

Global Trade

WCO Adopts Trade Facilitation Agreement

What Does It All Mean?

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Recently, the **World Customs Organization (WCO)** and its members agreed to implement the Trade Facilitation Agreement.

Will this simplify crossborder trade?

The **Trade Facilitation Agreement (TFA)** is an agreement both World Trade Organization (WTO), with its 164 members, and WCO members, representing 180 countries, subscribed to in order to simplify procedures and provide further transparency when shipping crossborder. Its components include commitment to publish trade regulations (including duty rates, restrictions, and required documents) on the internet, facilities for complaint handling, and opportunities to obtain relevant rulings from the authorities.

Is the TFA different from current facilitations?

Hans-Michael Wolffgang and Edward Kafeera argue convincingly that the TFA is not all that new and that the revised Kyoto convention has had all the components necessary, despite regarding it a soft law. The similarities notwithstanding, the renewed focus and common ground is perhaps the best part of the TFA.

What is the expected impact?

The benefits of reducing global trade costs, which is the goal of the TFA, are evident: in 2013 the **OECD** estimated that a one-percent reduction in global trade costs would result in over \$40 billion in worldwide income. Developing countries would benefit from 65 percent of that \$40 billion.

The key to the success of broad legislation is oftentimes the enforcement. This area is where the TFA, while better than previous directives, is lacking. The TFA has too much reasonable in it. The members are not punished for not publishing regulations on-line, and they are not necessarily held accountable when their release times are out of sync with the WCO's Time Release Study, which is the recommended standard for transit/handling times for the authorities.

The TFA does include timelines for when implementation countries need to publish, but no penalties are in play, other than trading partners possibly less willing to conduct business. Therefore, the TFA's impact will likely be limited unfortunately, especially in those countries that have historically struggled with transparency.

Complaining about trade facilitation and trade barriers is as old as trade itself. But a closer look provides evidence that even in 2017 transparency and simplification still has ways to go. WCO members have committed to implementing Harmonized System changes according to the WCO advisories (every five years, the latest one this year). But, a quick survey across 210 countries finds that almost half of the countries (47 percent) are not yet using the 2017 tariffs, with 34 percent still using 2012 HS tariffs and a surprising 13 percent that did not even implement beyond the 2007 WCO directions. That makes efforts to maintain global catalogs difficult.

In addition, although many compliance requirements are verified and checked upon importation and therefore associated with HS codes, not all countries have implemented legislation where compliance is directly linked to HS codes (i.e. part of the Tariff). Research shows almost 20 percent of countries do not issue legislation that includes compliance codes in its Harmonized Tariff, and even the countries that do typically still have additional regulations outside of the tariff that require compliance. Product and import/export requirements, such as documents, quality standards, and licensing information, are issued by different authorities than customs, and as such these standards are typically product based and not HS or Export Commodity Control Number (ECCN) based. From there, they need to be mapped to HS codes for exporters and importers to be able to comply. If this step seems time consuming, it is. And it can be avoided if clearance (import or export) legislation is required to be directly linked to the unique identifier used for each imported good: the associated HS code.

Conclusion

Although the TFA without a strong enforcement policy may not generate the desired impact, it is a step in the right direction and provides importers and exporters with an additional tool in their demand for transparency and their quest for reduction of global trade costs. The pressure should be kept on local governments to commit to implementing the TFA to the fullest, and for bodies like the WTO and WCO to expand its scope and include enforcement language, as well as paragraphs regarding the relationship between local legislation and import and export classification codes.

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