



## **Technical Report:**

# **Malawi WTO Trade Facilitation National Self-Assessment of Needs and Priorities**

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### ANNEX 1: PARTICIPANTS

## **EXECUTIVE SUMMARY:**

World Trade Organization (WTO) Members have stressed the importance of identifying needs and priorities in the area of Trade Facilitation. This is the context within which various member states have provided proposals with regard to the interpretation and clarification of GATT Articles V, VII, X. The proposals relate to issues of publication of trade related laws, faster processing of documents and reduction of formalities, and other measures of ensuring traffic in transit in any country is treated in the same manner as traffic destined in that country.

The WTO Trade Facilitation Assessment of Needs and Priorities for Malawi needs highlighted the following important issues with respect to compliance with some of the proposals;

- Internet Publication of The Elements Set Out In Article X of GATT, implies internet publication of all trade related legislations, regulations and rulings. Despite the presence of the government website Malawi did not fully contain the laws and regulations as envisaged by the proposal.
- Establishment of Enquiry Points, such as health and technical regulations enquiry points as well as enquiry point for other trade related information.
- Use of international standards for customs and related procedures such as WCO Kyoto Convention, Customs Valuation, UN EDIFACT layout. This includes customs automation, electronic data interchange and even compliance with international health and technical regulations.
- Phasing out of mandatory use of Customs Brokers as such use can increase costs unnecessarily.
- Bonded Transport Regime and Guarantees/International, Regional or National Customs Guarantee System. It was worth noting that Malawi was one of the SADC Member States that would pilot a regional bond from 2009.

Malawi would also need technical assistance to be able to effectively implement the proposals. Such technical assistance includes; training in areas such as use of international standards, capacity building with respect to development of electronic data interchange, information technology infrastructure and health testing laboratories. However, Malawi also recognized certain actions it may implement itself as a step towards fulfilling the proposals, such as establishing legislation and policy directives to cover most of the proposals, better coordination amongst border agencies. With this background, it was recommended that the Committee on Trade Facilitation be strengthened to continue the assessments and work on the recommendations that have been proposed and closely network with the Malawi Geneva Representative.

## **INTRODUCTION:**

The WTO made a request to the Southern Africa Global Competitiveness Hub (Trade Hub) to assist financially and technically in the WTO Trade Facilitation Self-Assessment of Needs and Priorities in certain SADC Member States. The Trade Hub has conducted and partially funded WTO Trade Facilitation Assessments in Swaziland, Lesotho, Angola and Mozambique in the previous months. The assessment is centered on GATT Articles V, VII and X which deal with issues such as transit, fees and formalities and transparency. The proposals therefore cover most issues that are part of Trade Facilitation as they seek simplification of procedures and reducing hurdles in the processing of trade documents and related processes by border and trade agencies.

## **OBJECTIVES OF THE NEEDS ASSESSMENT:**

The objective of the WTO trade facilitation technical assistance program is to assist WTO Members and Observers in conducting a needs assessment so that they can participate more effectively in the WTO trade facilitation negotiations. The goal of the needs assessment is to obtain the following:

- Identification of compliance level for each proposed trade facilitation measure;
- Identification of a national negotiating position for each proposed measure;
- Identification of special and differential treatment, technical assistance and capacity building needs and priorities; and
- Development of the capacity to continue the assessment for each needs and priorities and provide more effective continued assistance to Geneva based negotiators as negotiations progress.

#### **HIGHLIGHTS:**

- The meeting was officially opened by the Director of Trade, Mr. Harris Mandindi, who applauded the great work that the Trade Hub has over time been doing in Malawi, and the importance of trade facilitation in boosting trade.
- The Trade Hub facilitators gave short presentations on WTO Trade Facilitation Negotiations and an outline of the Trade Facilitation Self Assessment Guide developed by the WTO and WCO to be used during the assessments.
- Thereafter the workshop was marked by the self assessments of the needs and priorities with respect to trade facilitation.
- The workshop was closed by the Director of Industry in the Ministry of Trade, who greatly applauded such a workshop and the support given by the Trade Hub and WTO and reiterated the importance of trade facilitation in the region, especially noting the position of Malawi as a least developed and landlocked country. Other four high level officials including the Commissioner of Customs also attended the closing ceremony.

#### **ISSUES AND RECOMMENDATIONS:**

The self assessment found that Malawi was in compliance with the following proposed measures:

- Interval between Publication and Entry into Force - "A Member shall ensure that , in principle, information relating to proposed new and amended rules of general application is made available to interested persons in advance of their entry into force/implementation."
- Right of Appeal - "A Member shall provide a legal right of appeal in customs and other trade-related matters."
- Option to Return Rejected Goods to the Importer – "A Member shall provide for food consignments to be returned to the import/exporter in cases where they are rejected by the importer or government agencies due to their failure to meet commercial standards."
- Disciplines on Restrictions to Freedom of Transit- "A Member shall not seek, take or maintain any restrictive measure in transit."
- Elimination of Pre-shipment Inspection – "A Member shall not have any legislation or administrative requirements for the mandatory use of pre-shipment inspections or their equivalent."
- Objective Criteria for Tariff Classification - "A Member shall apply objective criteria for tariff classification such as through the use of the Harmonized System."

Highlighted below are issues identified where Malawi needs to improve to comply with WTO Trade Facilitation Proposals:

- Internet Publication of The Elements Set Out In Article X of GATT;
- Prior Consultation and Commenting On New and Amended Rules;
- Establishment of Enquiry Points;
- Provisions for Advance Rulings;
- Phasing out of mandatory use of Customs Brokers;
- Disciplines On Fees And Charges Imposed On Or In Connection With Importation And Exportation;
- Acceptance Of Commercially Available Information And Of Copies ;
- Single Window/One-Time Submission;
- Bonded Transport Regime And Guarantees/International, Regional Or National Customs Guarantee System;
- Authorized Traders; and
- Separating Release from Clearance procedures.

Also highlighted in the workshop were top negotiating priorities for Malawi. These included the following:

- Use of International Standards, such as the Kyoto Convention and WCO Customs Valuation;
- Prior Consultation and Commenting On New and Amended Rules;
- Interval between Publication and Entry into Force to enable traders to become acquainted with regulations and laws;
- Single Window/One-Time Submission to avoid repetition in submission of documents and provide faster processing of documents;
- Establishment of Enquiry Points, such as for health and technical regulations;
- Bonded Transport Regime And Guarantees/International, Regional Or National Customs Guarantee System;
- Phasing out of mandatory use of Customs Brokers; and
- Promotion of regional transit agreements or arrangements.

However, some of the reasons for non compliance or barriers which hinder effective compliance were highlighted and prominent amongst them were:

- Limited funding to attend International Conventions and meetings;
- The consultation process was costly; limited resources to process information
- Limited access to internet facilities;
- Lack of accredited laboratories in the country due to inadequate equipment, expertise, and chemicals;
- Inadequate coordination and networking between Ministries and other stakeholders; and
- There was no national policy, legislation or administrative arrangements to ensure the implementation of some of proposed measures.

Furthermore, the delegates also recognized some actions which Malawi could take locally to comply with the outlined proposals. These included the following:

- Formulation of national policies, legislations or administrative arrangements to ensure the implementation of some of proposed measures such as establishment of the single window, whether manual or electronic type; and
- Better coordination between agencies which deal with trade related issues and then work towards an appropriate mechanism and enhance negotiations with other neighboring countries.

To be able to effectively comply with the proposals Malawi would need technical assistance with respect to some of the areas indicated below:

- Training in Electronic Data Interchange;
- Funding that will be utilized by personnel to be able to attend meetings on International Standards Setting;
- Automation of import and export formalities;
- Software for Electronic Data Interchange;
- Installation and upgrading of the IT infrastructure system;
- Connectivity and networking systems; and
- Establishment and strengthening of Quarantine facilities/services at the borders.

Furthermore, in view of working on the issues that were raised in the assessments, the following recommendations were made;

- The Ministry of Industry and Trade (MIT) should strengthen the Committee on Trade Facilitation to review the outcome of this assessment and continue to advise the negotiators in Geneva on positions to take with regard to any new proposals as they are made.
- There should be involvement of private sector participation in the trade facilitation working group.
- MIT should come up with an action plan of activities on the way forward on continuous trade facilitation assessments and negotiations.
- The Malawian negotiating team on Trade Facilitation should include representation from the Malawi Revenue Authority to provide background expertise.
- Based on priorities for technical assistance, the Ministry of Industry and Trade should engage bilateral development partners for the support required identified through the self assessment.