



## **INTERNATIONAL TRADE WORKING PAPER**

# **The Trade Facilitation Agenda of the WTO and India's Commitments: Where Does India Stand?**

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### Abstract

With the ratification of the Trade Facilitation Agreement (TFA) in 2016 under the aegis of the World Trade Organization (WTO), India has launched a comprehensive agenda for trade facilitation reforms to fulfil its legal commitments and improve its global ranking on ease of doing business indicators. India's commitments to the TFA mostly fall in Categories A and B. Commitments made under Category A are in force from the day of the TFA enforcement, whereas those in Category B provide for a transitional period.

Implementation of the TFA hinges on various obligations in the form of these commitments under the agreement, which further depend on the 'capacity' of the member countries with regard to implementation. This capacity can be measured in terms of the ability of countries to effectively enforce these obligations by employing various stringent policies on the domestic platform, along with possible international initiatives. This discussion becomes interesting when we also scrutinise the legal nature of the provisions of the TFA.

Against this backdrop, this paper examines India's commitments and capacity in light of various trade initiatives taken by the country, while at the same time looking into a myriad of challenges and possible opportunities that exist for India on its trade facilitation journey.

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JEL Codes: F1, F13, F15

Key words: Trade facilitation, India, Trade policy, International trade organisations, Economic integration, Commitments, Capacity, Legal implications, Challenges

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## Abbreviations and acronyms

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AEO	Authorized Economic Operator
AOA	Agreement on Agriculture
CBEC	Central Board of Excise and Customs
CCFC	Customs Clearance Facilitation Committee
DGFT	Directorate General of Foreign Trade
EDI	Electronic Data Interchange
FTP	Foreign Trade Policy
GATT	General Agreement on Tariffs and Trade
GST	Goods and Service Tax
ICT	Information and Communication Technology
IT	Information Technology
LPI	Logistics Performance Index
TFA	Trade Facilitation Agreement
TIR Convention	United Nations Transports Internationaux Routiers Convention
S&DT	Special and Differential Treatment
WTO	World Trade Organization

# 1. Introduction

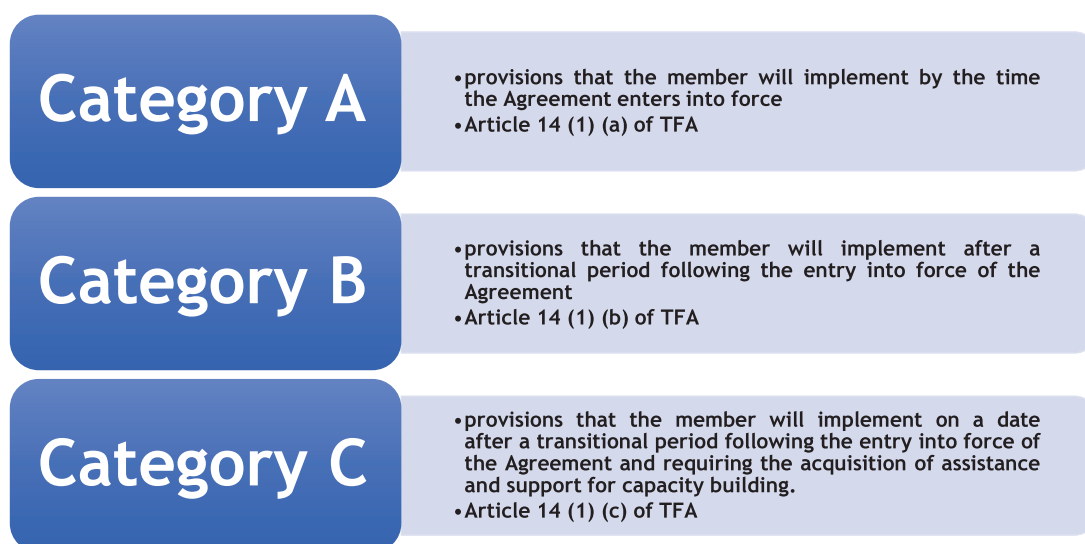
Trade facilitation is defined in the World Trade Report of 2015 as ‘the simplification, modernization, and harmonization of export and import processes’ (WTO, 2015). It involves the reduction of all transaction costs associated with the enforcement of legislation, regulation and administration of trade policies (Kelkar Committee, 1999). Attempts to launch discussions on trade facilitation started with the Singapore Ministerial Conference in 1996, at which time WTO members were expressing serious concerns about the tough trade procedures involved in international trade (R. Ramya, 2015). It was at the Bali Ministerial Conference in 2013 that the final text for the Trade Facilitation Agreement (TFA) was agreed to by most countries, India being one of them.

However, the idea of ‘facilitating trade’ was not a new concept for countries, even at the beginning of trade negotiations. The General Agreement on Tariffs and Trade (GATT) in 1994 itself was and is equipped with certain provisions on trade facilitation, including through Articles V,<sup>1</sup> VIII<sup>2</sup> and X.<sup>3</sup> As such, countries like India (WTO member countries) in fact have

‘dual obligations’ toward trade facilitation at the current time, in the sense that India is not only bound by GATT obligations but also further obligated to create a trade-facilitative commerce regime as required under the recent TFA under the WTO.

The TFA text is divided into three sections. Section I stipulates the obligations of a substantive and mandatory nature on the facilitation of customs and other procedures relating to border transactions. Section II covers the special and differential treatment (S&DT) provisions for developing and least developed countries, entailing certain flexibilities. Section III lays down certain rules for setting up institutions for the purpose of looking after the overall implementation of the trade facilitation agenda.

To benefit from S&DT, a member country must categorise each provision of the TFA, as defined below, and notify other WTO members of these categorisations in accordance with specific timelines outlined in the TFA. Implementation will be carried out through commitments in the three categories shown below (WTO S&DT Provisions):



Source: Articles 14, 15 and 16 of the TFA.

## 2. India's evolving position on trade facilitation: A rollercoaster ride?

India has been an avid negotiator at the international trade table when it comes to voicing concerns relating to domestic industries and domestic support. The country's journey towards ratification of the TFA has been a rollercoaster ride. Initially, India was part of a group of developing and least developed countries called the Core Group (Neufeld, 2014), which was in opposition to another group of developed countries called the Colorado Group. India opposed the concept of bringing out an agreement like the TFA not because it was against the spirit of the idea but because it was unable to comply with its high-demand obligations. The Core Group (including India) pleaded lack of capacity, resources and technical prowess in this regard.

India's concerns with respect to the trade facilitation agenda also revolved around the procurement of food grains from farmers at

fixed prices in order to address its food security challenges (Rajesh Babu, 2014). India raised the same concerns at the Bali Ministerial Conference in 2013 (Kokate, 2015). India's objections on the applicability of the *de minimis* provision in Article 6, Part IV, of the WTO Agreement on Agriculture (AOA) in India, coupled with its proposal to change the methodology for the calculation of subsidy, culminated in a 'peace clause' (Department of Commerce, 2014; Basu, 2015; Bose, 2015). Finally, India agreed to sign the TFA, and it became the 76th member country to ratify the agreement on 22 April 2016.<sup>4</sup>

It is pertinent to mention that some trade facilitation policies and rules did exist in India even prior to TFA commitments. Even post-TFA ratification, the Indian government brought forward many rules, policies and measures in coherence with the objective and vision of the TFA.

## 3. India's Category A and B commitments in the TFA

The TFA links obligations for member countries with the 'capacity' of each member country to implement these. It is thus important to study the initiatives taken by the Indian government *vis-à-vis* the Category A and B commitments notified to the WTO by India under the TFA.

### Category A commitments

Some of the important Category A commitments and the concerned initiatives are presented below.

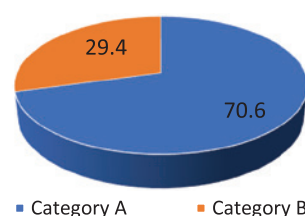
Article	Title/subject matter	Provisions under Category A commitments by India
1	Publication and availability of information	1.1.1.a, 1.1.1.c, 1.1.1.d, 1.1.1.e, 1.1.1.f, 1.1.1.g, 1.1.1.h, 1.1.1.i, 1.1.1.j, 1.2.1.a, 1.2.1.b, 1.2.2, 1.2.3
2	Opportunity to comment, information before entry into force and consultations	2.1.3, 2.2
3	Advance rulings	3.2, 3.3, 3.4, 3.5, 3.8, 3.9.a.i, 3.9.a.ii, 3.9.b.i, 3.9.b.ii
4	Procedure for appeal or review	4.1.a, 4.1.b, 4.3, 4.5, 4.6
5	Other measures to enhance impartiality, non-discrimination and transparency	5.1.a, 5.1.c, 5.1.d, 5.2, 5.3.1, 5.3.2, 5.3.3
6	Disciplines on fees and charges imposed on or in connection with importation and exportation and penalties	6.1.1, 6.1.2, 6.1.3, 6.1.4, 6.2, 6.3.1, 6.3.2, 6.3.3, 6.3.4, 6.3.5, 6.3.7

Article	Title/subject matter	Provisions under Category A commitments by India
7	Release and clearance of goods	7.1.1, 7.2, 7.5.1, 7.5.2, 7.5.3, 7.6.1, 7.6.2, 7.7, 7.8.1, 7.8.2.b, 7.8.2.d, 7.9.1, 7.9.2, 7.9.3
8	Border agency cooperation	8.1
9	Movement of goods intended for import under customs control	9
10	Formalities connected with importation, exportation and transit	10.1.1, 10.1.2, 10.2.1, 10.2.3, 10.3, 10.5.1, 10.6.1, 10.6.2, 10.6.3, 10.7.1, 10.7.2, 10.8.1, 10.9.1
11	Freedom of transit	11.1, 11.2, 11.3, 11.4, 11.5, 11.6, 11.7, 11.8, 11.11, 11.12, 11.15
12	Customs cooperation	12

Source: Ministry of Finance (2017).

As per the Trade Facilitation Agreement Database, India has notified almost 70.6 percent of the obligations in the form of commitments as under the TFA. While, 29.4 per cent of the TFA obligations have implemented in the form of Category B Commitments. The figure demonstrates India's preparedness for realising the proceeds of the Trade Facilitation Agreement. In the light of the above-mentioned commitments notified by India to the WTO under Categories A of the TFA, we now examine some of the important initiatives taken by the Indian government.

Total Percentage of TFA Commitments notified by India



Source: Trade Facilitation Agreement Database

S. no.	Initiative	About the initiative	Corresponding provision of the TFA under Category A	Requires enhancement of compliance?
1.	<b>Niryat-Bandhu-Hand Holding Scheme<sup>5</sup></b>	Revolves around mentoring entrepreneurs through outreach programmes, seminars, workshops, training and counselling programmes.	<b>Article 1</b>	Needs to reach out to most stakeholders be these small or large traders in order to be realised holistically.
2.	<b>Citizens Charter<sup>6</sup></b>	Directorate General of Foreign Trade (DGFT) has also published on its website a citizens' charter providing various kinds of information that may be required.	<b>Article 1</b>	Information is not complete. The provision for enquiry points and consultation mechanisms are issues still not covered here.
3.	<b>Online complaint and monitoring system<sup>7</sup></b>	Works through electronic data interchange (EDI) support as a quick system of disposal of disputes on DGFT website.	<b>Articles 1, 2 and 10</b>	EDI system needs to be improved. Low internet connectivity is still a huge issue in India.

(Continued)

S. no.	Initiative	About the initiative	Corresponding provision of the TFA under Category A	Requires enhancement of compliance?
4.	<b>Reduction in mandatory documents for both export and import transactions<sup>8</sup></b>	There are only three mandatory documents of export – 1) Bill of Lading/ Airway Bill/Lorry Receipt/ Railway Receipt/Postal Receipt; 2) Commercial Invoice cum Packing List; and 3) Shipping Bill/Bill of Export – and only three mandatory documents for import: 1) Bill of Lading/ Airway Bill/Lorry Receipt/ Railway Receipt/Postal Receipt; 2) Commercial Invoice cum Packing List; 3) Bill of Entry.	<b>Article 10 (specifically Article 10.7)</b>	Despite this provision, border agencies require many other documents, which creates procedural delays for traders. For example, traders still have to submit five documents for exports and seven documents for imports while India's Foreign Trade Policy (FTP) 2015–2020 has already reduced the required documents for exports and imports to three.
5	<b>Online inter-ministerial consultations<sup>9</sup></b>	All applications by exporters are to be filed online on the DGFT website. The documents required are to be uploaded online in the prescribed format.	<b>Articles 1, 2 and 10</b>	Lesser outreach and effective internet connectivity is a huge problem.
6.	<b>Single Window System<sup>10</sup></b>	Clearance of documents for the purpose of export and import documents at one single point only. Even the permissions required by the importers and exporters from certain agencies can also be taken through the online mode and stakeholders need not waste their time and energy on the same.	<b>Article 10.4</b>	IT infrastructure needs to be enhanced. This is particularly important in land ports.
7.	<b>Authorized Economic Operator (AEO) Programme<sup>11</sup></b>	Purely based on international standards, namely the World Customs Organization's SAFE Framework of Standards. Provides for the availability of certain kinds of benefits to stakeholders involved in the business of international trade. AEO status-holders that are the beneficiaries under the scheme get special treatment in the form of faster access to procedural nuances and faster clearances and releases, etc.	<b>Article 7.7</b>	Need to build the scheme on International standards in order to maintain uniformity and consistency.

(Continued)



S. no.	Initiative	About the initiative	Corresponding provision of the TFA under Category A	Requires enhancement of compliance?
8.	<b>24*7 Customs Clearance scheme</b>	This facility of round-the-clock customs clearance has been made available for 18 ports <sup>12</sup> in India. Goods covered under Facilitated Bills of Entry are eligible for 24* 7 clearance facilities in case of imports. Goods exported with Free Shipping Bills are also covered.	<b>Articles 7, 8 and 10</b>	Need to extend the scheme to most ports in India. This is a major issue in land ports of India.
9.	<b>Free passage for export consignments<sup>13</sup></b>	Under this, consignments destined for export to other countries cannot be withheld by state or central government for any reason whatsoever. If there is any suspicion, the authorities can ask the exporter to letter of undertaking and the matter can be examined later on.	<b>Articles 7, 8 and 10</b>	This is an important issue in the case of goods from a third country. Nepalese goods moving via India are often stopped for verification, which causes delay.
10	<b>Prior filling of shipping bills through electronic mode<sup>14</sup></b>	Stakeholders can file shipping bills online long before the actual process of shipment starts. <sup>15</sup>	<b>Articles 7 and 10</b>	Need to strengthen internet connectivity.
11	<b>Automated warehouses facilities (see CBEC, 2016)</b>	In order to bring in a trade facilitation framework, the CBEC has introduced an automated system of various documentation procedures with respect to warehousing also.	<b>Articles 7 and 10</b>	Need effective outreach.
12	<b>India's ratification of the United Nations Transports Internationaux Routiers Convention (TIR Convention) (2017)</b>	This will help India access transnational multi-modal connectivity and regional integration in a better way. Avoiding multiple clearance systems at border crossing points, reciprocal recognition of custom controls, movement of goods only by means of checking the sealing, etc. remain some of its noteworthy features.	<b>Articles 1 and 12 of the TIR Convention are in alignment with TFA's Article 4 and 12</b>	Currently, efforts are being made to make this operational in a full-fledged manner. Positive impacts are predicted to be very beneficial for the trade facilitation climate of India.

(Continued)

S. no.	Initiative	About the initiative	Corresponding provision of the TFA under Category A	Requires enhancement of compliance?
13	<b>Setting up of customs clearance facilitation committees (CCFCs) at some of the major land ports in India<sup>16</sup> (Amritsar, Kolkata, Patna and Shilong)</b> (CBEC, 2016)	Salient features of the initiative include identification and resolving the various infrastructural bottlenecks; conducting time release studies; process of internal consultations in place; mechanism to solve stakeholder's grievances directly; expeditious clearance of imported and export goods, etc.	<b>Article 23.1.3</b>	Setting-up of CCFCs should be extended to other land ports of India as well so border cooperation becomes more inclusive and uniform.
14	<b>Rolling of the goods and service tax (GST) system in India</b>	Salient features are reduction of multiplicity of taxes and easier tax compliance and hence reduction of delays; Single Window System in the form of GST network and hence faster transactions; reduction of logistics costs and travel time; improvement of India's position in global value chains, etc.	<b>Articles 1.1 (b), 1.1 (c), 1.2.1 (a), 1.2.1 (b), 3.1, 7.2, 8.1, 10.1 and 10.4</b>	Since GST involves ICT-based initiatives, its outreach needs to be improved in order to realise fuller compliance.

### Category B commitments of India and the need to convert them into Category A

S. no	Subject matter	Concerned provision of TFA	Comments/means of enhancement in order to bring them under Category A
1.	<b>Establishment of enquiry points including web chat system</b>	Article 1.3	Enquiry points need proper officials with good domain knowledge.
2.	<b>Stakeholder consultation</b>	Article 2.1	CBEC has put forth draft circulars regarding the same. The consultation process should be a 'given' prior to any new law coming into place.
3.	<b>Integrated risk management system</b>	Article 7.4	Need to enhance EDI capacity on maximum number of ports.
4.	<b>Single window for exports</b>	Article 10.4	Needs to be extended for courier shipments as well to make the policy more inclusive.
5.	<b>Creation of a central repository for document submission</b>	Article 10.2	The repository needs to be shared with all governmental agencies including border agencies so as to not create any inconsistency in the whole process.

## 4. The legal implications of the Trade Facilitation Agreement for India

In order to be able to critically analyse India's trade facilitation initiatives and reforms, it is important to understand the true legal nature and implications of such a multilateral agreement for a country such as this one. In this context, we need to look at the nature of the 'legal language' and of obligations under the TFA as well as flexibilities available for member countries.

1. The TFA is based on the already existing mini-framework<sup>17</sup> of the GATT in terms of trade facilitation. In fact, the TFA is supposed to further clarify the GATT provisions and clearly supplement it with some more specific and prescriptive obligations. As such, India, being already bound by the GATT provisions, finds itself also bound by the TFA, not only because the agreement

is based on the GATT provisions but also because of a clear mention in the TFA of the binding nature of obligations contained in it for all WTO member countries.<sup>18</sup>

2. The TFA is a very peculiar multilateral agreement in the sense that it has brought forth obligations that are an equal mix of prohibition-type measures, minimum requirement measures and those creating exceptions or exemptions (McDougall, 2017). However, the way the obligations in the form of provisions are worded is the determining factor for the purposes of a review of any measure challenged or brought under the TFA. The provisions can be in the form of 'best endeavour' provisions; encouragements; mandatory provisions with some qualifications attached; or unqualified mandatory provisions using

S. no.	Provision of TFA	Expression/language used	Type of provision	Comments on nature
1	Article 1.1	'Each member <b>shall</b> promptly publish'	Mandatory	Unqualified
2	Article 1.2.1	'Each Member <b>shall</b> make available, and update <b>to the extent possible and as appropriate</b> , the following through the internet...'	Mandatory yet creating diluted obligation	Qualifier attached
3	Article 1.2.2	<b>'Whenever practicable</b> , the description referred to in subparagraph 2.1(a) <b>shall</b> also be made...'	Mandatory yet creating diluted obligation	'Shall' has been overshadowed by 'Whenever practicable'
4	Article 1.2.3	'Members <b>are encouraged to make available</b> further trade-related information...'	Best endeavour provision	Only an encouragement of sort and not a full-fledged obligation
5	Article 1.3.3	'Members are <b>encouraged not</b> to require the payment of a fee...'	Best endeavour provision	Diluted obligation or only a moral obligation
6	Article 2.1.1	'Each Member <b>shall, to the extent practicable and in a manner consistent with its domestic law and legal system</b> ...'	Mandatory yet creating diluted obligation	Qualifier of practicability and consistency with domestic legal system attached
7	Article 3.1	'Each Member <b>shall</b> issue an advance ruling...'	Mandatory	Not qualified
8.	Article 3.8	'Each Member <b>shall endeavour</b> to make publicly available any information...'	Best endeavour provision	Even though word 'shall' is used with endeavour, it has been reduced to a diluted obligation because of the explicit mention of the word 'endeavour'

- terms like 'shall'. Some of the provisions are examined below. It would not be wide of the mark to say that obligations under the TFA **are not entirely mandatory**. Many soft provisions under the TFA may thus dilute the very agenda of trade facilitation implementation.
3. Another set of provisions that may determine the legal implications in relation to implementation for India are the 'flexibility' provisions contained in Section II of the TFA, in the form of S&DT provisions. It must be mentioned that, unlike S&DT provisions in other multilateral agreements, these provisions under the TFA have not reduced or diminished commitments for developing countries like India but only provided timelines for implementation. Such flexibility in terms of implementation timelines may prove fruitful in the long run but may create an additional uncertainty in the short run (McDougall, 2017). This essentially means that, in short
  - run, there may be uncertainty with respect to the immediate benefits of the agreement for India as, like other member countries, India is able to designate the category of obligations<sup>19</sup> to be assumed under the TFA.
  4. Since TFA is a legal improvement on the already existing trade facilitation framework of the GATT and contains clearer provisions with specificity, a domestic measure would first attract application of the TFA before testing its consistency under the GATT (McDougall, 2017).
  5. Apart from the 'flexible provisions', additional safety valves are provided for developing and least developed countries in case they face difficulties in implementing the obligations (e.g. Articles 16.3, 17, 18 and 19). Also, all GATT exemptions and exceptions are also applicable under the TFA (see Article 24(7)). Availability of so many provisions supplying a reason for non-implementation may dilute the whole trade facilitation agenda.

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## 5. State of trade facilitation in India: A need for an integrated view

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With the TFA coming into force, the existing stock of information on trade facilitation has also been expanding, on both global and national contexts. A large amount of studies provides reasonable coverage of the different aspects of trade facilitation and its linkages with trade competitiveness (Wilson, 2005). However, in the India context, few important studies are available that provide us with a comprehensive understanding on key areas of trade facilitation reforms.

The government of India in 2011 constituted a Task Force on Transaction Cost in Exports and conducted extensive stakeholder consultation to understand the challenges in trade and the associated inefficiencies. The Task Force identified 44 issues for action across 7 line ministries. Some of the key issues were related to issuance of sanitary and phyto-sanitary, plant and animal quarantine certificates; lack of integration of agencies through a unified interface;

upgrading testing facilities; issuing single consolidated stuffing permission; and short shipment exports, among others (Department of Commerce, 2011). Another noted study by De (2011) mapped export and import procedures involved in exporting goods to South Asian countries and found a vast number of commercial, transport and regulatory requirements. The key issues along the trade supply chain are related to inefficient customs documentation, absence of testing facilities and high cost of transportation.

The Centre for WTO Studies and Ace Global (2012) conducted a gap analysis for border clearance procedures in major ports of India. The study found several areas for reform, which include general import manifests, synchronising container freight stations with ports, introducing risk management system and implementing the electronic data interchange (EDI) system at all sea and land ports.

Roy (2016) makes a call for overhauling the whole trade policy with a particular focus on trade facilitation reforms. Future trade facilitation reforms must focus on reducing the costs associated with trade operations along supply chains. The findings of Prasad (2017) are very striking and underpin the importance of greater trade facilitation by eliminating delays and high costs owing to cumbersome procedures and documentation, regulatory hurdles and infrastructure impediments. In addition to this, the study compared the number of documents and procedures related to exports for the years 2012 and 2016 and found a reduction to around 100–108 pages in 2016 from around 129 pages in 2012, but pointed to further scope to streamline the documentation process to reduce the number of documents.

The government of India has taken a number of initiatives that highlight the importance of the much-needed overhaul of both soft and hard infrastructure, particularly with respect to key elements such as augmenting, modernising and improving the efficiency of logistics and connectivity; development of multi-modal logistics parks; streamlining export–import and custom clearance procedures; and re-engineering broader policy matters.

At policy level, the government has formed several taskforces/committees, such as the National Committee on Trade Facilitation and the Logistics Division, and produced the National Trade Facilitation Action Plan 2017–2020. It is also formulating an Integrated, Multi-Modal Logistics and Transport Policy to reduce logistics costs and move towards a ‘hub-and-spoke’ model for the logistics sector in lieu of the current ‘point-to-point’ model. This policy underpins the importance of integration of various trade facilitation and logistics development initiatives, including inter-linking industrial corridors, multi-modal logistics parks, inter-modal stations, inland container depots and inland waterways. Additionally, the government has taken a number of specific measures, which include direct port delivery, customs clearance facilitation committees (CCFCs), a risk management system and authorised economic operators, among others.

Despite several trade facilitation and logistics development initiatives, India’s performance is sub-optimal if evaluated on the basis of the ease of doing business indicators of the World

Bank. India’s rank on ‘Trading Across Borders’ has slipped from 143 (2016) to 146 (2017), although its overall performance in the Doing Business Report has improved significantly. The report shows that almost 70 per cent of delays (exports and imports) owes to complexities and high costs involved in ‘Port or Border Handling Charges’, which essentially relates to overlapping regulations and a multiplicity of procedures at ports. Other than this, there are many shortcomings in the implementation of existing reforms. For example, traders still have to submit five documents for exports and seven documents for imports, even though the Foreign Trade Policy (FTP) 2015–2020 has already reduced the required number of documents for exports and imports to three. This is a peculiar case of lack of implementation of existing reforms at departmental level affecting the overall quality of services at ports.

On the other hand, India’s performance on the Logistics Performance Index (LPI) has improved remarkably. India is placed at 35th position in 2016 as compared with 53th in 2014 out of 160 countries, with a significant improvement in score across parameters of the LPI between the two points. However, it is important to note that the LPI score is calculated based on feedback from stakeholders outside the country and does not take into account the challenges facing domestic logistics operators, transporters, customs house agents and freight forwarders. Therefore, it is crucial to take in account the domestic LPI, which captures the nuances of movement of cargo within the country. The domestic LPI essentially covers some of the vital elements of domestic logistics, including levels of fees and charges across various modes of transportation and logistics services; quality of trade and transport infrastructure; and delays and bottlenecks in the logistics supply chain and logistics processes. Currently, India’s performance on the domestic LPI is not satisfactory when compared with other countries on various parameters.

India faces several challenges in the implementation of trade facilitation initiatives and logistics development. These can be grouped as challenges related to internal logistics (roads, railways, inter-state border crossings and transport regulations, etc.) and barriers at the borders (procedural, operational, regulatory, absence of information and communication

technology (ICT), trade infrastructure, narrow approach roads, departmental coordination and lack of integration of operating agencies). It is imperative to address both domestic logistics obstacles and barriers at the borders to boost the overall competitiveness of the economy.

Current initiatives with regard to trade facilitation and logistics development clearly demonstrate that logistics-building and capacity-building are the top priority of the government. In this sense, India's two major initiatives – the Integrated Multi-Modal Logistics and Transport Policy and the National Trade Facilitation Action Plan 2017–2020 – are expected to shape the broader architecture of trade facilitation and an integrated logistics development system so that India can effectively comply with WTO TFA commitments.

In the context of improving logistics as a part of the trade facilitation agenda, there is a huge responsibility on the state governments to facilitate action plans relating to road and railway construction and development. One of the major developments in this regard is the Logistics Ease Across Different States Index, which assesses international trade logistics across states and the union. A survey carried out by Deloitte under

the guidance of the Department of Commerce ranks states on the basis on their logistics ease. The state of Gujarat ranks first on the index, followed by Punjab and Andhra Pradesh respectively.<sup>20</sup> Similarly, the government has launched the Trade Infrastructure for Export Scheme, which focuses on bridging the infrastructure gap in states and fostering deeper backward and forward linkages with firms engaged in trade activities. Several other projects are on-going to improve logistical efficiency in states. These include the National Maritime Development Programme, dedicated freight corridors, the Delhi–Mumbai Industrial Corridor and cargo hubs, among others.

However, in order to realise the gains from current initiatives as well as the TFA, the government needs to step back and institute a framework that promotes the consolidation of various laws, policies, regulations, process and procedures for different modes of transportation. This is vital to develop a dynamic, efficient, reliable and viable Integrated Multi-Modal Logistics and Transport Policy, which will make the Indian economy much more competitive and will facilitate its integration with the world economy.

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## 6. Way forward

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India, being a developing country, clearly has the time and opportunity to effectively implement the TFA obligations and at the same time increase its capacity to fulfil the trade facilitation agenda. The TFA also clearly does not create an obstruction in the policy space of India – that is, in the context of the promotion of industrial development or in relation to India's pursuits in its legitimate non-economic objectives like public health etc.<sup>21</sup> Moreover, the fact that there are soft obligations under the TFA does not mean India can escape the implementation challenges. It must be understood that access to international markets plays an important role in the economic development of a country. And, while tariffs are still among the most widely used policy instruments to foster or restrict trade, their relative significance has diminished to certain extent. Other factors, like trade-related transaction costs, have taken the

front seat (Hoekman and Nicita, 2011). This is why an agreement like the TFA holds importance for India.

Not only this, the TFA will also help India realise its recent 'Make in India' agenda. The essence of trade facilitation lies in smoothing trade across borders and hence is also directly concerned with improving export competitiveness – which is something the Make in India campaign is also targeting.

All in all, India needs to strengthen its legal and institutional framework to remove various infrastructural bottlenecks that get in the way of various initiatives it has been undertaking in the pursuit of trade facilitation. Most importantly, India needs to shed its tunnelled vision toward trade facilitation and logistics reforms and formulate a new framework that embraces a holistic approach – one that will treat trade facilitation and logistics reforms as

an integrated unit that will help in boosting the competitiveness of the economy. Such an approach, backed by strong political will both in the centre and in the states, carries the promise of redrawing the geography of the logistics value chain.

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## Notes

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- 1 Encapsulates rules relating to 'Freedom of Transit'.
- 2 Encapsulates rules relating to 'Fees and Formalities'.
- 3 Encapsulates rules relating to 'Publication and Administration of Trade Regulations'.
- 4 <http://www.tfafacility.org/ratifications>
- 5 Foreign Trade Policy (FTP) 2015–2020, Chapter I, para 1.08, p.15.
- 6 Ibid., Chapter I, para 1.09, p.15.
- 7 Ibid., Chapter I, para 1.10, p.16.
- 8 Ibid., Chapter I, para 1.16, p.17; also see Chapter II, para 2.06, p.32.
- 9 Ibid., Chapter I, para 1.17.
- 10 Ibid., Chapter I, para 1.26.
- 11 Ibid., Chapter I, para 1.28.
- 12 Chennai, Cochin, Ennore, Gopalpur, JNPT, Kakinada, Kandla, Kolkata, Mumbai, New Mangalore, Marmagao, Mundra, Okha, Paradeep, Pipavav, Sikka, Tuticorin and Vishakapatnam.
- 13 FTP 2015–2020, Chapter I, para. 1.23.
- 14 Ibid., Chapter I, para 1.29.
- 15 For air shipments, the prior time is seven days; for shipments by sea, the prior time is fourteen days.
- 16 Earlier the mandate of the Central Board of Excise and Customs (CBEC) was to establish CCFCs at all sea-ports and airports only; land ports were not covered (see also CBEC, 2015).
- 17 See Articles V, VIII and X of the GATT 1994.
- 18 See Article 24 (2) of the TFA; see also Article XVI:4 of the Marrakesh Agreement Establishing the WTO.
- 19 Category A, B and C commitments.
- 20 [www.livemint.com/Politics/2sUbqUZsYj8S25lgGoYYyO/Gujarat-tops-new-logistics-index-that-flags-inefficiency-of.html](http://www.livemint.com/Politics/2sUbqUZsYj8S25lgGoYYyO/Gujarat-tops-new-logistics-index-that-flags-inefficiency-of.html)
- 21 See Articles 24.6, 24.7 and 26.4 of the TFA.24.

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