WTO Trade Facilitation Agreement
Concerns and Issues

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The cost of trade among South Asian countries is far too high. There is a need to simplify procedures for trade, and reduce the cost and time taken to handle cargo to ensure that trading within the region is more cost effective. The Trade Facilitation Agreement (2013), agreed upon at the World Trade Organisation Bali Ministerial Meeting, promises to address at least a few of South Asia's trade facilitation concerns.

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The scale of economic activity in south Asia has witnessed a substantial rise in the last decade. Simultaneously, it has gone rather unnoticed that south Asia ranks higher than many African countries in not doing well in trade facilitation (De 2011). As a result, goods often lose competitiveness at home before being sold overseas.

South Asia moves with a massive burden of inertia – ailing infrastructure, both at the border and within, falling productivity in agriculture and industry, and a shortage of skilled human resources, to mention a few. As a result south Asia has gained a dubious reputation in regional connectivity, including trade facilitation.

Trade facilitation is a safety device which protects an economy or a region from rising trade costs, and is therefore a necessity for all south Asian countries. Trade facilitation is an area where a common region-wide set of facilitation measures were never undertaken, and compliance to a single standard did not occur. Progress has been limited to only individual country initiatives, undertaken mainly as a part of national agendas (e g, e-customs).

Some Important Needs

In south Asia, landlocked and island countries face a relatively higher burden of trade costs. The costs of trade with outside regions appear to be lower than within the region (Table 1). For example, the ad valorem equivalent non-tariff trade cost (NTC) of India-Pakistan for manufacturing goods in 2011 was 124.13% (Table 1), which suggests that trade of manufactured goods between India and Pakistan involves, on average for all tradable manufactured goods, additional costs amounting to approximately 124% of the value of goods – as compared to when the two countries trade these goods within their borders.[1]

In sharp contrast, ad valorem equivalent NTC of India-United States (US) for manufacturing goods in 2011 was 88.85%.

What then does the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP)-World Bank trade cost database suggest? First, trade facilitation measures vary across

Table 1: Trade Cost in South Asian Developing Countries (2011)

Reporter	Partner	Export* ($ Millions)	NTC** (%)
India (47)	Afghanistan (143)	458.36	226.85
	Bhutan (128)	202.75	55.54
	China^ (27)	17168.77	79.62
	Maldives (125)	114.00	220.72
	Nepal (147)	2549.33	48.95
	Pakistan (110)	1891.48	124.13
	Sri Lanka (137)	4103.05	87.67
	United States^ (15)	31055.27	88.85
Pakistan (110)	Afghanistan (143)	1889.42	72.83
	China^ (27)	2119.40	96.03
	India (47)	384.51	124.13
	Nepal (147)	0.99	229.24
	Sri Lanka (137)	286.95	136.43
	United States^ (15)	3509.85	103.76
Sri Lanka (137)	China^ (27)	93.98	126.78
	India (47)	526.80	87.67
	Maldives (125)	50.30	80.40
	Nepal (147)	0.57	303.51
	Pakistan (110)	72.27	136.43
	United States^ (15)	1972.26	125.68

* Simple average for the years 2010, 2011 and 2012,
** NTC stands for non-tariff trade costs, ad valorem equivalent. ^NTC relates to the year 2010. Numbers in parentheses are global ranks of countries in the World Bank's Logistics Performance Index (LPI) for 2012.
Sources: Author based on UNESCAP for trade costs, IMF's Direction of Trade Statistics for export, and World Bank for LPI.

transport modes, procedures, products and country groups. Second, marginal return from improved trade facilitation rises when trade volume goes up. For example, a high-end cargo handling system at a seaport in a developed country would obviously clear a container, destined to a developing country, within a few hours, whereas a bad port in the destination has the potential to negate the benefits accrued due to faster handling at the origin. Variation in Logistics Performance Index (LPI) ranks in Table 1 captures this well. Third, any reduction of NTC is critical to the success of trade facilitation measures. Finally, the success of trade facilitation may therefore depend on how quickly asymmetry in trading infrastructure is narrowed and made inclusive.

Table 2 presents some crucial trade facilitation priorities for south Asia, which are purely regional types but have global implications. Can the Trade Facilitation Agreement (TFA), signed by the World Trade Organisation (WTO) member countries at the Ministerial Meeting held at Bali, Indonesia in December 2013, help south Asian countries build such infrastructure?

Table 2: Trade Facilitation Priorities in South Asia

Sr No	Particulars
1	Reduce lengthy customs processes and cargo handling time at ports of Chittagong, Karachi, Kolkata and Haldia through automation and modernisation
2	Faster opening of letter of credit account in bank with the help of information and communication technology (ICT) in Bangladesh and Nepal
3	Faster cargo insurance with the help of ICT, process re-engineering and competition among service providers in Nepal
4	Use of ICT to obtain permits and certificates in Bhutan
5	Synchronisation of cross-border customs in south Asia
6	Acceptance of south Asia regional transit
7	Development of border infrastructure
8	Cross-border electronic Customs Transit Document (CTD)
9	National single window essential for paperless trade
10	Capacity building and training for trade facilitation officials in south Asian LDCs.

Source: ADB-UNESCAP (2014).

South Asian Trade Facilitation

In WTO, Articles V, VIII and X of the General Agreement on Tariffs and Trade (GATT) 1994, guide the movement, release and clearance of goods, including goods in transit in member countries. In south Asia, the South Asian Free Trade Area (SAFTA) had cursory mention of trade facilitation issues under Article VIII. The striking contrast is that contracting parties to SAFTA have agreed to a trade liberalisation schedule, whereas in case of trade facilitation it has been left in the domain of "agree to consider".

Nevertheless, SAFTA had some noble trade facilitation proposals under Article VIII, such as (i) simplification and harmonisation of customs clearance procedures; (ii) harmonisation of national customs classification based on Harmonised System (HS) coding system; (iii) customs cooperation to resolve disputes at customs entry points; (iv) transit facilities for efficient intra-South Asian Association for Regional Cooperation (SAARC) trade, especially for landlocked countries; and (v) development of communication systems and transport infrastructure. Besides this, south Asia also signed a Customs Action Plan in 1997 and an Agreement for Mutual Administrative Assistance in Customs Matter in 2005.

However, provisions of these agreements were never implemented. There is a subgroup on customs cooperation, comprising heads of customs organisations of south Asian countries, which is mandated to administer and implement cooperation in the area of customs. Despite such a variety of initiatives, particularly on customs cooperation, progress is somewhat not visible on ground. In general, south Asia has largely failed to build requisite institutional mechanisms to take forward the regional trade facilitation agenda.

WTO TFA 2013: The Next Steps

The WTO TFA creates binding commitments across 159 plus WTO member countries to expedite movement, release and clearance of goods, improve cooperation on customs matters, and help developing countries and least developed countries (LDC) implement WTO obligations.

The TFA has two sections: Section I comprises 13 Articles, whereas Section II has special and differential treatment provisions for developing country members and LDC members. It has three distinct provisions for: (i) faster and efficient customs procedures, (ii) paperless trade, and (iii) technical assistance and capacity building. Through this agreement, the WTO aims to build common standard(s) mandatory for all countries. This TFA deal involves assistance for developing countries and LDCs to update their infrastructure, train customs officials, or for any other cost associated with implementing the agreement.

To assist developing countries and LDCs to meet TFA commitments, the need of a stronger technical assistance and capacity building programme has been added to raise awareness of the new rules and their benefits, the information available and how it can be accessed. A newly established Preparatory Committee (Committee on Trade Facilitation under Article 12) under the WTO was constituted to implement the agreement expeditiously. Besides, TFA has also recommended setting up national-level committees on TFA to facilitate both domestic coordination and implementation of provisions of this agreement.

WTO's statement, dated 11 December 2013, indicates an establishment of the Preparatory Committee on Trade Facilitation to perform such functions as may be necessary 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. In particular, the Preparatory Committee is supposed to conduct the legal review of the TFA, receive notifications of Category A commitments, and draw up a Protocol of Amendment. While the ratification process of the TFA must be going on at present, the General Council of the WTO may meet no later than 31 July 2014 to annex to the Agreement notifications of Category A commitments, to adopt the protocol drawn up by the Preparatory Committee, and to open the protocol for acceptance until 31 July.[2]

All provisions of this TFA are binding on all WTO members. Members shall implement this agreement from the date of its entry into force with some exceptions. There are three categories of provisions.

One, Category A contains provisions that a developing country member or a LDC member designates for the implementation upon entry into force of this agreement, or in the case of a LDC member, within one year after entry into force.

Two, Category B contains provisions that a developing country member or an LDC member designates for the implementation on a date after a transitional period of time following the entry into force of this agreement.

Three, Category C contains provisions that a developing country member or an LDC member designates for the 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.

Each developing country and LDC member shall self-designate, on an individual basis, the provisions it is including under each of the categories, A, B and C.

It has clear provision that the members of a regional economic arrangement such as SAFTA may adopt regional approaches to assist in the implementation of their obligations under the TFA on including through the establishment and use of regional bodies. The SAARC secretariat therefore has to undertake corresponding measures as outlined in TFA. It can even go beyond the provisions mentioned in TFA as appropriate in view of the region's requirement.

Some Concerns

(i) South Asian countries, particularly LDCs, have constraints in implementing commitments release and clearance of goods (Article 7), border agency coordination (Article 9), and formalities connected with export, import and transit (Article 10). Since all provisions of this TFA are binding on all members, south Asian countries have to be cautious in choosing their respective TFA provisions. Technical assistance and capacity building is required in many areas of trade facilitation. High capital investment in LDCs would be needed to implement commitments under Article 10. One way to manage such financing, a global fund for trade facilitation will pave the way in mitigating financial resources (De 2013). At the same time, an international inter-governmental agency under the Article 13 of TFA shall be constituted to pursue the TFA agenda under the guidance of the recently constituted Preparatory Committee.

(ii) The TFA includes commitments relating to the publication and transparency of trade regulations and customs procedures. While binding commitments may be explored in case of customs cooperation since it is a sort of public good, the same is unwarranted in cases of release of goods, border agency coordination or formalities connected with import, export and transit, in which cases developing countries and LDCs stand much to lose and will be far behind middle- and upper-income countries. Without strengthening these sectors step-by-step, sudden openings may cause social and economic crises, which may cause political disturbances.

(iii) The another concern of LDCs and many developing countries is that they did not possess sufficient financial and technical capacity to implement trade facilitation commitments as proposed in the TFA due to scarce resources, capacity constraints and diverse priorities. Therefore, many developing countries and LDCs need technical assistance and capacity building to implement many of the measures. International organisations shall provide a greater amount of technical assistance to developing countries and their enterprises on trade facilitation issues, particularly enabling them to comply with border management requirements and spreading awareness about WTO rules.

(iv) The other questions may include how to address the so-called "penalty disciplines" – for instance, failing to meet the obligations – in the WTO context, and whether the WTO dispute settlement body is really equipped to deal with these issues at all is another question that members are expected to grapple with in the months and years ahead.

(v) Given the technological and resource asymmetry between developed and developing countries, it would be difficult to conclude that developing countries and LDCs in south Asia (most of which have high trade deficits) will be able to improve their business and trade environment, leading to trade surplus economy.

(vi) Who will selflessly facilitate dialogue with the private sector to assist governments in amending laws and regulations relating to trade agreements in order to ensure that new rules are implemented in a way which enhances business competitiveness in LDCs?

(vii) Exporters in LDCs need better services to manage border barriers when moving their goods through regional and international value chains. Who will provide a full range of support services to enable small and medium enterprises (SMEs) of LDCs to connect with global and regional value chains? Without adequate technical and financial support and capacity building, SMEs in LDCs will not be able to augment their exports.

(viii) The TFA does not explicitly talk about electronic processing of transit documentation.

(ix) Trade facilitation has important implications for a country's export competitiveness through strengthening SMEs in south Asia. Improved trade facilitation would increase cross-border production networks, where parts and components cross borders several times during the production process. Thus, SMEs, particularly in developing countries and LDCs in south Asia, require efficient access to raw materials, parts and components, and services for production. For landlocked developing countries (LLDCs), such as Afghanistan, Bhutan and Nepal, the need for effective trade facilitation is even greater because inputs are also dependent on the efficiency of the transit mechanisms in neighbouring countries. Higher transaction costs and time at transit ports and borders would certainly diminish the potential of LLDCs joining global or regional value chains. Are these issues effectively addressed in WTO TFA? Not really.

Concluding Remarks

No doubt, through customs reform, WTO TFA would provide scope for reengineering trade processes and procedures, thereby moving towards a paperless trade environment. Simplification of procedures and processes are crucial for the facilitation of trade and for raising export and import competitiveness. However, it would be difficult to assure that manufacturers, freight forwarders, logistics providers, express carriers and entrepreneurs seeking to enter the export market particularly would stand to benefit from this agreement.

LDCs alone cannot manage the mandates given to them. In a way, LDCs have been forced to adapt to a new situation. Even if the WTO TFA would offer a better trade environment, they simply do not possess sufficient financial and technical capacity to implement trade facilitation commitments as proposed in the TFA due to scarce resources, capacity constraints and diverse priorities. Therefore, to protect the LDCs from future vulnerabilities, LDCs need strong technical and financial support through Aid for Trade (AFT) in the form of infrastructure development, technical assistance and capacity building. Setting up a global trade facilitation fund and institution to help LDCs in implementing the WTO trade facilitation agenda would strengthen global trade. India shall help LDCs meet new obligations and gain their share of benefits from cost saving and income growth.

Development organisations like the Asian Development Bank, World Bank, UNESCAP and SAARC Secretariat have to play strong facilitating roles in developing infrastructure, technical assistance, training and capacity building in south Asia.

NOTES

1 The UNESCAP trade cost measure, based on Novy (2012), is a comprehensive all-inclusive measure based on micro-theory and calculated using macroeconomic data, providing an alternative measure of trade facilitation performance (Arvis et al 2012).

2 See WTO's statement dated 11 December 2013, WT/MIN(13)/36 WT/L/911.

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