

RESTRICTED

CEFACT/2014/IT001

4 April 2014

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

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: Fifth Draft

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Recommendation No. XX

Consultation Approaches

Best Practices in Trade and Government Consultation on Trade Facilitation Matters

1 Introduction

The key principles for trade facilitation, as conceptualized by the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), are simplification, standardization, harmonization and transparency. Consultation across Government agencies must consistently include the participation of private sector stakeholders in order to achieve these key principles. Legislators and Government agencies will find that the operational experience of the companies and organizations working 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 the consultation process gives them an opportunity to voice concerns about current and proposed policies, offer suggestions for improvement and build a better, more comprehensive understanding for the conditions of trade. The inclusion of Trade representatives in consultations will also help the business community proactively manage the adoption and implementation of any changes in legislation or administrative practices.

In order to establish a successful consultation approach time must be allowed at the beginning of the process to understand the specific needs of all the different parties. This approach can help develop a best practice model that is based on trust, understanding and genuine collaboration of all sides. This concept was recognized in UNECE Recommendation No.4, National Trade Facilitation Organs.

UNECE Recommendation No.4, National Trade Facilitation Organs

“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 acknowledged, experience shows that establishing concrete methodologies and best practices is essential to ensure effective consultation. Even when consultation is granted by law and supported by existing consultative procedures, measures have to be taken to guarantee a transparent and accountable dialogue that fully considers the differences in mind-set and culture as well as the capacity of public and private sector agencies to participate.

Different private sector operators may not always have the same interests. Importers and exporters, users and providers, large and small 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 differ from 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 established for well informed decisions.

There is a mutual responsibility of the parties, Trade and Government, to identify issues impacting the facilitation of trade. While Trade must be willing to collect the issues to raise with Government for discussion, Government must also identify critical issues or future proposals that will impact trade procedures and business processes, and provide the opportunity and method for discussion.

To be effective consultations must be transparent and provide for an accountable dialogue that is inclusive of all impacted stakeholders (including other Government agencies) and allows timely opportunity for consultation. A transparent process 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. Adopting this approach will establish a consultation process that is inclusive, participatory, collaborative and responsive to all stakeholders. This is essential to ensuring a development of trade policy that is mutually 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 will help to bridge existing gaps in the divergent stakeholder community. This will ensure the development of trustworthy information flows and the development of coordinated policies that are less burdensome to Trade while still providing significant advantages to Government.

2 Purpose

The purpose of this recommendation is to advise Governments and the business community on how to approach effective consultations that will be flexible, transparent, fair, accountable and participatory. 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 on a continuum.

This recommendation addresses issues such as information sharing, preparations necessary before consultations, and measures that aim at building a trust-based dialogue. When available, best practices in the field of consultation are provided.

Preparations before consultations are necessary to foster a collaborative culture and achieve concrete results. Although 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, there are best practice processes that will be recurrent in most of these preparations. Governments that integrate this approach into their everyday operational practices will find that building partnership with Trade will result in both effective trade

facilitation reforms and policy harmonization and will yield benefits to both Government and Trade.

3 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.

This recommendation on consultation approaches is not specific to a particular set-up which advocates specified media or organizational set-ups, but instead, encourages the flexibility that may be found in the whole mind-set 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.

4 Benefits

Consultation will provide stakeholders the means 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 prioritize agendas and communicate results which will result in building trust between the parties, and in increasing transparency in the process. Stakeholders will, as a result, find that each party will have the time needed to prepare for new rules or regulations. Each party will also have been given the opportunity to contribute valuable input prior to any final decision or action. 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 isolation, 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, loss of revenue, compliance risks and overall mistrust between the parties that will hamper if not deter future efforts.

5 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.
 - j. the **evaluation** of the consultation process as a systematic process.

Guidelines to Recommendation No. XX

1 Introduction

Many countries are already engaged in consultations. For this reason the focus of this recommendation is about approaches rather than institutional structure or organizational forms. While not ignoring forms, tools, institutions or management, this recommendation focuses on attitude, engagement and openness. The previously published UNECE Recommendation No 4 on “National Trade Facilitation Bodies” focuses on the establishment of permanent consultative committees and how they work. This recommendation should be seen as a complement to Recommendation No 4, as it provides suggested alternative forms and approaches to consultation and offers a qualitative methodology to improve the very core of the consultative dialogue.

The purpose of these guidelines is to present flexible and diverse approaches to consultations and inspire successful solutions. There is no one unique approach for any given situation; any combination of these approaches may be used to achieve efficient and effective consultations. Consequently, there is no constraint on the reader of these guidelines to follow all the given paths. The reader should maintain the flexibility to adapt any of these approaches as may apply to the environment and circumstance at hand. It is recognized that consultations are to be conducted according to the existing legal requirements and cultural background specific to each country and as such, consultations should be approached according to existing legislation.

The basic principles, modes, forms and approaches presented below should serve as inspiring examples, indicative of success factors and cases of best practice.

2 Basic Principles for Consultation

The basic principles for consultations are:

- Partnership and Trust,
- Transparency,
- Managing Differing Opinions and Interests,
- Respect for Time and Timing and the Iterative Nature of the Process, and
- Accountability, Responsibility and Reporting

2.1 Partnership and Trust

2.1.1 Partnership and Trust for Workable Solutions

Consultations between Trade and Government institutions are motivated by the fact that no one stakeholder will solely be able to fully understand the consequences of new legislation, ideas for improvements or even simple changes of procedures. Many Governments are currently engaged in complex processes in the area of Trade such as trade facilitation programmes, Customs modernization initiatives or increased use of Information and Communications Technology. For any of these efforts, Trade stakeholders will be affected in various degrees but are often expected to provide solutions with regard to their own processes, adapt their ICT-systems to fit new systems for compliance or otherwise significantly change the way they currently conduct business. Consultation is a means to achieve workable solutions for trade and compliance.

In order to maintain trust and foster a constructive dialogue, all parties need to be respected and provided the opportunity to voice their comments and concerns, especially in light of the importance and magnitude of potential change processes. Even if the item on the consultative agenda is very subject matter specific, and the consultation process limited in time, the consultation will be perceived by many stakeholders as part of a bigger set of issues, and impactful in terms of the relationship to a certain Government authority. There is a mutual need to form a true partnership that includes understanding and respect for each party's priorities, resources and ability to meet deadlines. The details outlined in these guidelines indicate ways to build trust and partnership. Although building trust can take a significant investment of time, it may be easily compromised. One word leaked from sensitive negotiations, one comment given and not responded to, one very cumbersome solution imposed on a stakeholder without the opportunity to comment- all these are examples of incidents that can undermine the trust and partnership stakeholders invested years to build.

A particular form of breach of trust is when consultations cease to be consultations and are transformed into notifications. One way communication, lack of feedback or consideration of views aired during consultations or inadequate time for response, are among the factors that can turn consultations into notifications.

Feedback is an important feature of partnership. If the relationship between Trade and Government is to grow into partnership, constructive feedback must be an inherent part of the process. **Stakeholders who receive no feedback will soon become weary and feel they are being overlooked or excluded from the process.** To be acceptable, the classic model of feedback must be balanced, constructive and credible.

The Feedback Formula:

$$A = B * C^2$$

Acceptable = Balanced, Constructive and Credible

2.1.1 Mutual Benefits

Consultation is an opportunity for both Trade and Government, but it is also an investment in time and money for both parties. There needs to be some level of return on investment for both sides. Trade needs to feel their input and points of view are taken into account and integrated into any chosen solution. Government needs to feel that Trade's participation is not only in the pursuit of individual interests, but in the greater interest of the nation. If either side feels that it is not receiving adequate return on investment, it will most likely result in discontinuity of that time or financial investment in consultation.

Just as initiatives for consultations can come from all concerned stakeholders, trust and partnership applies to all parties. Although a particular Government authority may be responsible for a certain policy area and therefore may act as the lead agency to initiate dialogue, all stakeholders stand to lose from poor dialogue and lack of trust. Proactive companies, traders' associations or Chambers of Commerce will want to be given the opportunity to provide their own proposals on simplifications or other changes. They will also want to be informed and included in processes in a timely manner. From the Trade's perspective, a late invitation to a discussion on new procedures could become very costly as implementation times can become very narrow and drive costs. This oversight can have long lasting detrimental effects on partnership and trust.

2.1.2 Consultations - Not a Place for Instructions, Compliance Controls or Lobbying

Insofar as possible, both Trade and Government should come to the table as equal partners in the framework of consultation. In some cases, Government may approach consultation as enforcers preaching compliance and instructions. This is likely to be counter-productive to encourage Trade's input. If Trade feels that any input they provide will become a source of control later on, they will most likely not share their experiences. Likewise, if Trade comes to the table as a large company highly active in national investment and attempts to force their unique point of view on regulators, it will also be counter-productive. Trade needs to understand the Government's point of view and the greater picture of national interests.

Participation in consultations should not be used as an opportunity or a forum for single issue advocates. These types of discussions can be counter-productive as the ultimate objective is to persuade decision makers to implement a pre-determined policy or solution without the benefit of an open discussion that is inclusive of other stakeholders or outside opinions. This could lead the Government to making an unpopular policy decision that does not take all interests into consideration and that weighs heavily on the larger trading community.

2.1.3 Learning About Your Partners' Needs

A stepping stone to true partnership is earnest interest in learning about partner organizations and the environment in which they work. What are their priorities, instructions, drivers, limits, and so on? Genuine interest and investment of time to learn about each other will make

consultations easier and discussions run smoother once the real issues are on the table. Long-term consultations will enhance this process and make the investment in time more affordable; the same applies to shorter consultation processes. See Stakeholder Analysis below.

Cultural differences and goal divergence have often ruined promising partnerships. Trade organizations can have a membership with divergent views. For instance, many freight forwarders associations have members who are distinct customs brokers or distinct transporters. It is likely that their views on some topics can vary. Similarly, Government agencies will have different priorities and interests. It is key to the progress of any consultation that these divergent interests are not only represented but also understood and respected if any progress is to be made.

2.1.4 Leadership

It is common that a specific Government agency will introduce new procedures, legislation or a process of change and be the lead agency in a consultation process. However, this leadership can also come from other stakeholders who have identified a need for change and who are willing to facilitate the process through leadership. There are for instance a number of examples where the business community has pushed for Single Window solutions, like for instance in Guatemala.

In the context of consultation, leadership is the ability to act positive, promote discussion towards consensus building and encourage constructive and conclusive decision making. An effective leading agency would demonstrate the flexibility to adopt appropriate interpersonal skills to guide participants and groups of stakeholders in the direction of task accomplishment. A lead agency or organization would recognize the benefits of task delegation and decision making to the most appropriate level of consultation. To maximize the effectiveness of the consultation method, the leader should use every opportunity to give voice to all stakeholders and develop the potential of every participant or contributor.

In addition to a high degree of personal skills and abilities (such as analysis, judgement, initiative and decisiveness), the representatives of the lead organization should also exhibit organizational sensitivity and awareness. They must be able to perceive the way decisions impact other parts of the consultation process. The lead agency should accept the need to build consensus through collaboration, negotiation and conciliation to embrace the various and varied views of participants.

2.2 Transparency

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. Transparency will permit stakeholders to prepare for consultation, familiarize themselves with the issues, ideas and plans of other stakeholders, , and compare that feedback to their own needs, goals and priorities.

Transparency is one of the basic pillars of trade facilitation. It is a communications issue, but involves more than the concept of communication. Transparency is ultimately an attitude and a strategy aiming at open dialogue and trust.

To many organizations it can be a challenge to openly discuss plans and ideas before they have been fully conceptualized or formally accepted. However, in order to involve other stakeholders in the process of refining a concept, stakeholder views need to be heard at a stage where possible solutions are still fluid and not finalized. To consult on a concept that has been fully developed and agreed to within an authority will not permit full stock-taking of the stakeholders' views and may create tension when new information comes to light that will force an amendment of the concept already agreed. Stakeholders will feel excluded and will conclude their views have not been considered. This will make consultations more difficult in the present as well as in the future.

The consistent engagement of stakeholders in consultative meetings for which information is provided openly, continuously and without prejudice, establishes a process that is inclusive, participatory, collaborative and responsive to all impacted stakeholders. Transparency is not a one way communication process, but requires a qualified and mature response in order to encourage a continued dialogue. All parties in consultations need to be transparent about their reasoning and priorities in order to foster a collaborative participation.

Transparency can be displayed for a singular event, but is mostly a continuous process and strategy whereby an organization displays its goals, values, plans and thoughts. A mature transparent organization is ready to share ideas that are in an early stage of development and will accept comments on the content throughout the process.

2.3 Managing Differences of Opinion and Interests

In the process of trade facilitation consultations many different voices will be heard. It is in the nature of the question and the activities concerned. It can be expected that freight forwarders, express carriers or customs agents have differences in views and perspective. Also, different Government departments and authorities may have different instructions and priorities. Dividing lines will not always be as clear cut. There can be cross cutting issues where for instance, small businesses will have different views than larger businesses, traders of specific commodities may not have a common view on a specific regulation, and Government agencies may be in conflict with one another and/or with specific traders. The goal of the process is to highlight the pain points and issues of all the stakeholders in light of the proposed process or legislation. It is critical during this process that the interests of all parties are represented and that bias toward any majority is avoided so that a holistic view can be maintained. If the position of the majority cannot be avoided then explanations must be provided and if possible, solutions must take into consideration the potential pain points of minority interests.

Consultation differs from information gathering and giving, but also from direct decision making. Information giving and gathering is at the beginning of the spectrum of involving

stakeholders into decision making. Press conferences, websites and “Open House” days and surveys are commonly used for this purpose. But the flow of communication is one directional. A consultation goes further as it enables stakeholders to contribute to a decision and make their voices heard. The results of a consultation may be used to prepare a political decision. The decision itself however rests with the mandated public agencies and Government. A consultation is therefore not equal to consultative decision making. The Government will always have the final word on the issues it would like to place in a consultation process, the best ways to use the results of a consultation process and in particular, whether there are any reasons to exclude specific topics from consultation.

Weighing interests is the core functioning of Government. Very few issues decided are truly political; the vast majority are about differences of interests: economic, social and practical. At the end of the process, Government will have the final word and make the necessary decisions. From the trade facilitation perspective, the overall goal of simplification needs to be kept in mind during the consultation and decision making process and well informed decisions should be an intermediate goal achievable through effective consultations.

The fact that so many stakeholders are to be coordinated can be daunting. Stakeholder organizations can be of great help, provided they can hold informed discussions with their membership. The prerequisite for this is transparency (see above). At the same time, the difficulties should not be exaggerated. In many countries consultations covering 80 % of the trade, in volume or in value, can be achieved by talking to a relatively low number of stakeholders. Governments will find that supporting civil society and especially trade organizations will pay off. An example of this is proposed legislation that is distributed for comments to impacted organizations, thus providing these organizations with a stronger argument of influence available through the membership.

When addressing larger segments of Trade it is important not to forget the importance of the protection of smaller Trade sectors or even individual companies. An effective consultative process aims at depicting the consequences to stakeholders of proposed changes and the impact on a few companies can be very important. What may appear to be a minority interest in a consultation might speak for a larger group of companies who play a key role in the economy or in the distribution channels.

2.4 Results Oriented

In view of the investment of time from all concerned stakeholders it is important that the consultation process be results oriented. This means that each stakeholder must clearly identify key initiatives and priorities that are critical and that will be the focus of the dialogue. To that end, the dialogue must be driven to focus on achievable results that meet the needs of all those concerned, where possible. Each side must understand that collaboration and compromise must be key factors in allowing dialogue to continue and progress.

Adequate preparation on all sides is the basis for a constructive dialogue. Well informed participants will not need to revert to their constituencies before reacting to a proposal and thereby slowing down progress. Transparency is achieved when information is provided throughout the process to all stakeholders, thereby giving everyone the opportunity to react and comment. Consultation with representation from stakeholders at the right level will help drive results (see below). For example, if the issue at hand addresses opening hours at a border crossing, the user community should not be disregarded.

2.5 Consultations as an Iterative Process with Respect For Time and Timing

Consultations as described in this recommendation can be conducted as a singular event focused on a specific topic or around a singular change process. However, as trading communities in most countries tend to be small and the same people often come to the table representing their organizations, it would also be helpful to adopt a mind-set to singular events, as part of a larger, long-term cooperation context in the operating Government framework. For larger projects such as proposed legislation or changes in procedures, consultations will be iterative. The parties will have to meet consistently in order to make the consultation constructive and effective.

The path to managing a change process around new regulations or procedures is not a fast one, nor is it always smooth. However, knowing this in advance will facilitate the mitigation of expectations. The process is often slow but it must be deliberate in its respect for time and timing.

Stakeholders must be provided with adequate opportunities to digest the changes that will be forthcoming and must also be allowed to discuss and provide their concerns or recommendations. Discussions should not be a singular event but must be approached as systematic; this means routine “check-ins” with stakeholders to ensure that all parties are being kept abreast of planned changes at all stages. Communication flows must therefore be consistent and comprehensive to increase the probability of change success and minimize the risk of changes that need to be backed out due to insufficient stakeholder awareness or preparation.

Adequate time must also be provided to ensure that all parties have the necessary documentation and training prior to the implementation of any change.

Sensitivity to time and timing will achieve significant benefits for all stakeholders including trust in the advocated changes, containment of risks/costs associated with change and reduction in the time needed to implement changes. Collectively, these good faith efforts will serve as motivators and provide a path to progress.

2.6 Accountability, Responsibility and Reporting

Providing a continuous record of the changes to be implemented will provide greater accuracy of impact assessment, assist with and shorten problem determination time, and ensure

accountability for all changes identified. This is a prerequisite for all parties to be able to follow and back-track the consultation process and the evolution of the project at hand.

Used effectively, consultation should encourage compromise and cooperation achieved through the “art of the possible.” However with such potential power comes the associated obligation of responsibility and accountability. Simply explained, this is the condition of being accountable and answerable for opinions given and actions taken; deserving of credit for success but accepting criticism for failure.

All participants in a consultation process represent a particular or specialized constituency whether Government or the business community. The representatives must act responsibly, fully embracing the concepts of trust and respect, appreciating a wide range of views or opinions without prejudice or discrimination. Representatives should present views and opinions honestly and dispassionately, relying on the quality of the argument or adopted position. Equally important, representatives have a responsibility to truthfully and faithfully report back the outcome of deliberations without bias or partiality to their constituents.

Another critical aspect of accountability and responsibility is a formal reporting structure. Results of consultation should be published and made available to all interested parties. Both sides (Government and Trade) should be held accountable for producing easy-to-read and easy-to-understand (i.e., jargon and acronym free) reports of meetings, oral and written contributions received, and the outcomes of other forms of deliberation used in the consultation process.

Comment [GVA1]: We could put the example of India. All minutes of the meetings are published.

However, and perhaps more important, a final report must be presented identifying the tangible results achieved by the consultation process. For example, Government should be able to demonstrate input from the Trade was taken into consideration and the way it was used in making decision. Equally, Trade representatives must also justify the opinions and views submitted represent the whole trading community and are not selective or discriminatory of any trade sector. One option for achieving the twin objectives is to allow the trade side to prepare a section of the final report giving its evaluation of the consultation.

3 Forms of Consultation

Consultations can be formal or informal. They can take many forms and are often combined in the continuous consultation process. In choosing a consultation approach it is key to remain flexible in terms of the approach as this will vary depending on the nature of the issues, the participating stakeholders, or timing. This recommendation focuses on approaches rather than forms. Examples are provided of frequently used forms of consultations that may serve to inspire a particular country or environment.

Regardless of the form chosen, there are three key underlying components that should be present in all forms. From the onset, the organizing stakeholder should make every attempt to provide detailed information to all parties of proposed actions and how those actions will impact

all stakeholders. Secondly, adequate time must be provided to gather feedback and respond to questions/concerns from impacted stakeholders. Finally, all parties should be made to feel that they had a part in the ultimate decision for the path forward. These key components must be part of a deliberate process regardless of whether the form of consultation is a small group in an informal environment (e.g., focus groups or work-shops) or a large group in a formal environment.

Many well-established consultations bodies, like Swedish SWEPRO or the Joint Customs Consultative Committee in the United Kingdom, have had many forms over the years and a variety of stakeholder representative bodies. The topics for consultation changing over time, is one factor determining the preferred way of organizing a permanent national committee. To choose one of the forms of consultation will probably not be sufficient to cover all the needs for a constructive, positive and successful dialogue at a given time. Consultation will often be ongoing using different forms operating in parallel.

Consultations will also be conducted by different modes. That is, they can be oral or written contributions, on-site or “virtual” meetings (e.g., using telephone conferences or the internet) and any combination thereof. As already stated, existing factors such as the nature of the issues to be discussed and the availability of stakeholder resources will usually dictate the best method. Some issues are well suited for written consultations. For instance when adequate preparation is needed for well-documented responses, especially where the issues are complex and the detailed submissions are vital to ensure proper understanding of all views and factors. In other circumstances oral discussions might be better served, for instance, when it is important for all parties to meet to establish or secure a relationship or when it is necessary to deliberate on key issues with a number of stakeholders and the discussions need to be kept discreet.

The selection of the appropriate consultation form will be dependent on many factors, as for example, national requirements, Government and trade facilitation policies, business needs, regional (or sub-regional) or international trading agreement. Other considerations could be the commitment of stakeholders, both public and private sector, and the willingness to seek results through genuine negotiation and collaboration.

This recommendation discusses interactive forms of consultation and not one way communications like press conferences or public announcements. These forms can have their value, but cannot be seen as consultation as such, as only one view will be presented.

The forms of consultation listed are indicative, not exhaustive, and some overlap in terms of formation and operation. As previously stated, based on need, the structure of these forms can range from the very formal to the informal. The examples provided below start from the more formal in structure to those that are less formal, nevertheless, all have been used to the same degree of success. It is important to also note that the listing below should not be interpreted as a limit or restriction to the development of new and innovative approaches.

3.1 Permanent Consultative Committees

The Permanent Consultative Committee has been the most commonly used form of consultation. The Committee can be established by either the Government (usually a department with direct contact with the trading community, such as Customs) or the private sector (often a trade or industry sector organization). Whether a Governmental or business organization, the other party should give the Committee its full recognition and support, and accept invitations to participate or contribute. The Committee is normally structured within a legal or administrative framework with the appointment of a Chairman, Vice Chairmen and a Secretary. Experience has demonstrated that rotating the Chairmanship between the two main parties (for example every two years) can create trust and respect, encourage continuing participation and produce positive results from the co-operative consultation process.

The Committee could form sub-groups or working parties to progress initiatives or agreed to projects. These groups could be structured in the same way as the main Committee but with a specific focus to examine procedural, technical and operational issues and a deadline to report back with recommendations. A further sub-group could be established to oversee the implementation of any new legislation, regulation and administrative procedure. This group might have a different structure as it would need to interface with systems and solutions developers and vendors as well as operational staff responsible for implementation.

A special form of the Permanent Consultative Committee is the National Trade Facilitation Body, as recommended by the UNECE in *Recommendation 4 on Trade Facilitation Bodies*. A National trade facilitation body is an independent and permanent forum where relevant stakeholders from the public and private sectors discuss and coordinate trade facilitation measures at national level. A condition to make such a consultative body work is that the Government must be politically committed to establishing and supporting the Committee as a national forum for promoting trade facilitation measures and that it is established by some legal framework, for instance a political decree or a governmental ordinance. There needs to be a clear mandate and the participants should be sufficiently high-level to have real influence on the issues for both Government and Trade. Experience shows that many National Bodies have been incorporated in ministries in an effort to use resources more efficiently. This has not meant that the purpose or scope of the strategic matters discussed has changed.

Case story – Joint Customs Consultative Committee, United Kingdom:

The Joint Customs Consultative Committee (JCCC) was established by Her Majesty's (HM) Customs & Excise (now HM Revenue and Customs) in 1969 to exchange views on and discuss proposed changes to customs procedures and documentation relating to the entry and clearance of goods. The JCCC acts as the main forum for the department and gives custom gives the opportunity to consult representations from over 20 member trade organizations on a face-to-face basis. There are three scheduled meetings every year, chaired by either a Director or Deputy Director of Customs. A number of smaller subgroups are used to discuss in-depth technical and operational issues. These groups are formed as required and disbanded once their purpose is achieved and the results reported to the main committee.

3.2 Centres of Experience and Expertise

Government or Trade could establish a formal Centre of Experience and Expertise, or a network of experts to address issues in a variety of subject areas including, administration, management, academia, compliance, systems requirements, and law. The objective would be to seek views and opinions from recognized experts on the full range of issues on the subject or measure under discussion. The department or organization establishing the collaborative effort could identify experts and invite them to participate. Equally, experts could nominate themselves for contributions in their particular field of experience or expertise. The aim of this approach would be to ensure the collaboration is both transparent and inclusive. Unlike the establishment of committees, this consultation method is less resource intensive with costs and effort more widely spread. However, it would require proper leadership and management.

3.3 Network of Subject Matter Experts

Another method of consultation could be the establishment of informal reference groups composed of subject matter experts in specific fields. These groups would be invited to contribute on specific issues within their field of expertise. For example national bodies such as regional development agencies could be invited to submit oral or written contributions on the potential impact of a proposed new measure or procedure within their region. Similarly individual trade and industry organizations could be asked to contribute on the introduction of new practices in their specific sector. Procedural subgroups can be established to provide Trade and Government with best practices for individual trade facilitation issues derived from identification of pain points and lessons learned. Similarly, technical subgroups can be organized to provide valuable insight for pretesting of electronic formats or testing of proposed technical solutions to current manual processes. The main benefit of this approach is the proposed new measures are 'tested' by the people directly affected and at important milestones of their development.

3.4 Peer-to-Peer groups

The Peer-to-Peer method of consultation could prove useful as a way to share experiences at the point of introduction of a new measure. Implementations frequently follow similar patterns and encounter broadly similar problems requiring quick solutions to ensure the introduction is not stalled. Consulting a peer group of contemporary colleagues with equal competencies and abilities could offer valuable contributions on technical and operational issues, help identify potential difficulties and provide positive remedial actions to overcome implementation hurdles.

3.5 Implementation Working Parties

Finally, once results or consensus has been achieved, a successful roll out of the proposed solution is best achieved when stakeholders that have been involved in the process (and have comprised any of the groups mentioned above) are also used to champion and communicate the

forthcoming changes to their constituents. Implementation working parties, consisting of impacted Trade sectors and developers/vendors of implementation solutions, can help to manage the introduction of new procedures and practices by positively communicating those changes within their sectors. There are many benefits to such an approach including the ability to reach key contacts of those within the implementation work group, expanded access to resources (both human and financial) for communication campaigns, and increased credibility due to impacted stakeholders advocating the changes across their networks.

A generic consultation model is described below. It is intended as an illustration of the need for preparations and transparency and of the iterative nature of consultations. Hopefully this illustration can be applied to most forms of consultations.

3.6 Conferences

A special form of consultation can be in the way of an annual conference. An annual conference has the advantage that the information from the organizing stakeholder can be given to a large number of stakeholders and companies. On the other hand, a disadvantage is that it can be difficult to have a dialogue where all present have a say. To mitigate this difficulty it is common practice to offer break-out sessions or additional sessions featuring round table discussions with selected stakeholders or larger companies so that a meaningful exchange of dialogue among stakeholders can also occur.

Case Story: Customs Day Conferences, Sweden:

Swedish Customs, Swedish Trade Federation and the Chambers of Commerce in Stockholm, West Sweden and South Sweden organize an annual event called the "Day of Customs." The event is centrally planned and most of the content is repeated in the three venues, Stockholm, Gothenburg and Malmoe. The event that is primarily aimed at compliance and Customs responsibilities in importing and exporting is opened by the Director General of Swedish Customs and the programme includes other authorities as well as various trade federations.

4 Levels of Participation

For consultation between Trade and Government to work efficiently and (more importantly) effectively the process must include representation from the full diversity of the stakeholders i.e., from the leadership all the way down to the users who will be impacted. Participants should be of appropriate position and status, including experts with established and acknowledged competence. Consultations must also be complete in all respects and inclusive of strategic, tactical and operational issues. Each level of consultation should be clearly defined in both scope and authority with open and transparent channels of communication and reporting. In most consultation processes there is a need for communication between the levels in both directions so that, for instance, when a tactical level group meets it has information on what has been discussed at the strategic and operational level. Similarly, information from discussions at the tactical level will then need to be communicated to both the strategic and operational level.

Operational discussions would include (but again not limited to) change management, the roll out of promotional communication products and publicity, training of both private and public operatives and the development of a dispute resolution process for local conflicts or disagreements. Participation and contribution at this level of consultation should be extended organizations, companies, individuals and other interested parties that would develop the solutions to support the efficient implementation. Software and systems developers and vendors, information and communication technology experts, trade and transport consultants, media professionals and behavioural specialists would provide a wealth of valuable information and data on the impact of any new operational procedures or practices.

5 Topics for Consultation

Governments consult to assess traders' preferences and opinions, identify concerns and problems, leverage ideas for improvement, share information, and build a common vision and strategy. A successful consultation approach must have a clear topic to address. Experience has shown that the more specific, urgent and relevant the topic, the more successful the consultation process. There is no merit in continuing a consultation when the topic and goal has de facto become irrelevant to its participants' daily business.

Although consultation processes inform a decision, the final decision remains with the Government or the mandated authority. For this reason, public interests or security reasons may prohibit consultation or may lead the Government to adopt less interactive forms of consultation when dealing with issues considered sensitive for confidentiality or security reasons.

Case stories Thailand and Pakistan:

In Thailand the Steering Committee on National Single Window Development dealt with the development of the action plan for the implementation and the monitoring of its implementation. At a sub-level a technical working group dealt specifically with drafting guidelines for the sharing and exchange of data and the deployment of the digital signature and developing a national data set and data model.

In Pakistan the National Transport and Trade Facilitation Committee (NTTFC) covers topics and activities including the continuous review of trade and transport procedures and systems, the alignment of trade and transport documents to the UN Layout Key, adoption of standard trade and transport terminology and international codes for trade and transport information promoting training and research.

(Source: TFIG case stories)

The goals and the topics of a consultation process need to be defined in advance. A consultation process without a clear topic will not attract interest and participation. Stakeholders will participate, when matters have a direct bearing on business and daily operations. Hence the level of participation of the process has to be aligned to the topic. Strategy policy topics may involve a broad number of stakeholders, at a political level; operational issues are more effectively dealt with limited number of selected stakeholders with an expert knowledge.

There also need to be possibilities for all stakeholders to bring items to the agenda for consultations. The lead agency should make sure that requests for agenda items are sought from Government and Trade, as well as from any other interested parties.

Effective consultation relies on trust and dialogue that grows with time and with the experience of collaborative achievements. The topics chosen for the consultation should be aligned to the level and experience of collaboration in the group. Solving operational issues with a quick win for many can lay the ground for more substantial and sustained collaboration.

The issue or topic at stake in the consultation has a direct impact on the planning for the consultation process. The selection of stakeholders and the “technique/mode/instrument” for the consultation will be specific to the topic and the purpose. A clear setting of the topic and its relevance to the stakeholders must therefore be part of the framing of the consultation process.

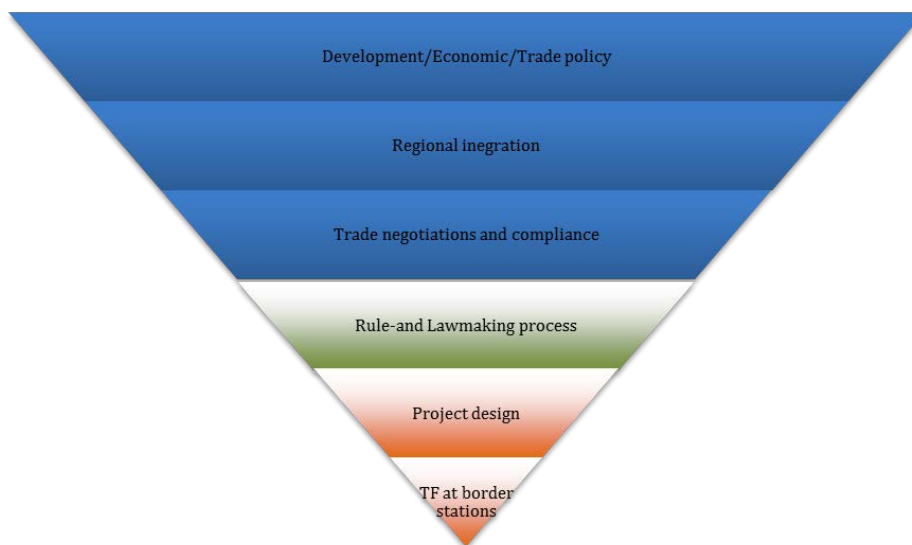


Figure 2. The above figure illustrates the width of various topics for consultations. Red indicates an operational level, green a tactical level and blue a strategic level for the consultations.

6 Preparations for Consultations

Preparations for consultations are crucial for effective and efficient discussions. Each part needs to know the priorities and limits of its constituency for each issue that is on the table for consultation. This can be a time consuming process and transparency about upcoming proposals and other issues on the consultative agenda are crucial to allow both sides to prepare.

In order to promote transparency, flexibility and efficiency there is need for mutual understanding of the Trade and Government environments. There are different constraints in various environments and different ways in which these can be overcome. Government and its agencies have to adapt an internal consultation process which allows for timely trade input. Also Trade must do its part to organize its membership and disseminate information so that all practical details of a suggested agenda item can be assessed.

The priority of Trade is not consultation but the running of everyday business. In some countries the degree of organization within Trade s or Chambers of Commerce is weak. Government must be constructive and creative in finding partners that will help an informed debate. Over time, lending support to organizations representing trade can be a constructive investment in future dialogue.

7 Resources

Many stakeholders, administrations or even countries have expressed worries that consultation might drive costs. However, financing consultation does not necessarily require investments of large sums of money. Each party participating will normally have an interest in consultation and could reasonably be expected to cover their own time and any related travel expenses. In this case, the only real external cost is a meeting room large enough to accommodate all the participants.

In some cases, certain subjects which call for regular consultation or which would benefit from calling upon external experts might require a bit more investment. Aspects like coffee breaks, meals, and elaborate venues should be considered as social aspects which although might be an added benefit to attract the participation of experts, should not be considered essential since the true purpose of consultation should be working together towards effective trade facilitation and simplification. However, in the event that such expenses are necessary, it is possible to consider alternative options for funding. As for example, the funding for the initial expenditure could be in the form of a Government grant, corporate sponsorship, or subscription fees from the business representatives.

The selection of a less resource intensive method of consultation would naturally reduce commencement and operating costs. However to ensure sustainability some resources would be required to establish the consultation method and then lead and manage the process. Funding would be needed for the distribution of contributions or other relevant material either physically or through a managed website.

8 A Proposed Toolbox for Consultations

8.1 Stakeholder Analysis

Prior to initiating consultations, the lead agency or organization will need to identify the stakeholders that are concerned by the issue, proposal or change of procedure. It is important to identify and involve stakeholders at the right level and also to have a clear idea of stakeholder concerns. Stakeholder Analysis is an important tool by which to gather this information. The approach is a disciplined and structured way to map organizations and companies with an interest in the issue(s) at hand and consists of identifying end users, agents, organizations and grouping them into direct and secondary stakeholders, in terms of how they will be impacted. The mapping continues with descriptions of the stakeholders' needs, interests, organizations, capacities and so on. For larger stakeholders it can be relevant to do this at a level where departments, groups and individuals are identified. Information collected as part of this stakeholder mapping should also include an analysis of priority interests, what Government needs from this group, perceived attitudes/risks, and what it will take to persuade this group to agree to requested changes.

A successful analysis will therefore involve an assessment of the individual and organizational risks associated with the proposed change(s), identifying stakeholder groups and understanding their specific issues/concerns, as well as promoting and tracking the progress of specific stakeholders during the consultation process (that is, recognition of the baseline, creation of awareness, development of understanding, and finally, acceptance (that is, readiness). This approach involves close coordination with the lead agency driving the change and requires consistent outreach in the way of interactive forums focused on promoting discussions, awareness, understanding and acceptance across all the key stakeholder groups.

The following is offered as a quick stakeholder analysis checklist::

- **what** is the agency need(s) or priority?
- **how** flexible is the agency in its ability to change or modify this need or 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?

Assessment activities must provide a basic understanding of how different stakeholder groups will be affected by proposed changes as well as provide guidance and the necessary assurances to stakeholders of how their business processes will continue in the new environments. In order

to build trust, the specifics of the changes must be provided to stakeholders and they must be given an opportunity to voice their comments or concerns so that both short and long terms plans are clearly identified.

Only when this analysis is complete is it possible to mitigate risk by offering a comprehensive assessment of the stakeholder groups impacted by the proposed changes (including the expected nature and level of impact) so that a strategy can be developed. An effective strategy will take into consideration the priority needs of the agency in relation to the stakeholders, an understanding of where the agency can be flexible and where there is sufficient risk of liability to the agency such that flexibility is in itself a risk.

8.2 Change Management

A successful approach to managing change in current policy or process must include a sustained and structured method of readiness assessment across all stakeholders. In many instances, stakeholders are comfortable with the current state and want to maintain the sense of security achieved in the status quo. They may not be aware of external factors that would necessitate or require a need for change.

Where Government is the lead for advocating change, Government must be prepared to conduct a readiness assessment of its stakeholders to undergo that change. Stakeholders must be appraised of the “as is condition” as well as the “go to condition.” Government must communicate its intent to build awareness of the need for change, and engage with the stakeholder community to ensure there is comprehensive understanding on all sides of the impact of the proposed changes. This dialogue is necessary so that obstacles and risks are discussed and mitigated at the earliest opportunity.

“Engagement” of the stakeholder community must be well organized and make use of all feasible means of distributing the necessary information. This includes written communications, opportunities for verbal engagement, and posting of electronic information when websites are available. Where feasible, Government should also provide education and training so that impacted stakeholders are more willing to support the advocated changes. This can be achieved by giving stakeholders access to such things as benefits sheets, marketing material, and even on-line training if possible.

In addition to these “readiness” activities, Government must also be prepared to sustain the necessary changes. Sustainment may include continuous process improvement, benchmarking, the identification of best practices, and business process reengineering. Stakeholders must also be given the opportunity to provide feedback and voice concerns throughout the process. By undertaking these activities, stakeholders will be more willing to engage in collaboration and trust in the changes being advocated. This will result in smoother transition from the old to the new, positive perception of the changes advocated, less resistance to change, and improved cooperation.

8.3 Evaluation

Consultation processes should not only be established but also evaluated to determine if the investment of time, money and energy provided value. The value lies in the quality of the consultation process and the outcome it generates. Dissatisfaction with the process and participants' perception of an ineffective involvement may lead to their disengagement and the failure of consultation processes. An evaluation is conducted to audit and manage a particular consultation process and to learn from that specific experience for betterment of future efforts.

The aim of the evaluation is to determine whether an open, transparent and non-discriminatory form of consultation was used from beginning to end. Lessons learned should also be identified for future projects.

8.3.1 Evaluation process

Commonly evaluations are conducted at the end of a process, project or activity. In the case of consultation processes it is often difficult to define an end-point because of the continuity of its activities. It is therefore recommended to define in advance the timing of the evaluation and to consider repeating an evaluation over time to measure the evolution. In any case, the planning for an evaluation has to start early, ideally when initiating the consultation process, to collaboratively agree upon the timing, the form and the method. If behavioural goals such as attitudes are used as evaluation criteria, data needs to be collected at the beginning and the end stage.

8.3.2 Evaluation framework

To evaluate the worth and success of a consultation process one first has to define what constitutes a successful consultation. An evaluation framework serves this purpose. It defines the evaluation criteria, indicators, data sources, and set targets and assumptions for each criterion. Evaluation criteria reflect the goals pursued by the consultation process. They can be outcome and/or process oriented. Process related evaluation criteria for example, address questions pertaining to the fairness and openness of the process, and efficacy in terms of managing resources and getting the right people involved at the right time. Outcome related criteria for example, refer to the impact of a consultation process on trust and relationships and on policy decision or the quality of public services.

Each evaluation criterion can have at least one indicator—qualitative or quantitative—that is used to measure the overall criteria. An example of an indicator for the representative criteria is the number of participants and the organizations they represent. Data indicates the source where information on the indicator can be found and defines the method and tool used to collect the data. Finally, targets reflect the planned goal.

8.3.3 Evaluation methods

There are different methods and tools for the data collection and analysis in an evaluation; namely surveys, interviews, studying documentation, and observation. The choice of these methods is specific to each evaluation and the evaluation framework. For example, visits to various and varied locations to conduct interviews with staff performing the daily tasks introduced by the new measures are useful. The objective would be to identify whether clear and precise information was provided and if the staff were offered suitable training prior to the introduction of the measure. Also, such visits would discover where local conditions required amendment to procedures and practices to ensure implementation.

8.4 Generic Model

The charts and diagrams illustrated below are an attempt to provide guidance for those trying to engage in consultations. A generic model is also provided that highlights the processes that are both desirable and consistently present in consultations. This model should not be seen as complete in all respects, as for example, it does not clearly reflect the iterative nature of consultations or the fact that there needs to be a continued effort after the fact, to sustain the commitment. The basic components of the consultation in our model will, for all simplicity, have certain designation. For instance the term *Authority* means any Governmental body, agency or indeed department. *Trade* stands both for individual companies and traders and their respective organizations. The joint procedures will be *consultations*, but also various other forms of *preparations* and *implementations*. Importantly, the respective stakeholders also need to have their own internal processes where the views of their constituency are prepared. This internal process consists both of disseminating information and getting feedback on a suggested approach or idea. Here it is called *internal preparations*, as in preparations for consultations.

In the model we are working with, this is represented by the ideas that set a consultation process in motion. Trade procedures are governed by Policy and Procedures, and any item of consultation will inevitably come from an idea of *opportunities* or more accurately, *Proposals*. This is true independently of whether these ideas are a suggestion from Trade, new legislation imposed on a regional level or any of the other topics discussed in Section 5 on Topics for Consultations. From the consultations on *policy and procedures* will come solutions but also *problems and issues*. These can be addressed by either *training* or re-organization in new *procedures* or *policies*. This overall landscape of consultations is depicted in Illustration X.

The most basic part of the consultation model is an idea formulated and prepared in either *Authority* or *Trade* and through transparency procedures shared with the other stakeholders before the final decision on the final proposal is made. The counterpart will then have the chance to react. That process is depicted in Illustration A. Please note that the prerequisite of transparency as early as at the problem formulation stage, applies to both stakeholders. Of course, there will be cases where quite substantial preparatory consultations are made with the stakeholders' own constituencies. This is surely the case when the issues are more complex.

In an uncomplicated scenario the ideas of the other stakeholder are taken into account and a formal proposal is presented that the stakeholders then should be able to accept. Possibly however, a stakeholder will ask for renewed consultations leading to an iterative process until consensus is reached or the Authority judges that all voices have been heard and considered.

The process illustrated in C depicts the process in the stakeholder's constituency that occurs in parallel with the overall consultation. It has great resemblance to the process between the main stakeholders. The constituency needs to be informed about the proposal and their views on the feasibility must be heard. Here transparency helps the stakeholders to prepare their constituencies for the changes linked to the proposal so they can be well informed on the technical details that will be discussed. The exchange of information and modification of position is simultaneous, or almost central to the consultation process.

Subsequent or parallel to the proposal being modified (or not) based on the input from the stakeholders, the Authority will judge what implementation measures will be needed. Will there be additional need for information? ICT-solutions? training? This process is continued when the proposal is formally presented with a deadline for implementation. In this process, depicted in illustration D, the Authority provides training or information that is shared with the Trade stakeholders and in turn, the Trade stakeholders give feedback on the efficacy of the information and training provided. This feedback will help the Authority issue regulations and implementation guidelines that will eventually lead to the desired activity or change becoming final.

A process that can be both separate and ongoing is Evaluation. In principle it makes the same loop as the consultations in A and B, but will involve feedback on the consultation process itself and the results it has generated. This is illustrated in F.

The overall model tries to show the involvement of all stakeholders and the information sharing over time. It can be depicted as a whole as in illustration E.