WTO Trade Facilitation Agreement

Key features and Structure

Thailand - National and Sub-regional Workshops on the WTO Trade Facilitation Agreement
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A. What is Trade Facilitation?
A. What is TF in WTO terms?

• No single definition

• In WTO terms TF can be understood as:

  – Simplification, harmonization, automation of the procedures applied to international trade, particularly the requirements and formalities related to importation and exportation with a view to further expediting the movement, release and clearance of goods, including goods in transit.
B. What needs to be addressed?
B.1 Typical problems:

- Excessive documentation requirements
- Inefficient border-crossing procedures
- Transport and transit impediments
- Lack of transparency and predictability
- Lack of cooperation and coordination
- Lack of automated processes and scarce use of information technology
- Lack of more uniform rules and, user-friendly and efficient procedures
- High administrative costs
- Increase in the amount of goods traded worldwide
B.2 Customs Transactions Worldwide

Customs transactions vary widely from country to country. In 2014, these transactions involved:

**EXPORT**
- 2-11 documents
- 6-86 days

**IMPORT**
- 2-17 documents
- 4-130 days

B.3 Why does it matter?

9 billion documents each year to process movement of goods!

1 day clearance $\approx 1\%$ tariff

✓ Companies sometimes spend more money complying with customs regulations than the amount earned in revenue by Customs
Big efforts have been made by different institutions
However, not everything has changed !!!
A Customs office in November 2015...
B.10 Sources of Delay/Costs

- Infrastructure
- Technology
  - Border procedures, inspections, controls
  - Document and information requirements
- Fees and charges
C. Structure of the WTO TFA

- Scope and nature of the substantive provisions

- S&D categories
Objectives of the TFA

Preamble: “clarify and improve relevant aspects of Articles V, VIII and X of the GATT” in order to:

- Expedite the movement, release and clearance of goods
- Improve cooperation between customs agents and other authorities
- Enhance technical assistance and capacity building for developing countries, especially LDCs
Structure of the TFA

Section I
The TFA contains 12 Articles with approximately 40 “technical measures”

Section II
Special provisions for developing and least-developed country Members

Section III
Final provisions and institutional arrangements
Section I

The trade facilitation Agreement contains 12 Articles with approximately 40 “technical measures”

**Article 1**
Publication & Availability of Information

**Article 2**
Comment and Consultations

**Article 3**
Advance Rulings

**Article 4**
Procedures for Appeal or Review

**Article 5**
Measures to Enhance Impartiality, Non-Discrimination & Transparency

**Article 6**
Disciplines on Fees and Charges

**Article 7**
Release and Clearance of Goods

**Article 8**
Border Agency Cooperation

**Article 9**
Movement under Customs Control

**Article 10**
Import, Export & Transit Formalities

**Article 11**
Freedom of transit

**Article 12**
Customs Cooperation
Nature and scope of obligations:

**Binding**

Art. 1.1 (Publication): “Each Member shall promptly publish the following information ...”

**Best endeavour**

Art. 1.3 3.3 (Enquiry Points): Members are encouraged not to require the payment of a fee ...

**Combination**

Art. 1.2 2.1 (Information through internet): “Each Member shall make available, and update to the extend possible and as appropriate, the following through internet...”  

Art. 1.2 2.3 “Members are encouraged to make available further trade-related information ...”
TFA Key Features:
How to find a balance between

Facilitating trade  Effective application of the laws and regulations
WTO and Facilitation of Trade

• The WTO/GATT rules include provisions to enhance transparency and set minimum procedural standards

HOWEVER,

• The WTO legal framework lacked specific provisions in some areas, particularly on customs procedures and documentation, and on transparency.
Key features: WTO Legal framework

Main basis: Three GATT Articles

- Art. V  Freedom of Transit
- Art. VIII  Fees + Formalities connected with Importation & Exportation
- Art. X  Publication and Administration of Trade Regulations
Summary: Legal Framework

GATT Article X – Transparency

• Prompt publication of procedures, applied rates, fees, charges etc.
• Uniform and impartial administration of laws
• Right to appeal
• Publication of all border related laws, regulations, procedures and practices (Gazettes, Internet)

• Time interval between publication of rules and entry into force
• Opportunity for consultation and commenting on new and amended rules
• Enquiry point(s)
• Advance Rulings
• Notifications
Summary: Legal Framework (cont.)

GATT Article VIII: Simplification of fees
- Publication / Notification of fees/charges
- Fees commensurate to service provided and not be ad valorem
- Periodic review of fees/charges
- Electronic payment
- Risk management
- Post clearance audit

Fees and Formalities
Simplification of procedures and documentation
- Single Window/one time submission
- Border agency cooperation
- Authorized trader system
- Acceptance of copies of documents
- Use of international standards
- Pre arrival clearance
- Expedited shipments
- Separating Release from Clearance Procedures
- Periodic Review of Formalities and Requirements
Summary: Legal Framework (cont.)

• GATT Article VIII
  Simplification of procedures and documentation
  • Establishment and publication of average release and clearance times
  • Pre-shipment inspection
  • Common border procedures
  • Uniform documentation requirement
  • Temporary admission of goods
  • Rejected goods

GATT Article V – Freedom of Transit
• Most convenient route
• No discrimination and no unnecessary delays or restrictions
• No fees, duties, TBT regulations
• Acceptance of guarantees
• Simplified and preferential clearance whenever possible
• International co-operation among border authorities (international)
Link with GATT Provisions

Transparency
- GATT Art. X
- AFC Arts. 1-5

Fees and Formalities
- GATT Art. VIII
- AFC Arts. 6-10

Transit
- GATT Art. V
- AFC Art. 11

Special and Differential Treatment (S&D)
## Link with GATT provisions

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Link with other WTO Agreements...
Example: Customs Valuation

Right to Appeal
- **CVA** Art. 11
- **TFA** Art. 4

Publication
- **CVA** Art. 12
- **TFA** Art. 1

Separation of Release and clearance
- **CVA** Art. 13
- **TFA** Art. 7.3
Link with other WTO Agreements...
Example: Import Licensing

Publication, availability of Information
- ILP Arts. 1.4
- TFA Art. 1

Opportunity to comment
- ILP Art. 1.5
- TFA Art. 2

Use of simple forms, application procedures
- ILP Art. 1.6
- TFA Art. 10.1
Categories of provisions: S&D Treatment for DC and LDCs

Each developing and LD Country Member will classify each measure of Section I into one of three categories: Art. 14

**CATEGORY A** (Art. 15)
- Implementation upon Entry Into Force of the Agreement
- +1 year for LDCs
- Annex to TFA

**CATEGORY B** (Art. 16)
- Implementation after a transitional period from the entry into force
- Only time needed

**CATEGORY C** (Art. 16)
- Implementation only after acquisition of implementation capacity through TA and CB
- Need time + support

*Based on country’s own assessment!*
Section III
Final provisions and institutional arrangements

Article 23

1. Committee on TF: It will oversee the implementation of the TFA

2. National Committee: Each Member shall establish (or maintain) a national committee
Thank you!