study on legal and regulatory barriers to the effective use of electronic commerce in APEC economies, including a survey on its use by SMEs in the region.
- Developed a model implementation procedure for Harmonized Electromagnetic Compatibility (EMC) management in the region.
- Ministers responsible for telecommunications and information approved objectives and core principles for the establishment of the Asia Pacific Information Infrastructure during their 1995 meeting in Seoul.

Transportation Working Group

- Developed a model mutual recognition arrangement for automotive products between APEC economies.
- Joined efforts with other APEC fora to determine best practices in cargo, container and small package tracking systems to enhance speed and lower costs of intermodal cargo.

Tourism Working Group

- Published a report on impediments and barriers to tourism in the APEC region.

Fisheries Working Group

- Published Manual on APEC Markets for Airshipped Live and Fresh Fish for Human Consumption.
- Completed study in 1997 on fisheries sector tariffs in APEC economies.

Trade and Investment Data Review Working Group

- Ongoing work on the Trade and Investment Database System that will include data on international merchandise trade, trade in services and foreign direct investment.

APEC Economic Committee, "The Impact of Trade Liberalisation in APEC" (1997).

The Osaka Action Agenda and other key APEC documents can be accessed through the APEC Secretariat homepage at <http://www.apecsec.org.sg>.

E. DETAILED AGENDA

Monday, 9 March 1998

Chairman: Mr. Anwarul Hoda, Deputy Director-General, WTO

Opening Address

Mr. Renato Ruggiero, Director-General, WTO

I. INTRODUCTION OF THE TRADE TRANSACTION PROCESS

Factual overview of the different stages of the transaction chain.

Mr. Michael Doran, SITPRO Chief Executive, UK

Mr. Fermin Cuza, Mattel Inc., USA

II. ISSUE-ORIENTED PRESENTATIONS BY THE PRIVATE SECTOR AND OTHER EXPERTS

PANEL 1 Physical Movement of Consignments (Transport and Transit)

Moderator: Mr. Abdelmalek Dahmani, President FIATA, Tunisia

- a. Problems of freight-forwarders and providers of multimodal transport in facilitating trade with reference to regional differences in the transport sector.

Mr. Raghu Dayal, Corporate Director, Lemuir Group, India

Mr. Juerg Hammer, Gondrand AG, Switzerland

- b. Differences between express carriage of goods and non-express freight forwarding; overview of the main problems express carriers face in different world regions.

Mr. Kenneth Glenn, FedEx, USA

- c. The main rules and practices which govern the air transport sector - International Air Transport Association (IATA).

Mr. Robert Davidson, Assistant Director, Facilitation Services, IATA

- d. The main rules and practices which govern the sea transport sector - International Chamber of Shipping (ICS).

Mr. Brian Parkinson, Head of Trade Facilitation, ICS

- e. The main rules and practices which govern road transport and road transit - International Road Transport Union (IRU).

Dr. Peter Krausz, Central and Eastern Europe Officer, IRU

- f. The main rules and practices which govern the rail transport sector - International Union of Railways (UIC).

Dr. Manfred Erdmann, Freight Director, UIC

PANEL 2 **Import and Export Procedures and Requirements, including Customs and Border Crossing Problems**

Moderator: Mr. Klaus Krinke, Federation of German Industries, Germany

- a. Private sector views on the most important practical problems their businesses face in the area of customs and border-crossing.

Mr. Juan Antonio Morales Bermudez, Lima Chamber of Commerce, Peru

Mr. Danny Meyer, President, Zimbabwe National Chamber of Commerce, Zimbabwe

Mr. David Wakeford, ICI, UK

Mr. Nicolas Ozanam, French Wine and Spirits Exporters, France

- b. Practical problems for traders in the area of customs valuation.

Mr. Peter Zubrin, General Motors, USA

- c. Practical problems for traders through customs irregularities - costs for business, consumers, and governments and the impact of customs irregularities on small and medium-size enterprises.

Mr. David Phillips, Transparency International

- d. Persisting obstacles for trade caused through documentation requirements and procedures.

Mr. Adriaan Snoodijk, Federation of Dutch Entrepreneurs (VNO-NCW) and UNICE, Netherlands

PANEL 3 **Payments, Insurance and other Financial requirements which affect Cross-Border Movement of Goods in International Trade**

Moderator: Mr. Radu Negrea, Romanian Banking Association, Romania

- a. Overview of the facilities and problems related to payments, insurance and other financial requirements in the developed world.

Mr. Norman Rose, Business Services Association, UK

- b. Overview of the facilities and problems related to payments, insurance and other financial requirements in the developing world.

Mr. Henrique Rzezinski, Xerox Brazil, Brazil

- c. The role of exchange control formalities and other formalities related to payments, insurance and other financial requirements which could create obstacles to trading, with reference to opportunities to reform.

Mr. Moses Pelaelo, Bank of Botswana, Botswana

- d. Financial requirements related to international trade - Avenues to reform; Experiences with "Bolero" and its potential for the future.

Mr. Åke Nilson, Marinade Ltd., UK

Tuesday, 10 March

Chairman: Mr. Anwarul Hoda, Deputy Director-General, WTO

PANEL 4 **Electronic Facilities and their Importance for Facilitating International Trade**

Moderator: Mr. Christiaan van der Valk, ICC

- a. The importance of electronic facilities for the conduct of international trade - A view from a user of such services.

Mr. Nick Mansfield, Shell, Netherlands

- b. The role of EDIFACT for facilitating international trade, with reference to its potential for small and medium-size enterprises.

Dr. Nadadur Janardhan, ESCAP

- c. Modernization of customs administrations by use of information technology - The Chilean experience.

Mr. Enrique Fanta Ivanovic, National Director of Customs, Chile

- d. Trade Facilitation and Electronic Commerce - A perspective from Asia.

Dr. Chun-Kwong Han, Multimedia Development Corporation, Malaysia

III. PRESENTATIONS BY INTERGOVERNMENTAL ORGANIZATIONS

UN/ECE

**Mr. Henri Martre, Chairman of CEFACT,
Dr. Carol Cosgrove-Sacks, Director Trade Division, UN/ECE**

UNCTAD

Mr. Hans Carl, Chief, Trade Facilitation Section, UNCTAD

WCO

Mr. Douglas Tweddle, Director, Compliance and Facilitation Directorate

ITC

Mr. Carlos F. Cattani, Senior Adviser on Trade Financing

IMF

Mr. Adrien Goorman, Senior Economist, Tax Administration Division

World Bank

**Mr. Jayanta Roy, Principal Economist, Middle East and North Africa
Department**

WTO

Mr. Heinz Opelz, Director, Market Access Division, WTO

IV. GENERAL DISCUSSION

Concluding remarks by the Chairman
