

## International Trade Alert

December 18, 2013

### The New WTO Trade Facilitation Agreement

On December 7, 2013, the 159 members of the World Trade Organization (WTO) approved a new Agreement on Trade Facilitation (ATF), which is meant to expedite and streamline the customs processing of imports and exports. The ATF is expected to bring significant gains to businesses engaged in international trade by cutting red tape and making it easier for them to move merchandise—be it inputs, intermediate goods or final products—across borders. According to the WTO, the ATF could reduce the costs of trade by between 10 percent and 15 percent.

Specifically, the ATF calls on WTO members to incorporate the following procedures into their domestic customs policies:

- **Advance Rulings:** A process allowing importers to request binding rulings prior to importation on the appropriate tariff classification and country of origin of their merchandise. Businesses can take advantage of this procedure to assist in planning new product lines and to investigate new markets because it provides the company with certainty on expected import costs.
- **Faster Release Times:** Implementation of pre-importation acceptance of import documentation to speed up the customs clearance process when the goods arrive at the border. Additionally, the ATF requires members to separate the final determination of customs duties and fees from the customs clearance process to allow for more efficient procedures at the border. The ATF also includes provisions to establish risk-based enforcement of customs laws, including post-importation audits and the creation of trusted trader programs to afford additional ease in facilitation for sophisticated importers and exporters with extensive compliance programs.
- **Courier Services:** Special procedures for goods entered through air cargo facilities to minimize the documentation requirements for the release of merchandise, expedite customs clearance of those shipments and create *de minimis* shipment exemptions for certain low value or low dutiable amount shipments. Members may limit the benefits to importers who meet certain criteria such as policies to maintain tight control over the shipments and to ensure the proper payment of duties, taxes and fees.
- **Reduced Customs Formalities:** Review of customs formalities and documentation requirements to ensure that the requirements promote the rapid release and clearance of goods, reduce the time and costs incurred by importers and are the least trade-restrictive measure.

While the ATF text is essentially finalized, the negotiating process is far from over. Now is the time for businesses to engage with developing country members, who have some flexibility to determine when

they will be bound by certain commitments. Each developing country will have three categories of commitments:

- Category A commitments are those that the respective country agrees to implement upon the entry into force of the ATF.
- Category B commitments are those that provide the developing country with a fixed transition period during which it may defer implementation of the commitments.
- Category C commitments are those that are deferred until the developing country concerned has acquired the capacity to implement them.

Although category C may appear to be somewhat open ended, there is an important additional element that should operate as a counterweight. Implementation of the ATF is intended to be accompanied by technical cooperation and financial support, particularly from the multilateral lending institutions, such as the World Bank and regional development banks. The availability of this technical cooperation and financial support should provide incentives for the implementation of category C commitments within a reasonable timeframe.

During 2014, all developing country WTO members (including large U.S. trading partners such as China, Brazil, India, Mexico, Saudi Arabia and Colombia) will have to indicate which commitments they will implement immediately and which they will defer and for how long. In theory, these are “self-designations,” however, in practice, there will be opportunities for businesses to shape the process through advocacy and active engagement in the process. Businesses who want to see customs procedures expedited and streamlined in their key markets through the ATF have a unique opportunity to engage with, and encourage ambitious commitments by, developing countries.

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