WORLD TRADE ORGANIZATION AGREEMENT ON TRADE FACILITATION: IMPLICATIONS FOR LANDLOCKED DEVELOPING COUNTRIES

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WTO
Article 11
Freedom of Transit
Article 11 - Freedom of Transit

1. Any regulations and formalities shall not:
   a. Be maintained if circumstances/objectives no longer exist, or can be applied in a less trade-restrictive manner.
   b. Constitute a disguised restriction on trade

   ▫ Language similar to GATT Article XX
   ▫ Relation to the concept of “arbitrary or unjustifiable discrimination”
   ▫ there is arbitrary or unjustifiable discrimination...when a Member seeks to justify the discrimination resulting from the application of its measure by a rationale that bears no relationship to the accomplishment of the objective ...
Article 11 - Freedom of Transit

2. Traffic in transit shall not be conditioned on collection of fees (except cost based, transport and administrative expenses)
   - Relation with GATT Article VIII

3. Prohibition on voluntary restraints on traffic in transit
   - Turkey-EU border situation
Article 11 - Freedom of Transit

4. Each Member shall accord to products which will be in transit through the territory of any other Member treatment no less favourable than that which would be accorded to such products if they were being transported from their place of origin to their destination without going through the territory of such other Member.

- Non-discrimination principle expanded?
- National Treatment?
Article 11 - Freedom of Transit

5. Separate infrastructure for traffic in transit encouraged

6. Formalities, documents and controls shall not be more cumbersome than necessary
   a) To identify goods
   b) Ensure fulfilment of transit requirements
Article 11- Freedom of Transit

7. No charges, delays or restrictions once goods cleared for transit
8. No application of TBT measures to goods in transit
9. Advance filing and processing of transit documentation to be allowed and provided
10. Promptly terminate transit operation once exit point is reached
Article 11 - Freedom of Transit

11. Guarantees: limited to ensuring requirements are fulfilled
12. Discharged without delay
13. Allow multiple transaction or renewal
14. Publish information used to set guarantees
15. Convoys or escorts only in high risk cases
   rules shall be published
Article 11 - Freedom of Transit

16. Endeavour to cooperate to enhance transit. Understandings on:
   a) charges
   b) formalities and legal requirements
   c) the practical operation of transit regimes

17. Endeavour to appoint national transit coordinator
Article 11 - Transit

Share of Categories A, B, C by grouping

Based on % of all notifiable items
11 – Transit

[Bar chart showing the share of categories A, B, C by grouping for Developing Members, LLDCs, and Transit countries.]

TFAD (Trade Facilitation Agreement Database) www.tfadatabase.org
TFA Implementation
Ratifications

The Trade Facilitation Agreement (TFA) entered into force on 22 February 2017 when the WTO obtained the two-thirds acceptance from its 164 Members.

TFAD (Trade Facilitation Agreement Database) www.tfadatabase.org
How Members are implementing the TFA

Category A
114 Members
26 LLDCs
27 Transit

• Implement TFA provisions immediately upon entry into force

Category B
73 Members
20 LLDCs
17 Transit

• Implement TFA provisions following a transition period determined by them

Category C
63 Members
19 LLDCs
10 Transit

• Implement TFA provisions following a self-determined transition period and receiving the necessary capacity-building support
Timeline of implementation commitments

Based on implementation commitments by all WTO Members over time

- Overall implementation commitments
- Cat. A
- Cat. B
- Cat. C
- Developed Members
- Yet unknown

TFAD (Trade Facilitation Agreement Database) www.tfadatabase.org
Article 8- Border Agency Coop

Share of Categories A, B, C by grouping

Based on % of all notifiable items
8 – Border Agency Cooperation

Developing Members
LLDCs
Transit countries

A B C N

TFAD (Trade Facilitation Agreement Database) www.tfadatabase.org
Article 12- Customs Cooperation

Share of Categories A, B, C by grouping

Based on % of all notifiable items
12 - Customs cooperation

Developing Members

LLDCs

Transit countries

A  B  C  N

TFAD (Trade Facilitation Agreement Database) www.tfadatabase.org
Article 7.7- Authorized operators

Share of Categories A, B, C by grouping

Based on % of all notifiable items
7.7 – Authorized operators

Developing Members

LLDCs

Transit countries

A
B
C
N

TFAD (Trade Facilitation Agreement Database) www.tfadatabase.org
Article 10.4 – Single window

Share of Categories A, B, C by grouping

Based on % of all notifiable items
10.4 – Single window

Developing Members
LLDCs
Transit countries

A  B  C  N

TFAD (Trade Facilitation Agreement Database) www.tfadatabase.org
Article 1.3 – Inquiry points

Share of Categories A, B, C by grouping

Based on % of all notifiable items
1.3 – Enquiry points

TFAD (Trade Facilitation Agreement Database) www.tfadatabase.org
Top 5 measures with highest implementation rate

Based on implementation commitments by all WTO Members

Art. 9 – Movement of goods
Art. 10.5 – Preshipment inspection
Art. 10.9 – Temporary admission...
Art. 5.2 – Detention
Art. 10.6 – Use of customs brokers

- Rate of implementation commitments today
- Rate of implementation commitments requiring additional time
- Rate of implementation commitments requiring additional time and assistance
- Rate of implementation commitments yet to be designated

TFAD (Trade Facilitation Agreement Database) www.tfadatabase.org
Bottom 5 measures with lowest implementation rate

Based on implementation commitments by all WTO Members

- Art. 7.6 – Average release times
- Art. 3 – Advance rulings
- Art. 5.3 – Test procedures
- Art. 7.7 – Authorized operators
- Art. 10.4 – Single window

- Rate of implementation commitments today
- Rate of implementation commitments requiring additional time
- Rate of implementation commitments requiring additional time and assistance
- Rate of implementation commitments yet to be designated

TFAD (Trade Facilitation Agreement Database) www.tfadatabase.org
The 5 most notified measures in Category C

Based on % of all notifiable article items

Grouping: LLDCs

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<thead>
<tr>
<th>Article</th>
<th>Measure</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Art. 10.4</td>
<td>Single window</td>
<td>65</td>
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<tr>
<td>Art. 5.3</td>
<td>Test procedures</td>
<td>55</td>
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<tr>
<td>Art. 8</td>
<td>Border Agency Cooperation</td>
<td>50</td>
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<tr>
<td>Art. 7.6</td>
<td>Average release times</td>
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<td>Art. 1.3</td>
<td>Enquiry points</td>
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</tbody>
</table>

TFAD (Trade Facilitation Agreement Database) www.tfadatabase.org
Type of technical assistance requested

**Grouping:** LLDCs

- To be determined: 60%
- Legislative and regulatory frameworks: 20%
- Human resources and training: 20%
- Information and communication: 15%
- Institutional procedures: 15%
- Diagnostic and Needs Assessment: 10%
- Infrastructure and equipment: 5%
- Awareness-raising: 5%

**Share of technical assistance requested**

TFAD (Trade Facilitation Agreement Database) www.tfadatabase.org
The 5 most notified measures in Category C

Based on % of all notifiable article items

Grouping: Transit countries

Art. 10.4 Single window - 28%
Art. 8 Border Agency Cooperation - 26%
Art. 7.4 Risk management - 24%
Art. 7.7 Authorized operators - 22%
Art. 1.2 Information availability - 20%

TFAD (Trade Facilitation Agreement Database) www.tfadatabase.org
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<tr>
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<tr>
<td>Human resources and training</td>
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**Share of technical assistance requested**

TFAD (Trade Facilitation Agreement Database) www.tfadatabase.org
Technical assistance and capacity-building support notifications

**Art. 22.1**

- Donor Members are required to notify the support that they provide for TF capacity-building

15 notifications received

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**Art. 22.2**

- Donor Members are required to notify the process and mechanisms that should be followed in order to request assistance

8 notifications received

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**Art. 22.3**

- Developing and LDC Members seeking Technical Assistance must provide details of their contact point(s) of the office(s) responsible for coordinating and prioritizing assistance and support

5 notifications received
# Transparency Notification obligations

All Members are required to make four separate transparency notifications:

- **Import, export and transit procedures**
- **Operation of Single Window**
- **Use of Customs Brokers**
- **Contact points for exchange of customs information**

<table>
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<tr>
<th></th>
<th>Article 1.4</th>
<th>Article 10.4.3</th>
<th>Article 10.6.2</th>
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The Trade Facilitation Agreement Database is a tool to search, filter and analyse the notifications and ratifications received under the Trade Facilitation Agreement.

www.tfadatabase.org
Trade Facilitation Facility

- Launched in July 2014
- Operational since December 2014

- 3 Components
  I. Provision of TACB, focus on NA and partner identification
  II. Information sharing platform on demand and supply for TA
  III. Provision of funds, if none made available
      a) Project preparation (up to US$ 30,000)
      b) Project implementation, if no donor found (soft infrastructure up to US$ 200,000)

http://www.tfafacility.org/
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<th>The Trade Facilitation Agreement</th>
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<th>TFAF Assistance</th>
<th>Media and Resources</th>
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The Trade Facilitation Agreement Facility

www.TFAFacility.org