

Technical note on the WTO Trade Facilitation Agreement

Article 2.2: Consultations

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Consultations: Article 2.2

Lack of engagement with traders and other stakeholders often leads to disconnection and mistrust between border agencies and traders. This impedes traders' access to border agencies for consultations on customs procedures, fees and charges, and other practical issues related to border trade.

Border agencies shall, as appropriate, hold regular consultations with traders or other stakeholders.

To overcome these challenges, Article 2.2 requires WTO Members to facilitate regular consultations between border agencies, traders and other stakeholders involved in customs and other border operational practices to obtain their views on matters directly affecting them.

Regular and constructive consultation enables border agencies and traders discuss the most efficient and least cumbersome measures to achieve regulatory objectives which in turn leads to higher compliance levels and better trade outcomes.

The measure

ARTICLE 2 OPPORTUNITY TO COMMENT, INFORMATION BEFORE ENTRY INTO FORCE AND CONSULTATION

2 Consultations

Each Member shall, as appropriate, provide for regular consultations between its border agencies and traders or other stakeholders located within its territory.

Understanding the measure

What is covered?

Core obligation

Members are required to take all necessary steps to set up mechanisms for regular consultations between border agencies, traders and other stakeholders within the territory of the country.

Article 2.2 constitutes a mandatory provision for Members. However, the expression 'as appropriate' not only provides flexibility on how but also on the frequency, scope of consultations, objectives and stakeholders invited to be part of the consultations.

The reference to other stakeholders can refer to a wide variety of interested parties including – but not limited to – traders, freight forwarders, authorized operators, business membership organizations, associations of traders, academics, professionals and civil society. Likewise, the reference to border agencies includes all government bodies involved in procedures related to cross-border trade.

What is not covered?

Specific issues that should be the subject of consultations are not mentioned in the measure. The organizational means and frequency of consultative meetings are also not mentioned, hence countries are left free to select any means or channels, as appropriate to their unique context.

The measure does not also require the adoption of any specific legislation for its implementation. This obligation can be achieved through an established practice or through the NTFC.

Benefits and opportunities for stakeholders

Regular consultations ensure that the private sector and other interested parties can have a consistent voice in institutional fora to discuss and effectively address challenges in cross-border trade. Consultations can also help streamline trade activities and improve traders' confidence regarding government procedures, increasing transparency and accountability. Traders will be better able to comply with new requirements as soon as new laws, regulations, procedures and systems enter into force, improving the competitiveness of their business.

A regular system of consultations also reduces incentives for corruption and informal practices, and improves the member country's reputation among stakeholders. Just as important, the longer-term benefit is a substantial mind-set change among border agencies and government authorities. Uncooperative and uncoordinated policies which do not fully take into account the private sector's views will be replaced by regular collaboration which aims to respond effectively to businesses' needs.

Implementation

Implementation checklist

The following checklist may be used to estimate the level of compliance with the measure:

- There is in place a national implementation framework that ensures regular consultation between border agencies, traders and other stakeholders.
- In practice, border agencies and stakeholders within the territory of the member country hold regular consultations.

Preparing a national implementation plan

The following template may be used as a basis for the national implementation plan:

Implementation sequence	Actions suggested
	Preparatory phase
	Determine whether a national legal and administrative mechanism exists to facilitate the implementation of this measure.
	If one or various mechanisms exist, determine its characteristics and scope of action.
	If there is no existing mechanism, analyse the country's needs and decide which type of mechanism will be more suitable to ensure the implementation of this measure.
	Set-up phase
	If necessary, adopt an appropriate legal and administrative framework to implement the measure.
	Analyse and change existing workflows and business processes to find solutions and mechanisms for incorporating regular consultations into the administrative framework.
	According to the scope of action and responsibilities of the mechanism, assign appropriate resources (financial, human, etc.).
	Management and follow-up phase
	Nominate an agency responsible for monitoring and evaluation.
	Periodically review and implement modification or upgrades to the mechanism.
	Ensure that feedback from consultations are systematically incorporated into the administrative framework to address problems.

Average time for implementation	One year
Leading implementation agency	The ministry of trade is most commonly chosen as the leading implementation agency. The NTFC can also be the appropriate forum for these consultations.

Key challenges

Lack of coordination among border agencies can be a significant challenge. Moreover, some countries may not have the necessary ICT infrastructure and culture to implement this measure. Private sector’s lack of awareness of consultative mechanisms will hinder engagement.

Key factors for success

Allocation of funds to facilitate meetings is critical to organize effective public-private consultations. Promoting coordination and regular communication on consultations between border agencies and the public sector is a key factor for successful implementation.