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INTERNATIONAL TRADE PROCEDURES DOMAIN (ITPD)

Fourth Draft Recommendation XX

Consultation Approaches

**Best Practices in Trade and Government Consultation
on Trade Facilitation Matters**

SOURCE: Consultation Models Project Team
ACTION: Preparation for ODP Step 4 Internal review
STATUS: Fourth Draft

Recommendation No. XX

Consultation Approaches

Best Practices in Trade and Government Consultation on Trade Facilitation Matters

INTRODUCTION

As conceptualized by the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), the key principles for trade facilitation are simplification, standardization, harmonization and transparency. When working towards the realization of these principles, consultation across government agencies and public participation of stakeholders is a necessary condition. Legislators and government agencies will find that the operational experience of the companies and organizations that work in their respective fields constitutes an invaluable source of information for designing appropriate approaches and suitable solutions for trade facilitation. Trade will find that taking part in consultation gives them an opportunity to voice concerns and proposals for improvement and build understanding for the conditions of trade. Trade's inclusion in consultations will also better prepare them for changes in practice or legislation. The needs of all parties, both private and public sectors, must be identified before solutions can be found and those best placed to explain their needs are those directly involved in the transaction chain.

Although the importance of consultation has long been recognized, experience shows that establishing concrete methodologies and best practices is needed to ensure effective consultation. Even when consultation is granted by law and supported by existing consultative procedures, measures have to be taken to ensure a transparent and accountable dialogue that takes into consideration the differences in mindset and culture as well as the capacity of public and private sector agencies to participate. This underlying concept is also stated in UNECE Recommendation No.4, National Trade Facilitation Bodies, “ *The needs of all parties, both private and public sectors, must be identified before solutions can be found and those best placed to explain their needs are those directly involved in the transaction chain.* ” Only by taking the time to understand the specific needs and pain points of the different parties can one hope to achieve a best practice model that is premised on trust and collaboration on all sides.

In that context, it is worth noting that different private sector operators may not always have the same interests. Importers and exporters, users and providers, larger and smaller companies, producers and traders, may all have different needs and priorities when it comes to trade facilitation reforms. Similarly, government will have needs that will diverge with private sector interests, and different government agencies will also have divergent priorities. Despite these complexities a dialogue must be initiated so that interests can be explored and balanced, and a foundation can be established for well informed decisions. There is a dual responsibility of the parties, trade and government, to identify issues impacting the facilitation of trade, respectively. While trade must be willing to coalesce the issues that need to be brought forward to government for discussion government must also identify critical issues that need to be brought before trade, as well as providing the process by which these issues can be discussed. This process must include identifying impacted stakeholders (including other government agencies), and providing timely opportunity for consultation.

In the context of consultations, a transparent and accountable dialogue can be defined as an iterative process that begins with the early availability of information for all stakeholders and provides that engagement on a continuum, as opposed to a singular event, thereby establishing a process that is inclusive, participatory, collaborative and responsive to all impacted stakeholders. This is essential to

ensuring the development of trade policy that is beneficial and acceptable to both government and trade.

Although the challenges for partnerships between trade and government are manifold and include sustainability, trust, and the prioritization of different stakeholder needs, the benefits of establishing a collaborative process that is inclusive of all stakeholders will help to bridge the existing gaps and will ensure the development of trustworthy information flows and the development of coordinated policies that are less cumbersome to trade while still beneficial to government.

PURPOSE

The purpose of this recommendation is to advise governments and the business community on how to approach effective consultations that will be transparent, fair, accountable and participatory. This recommendation addresses issues such as information sharing, preparations necessary before consultations, and measures that aim at building a trust-based dialogue. Where available, best practices in the field of consultation are provided.

Preparations before consultations are necessary to foster a collaborative culture and achieve concrete results. The preparations may be different in nature depending on whether the party concerned is, for instance, a government agency, a traders' association or a chamber of commerce, but there are best practice processes that will be recurrent in most of these preparations.

The United Nations Centre for Trade Facilitation and Electronic Business encourages governments to develop a consultative approach for trade facilitation that is inclusive of trade and government stakeholders. This approach must include a process by which the interests of all concerned parties may be voiced and addressed.

SCOPE

This recommendation primarily envisages consultations at a national level between key stakeholders in trade and border crossing. However, many of the basic principles and ideas can be equally applied to local, sub-regional and regional levels.

The recommendations on consultation approaches are not limited to a certain media or a certain organizational setup, but are looking to the whole mindset of approaches to consultations. The principles described in this recommendation are also applicable to a large number of other consultative set-ups, such as informal discussions, focus groups, formal or informal trade facilitation committees or other consultative situations.

BENEFITS

Consultation will provide stakeholders the means by which to voice their viewpoints, clarify issues, and engage in meaningful dialogue.

For government and public agencies consultation provides opportunities to disclose information and solicit feedback on actions taken or to be taken. This will ensure accountability, effectiveness, and improvement in the quality of decision making. For trade it provides an opportunity to voice opinions and concerns and suggest solutions to existing challenges, while allowing for timely preparations for planned legislation or reform.

Consultations will help governments and organizations to prioritize agendas and communicate results which will result in building trust between the parties, and increasing transparency in the process.

Stakeholders will thus find that each party will have the time needed to prepare for new rules or regulations. This will promote successful legislation, and ensure overall compliance.

Working together the parties will be able to find innovative, effective, cost-efficient and simplifying solutions to any issue discussed. In contrast, if stakeholders work in insolation, even simple changes of rules or regulations may encounter problems not considered or anticipated without prior consultation with the impacted stakeholders. Such problems can lead to, for instance, longer waiting times at the border, corruption and loss of revenue.

RECOMMENDATION

The United Nations Centre for Trade Facilitation and Electronic Business at its XXth Plenary session in XX in Geneva agreed to:

1. **Recommend** to governments and trade a consultative approach that fosters trust, transparency as well as a timely and accountable dialogue between all stakeholders.
2. **Recommend** to governments and trade to **undertake all measures necessary to sustain and enable the consultations, including**
 - a. a focus on the importance of **transparency** as a prerequisite for building trust between the parties in consultation,
 - b. the establishment of mechanisms to allow **easy access to information** on trade facilitation matters and legislative measures,
 - c. **a continuous and inclusive process**, allowing consistent discussions and coordination of policy with all stakeholders,
 - d. the **sharing of information on both process and content** at the earliest convenient time in order to allow the private sector to prepare for consultations. This includes trade facilitation matters and suggested legislative measures,
 - e. the **timely notification of issues** that trade would like government to consider prior to consultation,
 - f. the **building of capacity and awareness of public sector agencies** to manage the consultation as well as strengthening pro-active and collaborative culture and leadership in both the private and public sectors,
 - g. the **consolidation of all public agencies of their views** prior to consultation,
 - h. the **consolidation by trade of its views** prior to consultation with government, including detailing existing differences between different kinds of operators,
 - i. a focus on **performance measuring and monitoring** in order to achieve continuous improvements.

GUIDELINES TO RECOMMENDATION NO. 40

Basic principles for consultation **JB, JP**

- **Partnership and trust **JB****
 - Workable solutions for efficient trade AND compliance - Change management
 - Mutual benefits **LT**
 - Equal partners – not a place for instructions or compliance controls **LT**
 - Building trust takes time - ruining just a moment
 - Learning about your partners' needs
 - Results oriented
 - Accountability **LT → JB**
- **Managing differences of opinion and interests **JP****
 - How to co-ordinate the opinion of many – models for civil society
 - How to handle minority interests?
- **Respect for time and timing **JB****
 - Continuity – calendar based approach
 - Agility (milestone events)
 - Waterfall method
- **Transparency **JP****
- **Stakeholder analysis **JP****

Types of consultation **JP, JB, Peter Nilsson, PBT, JM, AS**

- The use of reference groups and written and oral consultations should be treated in the guidelines.
- A classic consultation model is described below. It is a challenge to find other models for other settings. 3rd parties should also include the public.

Topics for consultation, **BS, AS, BV, JB**

- Vast range of possible topics
- The right topic at the right level
- Overall policies needs to be thought through to the detail

Levels and parties **JB, JP, JM, BV**

- Text giving definitions of the terms consultation, approaches, model, government, trade, and so on. **JB, MTP, BV**
- Many levels of consultation: Strategic, tactic, operational
- Intra-governmental organisation
- Co-ordination between government and its agencies, for instance Coordinated Border Management
- Many trade organisations – several “sincere” opinions
- How to handle minority interests?
- How do we represent the SME:s? There needs to be innovative and imaginative ideas to involve the SME-sector.
- Are the Chambers of Commerce included?
- 3rd sector (Labour unions, media, rural committees, NGO:s), lawyers.
- Municipalities. How is society organised, who owns the land (Vietnam)
- Results oriented
- Military to be included?

Preparations for consultations in order to promote transparency, flexibility, efficiency and

Mutual understanding of business and government environment- LT, JB, JP, BV, AS

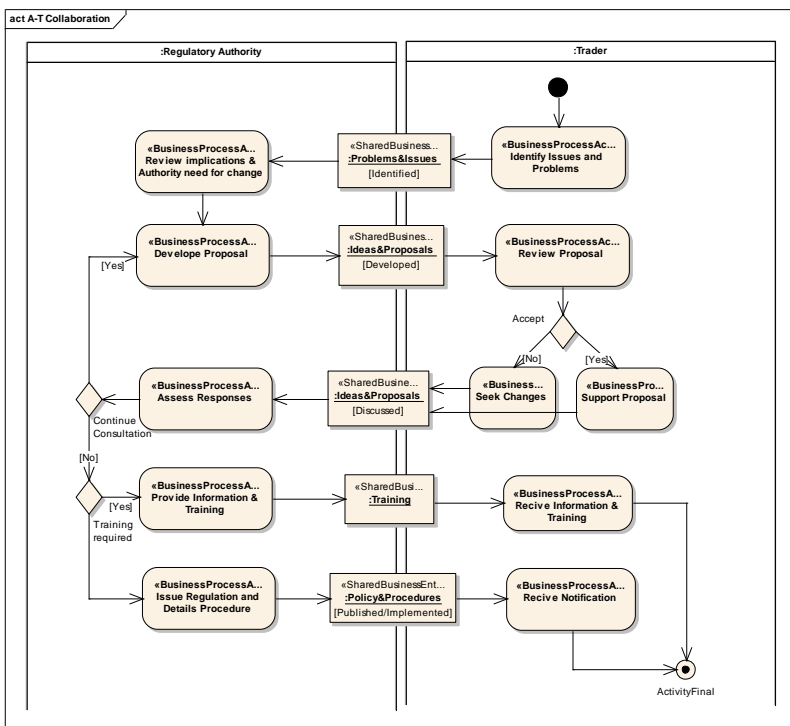
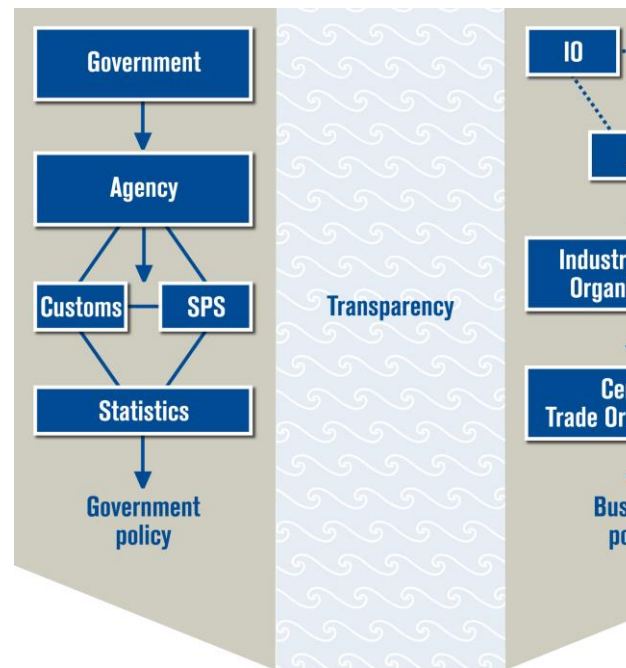
- There are different constraints in all different sorts of environments. How do we overcome that?
- Sharing of information can be difficult for all parties. How can this be at its best?
- Example of Benin: The Chamber of Commerce and Ministry of Trade have succeeded in overcoming the lack of trust that was there before. Results driven cooperation. Respect → Results → Building trust!

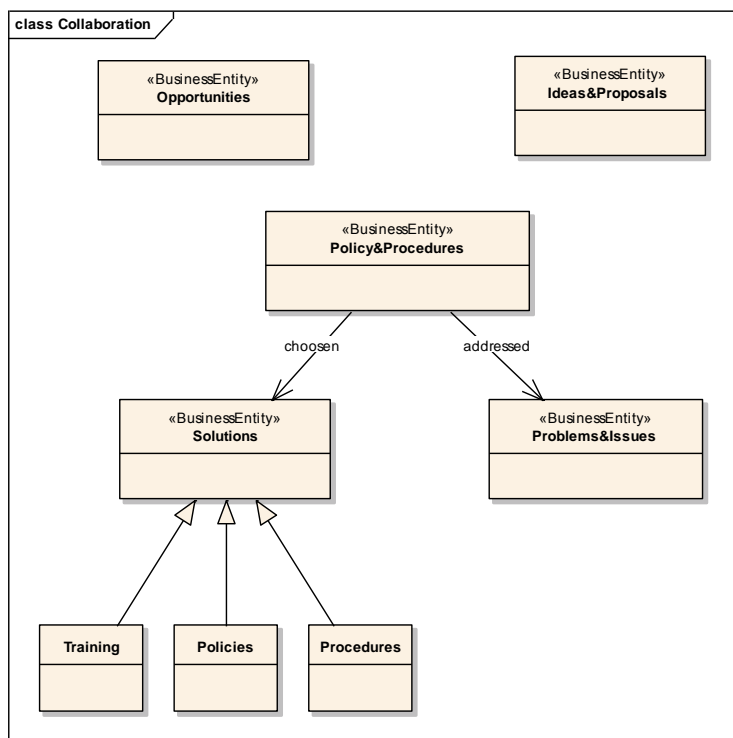
3. **Engage** in an internal assessment to determine:

- what is the agency need(s) or priority?
- how flexible is the agency in its ability to change or modify this need/ priority in the view of new proposals or developments?,
- who are all the impacted stakeholders?
- how is information to be shared between the parties?
- what information can be shared, and with which stakeholders?
- what is the appropriate time to share this information such that parties have the necessary time to react?

Generic Model JP, JB, LT

- Model of consultation between government and the trading community
- Explanations and limitations





The limits of consultation **JP, JB, JM, LT**

- There needs to be an awareness of the fact that consultation can seize to be consultation and become notifications.
- Feedback is very important and it needs to follow the classic model:
 $a=b \times c^2$ Acceptable = balanced, constructive and credible

Public-Private-Partnership – models for financing and beyond **LT**

ANNEX A

Annex to Recommendation No.40

Case Studies

Joint secretariat for a consultation body – can we find an example or case study on that?

Example of Benin: The Chamber of Commerce and Ministry of Trade have succeeded in overcoming the lack of trust that was there before. Results driven cooperation. Respect → Results → Building trust!

Sri Lanka – Shanta might want to contribute on this. Experience on trade consultation in Sri Lanka.

Please fill this up!