

UN/CEFACT – ITP-PDA/TPF Rec on Private Sector Participation in NTFB – P1113

UNITED NATIONS
CENTRE FOR TRADE FACILITATION AND ELECTRONIC BUSINESS
(UN/CEFACT)

1 INTERNATIONAL TRADE PROCEDURES PROGRAMME DEVELOPMENT AREA
2 TRADE PROCEDURES FACILITATION DOMAIN
3
4
5 RECOMMENDATION ON ENCOURAGING PRIVATE SECTOR
6 PARTICIPATION IN NTFB

SOURCE: Project Team
ACTION: Public review

DATE: 22 May 2023
STATUS: Version 1

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10 Recommendation

11 Introduction

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13 This recommendation advocates to governments the importance of an active engagement of the
14 private sector in National Trade Facilitation Bodies (NTFBs) to strengthen the relevance, legitimacy,
15 and performance of such a body. United Nations Economic Commission for Europe (ECE)

16 Recommendation No. 4 originally approved in 1975 and revised in 2015 provided and stressed that
17 governments and the trading community should aim to establish a National Trade Facilitation Body
18 (NTFB) which embraces the views and opinions of all stakeholders and pursues agreement,
19 cooperation, and collaboration.

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

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

27

28 Purpose and Scope

29

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

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

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

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

53 Benefits

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

56 Firstly, consultation with the private sector leads to holistic solutions that respond better to actual
57 trade facilitation needs and problems. The private sector has direct, first-hand knowledge of

58 bottlenecks and inefficiencies. It thus can be the link between government interventions and
59 business operations, providing meaningful input on the real pros and cons of regulations and
60 procedures.

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

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

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

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

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

77 International Standards

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

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

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

89 Recommendation

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

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

104 Guidelines

105

106 A. Barriers to Overcome

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

112 **Different perspectives and priorities**

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

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

123 **Knowledge and language gap**

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

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

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

138 **Communication and perception**

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

148 And, finally, as a government-led initiative, there is the risk that the NTFB is perceived as something
149 forced on them or an obligation and disconnected from their needs and realities. From a business

150 perspective, compliance with the WTO TFA matters very little for operations. For the private sector,
151 there must be demonstrable evidence that their participation is valuable and generates results in
152 terms of trade facilitation and makes doing business easier. In the most positive scenario, the private
153 sector will feel ownership of the NTFB.

154 **Cost of participation**

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

164 **Acknowledgment and feedback**

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

171 **Channels of participation**

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

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

185 **B. Drivers for private sector participation**

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

192 NTFBs offer advantages that motivate private sector to participate in meetings and activities on
193 either personal or company time: The private sector values first-hand, early information on
194 initiatives, projects, and legislative drafting. They get a sneak peek at proposed rules which enables
195 them to evaluate the potential impact to the general business environment and provide feedback
196 and workable alternatives, as well as propose possible penalties for non-compliance, to the public
197 sector ahead of any public hearing.

198 Participating in an NTFB helps in building a professional network and helps the individual employee
199 (a) enhance their knowledge and (b) participate in professional development by expanding their
200 professional network on a global level. The individuals from the private sector that participate often
201 have a genuine interest and volunteer their participation, which should be encouraged, as their
202 presence at meetings not only raises their own visibility but also enhances their personal knowledge
203 of trade facilitation principles.

204 **C. Good practices to strengthen private sector participation.**

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

209 **Action Area 1: Motivation**

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

212 **Empowerment**

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

216 **Recommended actions:**

217 **1. Delegation of responsibilities to both private and public sector**

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

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

227 **2. Inclusive agenda setting**

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

234 **Creation of incentives**

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

238 **1. Professional skills development**

239 Training and practical guidance on how to trade and on fulfilling documentary requirements are
240 much sought after by private businesses, in particular SMEs. However, such training is not commonly
241 delivered by the NTFB but rather by government agencies, export or trade promotion bodies or
242 private sector associations. The NTFB can facilitate access to such training by keeping a directory and

243 disseminating information to its members on existing training offered by academia, professional
244 bodies, government agencies, international organizations, and technical assistance projects. NTFBs
245 can also carry out regular training needs assessments for its members and work with government
246 agencies to prepare and deliver adequate training programs.

247 **2. Community of practitioners**

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

254 **3. Access to first-hand information**

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

262 **4. Shared understanding of objectives**

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

267 **Action Area 2: Access**

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

271 **Strengthen inclusivity.**

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

276 **Recommended actions:**

277 **1. Pragmatic and flexible attitude towards membership:**

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

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

287 Individual companies and persons may request to become observers but must be approved through
288 a vetting process by the NTFB. Individual companies may also be invited to provide additional input

289 at single meetings when needed. In some contexts, specific rules for nomination of observers and
290 acceptance of individual companies will need to be defined in the legal mandate. In others,
291 transparency of this process may be sufficient.

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

296 **2. Public consultation sessions**

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

301 **3. Reach out to MSME, regions and women traders.**

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

307 **Lower barriers for participation**

308 **1. Create and maintain the virtual presence of an NTFB:**

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

316 **2. Use of digital tools for communication with members:**

317 Virtual or hybrid meetings enable digital and in person participation from the private sector.
318 Participants who do not have the time and resources to travel to physical meetings may find it easier
319 to participate in an internet call. However, going 100% virtual is not recommended (see box below).
320 Virtual meetings are useful when broad participation is needed to ensure inclusivity of all members,
321 such as yearly programming. For transparency purposes a meeting report should be made available.
322 However, meetings should not be recorded as this may prevent people from interacting for fear of
323 reprisal. Physical networking events, which allow for face-to-face interaction in a less formal setting
324 on a yearly basis, are also important to mobilize participation.

325 Digital tools can also be used for immediate communication. During the COVID-19 pandemic some
326 NTFBs have been effectively using messenger forums or chat groups to keep communication going.
327 Chat groups have been effective in alerting the groups of problems and in seeking direct action. This
328 form of communication needs to be used with caution.

329 **Action Area 3: Impact**

330 The recommended practices seek to improve the impact and relevance of the NTFB by
331 mainstreaming private sector interests into the planning process and improving performance
332 management.

333 **Mainstreaming business orientation**

334 **Recommended actions:**
335 **1. Develop a business-centric strategy for the NTFB.**
336 The vision and work plans need to set clear goals with tangible benefits from the private sector in
337 the vision and agenda. This requires the use of a consultative mechanism for designing the work
338 plan. Private sector surveys and focus group meetings can be used to collect broad input from the
339 private sector, including individual companies. It is recommended to prioritize one goal per year or a
340 subset of goals in an annual program.

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

348 **Strengthen performance measurement.**
349 Recommended actions:
350 **1. Progress measurement and communication**
351 An NTFB should measure the status of implementation of the annual and mid-term work plan and
352 progress towards the achievement of objectives using the benchmarks and indicators defined in the
353 work plan. It should also continuously and regularly report to its own members on the progress
354 made.
355 UNCTAD has developed an online tracking tool, the so-called reform tracker, that can be used by
356 NTFBs for following up on the communications of activities post meetings. It allows individuals to log
357 in to check the status or monitor the progress of an activity without having to meet every time.

358 **2. Adoption of an evaluation framework**
359 UNECE Recommendation No. 40¹⁵ states that “dissatisfaction with the process and participants’
360 perception of an ineffective involvement may lead to their disengagement and the failure of
361 consultation processes”. It recommends carrying out evaluations at the outcome and process level.
362 At the process level the evaluation can measure whether the process was effective in reaching out
363 to and engaging the private sector and whether contribution from the private sector could be
364 mobilized. Examples of relevant evaluation criteria for which data can be easily collected are the
365 level of participation in meetings, the number of activities carried out by the private sector, and the
366 number and type of activities carried out with the private sector as target.

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