

## B. Trade facilitation in context

Successive rounds of multilateral trade negotiations, culminating in the Uruguay Round in 1994, succeeded in dramatically reducing tariffs and other barriers to international trade, but trade costs remained high due in part to administrative burdens and inefficient customs procedures. In a world increasingly characterized by globalized manufacturing, just-in-time production, and integrated supply chains, there has been a growing recognition of the need for global rules to facilitate trade. This section looks at how trade facilitation issues have been dealt with in the WTO and other fora, including a review of the negotiations that led to the recent Trade Facilitation Agreement (TFA), a summary of the content of the TFA itself, an evaluation of the steps that need to be taken to move forward, and a survey of trade facilitation initiatives in regional trade agreements and other international organizations. This discussion is intended to establish the state of trade facilitation reform as it currently stands, and to set the stage for the theoretical and empirical discussions to follow.

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## Some key facts and findings

- WTO work on trade facilitation culminated in the adoption of the Trade Facilitation Agreement (TFA) at the WTO's Ninth Ministerial Conference in Bali in December 2013. It is the first multilateral agreement since the establishment of the WTO in 1995.
- The TFA clarifies and improves three articles of the General Agreement on Tariffs and Trade (GATT), negotiated in the 1940s, which were considered inadequate to meet the needs of the modern business world. It also takes an innovative, tailor-made approach to providing assistance and support to developing and least-developed country members in implementing the TFA, relating the extent and timing of implementation to the implementation capacities of those members.
- Trade facilitation has been part of the negotiations for many regional trade agreements (RTAs). More than 90 per cent of notified RTAs currently in force have provisions on trade facilitation. By providing them with common standards for trade facilitation and reducing overlaps in cases where countries are parties to several RTAs, the TFA will reduce inefficiencies and discrimination, where they exist.
- The widespread absence of special and differential treatment and technical assistance provisions in RTAs, often coupled with weak enforcement systems, suggests that the TFA will make a critical difference to trade facilitation through its emphasis on implementation.
- Many international organizations are active in the trade facilitation area where they complement and support the role of the WTO by providing financing, knowledge about best practices, data, and analytical tools that will help members implement the TFA.

## 1. Trade facilitation in the WTO

### (a) How it all began

In many ways, the WTO's engagement in trade facilitation began at the Singapore Ministerial Conference in December 1996. Work on trade facilitation matters had already taken place before this, but only in a broader context, linked to aspects of other WTO/General Agreement on Tariffs and Trade (GATT) treaties, such as the Agreements on Customs Valuation, Rules of Origin, Import Licensing, Sanitary and Phytosanitary Measures or Technical Barriers to Trade. It took until 1996 for members to agree on work under a separate conceptual heading.

The first mandate was fairly limited, directing the WTO Goods Council "to undertake exploratory and analytical work . . . on the simplification of trade procedures in order to assess the scope for WTO rules in this area". It reflected the fact that members still held different views about the desirability of a trade facilitation agreement. Some wanted to launch negotiations right away whereas others remained unconvinced that the WTO should get involved in such an exercise. As a result, the first years were largely spent on advocacy work. Proponents of trade facilitation negotiations tried to make the case for a new agreement which they first hoped to see launched at the 1999 Seattle Ministerial.

It would, however, take until the 2001 Doha Ministerial Conference to get a step closer to the negotiating track. Ministers' agreement that "negotiations will take place after the Fifth Session of the Ministerial Conference" – i.e. in Cancún in 2003 – was, however, conditioned by the call for this to take place "on the basis of a decision to be taken, by explicit consensus [...] on modalities of negotiations". And while an agreement was meant to be brought about "at that session" – the Cancún Ministerial – it took until mid-2004 to actually obtain the green light for negotiations to commence.

### (b) What was addressed and why?

After an initial phase of exploring the possibilities for a broader scope of work, it soon became clear that the focus had to be narrowed to find the necessary consensus on a negotiating mandate. Three provisions of the GATT – Articles V (freedom of transit), VIII (fees and formalities connected with importation and exportation) and X (publication and administration of trade regulations) – emerged as a commonly acceptable basis in this regard. They became a regular component of draft negotiating mandates prepared for various ministerial conferences, starting with the Seattle Conference in 1999.

This focus became even more pronounced over time. The Doha Ministerial Declaration concentrated on the three provisions when defining the trade facilitation work programme, calling on members to "review and, as appropriate, clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 [...]".

These articles were also a key focus of the negotiating mandate that was finally agreed upon. Building on the language of the Doha Ministerial Declaration, the 2004 General Council decision to launch negotiations stated that "Negotiations shall aim to clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including goods in transit". The scope was only broadened by a call for the development of "provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues".

The reference to an improvement of the three GATT articles reflected the fact they were considered to suffer from several shortcomings. Negotiated in the 1940s and unchanged ever since, the provisions were considered inadequate to meet the needs of the modern business world. Many members saw them as limited in scope and imprecise in some of their prescriptions. Complaints were also made about a perceived softness in their level of commitment.

### (c) What did it lead to?

An analysis of how this mandate was translated into concrete provisions (see Table B.1 for an overview of the disciplines of the TFA) shows that members chose a combination of implementation strategies.

Some articles of the TFA reflect a direct attempt to "improve and clarify" the relevant GATT framework by specifying its requirements and by tightening the existing obligations (such as by mandating information to be published in "a non-discriminatory and easily accessible manner" instead of the unqualified obligation to publicize it "in order to enable governments, traders and other interested parties to become acquainted with [it]"). There are also cases where measures are imported from other WTO agreements and translated into a trade facilitation context. See, for instance, the obligation to set up an enquiry point – which is similar to the enquiry points required by the Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures and the Agreement on Technical Barriers to Trade (TBT) – or to issue advance rulings on matters other than rules of origin.

The vast majority of provisions, however, have only a broader, thematic link to the three GATT Articles in

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question. They can be seen as complements to the relevant GATT framework or as its further development, without there being a direct anchor in Articles V, VIII or X. Examples for this third category include TFA Article 7 (release and clearance of goods), Article 8 (border agency cooperation), Article 9 (movement of goods under customs control intended for import) and most of Article 10 (formalities connected with importation and exportation and transit).

As far as the level of commitment is concerned, the TFA shows a combination of binding and best-effort elements, often within the same article. Mandatory “shall” language is frequently softened by the insertion of flexibility elements (such as “to the extent practicable”, “as appropriate” or “within its available resources”). Some provisions are drafted in general terms whereas others are rather specific.

Similar differences can be found with respect to the range of stakeholders involved. Articles with a broad scope, such as those referring to “interested parties”, are mixed with provisions that target a narrowly defined situation or group (such as the language on pre-shipment inspection or customs brokers).

Developing countries and least-developed countries (LDCs) are entitled to implement all measures contained in Section I – home to the substantive trade facilitation disciplines – in line with the far-reaching special and differential treatment (S&D) provisions set out in Section II. Unlike in the case of the three GATT articles, which had to be implemented without any specific flexibilities, the TFA allows for the self-determination of time frames and of implementation capacities for the application of its disciplines, on a country-by-country and provision-by-provision basis.

**Table B.1: Overview of disciplines prescribed by the Trade Facilitation Agreement**

Article	Disciplines
<b>Article 1 Publication and Availability of Information</b>	Requires members to: <ul style="list-style-type: none"> <li>publish specific information related to importation, exportation and transit promptly and in an easily accessible way, making it available on the internet, together with the necessary forms and documents, as well as providing the contact information for enquiry points</li> <li>have at least one national enquiry point for dealing with these issues</li> <li>notify the WTO where the information has been published, including on the internet, and provide the contact information of the enquiry points.</li> </ul>
<b>Article 2 Opportunity to Comment, Information Before Entry Into Force and Consultations</b>	Requires members to: <ul style="list-style-type: none"> <li>consult with traders and other interested parties on new or amended laws and regulations related to the movement, release, and clearance of goods</li> <li>give traders and other interested parties time to familiarize themselves with the new laws and regulations by publicising them as early as possible.</li> </ul>
<b>Article 3 Advance Rulings</b>	Requires members to: <ul style="list-style-type: none"> <li>issue an advance ruling, which will be binding, in a reasonable, time-bound manner in response to any written request that contains all necessary information</li> <li>inform an applicant in writing if the application is declined, specifying the reasons; and inform the applicant if the advance ruling is revoked, modified or invalidated</li> <li>provide the applicant, upon receipt of a written request, with a review of the advance ruling, or the decision to revoke, modify or invalidate it</li> <li>ensure the validity of the advance ruling for a reasonable period of time after issuance</li> <li>publish information on the requirements for an advance ruling application, the time period by which an advanced ruling will be issued, and the length of time for which the advance ruling is valid</li> <li>endeavour to make publicly available any information on advance rulings which it considers of significant interest to other interested parties, while protecting commercially confidential information.</li> </ul>
<b>Article 4 Appeal or Review Procedures</b>	Requires members to: <ul style="list-style-type: none"> <li>guarantee the right to an administrative appeal or review by the appropriate administrative authority, and/or to a judicial appeal or review to anybody who receives an administrative decision from customs</li> <li>ensure that the appeal or review procedures are non-discriminatory</li> <li>provide the right to a further appeal or review if there is undue delay in providing the original decision</li> <li>ensure that everybody who receives an administrative decision is provided with the reasons for it, to allow them recourse to an appeal or review.</li> </ul>
<b>Article 5 Other Measures to Enhance Impartiality, Non-Discrimination and Transparency</b>	Requires members who issue notifications or guidance for enhancing border controls regarding foods, beverages, or feedstuffs to: <ul style="list-style-type: none"> <li>base those notifications on risk; apply the measures uniformly, at the appropriate points of entry; lift them promptly when the circumstances no longer apply; and inform the trader or publish the lifting or suspension of the notification</li> <li>promptly inform the importer or carrier of the detention of goods for inspection</li> <li>provide the opportunity for a second test if the results of the first one are negative; provide details of the laboratory where the test can be carried out; and accept the results of the second test, if appropriate.</li> </ul>

<b>Table B.1: Overview of disciplines prescribed by the Trade Facilitation Agreement (continued)</b>	
<b>Article</b>	<b>Disciplines</b>
<b>Article 6 Disciplines on Fees And Charges Imposed on or in Connection With Importation and Exportation</b>	<p>Requires members to:</p> <ul style="list-style-type: none"> <li>▪ publish information on the application of fees and charges, sufficiently in advance of their entry into force; not seek payment before the information has been published; review the fees and charges periodically; limit the amount of fees and charges for customs processing to the cost of services rendered</li> <li>▪ in the case of a penalty, it should be imposed only on the persons responsible for the breach, and should be commensurate with the degree and severity of the breach</li> <li>▪ ensure measures are in place to avoid any conflicts of interest and incentives in the assessment and collection of penalties and duties</li> <li>▪ provide a written explanation for the imposition of a penalty to the persons concerned</li> <li>▪ consider a voluntary disclosure of a breach as a potential mitigating factor when establishing a penalty for that person.</li> </ul>
<b>Article 7 Release and Clearance of Goods</b>	<p>Requires members to establish or maintain the following procedures for the release and clearance of goods for import, export or transit:</p> <ul style="list-style-type: none"> <li>▪ Pre-arrival processing</li> <li>▪ Electronic payment</li> <li>▪ Separation of release from final determination of customs duties, taxes, fees and charges</li> <li>▪ Risk management</li> <li>▪ Post-clearance audit</li> <li>▪ Establishment and publication of average release times</li> <li>▪ Trade facilitation measures for authorized operators</li> <li>▪ Expedited shipments</li> <li>▪ Perishable goods.</li> </ul>
<b>Article 8 Border Agency Cooperation</b>	<p>Requires members to ensure that there is internal cooperation and coordination among its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation and transit of goods; to the extent possible and practicable, ensure that there is external cooperation and coordination with the border control authorities and agencies of other members with whom it shares a common border. Such coordination may include alignment of working days and hours and of procedures and formalities, development and sharing of common facilities, joint controls and the establishment of one stop border post control.</p>
<b>Article 9 Movement of Goods Under Customs Control Intended for Import</b>	<p>Requires members, to the extent possible, to allow goods intended for import to be moved under customs control from one customs office to another within its territory.</p>
<b>Article 10 Formalities Connected With Importation, Exportation and Transit</b>	<p>Aimed at minimizing the incidence and complexity of import, export, and transit formalities and decreasing and simplifying import, export, and transit documentation requirements, this article contains provisions on:</p> <ul style="list-style-type: none"> <li>▪ formalities and documentation requirements</li> <li>▪ acceptance of copies</li> <li>▪ use of international standards</li> <li>▪ single window – a single entry point for traders to submit documentation to the participating authorities or agencies</li> <li>▪ pre-shipment inspection</li> <li>▪ use of customs brokers</li> <li>▪ common border procedures and uniform documentation requirements</li> <li>▪ rejected goods</li> <li>▪ temporary admission of goods and inward and outward processing.</li> </ul>
<b>Article 11 Freedom of Transit</b>	<p>Aimed at improving the existing transit rules, this article details provisions on restricting regulations and formalities on traffic in transit. It sets out provisions covering the following areas:</p> <ul style="list-style-type: none"> <li>▪ fees or charges</li> <li>▪ voluntary restraints on traffic in transit</li> <li>▪ non-discrimination</li> <li>▪ separate infrastructure for traffic in transit</li> <li>▪ minimization of burden of formalities, documentation and customs controls</li> <li>▪ minimization of TBT technical regulations and conformity assessment procedures</li> <li>▪ minimization of transit procedure</li> <li>▪ provision for advance filing and processing of transit documents</li> <li>▪ expedition of termination of transit operations</li> <li>▪ making transaction guarantees publicly available</li> <li>▪ customs convoys/customs escorts</li> <li>▪ cooperation among members to enhance freedom of transit.</li> </ul>

**Table B.1: Overview of disciplines prescribed by the Trade Facilitation Agreement (continued)**

Article	Disciplines
<b>Article 12 Customs cooperation</b>	<p>Obliges members to share information that would enhance coordination of customs controls while also respecting the confidentiality of shared information. The provisions cover the content and process of information sharing, as follows:</p> <ul style="list-style-type: none"> <li>▪ measures promoting compliance and cooperation</li> <li>▪ exchange of information</li> <li>▪ verification prior to a request</li> <li>▪ the format of a request</li> <li>▪ protection and confidentiality</li> <li>▪ provision of information</li> <li>▪ postponement or refusal of a request</li> <li>▪ application of reciprocity</li> <li>▪ administrative burden of responding to request for information</li> <li>▪ limitations on information provided</li> <li>▪ unauthorized use or disclosure of information</li> <li>▪ bilateral and regional agreements.</li> </ul>

(d) How is it meant to be implemented?

The practicability of the new measures was very much on members' minds when they negotiated the TFA. Developing countries and LDCs made it clear from the beginning that they would not commit to rules they found themselves unable to implement – and developed members equally did not want to limit implementation to a mere afterthought.

As part of the “July Package” – the text of the General Council’s decision on the Doha Agenda work programme, agreed on 1 August 2004 – the General Council decided by explicit consensus to commence negotiations on trade facilitation on the basis of the modalities set out in Annex D of the “July Package”. Accordingly:

*“Negotiations shall also aim at enhancing technical assistance and support for capacity building [...] The results of the negotiations shall take fully into account the principle of special and differential treatment for developing and least-developed countries. Members recognize that this principle should extend beyond the granting of traditional transition periods for implementing commitments. In particular, the extent and the timing of entering into commitments shall be related to the implementation capacities of developing and least-developed Members [...]”*<sup>1</sup>

The flexibilities for LDCs were even more far-reaching. Annex D stipulates that they “will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.”

Translating these requirements into concrete provisions took almost a decade to agree on. Key to the finally adopted approach was the introduction of a category system for these provisions, allowing each developing and least-developed member to self-determine when they would implement the TFA’s respective provisions and what they would need in terms of capacity-building support. In exchange, they

accepted that all provisions would ultimately have to be executed by all members.

Article 14 of the TFA defines the categories of provisions as follows:

- “(a) Category A contains provisions that a developing country Member or a least-developed country Member designates for implementation upon entry into force of this Agreement, or in the case of a least developed country Member within one year after entry into force [...].
- (b) Category B contains provisions that a developing country Member or a least-developed country Member designates for implementation on a date after a transitional period of time following the entry into force of this Agreement [...].
- (c) Category C contains provisions that a developing country Member or a least-developed country Member designates for implementation on a date after a transitional period of time following the entry into force of this Agreement and requiring the acquisition of implementation capacity through the provision of assistance and support for capacity building [...].”

In addition to the possibility of scheduling the TFA’s provisions into one of those categories, developing countries and LDCs were given a range of additional flexibilities. The TFA provides them with a temporary exclusion from dispute settlement;<sup>2</sup> the possibility to seek time frame extensions of implementation dates for Category B and C provisions, provided they do so a specific number of days before the expiration of the implementation date (known as an early warning system); and the right to shift provisions between categories B and C through the submission of a notification to the Committee on Trade Facilitation and upon providing information on the assistance and support they need to build capacity.



Arrangements are also made for the provision of assistance and capacity-building support which, according to the TFA, “may take the form of technical, financial, or any other mutually agreed form of assistance provided”.<sup>3</sup> Article 21 sets out a number of principles in this context, such as the consideration of the “overall development framework of recipient countries”, the inclusion of “activities to address regional and sub-regional challenges”, the inclusion of private sector initiatives in assistance activities, and the promotion of coordination between and among members and other relevant institutions, to name just a few.

Taken together, those flexibilities significantly exceed S&D treatment granted to developing and least-developed members in the past. By tailoring them to each recipient’s needs, they also reflect a new approach.

#### (e) The state of play and the road ahead

While the conclusion of the negotiations at the 2013 Bali Ministerial marked the end of a decade-long undertaking, it was not the end of the trade facilitation project overall. Several further steps needed to be taken in order that the TFA enter into force. Ministers had opted for the amendment route, integrating the new treaty into the existing WTO framework. They decided that the TFA should enter into force in accordance with Article X:3 of the Marrakesh Agreement, which requires the acceptance of two-thirds of the WTO membership to take legal effect.

A work programme was set out for this process to commence. It called for the execution of three specific tasks as part of a broad mandate to “ensure the expeditious entry into force of the Agreement and to prepare for the efficient operation of the Agreement upon its entry into force”.<sup>4</sup> A newly formed “Preparatory Committee on Trade Facilitation” was instructed to:

- (i) conduct a legal review of the TFA language adopted in Bali;
- (ii) receive notifications from developing countries and LDCs of the commitments they designated for immediate implementation (their so-called “Category A commitments”); and
- (iii) draw up the legal instrument (the “Protocol of Amendment”) required to insert the new agreement in the existing legal framework of the WTO Agreement.

The first of these tasks was quickly accomplished. Members were able to agree on a legally scrubbed text barely four months after the Preparatory Committee had held its first session. Work on the second assignment,

the receipt of Category A notifications, started soon after the beginning of the post-Bali work programme and ran smoothly. Delegations tabled input in promising numbers, and ahead of time. It was the third item, the adoption of the Protocol of Amendment, which proved to be the most challenging. The deadline put forward in Bali for the accomplishment of this task – 31 July 2014 – was missed. It took until the end of November 2014 to agree on the protocol.

This finally cleared the road for the domestic ratification process to commence. Members were invited to deposit their instruments of acceptance – each acceptance bringing the TFA closer to the threshold of two-thirds of the WTO membership required for it to enter into force. First deposits have been received, and their number is expected to increase steadily over the course of the coming months.

Notifications of Category A commitments continue to be received as well. Fifty had already been presented at the time of adopting the Protocol of Amendment. In addition to creating a road map of when the individual TFA provisions are going to be implemented by developing countries and LDCs, those notifications can also be seen as an indicator for the time of the TFA’s entry into force. If all members who already tabled their Category A commitments – despite the absence of a legal requirement – were to ratify the new treaty at an equally fast pace, the TFA could become operational in the not-too-distant future.

## 2. Trade facilitation in regional trade agreements

### (a) Assessing the trade facilitation content of regional trade agreements (RTAs)

Trade facilitation is on the agenda not only of the WTO but of many RTAs as well. This raises several questions. First, how have regional and multilateral trade facilitation negotiations influenced each other? Has the integration of trade facilitation provisions in RTAs been stimulated by multilateral negotiations? Have the two processes informed each other? Secondly, how does an RTA’s membership affect its trade facilitation content? Do trade facilitation provisions feature equally in RTAs involving only developing countries, only developed countries and both developed and developing countries? Thirdly, are the TFA and the trade facilitation provisions in RTAs complements or substitutes? If they are complements, what are their respective contributions to trade facilitation? Fourthly, how discriminatory are regional trade facilitation provisions and to what extent does the TFA multilateralize RTA provisions?

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This subsection attempts to answer these questions by examining trade facilitation provisions in RTAs and comparing them with the disciplines of the WTO TFA. To do this, it draws extensively from Neufeld (2014) who uses information from the WTO's RTA database to provide a comprehensive description of the trade facilitation content of existing RTAs.

The WTO's RTA database contains detailed information on the provisions of the agreements notified to the WTO under GATT Article XXIV (Territorial Application – Frontier Traffic – Customs Unions and Free-trade Areas), the Enabling Clause (Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries), GATS Article V (Economic Integration) or the Transparency Mechanism for Regional Trade Agreements. As of 8 January 2015, some 604 notifications of RTAs (counting goods, services and accessions separately) had been received

by the GATT/WTO. These WTO figures correspond to 446 physical RTAs (counting goods, services and accessions together), of which 259 are currently in force. Accessions to an existing agreement and agreements exclusively addressing trade in services were not considered to be relevant to the analysis in this report and they were left aside. Overall, 254 agreements were considered in the analysis.

Following the methodology developed by Neufeld (2014), the focus of the examination of the trade facilitation content of RTAs in this report is restricted to the areas covered in the WTO TFA. The scope is thus limited to a total of 28 areas listed in Table B.2, which broadly cover freedom of transit (GATT Article V), fees and formalities connected with importation and exportation (GATT Article VIII), and the publication and administration of trade regulations (GATT Article X).<sup>5</sup> Special and differential treatment

**Table B.2: Trade facilitation measures contained in RTAs by frequency of occurrence (per cent)**

Rank	Measure	Occurrence (in percentage terms)
1	Exchange of customs-related information	72.5
2	Simplification/harmonization of formalities/procedures	63.6
3	Cooperation in customs and other trade facilitation matters	63.1
4	Publication and availability of information	54.2
5	Appeals	46.6
6	Harmonization of regulations/formalities	42.0
7	Advance rulings	40.7
8	Publication prior to implementation	40.3
9	Risk management	40.3
10	Automation/electronic submission	36.9
11	Disciplines on fees and charges connected with importation and exportation	35.6
12	Use of international standards	35.6
13	Opportunity to comment on the proposed regulations	32.6
14	Freedom of transit for goods	30.9
15	Enquiry points	30.1
16	Internet publication	29.7
17	Temporary admission of goods	25.8
18	Release times	17.4
19	Separation of release from clearance	17.0
20	Pre-arrival processing	16.5
21	Expedited shipments	16.5
22	Penalty disciplines	16.5
23	Authorized operators	14.4
24	Obligation to consult traders/business	10.6
25	Customs brokers	6.4
26	Post-clearance audits	5.9
27	Single window	4.7
28	Preshipment inspection/Destination inspection/Post-shipment inspections	4.2

Source: Secretariat computation based on the RTA database.



and technical assistance measures in the trade facilitation area are separately analysed.

A preliminary observation, and one which needs to be kept in mind when proceeding with the analysis of the trade facilitation content of RTAs, is that there are important disparities between RTAs with regard to the substantive coverage of given provisions, as well as with regard to the strength of the level of commitment. Measures in a given area range from general calls to undertake an unspecified work programme to detailed binding disciplines.

The following are the main findings of the analysis:

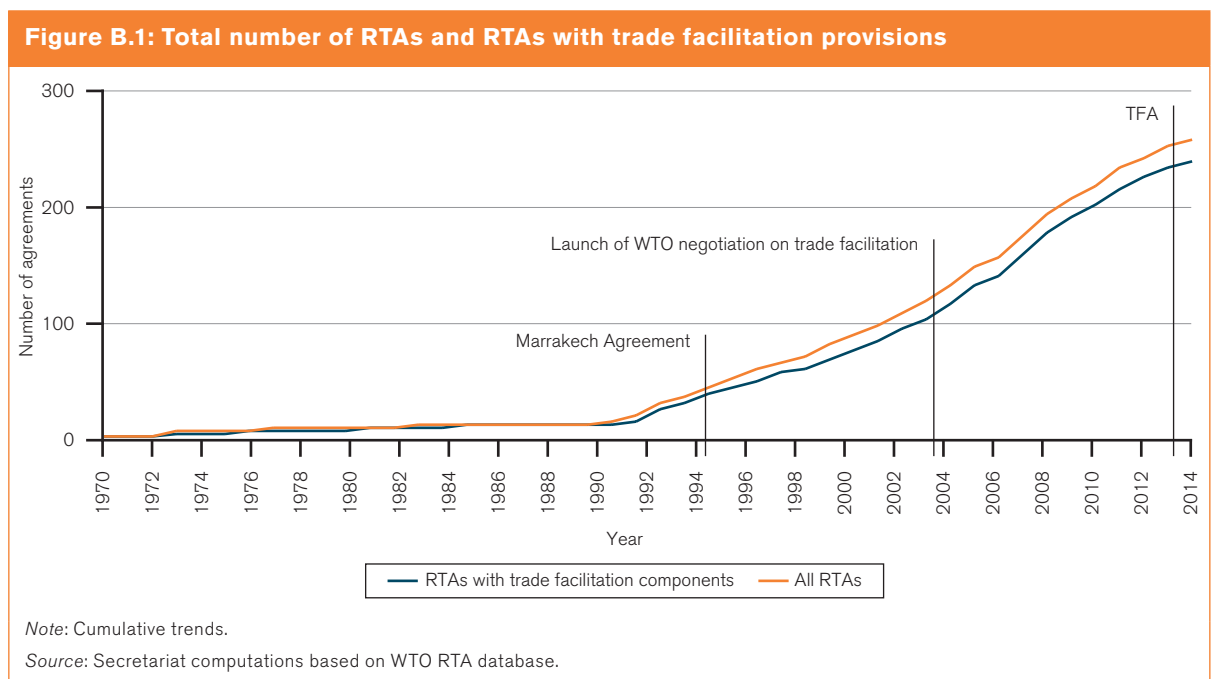
- (i) Each RTA typically covers only a subset of the trade facilitation areas covered by the WTO TFA. Implementation of the TFA will extend the coverage of trade facilitation to new countries and areas.
- (ii) At the same time, however, RTAs often use a broader conceptual definition of trade facilitation. Complementarity between the regional and the multilateral level will remain strong.
- (iii) There are important disparities between RTAs with regard to the substantive coverage of given provisions as well as with regard to the strength of the level of commitment. The language can be more general or more specific in RTAs or the TFA. Implementation of the TFA should reduce inefficiencies due to the "spaghetti bowl" of criss-crossing trade arrangements.

- (iv) Some trade facilitation provisions included in RTAs could potentially be used in a discriminatory manner but evidence of the discriminatory effects of those provisions is scarce. The implementation of the TFA will reduce discrimination.
- (v) The general absence of special and differential (S&D) and technical assistance provisions in RTAs and their lack of a strong enforcement system suggest that the WTO TFA could make an important contribution to trade facilitation through its emphasis on implementation. Information concerning the implementation of trade facilitation provisions in RTAs tends to confirm this result.

(b) Trends

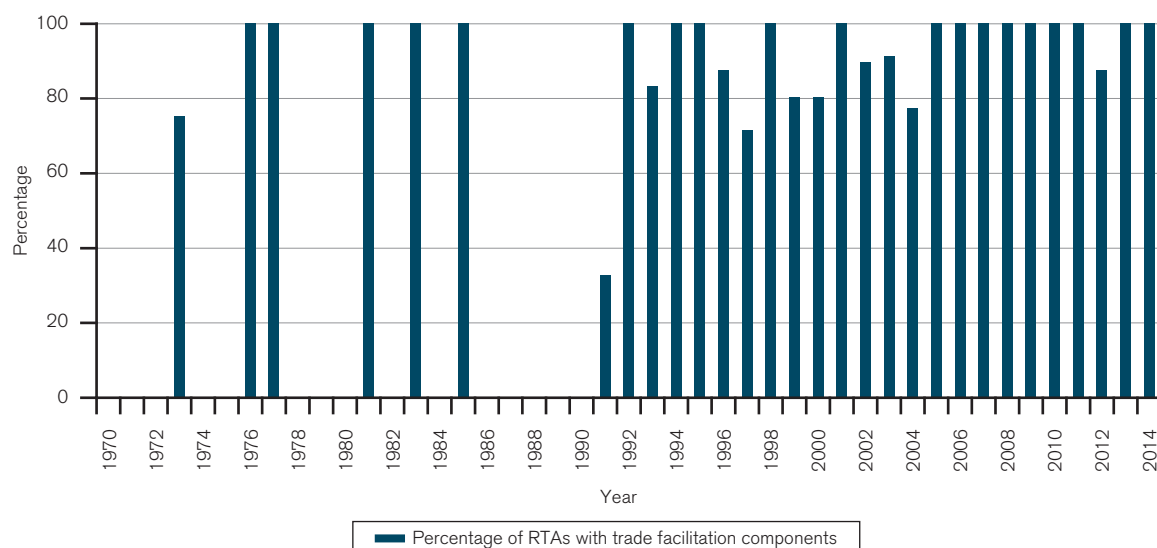
Since the early 1990s, the number of RTAs with trade facilitation provisions has increased very rapidly (see Figure B.1). This trend is a reflection of two more general tendencies of RTAs in the last 25 years (WTO, 2011). One is the proliferation of RTAs and the other is the expansion of their content both in terms of coverage and in terms of depth. Between 1990 and February 2015, 244 RTAs entered into force compared to 11 between 1970 and 1990.<sup>6</sup> At the same time, the share of RTAs including trade facilitation provisions increased to the point where trade facilitation is now included in most agreements (see Figure B.2).

Over the years, the coverage of trade facilitation in RTAs has expanded. Following the approach used by



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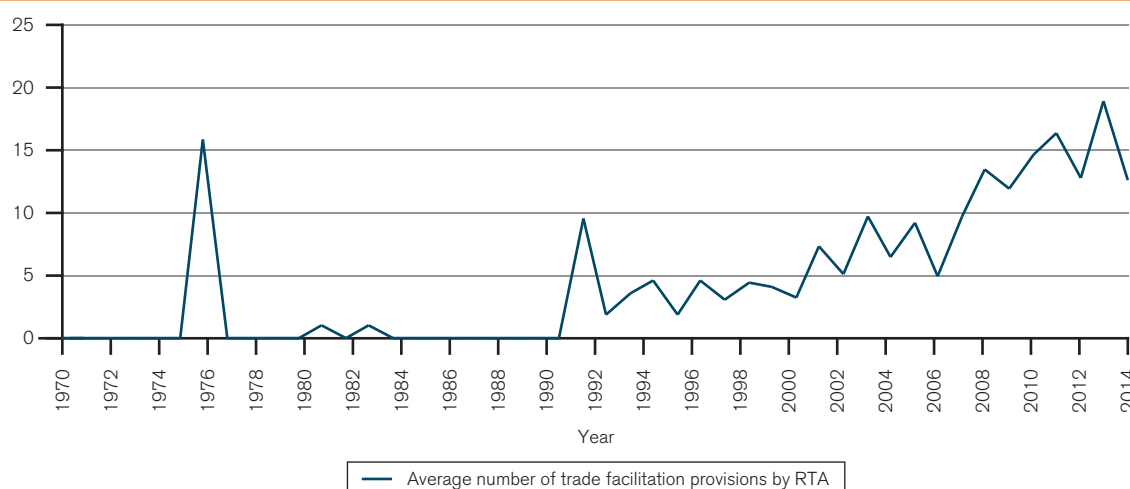
**Figure B.2: Percentage of RTAs with trade facilitation provisions**



Note: The total number of RTAs per year is the sum of all RTAs that entered into force that year. The total number of RTAs with trade facilitation components per year is the sum of RTAs with trade facilitation components that entered into force that year. Figures are not cumulative. The cut-off date for these data is 8 January 2015.

Source: Secretariat computations based on WTO RTA database.

**Figure B.3: Evolution of the number of trade facilitation provisions in RTAs**



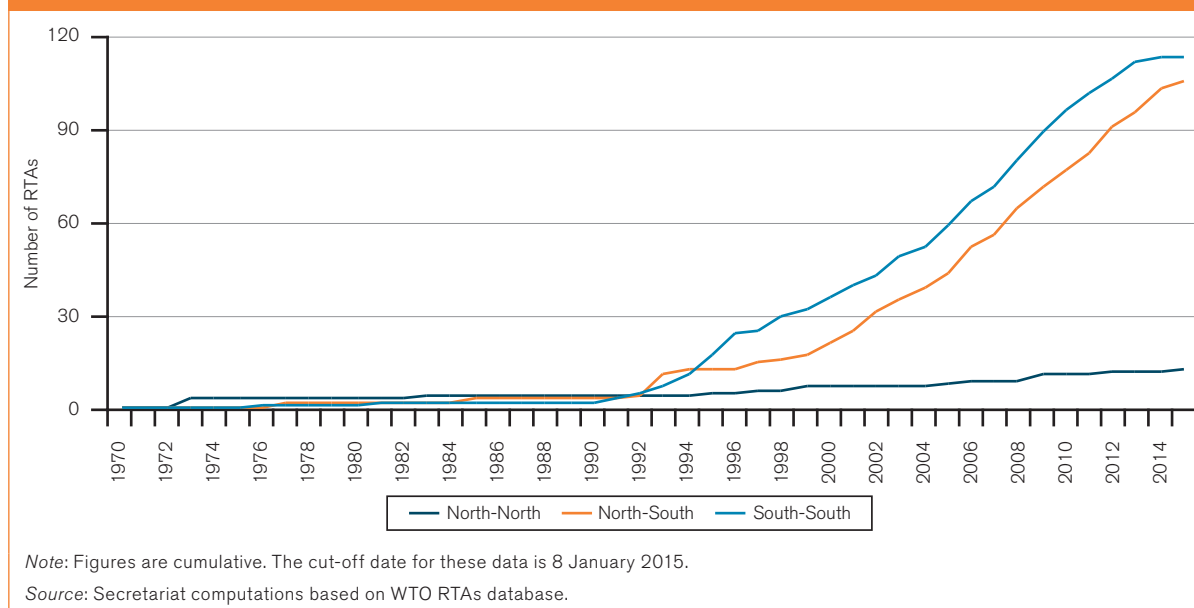
Source: Secretariat computation based on the WTO RTA database.

Neufeld (2014), the coverage of trade facilitation in RTAs was compared to the coverage of the WTO TFA. Figure B.3 shows that the average number of TFA areas covered by RTAs increased since 1990.

The increase in the total number of RTAs with trade facilitation coverage was driven by the increase in the number of such RTAs involving developing countries. The marked increase in the total number of RTAs reflects the strong increases in both the number of RTAs between developing countries (South-South) and those between developed and developing

countries (North-South). As shown in Figure B.4, the number of South-South RTAs with trade facilitation and the number of North-South RTAs with trade facilitation have followed similar trends at least in the last 15 years and there are now more than a hundred of each type.

Overall, starting from the 1970s, three broad periods can be distinguished. Prior to 1990, few RTAs were signed and, apart from a few exceptions, these RTAs did not include trade facilitation provisions. Between 1990 and 2004, the number of RTAs steadily increased and

**Figure B.4: Total number of North-North, North-South and South-South agreements with trade facilitation**

trade facilitation became a recurrent feature of regional agreements, but the coverage remained relatively limited. After 2004, the number of RTAs continued to follow its increasing trend but the start of WTO trade facilitation negotiations in 2004 boosted the inclusion of trade facilitation provisions.

From that date, trade facilitation provisions were included in the vast majority of RTAs. Moreover, as noted by Neufeld (2014), many of the regional agreements signed after 2004 included facilitation measures similar – and in some cases virtually identical – to the disciplines debated at the WTO. During this last period, facilitation approaches converged both among RTAs, and between regional- and multilateral-level trade facilitation efforts.

### (c) Key features

This subsection provides an overview of the trade facilitation content of RTAs and compares this content with the disciplines of the TFA. Special attention is given to the potentially discriminatory dimension of measures taken in certain areas.

In terms of coverage, many RTAs cover only a small part of the entire spectrum of the WTO TFA and no RTA covers the whole spectrum. Figure B.5 shows that a large number of RTAs cover less than one fifth of the areas covered by the TFA while only very few come close to covering the full spectrum. At the same time, however, RTAs often extend to trade facilitation areas not covered by the TFA. The RTAs with the highest coverage are typically recent agreements involving

both developed and developing countries, such as those between the EU, Colombia and Peru, the EU and the Republic of Korea, Switzerland and China, and the EU and Georgia.

As shown in Table B.2, the four areas most frequently covered in RTAs are:

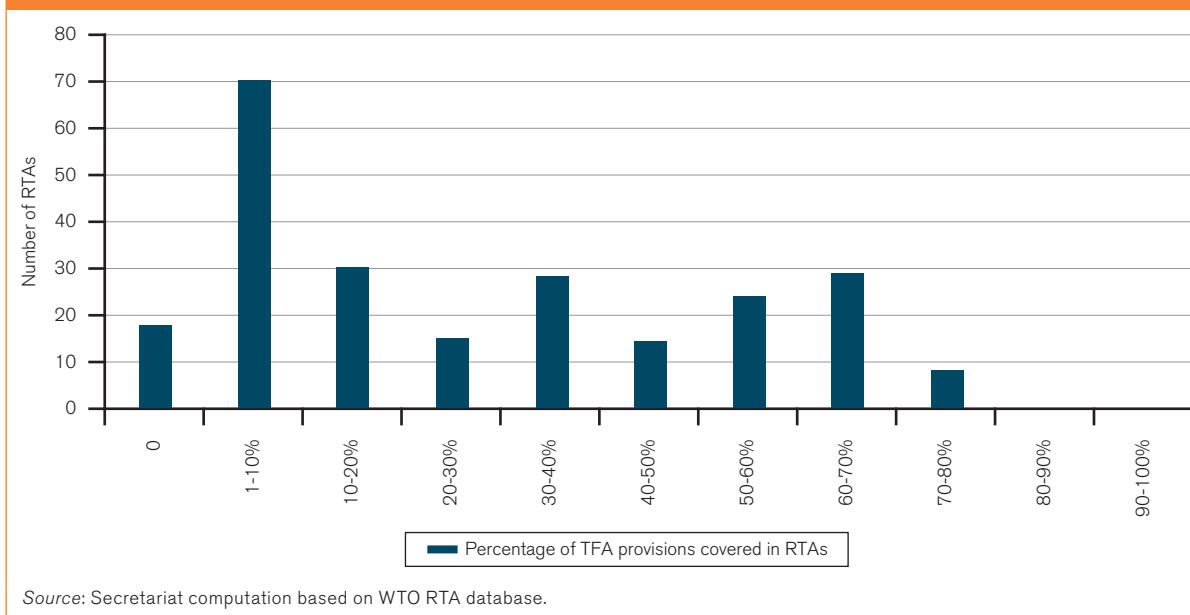
- i) exchange of customs-related information,
- ii) simplification of formalities and procedures,
- iii) cooperation in customs and trade facilitation matters,
- iv) publication and availability of information.

Each of these four areas is covered in more than half of the RTAs under consideration. Exchange of information and customs cooperation are the areas where disparities between RTAs and between RTAs and the WTO TFA with regard to substantive coverage are perhaps most pronounced. Cooperation, for example, reflects different levels of ambitions in different RTAs and its scope can vary significantly between agreements. In at least three of the areas, there is some potential for discriminatory use of the provisions. For instance, a number of RTAs require their signatories to make relevant information available to each other without requiring them to extend it to all their trading partners.

At the other end of the ranking, the four trade facilitation areas among those covered in the Table B.2 list which are the least frequently included in RTAs are:

- i) customs brokers,
- ii) post-clearance audit,

Figure B.5: Histogram of coverage distribution



- iii) single window, and
- iv) pre-shipment inspection.

These areas are covered in less than 10 per cent of the agreements. A few other areas, which are not included in the list used by Neufeld (2014), have never been covered, or have only been covered in very few instances. These include notifications for enhanced controls or inspections, detention, test procedures, perishable goods, domestic transit, acceptance of copies, rejected goods or measures linked to customs unions. Part of the reason why these last measures are generally not covered in RTAs may be that they are not typically considered to be trade facilitation measures. As for pre-shipment inspection, the fact that it is only covered in less than 5 per cent of RTAs is not too surprising given that very few countries still use this instrument.

Another important finding is that very few agreements include S&D provisions and only about one in five agreements include provisions regarding technical assistance and support for capacity building.

Finally, an important related consideration is that RTAs do not have the same enforcement mechanism as the WTO. While most, if not all, RTAs contain provisions that establish procedures for resolving disputes among their signatory members, only very few RTA dispute settlement mechanisms are active (Chase *et al.*, 2013).

According to Neufeld (2014), most RTAs use a broader definition of trade facilitation and thus often extend to trade facilitation areas not covered by the TFA. For

example, consularization – the authentication of a legal document by the consul office – is addressed in one fifth of the RTAs but it is not covered in the WTO TFA. Also, it is not unusual for trade facilitation sections of RTAs to include issues linked to SPS, TBT, rules of origin and sometimes additional domains. Chapter 4 of the RTA between Canada and the Republic of Korea (2015), for example, includes trade facilitation measures within the Rules of Origin provisions. In particular, this agreement refers to confidentiality (Article 4.8), penalties (Article 4.9), advance rulings (Article 4.10), review and appeal (Article 4.11) and cooperation (Article 4.13).

SPS chapters sometimes also contain trade facilitation provisions. For instance, Article 6.5 of the Hong Kong, China-Chile (2014) Agreement refers to transparency and exchange of information, cooperation and contact points in relation to SPS measures.

Similarly, one article of the chapter devoted to TBT in the New Zealand-Chinese Taipei RTA (2013) contains provisions for trade facilitation and cooperation in the form of mechanisms to facilitate the acceptance of conformity assessment results (i.e. technical procedures which confirm that products fulfil regulation requirements) (Article 7.7.1), and to support greater regulatory alignment and eliminate TBT in the region (Article 7.7.2).

The depth and the breadth of trade facilitation provisions also vary significantly from one RTA to another, falling short of the WTO TFA provisions in some cases but imposing stricter disciplines in other cases. There are areas where many RTAs have a broader scope and/or use more specific language than the TFA. Some

agreements, for example, prescribe concrete and sometimes fairly ambitious release times for goods, often setting a maximum deadline of 48 hours, while the TFA does not include similar requirements. Also, RTA provisions on appeal/review rights tend to go further in their specificity and reach than the language of the TFA.

With regard to fees and charges, many RTAs refer to Article VIII of the GATT (on fees and formalities connected with importation and exportation) directly, but some RTAs go beyond GATT Article VIII and the WTO TFA. The EU-Republic of Korea treaty, for example, bans fees and charges from being calculated on an *ad valorem* basis, a provision that is not included in the WTO TFA (Neufeld, 2014). Yet another example of RTAs being more specific than the TFA concerns international standards. RTAs often refer to international standards by the World Customs Organization (WCO) or the United Nations such as the Revised Kyoto Convention, the Arusha Declaration and UN/EDIFACT (United Nations rules for Electronic Data Interchange for Administration, Commerce and Transport), while there are no references to such instruments in the WTO TFA. On the other hand, only few RTAs address the disciplines related to penalties in the WTO TFA (Article 6.3). With regard to the release and clearance of goods, Neufeld (2014) finds that while a few RTAs are more demanding regarding certain requirements, none of them matches the WTO's TFA in terms of comprehensiveness and elaboration of the individual components involved. Finally, technical assistance and support for capacity-building provisions in RTAs tend to be underdeveloped and limited in reach. None of them come close to the language in the WTO TFA. Similarly, S&D treatment provisions are typically weak in RTAs.

While several disciplines of the trade facilitation agenda are non-discriminatory by nature or by necessity, others could potentially have a discriminatory effect. Requirements to publish on the Internet and most other publication requirements cannot be implemented in a discriminatory manner. Similarly, the switch from manual to automated clearance has an *erga omnes* character. Other measures, such as the single window, could in principle be used in a discriminatory manner. In practice, however, it would make little economic sense to limit its access to selected trading partners and to maintain a less efficient, costly, parallel system. The same would apply to the use of international standards, to the simplification of export- and import-related formalities, to the use of electronic submissions or to measures aimed at improving coordination between border agencies.

In contrast, entitlement to advance rulings or appeal rights, or expedited treatment for express consignments and authorized operators may only be granted to RTA signatories. Similarly, different fees and charges can

be applied to members and to non-members of RTAs. Also, exchanges of information and cooperation can be restricted to RTA signatories. Neufeld (2014) identifies a number of instances where RTAs afford preferential treatment to their signatories. For example, as already mentioned, a number of RTAs require their signatories to make relevant information available to each other without extending it to all their trading partners. Some RTAs stipulate consultation requirements, but only with contracting parties, not with a more general audience, and enquiry points are sometimes made available only to contracting parties.<sup>7</sup> Note, however, that even in those instances where there is room for *de jure* discrimination, trade facilitation provisions may be *de facto* non-discriminatory. This means that in the absence of further evidence regarding discriminatory use of RTA trade facilitation provisions and its effects, it is difficult to assess the magnitude of the distortion.

An important dimension in the comparison between regional and multilateral trade facilitation that requires closer attention is their implementation. As discussed in other parts of this report, the TFA puts considerable emphasis on its implementation. Its Section II foresees that the extent and the timing of the implementation of the agreement by developing countries and LDCs shall be related to their implementation capacities. It also stipulates that donor countries should provide assistance and support for capacity building to help them implement the agreement. RTAs, by contrast, rarely include provisions regarding implementation, S&D treatment or technical assistance.

One conclusion that could be drawn from this difference is that RTAs are more directly and immediately applicable than the TFA. On the other hand, however, many RTAs do not seem to have a binding dispute settlement system and may, therefore, lack an effective enforcement mechanism. The question, then, is whether and to what extent the trade facilitation provisions in RTAs are implemented. The very limited anecdotal evidence that is available suggests that trade facilitation measures may only be partially implemented in developing countries.<sup>8</sup>

The analysis of the trade facilitation content of RTAs has shown that the TFA, at the end of its implementation phase, will extend the coverage of basic trade facilitation disciplines to many countries, and within countries to many areas which are not yet covered under RTAs. In countries and areas already covered by RTAs, the TFA will not just substitute the disciplines previously imposed by RTAs with its own trade facilitation disciplines. It may provide for the implementation of measures that had never been implemented. It will reduce inefficiencies by providing common standards for the trade facilitation measures

and by reducing overlapping in cases where countries are part of several RTAs.<sup>9</sup> It will reduce discrimination where it exists. At the same time, however, RTA trade facilitation disciplines which reach beyond the coverage of the TFA and/or are more specific will continue to usefully complement the TFA.

### 3. Trade facilitation in other international organizations

Several international organizations are active in the trade facilitation area. This subsection discusses their activities and shows how they complement the role of the WTO. These organizations are not the only institutions active in this area. For example, while their role is not discussed in detail in this subsection, regional development banks such as the Inter-American Development Bank (IDB), the African Development Bank (AfDB), the Asian Development Bank – Central Asia Regional Economic Cooperation (ADB/CAREC) play an important role in the implementation of trade facilitation measures. A large part of the implementation cost data used in Section E is from projects they finance.

#### (a) World Customs Organization (WCO)

The mission of the WCO consists of providing leadership, guidance and support to customs administrations to secure and facilitate legitimate trade, realize revenues, protect society and build capacity. The WCO has developed a number of instruments related to trade facilitation. The main ones are the original and the revised Kyoto Conventions, the ATA<sup>10</sup> System (ATA and Istanbul Conventions), and the Customs Convention on Containers. The “International Convention on the Simplification and Harmonization of Customs Procedures”, known as the Kyoto Convention, entered into force in 1974 and was revised and updated in 2006; the Revised Kyoto Convention sets forth the following key principles:

- i) transparency and predictability of customs actions,
- ii) standardization and simplification of the goods declaration and supporting documents,
- iii) simplified procedures for authorized persons,
- iv) maximum use of information technology,
- v) minimum necessary customs control to ensure compliance with regulations,
- vi) use of risk management and audit-based controls,
- vii) coordinated interventions with other border agencies, and
- viii) partnership with the trade.<sup>11</sup>

The ATA System aims to facilitate the procedure for the temporary duty-free importation of goods and the adoption of a standardized model for temporary admission papers (a single document known as the ATA carnet that is secured by an international guarantee system). The Customs Convention on Containers (1972) provides for the temporary importation of containers, free of import duties and taxes, subject to re-exportation within three months and without the production of customs documents or security.

Other instruments developed by the WCO include: the Time Release Study, which measures and reports the time taken by customs to release imported cargo – the only instrument mentioned in the TFA (see below); the WCO Data Model, which compiles datasets for different customs procedures; the Risk Management Compendium, which provides customs with a structured and systematic way to manage risks; or the WCO SAFE Package, which is a framework of standards to secure and facilitate global trade.

Besides developing trade facilitation tools and procedures, the WCO is also an important actor in capacity building. It aims to promote the effective implementation of all trade facilitation-related convention and to equip senior customs officials with the detailed information necessary to more fully engage and lead discussions/negotiations with donor agencies and other government officials. The WCO is also present in the field to help with the implementation of their programme. One example of these activities is the Time Release Study in the East African Communities. In the context of this programme, the movement of cargos through an international corridor going from the Mombasa seaport in Kenya to an inland customs office in Kampala, Uganda, was tested. Multiple bottlenecks were found and recommendations to improve these aspects were provided. The WCO also plays a role in coordinating capacity-building efforts with tools such as the WCO Project Map, which provides information on existing support to donors to avoid redundancy in the provision of aid.

The WCO and the WTO strongly complement each other in the trade facilitation area. The two organizations were already cooperating prior to the TFA. The WCO manages the technical committees of two important WTO agreements: the Agreement on Implementation of Article VII (Customs Valuation), and the Agreement on Rules of Origin. The WCO was included in the preliminary talks and the negotiation rounds that led to the completion of the TFA. Its vast technical expertise makes it an ideal partner for ongoing WTO initiatives in trade facilitation. The WCO provides information and support for the capacity building of developing and least-developed country members. In 2013, the WCO



Policy Commission adopted the Dublin Resolution in which it says it will commit

*“to the efficient implementation of the Trade Facilitation Agreement [...] will assist its Members to identify their needs, including availing of donor funding, in order to enhance capacity building to implement the Trade Facilitation Agreement; will, together with other international organizations and the business community, further enhance the provision of technical assistance/capacity building [...]”*.<sup>12</sup>

In June 2014 the Mercator Programme, which aims to support its members in implementing the TFA by using core WCO tools and instruments (e.g. the Revised Kyoto Convention) and providing tailor-made technical assistance, was adopted. At the same time, the WCO benefits from the momentum brought by the TFA to customs reforms, from its effect on compliance, and from the new impetus it gives to capacity-building and cooperation between border agencies.

### (b) World Bank

The World Bank is also active in the trade facilitation area. In fiscal year 2013, for example, the World Bank spent approximately US\$ 5.8 billion on trade facilitation projects, including customs and border management and streamlining documentary requirements, as well as trade infrastructure investment, port efficiency, transport security, logistics and transport services, regional trade facilitation and trade corridors or transit and multimodal transport.<sup>13</sup> The Bank is also involved in analytical work such as the Trade and Transport Facilitation Assessment which “is a practical tool to identify the obstacles to the fluidity of trade supply chains”.<sup>14</sup>

The World Bank is more than just a lending institution. It is also a crucial actor in the capacity-building process where it provides expertise. The Trade Facilitation Support Program of June 2014, for example, which will supply useful loans to support developing countries with the implementation of trade facilitation measures, aims both to help developing countries reform trade facilitation laws, procedures, processes and systems in a manner consistent with the WTO TFA, and to help develop knowledge, learning and measurement tools.<sup>15</sup> Along the same lines, the WTO and the World Bank announced in October 2014 that they would enhance their cooperation in assisting developing countries and LDCs to better utilize trade facilitation programmes.<sup>16</sup>

Finally, the World Bank is a very important provider of data on trade facilitation. Three of its databases are widely used by researchers, namely: Enterprise Surveys, Doing Business and the Logistics Performance Index.

This wealth of information has enabled more precise estimation of the costs and benefits of trade facilitation.

### (c) United Nations Regional Commissions

Among the five regional commissions, the United Nations Economic Commission for Europe (UNECE) and the United Nations Economic and Social Commission for Africa and the Pacific (UNESCAP) are the most active on the trade facilitation field.

The UNECE was set up in 1947 to foster development and economic growth in the European region. It provides a forum for discussion and a platform for the negotiation of international legal instruments in many areas including trade. Many of the international norms, standards, and recommendations which UNECE developed in the trade area over more than 60 years of work are recognized as having global relevance and application. The UNECE undertakes work in a number of trade areas including trade facilitation, regulatory cooperation, electronic business standards, supply capacity, transport and transport infrastructure. Its Working Party No. 4 was formed in 1960 to work on the facilitation of trade procedures with a global remit. In 1996, it was replaced by the UN Center for Trade Facilitation and Electronic Business (UN/CEFACT).

The UNECE, through the UN/CEFACT, looks after 35 international recommendations to date such as, for instance, its recommendation concerning the establishment of a legal framework for an international trade single window. UN/CEFACT also oversees various document and electronic messaging standards, including, in particular, the Electronic Data Interchange for Administration, Commerce and Transport (EDIFACT). In the realm of trade facilitation, the UN/EDIFACT is a well-known instrument which comprises a set of internationally agreed standards, directories, and guidelines for the electronic interchange of structured data, between independent computerized information systems.<sup>17</sup> Together with the International Road and Transport Union (IRU), the UNECE also runs the TIR (“*Transports Internationaux Routiers*”) Convention of 1975 (TIR 2005) which provides a simplified customs transit regime to signatory countries.<sup>18</sup>

UNECE also provides technical assistance. However, while participation in the development of its norms and standards, as well as their use, is global, its technical assistance is mainly directed to the low- and middle-income countries in Southeast and Eastern Europe, the Caucasus, and Central Asia. At the same time, UNECE supports other countries outside the region and other international organizations that use its standards, through guidelines, tools and advice. UNECE has designed a trade facilitation implementation guide in

which all sections of the WTO TFA are referenced and mapped to deliverables of UN/CEFACT as well as of other organizations.<sup>19</sup>

UNESCAP provides technical assistance and capacity building on trade facilitation to countries, particularly LDCs and landlocked developing countries. The United Nations Network of Experts for Paperless Trade in Asia and the Pacific (UNNExT) is the main platform through which UNESCAP delivers its activities.<sup>20</sup> Additionally, UNESCAP promotes research on trade facilitation through its Asia-Pacific Research and Training Network on Trade (ArtNet) and provides an open regional platform for dialogue on trade facilitation among regional stakeholders by hosting an annual Asia Pacific Trade Facilitation Forum (APTFF), in partnership with the Asian Development Bank (ADB).<sup>21</sup>

### (d) UNCTAD

UNCTAD's mandate in the area of trade facilitation dates back to the Final Act of its first ministerial-level Conference in 1964. Ever since, it has been an active proponent of trade facilitation and its work in this area has led to the Columbus Ministerial Declaration on Trade Efficiency, which was instrumental for the inclusion of trade facilitation in the agenda of the first WTO Ministerial Conference in Singapore in 1996.<sup>22</sup> UNCTAD assists developing countries in identifying their particular trade and transport facilitation needs and priorities, and helps them programme the implementation of specific trade and transport facilitation measures. UNCTAD also provides technical assistance and disseminates relevant information and training material.<sup>23</sup>

First, it has developed a computerized customs management system that has been adopted by over 90 countries called the Automated SYstem for CUstoms DATA (ASYCUDA). ASYCUDA aims at speeding up customs clearance through the introduction of computerization and simplification of procedures, thereby minimizing administrative costs to the business community and the economies of countries. The system handles manifests and customs declarations, accounting procedures, transit and suspense procedures.<sup>24</sup>

Second, and in application of Article 1 of the TFA, UNCTAD provides an electronic portal, called eRegulations, where national customs officials can publish and maintain trade procedures, forms, documents and contact data. This helps governments make rules and procedures fully transparent. Another instrument, eRegistrations, acts as a single electronic window. In the context of article 10.4, it allows traders to consult online, through a single interface, all data

and documents required by the various bodies involved in foreign trade operations. All of these tools are part of what UNCTAD calls "[its] Technical Assistance Package [on Trade Facilitation] for WTO Members".<sup>25</sup>

### (e) International Trade Centre

The International Trade Centre (ITC) is a joint agency of the World Trade Organization and the United Nations mandated to work with businesses and in particular with small and medium-sized enterprises (SMEs). It works with developing countries and LDCs to help them take full advantage of the recent WTO Trade Facilitation Agreement to improve their private sector competitiveness.<sup>26</sup> More specifically, ITC assists countries to comply with TFA short-term requirements (e.g. categorization and notification of TFA obligations, ratification, preparation of project plans to raise technical and financial assistance); to increase SME involvement in public-private dialogue (PPD) and improve inter-agency coordination (e.g. establishment of National Trade Facilitation Committees); to implement selected TFA provisions (e.g. development of national Trade Facilitation Portals, establishment of enquiry points, establishment of "single window" systems, and the setup of frameworks for risk management); and to build private sector capacity to benefit from new rules (e.g. strengthening SMEs' capacity to meet border regulatory agencies requirements).

In addition, ITC is currently working with the West African Economic and Monetary Union (WAEMU), the Economic Community of West African States (ECOWAS), the *Communauté économique et monétaire de l'Afrique centrale* (CEMAC), the Organization of Eastern Caribbean States (OECS) and the Micronesian Trade and Economic Community (MTEC) to develop regional approaches to TFA implementation so as to maximize the TFA's contribution to regional economic integration.

### (f) OECD

The OECD's trade department contributes to quantitative economic research on the costs and benefits of trade facilitation with the help of its Trade Facilitation Indicators (TFIs).<sup>27</sup> These indicators, which follow the structure of the WTO's TFA, will help identify areas which should receive trade facilitation measures as a priority and mobilize technical assistance by donors in a targeted way. The TFIs also allow monitoring and benchmarking country performance, strengths, weaknesses and evolution.<sup>28</sup> In addition, donor support for trade facilitation programmes is recorded in the OECD Creditor Reporting System (CRS).

All of the organizations mentioned so far are coordinating their efforts.<sup>29</sup> They are working together to ensure that technical assistance and capacity building support is targeted where it is most needed, is better coordinated, and that its delivery is effectively monitored.<sup>30</sup> Beyond those mentioned so far, a number of sectoral international organizations are also important actors in the trade facilitation area. The International Air Cargo Association (TIACA), the International Road Transport Union (IRU), the International Maritime Organization (IMO) and the International Civil Aviation Organization (ICAO) each seek to improve the efficiency of their respective transportation system. Finally, the International Chamber of Commerce, through its Commission on Customs and Trade Facilitation supports the implementation of the TFA by encouraging increased cooperation between customs and business at the country level.

## 4. Conclusions

This section has provided an overview of the state of trade facilitation reforms in the WTO and in other contexts. It demonstrates that the WTO Trade Facilitation Agreement exists within a wider universe of trade facilitation reforms, but that certain features of the TFA set it apart from RTAs. As a multilateral agreement, the TFA makes it impossible to use trade facilitation in a discriminatory manner. Furthermore, the TFA allows for special and differential treatment of developing countries, allowing them to implement certain provisions of the Agreement only after the capacity to do so has been built, something not seen in other trade facilitation agreement. The benefits of multilateralism and the flexibility of implementation of the TFA are themes to which we will return in subsequent sections.

## Endnotes

- 1 See WTO document WT/L/579 "Doha Work Programme – Decision Adopted by the General Council on 1 August 2004", Annex D.
- 2 Article 18 (Implementation of Category B and Category C) specifies that: "[...] if a developing country Member or a least-developed country Member [...] self-assesses that its capacity to implement a provision under Category C continues to be lacking, that Member shall notify the Committee of its inability to implement the relevant provision. [...] The Member shall not be subject to proceedings under the Dispute Settlement Understanding on this issue from the time the developing country Member notifies the Committee of its inability to implement the relevant provision until the first meeting of the Committee after it receives the recommendation of the Expert Group."
- 3 See footnote 16 to the TFA.
- 4 Ministerial Decision of 7 December 2013, paragraph 2.
- 5 Consularization was taken off the list used by Neufeld (2014).
- 6 Two agreements entered into force before 1970 and one agreement was notified but did not enter into force.
- 7 See Neufeld (2014) footnotes 64 and 65, p.20.
- 8 See for example UNCTAD (2014b) and UNESCAP (2014). Note that these studies do not specifically analyse the implementation of trade facilitation provisions in RTAs but rather assess the level of implementation of the measures included in the TFA.
- 9 UNCTAD (2011) emphasizes this effect.
- 10 The term "ATA" is a combination of the initial letters of the French words "Admission temporaire" and the English words "Temporary Admission" (see [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_ata\\_system\\_conven.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_ata_system_conven.aspx)).
- 11 See [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv.aspx)
- 12 See [http://www.wcoomd.org/en/topics/wco-implementing-the-wto-atf/~/\\_media/44542CEBFB76401CB5E3F5794C2F134F.ashx](http://www.wcoomd.org/en/topics/wco-implementing-the-wto-atf/~/_media/44542CEBFB76401CB5E3F5794C2F134F.ashx)
- 13 See <http://www.worldbank.org/en/topic/trade/brief/trade-facilitation-and-logistics>
- 14 World Bank (2010).
- 15 See [www.tradefacilitationsupportprogram.org/](http://www.tradefacilitationsupportprogram.org/)
- 16 See [https://www.wto.org/english/news\\_e/pres14\\_e/pr725\\_e.htm](https://www.wto.org/english/news_e/pres14_e/pr725_e.htm)
- 17 See <http://www.unece.org/trade/untdid/welcome.html>.
- 18 See [https://www.iru.org/en\\_news\\_item?story=3337](https://www.iru.org/en_news_item?story=3337) and linked pages.
- 19 See <http://tfig.unece.org/index.html>
- 20 See <http://www.unescap.org/our-work/trade-investment/trade-facilitation/about> and <http://unnex.unescap.org/>
- 21 See <http://tfig.unece.org/contents/org-unescap.htm>
- 22 See [http://unctad.org/en/PublicationsLibrary/domtcs2014d1\\_en.pdf](http://unctad.org/en/PublicationsLibrary/domtcs2014d1_en.pdf)
- 23 See <http://unctad.org/en/Pages/DTL/TTL/Trade-Facilitation.aspx>
- 24 See <http://www.asycuda.org/>
- 25 See [http://unctad.org/en/PublicationsLibrary/domtcs2014d1\\_en.pdf](http://unctad.org/en/PublicationsLibrary/domtcs2014d1_en.pdf)
- 26 See <http://www.intracen.org/itc/trade-facilitation-programme/>
- 27 See <http://www.oecd.org/tad/facilitation/>
- 28 Two interactive web tools allow country comparisons: <http://www.compareyourcountry.org/trade-facilitation> and policy simulations <http://oe.cd/tfi>.
- 29 These organizations are part of a group called the Annex D+ partners. In July 2014, during the launch of the Trade Facilitation Agreement Facility, they issued a joint statement to reaffirm their commitment and coordinated approach to providing technical assistance, capacity building and other forms of assistance to developing, transition and least-developed countries in their efforts to implement the provisions of the WTO Trade Facilitation Agreement.
- 30 See <http://www.gfptt.org/tfa-coordination/>