WTO AGREEMENT ON TRADE FACILITATION
World Trade Organization (WTO)

- Successor to 1947 GATT regime
- International Organization embodied in the results of the Uruguay Round
- Established: 1 January 1995
- Member driven (162 Members)
- Decision making by consensus
- Serviced by WTO Secretariat - 600+ staff
- Based in Geneva
<table>
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<tr>
<th>Umbrella</th>
<th>Agreement establishing WTO</th>
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<td>Subject areas</td>
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<td>Basic principles</td>
<td>GATT</td>
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<td>Additional details</td>
<td>Agriculture, SPS, TBT, TRIMs, AD, VAL, PSI, RO, IL, CVD, SG</td>
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<td>Market access commitments</td>
<td>Countries’ schedules of commitments</td>
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<td>Dispute settlement</td>
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<td>Transparency</td>
<td><strong>Trade Policy Review Mechanism</strong></td>
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</table>
GATT/WTO agreements

- Non-discrimination (MFN, national treatment)
- Freer trade (progressive trade liberalisation)
- Predictability (binding and transparency)
- Fairer competition
- Development and economic reform (S&D)
- Dispute settlement understanding (DSU)
- Possible discriminatory tariff retaliation/QR retaliation
In December 2013, WTO members concluded negotiations on a Trade Facilitation Agreement at the Bali Ministerial Conference, as part of a wider “Bali Package”.

On 27 November 2014 WTO members adopted a Protocol of Amendment to insert the new Agreement into Annex 1A of the WTO Agreement.

The Trade Facilitation Agreement will enter into force once two-thirds of members have completed their domestic ratification process.

The Trade Facilitation Agreement contains

- provisions for expediting the movement, release and clearance of goods, including goods in transit.
- It also sets out measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues.
- It further contains provisions for technical assistance and capacity building in this area.
STRUCTURE OF THE TFA

Section I
The TFA contains 12 Articles with approximately 40 “technical measures” (Articles 1 - 12)

Section II
Special provisions for developing and least-developed country Members (Articles 13 – 22)

Section III
Final provisions and institutional arrangements (Articles 23 – 24).
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
Section II
Special provisions for developing and least-developed country Members

**Category A**
- Developing: To be implemented at the time of TFA entering into force
- LDCs: To be implemented within one year of TFA entering into force

**Category B**
To be implemented after a transitional period following the entry into force of the TFA

**Category C**
To be implemented after a transitional period and requiring the acquisition of assistance and support for capacity building
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
THE NEED FOR A MULTILATERAL AGREEMENT ON TRADE FACILITATION
DOMESTIC AND INTERNATIONAL SUPPLY CHAIN

Air, Sea, Land International Transport

Ship’s Documents

Storage

• Manifest
• Bills of Lading
• Sea/AW Bill
• Container Plans

• Invoice
• Packing List
• Declaration
• Delivery Note

• Quotations
• P.O.s
• Delivery Notes
• Con. Notes
• Invoices
• Statements

• Payments
• Remittance Advice

• Raw Materials
• Packaging
• Transport
• Storage

Port Processes
• Internal Transport
• Storage
• Container Handling
• Loading

Port

• Invoice
• Packing List
• Declaration
• Delivery Note

Receives Goods

Bank

• Licenses
• Certificates
• Government Approvals

LOC Approval

LOC Courier

Foreign Chambers Commerce

Overseas Embassies

Post/Courier

Certificates Of Origin

“Legal Invoices”

“Legal Invoices”

Bank Ministry

Finance Ministry

Government Departments

• Licenses
• Certificates
• Government Approvals

• L.O.C.
• Packing List
• Invoice

Book/Confirm Transport

Pay Taxes
Clear Customs
Release Goods

Receive Goods

Source: WB, 2011
PROBLEMS FACED BY INTERNATIONAL TRADE

- 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
- High administrative costs
Companies sometimes spend more money complying with customs regulations than the amount earned in revenue by Customs. 9 billion documents each year to process movement of goods! 1 day clearance ≈ 1 % tariff
Customs procedures and time taken for transactions

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

<table>
<thead>
<tr>
<th>Region</th>
<th>AVG No. of documents required to import goods</th>
<th>No. of days to comply with all export and import procedures</th>
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<tbody>
<tr>
<td>East Asia &amp; Pacific</td>
<td>7.1</td>
<td>23.1, 24.3</td>
</tr>
<tr>
<td>CEECAC</td>
<td>7.8</td>
<td>26.8, 28.4</td>
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<tr>
<td>Middle East &amp; North Africa</td>
<td>7.4</td>
<td>22.5, 25.9</td>
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<tr>
<td>OECD</td>
<td>4.9</td>
<td>10.5, 11.0</td>
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**Source:** World Bank, Doing Business 2010
Need for WTO Rules for Facilitating Trade

• **GATT** Articles V, VIII and, X contain provisions to enhance transparency and set minimum procedural standards for transit, publication, fees and Customs formalities.

• Lacked **specific provisions relating to** those provisions.

• WTO ATF contains provisions for simplification, harmonization, automation specifically for procedures related to importation and exportation thereby expediting the movement, release and clearance of goods.
BENEFITS OF THE AGREEMENT

✓ Reduction of total trade costs *(OECD Trade Policy Working Paper, No. 144, 2013)*

- 14.5% for low income countries
- 15% for lower-middle income countries
- 13.2% for upper-middle income countries


✓ Up to two-thirds of the total gains to be obtained by developing countries *(OECD TD/TC/WP(2003)31/FINAL)*
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<td>Art. 2</td>
<td>Opportunity to comment, information before entry into force, and consultations</td>
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<td>Art. 3</td>
<td>Advance rulings</td>
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<td>Art. 6</td>
<td>Disciplines on fees and charges imposed on or in connection with import and export and penalties</td>
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<td>Art. 7</td>
<td>Release and clearance of goods</td>
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<td>Art. 8</td>
<td>Border agency cooperation</td>
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<td>Art. 9</td>
<td>Movement of goods intended for import under Customs control</td>
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<td>Art. 10</td>
<td>Formalities connected with importation, exportation and transit</td>
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ILLUSTRATIONS OF TFA PROVISIONS THAT ARE RELEVANT TO CUSTOMS
ARTICLE 1: PUBLICATION & AVAILABILITY OF INFORMATION

1. Publication
2. Information available through Internet
3. Enquiry Points
4. Notification
Advance Ruling is

- A written decision provided by a Member to an applicant prior to the importation of goods at the request of the applicant
- Mandatory for tariff classification and origin (Art.3.9) & encouraged for customs value
- To be delivered in a reasonable, time bound manner
- Binding on that Member in respect of the applicant that sought the ruling
ARTICLE 7: RELEASE & CLEARANCE OF GOODS (1)

1. Pre-arrival processing
2. Electronic payment
3. Separation of release from final determination
4. Risk Management
ARTICLE 7: RELEASE & CLEARANCE OF GOODS (2)

5. Post-clearance audit
6. Average release time
7. Trade Facilitation Measures for Authorized Operators
8. Expedited Shipments
9. Perishable Goods
ARTICLE 8: 
BORDER AGENCY COOPERATION

Encourage all border authorities & agencies to cooperate:

• Alignment of: working days and hours, procedures, and formalities
• Development and sharing of common facilities
• Joint controls
• Establishment of one stop border post control
ARTICLE 9: MOVEMENT OF GOODS UNDER CUSTOMS CONTROL INTENDED FOR IMPORT

Allow goods intended for import to be moved within its territory under customs control from a customs office of entry to another customs office in its territory from where the goods would be released or cleared.
ARTICLE 10: FORMALITIES, PROCEDURES AND DOCUMENTATION

Provisions relating to:

- Formalities and documentation Requirements
- Acceptance of Copies
- Use of International Standards
- Single Window
- Pre-shipment Inspection
- Use of Customs Brokers
- Common Border Procedures and Uniform Documentation Requirements
- Rejected Goods
- Temporary Admission of Goods/Inward and Outward Processing
Provisions relating to:

1. Measures promoting compliance and cooperation
2. Exchange of information
3. Verification
4. Request
5. Confidentiality
6. Requests / refusals / reciprocity / limitations
7. Unauthorized use
8. Bilateral / regional agreements
NATURE AND SCOPE OF OBLIGATIONS

Binding

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

Best endeavour

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

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

Combination

Art. 1.2 2.3 “Members are encouraged to make available further trade-related information …”
ACTION TO BE COMPLETED

• Receive Category A commitments
• Ratification
• Acceptance by 2/3s of Members
• Entering into Force of the Agreement
• Notification of categories of provisions
Developing Countries Notification for all categories of provisions

- Notify A, B, C categories & indicative implementation dates for categories B & C
- Notify definitive dates for implementation of Cat. B provisions
- Entry into force of TFA (when 2/3 of Members ratify)*
- 1 year: Member and donor inform of TACB arrangements for Cat. C
- 2 years
- 2.5 years: Notify:
  1. progress in provision of TACB
  2. definitive dates for implementation

* Obligations for an individual country will only commence once this country completed its ratification process as well.
LDCs Notification for all categories of provisions

Notify:
1. A, B, C categories
2. LDCs may notify indicative implementation dates for category B

Notify definitive dates of implementation for Cat. B provisions

Inform TF Committee of arrangements with donors & indicative dates for implementation for Cat. C provisions

Entry into force of TFA (when 2/3 of Members ratify)*

1 year 2 years 3 years 4 years 5.5 years

Notify technical assistance required for implementation of Cat. C provisions

Inform TF Committee on progress in provision of assistance and notify definitive dates

* Obligations for an individual country will only commence once this country completed its ratification process
LET US RECAP THE ARTICLES OF SECTION 1 THAT CUSTOMS NEED TO FOCUS ON
WTO AGREEMENT ON TRADE FACILITATION

SECTION I

- Contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It clarifies and improves the relevant articles (V, VIII and X) of the General Agreement on Tariffs and Trade (GATT) 1994. It also sets out provisions for customs cooperation. The Articles related to:

- **Article V** – Freedom of Transit
- **Article VIII** - Fees and Formalities connected with Importation and Exportation
- **Article X** - Publication and Administration of Trade Regulations
SECTION I

ARTICLE 1: PUBLICATION AND AVAILABILITY OF INFORMATION
✓ 1 Publication
✓ 2 Information Available Through Internet
✓ 3 Enquiry Points
✓ 4 Notification

ARTICLE 2: OPPORTUNITY TO COMMENT, INFORMATION BEFORE ENTRY INTO FORCE, AND CONSULTATIONS
✓ 1 Opportunity to Comment and Information before Entry into Force
✓ 2 Consultations
SECTION I

- ARTICLE 3: ADVANCE RULINGS
- ARTICLE 4: PROCEDURES FOR APPEAL OR REVIEW
- ARTICLE 5: OTHER MEASURES TO ENHANCE IMPARTIALITY, NON-DISCRIMINATION
- AND TRANSPARENCY
- 1 Notifications for enhanced controls or inspections
- 2 Detention
- 3 Test Procedures
SECTION I

ARTICLE 6: DISCIPLINES ON FEES AND CHARGES IMPOSED ON OR IN CONNECTION WITH IMPORTATION AND EXPORTATION AND PENALTIES

✓ 1 General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation

✓ 2 Specific disciplines on Fees and Charges for Customs Processing Imposed on or in Connection with Importation and Exportation

✓ 3 Penalty Disciplines
ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

1. Pre-arrival Processing
2. Electronic Payment
3. Separation of Release from Final Determination of Customs Duties, Taxes, Fees and Charges
4. Risk Management
5. Post-clearance Audit
6. Establishment and Publication of Average Release Times
7. Trade Facilitation Measures for Authorized Operators
8. Expedited Shipments
9. Perishable Goods
SECTION I

ARTICLE 8: BORDER AGENCY COOPERATION

ARTICLE 9: MOVEMENT OF GOODS INTENDED FOR IMPORT UNDER CUSTOMS CONTROL

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION, EXPORTATION AND TRANSIT

✓ 1 Formalities and Documentation Requirements
✓ 2 Acceptance of Copies
✓ 3 Use of International Standards
✓ 4 Single Window
✓ 5 Pre-shipment Inspection
✓ 6 Use of Customs Brokers
✓ 7 Common Border Procedures and Uniform Documentation Requirements
✓ 8 Rejected Goods
✓ 9 Temporary Admission of Goods and Inward and Outward Processing
SECTION I

ARTICLE 11: FREEDOM OF TRANSIT

ARTICLE 12: CUSTOMS COOPERATION

✓ 1 Measures Promoting Compliance and Cooperation
✓ 2 Exchange of Information
✓ 3 Verification
✓ 4 Request
✓ 5 Protection and Confidentiality
✓ 6 Provision of Information
✓ 7 Postponement or Refusal of a Request
✓ 8 Reciprocity
✓ 9 Administrative Burden
✓ 10 Limitations
✓ 11 Unauthorized Use or Disclosure

12 Bilateral and Regional Agreements
Thank You For Your Attention

Prepared by K Subramanian
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