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Page: 1/2

Committee on Trade Facilitation

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## ROLE OF THE TRADE FACILITATION COMMITTEE IN THE TRADE FACILITATION AGREEMENT FACILITY

### COMMUNICATION FROM THE UNITED STATES

The following communication, dated 16 April 2021, is being circulated at the request of the delegation of the United States.

1. Since the very first substantive Trade Facilitation (TF) Committee meeting in July 2017, the United States has been seeking a better understanding of the institutional and administration division between the WTO Secretariat and the Trade Facilitation Agreement Facility (TFAF). We would refer Members to the minutes of that meeting, in G/TFA/M/2 paragraph 4.16. We have continuously sought to better our understanding on a couple of key issues:

- Under what circumstances can or should TFAF be able to exercise the prerogatives and privileges of the Secretariat?
- Who directs the activities and functions of TFAF, to whom does TFAF report and answer to?

2. We have repeatedly stated over the last four years, most recently during the October 2020 Trade Facilitation Committee formal meeting, January 2021 TFC informal meeting, and March 2021 formal meeting, that the United States is flexible as to whether TFAF represents the interests of its donors, or represents the interests of the TF Committee. In either case, the choice clarifies the role and function of TFAF staff.

3. In our efforts to seek out this clarity, the United States has met repeatedly with the Market Access Division of the Secretariat, and with TFAF donors. We have raised this issue continually at the Committee on Budget, Finance and Administration, where the role and growth of single-issue trust funds is being debated and rising institutionally across the WTO, and we are concerned that the lack of clarity we have seen in TFAF will become a systemic issue.

4. What we have heard from other Members, the Secretariat, and TFAF is that the answer lies within the TF Committee. It is up to the TF Committee to decide to whom TFAF is accountable and to define TFAF's scope, role, and responsibilities: is it a fund at the direction of the TF Committee or a fund at the direction of its donors?

5. It has become clear to us that we are not going to reach any definitive conclusions about the role of TFAF by continuing to pursue a flexible approach in seeking direction from the Secretariat, TFAF, and donors. Instead, we believe that in order to reach an answer that provides clarity to TFAF and Members, as well as addresses our concerns, we need to choose an outcome and bring that position to the TF Committee to debate and decide TFAF's role, as we have been directed.

6. We therefore propose that TFAF falls under the purview and direction of the WTO TF Committee. Any donor to TFAF will have the same rights to direct or object to TFAF activities as any other WTO TF Committee Member. We believe that TF Committee oversight, direction, and responsibility will ensure transparency as to the TFAF activities being undertaken, the funding of TFAF, and transparency as to a Member's assistance by TFAF.

7. We believe that the TF Committee can be the place where TFAF provides transparency concerning proposed activities and grants, where Members can ask questions and debate the merits of any activity before coming to a recommendation for TFAF. This will ensure TFAF has TF Committee support for its participation in activities. We could envisage treating TFAF's grant function differently from "other activities".

8. In the grant space, we could see TFAF working with its grant committee to fund certain activities consistent with the terms provided to Members at its establishment. Those approved grants would then be brought to the TF Committee for transparency. We would like to ensure that every grant details how it enables implementation of the TFA, including identifying metrics that will be used to measure the effectiveness of the grant. Having this kind of detailed discussion in the TF Committee will allow for a robust exchange and provide visibility into the grant program.

9. In the "other activities" category, such as workshops, national seminars, TFAF staff participation in panels at the WTO and at other international organizations, all such proposed activities and invitations should be shared in writing ahead of a regular TF Committee so Members can discuss, take a decision on TFAF staff's participation, and provide any necessary policy guidance.

10. In addition to the robust discussions and increased transparency inherent in the TF Committee's decision-making process, this formulation of responsibility will also allow Members visibility into the discussion of Annex D organizations. TFAF would now seek TF Committee direction prior to participating in Annex D discussions, resulting in Members having a clearer understanding of what is being planned for future Annex D activities.

11. We also see this formulation as allowing for discussion of metrics and outcomes in real time. The TF Committee will have a view into the budget of TFAF, the proposed costs of programs, metrics, and outcomes, which will in turn allow more informed decision-making and activity planning.

12. Finally, we see this formulation as addressing any conflicts of interest or misallocation of Secretariat or Committee resources. TFAF activities will be debated and decided based on objective criteria, for the sake of implementing the Agreement as a whole as well as for the benefit of Members. It is up to Members to ensure that TFAF activities are useful and provide meaningful outcomes.

13. We believe that for all of the reasons and benefits stated above, TFAF should operate, provide technical assistance, and conduct activities at the direction of the TF Committee. The TF Committee is where debate among Members and consensus decision-making takes place. Ultimately, TFAF will implement the will of the TF Committee.

14. We look forward to hearing other Members positions on this topic and revising the TFAF operational guidelines to reflect the outcome of this Committee's decision.

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