



TRADE FACILITATION: DEFINITION AND ITS MEASURES

Maftuna Shermamatova

Teacher in Customs Institute State Customs Committee of the Republic of Uzbekistan

Independent researcher for a Doctor of Philosophy (PhD) in Legal Sciences

Abstract

This paper is written according to the dissertation about the Implementation of WTO Trade facilitation standards into Uzbekistan's customs legislation by the author. The study collected and defined the term trade facilitation and its measures. However, trade facilitation includes several spheres relevant to trade, the author describes trade facilitation for customs purposes. Also, the literature is reviewed and given different definitions of trade facilitation and its measures by foreign scientists.

Keywords: trade facilitation, customs standards, harmonization, simplification, TFA measures.

Introduction

Trade facilitation plays a crucial role in the smooth flow of goods across borders, involving activities such as simplifying customs procedures, reducing documentary requirements, and improving infrastructure. The theoretical foundations of trade facilitation can be traced back to the economic concept of lowering transaction costs and increasing efficiency in international trade.

Trade facilitation is simplifying, harmonizing, standardizing, and modernizing trade procedures. It seeks to reduce trade transaction costs at the interface between business and government and is an agenda item within many customs-related activities¹.

The term 'trade facilitation' is often used in the context of international trade agreements and trade negotiations. In WTO 'trade facilitation' is identified as 'The simplification and harmonization of international trade procedures' and 'procedures are the activities, practices and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade' (Trade facilitation, 2004)

According to the World Trade Organization, trade facilitation includes measures to streamline customs procedures, reduce the use of paper documentation, improve infrastructure, and enhance cooperation among customs authorities. The goal of trade facilitation is to expedite the movement, release, and clearance of goods across borders². Also, the Doha Ministerial Declaration defines 'trade facilitation' as "expediting the movement, release, and clearance of goods, including goods in transit³". Hyo-young Lee emphasizes that trade facilitation refers to the elimination of inefficiency caused by non-tariff barriers not only on the border, such as burdensome customs procedures, but more broadly, also covers the

¹ Grainger, A. (2008). Customs and Trade Facilitation: From Concepts to Implementation. *World Customs Journal*, 2(1). <https://doi.org/10.55596/001c.91315>

² Alburo, F A. (n.d.). REGIONAL COOPERATION ON TRADE AND TRANSPORT FACILITATION. Source available at <https://www.unescap.org/sites/default/files/5-REGI~1.PDF>

³Source available at https://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_implementation_e.htm



behind-the-border regulations and trade-related infrastructure, the lack or inefficiency of which may hinder the flow of goods to the customer or final user⁴.

In principle, the Evolving Definition of Trade Facilitation is given by Wilson:

WTO and UNCTAD: “simplification and harmonization of international trade procedures, including activities, practices, and formalities involved in collecting, presenting, communicating, and processing data required for the movement of goods in international trade.” (WTO website, and UNCTAD, E-Commerce and Development Report 2001, p 180⁵)

OECD: “simplification and standardization of procedures and associated information flows required to move goods internationally from seller to buyer and to pass payments in the other direction” (OECD, TD/TC/WP (2001)21 attributed to John Raven⁶)

UN/ECE: “comprehensive and integrated approach to reducing the complexity and cost of the trade transactions process, and ensuring that all these activities can take place in an efficient, transparent, and predictable manner, based on internationally accepted norms, standards, and best practices” (draft document 3/13/2002⁷)

APEC: “Trade facilitation generally refers to the simplification, harmonization, use of new technologies and other measures to address procedural and administrative impediments to trade. (APEC Principles on Trade Facilitation 2002⁸)

APEC: “the use of technologies and techniques which will help members to build up expertise, reduce costs and lead to better movement of goods and services” (APEC Economic Committee 1999⁹)

Based on the above discussion, it can be followed that trade facilitation is the simplification, harmonization, standardization, and modernization of trade procedures.

Here we should mention that trade procedures cover not only customs or logistics but also other infrastructures like licensing, trade policy, after-sales services, etc. In particular, in UN/CEFACT this term is defined as ‘the simplification, standardization, and harmonization of procedures and associated information flows required to move goods from seller to buyer and to make payment’ where **simplification** is “...the process of eliminating all unnecessary elements and duplications in formalities, process, and procedures...; **harmonization** is the alignment of national formalities, procedures, operations and documents with international conventions, standards, and practices; **standardization** is ... the process of developing internationally agreed formats for practices and procedures, documents and information¹⁰”.

⁴ Lee, H. (n.d.). *Trade Facilitation and Global Supply Chains: The Role of FTA Trade Facilitation Rules in Promoting Global Supply Chains*. Available at https://www.researchgate.net/publication/341125718_Trade_Facilitation_and_Global_Supply_Chains_The_Role_of_FTA_Trade_Facilitation_Rules_in_Promoting_Global_Supply_Chains

⁵ Source available at www.wto.org

⁶ Source available at <https://one.oecd.org/document/TD/TC/WP%282001%2921/FINAL/En/pdf>

⁷ Source available at <http://www.acs-aec.org/index.php?q=fr/node/4276>

⁸ Source available at <https://www.apec.org/docs/default-source/Publications/2005/12/Trade-Facilitation-Brochure-2005/ApecTrade091105.pdf>

⁹ Source available at https://www.apec.org/meeting-papers/annual-ministerial-meetings/1999/1999_amm

¹⁰ Finger, J M. (n.d.). *Trade Facilitation: The Role of a WTO Agreement*. Source available at <https://ecipe.org/wp-content/uploads/2014/12/trade-facilitation-the-role-of-a-wto-agreement.pdf>



Trade facilitation, at its core, aims to streamline and enhance the efficiency of international trade. It encompasses a range of measures aimed at simplifying and harmonizing trade procedures, standardizing documentation, and upgrading infrastructure. By reducing trade transaction costs and eliminating unnecessary bureaucratic hurdles, trade facilitation facilitates the seamless movement of goods across borders. The concept of trade facilitation has gained prominence in international trade agreements and negotiations, with organizations such as the World Trade Organization identifying it as a key element in simplifying and harmonizing international trade procedures. Additionally, the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) emphasizes the importance of simplification, standardization, and harmonization of procedures and information flows in facilitating the movement of goods and associated payments.

The Trade Facilitation Agreement (TFA) signed in 2013 with entry into force in 2017 is the first multilateral agreement since the creation of the WTO. The contemporary understanding of the “trade facilitation” concept is based on Recommendation No. 4 of UN / CEFAC “National Trade Facilitation Bodies”. Following its provision facilitation covers formalities, procedures, documents, and operations related to international trade transactions. Its goals are simplification, harmonization, and standardization so that transactions become easier, faster, and more economical than before. Thus, one may identify three basic elements of the trade facilitation, which include:

- 1) Simplification is the process of eliminating all unnecessary elements and duplications in formalities, processes, and procedures.
- 2) Harmonization, which focuses on the alignment of national formalities, procedures, operations, and documents with international conventions, standards, and practices.
- 3) Standardization, regarding trade, facilitation means the process of developing internationally agreed formats for practices and procedures, documents, and information¹¹.

Furthermore, in publications countries are divided into LDC- Less developed countries, DC- developing countries, LLC- landlocked countries, LLDC- landlocked developing countries, and SIDS- Small island developing countries.

Also, these elements are mentioned as a pillar in The United Nations Trade Facilitation Implementation Guide: transparency, simplification, harmonization, and standardization (United Nations UNECE 2012). Successful implementation should benefit the three categories of countries (number of countries in each group in parenthesis) receiving special status at the UN: Least Developed Countries (46), Landlocked Developing Countries (32), and Small Island Developing States (19)¹². As a landlocked developing country, Uzbekistan has started implementing reforms to facilitate foreign trade.

WCO standards, instruments, and tools, including the Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures (RKC), fully support the harmonized implementation of the TFA, as well as efforts to facilitate trade beyond the TFA.

¹¹ National University “Odessa Academy of Law,” & Kormych, B. (2018). The modern trends of the foreign trade policy implementation: Implications for customs regulations. *Lex Portus*, 5(5). Available at <https://doi.org/10.26886/2524-101X.5.2018.2>

¹² de Melo, J., Sorgho, Z., & Wagner, L. (n.d.). *Implementing the Trade Facilitation Agreement (TFA): Estimates of reduction in time at customs for the United Nations vulnerable economies*. Available at https://www.un.org/ldc5/sites/www.un.org.ldc5/files/tfa_ldc-ll-sids_all-final.pdf



An international document in which trade facilitation standards are manifested is the Trade Facilitation Agreement. A trade facilitation agreement consists of customs standards, which are evaluated according to the degree of implementation of these standards. We can see such standards in the Kyoto Convention, SAFE framework standards, and European Union standards. In addition, there are instruments and tools of WCO. They determine the mechanism of operation of standards set in agreements and contracts. These include guidelines, compendiums, manuals, instructions, references, models, templates, FAQs, etc. As a main international legal document, we will explore The TFA agreement and the Revised Kyoto Convention. UN Global Survey on Digital and Sustainable Trade Facilitation divided implementation measures into 8 categories: transparency, formalities, institutional arrangement and cooperation, paperless trade, cross-border paperless trade, trade facilitation for SMEs, agricultural trade facilitation, and women in trade facilitation. Overall, 60 measures are selected. They are given in Table 1 below.

1	National Trade Facilitation Committee or similar body	31	National legislative framework and/or institutional arrangements for border agencies' cooperation
2	Publication of existing import-export regulations on the internet	32	Government agencies delegating border controls to Customs authorities
3	Stakeholders' consultation on new draft regulations (before their finalization)	33	Alignment of working days and hours with neighbouring countries at border crossings
4	Advance publication/notification of new trade-related regulations before their implementation	34	Alignment of formalities and procedures with neighbouring countries at border crossings
5	Advance ruling on tariff classification and origin of imported goods	35	Transit facilitation agreement(s)
6	Risk management	36	Limit the physical inspections of transit goods and use risk assessment
7	Pre-arrival processing	37	Supporting pre-arrival processing for transit facilitation
8	Post-clearance audits	38	Cooperation between agencies of countries involved in transit
9	Independent appeal mechanism	39	Trade-related information measures for SMEs
10	Separation of Release from final determination of customs duties, taxes, fees, and charges	40	SMEs in AEO scheme
11	Establishment and publication of average release times	41	SMEs access Single Window
12	TF measures for authorized operators	42	SMEs in National Trade Facilitation Committee
13	Expedited shipments	43	Other special measures for SMEs
14	Acceptance of copies of original supporting documents required for import, export, or transit formalities	44	Testing and laboratory facilities available to meet SPS of main trading partners
15	Automated Customs System	45	National standards and accreditation bodies to facilitate compliance with SPS
16	Internet connection available to Customs and other trade control agencies	46	Electronic application and issuance of SPS certificates
17	Electronic Single Window System	47	Special treatment for perishable goods



18	Electronic submission of Customs declarations	48	TF policy/strategy to increase women's participation in trade
19	Electronic application and issuance of import and export permit	49	TF measures to benefit women involved in trade
20	Electronic Submission of Sea Cargo Manifests	50	Women membership in the National Trade Facilitation Committee or similar bodies
21	Electronic Submission of Air Cargo Manifests	51	Single window facilitates traders' access to finance
22	Electronic application and issuance of Preferential Certificate of Origin	52	Authorities engaged in blockchain-based supply chain project covering trade finance
23	E-Payment of Customs Duties and Fees	53	Variety of trade finance services available
24	Electronic Application for Customs Refunds	54	Agency in place to manage TF in times of crises and emergencies
25	Laws and regulations for electronic transactions	55	Online publication of emergency TF measures
26	Recognised certification authority	56	Coordination between countries on emergency TF measures
27	Electronic exchange of Customs Declaration	57	Additional trade facilitation measures to facilitate trade in times of emergencies
28	Electronic exchange of Certificate of Origin	58	Plan in place to facilitate trade during future crises
29	Electronic exchange of Sanitary & Phyto-Sanitary Certificate	59	TF measures for cross-border e-commerce
30	Paperless collection of payment from a documentary letter of credit	60	Electronic application, issuance and exchange of eCITES

Table 1. Implementation measures UN Global Survey on Digital and Sustainable Trade Facilitation.

Source: Drafted by the author based on the data <https://www.untsurvey.org/> (2024)

Further, we will explore the effect of these measures on the trade facilitation of least developed and landlocked countries in Chapter II.

A.Grainger¹³ highlighted the following International trade facilitation recommendations and instruments:

-World Trade Organisation (WTO)

-United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT)

-United Nations Conference on Trade and Development (UNCTAD)

-ICAO and IATA (Air)

-International Maritime Organisation (IMO)

-Other International Organisations

Hyo-young Lee divided trade facilitation into “border” trade facilitation (TF) measures and “inside-the-border” TF measures on one axis, and into “hard” (more physical) and “soft” (more regulatory) TF measures on the other axis. While customs procedures and other administrative red types can be classified as “soft” and “border” trade facilitation measures, the domestic regulations that affect the

¹³ Grainger, A. (2011). Developing the Case for Trade Facilitation in Practice. *World Customs Journal*, 5(2). Available at <https://doi.org/10.55596/001c.92725>



inflow of foreign export and investment can be categorized as “soft” and “inside-the-border” trade facilitation measures. The physical infrastructure for trade operations, such as road and port facilities, and other logistics capabilities for enabling the smooth flow of goods after goods cross the national border can be classified as “hard” and “inside-the-border” trade facilitation measures. Port reform and modernization efforts using IT technology can be categorized as “hard” and “border” TF measures¹⁴.

Table 2. Categorization of Trade Facilitation Measures

	Border TF measures	inside-the-border TF measures
Hard TF measures	Port reform and modernization	Trade-related infrastructure Logistics capability
Soft TF measures	customs and administrative procedures	Domestic regulatory environment

Source: Trade Facilitation and Global Supply Chains: The Role of FTA Trade Facilitation Rules in Promoting Global Supply Chains (Lee, n.d. 2014)

According to the Asia Pacific Trade Facilitation survey, we can categorize measures into groups like this:

Group	Subgroup	Measure	Relevant TFA Article
General Trade Facilitation	Transparency	Publication of existing import-export regulations on the Internet	1.2
		Stakeholders' consultation on new draft regulations (prior to their finalization)	2.2
		Advance publication/notification of new trade-related regulations before their implementation	2.1
		Advance ruling on tariff classification and origin of imported goods	3
		Independent appeal mechanism	4
	Formalities	Risk management	7.4
		Pre-arrival processing	7.1
		Post-clearance audits	7.5
		Separation of release from final determination of customs duties, taxes, fees, and charges	7.3
		Establishment and publication of average release times	7.6
		Trade facilitation measures for authorized operators	7.7
		Expedited shipments	7.8
	Institutional arrangement and cooperation	Acceptance of copies of original supporting documents required for import, export, or transit formalities	10.2.1
		National Trade Facilitation Committee or similar body	23
		National legislative framework and/or institutional arrangements for border agencies cooperation	8
		Government agencies delegating border controls to customs authorities	
		Alignment of working days and hours with neighboring countries at border crossings	8.2(a)
	Transit	Alignment of formalities and procedures with neighboring countries at border crossings	8.2(b)
		Transit facilitation agreement(s)	
		Limit the physical inspections of transit goods	10.5
		Use risk assessment	10.5
		Supporting pre-arrival processing for transit facilitation	11.9

¹⁴ Lee, H. (n.d.). *Trade Facilitation and Global Supply Chains: The Role of FTA Trade Facilitation Rules in Promoting Global Supply Chains*. Available at https://www.researchgate.net/publication/341125718_Trade_Facilitation_and_Global_Supply_Chains_The_Role_of_FTA_Trade_Facilitation_Rules_in_Promoting_Global_Supply_Chains



Academica Globe: InderScience Research

ISSN: 2776-1010 Volume 5, Issue 6, June 2024

Table 3. Grouping of Trade Facilitation Measures and Correspondence with Trade Facilitation Agreement Articles.

Group	Subgroup	Measure	Relevant TFA Article
Digital Trade Facilitation	Paperless trade	Automated Customs System	
		Internet connection available to customs and other trade control agencies	
		Electronic single window system	10.4
		Electronic submission of customs declarations	
		Electronic application and issuance of import and export permits	
		Electronic submission of air cargo manifests	
		Electronic application and issuance of preferential certificate of origin	
		E-payment of customs duties and fees	7.2
		Electronic application for Customs Refunds	
	Cross-border paperless trade	Laws and regulations for electronic transactions	
		Recognized certification authority	
		Electronic exchange of customs declaration	
		Electronic exchange of certificate of origin	
		Electronic exchange of sanitary and phytosanitary certificate	
		Paperless collection of payment from a documentary letter of credit	
Sustainable Trade Facilitation	Trade facilitation for SMEs	Trade-related information measures for SMEs	
		SMEs in Authorized Economic Operators scheme	
		SMEs access single window	
		SMEs in the National Trade Facilitation Committee	
		Other special measures for SMEs	
	Agricultural trade facilitation	Testing and laboratory facilities available to meet SPS of main trading partners	7.9
		National standards and accreditation bodies to facilitate compliance with SPS	
		Electronic application and issuance of SPS certificates	
	Women in trade facilitation	Special treatment for perishable goods	
		Trade facilitation policy/strategy to increase women's participation in trade	
		Trade facilitation measures to benefit women involved in trade	
Other Trade Facilitation	Trade finance facilitation	Women's membership in the National Trade Facilitation Committee or similar bodies	
		Single window facilitates traders' access to finance	
		Authorities engaged in blockchain-based supply chain project covering trade finance	
	Trade facilitation in times of crisis	Variety of trade finance services available	
		Agency in place to manage trade facilitation in times of crises and emergencies	
		Online publication of emergency trade facilitation measures	
		Coordination between countries on emergency trade facilitation measures	
		Additional trade facilitation measures to facilitate trade in times of emergencies	
		Plan in place to facilitate trade during future crises	

Source: <https://www.adb.org/sites/default/files/publication/954501/asia-pacific-trade-facilitation-report-2024.pdf>

The Trade Facilitation Agreement (TFA) signed in 2013 with entry into force in 2017 is the first multilateral agreement since the creation of the WTO. All WTO members participate. Successful implementation should benefit the three categories of countries (number of countries in each group in



parenthesis) receiving special status at the UN: Least Developed Countries (46), Landlocked Developing Countries (32) and Small Island Developing States (19). Implementing the TFA has the particularity that progress can be monitored relatively easily. In particular, trade costs at the border covered by the TFA – for which technical support for implementation should be forthcoming – may be higher for the UN-classified vulnerable countries, for example for the LLDCs or SIDS relative to other LDCs¹⁵.

Examples of Trade Facilitation Agreements:

- World Trade Organization's Trade Facilitation Agreement (TFA): A landmark agreement aiming to streamline customs procedures and reduce trade costs globally.
- Regional Trade Agreements: Many regional trade agreements include provisions on trade facilitation measures to enhance trade within the region.

Furthermore, The TFA contains approximately thirty-five technical measures to expedite the movement, release, and clearance of goods. 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 modernized border procedures and control techniques; and 4) enhance the movement of goods in transit.

Table 4. Technical measures of trade facilitation agreement.

"TECHNICAL AGREEMENT TECHNICAL MEASURES"

Article	6. Disciplines on fees and charges
1. Publication and availability of information	7. Release and clearance of goods
2. Comments and consultations	8. Border agency co-operation
3. Advanced rulings	9. Movement under customs control
4. Procedures for appeal or review	10. Import, export and transit formalities
5. Measures to enhance impartiality, non-discrimination and transparency	11. Freedom of transit
	12. Customs co-operation

Source: OECD/World Trade Organization (2015)

DOI: https://doi.org/10.1787/aid_glance-2015-8-en

We can also classify trade facilitation measures by implementation level as:

- National level. Measures implemented by individual countries within their borders to improve trade facilitation (e.g., investing in customs infrastructure, and training customs officials).
- Regional Level. Measures included in regional trade agreements between countries in a specific region (e.g., harmonization of standards within a regional bloc).
- Multilateral Level. Measures adopted through international agreements like the WTO's Trade Facilitation Agreement (TFA) that apply globally.

¹⁵ de Melo, J., Sorgho, Z., & Wagner, L. (n.d.). *Implementing the Trade Facilitation Agreement (TFA): Estimates of reduction in time at customs for the United Nations vulnerable economies*. Available at https://www.un.org/ldc5/sites/www.un.org.ldc5/files/tfa_ldc-ll-sids_all-final.pdf



To sum up, this study is based on the implementation by multilateral level cause, we are researching effective paths to implementing the international document- WTO TFA standards. So, suggestions will be based on international standards and purposed on simplification, harmonization, and standardization of customs procedures.

References:

1. Grainger, A. (2008). Customs and Trade Facilitation: From Concepts to Implementation. *World Customs Journal*, 2(1). <https://doi.org/10.55596/001c.91315>
2. Alburo, F A. (n.d.). REGIONAL COOPERATION ON TRADE AND TRANSPORT FACILITATION. Source available at <https://www.unescap.org/sites/default/files/5-REGI~1.PDF>
3. Source available at https://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_implementation_e.htm
4. Lee, H. (n.d.). Trade Facilitation and Global Supply Chains: The Role of FTA Trade Facilitation Rules in Promoting Global Supply Chains. Available at https://www.researchgate.net/publication/341125718_Trade_Facilitation_and_Global_Supply_Chains_The_Role_of_FTA_Trade_Facilitation_Rules_in_Promoting_Global_Supply_Chains
5. Source available at www.wto.org
6. Source available at <https://one.oecd.org/document/TD/TC/WP%282001%2921/FINAL/En/pdf>
7. Source available at <http://www.acs-aec.org/index.php?q=fr/node/4276>
8. Source available at <https://www.apec.org/docs/default-source/Publications/2005/12/Trade-Facilitation-Brochure-2005/ApecTrade091105.pdf>
9. Source available at https://www.apec.org/meeting-papers/annual-ministerial-meetings/1999/1999_amm
10. Finger, J M. (n.d.). Trade Facilitation: The Role of a WTO Agreement. Source available at <https://ecipe.org/wp-content/uploads/2014/12/trade-facilitation-the-role-of-a-wto-agreement.pdf>
11. National University “Odessa Academy of Law,” & Kormych, B. (2018). The modern trends of the foreign trade policy implementation: Implications for customs regulations. *Lex Portus*, 5(5). Available at <https://doi.org/10.26886/2524-101X.5.2018.2>
12. de Melo, J., Sorgho, Z., & Wagner, L. (n.d.). Implementing the Trade Facilitation Agreement (TFA): Estimates of reduction in time at customs for the United Nations vulnerable economies. Available at https://www.un.org/ldc5/sites/www.un.org.ldc5/files/tfa_ldc_ll-sids_all-final.pdf
13. Grainger, A. (2011). Developing the Case for Trade Facilitation in Practice. *World Customs Journal*, 5(2). Available at <https://doi.org/10.55596/001c.92725>.