

Multi-year Expert Meeting
on Transport, Trade Logistics and Trade
Facilitation:

**Trade Logistics and the 2030 Agenda for
Sustainable Development**

23-24 October 2017

National Experience

by

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23 October 2017

**INVEST IN THE TRADE FACILITATION GOOSE
THAT LAYS THE GOLDEN EGG:
A ROAD MAP FOR DECISION MAKERS ON THE
IMPLEMENTATION OF
THE WTO TRADE FACILITATION AGREEMENT**

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September, 2017

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Abstract:

Since the creation of the WTO in 1995, over 400 additional arrangements covering trade in goods or services have been concluded. This figure was only 124 in 1994².

Today, the biggest problem of cross border trade is not the tariff measures any longer. However, still many countries exist that have not fully been engaged in or not receiving adequate benefits from the cross border trade. These countries are predominantly least developed or developing countries. Despite this fact, there is a promising trend in the field of the international trade as well. This is the Trade Facilitation Agreement of the World Trade Organization (WTO-TFA).

In this paper, the WTO-TFA has been analyzed as a positive development for the underdeveloped countries, and a brief systematic implementation road map of the WTO-TFA has been proposed for these countries in line with the 2030 Agenda for Sustainable Development.

Invest in the Trade Facilitation Goose That Lays the Golden Egg:

A farmer finds a goose among his livestock that produces golden eggs. Every day, it lays another pure golden egg. The goose lays golden eggs for a good long time, and the farmer becomes extremely wealthy. After a while, the farmer gets greedy and impatient. He kills the goose to open it up and get all of the eggs at once. There are no eggs inside. He has killed his source of gold.

² https://www.wto.org/english/tratop_e/region_e/regfac_e.htm

According to the paradigm suggested by Stephen R. Covey, the golden egg is the production, and the goose is the production capability. The moral of the story is that without taking care of your production capability, production will suffer.

In our present day, there are many instruments developed by international organizations at the disposal of the least developed and developing countries. In fact the WTO-TFA, as an outstanding international instrument, is the goose that lays the golden egg for the least developed and developing countries if they would like to reap the benefits of cross border trade by becoming an active member of the international trade farm. Therefore, the countries which adopt a pattern of life focusing both on golden eggs (economic growth via international trade) and the goose (WTO-TFA) will become the ones who hold the necessary asset that produces golden eggs.

“International trade is an engine for inclusive economic growth and poverty reduction, and contributes to the promotion of sustainable development...” was written at the Declaration of the 2030 Agenda for Sustainable Development. Furthermore, the trade goals of the 2030 Agenda for Sustainable Development are as follows:

“17.10 Promote a universal, rules-based, open, non-discriminatory and equitable multilateral trading system under the World Trade Organization, including through the conclusion of negotiations under its Doha Development Agenda.

17.11 Significantly increase the exports of developing countries, in particular with a view to doubling the least developed countries’ share of global exports by 2020.

17.12 Realize timely implementation of duty-free and quota-free market access on a lasting basis for all least developed countries, consistent with World Trade Organization decisions, including by ensuring that preferential rules of origin applicable to imports from least developed countries are transparent and simple, and contribute to facilitating market access.³”

³ <https://sustainabledevelopment.un.org/post2015/transformingourworld>

For the purpose of reaching these trade goals and harvest the benefits of the international trade to promote economic growth, the least developed and developing countries should above all plant, in other words they should fulfill their responsibilities.

In this regard, a systematic brief implementation road map of the WTO-TFA has been proposed for the countries which have the willingness to enjoy the benefits of the Agreement and which are seeking to design the efficient and effective implementation of the provisions of the TFA.

Ideal Brief Implementation Road Map of the WTO-TFA:

Trade facilitation is a paradigm that includes standardization, simplification and harmonization of the cross border trade while enabling full transparency of the legislation that regulates this trade flow, and putting the information and communications technology in place.

To address this need, WTO Members concluded negotiations on a landmark TFA at their 2013 Bali Ministerial Conference and are currently in the process of adopting measures needed to bring the Agreement into effect.

The TFA contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It also sets out measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues. It further contains provisions for technical assistance and capacity building in this area. The Agreement will help to improve transparency, increase possibilities to participate in global value chains, and reduce the scope for corruption⁴.

The TFA consists of two sections. Section I contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It clarifies and improves the relevant articles (V, VIII and X) of the General Agreement on Tariffs and Trade 1994. It also sets out provisions for customs cooperation. Section II contains special and differential treatment provisions that allow the least developed and developing countries to determine when

⁴ <http://www.tfafacility.org/trade-facilitation-agreement-facility>

to implement individual provisions of the Agreement and to identify provisions whereby they may have the capability to implement by means of technical assistance and support for capacity building purposes⁵.

The following road map has been designed to enlighten the decision makers in these countries for the effective planning of the implementation of the Section I of the TFA to enable them to categorize each provision of the Agreement in accordance with the Section II of the TFA.

As the methodology for the road map of the implementation of the WTO-TFA, different criteria have been identified:

- ✚ Decisiveness
- ✚ Leadership
- ✚ Internet Accession
- ✚ Soft Policy Changes
- ✚ Infrastructure
- ✚ Usage of ICT
- ✚ Expertise-Human Capital
- ✚ Financial Policy
- ✚ Political Support

In line with the afore-mentioned list of criteria, three implementation phases are designed. These are;

- ✚ Phase I: Fast Track (Basic Provisions)
- ✚ Phase II: Transitional Stage (Intermediate Provisions)
- ✚ Phase III: Final Stage (Advance Provisions)

⁵ <http://www.tfafacility.org/trade-facilitation-agreement-facility>

i. Phase I: Fast Implementation Category

Decisiveness and leadership criteria are the necessary factors for Phase I.

The cornerstone criterion of this phase is identifying the leader agency. This agency would have the responsibility of coordinating efforts and managing the development and implementation of the WTO-TFA. It would, however, act upon policy decisions made collectively by the National Committee on Trade Facilitation. Decisiveness would be the engine of the success of the National Committee.

The provisions which may be designated at the Fast Implementation Category are as follows:

- ✚ Article 1.1 Publication
- ✚ Article 1.3 Enquiry Points
- ✚ Article 4 Procedures for Appeal or Review
- ✚ Article 8 Border Agency Cooperation
- ✚ Article 9 Movement of Goods Intended for Import under Customs Control

At this phase, there is not any necessity of financial or technical support for the implementation of the identified provisions of the WTO-TFA.

ii. Phase II: Transitional Stage

Internet accession, soft policy changes and availability (not requiring additional investment) are the criteria for Phase II.

At this phase, WTO member countries require a transitional period of time for the implementation of the following designated provisions of the WTO-TFA. During the transitional period which will be decided by the National Committee, the member countries will improve the capacity of its national border agencies for providing information to the public regarding import, export and transit procedures through internet.

As a second criterion for this phase, the National Committee should adopt soft policy changes to shift conventional functioning manner of national border agencies from individual action of different authorities for the cross border transactions of goods towards to the collective synergy of the all national border agencies, and shifting each national border agency's mindset to providing service to the firms rather than just oppressing them by heavy control procedures.

The provisions which may be designated at the Phase II are as follows:

- ✚ Article 2: Opportunity to comment, information before entry into force and consultations
- ✚ Article 5.3: Test Procedures
- ✚ Article 10.5: Preshipment Inspection
- ✚ Article 10.6: Use of Customs Brokers
- ✚ Article 10.8: Rejected Goods
- ✚ Article 10.9.1: Temporary Admission of Goods
- ✚ Article 12: Customs Cooperation

iii. Phase III: Final Stage

Phase III is the final period for the implementation of the WTO-TFA. At this phase, infrastructural investment, usage of ICTs, human capital and political support are sine qua non.

Phase III is the most important period for the full and effective implementation of the Agreement. The member countries may require technical and financial support at this phase. It covers putting the core provisions of the TFA into force. These provisions are mainly related with the seamless functioning of the cross border trade. The investment for the ICTs and human capital must be made by taking the necessary political support at this phase.

The provisions that may be designated under the Phase III are as follows:

- ✚ Article 3: Advance Rulings
- ✚ Article 5.2: Detention

- ✚ Article 6: Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation and Penalties
- ✚ Article 7: Release and Clearance of Goods
- ✚ Article 10: Formalities Connected with Importation, Exportation and Transit (Except 10.5, 10.6, 10.8, 10.9.1)
- ✚ Article 11: Freedom of Transit

With regard to the infrastructure investment, Article 7.9: Perishable Goods should be taken into consideration in order to provide proper storage facilities for the perishable goods to with a view to prevent avoidable loss or deterioration.

The ICTs' investment are significant at this phase as well due to the necessity of adoption of new procedures allowing for the submission of import documentation and other required information, including manifests, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival (Article 7.1 Pre-arrival Processing).

The ICT investment is also a must for the adoption of procedures enabling the electronic payment of duties, taxes, fees, and charges (Article 7.2: Electronic Payment); with a view to putting into force of release of goods prior to final determination of customs duties, taxes, fees, and charges mechanism, prior to arrival of goods or upon arrival (Article 7.3: Separation of Release from Final Determination of Customs Duties, Taxes, Fees and Charges); for the establishment of a risk management system for customs control (Article 7.4: Risk Management); for setting up a post-clearance audit mechanism to expediting the release of goods to carry out the controls in risk based and deferred manner at the premises of importer rather than carrying all the controls out at the customs offices (Article 7.5: Post-clearance Audit); for measurement the release time of goods to identify bottlenecks with a view to planning the necessary actions for performance improvement of national border agencies (Article 7.6: Establishment and Publication of Average Release Times); for introducing an expedited release systematic of at least air cargo by enabling the submission the information necessary for the release, in advance of the arrival of an expedited shipment (Article 7.8: Expedited Shipments); for establishment of single window to enable traders to submit documentation and data requirements for importation, exportation and transit of goods through single entry point to the national border agencies (Article 10.4: Single Window); lastly for the

establishment of a ICT supported mechanism to inform the carrier or importer in case of detention of goods for inspection by national border agencies (Article 5.2: Detention).

Phase III also necessitates to make an investment for human capital to have a well-educated and action-oriented human resources at the national border agencies of the WTO member countries with regard to the Article 3: Advance Rulings, Article 7.1 Pre-arrival Processing, Article 7.4: Risk Management, Article 7.5: Post-clearance Audit, Article 7.7: Trade Facilitation Measures for Authorized Operators, Article 7.8: Expedited Shipments, Article 10.4: Single Window, Article 10.9: Inward and Outward Processing and Article 11: Freedom of Transit.

In addition, the Final Stage includes some provisions requiring changes of revenue and financial policies in the WTO member countries as well. Especially, the Article 6: Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation and Penalties, Article 10.9: Inward and Outward Processing and Article 11: Freedom of Transit (mechanism for guarantee) may be listed under the list of provisions that necessitates policy changes.

Lastly, there are some provisions that the WTO member countries may need to have political support for an efficient application at the Final Stage. Namely: Article 6: Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation and Penalties, Article 7: Release and Clearance of Goods, and Article 10.4: Single Window. These provisions are generally not under the jurisdiction of solely one national border agency in the WTO member countries, and require a collective application approach.

Conclusion:

The WTO Agreement on Trade Facilitation is an important tool for economies to improve business environment. Easing the cost, time and process of doing business and trade is no longer a policy choice only. It is fundamental to raise the competitiveness of an economy and attract investment⁶.

⁶ International Trade Centre 2015.

The least developed and developing countries may obtain benefits of cross border trade for inclusive economic growth and poverty reduction to reach the goals of the 2030 Agenda for Sustainable Development. For this purpose, a brief systematic implementation road map of the WTO-TFA has been proposed at this paper for these countries.

The Agreement covers mainly 36 provisions for expediting the movement, release and clearance of goods, including goods in transit. The least developed and developing countries can be a party to the TFA as well without any hesitation. The most important point here is just having a well-designed action plan. Thereby, these countries may have well-functioning instruments in place for economic growth through cross border trade, and may also attract foreign direct investments owing to the efficient trade facilitation measures.

The Trade Facilitation Agreement is of particular importance for these countries because of the alarming prevalence of trade mis-invoicing practices, and their serious impact on domestic resource mobilization as well. The considerable scale of illicit financial flows highlights the need to strengthen the international cooperation framework between customs agencies, revenue authorities and other related agencies to tackle such practices. Therefore, the Agreement is also useful for these countries to overcome this problem⁷.

Considering all of these, let's invest in the Trade Facilitation goose that lays the golden egg for the least developed and developing countries to reap the benefits of cross border trade!

⁷ UNCTAD the Least Developed Countries Report, 2016.

Annex: Road Map Table:

STAGES/ CATEGORIZATION	CRITERIA							
	Decisiveness	Leadership	Soft Policy Change	Infrastructure	ICT	Human Capital	Financial Policy	Political Support
Fast Track (Basic Provisions)	Article 1.1 Article 1.3 Article 4 Article 8 Article 9	Article 23.2	-	-	-	+	-	+
Transitional Stage (Intermediate Provisions)	+	+	Article 2 Article 5.3 Article 10.5 Article 10.6 Article 10.8 Article 10.9.1 Article 12	-	-	+	-	+
Final Stage (Advance Provisions)	+	+	-	Article 7.9	Article 7.1 Article 7.2 Article 7.3 Article 7.4 Article 7.5 Article 7.6 Article 7.8 Article 10.4 Article 5.2	Article 3 Article 7.1 Article 7.4 Article 7.5 Article 7.7 Article 7.8 Article 10.4 Article 10.9 Article 11	Article 6 Article 10.9 Article 11	Article 6 Article 7 Article 10