

UNECE

Consultation Approaches: Best Practices in Trade and Government Consultation on Trade Facilitation Matters

Recommendation No. 40



**United Nations Centre for Trade Facilitation
and Electronic Business (UN/CEFACT)**



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United Nations Economic Commission for Europe

United Nations Centre for Trade Facilitation and Electronic Business

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Recommendation 40**



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The United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT)

Simple, Transparent and Effective Processes for Global Commerce

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Foreword

The importance of consultation across government agencies and between government and private sector stakeholders has long been acknowledged. This was recognized in UNECE Recommendation No. 4 (first published in 1974 and last revised in 2015) and has recently been underscored in the Trade Facilitation Agreement of the World Trade Organization. Nevertheless, experience shows that even when the right to consultation is granted by law and supported by existing consultative structures, establishing concrete methodologies and best practices is essential to ensure its effective implementation.

The purpose of Recommendation No. 40 is to inform government agencies and private sector stakeholders about approaches to effective consultations that will be flexible, transparent, fair, accountable, and participatory. This Recommendation addresses issues such as information sharing, preparations prior to consultations, and measures that aim at building a trust-based dialogue. When available, best practices in the field of consultation are provided. The goal is to present flexible and diverse approaches to consultations and inspire successful solutions.

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 complementary and alternative forms and approaches to consultation and offers a qualitative methodology to improve the very core of the consultative process.

I am convinced that this Recommendation will be immensely useful to those engaged in consultations on trade facilitation matters and I invite all concerned actors, both public and private, to make effective use of this Recommendation.



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I. Recommendation 40: Consultation Approaches Best Practices in Trade and Government Consultation on Trade Facilitation Matters

A. 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 should consistently include the participation of private sector stakeholders in order to achieve these key principles. Successful consultation approaches will help encourage adoption of decisions by all parties involved and stimulate innovative ideas through a collaborative exchange between the various government agencies (Government) and the business community and other private sector stakeholders (Trade). 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 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.”* The importance of this concept has recently been underscored in the Trade Facilitation Agreement of the World Trade Organization.

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 should 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 the public and private sectors to participate.

Key aspects which should be considered when putting in place consultation include trust between Government and Trade, ensuring mutual benefits, transparency, managing various opinions / objectives, measuring the effectiveness of consultation and choosing the right topics and the right actors to participate. Each of these key aspects is developed in the Guidelines that accompany this recommendation.

Each Member shall, as appropriate, provide for regular consultations between its border agencies and traders or other stakeholders located within its territory.

B. Purpose

The purpose of this recommendation is to inform Government and Trade of approaches to effective consultations that will be flexible, transparent, fair, accountable and participatory. The UN/CEFACT encourages governments to develop a consultative approach for trade facilitation that is inclusive of Trade and Government stakeholders. This approach should 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 prior to consultations, and measures that aim at building a trust-based dialogue. When available, best practices in the field of consultation are provided.

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Preparations before consultations 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.

C. 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.

D. Benefits

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

For Government 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 the Government 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.

E. Recommendation

The UN/CEFACT at its 21st Plenary session on 16 and 17 February 2015 in Geneva agreed to:

(a) **Recommend** to governments and Trade a consultative approach that fosters trust, transparency as well as a timely and accountable dialogue between all stakeholders.

(b) **Recommend** to governments and Trade to **undertake all measures necessary to sustain and enable the consultations, including**

(i) build trust through transparency, involvement of Trade and of all relevant agencies, inclusion of trade issues within the process;

(ii) address key issues in a timely manner, consolidating where possible public sector views and encouraging Trade to consolidate their views;

(iii) establish mechanisms to share information, build capacity and awareness and measure the performance of consultation.

II. Guidelines to Recommendation 40

A. 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 goal 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.

B. Basic principles for consultation

1. Partnership and trust

1.1 Building partnership and trust

Partnership and trust is something which is constructed over time. This will be facilitated by respect of the opinions of each side, understanding of each side’s point of view, the opportunity to provide comments and concerns, receiving constructive feedback to input provided. It is necessary to understand and respect each party’s priorities, resources and ability to meet deadlines. 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 significant in terms of the relationship to a certain government authority.

Trust is the by-product of collaboration and true partnership. If meetings are conducted without a scripted end and participants are willing to suspend pre-existing mental models (or individual points of view), compliance turns to commitment and distrust turns to trust. This is something that occurs over time and may not be immediately present in the early stages of collaborative efforts.

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. There is a mutual need to form a true partnership that includes understanding and respect for each party’s priorities,

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resources and ability to meet deadlines; this will foster trust. Although building trust can take a significant investment of time, it may be easily compromised. This breach of trust can result from a non-respect of confidentiality, the lack of response to comments submitted, solutions imposed on stakeholders without the opportunity to comment, or one way communication such as notifications disguised under the name consultation.

1.2 Mutual benefits

There needs to be some level of return on investment for both Trade and Government. Consultation is an opportunity for both sides, but it is also an investment in time and money. 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. 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.

1.3 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. 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.

1.4 Learning about your partners' needs

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 (ICT). 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.

What are each parties' 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.

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 act as customs brokers or others who act as 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

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consultation that these divergent interests are not only represented but also understood and respected if any progress is to be made.

1.5 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.

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.

In the context of consultation, leadership is the ability to act positive, promote discussion towards consensus building and encourage constructive and conclusive decision making. 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. Transparency

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.

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.

To many organizations it can be a challenge to openly discuss plans and ideas before they have been fully conceptualized or formally accepted. There can also be procurement sensitivities. 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 make stakeholders feel excluded leading them to conclude their views have not been considered, thus making 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.

3. Managing differences of opinion and interests

In the process of trade facilitation consultations many different voices will be heard. Dividing lines will not always be as clear cut. There can be cross cutting issues where trade and government stakeholders may not share a common view on for example, a specific policy, regulation or law. The goal of the process is to highlight the 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, also taking into consideration the potential pain points of minority interests.

Government benefits from weighing the interests of other stakeholders.

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. In many countries consultations covering the vast majority 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.

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.

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.

Stakeholders must be provided with adequate opportunities to understand 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 touching base routinely with stakeholders to ensure that all parties are being kept abreast of planned changes at all stages. Consistent communication will

increase the probability of success and minimize the risk of changes that need to be withdrawn due to insufficient stakeholder awareness or preparation.

6. Accountability and responsibility

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. Used effectively, consultation should encourage compromise and cooperation, so long as it is tied to an obligation of responsibility and accountability. All participants in a consultation must act responsibly, fully embracing the concepts of trust and respect, appreciating a wide range of views or opinions without prejudice or discrimination. 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.

However, and perhaps more important, a final report must be presented identifying the tangible results achieved by the consultation process and reflecting how input from all sides was taken into consideration and the way it was used in making decision.

C. 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.

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. 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

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private sector, and the willingness to seek results through genuine negotiation and collaboration.

One way communications like press conferences or public announcements 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. 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.

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). 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 Trade and Government (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, political decree, governmental ordinance, 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 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.

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. 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.

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

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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.

5. Implementation working parties

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. The benefit of this process may take years to be fully recognized, but over time, as trust and partnerships build, the results will be very positive. 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.

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.

A generic consultation model, inclusive of the different levels, 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.

D. Levels of participation

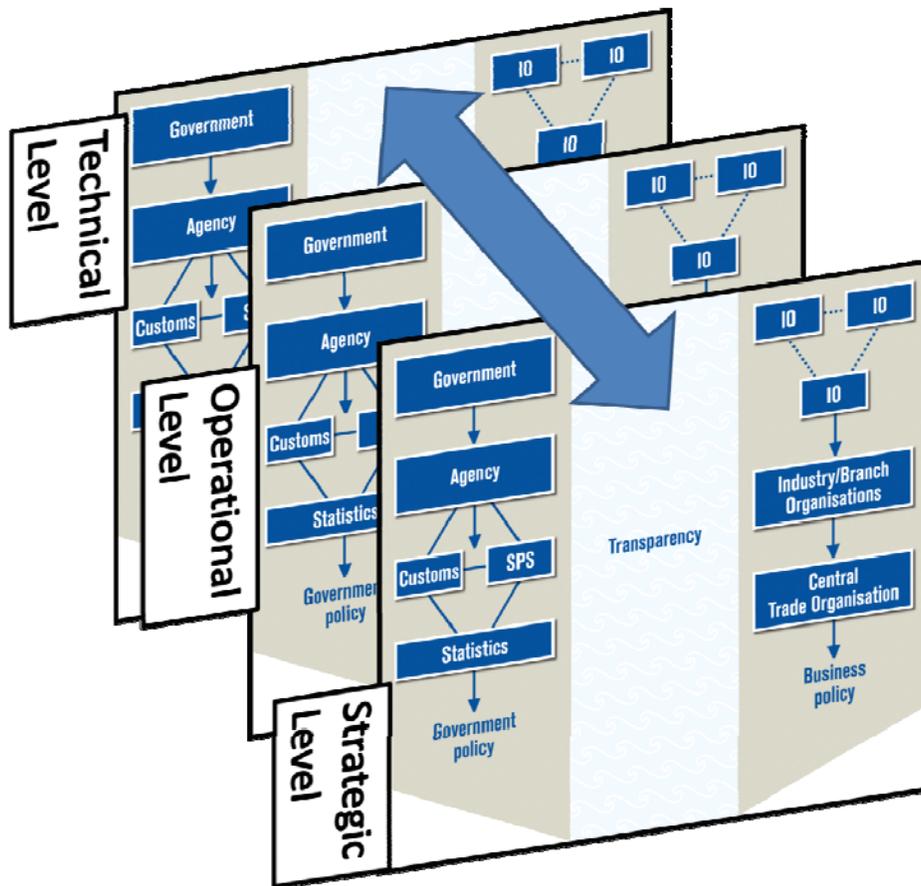
For consultation between Trade and Government to work efficiently and (more importantly) effectively, the process must include representation from the full diversity of

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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, technical 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 technical level group meets, it has information on what has been discussed at the strategic and operational level. Similarly, information from discussions at the technical level will then need to be communicated to both the strategic and operational level.

Figure 1 shows the levels of consultation, various stakeholders and their internal processes.

Figure 1. Levels of participation for consultation



At the **strategic level** discussions would include trade facilitation policy issues. At this level, meetings need occur only occasionally to monitor progress and take corrective actions if necessary. Participants to the committee should include senior officials, aides coordinating the political agenda and government policy makers. Trade participation would include senior decision makers of multi-national and national companies who are responsible for preparing new innovative business processes and commercial practices and

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systems. The agenda would consider trade facilitation measures as part of the overall objectives of trade and industry policy, economic development, fiscal and monetary (including taxation) policy and strategies for social and community cohesion. At this level existing regional / sub-regional / international obligations and agreements, conventions, recommendations and international standards are to be taken into account.

At an **operational level** participants would discuss the development of official procedures and commercial practices to allow the smooth implementation of the enabling measures. This is akin to a product management level. The working group would be comprised of parties from Government (senior government officials) and Trade (corporate/business managers, logistics practitioners...) with acknowledged competencies in the international supply chain. The agenda for the group would be an examination in detail of the legislation, regulation and administrative procedures to enact and enable the policy. The issues involved could include, but not be limited to, offering analysis of the legislative sections, articles and clauses and making recommendations for necessary or appropriate amendments; development of guidance and advisory services (including Public Notices); the design of an implementation programme; and a plan for a promotion and publicity campaign.

Finally, the **technical layer** can focus on specific technical tasks such as establishing a single window to achieve a higher strategic objective. Technical 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 to 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 on the impact of any new operational procedures or practices.

E. Topics for consultation

Governments consult to assess among other things 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 address a clear topic.

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.

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Case stories: Thailand and Pakistan

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

(Source: TFIG case stories, <http://tfig.unece.org/cases/Thailand.pdf> as of June 2014.)

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, <http://tfig.unece.org/cases/Pakistan.pdf> as of June 2014.)

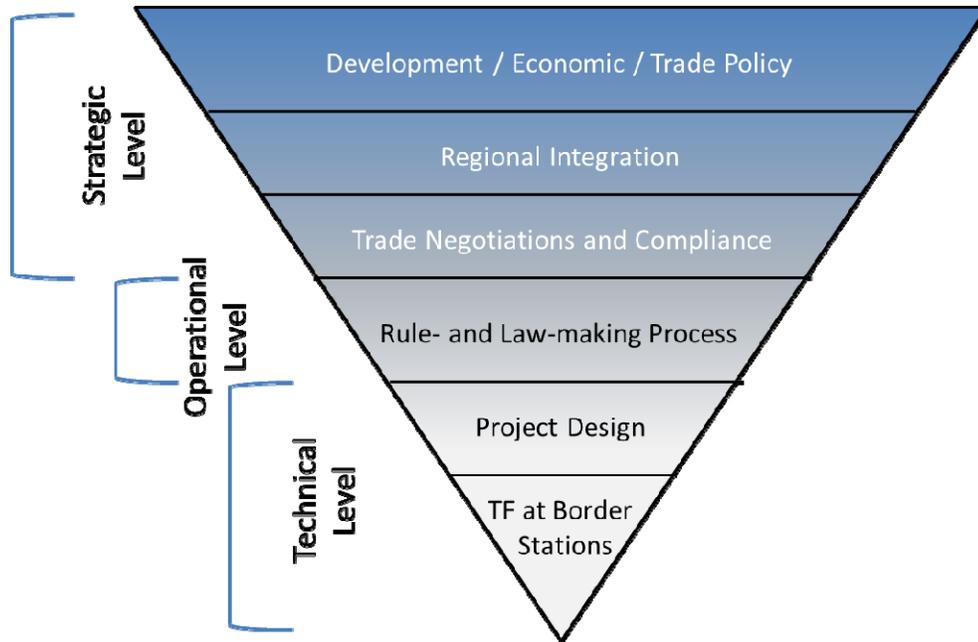
The goals and the topics of a consultation process need to be defined in advance. A consultation process without a clear topic will not attract interest and participation. Stakeholders will participate when matters have a direct bearing on business and daily operations. The issue or topic at stake in 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.

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. 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.

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.

Figure 2 illustrates the width of various topics for consultations. The top three levels indicate a strategic level; the middle level indicates an operational level and the bottom two indicate a technical level for the consultation.

Figure 2. The width of various topics for consultations



F. 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. The priority of Trade is not consultation but the running of everyday business. In some countries the degree of organization within Trade 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 and will do much in facilitating the much needed preparation that is required for all sides before consultation can begin.

G. 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 his 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.

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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 relevant material either physically or through a managed website.

Annex I. A proposed toolbox for consultation

This section provides recommendations that can be viewed as a set of tools that can be used to facilitate dialogue among stakeholders. The consistent consideration of the diverse tools available within three key areas will result in the path to successful and productive dialogue. These three areas are (1) assessment, (2) planning and execution, and (3) sustainment.

Assessment tools include activities focusing on stakeholder analysis, stakeholder impacts and identification of high level needs for communications, training, and policy changes for proposed changes. In the planning and execution stage, information gathered as a result of assessment will help to determine the appropriate level of engagement of stakeholders, as well as communications and training, so that activities can be planned accordingly. The third and perhaps most critical area and often overlooked, is sustainment. Once proposed changes are implemented, engagement and communication with stakeholders must continue to monitor the effectiveness of the work that was performed. Uninterrupted monitoring of stakeholders will help to reinforce the collaborative nature of this relationship.

I. Assessment tools

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.

A. 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. 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 process continues with descriptions of the stakeholders' needs, interests, organizations, capacities and so on. 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 sample template of how this can be mapped is provided below:

Stakeholder Strategy Matrix

Stakeholder	Description/ Members	Stake in Proposed Change/Priority	What do we need from them?	Perceived attitudes/risks	What will it take to get support?	Stakeholder Management Strategy
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A successful analysis will also promote and track the progress of specific stakeholders during the consultation process (that is, recognition of the baseline, creation of awareness, development of understanding, and finally, acceptance/readiness). This approach involves close coordination with the lead agency driving the change and requires consistent outreach

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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 so that parties have the necessary time to react?

B. Impact Matrix

The Impact Matrix provides a baseline assessment of stakeholder impacts as a result of proposed changes. This matrix is particularly useful when planning a project that will result in both technical changes to systems as well as operational policies.

Impact Matrix

Technical Feature	User Description	Pilot period?	User Deployment Date	User Impact Type	Policy Impact	Communication Impacts	Training Impacts	Actions	Owner
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Activities in this area will focus on identifying technical and policy changes that will have an impact on stakeholders as well as identifying high level needs for communications, training, and policy changes for each impact.

C. Policy integration template

The policy template focuses on identifying current organizational policies and how they align to proposed changes. Current policies will either partially align to proposed changes and need modification, or policies will need to be created because they do not yet exist. Key questions in this assessment include:

- (a) What business process area is being addressed by the proposed change?
- (b) What is the goal(s) of the proposed change?
- (c) What are the specific changes?
- (d) Will this change in policy/automation resolve a current problem? If so, which problems?
 - Can you explain some issues with the current process?
- (e) Does any written policy exist for the current policy?
- (f) How was the policy issued?
- (g) Is the policy current?
- (h) Are there any uniformity issues with this policy?

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- (i) Are there regulations for the current process?
 - Are you looking to change/amend existing regulations? If so, how?
- (j) Will this impose new requirements on the trade community or other government agency?

Activities will focus on the development of tool and templates to facilitate working with stakeholders on change integration, identification of points of contact for policy development, coordination of meetings at the different levels (strategic, operational and technical) and the tracking of all these different processes.

II. Planning and execution tools

A. Change management activities

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 may not be aware of external factors that would necessitate or warrant a need for change.

The initiator of change must be prepared to conduct a readiness assessment of its stakeholders to undergo that change. Stakeholders must be aware of the “as is condition” as well as the “go to condition.” 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 comments, 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.

Information gathered in the assessment stages will help determine the appropriate engagement and activities to be planned at each level. Engagement activities will target both internal and external audiences impacted by upcoming changes. This plan should include two-way communication so that stakeholders can provide continuous feedback to the program as they experience changes resulting from executed changes. Well planned activities should reach all levels of a stakeholder group, from leadership to end users.

Activities at this level should focus on:

- Communication plan
 - On site outreach
 - Email communication and newsletters
 - Information notices
 - Webinars
 - Websites
- Training Plan
 - In person
 - Web based

- Training and reference guides
- Videos
- Policy
 - Policy coordination meetings
 - Publication of legal notices for comment

B. Sustainment

In addition to the “readiness” activities referenced above, preparations must also be made to sustain the necessary changes by providing for continuous process improvement, standards of measurement, and business process reengineering. 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. Activities in this area can focus on establishing surveys for completion by stakeholders, monthly metrics reports and continuous outreach.

III. 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 improvement 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.

A. 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.

B. 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 defines the evaluation criteria with its indicators / data sources, and then set targets / 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 effectiveness in terms

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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.

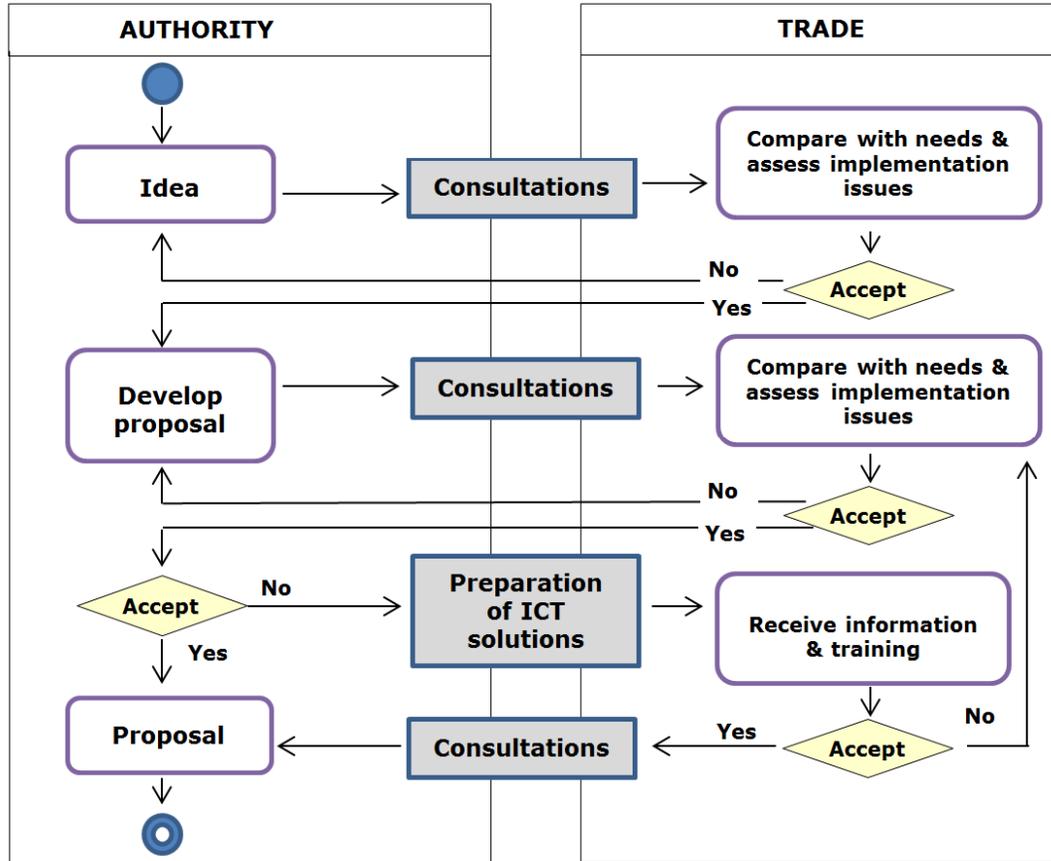
Each evaluation criterion can have at least one indicator—qualitative or quantitative—that is used to measure the overall criteria. An example of an indicator for the representative criteria is the number of participants and the organizations they represent. Data indicates the source where information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

C. 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.

Annex II. Generic model

Figure 3. A generic consultation model



The generic model illustrated in Figure 3 is an attempt to provide guidance for those trying to engage in consultations and 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 to sustain the commitment.

In Figure 3, the *idea* is originating from the *Authority*, but it could also be initiated from *Trade*; in which case the headings of the two boxes would be inversed.

The basic components of the consultation in this 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.

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In the proposed model, the consultation process is set in motion by an idea. Trade procedures are governed by policy and procedures, and any item of consultation will inevitably come from an idea of opportunities for new policies and procedures or in its more developed form, *proposals*. This is true independently of whether these ideas are a suggestion from Trade, new legislation imposed from a regional level or any of the other topics discussed in Section E of the Guidelines on Topics for Consultations.

From the *consultations* there will come a *proposal* for policies and procedures. The proposal may also lead to new problems and issues. These can be addressed by either *training* or new *ideas* or *proposals* on re-organization for new procedures or policies. This overall landscape of consultations is depicted in Figure 3.

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. That process is depicted in the upper part of Figure 3. 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 this model that process has been given the name "*Compare with needs and assess implementation issues*", but it can be both more and less complex depending on where in the process it happens and the nature of the idea at hand.

The process "*Compare with needs and assess implementation issues*" is a simplification of 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 simultaneous, 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. This process is continued when the proposal is formally presented with a deadline for implementation. In this process, the Authority provides training or information that is shared with the Trade stakeholders and in turn, the Trade stakeholders give feedback on the efficiency of the information and training provided. A process that can be both separate and on-going is Evaluation. In principle it makes the same loop as the consultations in the model, but will involve feedback on the consultation process itself and the results it has generated. The overall model tries to show the involvement of all stakeholders and the information sharing over time.