NAVIGATING THE CHALLENGES AND OPPORTUNITIES OF THE WTO'S TRADE FACILITATION AGREEMENT IN INDONESIA

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ABSTRACT

The Trade Facilitation Agreement (TFA) is a significant multilateral trade accord adopted by the World Trade Organization (WTO) to streamline the movement, release, and clearance of goods. Indonesia ratified the TFA through Law No. 17 of 2017 and has implemented 87.7% of its Category A commitments, along with 11.3% of Category B commitments. Despite this progress, Indonesia faces challenges such as regulatory complexities, bureaucratic inefficiencies, coordination issues, and technical constraints. This article explores these challenges and the potential economic benefits of fully implementing the TFA, especially in Indonesia's international trade. Using a juridicalnormative approach, the article identifies key issues that need to be addressed, including legislative harmonization, streamlined bureaucratic processes, improved digital infrastructure, and better coordination in trade facilitation governance. It also highlights the advantages of the TFA, such as reduced trade barriers, increased efficiency, and enhanced global competitiveness. To overcome existing challenges and maximize the benefits of TFA implementation, Indonesia should focus on regulatory harmonization, inter-agency coordination, and upgrading digital trade infrastructure. Strengthening the National Trade Facilitation Committee (NTFC), modernizing customs automation, and expanding the Indonesia National Single Window (INSW) will improve efficiency and lower costs, thereby solidifying Indonesia's position in the global trading system.

Keywords: *Indonesia; Trade Facilitation Agreement; World Trade Organization*

INTRODUCTION

Indonesia is actively strengthening its international trade relations by engaging not only in the World Trade Organization (WTO) multilateral trading system but also through various bilateral, regional, and Preferential Trade Agreements (PTAs). These efforts aim to help Indonesia leverage the opportunities arising from globalization and trade liberalization. As part of its commitment, Indonesia ratified the Trade Facilitation Agreement (TFA), a significant WTO agreement adopted during the 9th Ministerial Conference in Bali in 2013. Trade facilitation is crucial for speeding up the movement of goods and improving trade efficiency, leading the international community to emphasize its regulation, with the WTO playing a key role through the TFA.[1]

TFA aims to enhance global trade by increasing transparency and simplifying export and import procedures. It also sets forth legal commitments for WTO members to improve customs procedures, facilitating the movement of goods. By reducing traderelated costs and procedural inefficiencies, the TFA seeks to create a more efficient and cost-effective trading environment for all WTO members. Moreover, TFA could fostering more efficient international trade and economic growth.[2]

The TFA represents a significant revision of existing international trade frameworks, particularly The Revised Kyoto Convention (RKC) on the simplification and harmonization of customs procedures. Additionally, it builds upon and strengthens key provisions of the General Agreement on Tariffs and Trade (GATT), including Article V (Freedom of Transit), Article VIII (Fees and Formalities Related to Importation and Exportation), and Article X (Publication and Administration of Trade Regulations). Moreover, the TFA reinforces elements of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) and the WTO Agreement on Technical Barriers to Trade (TBT Agreement), particularly in terms of transparency, documentation requirements, and the regulation of goods in transit.[3]

Although the relevant GATT provisions laid a foundational framework for trade facilitation, they remained broad and outdated, lacking the specificity required to address the complexities of modern international trade. They did not provide detailed commitments on implementation mechanisms, nor did they establish clear guidelines for

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[1] J.S Wilson, Catherin L Mann, and Tsunehiro Otsuki, "Assessing the Potential Benefit of Trade Facilitation: A Global Perspective," 2004, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=610266.
[2] Wilson, Mann, and Otsuki.
[3] Nathan Associates Inc and the United States Agency for International Development, "Assessing the Benefit of the Trade Facilitation Agreement for Agricultural Trade," 2019, https://www.tfafacility.org/sites/default/files/202201/18-usaid-usda_report_assessing_the_benefits_of_the_tfa_and_agricultural_trade.pdf.

developing and least-developed countries to effectively utilize trade facilitation measures. The TFA was introduced to bridge this gap, ensuring a more structured and practical approach to global trade facilitation.

The significance of the TFA to global trade is undeniable, [4] as it enhances transparency, simplifies trade procedures, and reduces barriers to international trade. By improving customs efficiency and expediting the movement of goods, TFA contributes to a more seamless and cost-effective trading system worldwide. Empirical studies indicate that trade facilitation plays a significant role in enhancing trade volumes and overall economic welfare. One of its key advantages is fostering market stability, which in turn provides certainty and confidence for traders, importers, and exporters.[5]

The implementation of the TFA has the potential to lower global trade costs by approximately 10% to 18%.[6] Beyond its direct economic impact, the TFA also strengthens the multilateral trading system by reinvigorating the World Trade Organization. By fostering a more efficient and predictable trade environment, the agreement facilitates further negotiations on complex and divergent trade issues, thereby contributing to the long-term economic development of all WTO member states.[7]

Indonesia formally ratified the TFA through Law No. 17 of 2017[7] marking a critical step in aligning its trade policies with global trade facilitation standards. However, the ratification has presented several challenges, particularly in harmonizing TFA provisions

[4] Hans-Michael Wolffgang and Edward Kafeero, "Old Wine in New Skins: Analysis of the Trade Facilitation Agreement Vis- à-Vis the Revised Kyoto Convention," World Customs Journal 8, no. 2 (2014): 1–12, https://scholar.google.com/scholar?hl=en&as_sdt=0%2C5&q=Old+Wine+in+New+Skins%3A+Analysis+of+he+Trade+Facilitation+Agreement+vis-%C3%A0-vis+the+Revised+Kyoto+Convention&btnG=.

[5] Ashley Kincaid Llyod, "The Trade Facilitation Agreement: Building Faith In International Trade In An Uncertain Time," *Denver Journal of International Law & Policy* 45, no. 4 (2020): 399–416, https://core.ac.uk/download/304688236.pdf.

[6] OECD, "Implementation of the WTO Trade Facilitation Agreement: The Potential Impact on Trade Costs," 2018, https://issuu.com/oecd.publishing/docs/implementation_of_the_wto_trade_fac. [7] Jose Marcio R Rego Filho, "The Importance of the Agreement on Trade Facilitation Agreement to Brazil and the World Economy," *Journal of International Taxation* 26, no. 6 (2015): 52–53, https://www.proquest.com/docview/1692809754?sourcetype=Trade%20Journals.

[7] Pemerintah Pusat Indonesia, "Undang-Undang (UU) No. 17 Tahun 2017 Pengesahan Protocol Amending The Marrakesh Agreement Establishing The World Trade Organization (Protokol Perubahan Persetujuan Marrakesh Mengenai Pembentukan Organisasi Perdagangan Dunia)," Peraturan.BPK.co.id § (2017), https://peraturan.bpk.go.id/Details/64507/uu-no-17-tahun-2017.

with national legislation, streamlining bureaucratic processes, and modernizing customs procedures. The Indonesian government has faced difficulties in fully implementing its commitments under the TFA, particularly in integrating automation, electronic documentation, and other ICT-based solutions into its customs framework. As a result, Indonesia has not entirely ratified the agreement under Category A commitments.

This article explores the implementation of the Trade Facilitation Agreement (TFA) in Indonesia. It addresses two key questions: first, what challenges does the Indonesian government encounter in implementing the TFA, and what measures can be taken to overcome these challenges? Second, what economic benefits could Indonesia gain from fully implementing the TFA and adhering to its commitments, particularly in the realm of international trade?

This article is structured into five sections. Section II offers a brief overview of the TFA as the first international agreement established under the WTO. Section III analyzes the legal framework of the TFA and its commitment categories. Section IV examines the opportunities and challenges Indonesia has encountered in implementing TFA provisions. Finally, Section V presents key findings and policy recommendations.

RESEARCH METHOD

This article uses a juridical normative approach, which primarily analyzes relevant legal instruments and literature to address the research problem. This article also analyzes primary sources such as international conventions, legal principles, and doctrines relating to trade facilitation and evaluates them by using a qualitative method to address the challenges and opportunities that Indonesia faces in implementing TFA.

RESEARCH OUTCOME AND DISCUSSION 1. DEFINING TRADE FACILITATION

The origins of trade facilitation can be traced back to the Middle Ages, when European cities such as Bern provided traders and stakeholders with information on commercial activities through public announcements[8] Over time, the concept of trade facilitation gained prominence within international trade regimes and became a central focus of various international organizations dedicated to facilitating cross-border trade. However, despite its growing significance, there remains no universally accepted definition of trade facilitation[9].

Legal scholar Hao Wu highlights that the concept of trade facilitation was developed to eliminate procedural barriers in international trade, emphasizing that the TFA primarily aims to promote trade among WTO member states. He asserts that the agreement serves as an essential legal instrument for addressing procedural obstacles, rather than being an end in itself.

Due to the involvement of multiple international organizations in regulating trade facilitation, there is no single, universally accepted definition of the concept. Various institutions interpret trade facilitation based on their mandates, leading to nuanced definitions. The following are some of the most widely recognized definitions provided by key international organizations. The WTO describes it as:

> *the simplification, modernization and harmonization of export and import procedures that include activities, practices and formalities related to the collection, presentation, communication and processing of data required for the movement of goods in international trade.*

The following is the definition of trade facilitation provided by the Organization for Economic Co-operation and Development (OECD):

> *The 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, Policy and measures aimed at easing trade costs by improving efficiency at each stage of the international trade chain*

The World Customs Organization emphasizes the reduction of unnecessary trade restrictions in its definition: *"The Avoidance of unnecessary trade restrictiveness. This*

[8] Kementrian Perdagangan Republik Indonesia, "Analisis Kategorisasi Trade Facilitation Indonesia," 2014, file:///C:/Users/USER%20DK/Downloads/adoc.pub_analisis-kategorisasi-trade-facillitation-indonesi.pdf.
[9] Some international organizations such as the World Custom Organization (WCO), the World Bank and OECD define trade facilitation based on their respective scopes. The OECD for example, defines TFA as:

can be achieved by applying modern techniques and technologies, while improving the quality of controls in an internationally harmonized manner".

The International Chambers of Commerce provides a more concise definition, stating that trade facilitation involves: *"Improving the efficiency of the process associated with trading in goods across national borders"*

The Asia-Pacific Economic Cooperation defines trade facilitation as:

> *The simplification, harmonization, use of new technology and other measures to address procedural and administrative impediments to trade. The simplification and rationalization of customs and other administrative procedures that hinder, delay or increase the cost of moving goods across international borders, or to put it another way, cutting red tape at the border for importers and exporters so that goods are delivered in the most efficient and cost-effective manner.*

Each of these definitions highlights different aspects of trade facilitation, but they collectively emphasize the importance of simplifying procedures, reducing trade barriers, improving efficiency, and leveraging technology to enhance global trade operations[10] In addition to the term trade facilitation, another related concept is Trade Efficiency. The United Nations Conference on Trade and Development (UNCTAD) pioneered this terminology through its Interregional Advisory Services on Trade Facilitation, which later led to the establishment of the Special Program on Trade Facilitation (FALPRO).

Trade efficiency is broadly defined as an effort to make trade faster, simpler, more inclusive, and less costly. This concept was formally recognized in the 1994 Columbus Ministerial Declaration on Trade Efficiency, which emphasized the importance of streamlining trade processes to enhance global economic integration. The declaration underscored the necessity of reducing bureaucratic obstacles, improving access to traderelated information, and leveraging technology to facilitate international commerce.

the full spectrum of border procedures, from the electronic exchange of data about a shipment, to the simplification and harmonisation of trade documents, to the possibility to appeal administrative decisions by border agencies, http://www.oecd.org/trade/topics/trade-facilitation/

[10] Asian Development Bank and the United Nations, "Designing and Implementing Trade Facilitation in Asia and the Pacific," 2013, https://www.adb.org/sites/default/files/publication/27530/trade-facilitation-reference-book-2013.pdf.

The 1994 Columbus Ministerial Declaration on Trade Efficiency stipulated that: *We agree that the technical assistance programs in the following area deserve immediate attention: training and awareness in the main areas of trade facilitation and trade efficiency.* (Emphasis added.)

The 1994 Columbus Ministerial Declaration on Trade Efficiency, issued by UNCTAD, did not provide a detailed definition of trade facilitation or clarify its precise correlation with trade efficiency. This lack of distinction led to ongoing discussions and debates regarding the conceptual differences between the two terms. However, this debate was effectively settled in 1996, when the issue of the Trade Facilitation was formally introduced at WTO. From that point onward, the term trade facilitation gained universal recognition and became the standard terminology in international trade discourse[11]

a. The Importance of Trade Facilitation

Trade facilitation plays a crucial role in international trade by ensuring the efficient movement of goods across borders. While international trade is often associated with the reduction of tariffs, market access, trade standards, and commitments between countries, it also encompasses efforts to eliminate non-tariff barriers that hinder the smooth flow of goods. These barriers include complex customs procedures, regulatory inefficiencies, and administrative delays that can increase trade costs and limit economic growth.

By streamlining policies, regulations, and procedures related to the import and export of goods, trade facilitation enhances transparency, efficiency, and predictability in global commerce. It fosters a more competitive trading environment, reduces costs for businesses, and ultimately contributes to economic development and global integration[12]

b. Historical Foundations of Trade Facilitation

Before TFA come into force, trade facilitation had already been embedded in various international agreements and initiatives led by international organizations. These

[11] Hao Wu, *Trade Facilitation in the Multilateral Trading System* (Abingdon, Oxon ; New York, NY : Routledge, 2018. | Series: Routledge research in international economic law: Routledge, 2018), https://doi.org/10.4324/9780429468148.
[12] Huala Adolf and Mursal Maulana, *Hukum Perdagangan Internasional Dan Fasilitasi Perdagangan* (Bandung: Keni Media, 2020).

agreements sought to streamline customs procedures, enhance trade efficiency, and reduce non-tariff barriers. Trade facilitation has evolved through key international agreements and institutional efforts aimed at simplifying global trade. Early foundations were laid by the Barcelona Convention (1921) and the Customs Formalities Convention (1923), ensuring smoother transit of goods. The World Customs Organization (WCO) later introduced the Kyoto Convention (1974, revised 2006) to standardize customs procedures, followed by the SAFE Framework (2005) and the Harmonized System in collaboration with the WTO.

The United Nations (UNCTAD, UNECE) has advanced trade digitalization, while organizations like the ICC, ICAO, and IMO have shaped policies for commerce, air, and maritime trade. Additionally, the ISO sets global trade standards, the OECD provides policy guidance, and the World Bank supports trade reforms in developing economies. These initiatives collectively drive efficiency, transparency, and global economic integration.[13]

These agreements and institutions laid the foundation for the TFA, shaping its principles and objectives by emphasizing harmonization, simplification, and modernization of trade and customs procedures. The TFA builds upon these prior efforts to create a more comprehensive and legally binding framework for trade facilitation within the WTO multilateral system.

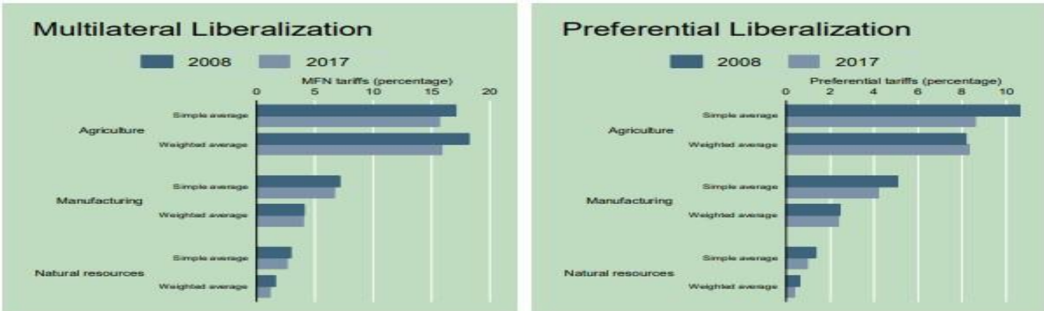
Between the provisional entry into force of the General Agreement on Tariffs and Trade (GATT) in 1947 and the establishment of the WTO in 1995, multilateral trade negotiations primarily focused on reducing trade barriers, both tariff and non-tariff. Initially, GATT (1947–1994) centered negotiations on tariff reductions, with limited attention to non-tariff barriers.

A significant shift occurred during the Kennedy Round (1964–1967), when GATT Contracting Parties expanded negotiations to include non-tariff measures, introducing disciplines on anti-dumping, sanitary and phytosanitary (SPS) regulations, and technical

[13] Saloni Khanderia Yadav, "Implications of the World Trade Organization's Agreement on Trade Facilitation for Emerging Economies," *Manchester Journal of International Economic Law* 12, no. 1 (2015): 33–58, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2601727.

barriers to trade (TBT). This shift underscored the growing recognition of regulatory frameworks and trade facilitation in shaping global trade.

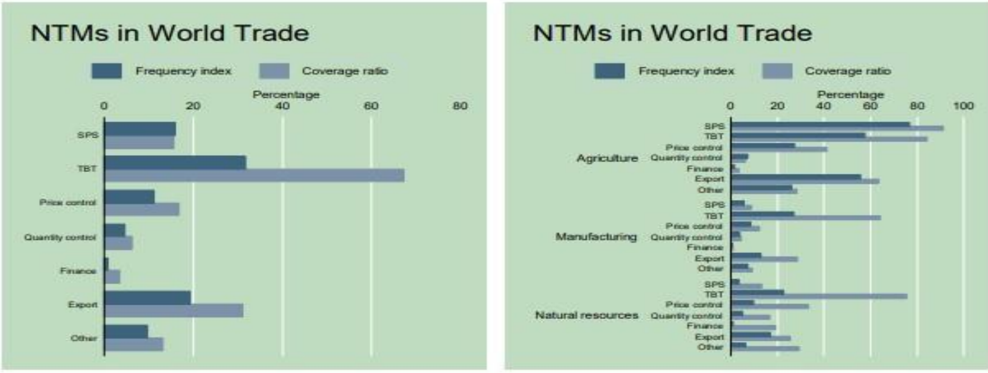
Following the successful reduction of trade barriers, global trade relations have shown a positive trajectory. UNCTAD data indicate that since 2008, tariffs have steadily declined on both multilateral and preferential bases, enhancing market access, fostering trade liberalization, and promoting economic integration among WTO members.



Sources: United Nations Conference on Trade and Development Key Statistic and Trend in Trade Policy 2018.

In the realm of non-tariff measures (NTMs), progress in trade liberalization has been more gradual compared to tariff reductions. Trade remains highly regulated through NTMs, particularly Technical Barriers to Trade (TBT), Sanitary and Phytosanitary (SPS) measures, and price control regulations.

Data indicate that TBT measures have the broadest reach, affecting over 30 percent of product lines and nearly 70 percent of global trade. Price control measures impact approximately 15 percent of trade, while SPS regulations influence nearly 20 percent. While these regulatory frameworks are crucial for ensuring product quality, safety, and compliance with international standards, they pose significant challenges for exporters and importers, especially in developing economies, where compliance costs tend to be higher.



Sources: United Nations Conference on Trade and Development Key Statistic and Trend in Trade Policy 2018.

Following substantial progress in addressing tariff and non-tariff barriers, international trade negotiations have increasingly prioritized administrative and procedural reforms, particularly trade facilitation. Given the complexity of global supply chains and the growing demand for efficient customs procedures, trade facilitation has emerged as a crucial factor in enhancing cross-border trade efficiency.

2. TRADE FACILITATION AGREEMENT IN A NUTSHELL

Negotiations on TFA commenced in the mid-1990s. The Singapore Ministerial Conference of 1996 marked a significant milestone, as the Council for Trade in Goods formally initiated discussions on trade facilitation, laying the groundwork for the eventual development of the TFA.[14] During the negotiations on the Trade Facilitation Agreement (TFA), a significant divide emerged between developed and developing countries, leading to the formation of two distinct groups. The proponents of the TFA, known as the Colorado Group, consisted primarily of developed countries along with several

developing nations such as Chile, Colombia, Costa Rica, the Republic of Korea, Paraguay, and Singapore. In contrast, the opponents of the TFA, referred to as the Core Group, comprised countries including Bangladesh, Botswana, Cuba, Egypt, India, Indonesia, Jamaica, Kenya, Malaysia, Mauritius, Namibia, Nepal, Nigeria, the Philippines, Rwanda, Tanzania, Trinidad & Tobago, Uganda, Venezuela, Zambia, and Zimbabwe. [16]

[14] Paragraph 21 of Ministerial Declaration stipulated that "*undertake exploratory and analytical work, drawing on the work of other relevant international organizations, on the simplification of trade procedures in order to assess the scope for WTO rules in this area*".

The Core Group expressed reservations about committing to a new binding international trade agreement, arguing that they lacked the necessary capacity and readiness to implement the obligations that the TFA would impose. As a result, these countries advocated for non-binding rules and initially refused to participate in formal TFA negotiations within the WTO framework.

The initial mandate for Trade Facilitation Agreement (TFA) negotiations was relatively limited in scope. In order to introduce the topic into formal discussions, negotiators focused on enhancing three key elements of the General Agreement on Tariffs and Trade (GATT), specifically Articles V, VIII, and X. These provisions addressed the expedited movement of goods, the release and clearance of goods (including fees and formalities associated with these processes), and the facilitation of goods in transit, particularly for landlocked countries.[15]

At the Singapore Ministerial Conference, following extensive debate, WTO member states reached a consensus to narrow the scope of negotiations, initially focusing on Articles VIII and X of GATT. However, during the Seattle Ministerial Conference in 1999, the negotiation framework was expanded to incorporate Article V of GATT, addressing the movement of goods in transit. Ultimately, a compromise was reached between the Colorado Group and the Core Group, resolving disagreements over the scope of TFA negotiations. This consensus led to the formal initiation of TFA discussions, which were incorporated into the July Package adopted by WTO members.[16]

[16] Paragraph 21 of Ministerial Declaration stipulated that "*undertake exploratory and analytical work, drawing on the work of other relevant international organizations, on the simplification of trade procedures in order to assess the scope for WTO rules in this area*".

Despite lacking key provisions, the draft Trade Facilitation Agreement (TFA) was accepted during the 2005 WTO Ministerial Conference in Hong Kong. Over the following years, countries continued to submit recommendations, leading to the development of the

[15] Deborah Elms, "After Bali: What Happens Next with Asian Trade Facilitation?," *Asian Journal of WTO & International Health Law and Policy* 9, no. 2 (2015): 430–44, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2586966.
[16] Nora Neufeld, "The Long and Winding Road: : How WTO Members Finally Reached a Trade Facilitation Agreement," vol. 2014/06, WTO Working Papers, April 7, 2014, https://doi.org/10.30875/adc3b358-en.

Consolidated Negotiating Text, the first comprehensive draft of the TFA, which was completed in 2009. After prolonged negotiations spanning nearly a decade, the WTO Director-General formally introduced the draft as part of the Bali Package. At the 9th WTO Ministerial Conference in Bali (2013), WTO members reached a consensus to adopt the agreement.

Negotiating trade facilitation provisions within a multilateral framework presented significant challenges. However, after years of deliberation, TFA entered into force on 22 February 2017. As the first multilateral agreement adopted since the establishment of the WTO in 1995, the TFA represents a landmark achievement in global trade governance.[17]

a. Legal Text of TFA

TFA comprises three sections, 24 articles, and one annex. Section I (Articles 1–12) focuses on expediting the release and clearance of goods, including those in transit. This section is directly linked to Articles V, VIII, and X of GATT 1994 and addresses key trade facilitation measures such as customs cooperation and procedures for transporting goods—a particularly significant challenge for landlocked countries seeking to trade with neighboring nations.

Section II (Articles 13–22) provides special and differential treatment (SDT) for developing and least-developed countries. It grants these nations flexibility in implementing TFA provisions and access to technical assistance and capacity-building support from developed countries. TFA categorizes commitments into three groups:

Category	Description
Category A	Provisions implemented immediately upon the agreement's entry into force (or within one year for LDCs).
Category B	Provisions implemented after a transitional period following the agreement's entry into force.
Category C	Provisions implemented after a transitional period and subject to technical assistance and capacity-building support.

[17] Llyod, "The Trade Facilitation Agreement: Building Faith In International Trade In An Uncertain Time."

To ensure effective implementation, the TFA offers capacity-building assistance. However, insufficient support from donor members may impede its successful execution. Furthermore, developing and least-developed countries are granted additional flexibility to account for their economic and institutional limitations.[18]

Section III (Articles 23–24) outlines provisions related to the institutional framework for implementing the TFA. It mandates the establishment of a Multilateral Committee on Trade Facilitation and requires WTO member states to create a National Trade Facilitation Body (NTFB) to coordinate domestic implementation efforts. The final article in this section contains the Final Provisions of the agreement.

The obligations outlined in the TFA can be classified into three distinct categories based on their enforceability and implementation requirements. First, fully mandatory obligations comprise provisions that take immediate effect upon the agreement's entry into force, requiring member states to comply without delay. Second, conditional obligations become legally binding only when a predefined condition or commitment has been met, allowing for flexibility in implementation based on specific national circumstances. Lastly, aspirational or soft-law obligations function as guiding principles rather than enforceable legal requirements, encouraging best practices without imposing strict compliance measures.[19]

b. TFA: A Unique and Innovative International Agreement.

World Trade Report 2015 explicitly stipulates that:

> *In order to make implementation practicable, the TFA takes a new and innovative approach to special and differential (S&D) treatment for developing and least-developed countries (LDCs)[20].*

[18] Wang Heng, "The Agreement on Trade Facilitation and Its Implication: An Interpretative Perspective," *Asian Journal of WTO & International Health Law and Policy* 9, no. 2 (2015): 445–76, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2586971.
[19] Antonia Eliason, "The Trade Facilitation Agreement: A New Hope for the World Trade Organization," *World Trade Review* 14, no. 04 (October 4, 2015): 643–70, https://doi.org/10.1017/S1474745615000191.
[20] World Trade Organization, "World Trade Report 2015 : Speeding up Trade : Benefits and Challenges of Implementing the WTO Trade Facilitation Agreement," 2015, https://digitallibrary.un.org/record/4038635?v=pdf.

The imbalance of economic power among WTO member countries leads to differences in their ability to fulfill trade commitments. Recognizing this disparity, the WTO grants special attention to developing and least-developed countries by providing exceptions and flexibilities. In the context of the TFA, these countries are given the right to self-determine their commitment categories (A, B, or C) based on their individual capabilities.

According to Ben Czapnik, TFA stands out as a unique multilateral treaty, distinguishing itself from the agreements codified in the Marrakesh Agreement Annexes through several key features. One of its defining characteristics is the flexibility granted to developing countries in implementing trade facilitation measures, allowing them to tailor adoption strategies to their specific needs. The agreement also introduces Special and Differential Treatment (S&DT) provisions, particularly under Article 13.2, which empower these nations to self-determine their commitments.

Unlike conventional agreements, the TFA offers a dynamic approach to commitment designation, enabling countries to specify their obligations both at the time of signing and upon the agreement's entry into force. Additionally, developing nations retain the unilateral right to establish their own engagement timelines, including determining when to fully comply and what type of technical assistance they require.

Legal commitments within the TFA are not uniformly imposed but instead adjusted based on national capacity, allowing for gradual and context-specific compliance. Furthermore, the agreement replaces a rigid communication framework with a phased notification system, ensuring that members' commitments are recorded progressively rather than in a single reporting instance. Through these mechanisms, the TFA provides a more adaptable and inclusive framework for trade facilitation, particularly benefiting developing economies.[21]

[21] Ben Czapnik, "The Unique Features of the Trade Facilitation Agreement: A Revolutionary New Approach to Multilateral Negotiations or the Exception Which Proves the Rule?," *Journal of International Economic Law* 18, no. 4 (November 20, 2015): 773–94, https://doi.org/10.1093/jiel/jgv041.

3. CHALLENGES & OPPORTUNITIES

Indonesia has taken significant steps to align its trade facilitation measures with both multilateral and regional agreements, including the WTO Trade Facilitation Agreement

and the ASEAN Trade Facilitation Agreement. These efforts aim to streamline and standardize trade-related processes while also enhancing supporting infrastructure to ensure smoother cross-border trade.

Indonesia has undertaken several key initiatives to enhance trade facilitation and improve the efficiency of its supply chain. A major step in this effort is the implementation of the National Single Window (NSW), a digital platform that integrates customs, licensing, and trade-related documentation to streamline clearance processes.

Additionally, Indonesia has embraced risk-based inspection methods and an electronic customs system, leveraging automation and data-driven risk management to expedite clearance at ports. Investments in port infrastructure modernization, including the development of smart ports, logistics hubs, and digital tracking systems, further strengthen supply chain connectivity and operational efficiency.

To ensure regulatory alignment with international standards, Indonesia has established Mutual Recognition Arrangements (MRAs) with ASEAN members and key trading partners, simplifying certification processes and reducing technical barriers to trade. Recognizing the growing importance of digital trade, the government has also expanded paperless trade systems and integrated electronic payment solutions, creating a more accessible and efficient trading environment, particularly for small and medium enterprises (SMEs) seeking to participate in global markets. Through these initiatives, Indonesia continues to refine its trade framework, fostering a more seamless and competitive economic landscape."These measures not only enhance Indonesia's trade competitiveness but also contribute to regional economic integration and compliance with global trade facilitation best practices.[22]

[22] Aulia Luthfianto, D S Priyarsono, and Raul Barreto, "Trade Facilitation and the Performance of Indonesia Manufacturing Export," *Buletin Ilmiah Litbang Perdagangan* 10, no. 1 (July 31, 2016): 1–20, https://doi.org/10.30908/bilp.v10i1.29.

Indonesia implements the TFA within ASEAN through the ATIGA framework, establishing the ASEAN Trade Facilitation Joint Consultative Committee (ATF-JCC), later integrated into the Coordinating Committee on the Implementation of ATIGA (CCA). This ensures regional coordination, streamlining trade procedures, and enhancing economic integration.[23] Indonesia has also incorporated Trade Facilitation Agreements

into several Preferential Trade Agreements (PTAs), such as the Indonesia-Korea Comprehensive Economic Partnership Agreement (IK-CEPA), to enhance trade efficiency and bilateral cooperation.

Indonesia officially ratified the WTO Trade Facilitation Agreement (TFA) on 5 December 2017, following its approval by the House of Representatives on 24 October 2017 and the enactment of Law No. 17 of 2017 on 22 November 2017. This law amended Law No. 7 of 1994, which ratified the Marrakesh Agreement Establishing the WTO.

Indonesia has committed to implementing Category A (88.7%) and Category B (11.3%) provisions but has not yet implemented Category C due to the need for regulatory adjustments and capacity-building support. On 27 April, Indonesia notified the WTO of changes in its categorization through G/TFA/N/IDN/1/Corr.1.

The following are the provisions notified in category B by the Indonesian government:

Article 3	Advance Ruling
Article 5.1	Notification for Enhance Control of Inspection
Article 7.4	Risk Management

Advance Ruling

An advance ruling is a written decision issued by a competent authority, providing traders with a pre-determined assessment on import or export transactions. It ensures predictability in trade by clarifying the classification of goods, rules of origin, and customs valuation before shipments occur.[24]

[23] ASEAN, "Trade Facilitation ," *ASEAN.Org*, n.d., https://asean.org/our-communities/economic-community/tradefacilitation/.
[24] World Custom Organization, "Technical Guidelines on Advance Ruling for Classification, Origin and Valuation,"

In Indonesia, advance ruling regulations are governed by Finance Minister Regulations (PMK), including PMK No. 194/PMK.04/2016, which outlines procedures for classifying imported goods before customs declaration, and PMK No. 51/PMK.04/2008 (amended by PMK No. 122/PMK.04/2011), which regulates tariff determination, customs valuation, and administrative sanctions.

Notification for Enhance Control of Inspection

Article 5 of the TFA upholds impartiality, non-discrimination, and transparency in trade regulations. It mandates that enhanced border controls, such as inspections on food and beverages, follow a risk-based approach, apply uniformly, and provide timely notifications for detained goods. Traders must also have the right to request a second test if initial results are disputed, ensuring fairness.

Lack of regulatory transparency often disrupts cross-border trade. To address this, Article 5.1 requires WTO members to justify enhanced controls based on risk, apply them selectively, and terminate them when no longer necessary. Transparency obligations further ensure timely publication of regulatory changes, reducing uncertainty for traders and fostering trust between businesses and border authorities.[25]

Risk Management

Effective customs risk management is crucial for expediting clearance, mitigating fraud, and protecting revenue and security. However, many WTO members still rely on physical inspections, leading to delays and increased corruption risks. Adopting riskbased approaches, such as automated targeting and data-driven assessments, allows customs authorities to focus on high-risk shipments and streamline low-risk ones. In line with WTO requirements, member states must implement risk-based systems for imports, exports, and transit transactions. Indonesia has categorized this under Category B,

2008, https://www.wcoomd.org/-/media/wco/public/global/pdf/topics/origin/instruments-andtools/guidelines/guidelines-on-advance-rulings-for-classification-origin-and-valuation.pdf?la=en&la=en.
[25] World Custom Organization.

adopting a phased implementation due to resource constraints, infrastructure challenges, and its vast geography, ensuring gradual alignment with WTO commitments.

a. Challenges in Implementing TFA

While the TFA presents significant opportunities, its implementation poses critical challenges, particularly for developing and least-developed countries. A key obstacle is the legal and constitutional barriers to treaty ratification, as aligning international commitments with domestic legal frameworks often requires complex legislative amendments. In Indonesia, the dualist legal system necessitates the incorporation of treaty obligations into national law, potentially delaying TFA implementation. Financial

constraints further complicate adoption, with implementation costs ranging from USD 136,000 to USD 15.4 million, as estimated by UNCTAD.

These expenses arise from the need to modernize customs infrastructure, upgrade technology, and train personnel. Additionally, institutional and capacity limitations, including weak inter-agency coordination, bureaucratic inefficiencies, and insufficient technological expertise, further hinder progress. Overcoming these challenges requires robust legal harmonization, strategic financial planning, targeted capacity-building initiatives, and strengthened collaboration between public and private sectors to ensure sustainable and effective trade facilitationLike many developing countries, Indonesia encounters numerous challenges in fully implementing the TFA, which extend across critical areas such as infrastructure, institutional coordination, regulatory frameworks, and financial constraints. These interconnected obstacles not only impede the country's ability to streamline trade facilitation measures but also create systemic inefficiencies that hinder the seamless integration of global trade standards.

1) Infrastructure

One of the most significant challenges is Indonesia's inadequate logistics and transport infrastructure, which leads to delays in customs clearance and inefficient supply chain management. Many ports and border checkpoints suffer from congestion, outdated facilities, and a lack of modern equipment, prolonging processing times. Additionally, the limited availability of ICT infrastructure affects the implementation of digital trade facilitation measures. Effective trade facilitation requires specialized expertise in customs procedures, risk management, and digital systems.

2) Weak Public-Private Sector Collaboration

A fundamental challenge in Indonesia's trade facilitation efforts is the persistent lack of synergy between the public and private sectors, which significantly impedes the smooth implementation of trade reforms. Many businesses perceive government institutions, particularly customs authorities, as inefficient due to prolonged bureaucratic procedures and inconsistent regulatory enforcement. Additionally, limited transparency in customs operations and regulatory decision-making further weakens private sector confidence, discouraging meaningful collaboration in advancing trade facilitation initiatives. Overcoming this trust deficit necessitates enhanced regulatory clarity, streamlined administrative processes, and more inclusive stakeholder engagement in policy formulation. By fostering a cooperative and transparent trade environment, Indonesia can bridge the gap between public institutions and private enterprises, ultimately strengthening its trade facilitation mechanisms.

3) Comprehensive Regulatory Framework

Indonesia's trade facilitation efforts are often constrained by fragmented institutional coordination and an overly complex regulatory environment, both of which hinder the effective implementation of trade policies. Weak inter-agency collaboration among key institutions, such as the Ministry of Finance, the Ministry of Trade, and customs authorities, results in inconsistent policy enforcement and bureaucratic inefficiencies. Furthermore, overlapping regulations, coupled with frequent policy changes, create significant uncertainty for businesses, making compliance both challenging and costly. Establishing a more harmonized and transparent regulatory framework is essential to fostering a predictable trade environment, reducing administrative burdens, and enhancing Indonesia's overall trade competitiveness.

4) Compliance with International Standards

Meeting international trade standards remains a challenge for Indonesia, particularly in areas such as sanitary and phytosanitary (SPS) measures. Ensuring compliance with WTO requirements and aligning domestic policies with ASEAN and other regional agreements requires extensive regulatory adjustments and capacity-building efforts. The harmonization of trade policies with regional and global standards is essential to improving market access and strengthening Indonesia's position in global trade networks.

5) Legislative Framework Challenges

Indonesia follows a dualist approach in implementing international agreements, meaning that TFA provisions must be incorporated into national law before they can be fully enforced.[26] This process is often complicated by fragmented regulations across multiple laws, including Law No. 7/1994, Law No. 17/2017, and various ministerial regulations. Additionally, inter-agency coordination issues further delay legal harmonization efforts. Key institutions, such as the Ministry of Finance and the Ministry of Trade, must work collaboratively to streamline the legislative process and ensure that national laws align with Indonesia's TFA commitments.

6) Bureaucratic Challenges

Bureaucratic inefficiencies contribute to low implementation rates of key trade facilitation measures. Inefficiencies in border agency cooperation, risk management, and notifications for enhanced controls create unnecessary delays and increase transaction costs. Although Indonesia has introduced initiatives such as the Indonesia National Single Window (INSW), Authorized Economic Operators (AEO), and e-payment systems, bureaucratic streamlining remains inconsistent. International recommendations, such as those from UNESCAP, emphasize the need for Trade and Transport Facilitation Monitoring Mechanisms (TTFMMs), improved business environments, and enhanced trade portals to support trade efficiency. By minimizing bureaucratic complexities trade facilitation can help mitigate corruption risks associated with customs and border control operations.[27]

[26] Damos Dumoli Agusman, "Status Hukum Perjanjian Internasional Dalam Hukum Nasional RI Tinjauan Dari Perspektif Praktek Indonesia," *Indonesian Journal of International Law* 5, no. 3 (April 30, 2008): 488–504, https://doi.org/10.17304/ijil.vol5.3.178.
[27] Agusman.

7) ICT Challenges

The integration of digital technology in trade facilitation is critical for improving efficiency, yet Indonesia faces significant ICT-related challenges. One major issue is the difficulty in monitoring cross-border goods movement despite the implementation of risk management procedures. Additionally, cybersecurity vulnerabilities in official traderelated platforms pose risks to data integrity and transaction security. While the INSW system is in place, further alignment with TFA provisions, as mandated by Presidential Regulations No. 10/2008 and No. 35/2012, is necessary to enhance digital trade facilitation.

8) National Trade Facilitation Body (NTFC) Coordination

To ensure effective implementation of the TFA, Indonesia established the National Trade Facilitation Committee (NTFC) under Article 23.2 of the agreement. The NTFC, mandated by Coordinating Minister for Economic Affairs Decrees No. 199/2018 and No. 284/2018, is responsible for overseeing trade facilitation initiatives and ensuring interagency coordination. However, persistent issues in cross-agency collaboration continue to hinder its effectiveness. Strengthening the NTFC's authority, improving communication between government bodies, and fostering greater private-sector participation are necessary steps to enhance its role in trade facilitation.

9) Upgrading Category B to Category A Commitments

Indonesia has been working to upgrade its Category B commitments to Category A by 2022, signifying a transition toward full implementation of the TFA. This effort requires extensive technical support from international partners such as Germany, Australia, and ASEAN member states. Capacity-building initiatives are also essential to equipping government agencies with the necessary expertise to meet full compliance requirements. Strengthening human resources, improving technical training, and leveraging international best practices will be critical to achieving this goal.

b. Opportunities in Implementing TFA

The implementation of TFA presents significant opportunities for developing countries, despite the challenges involved. As highlighted in the 2015 World Trade

Report, the TFA has the potential to accelerate economic expansion in developing countries by up to 0.9% annually and increase exports by 3.5% per year.

By streamlining trade procedures, reducing bureaucratic inefficiencies, and enhancing regulatory transparency, the agreement fosters greater trade competitiveness, improves revenue collection[28] and creates a more predictable environment for foreign investment. Additionally, the TFA strengthens governance by promoting institutional efficiency and accountability, facilitates the formalization of the informal trade sector, and supports broader economic growth through deeper integration into global value chains. Its alignment with international development objectives, including the United Nations Sustainable Development Goals (SDGs)[29] underscores its role in advancing industrial modernization, economic diversification, and international cooperation. However, realizing these benefits requires sustained political commitment, effective inter-agency coordination, and targeted investments in trade infrastructure and capacitybuilding

The implementation of TFA represents a crucial opportunity for Indonesia to improve its trade environment and stimulate economic growth. For Indonesia, this signifies considerable advantages across various sectors:

1). Reducing Trade Costs

The implementation of the TFA enables Indonesia to reduce trade costs by addressing transportation expenses, import duties, and administrative inefficiencies. A key initiative in this effort is the Indonesia National Single Window (INSW), a digital platform that streamlines export-import procedures, minimizes bureaucratic delays, and lowers compliance costs. Research by Prospera (2023) highlights its success in reducing storage

[28] International Trade and Economics Series, "Challenges for Implementing the Trade Facilitation Agreement," 2016, https://www.tradeeconomics.com/wp-content/uploads/2019/07/Challenges-for-implementing-the-trade-facilitationagreement-min.pdf.
[29] Jan Hoffman, "Reaping Benefits from Trade Facilitation," 2015, https://unctad.org/system/files/officialdocument/presspb2015d16_en.pdf.

times and licensing expenses, demonstrating the significant role of digitalization in improving Indonesia's trade efficiency and global competitiveness.[30]

2). Removing Procedural Barriers in International Trade

Businesses engaged in global trade often face procedural inefficiencies that increase costs and delays. Key challenges include excessive administrative requirements, regulatory opacity, inconsistent enforcement, logistical bottlenecks, and outdated infrastructure. These barriers create uncertainty and hinder the smooth movement of goods. By implementing Trade Facilitation Agreement (TFA) provisions, Indonesia can streamline processes, enhance transparency, and modernize customs operations. These reforms will reduce trade costs, improve efficiency, and create a more predictable and competitive trade environment.

3). Expanding International Trade and GDP Growth

The implementation of TFA is expected to enhance Indonesia's global trade presence by increasing its export share and improving overall trade efficiency. TFA plays a vital role in reducing delays and costs, driving GDP growth, and supporting export diversification. By leveraging these benefits, Indonesia can expand its market reach, strengthen its position in the global economy, and achieve sustainable economic growth.

4). Strengthening SME Participation in Global Trade

Small and Medium Enterprises (SMEs) are vital to Indonesia's economy, contributing over 60% of GDP and employing 97% of the workforce. However, their

share of national exports remains low at 15.7%, significantly trailing behind regional counterparts like Singapore and Thailand. Complex trade regulations and high administrative costs often hinder SMEs from entering global markets.

TFA addresses these challenges by streamlining export-import procedures, reducing costs, and minimizing bureaucratic barriers. By easing access to international trade, these reforms enable SMEs to expand their market reach, enhance competitiveness, and integrate more effectively into the global economy.

[30] Indonesian Customs Administration, "National Logistics Ecosystem: Indonesia's Holistic Approach to Trade Facilitation," *WCO News* (mag.wcoomd.org, 2024), https://mag.wcoomd.org/magazine/wco-news-105-issue-32024/national-logistics-ecosystem-indonesia/.

5). Attracting Foreign Investment

A transparent and efficient trade environment is essential for attracting foreign direct investment (FDI). The implementation of TFA enhances Indonesia's appeal to investors by reducing trade-related risks, streamlining business operations, and establishing a stable regulatory framework. By aligning trade procedures with international best practices, Indonesia can foster investor confidence, encourage foreign business expansion, and drive economic growth and job creation.

The implementation of TFA positions Indonesia to enhance trade efficiency, reduce barriers, and stimulate economic growth. By modernizing customs procedures, improving regulatory transparency, and fostering a more inclusive trade environment, Indonesia can unlock new opportunities for businesses, strengthen SME participation in global markets, and attract greater foreign investment. These advancements will not only boost Indonesia's competitiveness but also support long-term economic sustainability and global integration.

CONCLUSIONS

The focus of the WTO as an organization that regulates trade relations between countries continues to evolve. Since its inception, tariff and non-tariff reductions have been the main focus. Nevertheless, efforts to realize trade liberalization are felt to be improved. Besides the issue of tariffs and non-tariffs, there are still other forms of trade barriers, which are related to trade facilitation.

The ratification and implementation of the WTO Trade Facilitation Agreement (TFA) present both challenges and opportunities for Indonesia. While TFA aims to streamline trade processes, enhance transparency, and reduce trade costs, Indonesia faces several institutional, regulatory, and technical challenges in fully implementing its commitments. Key challenges include harmonizing the legislative framework, simplifying bureaucratic procedures, enhancing ICT infrastructure, coordinating multiple government agencies, and upgrading commitments from Category B to Category A. Despite these hurdles, Indonesia has made significant progress by implementing initiatives such as the Indonesia

National Single Window (INSW), Authorized Economic Operators (AEO), and digital trade facilitation measures.

At the same time, TFA offers substantial benefits for Indonesia. It reduces trade costs, eliminates procedural barriers, boosts exports and GDP growth, strengthens SME participation in international trade, and attracts foreign investment. By aligning with TFA principles, Indonesia can enhance its trade competitiveness, improve governance, and support economic development. Moving forward, strong inter-agency coordination, continuous regulatory reforms, and investment in digital trade infrastructure will be essential for maximizing the benefits of TFA. With sustained commitment and international cooperation, Indonesia is well-positioned to leverage trade facilitation as a catalyst for economic growth, competitiveness, and integration into the global trading system.

To strengthen the implementation of the TFA, the Indonesian government should prioritize regulatory harmonization, inter-agency coordination, and digital trade infrastructure enhancement. Strengthening the National Trade Facilitation Committee (NTFC) can improve policy coherence and institutional collaboration, while modernizing customs automation and expanding the Indonesia National Single Window (INSW) will streamline procedures and reduce trade costs. Additionally, targeted support for SMEs through simplified export processes and capacity-building programs can enhance their global competitiveness. By leveraging international technical assistance, Indonesia can accelerate its TFA compliance, attract foreign investment, and strengthen its position in the global trade system.

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We, (Mursal Maulana, Huala Adolf), Hereby consciously assure that our research paper:

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