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Emerging challenges and recent developments affecting transport and trade facilitation

Note by the UNCTAD secretariat

Executive summary

In an increasingly globalized trading environment, development prospects are strongly reliant on cost-effective and reliable transport systems, a transparent and simplified regulatory framework, and efficient trade procedures. Efforts to improve developing countries' trade performance and competitiveness require policy interventions to reduce transport and trade costs and to modernize the trade system and infrastructure. Policy objectives such as trade facilitation, cost-effective and energy-efficient transport services, supply-chain security and environmental sustainability need to be brought together in a comprehensive and strategic policy framework. While developing such a framework, policymakers need to take into account a variety of factors which currently impact on the field of trade logistics. These span a broad range of areas – economic (e.g. the financial crisis), energy-related (e.g. fuel prices), environmental (e.g. climate change), political (e.g. security), regulatory (e.g. international conventions and multilateral/regional agreements in transport and trade facilitation), and technological (e.g. information and communication technologies). This note highlights a number of relevant issues for consideration by experts. In particular, it provides background on (a) emerging and pressing global challenges affecting international transportation; and (b) regulatory developments in relation to the environmental sustainability of transportation. It also discusses the need for coherence between national and international commitments in the area of trade facilitation.

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Introduction

1. Based on paragraphs 107 and 164–168 of the Accra Accord, and in accordance with the approved terms of reference for the Multi-year Expert Meeting on Transport and Trade Facilitation, the third session of the meeting focuses on a diverse range of topics, including:

(a) [...] The use of information and communication technologies in logistics, trade facilitation and supply-chain security;

(b) Emerging challenges affecting transport costs and connectivity; in particular the impact of high fuel prices and high freight rates, climate change and supply-chain security imperatives for access to cost-efficient and sustainable international transport services, especially for least developed countries, landlocked developing countries and small island developing States [...];

(c) The regulatory and legal framework for transport and trade facilitation, as well as the effective implementation of agreed rules and standards; and

(d) The contribution of UNCTAD to the effective implementation of trade facilitation measures in the framework of the Aid for Trade initiative, including commitments ensuing from the World Trade Organization (WTO) negotiations on trade facilitation.

2. Bearing in mind the above mandate and the overall objective of the multi-year expert meetings on transport and trade facilitation, this note provides an overview of relevant recent developments that affect transport and trade, focusing especially on the considerations set out above. It also highlights the potential implications of these developments for transport and trade facilitation, with a view, in particular, to enabling the effective integration of developing countries into global transport and trade networks.

3. A combination of factors is currently transforming the international transportation landscape. These span a broad range of areas – economic (e.g. the financial crisis), energy-related (e.g. fuel prices), environmental (e.g. climate change), political (e.g. security), regulatory (e.g. international conventions and multilateral/regional agreements in transport and trade facilitation), and technological (e.g. information and communication technologies). These factors have a significant impact on transport and trade costs, which greatly determine developing countries' trade performance and competitiveness. They also entail implications for transport policy objectives such as efficiency, cost-effectiveness, trade facilitation, and security, as well as for environmental, energy and social sustainability.

4. In an increasingly globalized and interdependent world, development prospects are heavily reliant on well-functioning, lower-cost and quality transport systems; a transparent and simplified regulatory framework; and efficient trade procedures. Consequently, improved understanding of the driving forces currently altering the world transport and trade systems and their interrelationships is necessary in order to help devise adequate policy measures that promote trade competitiveness through reduced transport and trade costs. This is of critical relevance to the developing countries that suffer a geographical disadvantage, such as the landlocked developing countries (LLDCs) and small island developing States (SIDS), as well as to the economically vulnerable countries such as the least developed countries (LDCs). The risk of marginalization from the global market is greater for these countries, where prohibitive transport costs often act as a barrier to trade.

5. Parts II and III below consider relevant emerging and pressing global challenges affecting maritime transport and trade as well as related regulatory developments, namely in relation to the environmental sustainability of transportation. Particular focus is placed

on maritime transport, which accounts for over 80 per cent of global trade in volume (90 per cent if intra-EU trade is excluded), with an even higher share for most developing countries and over 70 per cent of global trade in value. Part IV focuses on trade facilitation, which is particularly relevant for regional integration processes and for the access of LLDCs to overseas markets. Part V puts forward some relevant questions to help focus minds and stimulate discussions on the issues raised for the experts' consideration.

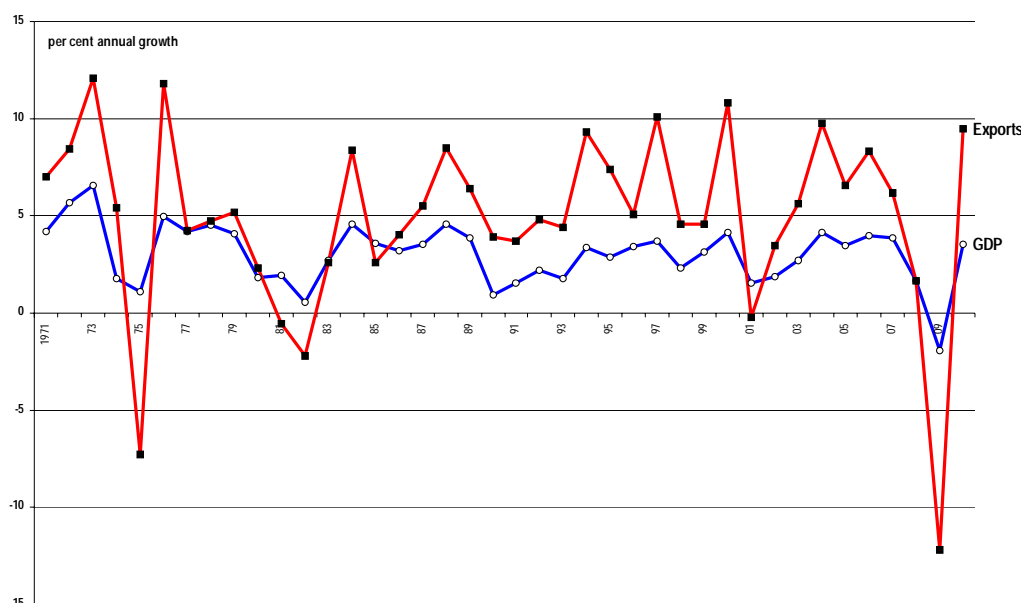
I. Emerging challenges affecting transport and trade

6. Transportation systems are facing important challenges that could undermine their sustainability, raise costs and ultimately hinder trade, with particular concerns from the perspective of developing countries. These challenges are interrelated and include in particular (a) the negative impact of the latest financial crisis and subsequent economic downturn; (b) oil price developments and their implications for transport costs and trade; (c) climate change and related impacts on transport and trade; (d) supply-chain security and related regulatory requirements; and (e) environmental regulations related to sustainability in shipping.

A. The financial crisis and economic downturn

7. The global financial crisis of late 2008 and the subsequent economic downturn have changed the landscape for transport and trade. The year 2009 recorded the first and deepest contraction in global output for decades. The year 2009 was also the year of great global trade collapse, with trade volumes and value falling by over 13 per cent and 23 per cent respectively (see also fig. 1). Maritime transport and seaborne trade were significantly impacted. In 2009, world seaborne trade volumes declined by an estimated 4.5 per cent, with almost all shipping segments being negatively affected.

8. Global ship capacity has nevertheless continued to expand, as vessels ordered in earlier years have continued to be delivered by the world's shipyards. While the profitability of the transport industry has been negatively affected, importers and exporters have benefited from the depressed rates. Shipping one ton of dry bulk cargo over 1,000 nautical miles by sea in July 2010 cost between \$2 and \$6 as compared to \$10 to \$16 in 2008. In the longer term, however, the economic downturn and current oversupply of ship capacity, combined with the pro-cyclical investment patterns, pose a threat to the economic sustainability of transport systems. They have negative implications for shipbuilding, ship financing, trade structure and patterns, as well as for investment in transport infrastructure, equipment and services. These, in turn, have implications for transport costs and transport connectivity.

Figure 1. Growth rates of global output and exports (volume)

Source: UNCTAD. 2010 data: Forecast.

9. Some longer-term trends and the impact of the economic crisis can be observed through UNCTAD's Liner Shipping Connectivity Index (LSCI), which provides an indicator of countries' access to global liner shipping networks. During the three years until the financial crisis, the global average of direct shipping connections remained stable, while those available to LDCs decreased by 20 per cent. For many LDCs, the further reduction of supply from already low levels may raise concerns with national competition authorities.

10. As the financial crisis – in combination with industry consolidation – poses further challenges to investments in seaports and transit transport infrastructure (roads, border posts, dry ports), capitalizing on synergies and understanding the common interest of transit and LLDCs becomes ever more important. LLDCs and transit-developing countries benefit from enhancing their combined cargo volumes, thus achieving economies of scale, to support their seaports as competitive nodes within global shipping networks.

B. Energy

11. Securing the long-term sustainable supply of energy – including access to oil at reasonable cost and with least disruption to the environment, global trade and the development prospects of the most vulnerable nations – is increasingly emerging as a crucial challenge and is affecting all economic sectors, including transportation. The sustainability of oil as a major source of energy is becoming progressively more uncertain, with some observers arguing that oil is running out and that a peak in global production levels may soon be reached.¹ A finite fossil fuel, oil is becoming increasingly difficult and costly to extract. Oil supply originating from distant locations and reservoirs –

¹ Projections include those by the International Energy Agency, the United States Energy Information Administration, and the Association for the Study of Peak Oil (<http://www.peakoil.net>). For information on the "peak oil" debate, see Jeremy Leggett at <http://www.jeremyleggett.net>.

including from offshore and deepwater sites – is uncertain, and may be associated with increasing environmental risks and higher cost levels. The April 2010 explosion of the Deepwater Horizon oil rig in the Gulf of Mexico and the consequent heavy economic and environmental losses highlight the magnitude of the challenge of ensuring that future global demand for oil can be met.

12. A constrained oil supply and a growing demand for energy are likely to drive oil prices upwards. While the record-breaking level of nearly \$150 per barrel recorded in mid-2008 has not been observed since, the relatively high average oil price levels recorded in the first half of 2010² lend support to expectations of elevated oil price levels in the longer term.

13. The level of oil prices is a key consideration for transport and trade, and is likely to hit developing countries the hardest – and in particular the LLDCs, which depend to a large extent on road transport and will be the least able to cope with rising fuel costs. While increasing efforts are being made to make transportation more energy-efficient, and in the longer term less dependent on fossil fuels, this remains a particular challenge for maritime transport. Maritime transport, which accounts for over 80 per cent of world merchandise trade (by volume), is heavily dependent on oil for propulsion, but is not yet in a position to effectively adopt energy substitutes. Rising and volatile oil prices are reflected in higher bunker fuel costs, which, in turn, inflate transport costs and undermine trade. A recent UNCTAD study entitled *Oil Prices and Maritime Freight Rates: An Empirical Investigation* (UNCTAD/DTL/TLB/2009/2) estimates the elasticity of container freight rates to oil prices at 0.19 and 0.36 and the elasticity of tanker spot freight rates at 0.28. The elasticity for iron ore is larger, approximately equal to unity. Results have also shown that the effect of oil prices on container freight rates appears to be larger in periods of sharply rising and more volatile oil prices. This is of particular interest given the expected rise in oil prices and the prospect of a peak in global oil production.

14. Understanding the interplay between transport costs, energy security and price levels is fundamental, especially for many developing countries, whose trade is already burdened by proportionately excessive transport costs. Initiatives to improve developing countries' integration into the international transport and trading systems require a clear understanding of the effects of transport costs and their determinants, including input costs, such as fuel/oil prices, as well as adequate response measures to control these factors and determinants. Successful policy action to promote cost-effective transportation also rests on the ability to build on the linkages between energy and climate change, including the role of energy efficiency for greenhouse gas (GHG) emission reduction as well as energy as an essential component of adaptation action. The following section briefly sets out some of the relevant issues in this debate.

C. Climate change

15. Compelling scientific evidence³ indicates that climate change is happening and that action is urgently needed to address the expected environmental, social and economic effects of climate change, the severity of which varies by geographical location, country and region. From the perspective of developing countries, climate change impacts, if left unchecked, constitute a major setback to the attainment of the Millennium Development Goals (MDGs) and of sustainable development. Given their high vulnerability and low

² Based on data as published in August 2010 on the United States Energy Information Administration website at http://www.eia.gov/dnav/pet/pet_pri_spt_s1_d.htm.

³ Fourth Assessment Report of the Intergovernmental Panel on Climate Change, 2007.

adaptive capacity, developing countries, particularly LDCs, are likely to be the hardest hit, with heavy potential losses being much more concentrated in highly vulnerable large cities at the low end of international income distribution.⁴

16. Freight and passenger transport are at the centre of this enormous global challenge. Demand for transport services grows in tandem with the global economy, global trade, and the world population, and is heavily dependent on oil for propulsion. At the same time, transport is also expected to be significantly affected by the impacts and costs of climate change factors, including, in particular, rising mean sea levels, and an increased frequency and intensity of extreme storm surges. The relevant climate change impacts include accelerated coastal erosion, and port and coastal road inundation and submersion, as well as indirect impacts which are yet to be effectively assessed. These arise through changes in the population concentration/distribution, as well as through changes in production, trade and consumption patterns, which affect demand for freight transport services.

17. At present, understanding of the type, range and magnitude of potentially major climate change impacts on international transport systems, and of the corresponding adaptation needs, remains inadequate. As one step to address this knowledge gap, which was specifically highlighted by experts at the first session of the Multi-year Expert Meeting on Transport and Trade Facilitation: Maritime Transport and the Climate Challenge, held in February 2009,⁵ the UNCTAD and UNECE secretariats jointly convened a workshop on the subject, which was held in September 2010.⁶

18. The special case of ports, as gateways to international markets, is of critical importance. Over 80 per cent of global trade in goods (by volume) is carried by sea and handled by seaports worldwide. A crucial link in international supply chains, seaports provide vital access to globalized markets for all countries, including landlocked countries. These strategic national assets and their hinterland connections are highly vulnerable to various climatic events. Particularly vulnerable are ports located in low-lying island settings, estuaries and deltas in developing regions, which are characterized by high exposure potential and low adaptation capability.

19. A study commissioned by Allianz and the World Wide Fund for Nature has estimated that assuming a sea level rise of 0.5 metres by 2050, the value of exposed assets in 16 port megacities will be as high as \$28 trillion.⁷ A recent survey carried out by the International Association of Ports and Harbours, the American Association of Port Authorities, and Stanford University,⁸ has revealed that 81 per cent of respondent ports consider that climatic changes may have serious implications for the port community.

20. Against this background, it is imperative that climate change impacts on transport and related adaptation requirements be considered as a matter of priority, along with initiatives aimed at reducing or limiting GHG emissions. Developing an effective strategy

⁴ See, for example, Dasgupta S, Laplante B, Murray S and Wheeler D (2009). Sea-level rise and storm surges: A comparative analysis of impacts in developing countries. Policy Research working paper 4901. World Bank Development Research Group.

⁵ See the summary of the proceedings (UNCTAD/DTL/TLB/2009/1), which was also submitted to the secretariat of the United Nations Framework Convention on Climate Change ahead of the Copenhagen Conference.

⁶ For further information, see <http://www.unctad.org/ttl>, as well as UNECE document ECE/TRANS/WP.5/2010/3.

⁷ Lenton T, Footitt A and Dlugolecki A (2009). *Major Tipping Points in the Earth's Climate System and Consequences for the Insurance Sector*. <http://knowledge.allianz.com>.

⁸ Becker A and Inoue S (2009). IAPH/AAPA survey results: Impacts of climate change on seaports. Unpublished report.

for adequate adaptation measures in transport, to build resilience and strengthen the ability to cope with climate change, requires information on likely vulnerabilities and a better understanding of the relevant climatic impacts.

21. The cost of action in respect of climate change involves expenditures and investments which will also be reflected in the cost of transport and trade. Existing studies on adaptation costs provide a wide range of estimates with limited information of relevance to the transport sector. However, it is clear that adequate funding is key for a proactive and effective climate policy in transport, especially for developing countries. A recent World Bank study estimated the cost of adaptation for infrastructure, including some transport infrastructure, by climate scenario, region and infrastructure category, at \$29.5 billion, with road infrastructure adaptation costs accounting for \$6.3 billion of the total (2010–2050).⁹

D. Security

22. Security, which also affects transport costs, connectivity and trade, remains high on the international agenda. Over the last decade, international and regional transport and supply-chain security measures have been proliferating. Maritime security measures include, in particular, the 2002 amendments to the 1974 International Convention for the Safety of Life at Sea (SOLAS) and the new International Ship and Port Facility Security Code (ISPS Code) which became mandatory for all SOLAS member States on 1 July 2004. Major international supply-chain security measures include the Framework of Standards to Secure and Facilitate Global Trade (SAFE Framework) adopted under the auspices of the World Customs Organization in 2005.¹⁰ The SOLAS amendments and the ISPS Code impose wide-ranging obligations on governments, shipping companies, and port facilities; while the SAFE Framework establishes, among other things, the concept of “Authorized Economic Operator” (AEO) and the related principle of mutual recognition of AEO status. Effective implementation of this principle remains an important challenge, and will be critical in the longer term, particularly from the perspective of developing countries avoiding being marginalized from the international transport network. It should be noted that the AEO concept was replicated at the regional level with its introduction into the Community Customs Code of the European Union.

23. While enhanced security measures in transport and across the supply chain are widely accepted, the cost of security-related measures has the effect of raising the cost of doing business. For developing countries, any additional cost burden which may further disadvantage their trade remains a concern. The Columbus Programme, the main capacity-building initiative under the WCO, will likely not be sufficient to neutralize the cost implications of implementing the SAFE Framework of Standards. As regards the SOLAS amendments and the ISPS Code, existing estimates by UNCTAD reveal that the cost of implementing the ISPS Code in ports worldwide ranges between approximately \$1.1 billion and \$2.3 billion initially, and between approximately \$0.4 billion and \$0.9 billion annually thereafter.¹¹ These costs are equivalent to increases in international maritime freight payments of about 1 per cent with respect to the initial expenditure and 0.5 per cent with respect to the annual expenditure. Although seemingly not very large, these costs are disproportionately higher for smaller ports in developing countries.

⁹ World Bank. The economics of adaptation to climate change: A synthesis report. Final consultation draft. August 2010.

¹⁰ As of 15 September 2010, 162 WCO members had expressed their intention to implement the SAFE Framework.

¹¹ See Maritime security: ISPS Code implementation, costs and related financing (UNCTAD/SDTE/TLB/2007/1).

24. National or regional security measures, too, may have important cost implications, as is illustrated by developments regarding recent legislation in the United States, prescribing the scanning, by non-intrusive imaging equipment, of all containers bound for the United States before loading at foreign ports.¹² Concerns about the cost and technical feasibility of implementation of a 100 per cent container scanning requirement were raised by industry representatives, customs organizations and governmental entities, both inside and outside the United States.¹³ Recognizing the magnitude of the challenge posed by implementation of the 100 per cent container scanning requirement, the United States Department of Homeland Security announced in December 2009 that it would postpone the mandatory application of this requirement, which was due to enter into effect in July 2010, for two years until July 2012.¹⁴

II. Environmental regulation and sustainability in shipping

25. Sustainability in shipping is gaining momentum, with greater awareness among shippers, the maritime transport industry and the international community of its strategic importance as a means of achieving efficiency, effectiveness, and quality shipping, while internalizing negative externalities. A wide range of regulatory measures in support of sustainable shipping have either been adopted or are currently being considered under the auspices of the IMO. While the *International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL)*, remains the most important international treaty dealing with various sources of ship-generated pollution (e.g. oil, chemicals, sewage, garbage and gases), other environmental and social issues are increasingly occupying IMO's agenda, and range from the management of ships' ballast water and the removal of shipwrecks, to the prohibition of certain toxic substances in ships' anti-fouling systems, to ship recycling, to the training of seafarers.

26. Three recently adopted IMO regulatory instruments with strong implications for sustainability of shipping are presented below. While not a comprehensive list, these instruments illustrate the range and breadth of issues that are currently facing transport and trade and that are likely to remain a high priority for the industry, transport users and policymakers, as well as for the general public. For developing countries, the costs and benefits of compliance with these international instruments need to be better understood to ensure wide ratification and implementation as well as adequate technical assistance and capacity-building measures.

A. The 2010 HNS Protocol

27. An international diplomatic conference on the revision of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (the HNS Convention) was held under the auspices of IMO on 26–30 April 2010. The Conference adopted a Protocol to the HNS

¹² Implementing recommendations of the 9/11 Commission Act of 2007. Public Law 110–53. 3 August 2007.

¹³ See also: “Postponement of the United States’ 100 per cent container scanning requirement”. UNCTAD Transport Newsletter no.45 (UNCTAD/WEB/DTL/TLB/2010/1).

¹⁴ See the testimony of the Secretary of the United States Department of Homeland Security on “Transport security challenges” before the United States Congress Senate Committee on Commerce, Science and Transportation, December 2009.

Convention with a view to bringing the Convention into force and addressing practical problems preventing many States from ratification.

28. The HNS Convention is based on the model of the International Convention on Civil Liability for Oil Pollution Damage (CLC), 1969 and its 1992 Protocol, and also on the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Fund Convention) 1971 and its 1992 and 2003 Protocols. The HNS Convention seeks to establish a two-tier system for compensation to be paid in the event of pollution incidents involving hazardous and noxious substances such as chemicals. Tier 1 relates to shipowners' liability that is backed by compulsory insurance cover. Tier 2 relates to a fund financed through contributions from receivers of the HNS. The Fund intervenes when the shipowner's insurance does not cover a given HNS incident or is insufficient to cover the claim. Contributions to the Fund will be made according to the amount of HNS received in each State in the preceding calendar year.

29. One of the major obstacles to ratification of the HNS Convention has been difficulties regarding one of the key requirements under the Convention – the submission of reports on “contributing cargo” i.e. on HNS cargo received by each state. Other obstacles appear to be related to the setting-up of a reporting system for packaged goods, and the difficulty of enforcing payment in non-State Parties of contributions to the liquefied natural gas account established under the Convention. By addressing these problems, the HNS Protocol 2010 is considered an important development towards the strengthening of the international liability framework for ship-source pollution. The new instrument will be open for signature from 1 November 2010 to 31 October 2011, after which date it will remain open for accession. Its entry into force for Contracting States will lead to entry into force of the 2006 HNS Convention as amended by the 2010 Protocol.

B. The 2009 Ship Recycling Convention (Hong Kong Convention)

30. Ship-scraping is an environmentally unfriendly activity, which, over the years, has shifted to developing regions, where labour, environment and safety regulations are less stringent. To promote environmental sustainability and safe labour conditions, joint efforts to address this problem were made by IMO, the International Labour Organization (ILO) and relevant bodies of the Basel Convention, and culminated in the adoption of the *Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships (Hong Kong Convention)* in May 2009.

31. The new convention aims to provide globally applicable ship-recycling regulations for international shipping and for ship-recycling activities. It provides regulations for the design, construction, operation and preparation of ships so as to facilitate safe and environmentally sound recycling without compromising the safety and operational efficiency of ships. It also establishes appropriate enforcement mechanisms for ship-recycling, including certification and reporting requirements.

32. The Convention was open for signature from 1 September 2009 until 31 August 2010, and remained open for accession thereafter. It will enter into force 24 months after the date on which 15 States, representing 40 per cent of world merchant shipping per gross tonnage, have agreed to be bound by its provisions. In addition, the combined maximum annual ship-recycling volume of those States must, during the preceding 10 years, amount to at least 3 per cent of their combined merchant shipping tonnage.

C. The 2006 Maritime Labour Convention (MLC)

33. The year 2010 has been designated as IMO's "Year of the Seafarer". International efforts to improve the regulatory regime for seafarers are ongoing, and the strategic role of seafarers in enabling global shipping is increasingly acknowledged.

34. A major recent undertaking has been the adoption of the joint IMO/ILO *Maritime Labour Convention* (MLC) in February 2006, which consolidated and updated more than 65 international labour standards relating to seafarers. This important instrument is intended as a fourth pillar, next to three IMO Conventions – namely the International Convention for the Safety of Life at Sea, 1974 (SOLAS); the International Conventions on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW); and the International Convention for the Prevention of Pollution from Ships (MARPOL).

35. The MLC aims to protect seafarers by addressing the evolving realities affecting shipping and by setting the minimum requirements for seafarers to work on a ship. Relevant provisions cover, for example, conditions of employment, hours of work and rest, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection. It also establishes a strong compliance and enforcement mechanism based on flag State inspection and certification of seafarers' working and living conditions. It will enter into force after ratification by 30 ILO member States with a total share of at least 3 per cent of world tonnage. With 10 ILO member States having ratified the MLC as at 30 June 2010 and with reported progress in many other countries, it is hoped that the number of ratifications needed for entry into force will be achieved in 2011.

III. Trade facilitation: Ensuring coherence between national policies and international commitments

36. Trade facilitation is a key consideration that further determines the level of integration into the global trade and economy. Launched in 2004, negotiations on trade facilitation under the auspices of the World Trade Organization (WTO) have made important advances, although progress has seemed to be withering away lately (section A, below). In parallel, developing countries are increasingly engaging in regional transport and trade facilitation initiatives (section B). On the national level, countries are seizing synergies between national trade facilitation objectives and commitments at the multilateral and regional level (section C). Finally, advances in information and communication technologies are providing further challenges and opportunities to facilitate international trade (section D).

A. The multilateral dimension: progress in the WTO negotiations on trade facilitation

37. In 2004, WTO members engaged in the negotiation of new rules to improve trade procedures and advance trade facilitation reforms globally. Negotiations were based on a revision of GATT Articles V, VIII, and X. Despite progress made so far, the advances have slowed down recently, and tensions between competing demands have emerged. The impact of these negotiations, however, goes beyond WTO, and has strengthened international cooperation on trade facilitation and initiatives on the national and regional level.

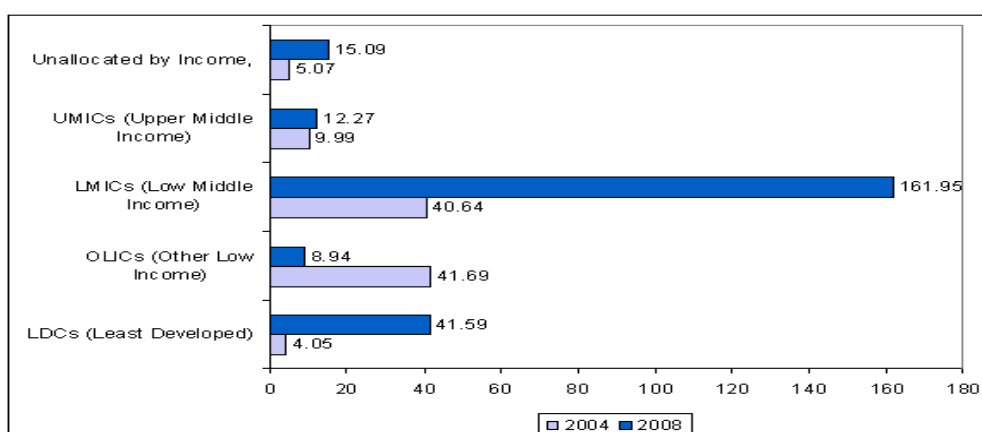
38. In December 2009, the WTO Negotiating Group on Trade Facilitation (NGTF) issued a draft consolidated negotiating text. This was a major achievement, as it captured

the progress made since, and reflects the level of agreement over the scope of new WTO rules in the area of trade facilitation. Although it contains multiple square brackets, which indicate non-agreed language, it was widely expected that delegations would only have to “clean up” the text and replace the bracketed text with agreed language.

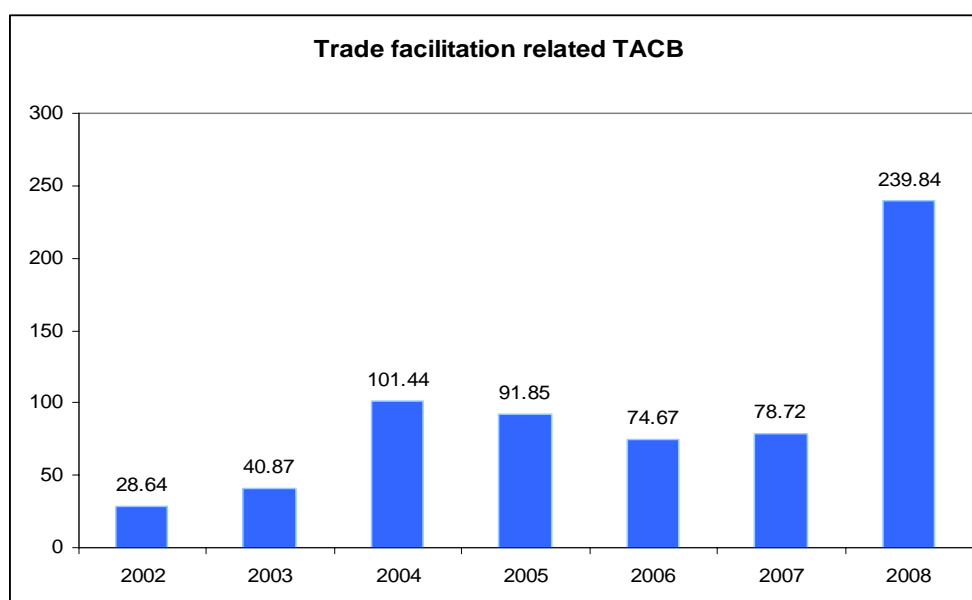
39. These expectations have so far failed to materialize. Delegations seem unable to advance in furthering agreement over the draft language. The number of brackets has actually increased, and the positions of WTO members have begun diverging over various details of the proposed rules, such as their structure and legal status. Debates have built up around principles which were thought to have been acquired long ago, such as the principle of approximate cost of the services rendered for the calculation of the service fee and charge, or the use of either prohibitive or permissive rules on some areas such as customs brokers and consular transactions. Another area of tension is the legal status conferred to the rules. At some stage, more than two thirds of the draft text included best endeavour language, such as “to the extent possible” and “may” or “should”. Such language has the effect of reducing the legal force of the rules up to the point of making the rule non-mandatory.

40. The competing demands regarding the legal force at this stage of the negotiations result from developing countries’ concerns about their capacity to implement the new obligations. When the trade facilitation negotiations were launched, many developing countries had rallied behind the negotiations with the expectation that their implementation needs would be addressed. The negotiations mandate agreed upon in 2004, the so-called Annex D, recognizes the capacity constraints of developing countries and stipulates that these would be addressed either by flexibility in the application of the new rules or through technical assistance. Based on this mandate, delegations have attempted to draft special and differential treatment (S&DT) provisions, which use the concept of graduation coupled with access to technical assistance: if developing countries are missing implementation capacity for any of the rules, they would have additional time and access to adequate technical assistance to undertake necessary reforms before being subject to compliance with the rule. Despite the progress made with the drafting of the S&DT provisions, developing countries remain worried in view of the lack of guarantees of technical assistance delivery. This explains countries’ current strategy of using “best endeavour” language as a means to include flexibility into the draft text.

41. The current tensions at the negotiations level pose a risk to the political support that trade facilitation has enjoyed in recent years. A broad consensus had emerged around a shared understanding of the benefits of trade facilitation reforms and the need to advance in a cooperative manner. This dynamic was not only felt at the level of the WTO. Other multilateral and regional instruments gained support, and technical assistance funds dedicated to trade facilitation increased from \$28.4 million in 2002 to \$239.84 million in 2008, with an increasing proportion assigned to LDCs (see fig. 2 and fig. 3 below).

Figure 2. Trade facilitation–related TACB by income group

Source: OECD, AfT data, QWIDS, accessed July 2010; all figures re in million USD 2005.

Figure 3. Trade facilitation–related TACB by year

Source: OECD, AfT data, QWIDS, accessed July 2010 all figures re in million USD 2005.¹⁵

42. In many developing countries, efforts to define a strategic policy direction on trade facilitation have only been undertaken recently. A successful conclusion of the WTO negotiations on trade facilitation would ensure continued public scrutiny and attention to the implementation progress and the challenges of developing countries.

¹⁵ Country classification: OECD / DAC List of ODA recipients classification per capita GNI. LDCs (< US\$ 934); OLLC (< \$935); LMIC (\$936–\$3,705); UMIC (\$3,706–\$11,455).

B. The regional dimension: Trade and transport facilitation as part of regional trade agreements

43. The number of trade facilitation initiatives at the regional level and the inclusion of trade facilitation-related commitments in regional trade agreements (RTAs) has exploded in recent years. A potential explanation lies in the fact that many trade facilitation measures are achieved more easily at the regional than at the global level, including those that involve infrastructure, transit, common standards, and facilities such as opening hours at border crossings. Regional partnerships and cooperation in trade and transport facilitation can often provide a catalyst for national trade facilitation reforms. Regional solutions are often aimed at reducing transportation costs by improving transport infrastructure, transit arrangements and trade facilitation at the border crossings of neighbouring countries. These are, therefore, particularly critical for LLDCs.

44. Several LLDCs have been active during the multilateral negotiations at WTO, especially as regards Article V (Transit). Although there is a multilateral legal basis for rights of landlocked transit as outlined in Article 125(1) of the United Nations Convention on the Law of the Sea, in practice, this right of access must be agreed upon with the transit neighbour (Article 125(2) and (3)) and is thus determined by the relationship between the countries. Bilateral or regional transit agreements regulate the many aspects linked to international transit operations. They reflect the unique characteristics of the countries concerned, their economic development, political and diplomatic relations, infrastructure and transport, as well as customs resources and management.

45. Trade and transport facilitation across a region may follow different approaches, depending on the degree of economic integration and political cooperation. More heterogeneous regions may need special case-by-case approaches that focus on specific facilitation measures. Regions already having a preferential or free trade agreement or customs union tend to work towards introducing comprehensive, all-inclusive measures.

46. The scope and depth of trade facilitation measures included in RTAs varies greatly. Measures covered range from a narrow scope of trade facilitation, which mostly focuses on customs-related matters and the simplification of trade documents and procedures, to a broader scope. The broader scope covers trade facilitation measures related to transport and logistics development, technical standards and sanitary and phytosanitary measures, electronic commerce, facilitation of payments and mobility of business people.

47. For example, the RTAs with the most comprehensive coverage of trade facilitation include the RTA concluded between Canada and Costa Rica, and the Asia-Pacific Trade Agreement. Attaching great importance to transit issues, COMESA, in addition to elaborate provisions on trade facilitation, contains a separate and detailed protocol on transit trade and facilities. Interestingly, RTAs concluded between the countries with well developed ICT infrastructure, such as United States–Singapore, ASEAN–Japan, and Australia–Thailand, contain provisions encouraging the use of ICT solutions ranging from customs automation to paperless trade and electronic commerce transactions between business operators.

48. In South America, two regional agreements – in the Andean Community and in MERCOSUR – aim at facilitating multimodal transport (i.e. a trade transaction where goods are carried by at least two different modes of transport, but with a single transport contract). The multimodal transport operator must keep a contractual civil responsibility insurance policy that covers the risks of loss, deterioration or delay in the delivery of the merchandise covered by the multimodal transport contract.

49. In Asia, APEC and ASEAN are considered as leaders in regional trade facilitation initiatives. In case of APEC, trade facilitation reforms are driven by the efforts of member

economies to reduce overall trade transaction costs. The majority of trade facilitation initiatives and measures have been carried out under two subsequent trade facilitation action plans (2001 and 2007), and have been confined to border issues such as customs facilitation, APEC travel card, and facilitating the movement of goods via adoption of harmonized standards and mutual recognition agreements.

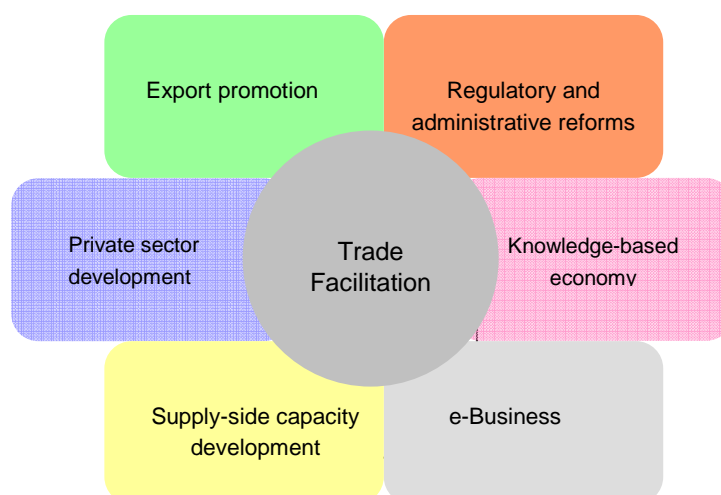
50. Regional trade facilitation initiatives have a positive impact on trade and development as such, since trade facilitation measures undertaken at the regional level rarely have a preferential effect. Unlike some other issues covered by RTAs, where, for example, the “spaghetti bowl” of the rules of origin or standards conformity assessment might complicate rather than facilitate trade, a web of trade facilitation measures is generally conducive to trade beyond the region concerned. Making a distinction between streamlined customs clearance procedures and release of goods originating from a RTA partner, and more burdensome procedures for third-party goods, might not be only impracticable, but also contradictory to WTO’s most favoured nation principle. Trade facilitation measures applied within RTAs thus positively affect all traders operating in a country concerned, and not only to traders from the countries participating in the RTA.

51. The references to global standards and rules such as those of the WTO and WCO also ensure that there is no “spaghetti bowl” effect of potentially conflicting trade facilitation measures in RTAs. In many regional agreements and initiatives, the application of multilateral trade agreements under WTO (such as GATT Articles V, VII, VIII and X and the Customs Valuation Agreement), and the international conventions and standards of the WCO (such as the Revised Kyoto Convention and the WCO Data Model), are being explicitly reaffirmed. This suggests that regional trade facilitation efforts not only contribute to regional integration, but may also be conducive to the convergence of trade and customs procedures worldwide.

C. National trade facilitation strategies and partnerships

52. Trade facilitation is a trade competitiveness factor and it affects the trading community as well as governments. It is not a specific sectoral policy, equivalent to – for example – environmental or health policy. Rather, it is a strategic policy goal to reduce costs and to make the trading environment more predictable, efficient and transparent. As such, it is linked to other strategic public policy interests, such as those depicted in figure 4 below. Its presence in national trade development strategies is indispensable.

Figure 4. Trade facilitation linkages to other strategic public policy goals



53. Therefore, aspects of trade facilitation reforms are often incorporated into other strategic planning processes. But very few countries have formulated an independent trade facilitation strategy. Box 2 below highlights some of these particular cases.

Box 1. Country examples of national strategies prioritizing trade facilitation reforms

Zambia prioritized trade facilitation reforms within the context of the first Private Sector Development Reform Programme (PSDRP) that it embarked on for the period 2004 to 2008. The aim was to reduce the cost of doing business and encourage competitiveness in the private sector. The PSDRP has six reform areas, and many goals and interventions overlap with trade facilitation goals, in particular the aspect of improving regulation.

Pakistan adopted the National Trade Facilitation Strategy, with the “vision to make the systems and procedures for transacting business in Pakistan at par with the best in the world to promote sustainable development and economic prosperity”. The strategy involves the following elements: human resource development; performance indicators and benchmarking; freight forwarding; transport legislation; transit transport; adoption of electronic trade documents; SPS controls; Pakistan Customs; and NTTFC.

In Thailand, enhancing trade facilitation became one of main strategic pillars of the Logistics Development Master Plan for the period 2007–2011. The other pillars are improving logistics efficiency in industry, enhancing transport and logistics systems, and developing human capacities in logistics, including logistics service provider businesses. The main objective of the master plan is to reduce logistics costs by 5 per cent, while enhancing business responsiveness, reliability and security. The trade facilitation component focuses mainly on the reduction, simplification and harmonization of export and import procedures and documents, and the establishment of the national single window.

54. Government action in the area of trade facilitation comprises various elements such as simplification of the regulatory framework, procedures and formalities; modern operations and information and communication technologies (ICT); human resource training; agency cooperation; cross-border cooperation; and private–public dialogue. A key element of successful trade facilitation reforms is public–private dialogue. Trade facilitation involves many different organizations which are interconnected and linked by formal or informal relationships. Consequently, solving the problems related to trade facilitation requires collective action. A trade facilitation strategy would, therefore, ideally build on a framework that allows for participation and communication between the different organizations.

55. The effective management of the interface between regional and multilateral trade facilitation initiatives demands greater synergy between national development objectives and external commitments at different integration levels. This, in turn, requires the development of a national trade facilitation strategy, as part of a comprehensive development-oriented trade policy. Such a national trade facilitation strategy needs to be synchronized with the commitments of developing countries arising from the regional and multilateral trade facilitation initiatives. At the same time, developing countries should ensure that the regional and multilateral efforts are mutually supportive and coherent, while maximizing the development gains from the implementation of trade facilitation measures. To this end, prioritization and sequencing of the implementation of the multilateral and regional commitments is vital, and must be supported by appropriate institutional and human capacities. The implementation cost will also be an important factor to consider.

Developing countries therefore need to identify the resources and assistance required for more complex trade facilitation measures, such as – for example – measures requiring sophisticated information technologies. Accordingly, each country should assess its current trade facilitation conditions and its existing and potential international commitments and priorities, and develop national technical assistance and capacity-building support plans in collaboration with the international community and donors.

56. Aid for Trade has emerged as a significant means for carrying out trade facilitation reforms. The volume of trade-related technical assistance and capacity-building support has been increasing steadily since the launch of the Doha Development Round.¹⁶ The role of Aid for Trade in implementing future commitments under emerging WTO trade facilitation agreements will be critical, too. To this end, Aid for Trade could help ensure that developing countries synchronize and properly sequence the overarching trade facilitation commitments and measures made at the national, regional and multilateral level.

57. In its work with governments, UNCTAD supports an understanding of trade facilitation as a system. Such a system can best be understood in the context of the relationships of all stakeholders involved in or affected by trade facilitation, both from the public sector and the business community. The approach of “system thinking” builds on the identification of the different stakeholders and the analysis of the relations and interconnections among them. It promotes participatory approaches, communication and policy learning to arrive at a collective strategy to optimize trade facilitation. It can be applied both to strategic issues, such as defining negotiating strategies, positions and priority measures vis-à-vis the multilateral and regional efforts, and to operational issues, including improving export or import procedures, introducing automated customs systems, or simplifying transit procedures.

D. The use of ICTs in logistics, trade facilitation and supply-chain security

58. Information and communications technologies (ICTs) open a wide range of options and propose multiple solutions for dealing with the challenges faced in international trade. The capacity of the technology to manage the information flows by normalizing data, documents and messages, and implementing efficient procedures, has led to its adoption by customs agencies worldwide. The biggest challenge for developing countries is not obtaining the technology, but implementing proper procedures and building the capacity to apply this technology in viable and responsive systems. Other challenges concern the physical movement of the goods, or logistics; the formalities required to smoothly conduct this movement, as addressed in trade facilitation; and the means and conditions to do it safely, called supply-chain security. It was in the mid-1990s that UNCTAD identified the first signs of the potential of global information networks and the benefits that these could have for trade. The United Nations World Summit on Trade Efficiency (held in Columbus, Ohio in 1994) organized by UNCTAD looked at how to reduce transaction costs by applying information technologies to every link of the trade transaction chain. The Columbus summit was a prelude to the incorporation in 1996 of Trade Facilitation into the WTO agenda.

59. Logistics essentially relate to business-to-business (B2B) transactions where a client requests services from providers in transport, handling or conditioning the goods. These services are mainly provided by private companies, for which efficiency is a condition for competitiveness and growth. ICTs have been in use in the logistics industry for quite some

¹⁶ WTO (2010). Aid for Trade and the WTO work programme. Available at http://www.wto.org/english/tratop_e/dda_e/background_e.htm.

time. ICTs allow online booking, billing, cargo space allocation, and tracking of cargo. They have been instrumental in ensuring timely deliveries, supply-chain transparency, in bringing accuracy, in the streamlining of processes and in cost reduction. They have also contributed to supply-chain security and trade facilitation.

60. ICTs in the business-to-governments (B2G or G2B) arena have only developed much more recently, and have actually shown significant potential as key drivers for trade facilitation. Trade facilitation aims to optimize the international trade environment by normalizing and simplifying data and documentary requirements, by reducing formalities while globally increasing productivity. This objective is reached by implementing efficient procedures capable of satisfying the requirements of both the controlling agencies (including Customs) and the trade community. The move toward a dematerialized environment and the use of digital multimedia documents, replacing paper forms, is only possible in a computerized environment. Similarly, the implementation of procedures such as Direct Trader Input (DTI) or Automated Selectivity Control must rely on powerful and efficient computerized customs systems.

61. Security has, nowadays, acquired paramount importance for the international transport of persons and goods, and therefore new requirements have been imposed on the international supply chain. Border crossing represents one of the crucial steps in the supply chain. Border protection involves multiple controlling agencies, whose activities must be coordinated in order to streamline the controls (one-stop shop) and to reduce the burden on the transport community. New measures and new procedures (such as those defined in the WCO Framework of Standards) have been designed and are continuously being implemented to enhance security levels. ICTs allow new types of controls, such as the non-intrusive inspection of cargoes (container scanning), the provision of information prior to the arrival of goods (pre-arrival data), and enhanced techniques of control based on risk analysis and automated selectivity. All of these solutions make use of powerful ICT instruments.

62. Through its ASYCUDA programme, UNCTAD has been involved in this process for more than 25 years. ASYCUDA assists beneficiary countries in customs reform and modernization through the automation of procedures and operations. ASYCUDA has been a major actor in this evolution in more than 90 developing and transition-economy countries, by providing them with modern and highly reliable integrated IT solutions, together with capacity-building and functional assistance. ASYCUDA has worked with these countries' customs administrations and trade communities on data and document standardization, and on the simplification of procedures towards trade facilitation in a secure environment.¹⁷

IV. The way forward

63. Against the backdrop of a fragile and uncertain world economic recovery, the considerations raised in this note highlight the breadth of issues facing international transportation systems, and underscore the challenge of making headway on a wide range of transport and trade facilitation objectives and priorities. Innovative thinking in transport and trade facilitation will be crucial if the world transport and trade networks are to meet the ever-more sophisticated demands of the twenty-first century. To guide experts in their deliberations, the following questions are proposed for consideration:

¹⁷ See <http://www.asycuda.org> for more details.

- (a) What are the main challenges and opportunities in the field of transport and trade facilitation presented by (i) the global financial and economic crisis; (ii) supply-chain security imperatives; (iii) concerns about the long-term sustainability of affordable energy supplies; and (iv) concerns about environmental sustainability and climate change? How can these best be addressed at the national, regional and international level?
- (b) What measures may be taken to control the level of transport costs, including in the light of high oil-price levels?
- (c) What can be done to ensure that international instruments on environmental regulation and sustainability in shipping are implemented widely?
- (d) What has the impact been of the WTO trade facilitation negotiations on national and regional trade facilitation reforms, and how can such reforms best be supported? How can trade facilitation be streamlined into national development strategies and technical assistance programmes, and how can the international community contribute to the corresponding capacity-building programmes?
- (e) How best to capitalize on existing synergies and improve the common interest of transit-developing countries and LLDCs, including in relation to supply-chain security and trade facilitation? What are the main challenges facing SIDS in relation to transport and trade facilitation, and what are the key determinants for successful policy action?
- (f) Which measures are required in ICT to better implement reform, transfer knowledge, and build capacity, and what role does the international community play?