
**Global Preparatory Meeting on the Mid-Term Review of
the Implementation of the Almaty Programme of Action**

on

**Trade Facilitation Opportunities for Landlocked and
Transit Developing Countries**

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Article V - Needs and Impacts

by

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ARTICLE V – NEEDS AND IMPACTS

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OUTLINE

- MANDATE
- PROPOSALS PRESENTED
- RECENT PROPOSALS
 - Transit
 - Free and Transparent Transit Regime in Road Transportation
- OTHER PROPOSALS
- CONCLUSION

MANDATE

- Negotiations shall aim to clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including goods in transit

PROPOSALS First Generation

- W/28 Bolivia, Mongolia y Paraguay
“Improvement of Certain Elements contained in GATT Article V”
- W/35 EC “Freedom of Transit”
- W/39 Paraguay, Rwanda y Switzerland
“Improvement of elements related to transit”
- W/64 Cuba “Strengthening of the Principles of Non-Discrimination and MFN”
- W/70 Chile “Articles V, VIII y X”

Second Generation

- W/79 Armenia, Canadá, EC, Paraguay y otros
“Freedom of Transit”
(W/28 + W/35)

Third Generation

- W/113 Armenia, EC, Macedonia, Mongolia, Kyrgyz Republic, Moldova y Paraguay “Transit” (W/28 y 35)
- W/127 Cuba “Strengthening of the Principles of Non-Discrimination and Most Favoured Nation” (W/64)
- W/119 Mongolia, Paraguay, Rwanda, Switzerland “Improvement of elements related to transit”(W/39)

Third Generation

- W/133 Armenia, CE, Macedonia, Kyrgyz Republic, Moldova, Paraguay, Rwanda y Switzerland “Transit – compilation of textual proposals W/113 and W/119”
- W/133 Rev. 1 Macedonia, Moldova, Mongolia, Rwanda, Switzerland, Swazilandia “Transit”

Third Generation

- W 146 Turkey and Georgia “Proposal on Quota-Free Transit Regime in Road Transportation”
- W 146 Rev 1 Turkey, Georgia and Paraguay “Proposal on a Free and Transparent Transit Regime in Road Transportation”

Scope and Freedom of Transit (TN/TF/W/133 Rev. 1)

Scope Article V. 1 - W/133/Rev.1 (1)

- Clarifies the scope of application of « goods »
 - those moved via fixed infrastructure;
 - personal belongings of the person operating the means of transport

Freedom of transit Article V. 2 - W/133/Rev.1 (4)

- Introduces freedom to chose the route
Exception: When the measure is an important part of a measure and is in conformity with Article XX and XXI, a member shall:
 - require goods to follow a prescribed route;
 - require goods to be transported under escort.
- Introduces that no distinction shall be made based on the choice of means of transport

Non Discrimination and Fees and Charges (TN/TF/W/133 Rev. 1)

National treatment: Article V. 4 - W/133/Rev.1 (5)

- Introduces a new element; with respect to all fees and charges, no less favourable treatment to traffic in transit than the treatment accorded to domestic goods, exports, imports and their movement

Fees and charges Article V. 3/4 - W/133/Rev.1 (8 - 11)

- those imposed for transit services provided in direct connection with the specific transit movement
- Introduces the explicit prohibition to charge on an ad valorem basis
- Introduces the requirement to reduce their number and diversity

Publication (TN/TF/W/133 Rev. 1)

Publication and Transparency Article X – W/133 Rev. 1 (9 - 13)

- Introduces on fees and charges the obligation to inform the reasons for the transit fee or charge
- Replaces the notion of traders by interested parties to which information should be made readily available
- The publication should be made via an officially designated medium (if possible internet) (Fees and charges, transit formalities and documentation requirements, and regional agreements.)
- Except in urgent circumstances and limited exceptions, should be an adequate time between publication and entry into force so as to enable governments and traders to become acquainted (**prior publication**) (Fees and charges as well as transit formalities and documentation requirements)
- Introduces the **periodic review** of formalities, requirements, fees and charges

Transit Formalities and documentation requirements (TN/TF/W/133 Rev. 1)

Transit shall not be subject to unnecessary delays and restrictions: Article V. 3 - W/133 Rev. 1 (14)

- Special border crossing facilities for transit (separate lines)
- Formalities adjusted to the specificities of the goods in transit (formalities and documentation requirements take into account the inherent characteristics of the goods concerned)
- Limited physical inspections and use of risk management (unless risk of contamination members shall not impose physical inspection on goods in transit, spot checks based on risk management)
- Reducing the administrative burden for traffic in transit (processing transit documents prior to arrival, establishment of a single window, authorized trader)

Bonded transit regime and guarantees TN/TF/W/133 Rev. 1

Bonded transit regime and guarantees / international, regional or national customs guarantee system (15)

- Members shall not impose cash guarantees. Where members operate a bonded transit system the guarantee required from transit shall be
 - Reasonable and limited to the amount of customs debt or other charges
 - Designed on a regional or international basis (as far as possible)
 - Released promptly and in full after the transit operation
 - Guarantees shall be renewable for subsequent consignments
- Charges on guarantees can only be imposed for directly related costs
- Not require securities where Members implement other measures than provisional taxation to prevent inland diversion of goods

Coordination, cooperation, transit agreements

Co-operation and co-ordination (18 - 19)

- Amongst authorities (among members authorities, standardize transit formalities, meet periodically)
- Between authorities and the private sector (discuss formalities and fees and charges)

Promotion of regional transit agreements (20)

- Co-operate designing and applying transit agreements
- Co-operate and co-ordinate (= harmonize) with a view to reducing trade barriers
- Harmonize transit documents
- Go beyond customs matters (e.g. incl. road and transport)
- Not enforce unilateral rules affecting traffic in transit
- Give positive consideration to requests of other Members to participate in the transit arrangement

Monitor regional transit agreements (22)

- Appoint national transit coordinators
- Introduce performance indicators
- Consider Public Private Partnerships

Free and Transparent transit Regime in Road Transportation (TN/TF/W/146 Rev. 1)

- Freedom of Transit (a member shall not seek or maintain any restrictive measure in transit)
- Maintenance of the restrictive measure (if circumstances no longer exist or can be addressed in the least restrictive measure)
- Obligation to notify to other members the objective and necessity of the measure
- Upon request shall provide all pertinent information (least restrictive way of achieving the measure)
- Charges for transit commensurate with the cost of the services rendered (irrespective of country of origin, destination and nationality of the vehicle, destination)

OTHER PROPOSALS

- Not only article V is relevant for landlocked countries.
- Proposals dealing with expediting the process of border crossing will invariably lower the cost of the movement of goods.
- For instance the proposals about: Simplify procedures for Authorized Traders, Harmonizing and simplifying trade documents and more generally the use of international standards, Acceptance of Copies, Single Window, Risk management including post-clearance audit, Pre-Arrival Processing, and Separation of Release from Clearance have the objective of alleviating the long process and then lowering the cost.

CONCLUSION

- WTO Agreements are mandatory
- Dispute Settlement
- Level of Ambition of the Final Agreement
- Good to be able to negotiate
- Awareness
- Way Forward

Article V

Freedom of Transit

1. Goods (including baggage), and also vessels and other means of transport, shall be deemed to be in transit across the territory of a contracting party when the passage across such territory, with or without trans-shipment, warehousing, breaking bulk, or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of the contracting party across whose territory the traffic passes. Traffic of this nature is termed in this article "traffic in transit".
2. There shall be freedom of transit through the territory of each contracting party, via the routes most convenient for international transit, for traffic in transit to or from the territory of other contracting parties. No distinction shall be made which is based on the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership of goods, of vessels or of other means of transport.
3. Any contracting party may require that traffic in transit through its territory be entered at the proper custom house, but, except in cases of failure to comply with applicable customs laws and regulations, such traffic coming from or going to the territory of other contracting parties 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 those commensurate with administrative expenses entailed by transit or with the cost of services rendered.
4. All charges and regulations imposed by contracting parties on traffic in transit to or from the territories of other contracting parties shall be reasonable, having regard to the conditions of the traffic.
5. With respect to all charges, regulations and formalities in connection with transit, each contracting party shall accord to traffic in transit to or from the territory of any other contracting party treatment no less favourable than the treatment accorded to traffic in transit to or from any third country.*
6. Each contracting party shall accord to products which have been in transit through the territory of any other contracting party treatment no less favourable than that which would have been accorded to such products had they been transported from their place of origin to their destination without going through the territory of such other contracting party. Any contracting party shall, however, be free to maintain its requirements of direct consignment existing on the date of this Agreement, in respect of any goods in regard to which such direct consignment is a requisite condition of eligibility for entry of the goods at preferential rates of duty or has relation to the contracting party's prescribed method of valuation for duty purposes.
7. The provisions of this Article shall not apply to the operation of aircraft in transit, but shall apply to air transit of goods (including baggage).