

WHAT **BUSINESS** NEEDS TO KNOW ABOUT THE NEW **TRADE FACILIATION** AGREEMENT

Quick Intro to the TFA

- The WTO Trade Facilitation Agreement (TFA) entered into force last week (22nd February 2017) after two-thirds of WTO member countries officially accepted – or ratified – the agreement. The TFA is now binding on all members. This includes Sri Lanka.
- The TFA will improve trade efficiency worldwide, encouraging economic growth by cutting red tape at borders, increasing transparency, and taking advantage of new technologies.
- The TFA is the first major multilateral agreement at the WTO since the organization was established under the Uruguay round of the General Agreement on Tariffs and Trade (GATT).

Why Does the TFA Matter for Business?

- **Border inefficiencies, complex customs rules and other trade barriers make it harder for businesses of all sizes to trade internationally.** It particularly hurts Small and Medium Enterprises (SMEs). According to analysis by the World Economic Forum, implementing the TFA could boost cross-border sales for SME by 60-80%. More broadly, studies suggest that trade costs in developing countries will fall by 13%-15% with the implementation of the TFA.
- **The TFA contains 36+ measures that governments must implement.** These will provide transparency of laws, rules, and procedures; fairness in border agency decisions; streamlined clearance procedures; and help reduce administrative constraints on import, export, and transit
- **For Sri Lanka, full and early implementation of the TFA can have greater benefits than tariff reforms.** It can foster an easier business environment for domestic investment and trading activity, and attract foreign direct investment as the country becomes better integrated into global supply chains.
- **Work on implementing Sri Lanka's 'Category A' commitments must get underway without delay.** Sri Lanka needs this to compete on par with other reform-oriented trading economies, and support the growth of our businesses engaged in international trade.
- **The Sri Lankan private sector has an important role to play in the implementation of the TFA,** by pushing, and partnering, government authorities to ensure that TF reforms are done soon and deliver

measurable improvements in trading across borders.

- Sri Lankan businesses must support, and accelerate, the work of the National Trade Facilitation Committee and its Secretariat, by helping the government identify priorities, share practical experiences on import/export difficulties, co-create feasible solutions, and influence how the TFA's measures are implemented on the ground.

What Will the TFA Provide?

1. Publication of information relating to trade rules and procedures

Governments have agreed to publish a wide range of customs-specific information (including on the internet) relating to trade procedures including on duty rates and taxes, forms and documents, rules for goods classification and valuation, rules of origin, transit procedures, and penalties and appeals rules.

2. Prior consultation on amendments to trade rules and procedures

Governments have agreed to consult traders and interested parties before introducing new or amended laws related to the movement, release, and clearance of goods.

3. Standards on advance rulings

Advance rulings on tariff classification and origin will be binding once made and will be provided in a time-bound manner. Governments are also encouraged to consider similar rulings for valuation of goods, procedures for requesting an advance ruling will be published, as will key decisions to help ensure the consistency of decision-making on advance rulings

4. Ensuring international cooperation among agencies

All government authorities and agencies responsible for border controls are required to coordinate in order to facilitate trade. Coordination includes alignment of working hours, alignment of procedures and formalities, sharing of facilities, and one stop border post controls.

5. Rules to allow movement of imported goods from the border to an internal customs office

Goods intended for import will be permitted to move under customs control from the point of entry to another customs officer speeding the flow of goods at borders

6. Reducing complexity of import/export/transit formalities and documentation

Governments have agreed to review formalities and documentary requirements for import, exports and transit, including using international standards, single window systems and prohibiting the mandatory use of customs brokers.

7. Standards and procedures relating to appeals and review

Traders directly affected by a decision or omission by customs would receive an explanation of reasons and will have the right to appeal the decision

8. Transparency, impartiality and non-discrimination at the border crossing

Governments will publish notifications relating to procedures on the control of foods, beverages or feedstuffs at the border crossing, including offering the possibility of a second opinion when consignments are deemed unsafe.

9. Rules on fees and charges relating to exports/imports

Fees and charges relating to imports and exports will be limited to the approximate costs of the services rendered. Any penalties for breach of laws or regulations will be proportion to the breach and the collection and assessment of penalties and duties will be guarded against conflicts of interest.

10. Release and clearance of goods

Customs procedures for the release and clearance of goods for import export or transit will be standardized and improved. This includes commitments and maximize technology use, simply rules as appropriate for authorized traders publish release times, and encourage risk management and audit based control in the in the inspection of cargo.

11. Rules encouraging freedom of transit

Governments are encouraged to improve transit of goods to other counties including providing dedicated transit lanes, minimizing transit documentation requirements, and allowing advance filing for processing of documents.

12. International cooperation between customs

Governments are to share information when customs requests information from another customs authority particularly relating to verification of Moore or export declarations. Development of voluntary compliance systems allowing self-correction by business without penalty is encouraged.

13. Consultation on trade facilitation reforms

Each government is required to form or maintain a National Committee on Trade Facilitation in order to coordinate the implementation of the agreement. Most governments are consulting with both public stakeholders and the business community as they prepare for the implementation of trade facilitation reforms. The WTO will have a permanent forum known as the Committee on Trade Facilitation.

14. Special assistance for developing and LDCs

The TFA provides for stages implementation for developing and least developed economies, allowing longer periods for compliance depending on need, affected economies will also be able to link commitments to the receipt of technical assistance and capacity building support, as monitored by the WTO.

Sri Lanka and the TFA: Six Next Steps & Messages to Government

- 1** Early establishment of, and proper resourcing for, the **Secretariat of the National Trade Facilitation Committee** (NTFC) to lead the charge in implementing Sri Lanka's trade facilitation reforms.
- 2** Aggressively drive the **implementation of Sri Lanka's 'Category A' Commitments**, without waiting for the full two year period allowed under the TFA, as it will boost the economy's competitiveness
- 3** Even though Category B and C are due three years from now, **do everything possible beyond Category A** as it can have a catalytic impact on business, and make Sri Lanka an attractive trading Hub
- 4** **Early passage of the new Customs Act**, which has widespread industry support, can catalyse and strengthen the trade facilitation reforms expected under the TFA.
- 5** Slow progress in implementing TF reforms, amidst faster progress by our competitors, can **push Sri Lanka down on the 'ease of doing business' rankings**.
- 6** Trade facilitation reforms are an essential **complement to the ongoing trade liberalisation efforts** of the Government. It is only if businesses face lower border costs and easier procedures can they fully benefit from preferential trade deals.

Annexure 01: Sri Lanka's 'Category A' commitments under the WTO Trade Facilitation Agreement

Provisions	Title	What Activity does this Measure Regulate?	What authorities are directly concerned?	What are the new requirements?
4.1	Right to Appeal or Review	The rights of traders to obtain review and correction of decisions made by Customs officials or officials of other border agencies	<ul style="list-style-type: none"> - Customs - Other border agencies 	WTO members shall provide traders with the right to appeal decisions made by Customs in an administrative and/or judicial proceeding.
5.2	Detention	The "detention" of goods declared for importation by Customs or other border authority (<i>e.g.</i> , health, safety, agriculture, <i>etc.</i>) for purposes of conducting an inspection	<ul style="list-style-type: none"> - Customs - Other border agencies 	If Customs or other border authority detains imported goods for inspection, it shall inform promptly the carrier, the importer or his agent (such as the customs broker, acting on the importer's behalf).
6.3	Penalty Disciplines	The assessment of civil or administrative penalties for violations of the customs laws	<ul style="list-style-type: none"> - Customs 	<p>WTO members who apply civil or administrative customs penalties shall:</p> <ul style="list-style-type: none"> - impose penalties only on the person(s) responsible for the violation - ensure that the amount of such penalties are proportionate to the degree and severity of the violation - avoid conflicts of interest - avoid creating an incentive for the assessment of a penalty that is not commensurate with the circumstances of

				<p>the case</p> <ul style="list-style-type: none"> - provide the person with a written explanation - consider a "prior disclosure" as a potential factor to mitigate the penalty amount
7.2	Electronic Payment	The means by which a trader can pay his duties, taxes, fees and charges	<ul style="list-style-type: none"> - Customs - Other Border Agencies - Revenue Authority 	To the extent practicable, WTO members should allow electronic payment of duties, taxes, fees and charges.
7.8	Expedited Shipments	Documents and goods imported by air express-delivery operators and other expedited shippers	<ul style="list-style-type: none"> - Customs - Airport operator 	<ul style="list-style-type: none"> - WTO members shall establish special facilitative procedures (as described in paragraph 8.2) to allow expedited release of at least those goods entered through air cargo facilities - WTO members may permit only those persons or firms who fulfil the criteria listed in the subparagraphs of 8.1 to apply for expedited release treatment - Criteria for application for expedited release treatment shall be published
9	Movement of Goods Intended for Import under Customs Control	Imported goods arrive at one customs office (for example, an international airport or a seaport) for delivery to an	Customs	A declarant should be able to move goods from a customs office of entry to another customs office within the same customs territory.

		<p>inland destination within the same country, where the importer will declare and clear the goods. The goods may be offloaded from the international carrier at the point of entry and loaded on another means of transport (truck or rail, for example) for carriage to the final destination.</p> <p>The measure is intended to allow the goods to be moved under a simplified procedure to the inland customs office, and permit the importer to clear them at the destination rather than at the port of arrival.</p>		
10.6	Use of Customs Brokers	The use of customs brokers in import, export or transit operations	Customs	<ul style="list-style-type: none"> - WTO members shall not introduce the requirement for the mandatory use of customs brokers. - Measures on the use of customs brokers, or any subsequent modifications thereof shall be notified to the Committee and published promptly. - Any broker licensing rules shall be transparent and objective.

10.7	Common Border Procedures and Uniform Documentation Requirements	The import/export procedures applied by Customs, and documentation requirements, at the different entry and exit offices within the customs territory	Customs	Customs shall apply uniform documentation requirements and uniform release and clearance procedures
10.8	Rejected Goods	The re-export or return of imported goods that have been rejected by government authorities	- Customs - Other Border Agencies (particularly those involved in sanitary, phytosanitary and product standards issues: i.e. the Food Safety authority, Agriculture ministry, etc.)	The importer shall have the right to return to the exporter, or any other person, imported goods that have been rejected by competent authorities due to failure to comply with prescribed sanitary and phytosanitary regulations or technical regulations
10.9	Temporary Admission of Goods and Inward and Outward Processing	Customs procedures to allow the importation of goods without payment of import duties and taxes, or eligible for duty drawback, subject to conditions on the use to which the goods have been, or will be, put.	- Customs - Revenue Authority	Members shall adopt customs procedures for the temporary admission, inward processing and outward processing of goods. - A temporary admission procedure allows goods to be imported for a limited period of time (six months, one year, <i>etc.</i>) for defined purposes (<i>e.g.</i> , goods to be displayed at trade exhibitions; shipping containers imported to be filled; tools

				<p>needed for a domestic manufacturing operation; traveller's personal effects; foreign-registered automobiles used by visitors to the country, <i>etc.</i>) without payment of import duties and taxes.</p> <ul style="list-style-type: none">- Manufacturers use the inward processing procedure for goods that have been returned to them for repair or for parts, materials, or other production inputs they use in their processing operations. Under the procedure, the goods may be imported without payment of duty or taxes provided the manufacturer exports the repaired or finished product within a specified period. Or duty may be refunded under a duty drawback scheme once the goods are exported.- Outward processing allows persons to send domestic or previously-imported/duty-paid goods abroad for purposes of repair (for example, goods returned to the manufacturer under warranty) or for other processing, and re-import the repaired or processed goods within a fixed period of time without payment of import duty or taxes, with the exception of duty or tax assessed on the value-added by the foreign processing operation.
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11	Freedom of Transit	The regulations and formalities that a Member applies to traffic in transit	<ul style="list-style-type: none"> -Customs -Transport Ministry -Other Border Agencies 	<ul style="list-style-type: none"> - Regulations or formalities on transit shall be eliminated or reduced if no longer required or a less trade-restrictive solution becomes available, and they should not be applied in a manner that would be a disguised restriction on trade - Charges that may be imposed on transit only for transit administrative procedures entailed or transit services provided, and shall be limited in amount to the expense of such procedures or cost of such services <p>WTO members shall not seek, take or maintain voluntary restraints or similar measures on traffic in transit</p>
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Information from the following institutions were used in developing this note:
World Trade Organization
Global Alliance for Trade Facilitation

TIPS' (Trade Intelligence for the Private Sector) is an initiative of the CCC, Aimed at Enhancing Awareness on International Trade Issues among the Sri Lankan Private Sector.