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# **WORLD TRADE ORGANIZATION: TRADE FACILITATION ASSESSMENT PROJECT**

## **Report on Kenya Trade Facilitation Self Assessment**

**June 9-13, 2008  
Nairobi, Kenya**

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**Submitted by:  
Booz Allen Hamilton**

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### **DISCLAIMER**

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The WTO Trade Facilitation National Self Assessment of Kenya's Needs and Priorities was held in Nairobi, Kenya June 9-13 at the Hilton Nairobi Hotel.

## **Background**

The WTO's Trade Facilitation Negotiating Group, operating under the auspices of the WTO Doha Round negotiations in Geneva, is implementing a *Trade Facilitation National Needs Assessment Project* under the auspices of the Trade Facilitation Trust Fund. These self assessments are intended to provide support to WTO members, particularly developing and least-developed countries, with respect to their trade facilitation needs and priorities, and to the cost implications of proposed measures being considered in the Trade Facilitation negotiations. The importance of carrying out a national self assessment of needs and priorities has been identified in several written proposals and by many Members as a crucial step with respect to the negotiations and the implementation of any final result emanating from the Doha Round of negotiations.

The WTO has received a large number of requests from members for technical assistance under this proposed self assessment program. These demands significantly exceed the capacity of the WTO Secretariat. As a result, the WTO has sought, and has been receiving support from WTO developed country members in support of this initiative. The US Government (USTR/USAID) has offered in-kind support to this needs assessment project. USAID's Trade Facilitation and Capacity Building Project "FASTrade" has been identified as the vehicle through which this assistance is to be offered as FASTrade's mandate, from its inception in 2003, has been to improve trade facilitation efforts around the world. To date, FASTrade has already supported national self-assessments in Tanzania, Uganda, Rwanda, and Nigeria.

## **The Self Assessment in Kenya**

The USAID team supporting the WTO's effort in Kenya was led by FASTrade's Chief of Party Paul Fekete, who served as lead facilitator. He was assisted by Mr. David Cowles (Trade Specialist I) and Regina Hehir (Trade Specialist I) from the FASTrade project and Robert Ireland from the World Customs Organization who served as a customs specialist and additional facilitator for the self assessment.

## **Advance Meetings with Kenyan Officials**

Although the assessment itself was scheduled to take place during the week of June 9–13, the team arrived in Nairobi on June 5, 2008 so that preparatory meetings could be held with selected Kenyan stakeholders on June 6<sup>th</sup>.

The schedule of meetings commenced with a briefing on June 6th for USAID and US Embassy officers on the forthcoming assessment and provided the facilitating team an opportunity to learn more from them about the type of trade facilitation issues present in Kenya.

Meetings with Kenyan stakeholders were organized by Mr. Elijah Manyara, Senior Assistant Director in the Department of External Trade and his colleague, Mr. Daniel Onundu, both from Kenya's Ministry of Trade, who served as the coordinators for the assessment in Nairobi. Mr. Onundu scheduled meetings with stakeholders from both the public and private sectors for Friday morning and individual meetings with several key Ministries in the afternoon (see Appendix for schedule).

The meeting with key Kenyan stakeholders offered the team the opportunity to talk with Kenyan government and private sector officials to reinforce the importance of the trade facilitation self assessment and to encourage as broad a participation as possible. The team explained how the assessment would be carried out and listened to stakeholders' expectations for the forthcoming self assessment. In turn, the team gained a better appreciation for the issues uppermost in the minds of Kenyan stakeholders.

The team was pleased to learn that the efforts undertaken by the Ministry of Trade to raise awareness about the assessment had been fairly extensive and key stakeholders were already committed to attending the workshop the following week.

Kenya's interest in trade facilitation was found to be quite extensive, not surprising since Kenyan officials often expressed the importance of Kenya's position as an important trade hub in Eastern Africa, a role that they are hoping to enhance. The recent political crisis following the contentious election in December 2007 highlighted, for both Kenyans (and their regional partners) the crucial role that Kenya plays regarding trade flows for the entire region, hence the desire to deal more efficiently with the movement of goods in the future.

As a result of these factors, the WTO Trade Facilitation Self Assessment was well-timed to take advantage of the heightened awareness of trade facilitation issues, and there was substantial interest in participating in the workshop by government stakeholders, and to a somewhat lesser extent, by those from the private sector.

### **The Trade Facilitation Self Assessment**

The self assessment workshop commenced on Monday morning at the Nairobi Hilton Hotel (the schedule is attached in the Appendix). The opening ceremonies included opening comments by Erna Kerst, USAID/Kenya Mission Director and Mr. Simon Chacha Nyangi, Secretary for External Trade from the Ministry of Trade. Additional



**USAID/Kenya Mission Director Erna Kerst sharing -opening remarks during the first day of the assessment.**

opening welcoming remarks were also made by Mr. Elijah Manyara, Senior Assistant Director for External Trade at the Ministry of Trade and FAStTrade's Chief of Party (COP) and Lead Facilitator, Mr. Paul Fekete.

Following the welcoming remarks, Mr. Rabson Wanjala, Kenya's Geneva-based representative to the WTO, gave a presentation focusing on the WTO, the status of the trade facilitation negotiations, their importance to Kenya, and the link between the self assessment and the ongoing negotiating process. Mr. Wanjala commented on the need for greater input from the capital on trade facilitation issues in order to effectively represent Kenya's national interests. He expressed hope that the workshop would improve coordination between the capital and Geneva as a result of the trade facilitation self assessment and the increased awareness that would result among Kenyan stakeholders.



**[left to right] USAID/Kenya Mission Director Erna Kerst; Kenya Secretary, External Trade Simon Chacha Nyangi; and FAStTrade COP Paul Fekete at the opening session.**

After the morning break, Paul Fekete provided training on the WTO's assessment methodology which would be used to carry out Kenya's self assessment. After the lunch break, the self assessment commenced, with Kenyan participants divided into three working groups to begin the process of completing the assessment. Since earlier assessments, the

process has been streamlined to require three, instead of four working groups because the number of negotiating proposals on trade facilitation have been reduced as a consequence of the ongoing negotiations at the WTO. When the self-assessments were initially undertaken, there were approximately 76 proposals to consider; now the number has been reduced to approximately 50. Throughout the course of the week, there were approximately 45-50 attendees each day, with approximately 15 in each group.



**FASTrade COP Paul Fekete making a presentation on the WTO methodology to be used for the national self-assessment.**

Most Kenyan government ministries and agencies with border control or trade facilitation responsibilities were represented during the course of the week's discussions. These included the Ministry of Trade, the Kenya Revenue Authority (KRA), the Kenya Bureau of Standards (KEBS), the Kenya Ports Authority (KPA), and the Ministry of Agriculture's Department of Veterinary Services. Commodity focused entities were also in attendance such as the Sugar Board and the Tea Board. Some, like the Kenya Plant Health Inspectorate Service (KEPHIS), which serves to oversee SPS issues and the Kenya Industrial Property Institute (KIPI), were only able to attend for part of the workshop.

The private sector was also represented with officials from the Kenya National Chamber of Commerce (KNCC), the Kenya International Freight and Warehousing Association (KIFWA), and the Kenyan Association of Manufacturers (KAM). The parastatal Kenya Institute for Public Policy Research and Analysis (KIPPRA) was also in attendance. (The complete list of participants can be found in the Appendix.)

As in other countries where assessments have been conducted, the process commenced slowly, but as participants developed a greater familiarity with the methodology, each of the three working groups was able to complete their assigned tasks. Each group seemed to organize themselves differently. In one, a chairperson was selected to guide the discussions—with the assistance of a facilitator. In the other two groups, the process was less formal but still effective and proceeded in an orderly fashion to address the various issues. As in the past, the selection of an effective rapporteurs able to comprehensively

document the discussions among the group's members played an extremely important role in the outcome of each group's work.



**Robert Ireland from the WCO [fourth from left] facilitating Group 3.**

The preliminary review of issues in the self assessment was completed by Wednesday in each of the three individual working groups. Some groups moved more quickly, while others had more difficult issues with which to contend or engaged in more debate on various matters. Group I was able to complete their work earlier than others and was able to provide assistance to Groups II, which was moving more slowly.



**FASTrade's David Cowles [ sixth from left] facilitating the work of Group 2.**

On Thursday morning participants reconvened in plenary session to review the work of the individual groups and to confirm the current status of a number of issues in Kenya. The session also allowed for additional input to be provided on issues where one or another government ministry official or private sector representative had not been a part of the original group.

The issue which caused the most debate concerned the proposal calling for the elimination of the mandatory use of customs brokers. Many participants were under the impression that the WTO proposal calls for the mandatory elimination of customs brokers. This misapprehension, even when corrected, still elicited a significant response among KIFWA members and others who were concerned about the negative employment effect from eliminating the policy and practice in Kenya which requires the use of customs brokers. KIFWA, in fact, is currently spearheading an effort to strengthen the requirement for the use of customs brokers for all customs and related clearance processes, arguing that safety, security, and revenue issues for Kenya would be improved. The proposal under consideration in Kenya would also be coupled with an improvement in the quality of services rendered by brokers through training programs intended to raise the professionalism of brokers and clearance agents.

The second issues which caused extensive debate related to transit issues. At first flush, Kenyan officials maintained that transit trade was treated in a non-discriminatory fashion.

Upon some questioning—informed by the facilitation team’s previous assessment experience in Uganda and Rwanda—Kenyan officials acknowledged a range of policies and practices that afforded less than national treatment in a number of areas. Some participants protested that such policies were simply in place to promote Kenya national interests but eventually came to realize that regardless of the intent of such policies, Kenya would be required to rethink its actions in a number of areas related to transit trade in light of WTO obligations and commitments.

Once the review process was completed, the plenary session turned, on Thursday afternoon, to the preparation of a PowerPoint presentation to be made to senior officials who would be in attendance on Friday morning. (The PowerPoint presentation is included in the Appendix.) The presentation summarizes the work carried out by the participants in the assessment and identifies major constraints in the trade facilitation area. Because recent WTO trade facilitation negotiations in Geneva have increasingly turned to issues related to the special and differential treatment of developing countries, the assessment in Kenya focused more intensively on Kenya’s needs and priorities for technical assistance and capacity building.

During the preparation of the final report, there was extensive discussion among participants with respect to the formal and informal organizational structures that have been in place to encourage dialog between the public and private sectors in Kenya on trade facilitation issues. Most participants agreed that these structures needed to be strengthened, primarily through additional domestic commitment to the process of further consultation. Kenyan government and private sector stakeholders agreed to continue the process started with the workshop so as to further refine Kenya’s understanding of trade facilitation barriers and to improve participation in the WTO Trade Facilitation process.

The closing ceremonies were held Friday after lunch, with the summary presentation, made to the senior officials in attendance. The Permanent Secretary from the Ministry of Trade, Dr. Cyrus Njiru attended briefly to receive the report of the workshop.

The presentation, made by workshop participants themselves, detailed the various components of the self-assessment and the areas in which Kenya would need to focus in order to implement potential WTO obligations and commitments. There was general agreement that Kenya needed to continue the process of self assessment that had commenced with the workshop. There was also a consensus that the recommendations of the participants should be adopted. The recommendations included:

- *Fast track finalization of the Draft National Trade Policy*
- *Allocation of resources to the Ministry of Trade in order to coordinate implementation of Trade Facilitation measures*
- *The sub committee on Trade Facilitation should be more active*
- *Fast track institutionalization and granting of legal mandate to the National Committee on World Trade Organization (NCWTO)*
- *Legal Reform in the context of Trade Facilitation needs to be accelerated*

- *Trade Facilitation should be considered as a National Priority as outlined in the Vision 2030*
- *Continued review an update of needs assessment findings*
- *Promote and enhance Regional Cooperation*
- *Stakeholders continue to meet*
- *Enhance communication between capital and Geneva.*

There was also a commitment to take the following early actions:

- *The text of the assessment will be shared broadly amongst stakeholders and will be reviewed and finalized within six weeks. This will be coordinated by the Ministry of Trade*
- *The Ministry of Trade will endeavor to hold periodic meetings to review and address Trade Facilitation related issues*
- *The Members of the private sector represented in the meeting will endeavor to create awareness among its members on Trade Facilitation Issues.*

The self assessment ended with the distribution of certificates to all participants (see Appendix). In addition, each participant received a CD-ROM from the WTO with a library of information related to the trade facilitation negotiations. A comprehensive list of participants with detailed contact information was also distributed—intended to promote ongoing dialog among all stakeholders. There were a few concluding remarks and expressions of appreciation for the successful conclusion of the workshop among all participants and facilitators.

## Appendix

### **Advance Meetings: Trade Facilitation Needs Assessment, Nairobi, Kenya, Friday, June 6, 2008.**

<b>Time</b>	<b>Name/Institution</b>
8:30 – 9:30	USAID/Kenya and US Embassy Officers
10:30 – 11:30	Kenya Ports Authority (KPA)
11:45 – 12:45	Kenya (KIFWA)
1:00 – 2:30	Kenya Bureau of Standards (KEBS)
4:15 – 4:35	Kenya Revenue Authority



## WTO Trade Facilitation National Self Assessment of Kenya's Needs and Priorities

**June 9-13, 2008  
Nairobi Hilton Hotel  
Nairobi, Kenya**




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### DAY 1: Monday, 9 June

- 9:00 – 9:30 Opening Ceremony  
     - *Ministry of Trade and Industry*  
     - *Ms. Erna Kerst, USAID/Nairobi Mission Director*  
     - *Mr. Paul Fekete, BAH/USAID*
- 9:30 – 9:45 Introductions of Participants and International Officials
- 9:45 – 10:45 Session 1: Introduction to the WTO trade facilitation negotiations  
     - Negotiation mandate  
     - GATT Articles  
     - Members' proposals

*Speaker: Mr. Rabson Wanjala, Kenya Geneva Representative*

10:45 – 11:00 Break

- 11:00 – 12:00 Session 2: Introduction to the Needs Assessment Process and Tool  
     - Introduction to the self assessment tool

*Speaker: Mr. Paul Fekete, BAH/USAID*

12:00 – 12:30 Session 3: Self Assessment Of Needs And Priorities

Participants will work in working groups that contain representatives of each agency and private sector for completion of the needs assessment using the Needs Assessment Guide and Tool (TN/TF/W/143). Each working group will be assigned certain trade facilitation proposals from the Guide.

*Facilitators: Mr. Paul Fekete, BAH/USAID; Mr. David Cowles,  
BAH/USAID; Mr. Robert Ireland, WCO*

12:30 – 1:30 Lunch Break

1:30 – 5:30 Session 4: Self Assessment Of Needs And Priorities

### DAY 2: Tuesday, 10 June

9:00 – 5:30 Self Assessment Of Needs And Priorities

**DAY 3: Wednesday, 11 June**

9:00 – 5:30 Self Assessment Of Needs And Priorities

**DAY 4: Thursday, 12 June**

9:00 – 5:30 Self Assessment Of Needs And Priorities

Participants continue work on needs assessment. As soon as each group completes their assigned proposals groups will meet in plenary to review the assessments completed by the other groups.

**DAY 5: Friday, 13 June**

9:00 – 12:30 Session 1: Report Preparation

Participants will review the results of the needs assessment and determine the conclusion of the results. These conclusions should be prepared in a PowerPoint presentation for the final reporting session.

12:30 – 1:30 Lunch

1:30 – 2:00 Session 1: Evaluation and Feedback on the workshop  
Group Photo Opportunity

2:00 – 4:00 Session 2: Reporting Session

- Report is made to high level officials.
  - Discussion and feedback on findings.
  - Distribution of certificates
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**WTO Trade Facilitation  
National Self Assessment of Kenya's Needs and Priorities**



**June 9-13, 2008  
Nairobi Hilton Hotel  
Nairobi, Kenya**



**OPENING STATEMENT**

**Paul Fekete  
Lead Facilitator**

Honorable Guests,  
Ladies and Gentlemen:

- It is a great pleasure for me and my colleagues to be here today in Nairobi as facilitators of the national trade facilitation needs assessment workshop for Kenya. I am joined by Robert Ireland from the WCO, and David Cowles and Regina Hehir, from USAID's Fastrade Project.
- Speaking on behalf of both the WTO and USAID, I want to express our thanks for being invited to participate in your self-assessment of needs and priorities in the WTO trade facilitation negotiations.
- Since trade facilitation became a part of the WTO Doha Negotiations in 2004, it has been witness to a very active participation from the wide WTO membership, now comprising 151 Members. This has included not only developed countries, but also developing countries and even LDCs who share the collective interest to lower transaction costs for their traders and help expedite the clearance and release of goods across borders.
- It is important to mention that any future legal commitments in the area of trade facilitation will be linked to each country's implementation capacity. LDCs in particular will only be required to undertake commitments to the extent consistent with their individual development, financial and institutional capabilities.
- As called for in the trade facilitation negotiating mandate, the self assessment of trade facilitation needs and priorities is a very important

- element in the trade facilitation negotiations, not only to help developing countries and LDCs identify their needs and priorities vis-à-vis the proposed trade facilitation measures, but also to enhance their participation in the trade facilitation negotiations in Geneva.
- Many Members have stressed the need for support in conducting their self assessment. For that reason, the WTO Secretariat has developed an extensive program of technical assistance that is funded by WTO Members through a special trust fund. We are here, with USAID's support this week to assist you by facilitating your work as you assess your needs.
  - The main objectives of this five (5) day workshop are:
    - To help Kenya identify its technical assistance and capacity building support needs and priorities to implement WTO Members' proposals on how to clarify and improve GATT Articles V, VIII, and X.
    - To help Kenya determine its national negotiating position on each of the proposed measures.
    - To help maintain a national inter-agency dialogue among the stakeholders on trade facilitation.
  - This week, we bring together Kenyan officials from a variety of ministries and government entities as well as from the private sector to carry out the national self assessment. Let me stress that this is not a normal training seminar or diagnostic mission, but rather a workshop where all of you will be undertaking the actual assessment. I and my colleagues are here only as facilitators to guide the process. At the end, this will be a Kenyan product.
  - For those senior officials who will be unable to stay with us throughout the week, let me invite you to return on Friday, at 2pm, when the results of the self assessment will be reported out and next steps will be considered.
  - It is our hope that after this week, you will continue to work regularly with each other in order to provide the necessary support for your negotiators in Geneva as the negotiations progress.

- We are confident that with your active participation and cooperation, we will bring this week's efforts to a success.

Thank you.

## WTO Trade Facilitation National Self Assessment of Kenya's Needs and Priorities

June 9-13, 2008  
Nairobi Hilton Hotel  
Nairobi, Kenya

### CLOSING STATEMENT

Paul Fekete  
Lead Facilitator



Honorable Guests  
Ladies and Gentlemen:

- It has been a great pleasure for us to be here this week as facilitators of the national trade facilitation needs assessment workshop for Kenya. Speaking on behalf of both the WTO and USAID, I'd like to thank my colleagues, Robert Ireland, David Cowles, and Regina Hehir for their support throughout the workshop. In particular I would like to thank the Ministry of Trade for its support of the workshop. I would also like to single out and thank Rabson Wanjala, Elijah Manyara and Daniel Onundu for all the work they have done in support of this effort.
- We have appreciated your warm hospitality, your hard work, and your commitment to making this assessment a success. At the opening session, we cautioned you that this would be a workshop of a different nature, and you have all met and exceeded the challenge through your commitment and wholehearted participation in the assessment.
- When we started the assessment, we indicated that the main objectives would be to:
  - Help Kenya identify its technical assistance and capacity building needs and priorities in relation to implementation of WTO Members' proposals on how to clarify and improve GATT Articles V, VIII, and X.
  - Help Kenya determine its national negotiating position on each of the proposed measures.
  - Help maintain a national inter-agency dialogue among the stakeholders on trade facilitation.

In each of these areas, the participants of the assessment have met or exceeded the objectives that were laid out at the commencement of the effort.

- Sadly, we will be leaving Kenya, and so the ongoing responsibility for continuing the national dialog on trade facilitation issues falls to all of you. We hope that the decisions reached during this workshop with respect to the way forward will guide you and will serve to provide the necessary support for your negotiators in Geneva.

Thank you.



## National Self-Assessment of Trade Facilitation Negotiation Needs and Priorities for Kenya

Integrated Registration List  
June 13, 2008



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# WTO Trade Facilitation Self Assessment of Needs – Kenya

Needs and Priorities  
in the WTO  
Trade Facilitation  
Negotiations

*Workshop  
Nairobi, Kenya  
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# **THE WORLD TRADE ORGANIZATION**

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**National Self-Assessment of Trade Facilitation Negotiation Needs and Priorities  
for Kenya**

**presented by the WTO in cooperation with USAID**

**Nairobi, Kenya  
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