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EXPLAINERS

LKI *Explainers* examine an agreement or another aspect of Sri Lanka's international relations. They summarise key points and developments, with up-to-date information, facts, and figures.

Implications of the WTO Trade Facilitation Agreement for Sri Lanka

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Contents

Abbreviations

FDI	Foreign Direct Investment
GDP	Gross Domestic Product
GVCs	Global Value Chains
LDCs	Least Developed Countries
NTFC	National Trade Facilitation Committee
OECD	Organisation for Economic Co-operation and Development
SMEs	Small and Medium-Size Enterprises
TFA	Trade Facilitation Agreement
TFAF	Trade Facilitation Agreement Facility
TFSP	Trade Facilitation Support Program
WTO	World Trade Organization

This LKI Explainer explains key aspects of the Trade Facilitation Agreement (TFA),[1] which entered into force in February 2017. It also considers implications of this Agreement for Sri Lanka.

Highlights

- The TFA is the first binding multilateral trade agreement since the WTO was established.
- Full implementation of the TFA is expected to reduce global trade costs by an average of 14.5%, and add USD 345-555 billion to global GDP per year.
- Some critics have argued that the costs to developing countries and LDCs of implementing the TFA have been understated.
- In Sri Lanka, however, full implementation of the TFA is likely to reduce the country's trade costs, improve its export potential and FDI inflows, and enhance its maritime connectivity.
- OECD indicators show Sri Lanka is on par with high-performing Southeast Asian economies in some areas of trade facilitation, but lags in other areas such as appeal procedures.
- Sri Lanka should build the capacity of its National Trade Facilitation Committee, and tap into additional sources of funding for trade facilitation measures.

1. What is the WTO Trade Facilitation Agreement?

- Negotiations of the Trade Facilitation Agreement (TFA) were concluded in December 2013 at the Ninth Ministerial Conference of the World Trade Organization (WTO), held in Bali, Indonesia.[2]

- The 'Protocol of Amendment' that inserted the TFA into the WTO Agreement was officially adopted and opened for ratification by WTO member states in November 2014.[3]

- The TFA is part of the WTO's "Bali Package," which is an early outcome of the long-running Doha Development Round. The Bali Package aims to reduce 'red tape' to enable trade, ease agricultural tariffs and non-tariff barriers, and boost development in Least Developed Countries (LDCs) via greater trade integration.[4]

- The TFA aims to streamline and expedite import and export procedures and customs requirements, and to enhance co-operation and transparency on cross-border trade rules and regulations.

- The TFA contains three sections:[5]

    - **Section I** on the expected commitments of member states;
    - **Section II** on 'Special and Differential Treatment' for developing nations and LDCs; and
    - **Section III**, which calls for the creation of committees on trade facilitation and includes provisions related to definitions and special circumstances.

2. Significance of the Trade Facilitation Agreement

- The WTO foresees many benefits for states if the TFA is fully implemented. These include reducing trade costs[6] of "getting a good from a producer to a final consumer" by an average of 14.5%.[7]

- The TFA is expected to reduce the average time to import goods by over a day and a half[8] and reduce the average time to export by nearly two days.[9]

- The WTO also estimates that the TFA could potentially add in the range of USD 345 – USD 555 billion to global GDP each year.[10]

- Developing countries are expected to reap larger gains than developed countries if the TFA is fully implemented. Specifically:

  - The TFA is projected to increase average Gross Domestic Product (GDP) growth in developing countries by 0.9%,[11] compared to 0.25% in developed countries;[12]
  - Similarly, exports of developing countries are projected to increase by 3.5% per year,[13] compared to a 1.8% increase in developed countries.[14]

- The TFA is the first multilateral agreement to be concluded[15] since the WTO was established in 1995. Its provisions are binding,[16] with some flexibility for developing countries and LDCs.

- The TFA abandons the 'one-size-fits-all' approach of previous agreements. Instead, the implementation of provisions depend on a state's capacity to implement them. In the case of LDCs, the TFA takes into account their developmental, financial, and trade needs.[17]

- It also includes provisions for capacity building in the form of "technical, financial, or any other mutually agreed form of assistance" to assist developing states and LDCs implement the TFA.[18]

3. Ratification and Commitments of the Trade Facilitation Agreement

- The TFA entered into force[19] on 22 February 2017, upon ratification by two thirds of WTO member states. As of 18 July 2017, 121 out of 164 members[20] have ratified the TFA, including Sri Lanka.[21]

- There are 12 broad commitments under the TFA, including to:

  - Promptly publish information in a non-discriminatory and easily accessible manner;[22]
  - Allow interested parties to comment on the application of trade-related regulations;[23]
  - Issue advance rulings on the treatment of imported goods (for example, on the tariff classification of goods) in a reasonable and timely manner;[24]
  - Improve procedures to appeal or review decisions made by customs officials;[25]
  - Develop a system that efficiently notifies concerned parties of (1) enhanced border controls or inspections, (2) detention of goods, and (3) test procedures for imported goods;[26]
  - Regulate and review fees imposed in connection with imports, exports, and penalties;[27]
  - Expedite the release and clearance of goods;[28]
  - Establish coordination and cooperation between border control authorities;[29]
  - Allow imported goods to be moved under customs control from the customs office of entry to another office in that state's territory, for release or clearance;[30]
  - Streamline formalities connected to the import, export, and transit of goods;[31]
  - Facilitate and improve the transit of goods;[32] and
  - Improve customs cooperation between traders and customs officers, and between customs officers of member states.[33]

- Member states must also establish a 'National Committee on Trade Facilitation' or designate an existing entity to develop national roadmaps and align domestic policy with the TFA.[34]

4. Assistance for Implementing the Trade Facilitation Agreement

- Trade facilitation can be broadly defined as implemented via hard infrastructure projects[35] (such as ports and railways) and soft infrastructure projects[36] (such as organisational or institutional structures that improve, for instance, transparency and customs management).

- Available development assistance for implementing the TFA can be generally classified as, (1) assistance under the TFA; (2) assistance via the WTO, and (3) assistance by external organisations.

Assistance under the TFA

Special and Differential Treatment Provisions

- The TFA provides 'Special and Differential Treatment' for developing states and LDCs.[37] This allows those states to address challenges of limited resources and capacity.

- Under the special and differential treatment provisions, developing states and LDCs have flexibility to categorise the implementation of TFA commitments, depending on their resources and capacity.[38] The three possible categories are:

  - **Category A:** provisions that states should implement once the Agreement enters into force (i.e. 22 February 2017), and in the case of LDCs, that states should implement a year after entry into force (i.e. 22 February 2018).[39] For example, a developing country like Sri Lanka categorised 'allowing the option of electronic payment for duties, taxes, fees, and charges collected by customs incurred upon importation and exportation' as category A;[40]

  - **Category B:** provisions for which developing member states should communicate implementation dates no later than one year after entry into force, and in the case of LDCs, no later than two years after entry into force.[41] For example, Botswana categorised 'making available online forms and documents[42] required for importation into, exportation from, or transit through that member state' as category B; and

  - **Category C:** provisions that member states implement after the TFA's entry into force and upon receiving capacity-building assistance.[43] For example, Zambia categorised 'border agency cooperation,'[44] like aligning working hours and days[45] with other member states who share a common border, as category C.

- WTO member states that provide assistance and support[46] for capacity building are identified as "donor(s)." Currently, 11 WTO member states and the European Union are donors.[47]

- The TFA requires donors to support trade facilitation initiatives in developing countries and LDCs, via bilateral arrangements or through international organisations.[48]

The Committee on Trade Facilitation

- The WTO established the Committee on Trade Facilitation (the Committee) through the TFA to provide member states with a platform to discuss matters and seek advice on implementing the TFA, including best practices.[49]

- The Committee comprises WTO member states. All member states are allowed to participate[50] in the Committee, which elects its own Chairperson.[51]

Assistance via the WTO

Trade Facilitation Agreement Facility

- The WTO created the Trade Facilitation Agreement Facility (TFAF) in 2014 at the request of developing and LDC members.[52] The TFAF acts as the 'focal point' for implementing the TFA, and supports developing states and LDCs by:

- Assisting them to prepare their notifications[53] for special and differential treatment;
- Delivering assistance for capacity building[54] by providing training material, case studies, and best practices;
- Improving access[55] to appropriate implementation support; and
- Providing grants[56] for category C commitments, when no other funding is available.

- The TFAF provides two types of grants:

    - Project preparation grants[57] (up to USD 30,000 per project) for developing countries and LDCs that have identified a donor but lack funds for project preparation; and
    - Project implementation grants[58] (up to USD 200,000 per project) for developing countries and LDCs to implement soft infrastructure projects, such as in-country training of officials to improve customs management.[59]

- In 2016, the TFAF had total funds of approximately USD 6 million. Norway, Australia, and the UK were the three largest contributors to the TFAF in 2016.[60]

Assistance by External Organisations

Trade Facilitation Support Program

- The Trade Facilitation Support Program (TFSP), managed by the World Bank, was established to assist states implement trade facilitation reforms and to align their trade practices with the TFA.[61]

    - The TFSP achieves this through technical assistance[62] (for example, assistance with scheduling implementation timelines), and 'knowledge, learning and measurements tools' (for example, the TFSP Tracking Tool[63] that tracks the implementation of reforms).

- Seven partners have committed around USD 36 million[64] to fund this programme; including Australian Aid, the Government of Canada, and the Norwegian Ministry of Foreign Affairs.

    - To receive funding, countries must demonstrate a strong commitment to the TFA.[65]

The Global Alliance for Trade Facilitation

- The Global Alliance for Trade Facilitation (the Alliance) is a public-private 'platform' to leverage business expertise, leadership, and resources for trade facilitation and the implementation of the TFA.[66]

- The Alliance was established[67] in December 2015[68] by the International Chamber of Commerce, the World Economic Forum, and the Center for International Private Enterprise, with the support of the governments of Australia, Canada, Germany, the UK, and the US.

- In 2015, the Alliance anticipated a starting budget of USD 60 million,[69] for a period of seven years. If this funding is realised, the Alliance could be the largest financial resource[70] for trade facilitation. The Alliance is yet to publish information regarding its funding status.

5. Critiques of the Agreement

- Recent studies suggest that the greatest gains in trade could be realised when hard infrastructure is combined with soft infrastructure.[71] However, the TFA focuses narrowly on soft infrastructure.[72]

- Some economists argue that (1) the expected benefits of the Agreement are based on the unrealistic assumption that all countries will benefit equally,[73] and that (2) the costs of implementing trade facilitation projects to developing countries and LDCs are understated.[74]

- The TFA's progress in reducing trade costs is likely to be constrained by creeping protectionism since the global financial crisis.

  - Despite declining trade-restrictive measures internationally, the Global Trade Alert, an initiative of the Centre for Economic Policy Research, London, indicates that the total number of implemented global trade-restrictive measures (approximately 7937) currently outnumbers trade-facilitating measures (approximately 3300).[75]

- The Agreement has also been critiqued as revealing serious structural issues of the WTO,[76] given that the WTO took nine years[77] to negotiate its first multilateral agreement on trade facilitation.

6. Sri Lanka and the Trade Facilitation Agreement

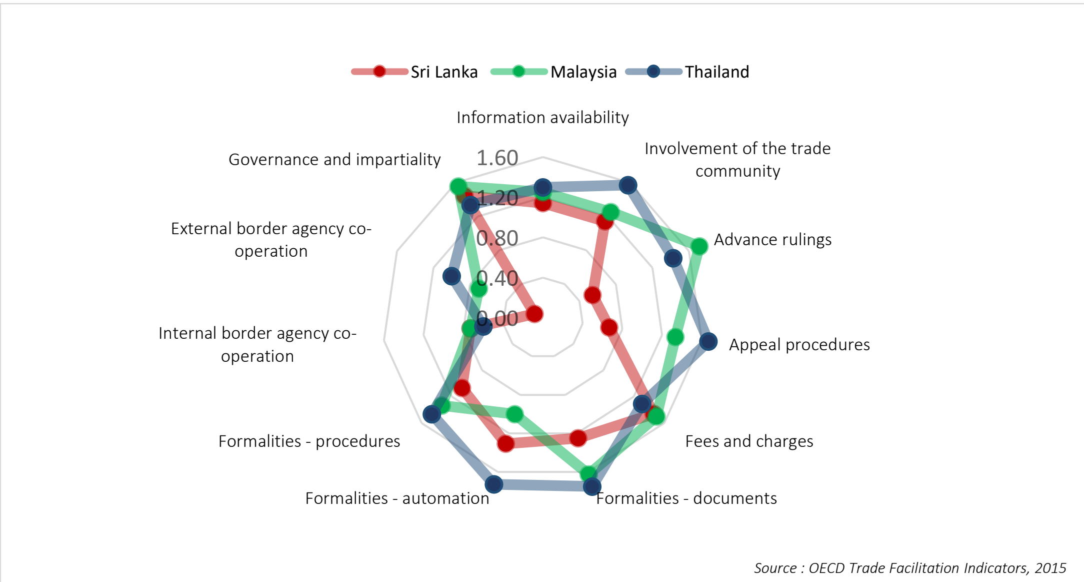
- Sri Lanka submitted its instrument of ratification on 31 May 2016,[78] becoming the 81st member of the WTO to ratify the agreement.

Sri Lanka's need for trade facilitation

- Trade Facilitation indicators[79] of the Organisation for Economic Co-operation and Development (OECD) show that Sri Lanka is on par with high-performing Southeast Asian economies like Thailand and Malaysia, in some areas, but lagging in other areas (see Figure 1).

  - In governance and impartiality, fees and charges, and internal border agency co-operation, Sri Lanka is on par with Thailand and Malaysia.
  - However, Sri Lanka registered low levels of external border agency co-operation, while falling significantly behind on advance rulings, appeal procedures, and the simplification of bureaucratic procedures with regard to documentation.
  - Sri Lanka should gradually implement reforms to move towards the levels of trade facilitation in Malaysia, Thailand, and other emerging economies.

Figure 1: A Comparison of Sri Lanka, Malaysia, and Thailand's Trade Facilitation Indicators



- Improved trade facilitation will enable more seamless trade flows, and thereby catalyse export growth.

    - WTO estimates suggest that Sri Lanka can expect trade cost reductions ranging from 13.9% to 15.8%, following full implementation of the TFA by a majority of member states.[80]
    - This could increase Sri Lanka's potential to link up with global value chains (GVCs), as streamlined import and export procedures will minimise global supply chain disruptions.

- The TFA can improve and streamline cross-border procedures, thereby reducing time and cost to export, which could allow for greater participation by small and medium-sized enterprises (SMEs) in trade.

    - SMEs account for almost 52% of GDP,[81] but contribute marginally to Sri Lanka's trade.
    - Onerous trade, customs and border procedures—which the TFA aims to shed—are often cited by SMEs as "major obstacles to trade." [82]
    - By taking advantage of TFAF's soft infrastructure development programmes, SMEs in Sri Lanka will be better equipped to locate potential export markets and connect to GVCs.

Sri Lanka's implementation of the TFA

Commitments under the TFA

- Sri Lanka designated 25.9%[83] of its commitments as 'category A' commitments, meaning that such measures were due for implemention upon the TFA's entry into force on 22 February 2017.

- Sri Lanka is yet to categorise the remaining 74.1% of the TFA's provisions.[84]

National Trade Facilitation Committee

- Sri Lanka established its National Trade Facilitation Committee (NTFC) in 2014, co-chaired by[85] the Director General of Sri Lanka Customs and the Director General of the Department of Commerce.

- The NTFC's main task is to implement the TFA and other trade facilitation measures.[86] For example, in January 2016, Sri Lanka launched the *single window*[i] system[87] to streamline the export and import documents.

- Although Sri Lanka has an operational NTFC, the World Customs Organization has highlighted challenges[88] to Sri Lanka's NTFC, including varied levels of commitment of NTFC members, and gaps in the members' understanding of the TFA and of their role in the NTFC.

- Sri Lanka could look towards regional cooperation and international best practices to improve the effectiveness of its NTFC. Applicable best practices include:

    - Developing a clear communication strategy[89] in the NTFC's operational procedures; and
    - Developing a system of quantifiable measures[90] to track Sri Lanka's progress in implementing the TFA, which in turn would highlight the effectiveness of the NTFC.

[i] A single window allows traders to submit all import, export, and transit information required by regulatory agencies via a single electronic gateway, instead of submitting it multiple times to various government entities.

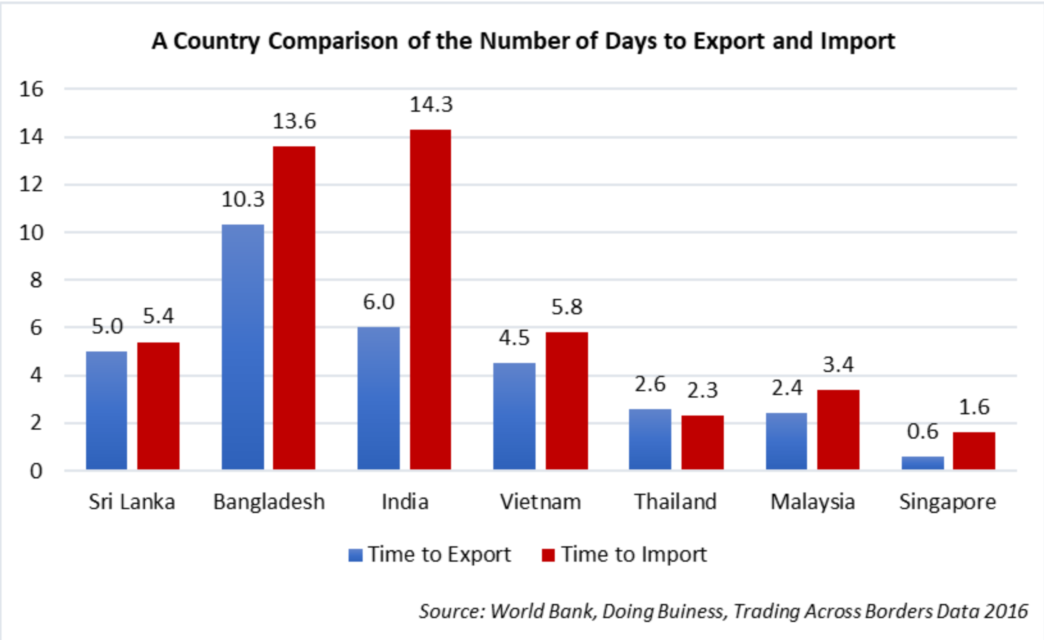
Assistance to implement the TFA

- Sri Lanka has formally received support from the TFAF.[91] Examples of support received include:
    - Assessments related to identifying Sri Lanka's trade facilitation needs and priorities;
    - A capacity building course for Sri Lanka's NTFC co-chairs; and
    - The development of a single window for traders, required by the TFA.

- Sri Lanka is also one of 32 countries[92] to have received support from the World Bank's Trade Facilitation Support Program and one of the first countries[93] to engage with the Global Alliance for Trade Facilitation (the Alliance).
    - Since 2016, the Alliance has (1) explored ways in which it can boost Sri Lanka's competitiveness and attract foreign direct investment (FDI),[94] and (2) identified possible private-public partnerships to support the creation of a trade portal and a multi-container consolidation system[ii] in Sri Lanka.[95]

- Despite this support, Sri Lanka has received a relatively low amount of aid for trade facilitation compared to other South Asian states.[96]
    - Most recent estimates suggest, Sri Lanka received a meagre USD 0.01 million[97] for trade facilitation, compared to USD 3.18 million (2013) to Nepal[98] and USD 8.77 million (2013) to Bangladesh.[99]

Figure 2: A country comparison of the number of days taken to import or export



Expected benefits of the TFA for Sri Lanka

- TFA provisions on developing a single window and uniform documentation requirements, and streamlining border control procedures, will shorten Sri Lanka's average import and export times.

[ii] Multi-container consolidation or multi-country consolidation means consolidating cargo from different countries of origin to build Full Container Load freights.

- According to World Bank 'Doing Business, Trading Across Borders' data,[100] Sri Lanka currently takes almost five days to export,[iii] and almost five and a half days to import.[iv]

- While Sri Lanka fares better than emerging economies in South Asia like India and Bangladesh, it lags far behind Southeast Asian economies like Singapore, Thailand, and Malaysia, especially in terms of time taken to export (see Figure 2).

- An International Trade Centre report on non-tariff measures in Sri Lanka found that the Customs Department in Sri Lanka was a significant obstacle to trade, and accounts for 40.8% of procedural obstacles related to imports and 55.9% of those related to exports.[101]

- The TFA can markedly increase Sri Lanka's potential in promoting export products, for example:

    - TFA provisions on expediting clearance of perishable goods could enhance Sri Lanka's exports in the agro-food sector, which the government has singled out[102] as a sub-sector with high export-earning potential; and
    - Apparel exporters would also benefit from swifter clearance of goods and transit procedures, as many cater to 'fast-fashion' retailers that frequently change inventories.

- The WTO's 2015 World Trade Report observed a "positive and statistically significant"[103] link between trade facilitation and FDI. Sri Lanka could therefore potentially improve its inflow of FDI by fully implementing the TFA.

- Reducing non-tariff trade costs related to trade procedures will enable Sri Lanka to better capitalise on its geographical location and efforts to improve maritime connectivity, especially given that:
    - Sri Lanka is geographically positioned near high-volume trade routes in the Indian Ocean, with over 50% of global maritime oil trade passing through the Indian Ocean;[104] and
    - Sri Lanka is improving the infrastructure of its ports in Colombo and Hambantota.

7. Conclusions: Summary of Policy Recommendations for Sri Lanka

- Policymakers and the NTFC should multiply Sri Lanka's aid for trade facilitation, including by diversifying its donor base.

    - Sri Lanka has only two 'top donors' for trade facilitation: Japan and the WTO.[105]
    - Sri Lanka could reach out to other 'top donors' of trade-related aid, which in 2014 were identified by the OECD as the US, the UK, Canada, and the World Bank's International Development Association, among others.[106]
    - The Global Alliance for Trade Facilitation is another potential source of funding.

- To build capacity in the NTFC, Sri Lanka should (1) implement best practices of NTFCs worldwide, and (2) establish regional cooperation among NTFCs of neighboring Asian countries, similar to countries like Uganda and Botswana that have taken a "regional approach" to trade facilitation to overcome their common challenges.[107]

- Sri Lanka should identify its remaining TFA commitments as category B or C commitments, and publish a corresponding action plan. It could learn from:

    - Vietnam, which is developing an action plan[108] to implement provisions it identified as category B and C commitments; and

[iii] Time taken to export is the sum of border compliance hours and documentary compliance hours.
[iv] Time taken to import is the sum of border compliance hours and documentary compliance hours.

- Bangladesh, which had a workshop for parliamentarians[109] on TFA categorisation to advance implementation of the TFA.

- Sri Lanka should comprehensively study its gaps in trade facilitation, relative to emerging economies like Malaysia and Thailand, and prioritise reforms to improve areas like advance rulings and external border agency cooperation (see Figure 2).

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