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RECOMMENDATION ON ENCOURAGING PRIVATE SECTOR PARTICIPATION IN NTFB

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Recommendation

Introduction

This recommendation advocates to governments the importance of an active engagement of the private sector in National Trade Facilitation Bodies (NTFBs) to strengthen the relevance, legitimacy, and performance of such a body. United Nations Economic Commission for Europe (ECE) Recommendation No. 4 originally approved in 1975 and revised in 2015 provided and stressed that governments and the trading community should aim to establish a National Trade Facilitation Body (NTFB) which embraces the views and opinions of all stakeholders and pursues agreement, cooperation, and collaboration.

Many countries have set up a national trade facilitation body, frequently referred to as a National Trade Facilitation Committee. Private sector representatives may be included in the membership and/or even in chairmanship of these bodies. But not all NTFBs are successful in securing active private sector engagement.

Recognizing that there are many barriers to active private sector engagement with NTFBs, this recommendation provides practical guidance to create a trusted, permanent, and effective environment for public-private sector dialogue in the NTFB.

Purpose and Scope

Over the past number of years governments, donors and international organizations have invested into establishing NTFBs, and such bodies currently exist in many countries around the world. According to the 2021 United Nations Digital and Sustainable Trade Facilitation Survey, 101 out of 142 respondent economies have established NTFBs and 26 have partially established NTFBs.

A motivational driver for governments to set up such a body is the implementation of the WTO Trade facilitation Agreement, which entered into force in 2017. Pursuant to Article 23.2 of the TFA, governments have to set up a national committee for the implementation of the TFA or entrust this function to an existing body. Whilst the provision does not prescribe the composition of such committee, guidance from UN organizations such as UNECE, ITC, UNESCAP and UNCTAD, the WCO stress that such committees should have balanced membership from both public and private sectors.

Surveys of the current state of NTFBS point out that must have at least one formal private sector representative. This is a first step to give the private sector a voice in discussions, deliberations, and decisions. However, formal membership is not by itself sufficient to ensure active engagement which entails active participation, ownership and commitment and trust. In fact multiple factors work against active engagement, such as the costs of in-person participation, knowledge and language gaps, conflicting interests and perspectives, lack of reputation and political commitment to the NTFB, lack of feedback and results, and risks of regulatory capture by dominant vested interests. In the light of the above, a NTFB has to actively manage private sector participation in a manner that is inclusive, transparent, informed and empowering.

This recommendation addresses the challenge of mobilizing private sector engagement. It provides guidance on how to actively strengthen access to NTFBs for private sector representatives, motivate private sector representatives to engage, and to strengthen the impact of NTFBs for private sector activities.

Benefits

Strong private sector engagement positively impacts a NTFB’s relevance, legitimacy, and credibility and encourages a business-centric approach to trade facilitation.

Firstly, consultation with the private sector leads to holistic solutions that respond better to actual trade facilitation needs and problems. The private sector has direct, first-hand knowledge of
bottlenecks and inefficiencies. It thus can be the link between government interventions and
business operations, providing meaningful input on the real pros and cons of regulations and
procedures.

Secondly, the private sector can share knowledge of solutions and practices with the government,
such as piloting of new technologies such as artificial intelligence, blockchain technology and the
Internet of Thing (IoT). Involving and learning from the private sector can strengthen public sector
innovation capacity and promote fresh thinking.

Thirdly, the private sector is also a contributing partner in trade facilitation. This refers both to the
private sector internalizing and taking responsibility for compliance, as well as the private sector
contributing information and data for problem identification and decision-making.

Fourthly, an emphasis on encouraging women-led businesses or their representatives, many of
which are small cross border traders, to participate in NTFBs will enable a gender responsive
approach to trade facilitation initiatives.

Fifth, there should be a strong Secretariat to support the functioning of the NTFB. The Secretariat
should be equipped with motivated staffing and adequate budgets in order to carry out the follow-
up and monitoring of the agreed actions and activities and provide other support services.

Finally, it is often said that consulting with the private sector is a contingent and mediating factor
that can promote acceptance and legitimacy of decisions and reforms. A trusted dialogue is key to
overcoming resistance to change from specific stakeholders.

International Standards

This recommendation complements UNECE Recommendation No. 4 on National Trade Facilitation
Bodies and Recommendation No. 40 on Consultation Approaches by providing focused insights on
the ability of NTFBs to facilitate private-public dialogue.

UNECCE Recommendation No. 4 recognizes the importance of private membership in NTFBs and
recommends that such bodies should include representatives from all industry sectors, all types and
sizes of business, and institutions taking part in international trade: manufacturers, importers,
exporters, freight forwarders, customs brokers, carriers, banks, insurance companies, etc.

UNECCE Recommendation No. 40 lists six basic principles to be met for trade facilitation consultation
approaches, including for NTFBs: partnership and trust, transparency, managing differences of
opinion and interests, results orientation, consultations as an iterative process with respect for time
and timing, and accountability and responsibility.

Recommendation

In light of the above, UN/CEFACT recommends the following:

- Ensure sufficient private sector representation in NTFB as formal members and regularly
  assess the contribution of these Members against transparent criteria with a view to
  propose changes to the membership if needed to strengthen engagement.
- Ensure inclusivity by offering channels and processes for participation in a flexible manner
  and beyond formal membership to allow a broader variety of type, size, and location of
  businesses, including SMEs and women led businesses to participate.
- Stress the business orientation of the NTFB by providing opportunities for the private to
  shape the agenda, contribute to deliveries, voice their needs and interests, and secure trust
  in the dialogue without fear of retribution and window dressing.
- Ensure that the NTFB is recognized by the public sector and private sector as the go-to body
  for expert advice on trade facilitation by institutionalizing the decisions and contributions it
  makes, and assigning concrete deliverables to the NTFB, and monitor and measure their
  performance.
Guidelines

A. Barriers to Overcome

The formal membership of private sector stakeholders will not automatically result in active engagement. It takes time and effort for collaborative partnership to be developed and maintained. The success depends on many factors, some of which are country specific others generic. A first step is to acknowledge the factors that work against and those that work towards active engagement. The second is to adopt practices that foster engagement, trust, and impact.

Different perspectives and priorities

The private and public sectors have different priorities and perspectives on policy issues and risks. These different positions can affect the level of trust among members and reduce their willingness to contribute and be open about feedback. At its most extreme, the control orientation and priorities of government agencies may lead to mistrust and fear of repercussions by government agencies for speaking up and criticizing. Aligning the goals can also be difficult.

A NTFB must make decisions for the general good of the economy, rather than individual companies and sectors and reforms may take time to materialize and to lead to an impact for individual businesses. The NTFB must be perceived as a credible arena where the balance between the different positions can be established, including the balance between different private sector interests.

Knowledge and language gap

Frequently, dialogue is marred by knowledge gaps. For many in the private sector, WTO matters, including the WTO TFA and trade facilitation matters, are not very well known, while the public sector often has limited understanding of the actual business operations. This gap in awareness of business operations has been accelerated by the effects of the recent pandemic which has seen a rise in paperless trade, e-commerce, and remote working by the private sector, while in many instances the public sector remains legally tied to ‘hard copy’ mode and face-to-face meetings.

The private sector is often not properly informed about the trade policy objectives and initiatives, while the public sector, at management level, may be little aware of the situation the private sector is facing when dealing with procedures.

Use of different language and terminologies often amplifies the knowledge gap. The public sector tends to use legal language and refers to the de jure design of procedures while the private sector uses business terminology and reports on the de facto application of rules and procedures. Frequent rotation in participation of members negatively affects the shared knowledge and understanding necessary for successful dialogue and trust.

Communication and perception

The reputation of the NTFB among its peers and in the public sector matters for its attractiveness. High level political commitment to trade facilitation and consultation with the private sector must be seen and heard including through clear messages. Often, there is little awareness of the work of the NTFB within the government, administration, and private sector, and an NTFB with key actors missing lacks relevance. Success stories and achievements are also frequently not actively communicated and worse, still, often not supported by private sector members which focus on pointing out shortcomings over achievements. Irregularity of NTFB and technical group meetings discourage active participation of members in the long run and a lack of communication with the public and its members lead to a perception of a non-transparent, not dynamic, and relevant body.

And, finally, as a government-led initiative, there is the risk that the NTFB is perceived as something forced on them or an obligation and disconnected from their needs and realities. From a business
perspective, compliance with the WTO TFA matters very little for operations. For the private sector, there must be demonstrable evidence that their participation is valuable and generates results in terms of trade facilitation and makes doing business easier. In the most positive scenario, the private sector will feel ownership of the NTFB.

**Cost of participation**

Participation in NTFBs is resource intensive. Businesses must allocate staff and time for the activities, and transportation costs or expenses for internet access to attend physical and online meetings. Larger companies with dedicated government relations or compliance departments can cover these costs much easier than smaller businesses. Businesses which are not located in the capital, such as small-scale cross-border traders, are also less likely to participate in meetings due to transportation costs and time away from the workplace. Small, medium, and micro-sized enterprises, women traders and regional businesses may therefore not be able to participate as equals with bigger businesses, which increases the risk that fewer private sector interests dominate and control the private sector participation.

**Acknowledgment and feedback**

NTFBs are advisory bodies without legislative or executive authority. The private sector frequently questions the lack of follow-up on the decisions and the lack of visibility of the impact of NTFBs. Associations and businesses also risk their reputation with their members if different and divergent opinions are not properly acknowledged and represented in the official communications and decisions. The private sector is not interested in being part of a box-checking private sector consultation exercise.

**Channels of participation**

Participation in activities is often limited to the formal members as defined in the legal mandate of the NTFB. Commonly, the private sector is represented by professional and / or sectoral associations. Thus, participation through representation has its advantages but may also be a barrier for interested businesses to voice their concerns and be heard, when they are not part of an association, or the association itself lacks an active and inclusive process to collect feedback from their members, namely the non-capital-based businesses and the SMEs. Interest in the NTFB may be low when relevant sectors feel that their ability to present their views is limited or when only dominant or large player interests are voiced.

Secondly, there may be too many government committees. A multitude of working groups, committees, and networks with overlapping or similar mandates is confusing for the private sector and will make the NTFB less attractive. Bodies and initiatives that function well for the private sector, such as at sub-state or agency level, should not be closed or crowded out by a new initiative to establish an NTFB.

**B. Drivers for private sector participation**

There are drivers that positively influence the engagement of the private sector. It has concrete expectations of trade facilitation reforms, a reduction in customs release times and a decrease in administrative formalities and paperwork. The achievement of these interests is a key factor in motivating the private sector to spend time and money on the NTFB. Results and progress need to be documented and communicated regularly, ideally using real life examples of the benefits for the private sector.

NTFBs offer advantages that motivate private sector to participate in meetings and activities on either personal or company time: The private sector values first-hand, early information on initiatives, projects, and legislative drafting. They get a sneak peek at proposed rules which enables them to evaluate the potential impact to the general business environment and provide feedback and workable alternatives, as well as propose possible penalties for non-compliance, to the public sector ahead of any public hearing.
Participating in an NTFB helps in building a professional network and helps the individual employee (a) enhance their knowledge and (b) participate in professional development by expanding their professional network on a global level. The individuals from the private sector that participate often have a genuine interest and volunteer their participation, which should be encouraged, as their presence at meetings not only raises their own visibility but also enhances their personal knowledge of trade facilitation principles.

C. Good practices to strengthen private sector participation.

Concrete steps to improve the engagement of the private sector in an NTFB. The solutions presented are applicable to any type and form of NTFB and can be adapted to fit the specific legal and organizational context of each NTFB. The steps are grouped into the following three action areas: motivation, access, and impact.

Action Area 1: Motivation

The recommended practices seek to attract and motivate the private sector to engage with the NTFB by strengthening empowerment and ownership.

Empowerment

It is imperative for both sectors to see themselves as customers of each other and at the same time critical stakeholders in the success of NTFBs; but primarily it is imperative that the private sector see the results of their participation and what impact they make or bring.

Recommended actions:

1. Delegation of responsibilities to both private and public sector

Commitment to the NTFB stems from a feeling of ownership and empowerment. For this the private sector needs to clearly see the impact it can make and bring to an NTFB. Delegating responsibilities for activities to the private sector will ensure their participation in the work plan of the NTFB.

This starts with involving the private sector in developing the strategy and a work plan, which is a clear map of the NTFB activities and objectives. In this process, the private sector should identify their contribution to delivering the activities and take on responsibilities for carrying out or providing leadership for the implementation of specific activities that are relevant to them. A member of the private sector and a member of the public sector can also co-lead projects and the private sector can take on responsibilities for technical working groups.

2. Inclusive agenda setting

The private sector should have a voice in the agenda setting, action planning, annual programming, and the power to call a meeting. Ideally, private sector members are consulted during the preparation of the agenda and invited to propose points to be included prior to a meeting. Private stakeholders must also be given an opportunity to propose or prioritize actions to be carried out by the NTFB. All stakeholders must appreciate that the majority of NTFB action items are created with the help and support of the private sector.

Creation of incentives

Convincing representatives to participate in NTFB activities can be a difficult sell: it’s unpaid, carries opportunity costs for the company and adds to the workload of individuals. Motivating people requires answering the question “What’s in it for me?”.

1. Professional skills development

Training and practical guidance on how to trade and on fulfilling documentary requirements are much sought after by private businesses, in particular SMEs. However, such training is not commonly delivered by the NTFB but rather by government agencies, export or trade promotion bodies or private sector associations. The NTFB can facilitate access to such training by keeping a directory and
disseminating information to its members on existing training offered by academia, professional bodies, government agencies, international organizations, and technical assistance projects. NTFBs can also carry out regular training needs assessments for its members and work with government agencies to prepare and deliver adequate training programs.

2. Community of practitioners

NTFBs can strive, when they become a recognized platform, to share experience, knowledge, and solutions among practitioners from private and public sectors. Time should be allocated for learning from each other and learning about best practices and trade facilitation solutions. Visits to border crossing points, government agencies, logistics centers, and private companies will help build a better understanding of each other and identify competencies and ideas that can contribute to solutions. Cooperation with other NTFBs can be established to share practices across borders.

3. Access to first-hand information

Access to first-hand information on government plans is a key driver for the private sector to participate in an NTFB. A session dedicated to information on legal, regulatory, or operational initiatives can be integrated as a recurring agenda item of NTFB meetings. However, access to this information should be contingent on active and regular participation to prevent companies/organizations from occupying seats only to obtain the information without the bandwidth or the interest to actively participate in the NTFB. There should be a baseline expectation that private sector NTFB members actively participate in its activities.

4. Shared understanding of objectives

Members need to feel that they belong or feel part of the committee. A shared statement of purpose in plain language is useful to create a mutual understanding of the vision, spirit of collaboration and principles of interaction. The statement should state in simple language “who we are, what we do and what we don’t do and what is expected from all participants”.

Action Area 2: Access

The recommended practices seek to ensure the inclusiveness and representativeness of the private sector in an NTFB, particularly with regards to MSMEs, women traders, individual businesses, and those businesses whose locations lie outside the political capital.

Strengthen inclusivity.

Successful private sector engagement depends on the ability to reach out to and engage the actual players, to include women traders, and to include MSMEs and new businesses. The challenge for an NTFB is to identify important stakeholders and attract their collaboration at the right level of NTFB work.

Recommended actions:

1. Pragmatic and flexible attitude towards membership:

NTFBs have members from both the public and private sectors, which all should have equal rights and obligations. In defining membership, an NTFB needs to commit to its legal rules while also remaining flexible with regards to inclusivity and engagement of private sector.

Flexibility entails combining permanent members, such as business federations or sector associations, with observers and allowing individual companies into the process. Observers, as opposed to members, may be invited for a defined period or on an ad-hoc basis, such as when participating in a technical working group. Observers can state their opinion but not have a right to vote. Private sector members should also be allowed and encouraged to take on the role of chairperson of technical working groups.

Individual companies and persons may request to become observers but must be approved through a vetting process by the NTFB. Individual companies may also be invited to provide additional input.
at single meetings when needed. In some contexts, specific rules for nomination of observers and
acceptance of individual companies will need to be defined in the legal mandate. In others,
transparency of this process may be sufficient.

An NTFB should also periodically review its formal membership to either add new or replace
members. Some NTFBs have adopted the principle of rotation of the private sector membership
among associations to ensure that different and potentially competing associations can be
represented.

2. Public consultation sessions
It may be good practice to include a public consultation session at all the meetings of an NTFB. This
session would be open to any member of the private sector to attend and to speak at. The main
objective of the session is to provide updates on regulatory or legislative changes and initiatives. This
is an opportunity to keep non-members informed, showcase achievements, and attract interest.

3. Reach out to MSME, regions and women traders.
To overcome the challenge of limited representation of women traders and MSME in professional
associations, it is recommended to set a goal of participation from each sector and to work towards
it. For example, the private sector could include 30% small business, 30% women traders. Assigning
a “regional”, “small business” or “women trader” representative with a yearly rotation is also a
practical solution to increase representativeness.

Lower barriers for participation

1. Create and maintain the virtual presence of an NTFB:
A virtual presence on social media platforms is useful for keeping the broader public informed about
the activities, offering channels of engagement outside of meetings, and increasing awareness of the
NTFB in general. It can also be used to collect feedback on specific issues and activities. Another
form of open communication is an email inbox where members can send questions or suggestions.
A website is also helpful for raising awareness about the work being done by an NTFB and in keeping
stakeholders (including the general public) informed. Websites, however, demand financial
resources and should only be considered if they are essential for delivering NTFBs objectives.

2. Use of digital tools for communication with members:
Virtual or hybrid meetings enable digital and in person participation from the private sector.
Participants who do not have the time and resources to travel to physical meetings may find it easier
to participate in an internet call. However, going 100% virtual is not recommended (see box below).
Virtual meetings are useful when broad participation is needed to ensure inclusivity of all members,
such as yearly programming. For transparency purposes a meeting report should be made available.
However, meetings should not be recorded as this may prevent people from interacting for fear of
reprisal. Physical networking events, which allow for face-to-face interaction in a less formal setting
on a yearly basis, are also important to mobilize participation.
Digital tools can also be used for immediate communication. During the COVID-19 pandemic some
NTFBs have been effectively using messenger forums or chat groups to keep communication going.
Chat groups have been effective in alerting the groups of problems and in seeking direct action. This
form of communication needs to be used with caution.

Action Area 3: Impact
The recommended practices seek to improve the impact and relevance of the NTFB by
mainstreaming private sector interests into the planning process and improving performance
management.

Mainstreaming business orientation
Recommended actions:

1. Develop a business-centric strategy for the NTFB.

The vision and work plans need to set clear goals with tangible benefits from the private sector in the vision and agenda. This requires the use of a consultative mechanism for designing the work plan. Private sector surveys and focus group meetings can be used to collect broad input from the private sector, including individual companies. It is recommended to prioritize one goal per year or a subset of goals in an annual program.

2. Evidence-based activities

An NTFB can develop a channel of communication to report bottlenecks and ensure that the issues reported filter into the work of the NTFBs. To this end, they can operate an email inbox to receive various on-the-spot reports on bottlenecks. The secretariat will periodically evaluate the reported issues and present relevant issues to the NTFB for discussion. This is a useful mechanism to align the activities of the NTFBs with private sector concerns and will lead to well-informed recommendations.

Strengthen performance measurement.

Recommended actions:

1. Progress measurement and communication

An NTFB should measure the status of implementation of the annual and mid-term work plan and progress towards the achievement of objectives using the benchmarks and indicators defined in the work plan. It should also continuously and regularly report to its own members on the progress made.

UNCTAD has developed an online tracking tool, the so-called reform tracker, that can be used by NTFBs for following up on the communications of activities post meetings. It allows individuals to log in to check the status or monitor the progress of an activity without having to meet every time.

2. Adoption of an evaluation framework

UNECE Recommendation No. 40 states that “dissatisfaction with the process and participants’ perception of an ineffective involvement may lead to their disengagement and the failure of consultation processes”. It recommends carrying out evaluations at the outcome and process level.

At the process level the evaluation can measure whether the process was effective in reaching out to and engaging the private sector and whether contribution from the private sector could be mobilized. Examples of relevant evaluation criteria for which data can be easily collected are the level of participation in meetings, the number of activities carried out by the private sector, and the number and type of activities carried out with the private sector as target.

An example of an evaluation framework is the so-called NTFC Maturity Framework, jointly rolled out by the Economic Community of Western African States (ECOWAS) and the Western African Economic and Monetary Union (UEMOA) within the West Africa region. It is a self-assessment methodology and user-friendly tool to identify the NTFB maturity baseline, develop or strengthen their respective action plan and to monitor in a regular manner their maturity progress.