

CHAPTER 4

The dead-weight cost of unnecessarily burdensome border controls also emerges strongly from many of the case stories submitted by respondents to the 2015 Aid for Trade Global Review monitoring exercise. A submission by ECOWAS

Reducing border costs: The technical measures

The TFA contains approximately thirty-five technical measures to expedite the movement, release and clearance of goods (see main article headings in Box 4.2). These technical measures impose obligations on WTO members to: 1) increase transparency; 2) improve governance through disciplines on rule and decision-making processes; 3) implement streamlined and modernised border procedures and control techniques; and 4) enhance the movement of goods in transit.

Greater transparency

Difficulty in obtaining accurate and reliable information about import, export or transit requirements is a significant source of delay and costs. A substantial amount of time in the total import or export process is spent by traders obtaining and completing the required forms and documents. Confusion about requirements leads to additional delays and costs in clearance when documents must be corrected and possibly penalties assessed. This is a particular concern of SMEs, who often do not have the resources to search out and comprehend the requirements of export markets, where they typically do not have a presence, particularly if requirements are available only in the form of legal acts or other technical documents and in a foreign language. A UNESCAP study found increased transparency and predictability tend to increase the probability of exporting by SMEs as well as export propensity because the costs and risks of doing business are lowered. It also concluded that improvements in policy predictability by one unit generate a 66% increase in the probability of SMEs participating in export activities (Li and Wilson, 2009).

To improve transparency, the Agreement requires governments to publish certain specified trade information in an easily accessible manner. They are also required to publish on the internet the required forms and documents, as well as a practical description of import, export, transit and appeal procedures (in a WTO language, whenever practicable). In addition, they must establish enquiry points that traders and other governments may contact to obtain information and forms. To increase the predictability and certainty of costs, governments are required to provide binding rulings on the application of laws and procedures to a particular shipment of goods prior to their importation (advance rulings).

Improved governance

Inefficiency also results from redundant, indiscriminate or unwarranted border formalities and documentation requirements. These inefficiencies may persist where the government is not aware of their negative impacts on trade or that, possibly, other more efficient and effective solutions are available that would fulfil the government's regulatory objectives.

The Agreement requires governments to review their import, export and transit formalities and documentation requirements to ensure that such requirements are adopted or applied with a view to rapid release and clearance of goods, to reduce the cost and time of compliance and to determine there is no other reasonable alternative that would be less trade restrictive. Moreover, given that the persons directly affected by regulation are often the best source of information about impacts and alternatives, the Agreement requires governments to provide interested parties with opportunities to comment on any proposed new or amended laws and regulations and to hold regular consultation with their stakeholders.

To improve fairness in decision-making by border authorities, the Agreement also requires WTO members to provide rights of appeal against adverse customs decisions and imposes disciplines on the assessment of penalties by customs, requiring that the amount of any such penalties be commensurate with the level of the offence.

Second, the Agreement reflects an understanding that without external technical assistance and capacity building (TACB) support developing or least developed country members may not be able to implement some or all of the technical measures. And the Agreement reflects the further understanding that these members themselves should determine what support they require and when they will be prepared to implement the measure. Essentially, these special and differential treatment (SDT) provisions of the Agreement allow each developing and least-developed country member to define its own implementation schedule, measure by measure, which can be conditioned on the receipt of the technical and capacity building support it deems necessary.

The Agreement sets out the mechanics by which countries may benefit from these unique SDT provisions. Each developing or least developed country member that wishes to take advantage of these provisions must categorise all the trade facilitation measures into one of three categories and notify these categories to the WTO Committee in accordance with specific timelines. These categories are as follows:

- Category A: provisions that a developing country member designates for implementation by the time the Agreement enters into force (LDC countries have an additional year)
- Category B: provisions that a developing or LDC member designates for implementation after a transitional period of time after entry into force of the Agreement
- Category C: provisions that a developing or LDC Member designates for implementation after a transitional period of time following the entry into force of the Agreement and requiring the acquisition of implementation capacity through the provision of assistance and support for capacity building.

The Agreement also provides additional safeguards for developing and LDC members:

- Early warning mechanism: whereby a member can request an extension from the WTO Trade Facilitation Committee if it experiences difficulties in implementing a provision in Category B or C by the date it had notified;
- Expert group: where a requested extension has not been granted and lacks capacity to implement, the Trade Facilitation Committee will establish an expert group to examine the issue and to make a recommendation
- Shifting between Categories: Members may shift provisions between Categories B and C;



REALISING THE OPPORTUNITY

The most common objective of the case stories is improved transparency and reduction of trade costs through improved clearance times. As evidenced from the case stories, great success is already being achieved in these areas through the implementation of trade facilitation measures. It is also evident from these case studies that donor organisations are in fact responding to the very needs and priorities that developing and LDC members have identified as their highest priorities.

BOX 4.4 Case stories ... wider impacts from implementation of TFA measures

These studies also reported wider economic impacts on the economy and development through increases in: the volume of trade, foreign investment, export market diversification, government revenue, domestic investment, and employment. With other side benefits such as reduced pollution and improved relationship between private sector and customs. In this context it is also interesting to note that donors responding to the 2015 monitoring exercise also highlighted that TFA implementation would have positive spin-offs on governance programme (75% of respondents) and reducing costs and delays associated with procurement by in-country programmes (67%).

IMPLEMENTATION SUPPORT

Implementation of the TFA will take place within a legal framework that defines roles and responsibilities of the developing and LDC members on the one hand, and the donor members and the international and multilateral organizations supporting trade facilitation on the other.

TFA implementation takes place within on-going, well-established relationships between developing countries and their development partners. TFA implementation does not take place in isolation, but within the context of these existing frameworks. As such, the legal obligations underpinning TFA implementation overlay these existing development relationships. Past trade facilitation support has been provided on the following basis:

- demand for trade facilitation support, as expressed through national and regional development strategies and other national planning documents (e.g. trade strategies, export strategies, transport infrastructure development etc) by LDCs and other developing countries; and
- provision of assistance by development partners (donor members, international and multilateral organizations) and south-south partners aligned around the needs expressed by the developing country in the context of planning documents and requests.

In this context, the new element is not trade facilitation itself is the WTO Trade Facilitation Agreement. Of particular note in this regard is that the TFA adds a layer of scrutiny to the supply and demand for TFA implementation assistance, and the efficacy of the support provided.

This section examines how this system can work from the perspective of the TFA's provisions on the provision of assistance, an overview of existing TFA support and how the WTO's new Trade Facilitation Agreement Facility can seek to ensure that this system works in support of TFA implementation, notably where donors and developing countries might need matchmaking support.

Procedures and Mechanisms

Under the Agreement, WTO donor members agree to facilitate the provision of assistance and support for capacity building on mutually agreed terms either bilaterally or through the appropriate international organizations. That is, the Agreement does not mandate that donors provide this assistance or define a process to match donors with countries requiring assistance, but leaves it to the respective members to work these arrangements out among themselves.

Figure 4.2 on trade facilitation support disbursements, however, highlights a more nuanced story. It is a story of a rising trend in trade facilitation disbursements, but one also marked by considerable fluctuations, of peaks (such as 2010) and drops (such as 2011 and 2012) in flows ... coupled with considerable regional and national variations in funding flows.

Donor responses to the 2015 monitoring exercise suggest that aid for trade facilitation may rise still further. Twenty-two of the 37 donor respondents indicated that they expected their trade facilitation support to increase in the next five years ... with 4 of the respondents (Australia, New Zealand, UNCTAD, African Development Bank) expecting a more than 10% increase in support offered. Figure 4.1 makes clear that as the TFA negotiations progressed to their successful

It should be noted here however that there is a growing amount of assistance provided through regional and global programmes (USD 189 million in 2013 as compared to an average of USD 26 million over the period 2002-2005). This provides another important route for trade facilitation funding. As such, many countries that may not have been able to access trade facilitation support at the national level, may instead have been able to access regional funding sources. Box 4.5 discusses the example of Gambia.

BOX 4.6 Accessing regional trade facilitation support, the case of Gambia

Trade facilitation is a priority expressed in Gambia's national development strategy: the Programme for Accelerated Growth and Employment (PAGE). PAGE, which runs for the period 2012-2015, seeks to position Gambia as a transit hub by improving the road network and increasing the capacity of the Port of Banjul and Banjul International Airport. A TF needs assessment was also conducted by the WTO in the fall of 2013.

Trade facilitation reforms have been initiated, including the creation of an autonomous Gambia Revenue Authority (GRA) to enhance efficiency, the Customs and Excise separated in 2010 and the ASYCUDA system upgraded to ASYCUDA++. A Trade Facilitation Sub-Committee under the Ministry of Trade, chaired by the Customs Authority, discusses and co-ordinates actions relating to trade facilitation.

Trade facilitation support received to date has been geared towards regional integration and transport infrastructure upgrading. On-going projects include the EU Regional Initiative Programme and the African Development Bank/World Bank West Africa Regional Transport and Transit Facilitation Program. The EU is funding a programme on Joint Customs Border Posts between Gambia and Senegal and the World Customs Organization has run a West African Customs Administration Modernization Project. In April 2015, national officials from Gambia participated in a two day ECOWAS Trade Negotiation Capacity Building workshop (funded by the ECOWAS Commission and the Swedish International Development Cooperation Agency) in the TFA. Most trade facilitation support has been programmed on an ECOWAS-wide level to date.

Source: WTO Secretariat research

The OECD's Creditor Reporting System includes a discrete reporting code on trade facilitation. The OECD creditor reporting system guidelines give the following definition for trade facilitation assistance: •Simplification and

Important to note also is that Aid for Trade Facilitation figures capture official development assistance (ODA) reported to the Creditor Reporting System. In addition to ODA financing, donors also provide non-concessional financing (typically loans that do not meet the 25% concessional element to qualify as ODA, but are more advantageous than borrowing at market rates) to countries for trade facilitation projects. In 2013, other official flows for trade facilitation support totalled USD 174.5 million, mostly aimed at middle income developing countries. An example here is the IADB's work with Pacific Alliance countries (Chile, Colombia, Mexico, and Peru) to support the inter-operability of their single windows

Several points emerge strongly from the preceding analysis:

- Trade facilitation support has grown strongly in the past decade. A great deal of expertise and experience has been accumulated in trade facilitation areas covered by disciplines of the TFA, including those identified as the challenging measures by developing countries (such as implementation of single window, border agency co-operation, and authorised operator schemes).
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TABLE 4.5 Difficulties developing countries expect to face in securing Aid-for-Trade support for Trade Facilitation Agreement implementation

Options	Response percent	Response count
Problems accessing external funds	59.7%	37
Lack of information on funding opportunities	58.1%	36
Differing priorities of in-country donors	51.6%	32
National coordination and demonstration of political will	41.9%	26
Accessing the necessary expertise	32.3%	20
Accessing global programmes	32.3%	20
Problems to quantify TFA implementation needs	30.6%	19
Integrating TFA implementation into on-going programmes	30.6%	19
Accessing regional programmes	29.0%	18
Ensuring TFA implementation is a priority in national development planning documents	27.4%	17
Problems in formulating requests	24.2%	15
Ensuring coherence with past programmes	24.2%	15
Programming cycles	16.1%	10
None	4.8%	3
Other (please specify)	3.2%	2
		Number of responses: 62

Source: OECD/WTO aid for trade monitoring exercise (2015).

To alleviate these concerns, developing and LDC members requested the WTO Director-General to establish a WTO Trade Facilitation Agreement Facility. This new Facility, which became operational at the end of 2014, can assist members to find the donor support they need by making information available on assistance programmes and, where needed, conduct matchmaking between donors and recipients. The Facility will also support members' efforts to implement the Agreement by acting as a repository for training materials, case studies and best practices on implementation of the measures. As such, the Facility will seek to leverage the experience accumulated by developing countries and their development partners from the past support provided. In addition, it will provide training programmes and support materials to assist members to fully understand their obligations.

In situations where no other support is available, the Facility will offer two types of grants: 1) a project preparation grant for up to USD 30 000 (USD); and, 2) a project implementation support grant for up to USD 200 000 (USD). With these grants a country can hire a consultant with the necessary expertise to meet their needs.

Another important role of the Facility will be to work with regional and multilateral agencies, bilateral donors and other assistance providers to promote coherence in the delivery of assistance support.

CONCLUSIONS

Implementation of the TFA can bring about significant reductions in cost for traders, and increased revenue for governments, fulfilling the promise of the Agreement.

WTO donor members and international organisations have committed to providing support to assist developing and LDC members to implement the Agreement and, as indicated in the case studies reviewed in this paper, the evidence to date is that these donors and organisations are responding to the very needs and priorities that developing and LDC members have themselves identified.

The evidence gathered here gives cause for optimism that support can be delivered in a coherent and timely manner. Ensuring that trade facilitation is aligned with other national priorities and expressed by developing and LDC members through existing national and regional development dialogues with their development partners is a critical step in TFA implementation.

