
WTO landmark deal on global trade

A snapshot of the “Bali package”

*PwC Worldtrade
Management Services
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WTO reaches landmark deal on global trade

History was made on 6 December 2013 in Bali, Indonesia where ministers from the World Trade Organization (WTO)'s 159-member countries collectively approved an agreement on global trade at the end of the ninth WTO Ministerial Conference.

Termed as the “Bali Package”, the WTO deal broadly consists of the following:

1. Agreement on trade facilitation

The Agreement on trade facilitation covers a wide spectrum of trade facilitation measures, and the key provisions are located within Section I of the Agreement. These measures, once implemented, should help to ensure greater consistency and transparency in customs procedures and interpretations. The main provisions of Section I are summarised in the table below.

Trade facilitative measures	PwC's comments
Publication of Laws, Regulations and Procedures	<p>Scope: Countries will be required to publish and make available information on Customs laws, regulations and procedures in an easily accessible manner.</p> <p>In particular, they are required to make available specific information relating to import, export and transit procedures via the internet. This includes:</p> <ul style="list-style-type: none">• A description of the said procedures;• Practical steps needed to import, export and transit;• Documentary requirements; and• Enquiry points <p><i>Implication: Many countries lack a comprehensive database of customs regulations and procedures. Traders often struggle to plan or improve their supply chains due to this lack of transparency. This requirement may greatly assist the trading community in understanding and preparing for the trade environment and complying with customs regulations.</i></p>

Opportunity to comment and receive prior information on new/amended laws and regulations

Scope: Countries will be required to allow interested parties to receive information and comment prior to the implementation of new/amended laws and regulation pertaining to the movement, release and clearance of goods.

***Implication:** In many countries regulators do not appear to understand modern international supply chains and do not solicit public commentary on new trade related regulations. This provision may allow the business community to better communicate its needs and desires.*

Provision for Advanced Rulings

Scope: Countries will be required to provision for Advanced Rulings in accordance to a set of prescribed requirements.

Of note, should an Advance Ruling application be rejected/revoked/modified, notification in writing, setting out the relevant facts and basis for the rejection will have to be issued.

***Implication:** The presence of a well-defined Advanced Ruling mechanism, particularly in developing countries, may greatly enhance certainty to traders about the treatment of goods at the point of import, thereby allowing them to better plan future business operations.*

Appeal or review procedures

Scope: Countries will be required to provision for the right of administrative and judicial appeal on Customs related matters (e.g. Customs Rulings and decisions).

***Implication:** A fair and effective appeals system on import/export related matters will assist in protecting traders from potential non-legislated practices (for e.g. corruption) from customs and other officials.*

Fees and charges imposed on or in connection with importation and exportation

Scope: Fees and charges that are imposed on or in connection with the import/export process are required to be limited to only the approximate costs of the services rendered by Customs.

In addition, information such as the rational, responsible authority, payment mode and quantum of the applicable fees and charges shall also be provided.

***Implication:** A reasonable and uniformly administered customs fee schedule will facilitate business planning.*

Tighter measures on customs penalties

Scope: Penalties should only be imposed on the person(s) who are legally responsible for a breach in Customs law, regulation or procedural requirement

Countries should also have measures to avoid conflicts of interest and refrain from the creation of incentive programme for the collection/assessment of penalties.

Implication: *Loose or misaligned customs penalty systems in many countries often result in inappropriate targeting and corruption risks. The tightened measures will assist in reducing the incentives and opportunities for corruption activities.*

Adoption of measures relating to the release and clearance of goods

Scope: Countries are required to adopt and maintain a series of measures that may facilitate customs clearance processes. Including:

- Pre-arrival processing of import documentation and required information
- Electronic payment facilities
- Release of goods prior to determination of customs duties, taxes fees and charges

Implication: *Long customs clearance times remain a burden for importers and exporters in many countries. Concrete improvements based on international best practices should improve supply chain efficiency.*

Customs brokers

Scope: Countries will be prohibited from mandating the compulsory use of customs brokers.

Implication: *While customs brokers generally provide valuable assistance in dealing with complex customs procedures and requirements, the mandatory use of such commercial services may result in opportunities for corruption and collusion activities between the said brokers and the customs officials.*

In addition to the above-mentioned trade facilitation measures, as per Section II of the agreement, special and differential treatment will be provided to developing and least developed countries. These countries will be able to delay the implementation of certain provisions and commitments in accordance to their needs.

In addition, the Agreement also provides for assistance and support for capacity building for developing and least developing countries. However, such assistance is not mandatory, and will be given on mutually agreed terms.

While the text of the Agreement on Trade Facilitation isn't final, any rectifications will not affect the substance of the Agreement. The legal text is scheduled to be finalised by 31 July 2014 and implemented after 31 July 2015.

2. Consensus on food security for developing countries

Under the consensus, developing countries, most notably India, will be able to provide food subsidies (public stockholding for food security purposes) at a level that is over and above the WTO allowed limits without being challenged by other WTO countries, subject to the following conditions:

- It is only applicable for current public stock holding programmes. i.e. it will not be applicable for future food subsidies, if any
- The subsidies will be allowed on an interim basis, until a permanent solution is found
- Stocks procured under such programmes do not distort or adversely affect the food security of other members
- Detailed information pertaining to the food subsidy programmes have to be submitted to the WTO on a regular basis

3. Initiatives for Least Developed Countries

Lastly, certain initiatives were negotiated in Geneva prior to the Ministerial Conference in Bali, and it includes the following:

- Duty-free, quota-free access for least developed countries - countries that have not done so for at least 97% of products are encouraged to increase the number of products covered
- Simplified preferential rules of origin for least developed countries

The legal text adopted in Bali is not final but is not likely to be amended substantially and the General Council should adopt the new Agreement by 31 July 2014. A WTO Committee on Trade Facilitation will be established and will meet at least once a year to work through operational and implementation issues and countries should notify their implementation status.

Contact us

If you would like further advice or information in relation to the topic outlined above, please contact:

Gregory Nichols
Director
gregory.g.nichols@sg.pwc.com
+65 6236 7333

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