

Follow-up ASEAN Seamless Trade Facilitation Indicators

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Published in October 2023

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Cover and Layout by Artmosphere

ISBN 978-602-5460-49-4

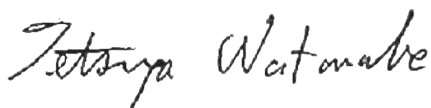
Foreword

The Association of Southeast Asian Nations (ASEAN) has placed significant emphasis on trade facilitation to promote economic integration across Southeast and East Asia. The ASEAN Economic Community Blueprint 2025 aims to promote greater alignment in trade facilitation amongst ASEAN Member States and to establish international best practices. Translating and prioritising the agenda in a practical and measurable manner, the ASEAN Economic Ministers agreed in 2017 to achieve the short-term target of reducing the cost of trade transactions by 2020. The ASEAN Seamless Trade Facilitation Indicators (ASTFI) and Trade Transactions Cost (TTC) were developed by the Economic Research Institute for ASEAN and East Asia (ERIA), in collaboration with the ASEAN Secretariat and the ASEAN Trade Facilitation Joint Consultative Committee, to keep track of progress in trade facilitation within ASEAN by using a set of ASEAN-specific indicators.

Since the baseline ASTFI-TTC study was conducted in 2018–2019, the world has experienced revolutionary changes with implications for ASEAN's trade facilitation agenda. The coronavirus disease (COVID-19) pandemic caused much economic pain and human loss, but also accelerated digitalisation. Many governments quickly introduced innovative and flexible measures to keep trade flowing across borders. The Regional Comprehensive Economic Partnership agreement, which came into force on 1 January 2022, has further deepened economic integration between ASEAN and its five Dialogue Partners. Continuous updates and evaluations of current trade facilitation practices are needed to achieve further reductions in trade transaction costs by 2025.

This book is a follow-up to the baseline ASTFI-TTC report published in July 2021. It provides policymakers and other stakeholders with information for assessing the achievements and identifying areas of improvement in trade facilitation in ASEAN. It will be imperative for conversation amongst policymakers and other stakeholders to move towards global best practices. As the book highlights, the focus of reforms should include improving time efficiency by using technologies, promoting electronic transactions, enhancing transparency and certainty in intra-regional trade, aligning with international best practices or regional certifications, and improving coordination amongst government agencies.

ERIA remains committed and looks forward to extending its partnership with ASEAN in a region-wide collective effort to strengthen Southeast and East Asia economic integration.



Professor Tetsuya Watanabe

President of ERIA

Acknowledgements

The book was prepared by ERIA's ASEAN Seamless Trade Facilitation Indicators and Trade Transactions Cost (ASTFI-TTC) research team, external experts, and consultants. ERIA staff members directly involved in the study are:

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The ERIA team would like to thank the ASEAN Member States, the ASEAN Trade Facilitation Joint Consultative Committee (ATF-JCC), and the ASEAN Secretariat for their cooperation and support for the study. We would also like to thank ERIA's management for their financial and logistical support of the study.

Disclaimer

This is a preliminary draft book submitted to the ATF-JCC for comments and feedback. The opinions expressed are solely those of the study team and do not represent the official views of any ASEAN bodies, ASEAN Member States, or ERIA.

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List of Abbreviations

ASW	ASEAN Single Window
AEO	Authorised Economic Operator
C/O	Certificate of Origin
FTA	Free Trade Agreement
ICT	Information and Communication Technology
GDVC	General Department of Vietnam Customs
MOF	Ministry of Finance
MOIT	Ministry of Industry and Trade
SME	Small and Medium-sized Enterprises
NSW	National Single Window
NTFC	National Trade Facilitation Committee
NTR	National Trade Repository
SPS	Sanitary and Phytosanitary Standards
TBT	Technical Barriers to Trade
VTIP	Viet Nam Trade Information Portal
TFA	Trade Facilitation Agreement
UNCT	United Nations Conference on Trade and Development
USAID	United States Agency for International Development
VNACCS	Viet Nam Automated Customs Clearance System
VCIS	Viet Nam Customs Intelligence System
VCCI	Vietnam Chamber of Commerce and Industry
VTIP	Vietnam Trade Information Portal
WCO	World Customs Organization
WTO	World Trade Organization





Chapter 1

Integrative Chapter

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1. Introduction and Background

Since the baseline ASEAN Seamless Trade Facilitation Indicators (ASTFI) project was conducted in 2018, economic integration of the members of the Association of Southeast Asian Nations (ASEAN) has expanded, most notably through the entry-into-force of the Regional Comprehensive Economic Partnership (RCEP) in January 2022 amongst ASEAN Member States (AMS), Australia, China, Republic of Korea (henceforth 'Korea'), Japan, and New Zealand, as well as participation of some AMS on the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). These new initiatives demand greater focus on trade facilitation since they have specific agreements and commitments on improving trade procedures. Although some of the earlier ASEAN Plus 1 agreements (or their amendments) contained chapters on customs procedures and trade facilitation, these were to be implemented in 'best endeavor' basis (see Box 1.1 for details). In contrast, the RCEP agreement binds the parties to specific timelines of agreement, albeit with some flexibility for less-developed members.

Another major event since 2018 that has impacted the trade facilitation agenda is the coronavirus disease (COVID-19) pandemic. The upheaval of the COVID-19 pandemic has, amongst its many ramifications, brought into sharp relief the central importance of a smooth flow of goods and people for the proper functioning of the global economy. It forced governments everywhere to be nimble and proactive to keep trade flowing by introducing or accelerating digitalisation of the trading process, which has served the trade facilitation agenda enshrined in World Trade Organization (WTO) and ASEAN agreements.

Box 1.1. Trade Facilitation Commitments in ASEAN Trade Agreements

Chapter 4 of the RCEP Agreement deals with Customs Procedures and Trade Facilitation. It contains provisions on pre-arrival processing, advance rulings, pre-shipment inspection, customs procedures, enquiry points, application of information technology, trade facilitation measures for authorised operators, risk management, amongst others. It also contains a provision to implement specific commitments and timelines of the parties, recognising their different level of readiness to implement those commitments. The arrangement is a phased implementation of the specific commitments until completion. The language of the agreement binds AMS to a higher level of commitments than those provided in the previous ASEAN Plus 1 free trade agreements (FTAs).

Prior to the Agreement establishing the ASEAN–Australia–New Zealand Free Trade Area (AANZFTA), previous ASEAN Plus 1 FTAs did not contain a separate chapter on customs procedures. There may be some provisions related to customs cooperation, but such provisions were limited and not specific unlike the AANZFTA. Following the AANZFTA, in 2015, ASEAN and China signed the 'Protocol to Amend the Framework Agreement on Comprehensive Economic Co-operation and Certain Agreements thereunder between the

Association of Southeast Asian Nations (ASEAN) and the People's Republic of China', which incorporates the Customs Procedures and Trade Facilitation into the ACFTA Trade in Goods (TIG) Agreement. The amended TIG text of the ACFTA includes similar provisions as the AANZFTA, as well as the customs procedures provisions found in the ASEAN Trade in Goods Agreement. Although these FTAs contain more elaborate customs procedures and trade facilitation provisions, it will be noted that the levels of commitment are somehow on a best endeavour basis, unlike the RCEP Customs Procedures and Trade Facilitation Chapter that entered into force in January 2022.

The RCEP commitments are firmer on implementation. For instance, on advance rulings for tariff classification, rules of origin, and customs valuation, the RCEP Agreement provides specific implementation timelines, unlike in AANZFTA or ACFTA, where the language of the text posed a caveat that advance rulings implementation is 'to the extent permitted by its domestic regulations'. Another important provision is the 'Release of Goods' where Parties must comply with time period set for the clearance of goods. Related to the release of goods, RCEP's Chapter 4 has a provision on 'Express Consignment', which requires Parties to maintain customs procedures to expedite the clearance of express consignments for at least those goods entered through air cargo. Other provisions in the customs procedures chapter worth noting include the 'Trade Facilitation Measures for Authorised Operators' where each Party is required to provide additional facilitation measures related to import, export or transit facilities and procedures for operators who meet specific criteria, and 'Post-Clearance Audit', which also contributes to expediting the release of goods, as risk management parameters are applied, and audit will be done post-importation and not at the border. The customs procedures chapter also encourages Parties to use tools such as time release study to identify the gaps in the cargo clearance process in order to come up with policies and measures that will facilitate trade.

Although the RCEP chapter on customs procedures and trade facilitation requires more commitments, it also recognises the different levels of development of the Parties. RCEP has membership from least developed countries to developed countries, and the customs procedures and trade facilitation chapter allows them to implement in stages, especially those commitments that go beyond the World Trade Organization Trade Facilitation Agreement (WTO TFA). Annex 4A (Period of Time to Implement the Commitments) of the Agreement provides some countries with a specific period to implement some of its provisions during which the full implementation of those specified commitments will commence. In this way, countries are required to make specific commitments, but also allow flexibility or a phased implementation for some who are not ready to implement those measures identified in the Annex.

Source: ERIA, 2022

In this report, we discuss the progress made by ASEAN Member States since 2018 in trade facilitation, as shown by the results of the follow-up ASTFI (ASTFI II), which was conducted in 2020–21. Prior to presenting the ASTFI II results, we discuss ASEAN's progress relative to other regions using secondary data, in particular the United Nations Trade Facilitation (UNTF) survey, which has been keeping track of the progress made in fulfilling the WTO-TFA commitments. The measures are categorised into five groups: transparency, formalities, institutional arrangement, paperless trade, and cross-border paperless trade. Figure 1.1 shows the implementation rate of ASEAN and individual member states in 2015 and 2021.

Transparency measures relate to publication and administration of trade regulations. ASEAN had implemented 90% of transparency measures by 2021, an increase from under 80% in 2015. Formalities refer to the trade-related procedures, in which ASEAN's implementation rate is 90% in 2021, an increase from 70% in 2015. The Institutional Arrangement and Cooperation measure specifically requires a national trade facilitation body and ensuring cooperation amongst countries. ASEAN's implementation rate was at 77% in 2021, up from 55% in 2015. The Paperless Trade measures relate to the application of modern information and communication technologies to trade-related services. The implementation rate was 80% in ASEAN, an increase by 20 percentage points since 2015. The Cross-Border Paperless Trade measures the exchange and legal recognition of trade-related data and documents amongst the entire international supply chain. Here, the implementation rate is 60%, the lowest amongst the five categories but vast improvement since 2015.

Within ASEAN, we find some variation in the implementation rate across member states. All AMS have improved their transparency scores, with nine having achieved at least 80% implementation of transparency measures (compared to only three passing this threshold in 2015). In particular, Cambodia, Malaysia, and the Philippines caught up to full implementation in 2021. Implementation rates of formalities are also generally high, with eight AMS achieving at least 80% implementation and five achieving 100% implementation. Indonesia had significantly increased its formalities efficiency by 33.33% since 2015. Implementation of institutional arrangements requires more effort, with only two AMS (Cambodia and Singapore) achieving above 80% implementation. Regarding Paperless Trade, Indonesia and Singapore lead the way with above 96% rate of implementation. Malaysia, the Philippines, and Thailand also have above 80% implementation. The largest improvement was experienced by Myanmar, leaping from 11.1% to 66.7%. Regarding cross-border paperless trade, the leading countries are Singapore and Thailand with 77.78% implementation. But there is much room for improvement in this category.

Figure 1.1. Implementation of WTO TFA, 2015 and 2021 by ASEAN



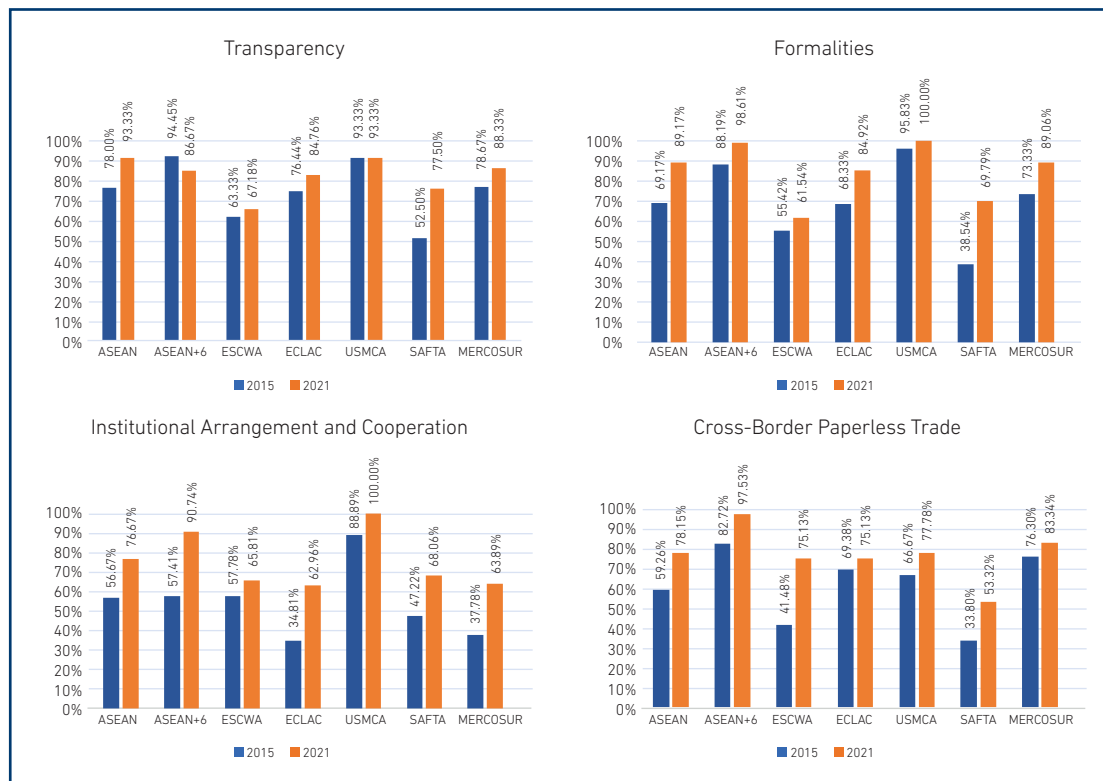
ASEAN = Association of Southeast Asian Nations, BRN = Brunei Darussalam, KHM = Cambodia, IDN = Indonesia, LAO = Lao People’s Democratic Republic, MYS = Malaysia, MMR = Myanmar, PHL = Philippines, SGP = Singapore, THA = Thailand, VNM = Viet Nam, WTO = World Trade Organization, TFA = trade facilitation agreement.

Source: Authors’ calculation from United Nations Trade Facilitations Surveys.

It is also interesting to compare ASEAN with other major regional groups. Compared to other major regional groupings, ASEAN’s progress has been noteworthy. A trade facilitation report by UNESCAP and ADB (2021), also based on the UNTF survey, noted that, in the Asia–Pacific region, ‘ASEAN regional integration efforts and the establishment of the ASEAN Single Window have fostered substantial progress on implementation of trade facilitation’ and that the region has ‘outperformed numerous other subregions in implementation’ (pg. 8). The Southeast Asia region (comprising ASEAN and Timor-Leste) ranked below Australia and New Zealand (97% implementation) and East Asia (comprising China, Japan, Korea, and Mongolia) (83%). Given RCEP, ASEAN must quickly catch up with its five regional partners in implementation of trade facilitation measures.

In Figure 1.2, we compare the full implementation rate of five categories of trade facilitation measures between ASEAN and other major trade blocs: United Nations Economic and Social Commission for Western Asia (ESCWA), United Nations Economic and Social Commission for Latin America and the Caribbean (ECLAC), United States – Mexico – Canada Agreement (USMCA), South Asian Free Trade Area (SAFTA), and Southern Common Market/Mercado Común del Sur (MERCOSUR); we also include the ASEAN+6 as a grouping given the trade linkage. On transparency, over 90% measures have been implemented by ASEAN, closing the gap with USMCA and ahead of MERCOSUR which was similarly situated in 2015. On Formalities, ASEAN has closed the gap with MERCOSUR at 90%. ASEAN is slightly behind MERCOSUR on Paperless Trade, with 80% completion, although rapid progress has been made since 2015.

Figure 1.2. Implementation of WTO TFA, 2015 and 2021 by Major Regional Groups



WTO = World Trade Organization, TFA = trade facilitation agreement.

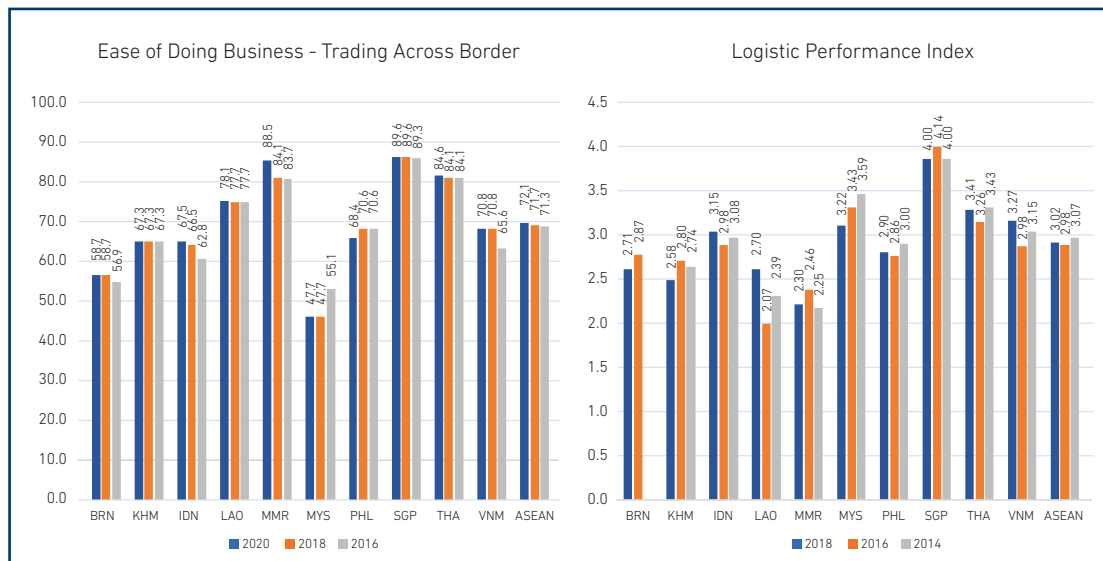
Note: ASEAN+6 consists of ASEAN countries, China, Japan, Rep. of Korea, India, Australia, and New Zealand. NAFTA consists of Mexico, Canada, and the United States. SAFTA consists of Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. ESCWA consists of 17 Arab-region countries. ECLAC includes 46 member states (20 in Latin America, 13 in the Caribbean and 13 from outside the region). MERCOSUR consists of Argentina, Brazil, Bolivia, Chile, Ecuador, Paraguay, Peru, and Uruguay.

Source: Authors' calculation from UNTF Surveys.

The United Nations and the ASEAN Secretariat jointly published a report on trade facilitation status in ASEAN based on the UNTF survey (United Nations, 2022). Amongst other recommendations, the report highlighted the importance of interoperability between the ASEAN Single Window (ASW) with other paperless trading systems, further promoting digital trade within ASEAN and with external partners, and boosting cooperation to minimise the impact of the pandemic.

Despite the improvements seen in trade facilitation measures, the indicators of trade cost have shown limited progress over the past few years.¹ The World Bank Ease of Doing Business–Trading Across Borders indicator focuses on the cost and time necessary in the overall process of exporting or importing a shipment of goods. The ASEAN region as well as most of its members has an increasing trend from 2016 to 2021. Notably, only Myanmar and Cambodia did not show an improvement in the past half-decade. Indonesia has been gradually refining its logistical process of trading, growing from 62.8 to 67.5. Malaysia, Singapore, and Thailand are the only countries in ASEAN that reached above 80 for this indicator. The Logistic Performance Index has fluctuated amongst AMS from 2014 to 2018. In 2016, almost all ASEAN members had a declining score, except Singapore, Myanmar, and Cambodia. However, all other member states experienced an increase in 2018 except those three countries. Lao People’s Democratic Republic (Lao PDR) and Viet Nam showed the most significant improvement, escalating from 2.39 to 2.70 and from 3.15 to 3.27, respectively (Figure 1.3).

Figure 1.3. Measures of Trade Cost



BRN = Brunei Darussalam, KHM = Cambodia, IDN = Indonesia, LAO = Lao People’s Democratic Republic, MYS = Malaysia, MMR = Myanmar, PHL = Philippines, SGP = Singapore, THA = Thailand, VNM = Viet Nam.

Source: Authors’ calculation from World Bank data.

¹ More detailed discussion of trade cost is left to the accompanying report on trade transactions cost.

Complementing these existing trade facilitation measures, the ASTFI II survey of trade-related government agencies shows in greater detail the progress each AMS has made in increasing trade facilitation in the region. We find that many trade facilitation provisions are being progressively implemented. Full implementation of ASEAN-wide initiatives, most notably the ASW, ASEAN Customs Transit System (ACTS), and ASEAN-wide Self-Certification scheme (AWSC), have improved the trade facilitation environment. AMS have introduced corresponding regulatory and institutional changes to implement these measures. In addition to exchanging documents through the ASW, National Single Window (NSW) is now operational in more AMS, with increased participation of trade-related government agencies. Furthermore, many countries embarked in the modernisation of their customs procedures by adding elements such as advanced rulings, electronic payments, and trusted trader programmes. While the progress is impressive, there is still much more work to be done to make the flow of goods in the region even more seamless.

The rest of the report is structured as follows. Section 2 gives an overview of ASTFI II survey and methodology. Section 3 provides key insights on the status of trade facilitation in ASEAN. Section 4 provides country specific summary of key reforms done since 2018 (full country-specific reports can be found in later chapters). Section 5 provides recommendations for the region (country-specific recommendations can be found in respective country chapters).

2. ASTFI II Survey Overview and Methodology

ASTFI, developed by the Economic Research Institute for ASEAN and East Asia (ERIA) together with the ASEAN Trade Facilitation Joint Consultative Committee (ATF-JCC) in 2018, is an ASEAN-specific set of indicators designed to measure the extent to which trade is being facilitated in the region. The main impetus for ASTFI was to measure progress towards 10% reduction in trade transaction costs (TTCs) by 2020 as set during the 23rd ASEAN Economic Ministers Retreat in March 2017 (Sausa, 2017). Its primary aim is to indicate the overall trading environment, particularly the ease of engaging in international trade at the regional and national levels. In addition, the tool also serves as an indicator for: a) monitoring commitments and evaluating impact, b) improving coordination, c) mobilising dialogue and consensus on priority issues and activities, and d) leveraging external partnerships and cooperation. Furthermore, ASTFI clarifies the implementation of trade facilitation measures in the region.

The ASTFI, combined with the measurement of TTCs, is a significant undertaking toward a more systematic and robust method in measuring the attainment of the goals of the ASEAN Economic Community (AEC). This exercise goes beyond the mere measurement of trade facilitation or seamlessness to understand particularly the policy measures that may significantly reduce TTCs. The goal is to encourage AMS to further improve their trade facilitation regime towards the global best practices, where feasible.

The ASTFI consists of 35 questions across seven main components, with each component corresponding to a different aspect of trade facilitation. The questions reflect the Customs Chapter of ASEAN Trade in Goods Agreement (ATIGA), the ASEAN Trade Facilitation Framework (ATFF), the Protocol 7 of ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT), the Strategic Plan of Customs Development (SPCD), the AEC 2025 Consolidated Strategic Action Plan (CSAP) in its relevant sections, the AEC 2025 Trade Facilitation Strategic Action Plan (ATF SAP), and the World Trade Organization Agreement on Trade Facilitation (WTO TFA) (aspects not covered by ATIGA). There is some overlap between ASTFI and the UNTF survey (see Appendix IV), although ASTFI includes many additional ASEAN-specific agreements that are not found in UNTF.

ASTFI consists of measures on transparency and engagement with the private sector, the core trade facilitation measures of clearance and release formalities, as well as export and import formalities and coordination, and measures for transit, transport, and e-commerce facilitations. Appendix I list the ASTFI variables. Appendix II provides a brief description of the scoring system used for ASTFI. Thus, the ASTFI is very much geared towards ASEAN, based in part on ASEAN agreements and plans as well as global best practices. Nonetheless, many of the indicators echo those of the globally oriented indicators carried by organisations like the Organisation for Economic Co-operation and Development (OECD), albeit with a different approach to scoring.

A baseline ASTFI study was conducted in 2018 and the resulting report submitted to ATF-JCC in July 2018 with recommendations for further improvement in the trading environment and reduction in TTCs. In 2020–21, ASTFI II examined the extent to which trade facilitating measures have been implemented at the AMS level since the baseline study. Based on this, the ASTFI II questionnaire was appropriately modified. The modifications were minor, with some questions in the survey being revised for clarity. All the updated questions were discussed with the ATF-JCC before finalisation. The ASTFI II survey questionnaire was distributed between August–October 2020 and was returned by AMS between November 2020–July 2021.

During the data collection for ASTFI II, there were more than 160 responses received across 10 AMS,² covering various government agencies. The data collection process was led by the ERIA team, in close collaboration with the country focal points appointed by the ATF-JCC and in-country authorshired by ERIA. Each country focal point oversaw distributing the survey to trade-related government agencies and submitting the responses via the ASEAN Secretariat. The in-country authors, under supervision of the ERIA team, analysed the survey results and submitted the detailed country reports.

To ensure accuracy, workshops were held at various stages of data collection. Prior to distributing the survey, a socialisation workshop was hosted by ERIA with the focal points and the country

² The list of agencies responding to the baseline and follow-up ASTFI surveys is provided in Annex III.

authors. To verify the results of the data collection, validation workshops were conducted in eight out of the 10 AMS, attended by the respondents of the ASTFI II survey questionnaire. For Singapore and Viet Nam, data validation was conducted through email. Consultation-validation meetings proved to be very useful for the ASTFI II, as they clarified responses from the survey questionnaires.

After the validation workshop, preliminary ASTFI II indicators' scores were assigned through internal discussions amongst ERIA team. Then, the ASTFI II preliminary score was used by the in-country author and the ERIA team member to draft the country report. The early ASTFI II country report draft was shared with respective AMS through the ASEAN Secretariat for comments and suggestions. The country report was finalised after both respective focal point and the ASTFI II team agreed on the content of the country report.

3. Insights from the ASTFI II Survey

The ASTFI II results are largely consistent with the secondary indicators of trade facilitation discussed earlier but showcase ASEAN's progress in greater detail. The ASTFI II showed a steadily improving trading environment in ASEAN, with all AMS making significant progress since 2018, although the progress varies somewhat. Cambodia and Myanmar have made the largest progress, while Brunei Darussalam and Lao PDR have made the slowest progress, since 2018. The top performing AMS in 2018 – Indonesia, Thailand, and Viet Nam – continued to make improvements as well. Amongst the mid-tier performers in 2018, Singapore has improved quite significantly and now landed amongst the top performers. Malaysia and the Philippines also made notable improvements to their trade environment. Overall, we find all AMS making progress, albeit some more rapidly than others.

Under transparency indicators, all AMS have published trade-related information and procedures on their website, which are mostly available in the English language. Lao PDR and Myanmar have made the most significant progress. Customs trade portals of Brunei Darussalam and Malaysia have improved significantly. Most notably, Brunei Darussalam's provides more complete information on the website, especially on applied rates of duties. National Trade Repositories have become more comprehensive in Myanmar and Singapore. Only three AMS (Brunei Darussalam, Cambodia, and Viet Nam) still yet to provide certain information on their National Trade Repository (NTR) and ASEAN Trade Repository (ATR). A Customs contact centre with English language support is available in all AMS except Lao PDR and Myanmar, which is the same situation as 2018.

The results on Communication and engagement with the private sector have remained similar in most ASEAN countries. A majority of AMS were already performing very high in this component in 2018. Myanmar, which is relatively behind, has improved its private sector engagement. However, Brunei Darussalam did not make any discernible progress in this category since engagement

with the private sector is not regular but on a need basis for major agencies. The National Trade Facilitation Committee (NTFC) has progressed in Cambodia and the Philippines, bringing the number of AMS with fully functioning NTFCs to eight. Only Brunei Darussalam and Singapore do not have a formal NTFC as of 2021, although Singapore has a well-functioning mechanism for dealing with trade facilitation issues. With NTFCs or equivalent mechanism available in all AMS, a regular discussion would enhance cooperation on further facilitating trade within ASEAN.

Release and clearance formalities have also improved in four AMS: Malaysia, the Philippines, Singapore, and Viet Nam. Signing of a mutual recognition agreement (MRA) between Thailand and Singapore for their Authorized Economic Operators (AEOs) programme is a noteworthy achievement during this period. Another important achievement is the implementation of an ASEAN-Wide Self-Certification Scheme. No countries that did not already have advanced ruling in place made any improvements. Incidentally, this is also one of the least implemented measures in the Asia-Pacific region (UNESCAP and ADB, 2021). In ASEAN, only Malaysia, Thailand, and Viet Nam have full implementation of advance ruling for classification and valuation in place. Brunei Darussalam, Indonesia, Lao PDR, and Myanmar have much room for improvement on advanced ruling provision. (Table 1.1).

Table 1.1. Advanced Ruling Provision in ASEAN

Country	Publication of the advance ruling procedures			Publication of the advance ruling results		
	TC	V	O	TC	V	O
Brunei Darussalam	✓	✓		✗	✗	
Cambodia	✓	✓	✓	✓	✓	✓
Indonesia	✓	✓		✗	✗	✗
Lao PDR	✗	✗	✗	✗	✗	✗
Malaysia	✓	✓		✓	✓	
Myanmar	✓	✓		✓*	✗	
Philippines	✓	✓	✓	✓	✓*	✓*
Singapore	✓	✓	✓	✓*	✓*	✓*
Thailand	✓	✓	✓	✓	✓	✓
Viet Nam	✓	✓	✓	✓	✓	✓

TC = Tariff Classification, V = Valuation, O = Origin, Lao PDR = Lao People's Democratic Republic, ASTFI = ASEAN Seamless Trade Facilitator Indicator, ASEAN = Association of Southeast Asian Nations.

Note:

* = Partial publication

Source: Authors' compilation from ASTFI-II survey.

There was also progress on other areas of release and clearance formalities since 2018. Cambodia and Myanmar have added provisions for pre-arrival processing, making the clearance process faster. Pre-arrival processing is now available in some form in all AMS. Risk management is practiced in almost all AMS but is yet to be fully integrated across different agencies. A good example is Indonesia Single Risk Management, a system based on the single identity of business actors aimed at improving service efficiency. It was established in 2018 under NSW with integrated coordination amongst relevant agencies that previously ran risk assessments separately and generated unnecessary redundancy. The Indonesia Single Risk Management adopts the most advanced risk management system from Custom and Quarantine and exchanges risk information amongst agencies with simplification of procedures based on synergy and uniformity. It operates based on risk compliance mapping in which the preference on trade facilitation will be given to a company with minimum risk.

On Separation of Release from Final Determination, Brunei Darussalam, Cambodia, and the Philippines have made improvements. The system on Electronic Payment improved in Lao PDR and Myanmar, with many more trade-related agencies accepting electronic payments. Thus, e-payment is now more widely used across trade-related agencies in ASEAN. The publication of dwell time and time release study (TRS) also improved. AMS conducted the TRS twice for the ASTFI study. However, dwell time publication is still lacking in many ports. AEO programmes have seen progress in the Philippines, so that all AMS except Myanmar have some form of facilitation arrangement for traders that fulfil certain criteria. A full AEO programme with MRA has yet to be implemented in a majority of the AMS. Self-certification is now available in all AMS due to full operationalisation of the AWSC scheme (see Box 1.2). Singapore and Thailand signed an MRA for their AEO programmes in 2019. Simplified clearance and temporary admissions were both widely available in ASEAN since 2018.

The component Import and Export Formalities and Coordination has seen the most improvement in many AMS due to application of NSW and operationalisation of the ASW. All AMS except Myanmar have a functioning NSW where traders can complete at least some of the trade-related procedures, although the number of trade-related government agencies participating in the NSW varies significantly across ASEAN (Table 1.2). In Thailand, 36 agencies participate in the NSW while in Cambodia, only five agencies participate, although this is partly due to the variation in the number of trade-related agencies in each country. AMS should ensure that all trade-related agencies join the NSW as quickly as possible. Exchange of ATIGA Certificate of Origin has also been fully implemented. Documentary requirements, especially acceptance of digital copies rather than originals, have improved in Cambodia, Malaysia and Myanmar, but need much progress in Myanmar, the Philippines, and Thailand. Likewise, coordination amongst customs, immigration, and quarantine could be better aligned in Brunei Darussalam, Lao PDR, and Myanmar.

Table 1.2. List of NSW Agencies across AMS

Country	Number of Ministry/Agencies
Brunei Darussalam	20
Cambodia	5
Indonesia	15
Lao PDR	<i>NSW under development</i>
Malaysia	27
Myanmar	<i>NSW under development</i>
Philippines	28
Singapore	13
Thailand	36
Viet Nam	13

ASEAN = Association of Southeast Asian Nations, AMS = ASEAN Member States, Lao PDR = Lao People's Democratic Republic, NSW = National Single Window.

Note: The number of ministry/agencies cannot be directly compared across AMS: some responded with the number of ministries joining the NSW, while some responded with the number of department/agencies joining the NSW.

Source: ASTFI II Survey, ERIA.

Cross-border coordination and transit facilitation has also improved in many countries due to full implementation of ACTS (see Box 1.2). Coordination with border agencies of bordering countries at the institutional level is present in all AMS, but operational coordination is still lacking, especially in Brunei Darussalam, Lao PDR, Malaysia, and Myanmar. Computerised systems for transit are available in six AMS,³ while transit guarantee mechanisms are fully functioning in four AMS. Simplified procedures for authorised transit traders are only available in three AMS.

Transport facilitation has also improved in some AMS as ASEAN agreements are being implemented. Procedures for issuance of ASEAN good vehicle cross-border permits are available in five AMS, although full implementation has not been achieved yet. Electronic data interchange and port community is available in five AMS. Protocol 1 and Protocol 4 of the ASEAN land transport agreement have been ratified in all AMS. Progress on implementation of AFAFIST and AFAMT has been slow, with only Singapore reporting full implementation.

On the e-commerce component, we observe improvement in some AMS, notably Indonesia and Singapore. Operationalisation of e-identification and authorisation is partially completed in six AMS. A revenue collection framework has been established in Indonesia and Singapore. Legal frameworks for e-commerce dispute settlement are well-established in six AMS.

³ Cambodia, Lao PDR, Malaysia, Singapore, Thailand, and Viet Nam.

Box 1.2. Implementation of Major ASEAN Trade Facilitation Initiatives since 2018

ASEAN-Wide Self Certification (AWSC): AWSC allows exporters who have demonstrated their competence to comply with ATIGA rules of origin requirements, known as 'certified exporters', to self-certify the origin status for their goods to be eligible for tariff preferences. With the implementation of the AWSC, the Certified Exporters are now able to make out Origin Declarations to all ASEAN Member States (AMS). The AWSC scheme has been fully implemented since 20 September 2020 across the region and issues have been reduced as AMS have stronger cooperation.

ASEAN Customs Transit System (ACTS): ACTS is a computerised Customs transit management system that facilitates the cross-border movement of goods by land within ASEAN in the context of single truck, single declaration, and single bank guarantee.^a However, the change of trucks at the border is allowed as a temporary measure under the COVID-19 situation. The ACTS Live Operation commenced on 2 November 2020 amongst the six participating Member States: Cambodia, Lao PDR, Malaysia, Singapore, Thailand, and Viet Nam. The onboarding of Myanmar in ACTS Live Operation is targeted for 2023. The efforts of the participating Member States to convince the business/trading community to use ACTS should be intensified.

ASEAN Single Window (ASW): ASW is the environment where National Single Windows (NSW) of AMS exchange electronic trade-related documents. The system enables a single submission of data, a single synchronous processing of information, and a single decision-making for Customs release and clearance amongst AMS and participating countries. Full exchange of ATIGA e-Form D by 10 AMS began in December 2019. Exchange of the ASEAN Customs Declaration Document by Cambodia, Malaysia, Myanmar, Singapore and Thailand commenced in 2021. It is expected that full exchange of the ASEAN Customs Declaration Document by all 10 AMS and exchange of e-Phyto Certificates will commence in 2022. Some AMS may not be ready to exchange relevant documents at the same time with other AMS due to their readiness in infrastructure and legal frameworks. The number of documents exchanged through the ASW environment increased from 489,000 in 2019 to over 800,000 by November 2021. Exchange of any new document will require a new backend system set up at the respective government agencies. This will require close collaboration between the NSW team and respective agencies.

ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT): The AFAFGIT aims to simplify and harmonise transport, trade and customs regulations and requirements for the purpose of facilitation of goods in transit towards the establishment of an effective, efficient, integrated and harmonised transit transport system in ASEAN. The AFAFGIT has been in force in all AMS. Out of its nine implementing protocols, only Protocol

6 (Railways Border and Interchange Stations) has not yet entered into force. AFAFGIT has been implemented through ACTS since November 2020; however, Protocols 6, 8 (Sanitary and Phytosanitary Measures/SPS) and 9 (Dangerous Goods) are not yet implemented, since ACTS currently only operates by road vehicles and excludes SPS and dangerous goods products. Once ACTS includes other modes of transport (e.g., railway) and expands the scope of products, AFAFGIT will be fully implemented.

ASEAN Framework Agreement on the Trade Facilitation of Inter-State Transport

(AFAFIST): The AFAFIST focuses on facilitation of interstate transport of goods between neighbouring AMS. AFAFIST has been in force amongst seven AMS: Cambodia, Lao PDR, Myanmar, Philippines, Singapore, Thailand, and Viet Nam. The AFAFIST Procedure Manuals for Transport Officials and Private Sector are currently being developed. These manuals will also include customs-related issues on interstate transport of goods, such as temporary admission of road vehicles without payment of import duties and import taxes, as well as export and import procedures for interstate transport of goods. Pilot implementation of AFAFIST amongst those countries which are ready, along with their neighbouring countries, is currently being discussed.

ASEAN Framework Agreement on Multimodal Transport (AFAMT): The AFAMT facilitates the end-to-end handling of carriage of goods by multimodal transport. AFAMT has been in force amongst eight AMS: Cambodia, Indonesia, Myanmar, Lao PDR, Philippines, Singapore, Thailand, and Viet Nam. Following the adoption of the Implementation Framework of AFAMT by the ASEAN Transport Ministers in 2019, AFAMT Pilot has been implemented between Thailand and Viet Nam since October 2020. Participation from other AMS that are ready to implement AFAMT, i.e. Indonesia and Singapore, is being awaited. The remaining AMS are still developing/reviewing legal frameworks on multimodal transport to support implementation of AFAMT. As laid out in the Implementation Framework of AFAMT, enhancement of trade facilitation mechanisms is required to simplify and harmonise customs transit formalities to support more efficient multimodal transport operations.

Note:

^a For multiple journeys, ACTS also allows multiple Bank Guarantees, so Principal Traders do not need to apply for a Bank Guarantee every time they start the ACTS journey.

Source: ASEAN Secretariat.

4. Country Summaries

In this section, we provide some accounts of key recent reforms enacted by each AMS. More detailed discussion of each country can be found in the respective country chapters.

4.1. Brunei Darussalam

In recent years, Brunei Darussalam has undergone significant institutional changes and policy reforms to improve the business environment, facilitate trade, and attract foreign direct investment. To support fair trade and competitiveness and to address safety and consumer protection, the National Standards Centre (NSC) is tasked with facilitating standards and conformance in accordance with national, regional, and international requirements. NSC also provides guidance and information on standards, conformity assessment, and accreditation to government and other related agencies. Since April 2018, the Brunei Darussalam National Single Window (BDNSW) has undergone several enhancements, including online manifest submission, blanket approval of permits, mandatory advance duty payment upon declaration submission, and online risk profiling. Essentially, this eases the flow of information as well as enhances transparency and efficiency.

The result of ASTFI II shows that Brunei Darussalam performed well in Transparency and Information on Laws, Regulations, and Procedures. Information on laws, regulations, and procedures can be found on the customs website and the BDNSW. In addition, applied duty rates are now published, which were not available in 2018. Brunei Darussalam also has an NTR. Nevertheless, more effort should be taken on the domain of Communication with and Active Engagement of the Private Sector. There is no official mechanism such as an NTFC and the engagement with the private sector is also done on an adhoc basis.

Brunei Darussalam performed moderately well in release and clearance formalities, but with high variation amongst its indicators. The dissemination of advance rulings is restricted only to the applicants and are not published. While the exclusivity of advance rulings may be arguably sensible since export–import transactions could be rather unique, it is not in accordance with best practice whereby decisions are publicly available. The Royal Customs and Excise Department now allows the release of imported goods without payment, based on a provisional manifest or declaration submission with guarantee (previously, a complete manifest was required). However, it only applies to AEO under the Sutera Lane Merchant Scheme. Non-AEOs must still make full payment before the goods are released. The Royal Customs and Excise Department allows all necessary payments for importation and exportation to be made electronically.

In terms of Import/Export Formalities and Coordination, Brunei Darussalam performed moderately high. The BDNSW covers 20 major trade-related agencies and is operating truly as a single window for importation. The processing for exportation is not yet implemented through the single-window system and is therefore an area for improvement in terms of NSW implementation. The BDNSW is now connected and integrated to the ASW, with ATIGA Form D being exchanged through ASW. In 2018, the link to ASW was at a pilot stage.

Brunei Darussalam did not fare well in the domain of Trade Facilitation Environment – Transit, Transport, and E-commerce. There is some, but limited, cross-border coordination, and there are currently no standard procedures for the issuance of ASEAN goods vehicle cross-border permits. By contrast, a standard procedure, with some quotas, was in place in 2018. There is also no electronic data interchange platform available in the country. Presently, the e-commerce is protected sectorally, and the main legislations governing e-commerce are the Electronic Transactions Act 2004 (Chapter 196) and the Computer Misuse Act (Chapter 194). In addition, there are also other related laws that provide consumer protection, intellectual property protection, and regulation of online business activities.

Brunei Darussalam is currently in the process of strengthening its e-commerce protection regime and is considering further revisions to the existing legal framework, as well as the promulgation of new laws that would further strengthen privacy and data protection.

Brunei Darussalam follows the *de minimis* rule for the revenue framework for e-commerce international transaction. Currently, there is no legal framework for e-commerce dispute settlement; however, studies are being conducted for the establishment of a legal framework for online dispute resolution.

4.2. Cambodia

Compared with 2018, when the ASTFI baseline survey was conducted, Cambodia has made various trade facilitation efforts. Amongst them, the termination of the role of CamControl at the border points was a significant move. Until then, CamControl has been acting as a technical arm of Customs focusing on high-risk products. However, with the removal of CamControl, Customs has become the only agency stationing at the border crossing point, streamlining all works in one single place. Another noteworthy trade facilitation reform was the removal of Kampuchea Shipping Agency and Broker (Kamsab). Kamsab was established in 1979 as a state agency, with an objective to facilitate trading by ship. However, given the growth of international trade and the private sector, the role of this state agency has been greatly diminished. The termination of Kamsab reduced the level of complexities in doing business for the private sector.

On transparency, the effort of enhancing the NTR and its link to the ASEAN Trade Repository (ATR) was mentioned by the NTR focal point from the Ministry of Economy and Finance's Department of Economic Integration, and ASEAN. Overall, relevant institutions and agencies need to keep up their efforts to provide the necessary and sufficient information for traders by updating their websites on a regular basis.

The inter-ministerial NTFC was officially established in 2020 with a clear structure, including the Ministry of Economy and Finance secretary of state as the chair and the director general of General Department of Customs and Excise (GDCE) as the permanent vice chair. In total, it consists of 13 members where 12 are representatives from related government agencies and one from the Cambodia Chamber of Commerce representing the private sector. The secretariat of NTFC is in the GDCE with supports from development partners. Amongst them, ARISE Plus Cambodia, financed by the European Union (EU) and the German government, is working closely with the GDCE, the Ministry of Commerce and other related agencies on trade facilitation reform agendas from 2019 until 2023. The three key components of ARISE Plus project include: 1) improving customs, trade facilitation, and standards; 2) strengthening institutional capacities and improving regulatory practices for international trade; and 3) enhancing private sector engagement in trade, notably for small and medium-sized enterprises. Separately, the United Nations Conference for Trade and Development (UNCTAD) also increased their support to Cambodia, especially to its NTFC through their e-learning webinar series as part of the capacity building programme.

On Customs Procedures, the use of advanced rulings has increased. Customs has renewed its website, which clearly outlines the procedures for requesting advanced rulings. Before the cargo arrives, the application must be made in writing. The decision on advanced rulings for HS-code classification is published on Customs' website. Currently, 156 advanced rulings are listed, compared to 71 that were listed in the 2018 ASTFI, with the most recent decision being made in March 2020. In the validation workshop, the GDCE focal point mentioned that firms that have requested advanced rulings are mostly large foreign firms. Enhancing information on advanced rulings relevant to traders and firms may be needed to promote wider use.

Pre-Arrival Processing was just a pilot in 2018, but it has now been put into use at major ports. However, the process is still done manually. Upgrading it to a digital system will further facilitate trade. The number of trusted traders who can access more facilitation also increased from 41, up from only 17 in 2017. The AEO programme is not yet available, although the GDCE focal point reported that Cambodia is planning to implement one by the end of 2022, and MRAs will be considered after that.

On import and export formalities, the NSW was still in the pilot stage in 2018. Various levels of progress have been made, resulting in a higher performance on the ASTFI II survey. The NSW was instituted in July 2019. Customs is the lead agency for the implementation of the NSW system, and, as of July 2020, other major agencies and institutions, such as The Council for the Development of Cambodia, The Ministry of Commerce, The Ministry of Health, and The Institute of Standards of Cambodia, are participating in the system. Trade-related documents that can be submitted online through the NSW system include export and import permits, certificates of origin, and licenses. The use of digital copies of documents is generally allowed by Customs for clearance procedures. More agencies have also started to accept such copies. Moving towards greater acceptance of digital copies would enhance the trade process even more.

Cambodia has pursued various efforts for cross-border coordination amongst border agencies with neighbouring countries, such as the alignment of working hours with each other. A memorandum of understanding for coordination with Viet Nam's border agencies is currently in place, while coordination arrangements with other countries are discussed. Due to the regulatory variations with neighbouring countries, bilateral coordination is being undertaken on an adhoc basis. The Cambodian parliament ratified the agreement on trade promotion and facilitation in the Cambodia–Lao PDR–Viet Nam development triangle area in February 2018. The agreement covers each neighbouring country's provinces that share borders with Cambodian provinces (i.e. Ratanakkiri, Stung Treng, Mondulakiri, and Kratie). Protocols under the AFAFGIT have also been ratified, although not all of them are in place yet.

4.3. Indonesia

During 2018–20, most of the survey indicators showed Indonesia's great effort in creating a friendly climate for businesses in dealing with trade, but transport facilitation needs improvement. While the improvement is noticeable from the increase in some indicators, there has been some development and innovation with other constant indicators. Several policies have been issued beyond the coverage of the survey.

Indonesia has a commitment to move towards ideal trade facilitation. The government has carried out several reform programmes such as Customs simplification procedures, information technology-based service development, and expansion of customs incentives/facilitations. After the implementation, Customs reported increased performance compared to the previous year. The facilities correlate with variable cost reductions by which firms can reallocate expenses to meet increasing demand during the pandemic.

In 2019, Customs provided a new mobile service, i.e. the Noni Bravo chat bot. It is accessible through the customs website or a specific link using both Indonesian and English. The service applies artificial intelligence for its database and information processing, so that it can serve a larger number of inquiries. The government also established the National Logistic Ecosystem (NLE) as a trade facilitation effort that was more integrated and holistic. Using an NSW, the NLE incorporated cooperation between the government and private agencies through data exchange, simplification processes, elimination of repetition and duplication, and application of an information technology system that connects all related logistic processes and existing logistic systems.

In the past 2 years, Indonesia has implemented two trade agreements, the ASEAN–Hong Kong Free Trade Agreement and the Indonesia–Australia Comprehensive Economic Partnership Agreement. Not only do these agreements offer preferential tariff arrangements, but they also cover other elements including a specific element of Customs Procedures and Trade Facilitation, which promotes simplification, consistency, transparency, and trade facilitation.

In terms of Trade Facilitation, Indonesia has made significant improvements. All supporting documents can be submitted electronically except for specific circumstances such as 'red channelling' for physical inspection by Customs and document verification by other agencies. The electronic certificate of origin has been allowed since 2018. Accordingly, Indonesia can exchange certificate of origin data electronically with all AMS at all ports of entry.

While Indonesia performed very well in cross-border coordination and transit participation, it did not do well for transport facilitation and no change of performance from the previous survey. Indonesia has made efforts in accelerating the distribution of goods/logistics for both national and international transactions through two strategic programmes under the NLE framework, which are the Single Submission of Means of Transport (Domestic Manifest, International Departures and International Arrivals applications) and the Platform Warehouse and Platform Trucking programme. These improve logistics and transportation aspects of trade, not only in Indonesia but also in ASEAN.

In terms of e-commerce, Indonesia's performance is significantly improved. Currently, there is an operational legal framework to govern e-identification and authorisation. Revenue collection is being operationalised for e-commerce, particularly for low-value imports subject to waiver of duties and taxes. Online dispute resolution mechanism systems have also been regulated.

4.4. Lao PDR

The Lao PDR Trade Facilitation Secretariat has mandated local governments to establish their own local trade facilitation committees, i.e. the so-called Provincial Trade Facilitation Committees. These committees can attempt to solve an urgent issue locally, as well as propose such issues to the NTFC for further resolution.

In a 2020 amendment to the Customs Law, the Customs Authority published the procedures for traders to request for advance rulings for all three classifications, origins, and valuations. However, workshops or seminars to teach traders about advance rulings not widely available yet. In 2020, there were 20–30 applications for advance rulings. For the moment, Customs has not published the advance rulings, but there is a plan to make them available online in the near future. However, according to Prime Minister order No.12, the Trade Facilitation Committees must conduct TRS every 2 years. Currently, TRS is planned for 2022 and 2024 under the Lao PDR Competitiveness and Trade project supported by the World Bank.

For trusted traders or AEO, Customs has planned and developed regulations. The AEO programme is also embedded in the Customs law regarding the initiative, requirements, conditions, and benefits. The Customs plan is to launch the AEO programme if there are at least four applications; currently there is only one.

In terms of NSW, only the Customs department from the Ministry of Finance, the department of import and export from the Ministry of Industry and Commerce, and the department of transport from the Ministry of Public Work and Transport are joining. In 2022, there is a plan that includes the department of agriculture from Ministry of Agriculture and Forestry, and department of food and drug from Ministry of Health into NSW. Currently, the NSW is only deployed at the first friendship bridge, which covers about 40% of total trade transaction across the country. Regarding linkages to the ASW, currently Lao PDR has a separate system that exchanges form D with it. The NSW is not linked with ASW, with Lao PDR developing another platform to link with it instead.

For border-crossing operational coordination with the neighbouring countries, the Customs Authority launched a pilot project called Single Inspection Project Mekong GMS and partnered with Viet Nam by establishing a common inspection control area to work together. The results of this pilot project are impressive. As a result, the Customs Authority would like to deploy other checkpoints with Thailand and China. However, in some countries such as Thailand the legislation does not allow their officers to work outside the Customs territory, making it difficult for them to work with Lao PDR Customs Authority.

4.5. Malaysia

Between 2018 and 2021, except for transport facilitation and e-commerce components, there have been improvements in Malaysia regarding trade facilitation components transparency, release and clearance formalities, import/export formalities, and cross-border coordination and transit facilitation. Progress in Malaysia ASTFI II results could be attributed to the improvements and trade facilitation initiatives.

Engagement in good regulatory practice through the dissemination and transparency of information related to the relevant laws, regulations and procedures, and the engagement of stakeholders in obtaining feedback for new guidelines prior to its implementation. Two major developments in this regard include: (a) Policies and procedures related to transit and trans-shipment procedures have been made known publicly through the Customs Act 1967 via the Customs (Amendment) Act 2019. The Amendment Act, gazetted on 9 July 2019, significantly overhauls the legislative provisions regulating transit and trans-shipment activities, and includes provisions for regional transit; and (b) Most agencies have now established well-defined structures/mechanisms for stakeholder consultation, which involve all (registered) traders (including micro, small and medium-sized enterprises) through regular consultations and ad hoc meetings.

Clear synergies between border inspection/controls and a comprehensive risk management framework have been realised. One example is food safety and the adoption of clear methods for border inspections. The related action plans provide for a more coordinated management of border clearance procedures to avoid overlap of food safety control responsibilities amongst the various regulatory agencies, while the risk-based inspections that have been adopted ensure effective food safety controls and expedite trade in low-risk products.

The AEO programme has expanded to cover more logistics services and warehouse operators. A total of 146 operators have been accredited under the AEO programme. The ACTS, which was piloted in 2017, is now fully operational and a guarantee mechanism has been established. Malaysia has a dual involvement in the ACTS, as a transit and departure country.

Despite this progress, Malaysia still needs to address some areas in cross-border coordination and transit facilitation, transport facilitation, and e-commerce. Seamless logistics are needed to ensure better air and sea connectivity, as well as to reduce choke points along the supply chain. Inter-agency coordination should be enhanced to facilitate some consolidation or service-level agreements for import approval processes at the entry points to address inter-agency delays, especially the approvals for the importation of certain products that involves multiple agencies.

Customs clearance systems could be further improved by addressing some technical problems related to the uCustoms platform. Although the Royal Malaysian Customs Department has a customs rulings database, it should allow online applications for advance rulings to ensure timely and correct receipt and routing of requests. The processing of advance rulings requests should be automated, including completing the legal and policy framework. Concluding bilateral AEO MRAs with non-ASEAN-RCEP members, such as China and Australia (which are already in the pipeline), are important for contributing to trade facilitation and supply chain security from a broader regional architecture.

4.6. Myanmar

The results from ASTFI II highlights significant improvement in trade facilitation in Myanmar since 2018. Except for cross-border coordination and transit facilitation, noticeable progress has been made in various areas. Availability and accessibility of trade-related information have been improved through using regulatory agencies' websites. The NTR is linked to ATR with all nine required elements. The Customs Contact Center offers English guidelines via telephone during office hours. However, the Customs website can be further expanded to include all Customs-related information, including Customs procedures for transit and trans-shipment, in both Burmese and English. Likewise, 24-hour service to address inquiries on customs-related information in both English and Burmese is desirable. Engagement with the private sector has improved. NTFC has fully been set up with regular meetings, through which stakeholder consultation is conducted.

Myanmar has made noticeable progress in 'Release and Clearance Formalities', albeit at various levels across the sub-categories. Myanmar has implemented best practices in 'Pre-arrival processing', 'Self-Certification', and 'Appeal and review mechanism'. Improvement in 'Electronic Payment' is observed. Traders can pay duties, taxes, and fees electronically to Customs and some other major agencies since 2020. However, the Myanmar Customs Department(MCD) needs to make further improvements for the publication of advance rulings online, Time Release Study, as well as the implementation of 'Best Practice Risk Management', 'Separation of Release from Final Determination and Payment of Customs Duties', and 'Post-Clearance Audit'. In addition, 'Dwell time publication' and 'Trade Facilitation Measures for AEO' should be prioritised as they have not been implemented yet in Myanmar.

The MCD and major agencies have made noticeable progress in Import and Export Formalities and Coordination. Customs and major agencies in charge of monitoring more than 50% of trade volumes in Myanmar allow traders to attach digital copies of required documents to their declaration submissions or their applications. Customs and a limited number of regulatory

agencies such as the Food and Drug Administration Department, the Petroleum Products Regulatory Department, the Department of Trade, and the Posts and Telecommunications Department have accepted plain copies. However, some major agencies are not ready to accept the digital copies of required documents, as well as e-payment. Myanmar has already joined the ASW live operation for exchanging ATIGA FormD and the ASEAN Customs Declaration Document. However, Myanmar's NSW is still under development. Thus, NSW should be fully operated as soon as possible. In the meantime, the Customs, Immigration, Quarantine (CIQ) agencies also need to strengthen cooperation at main ports to further facilitate trade.

Regarding 'Cross-Border Coordination and Transit Facilitation', there exists ample room for improvement. The CIQ agencies of Myanmar need to strengthen coordination with bordering countries for improving trans-border institutional arrangements. Likewise, the CIQ agencies need to enhance their efforts for implementing all three border-crossing coordination components for facilitating cross-border movement of goods. Moreover, the MCD needs to establish a computerised system for transit, a Transit Guarantee Mechanism, and simplified procedures for Authorised Transit Traders (ATTs) as soon as possible.

Myanmar's transport agencies have made significant progress in Transport Facilitation. Standard procedures for issuance of goods vehicle cross-border permits have been established. An Electronic Data Interchange messaging platform is in place at the main port. Protocols 1 and 4 are fully implemented, while Protocol 2 has been ratified. Moreover, Myanmar has already ratified AFAFIST and AFAMT and national laws and regulations are in place. The implementation of those frameworks is currently underway.

Myanmar needs to have a harmonised and operationalised legal framework for inter-operable, mutually recognised, secure, reliable, and user-friendly e-identification and authorisation at the regional level to improve e-commerce utilisation. Likewise, a harmonised and operationalised legal framework for online dispute resolution with other AMS is not yet in place. Resource constraints, including human resource and digital technology capacity, as well as the ineffective cooperation between agencies are the key bottlenecks in this area. Thus, stronger cross-agency coordination, as well as regional cooperation through the full operationalisation of regional initiatives, would also improve the trade environment.

4.7. Philippines

The Philippines had a modest improvement in terms of implementation of trade facilitation measures based on the results of the ASTIF II Study as compared with the ASTFI Baseline Study. The establishment of the Philippine Trade Facilitation Committee (PTFC) in May 2021 will contribute to an integrated approach to formulating and implementing trade facilitation policies. The PTFC, as a decision-making body, would streamline and improve customs procedures and facilitate rational, efficient, and simple customs rules. Although a regular consultation mechanism with the private sector, it is still important for private sector membership in the PTFC to provide better representation to address issues and policies impacting the business community, an area which should be further addressed by the Philippines to deepen collaboration and partnership with the business community.

With the implementation of the AWSC scheme under the first protocol to amend the ATIGA, the Philippines issued guidelines that will simplify and streamline procedures to claim and avail preferential tariff rates for intra-ASEAN exports.

Although the Philippines established its NSW in 2017, it has developed the TradeNet platform to replace it. The trade regulatory government agencies (TRGAs) involved in the issuance of import and export permits and clearances are expected to be onboard the TradeNet before the end of 2021. As the Philippines is now exchanging ATIGA Form D with AMS, TradeNet is likewise expected to connect to the ASW in exchanging other documents such as the ASEAN Customs Declaration Document and electronic copies of sanitary and phytosanitary documents. To facilitate the mandate to bring onboard 73 TRGAs to TradeNet, a Memorandum Circular was issued in February 2021 by the Anti-Red Tape Authority, a government agency mandated to promote accountable and transparent governance by cutting excessive bureaucracy and enhancing the local business environment to facilitate trade. There is a need to promote this area, noting that Trade Net has only eight TRGAs onboard in its platform.

The Bureau of Customs (BOC) has improved its website significantly where laws, regulations, procedures, and documentary requirements for import and export are available for downloading by stakeholders. The BOC website also contains information on the various programmes, references, port updates, monthly entries processed that can likewise be downloaded, including links to the Philippine Tariff Finder of the Tariff Commission, results of the TRS, BOC Annual Report on Container Dwell Time, and the AEO programme, which could contribute to enhance transparency benefiting country's stakeholders. The Philippines was able to conduct TRS in 2019 and 2020 in one main port, but it has yet to be replicated in other ports and sub-ports. The Dwell Time report has yet to be seen as the Philippines has only published one in 2019, as part of the Annual Report of the BOC.

The pandemic made it necessary to streamline and re-engineer government processes to avoid face-to-face interaction and prevent the spread of the COVID-19 virus. The government passed laws and issued regulations that will facilitate trade and at the same time ensure the safety and health of frontline workers. Amongst these are the 'Bayanihan to Heal as One Act' passed by Congress and signed by the President on 25 March 2020, which provided the administrative and legal backing for exemption/conditional relief of customs duties and taxes on import of essential goods during crisis and epidemic. A follow-up law, i.e. the 'Bayanihan to Recover as One Act' was passed by Congress on 11 September 2020 to direct the adoption of measures that will facilitate and improve supply chain movement and minimise disruptions to ensure essential goods, particularly food and medicine, are available. These measures, particularly the 'Bayanihan to Recover as One Act', would complement the efforts being done by ASEAN to facilitate smooth flow of goods and inputs in the supply chain.

In addition, the government made use of information technology to complement its operation and reduce face-to-face interaction with the stakeholders. The pre-arrival processing of goods is being implemented by BOC by allowing electronic submission of goods declaration prior to their actual arrival. Electronic copies of documents are also allowed to be submitted online, which was not possible prior to pandemic. The BOC and almost all the TRGAs are now using electronic systems and facilities in the payment of duties, taxes, and fees.

The BOC, likewise, established one-stop-shop Customer Care Centers in 2020 in almost all its ports and sub-ports to implement a zero-contact policy to help minimise or eradicate corruption and facilitate trade. The challenge is to sustain the post-pandemic use of digital technology in trade facilitation.

The country report highlights other recommendations to further enhance the trade measures in place, such as fast tracking the development or enhancement of digital payment systems for all the TRGAs, regular conduct and publication of TRS and Dwell Time, establishment of MRAs for the AEO programme, and participation of the TRGAs in the NSW platform to allow all types of documents for cross-border transaction trade.

4.8. Singapore

Singapore also continued its strategy of building deeper connections with other economies, with implications for trade facilitation. Since 2018, several free trade agreements have entered into force, including the EU–Singapore Free Trade Agreement on 21 November 2019 (the first between the EU and an ASEAN country). Amongst other things, the agreement includes several articles related to trade facilitation. In a survey done by the European Chamber of Commerce in Singapore about the usefulness of trade facilitation measures in customs procedures, 57% of the respondents found them to be useful. In other cases of continued progress in trade facilitation, in November 2020, Singapore Customs signed a letter of intent with the United States Customs and Border Protection to explore Single Window Connectivity. Bilaterally, Singapore is also working closely with Australia, China, Indonesia, and the Netherlands to explore areas of cooperation. Furthermore, Singapore's authorised economic operators enjoy mutual recognition in 10 other countries, one of them being Thailand via the AEO Programme under the Singapore–Thailand Enhanced Economic Relations programme, which was signed in 2019.

On Communication with and active engagement of the private sector, as discussed during the baseline ASTFI report, the lack of formalisation of the NTFC has led to the low performance in the indicator, but Singapore has a well-known practice of private sector engagement in a whole-of-government way. Formalisation of the trade facilitation committee would improve the indicator but might not make any substantive difference to the trade environment.

Singapore had already achieved best practice in terms of the use of digital documents, a well-developed NSW called TradeNet, and domestic coordination across border agencies. While TradeNet was established several decades ago, Singapore is currently building the Networked Trade Platform as a trade and logistics ecosystem connecting business, community systems and platforms, and government systems. When completed, the Networked Trade Platform will replace TradeNet as Singapore's NSW.

NSW usage is also widespread, with the number of agencies using it increasing from 11 in 2018 to 13 in 2020.

4.9. Thailand

Thailand is amongst the AMS that have a high rate of implementation of WTO-TFA commitments to date, which stands at 97.1% (Category A at 91.6% and Category B currently stands at 5.5%). Following the implementation of Thai Customs 4.0, more strategies and programmes have been introduced under the current review of ASTFI II. Amongst those programmes include NSW mobile e-tracking of customs clearance status. Thailand has also established a tracking system called e-Lock to supervise, inspect, and track the transportation of transit goods, which increases customs control efficiency. It is also developing an e-drawback system, which is an electronic tax refund system through the NSW for entrepreneurs who use the privileges of tax refunds for export to receive quick and accurate refunds. It also has a Customs Trader Portal, i.e., an online web application that gives business operators a convenient option to register as an importer, exporter, or an operator who conducts customs formalities.

To facilitate trade and ease the restrictions in response to the COVID-19 pandemic, several temporary measures were instituted to include exemption from the regulation for importers to send out transit and trans-shipment goods out of Thailand within 30 days from the date of the goods entered the country. Aside from the exemptions on import tariff on some medical products, Thailand also allowed temporary use of a copy (instead of an original) of the certificates of origin for customs clearance. All government agencies allowed the use of electronic payment for duties, taxes, or fees through internet banking, counter services or QR code via electronic data capture. The Customs Alliance Program has also been expanded with various activities which include seminars on 'Tariff e-Service', 'Time Release Study', and 'Public Hearing on Fee Collection for Customs Goods Declaration Procedure'.

Although Thailand adopted procedures allowing for the expedited release through land ports in 2020, air cargo pre-arrival processing is still only allowed for air and sea, but not yet for land. As with the other AMS, Thailand in 2020 implemented the AWSC for certified exporters. It is also in the final stage of concluding the AEO-MRA with Malaysia, in addition to the Singapore AEO-MRA. Thailand has also established MRAs with Australia in 2021, in addition to the MRAs with Hong Kong and Korea.

Although the Thai Customs Department allows all traders/clients to attach digital copies in the filing of entry declarations, some major agencies still do not allow digital copies for permit and license applications. In addition, Thai Customs and other major agencies accept original documents, certified true copies, and digital copies, but most agencies do not accept plain copies.

Under this review, there are 36 government agencies connecting and exchanging data through 'government-to-government' and 21 government agencies connecting via 'business-to-government'. There are also five private sectors connecting via 'business-to-business' with 18

commercial banks providing e-Payment and e-Guarantee services. The NSW supports single-point electronic permit/ certification requesting with two officially available services: 1) Customs Clearance Information Submission for Import and Export, and 2) E-submission System for Notification of Production Information for Hazardous Substances (Single Entry Form). A pilot project jointly developed by the Department of Foreign Trade, the Federation of Thai Industries, and the Board of Trade of Thailand, on Certificate of Origin request system via NSW single form was launched in 2020.

On Border Crossing Operational Coordination, all three components are now in place, which included development of sharing common facilities, joint controls with neighbouring country authorities, and alignment of working hours between neighbouring country authorities. There were also discussions between Thailand and Lao PDR under the Joint Commission on Cooperation to enhance mutually beneficial cooperation in major areas including the development of the common control area at the Mukdahan–Savannakhet border crossing, enabling single stop inspections and cargo clearances.

Other developments include the transit guarantee mechanism, which is already in place electronically with cross-border exchange of data. In addition to Thailand's adoption of ACTS in 2020, simplified procedures for ATTs are also in place for Thai Customs.

Thailand already has experiences in managing the issuance of permits with applied quotas for multiple agreements under The Greater Mekong Subregion Cross-Border Transport Facilitation Agreement and also permits without quotas for the Thailand–Lao PDR bilateral agreement. Even though ASEAN agreements have yet to be fully implemented, all standard procedures have been laid out for future implementation.

The country report highlights key recommendations such as translating available information into English for better access to other stakeholders. Consultation mechanisms for micro, small and medium-sized enterprises should be more frequent or more regular. Electronic consultation could be an alternative method to communicate with stakeholders. It was also noted that Customs should work with the Port Authority on the publication of average dwell time. This is needed since measuring dwell time can give important insight into port performance.

On cross-border e-commerce dispute settlement, an Online Dispute Resolution (ODR) system called TALK DD developed by the Thailand Arbitration Center is already operational. The ODR system covers different types of disputes, not only e-commerce ones. With the establishment of the system, Thailand should collaborate and discuss ODR issues with other AMS to agree on certain minimum standards, particularly with respect to information technology protocols and operating systems, right from the start. This could lead to smoother progress for the development of ASEAN ODR.

4.10. Viet Nam

Overall, Viet Nam has made great efforts to facilitate trade, improve the business environment and, consequently, enhance national competitiveness. In line with the WTO and regional TFA commitments, Viet Nam has reduced cumbersome documentation and harmonised and simplified border procedures. Since the beginning of 2019, the General Department of Viet Nam Customs, together with related line agencies, has formulated and furnished legal documents following uniform and transparent methodology based on legislation and regulatory framework. Electronic and modern customs procedures are promoted. These include Decree No. 85/2019 / ND-CP on implementing administrative procedures through NSW, ASW and specialised inspections of import and export goods; Decision No. 23 /QD-TTg on the updated list of imported goods subject to procedures at the import border; Circular No. 07/2019/TT-BTC on the application of priority regimes for customs procedures, customs inspection and supervision on export and import activities; Circular No. 62/2019/TT-BTC on determining the origin of exported goods import and export; Circular No.80/2019/TT-BTC and Decree No. 14/2018/ND-CP on border trade activities; Circular No. 81/2019/TT-BTC on risk management in customs operations, amongst others.

The results of such vigorous reform are reflected in relatively high performance in the various components of ASTFI II. The country maintains or achieves high performance in more than 50% of ASTFI components. Significant progress is observed in the cross-border coordination and transit facilitation. An operational border crossing coordination mechanism is in place, in which common facilities are shared, working hours with neighbouring countries are aligned, and joint controls are practised. The country is developing a computerised system for transit, while the transit guarantee mechanism has been computerised and allows for cross-border data exchange. Simplified procedures for ATTs are in place as well. Land transport facilitation (category F) has also achieved remarkable progress with the ratification of Protocols 1 and 4, and formation of the legal implementation system in place for Protocol 2.

Moreover, Viet Nam performs well for communication and active engagement with the private sector, release and clearance formalities, and import/export formalities and coordination. Nevertheless, further improvement is expected in some areas. On release and clearance formalities, there is a room for improvement for publications of dwelltime and TRS respectively, as these reports are either conducted on an adhoc basis (dwelltime) or regular basis but the results are not available to the public (TRS).⁴ Enhancing access to such information will facilitate both traders and policymakers in decision making and policy formulation. Best practice risk management and trade facilitation for trusted traders or AEOs can be improved as well. As of now, only AEO, not the trusted traders, programme is in place, while MRAs with AMS on AEO is under discussion.

⁴ Viet Nam provides TRS results to the World Customs Organization and ASEAN Secretariat every 2 years.

Regarding information accessibility in transparency and export/import formalities, operation of NTR and NSW is not always smooth. In an annual business survey conducted by Customs and the Vietnam Chamber of Commerce and Industry in 2020, enterprises often cite frequent errors of the NSW, the requirement to submit paper documents in parallel, lack of transparency for certain administrative procedures, missing information about administrative procedures on the NSW Portal amongst key bottlenecks. In addition, the existence of two trade portals operated by two different line agencies adds further difficulty to integrate and streamline information.

Transport facilitation and e-commerce are two areas with the amplest room for reform. Regarding the former, so far, standard procedures for the issuance of ASEAN goods vehicle cross-border permits have not been implemented. However, a draft Government Decree to regulate these procedures is underway. A national legal framework for the ASEAN Framework Agreement on Multimodal Transport has been developed, while the ASEAN Framework Agreement on the Facilitation of Inter-State Transport has just been ratified and a national implementation structure is expected in the future. As for e-commerce, the decree on e-identification and authentication is being drafted. There is no revenue collection framework for cross-border e-commerce trade. Instead, the country maintains threshold values for customs, at a minimum in line with the provisions contained in the WTO trade facilitation agreement. A mechanism for online dispute resolution operates as the legal framework for domestic and cross-border e-commerce dispute settlement, but the framework is not harmonised with that of other AMS.

The findings from ASTFI II highlight the importance (and, to various extents, the lack thereof) of smooth inter-agency as well as cross-border coordination, enhanced technology, and legal frameworks to address emerging issues such as digital trade. Trade facilitation is always vital for an open economy such as Viet Nam, and it has become even more critical to ensure economic resilience against large shocks such as the COVID-19 pandemic. Indeed, Viet Nam has accelerated substantial reform to help the private sector better exploit the opportunities from various trade agreements that the country has pursued. The country is well on track; by addressing the existing bottlenecks, it is expected that Viet Nam will be able to keep its momentum.

5. Recommendations

The baseline ASTFI report made several recommendations for ASEAN to further improve its trade facilitation environment. The following table indicates that many of the recommendations have been implemented. NSWs and the ASW have been fully operationalised, the majority of AMS have added trade-related information on the ATR, many of the ASEAN transport facilitation agreements have been implemented, ASEAN e-commerce agreements and AWSChave come into force, and regular conduct of TRSsis more common. Some of the recommendations such as the implementation of MRAs for AEOs are in final stages (Table 1.3).

Table 1.3. Implementation Status of Baseline ASTFI Recommendations in ASEAN

No.	Recommendations	Status	Note
1	Full operationalisation of the NSW/ASW/export–import formalities	Full operation.	
2	Completion of populating the ASEAN Trade Repository (ATR) with the appropriate information linked with the National Trade Repository (NTR)	All AMS have completed the uploading of the SPS measure. All AMS completed the uploading of the TBT measure. Nine AMS , namely Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Singapore, Thailand and Viet Nam, completed the validating and uploading other measures (Non-SPS/Non-TBT). All AMS have completed the validation and upload of trade-related information from Category 1 (Tariff nomenclature), Category 2 (MFN tariffs, preferential tariffs offered under the ATIGA and other Agreements of ASEAN with its Dialogue Partners) and Category 3 (Rules of origin) into the ATR/NTRs. The Philippines has not completed the upload of Category 4	MY has completed upload of all Cat 1,2,3 & 4 in the ATR on 8 June 2023

No.	Recommendations	Status	Note
3	Ratification and implementation of the ASEAN transport facilitation agreements and protocols	<p>I. The ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT) has entered into force since November 2020.</p> <p>II. The ASEAN Framework Agreement on the Trade Facilitation of Inter-State Transport (AFAFIST) has been in force amongst seven AMS, namely: Cambodia, Lao PDR, Myanmar, Philippines, Singapore, Thailand and Viet Nam.</p> <p>III. The ASEAN Framework Agreement on Multimodal Transport (AFAMT) has been in force amongst eight AMS, namely: Cambodia, Indonesia, Myanmar, Lao PDR, Philippines, Singapore, Thailand and Viet Nam.</p>	<p>I. AFAFGIT The AFAFGIT has been implemented through ACTS since November 2020.</p> <p>Protocol 6 (Railways Border and Interchange Stations for connecting and transit service on railway lines carrying good trains linking the territories of ASEAN Countries) has not yet entered into force because only nine AMS have ratified the agreement, which left Indonesia.</p> <p>II. AFAFIST Brunei Darussalam and Malaysia are expected to ratify the agreement by end of 2022. Indonesia had signed the Instrument of Ratification of the AFAFIST on 26 June 2023.</p> <p>AFAMT AFAMT Pilot has been implemented between Thailand and Viet Nam since October 2020. Participation from other AMS which are ready to implement AFAMT, i.e. Indonesia and Singapore, are being awaited. The remaining AMS are still developing/reviewing legal frameworks on multimodal transport to support implementation of AFAMT.</p>
4	Ratification and implementation of the ASEAN E-Commerce Agreement	The ASEAN Agreement on Electronic Commerce entered into force in December 2021.	
5	Accelerate the implementation of regional trade facilitation initiatives like self-certification	The ASEAN-wide Self-Certification Scheme (AWSC) has been implemented since 20 September 2020 in all AMS.	

No.	Recommendations	Status	Note
6	Full operationalisation of the ASEAN Customs Transit System (ACTS)	ACTS Live Operation commenced on 2 November 2020 amongst the six participating member states: Cambodia, Lao PDR, Malaysia, Singapore, Thailand, and Viet Nam. Myanmar will join the ACTS Live Operation in 2023.	
7	More bilateral MRAs on AEOs (e.g., the Singapore – Thailand MRA on AEOs) or authorised transit traders between AMS	ASEAN is going to sign the AEO MRA in 2023.	
8	Conclusion of the Regional Comprehensive Economic Partnership (RCEP) Agreement	The RCEP Agreement was signed on 15 November 2020. The RCEP Agreement has entered into force on 1 January 2022 for Australia, Brunei Darussalam, Cambodia, China, Japan, Lao PDR, New Zealand, Singapore, Thailand and Viet Nam. Additionally, the RCEP agreement has entered into force on 18 March 2022 for Malaysia. All RCEP Parties have submitted the instrument of ratification for the implementation of RCEP agreement.	
11	Implementation of TRS, with the results publicly available.	Cambodia, Lao PDR, Malaysia, Myanmar, the Philippines, and Singapore have published their TRS reports on their Customs websites.	All AMS have submitted their 2021 TRS Report. However, not all AMS have publicised their the TRS in their relevant agencies' website. Brunei Darussalam, Indonesia, and Viet Nam have not published their TRS reports. Indonesia and Thailand's Customs Department is in the process of publication of the TRS report by 2023.

AEO = authorised economic operator, ASTFI = ASEAN Seamless Trade Facilitation Indicators, ATIGA = ASEAN Trade in Goods Agreement, ATR = ASEAN trade repository, NTR = national trade repository, Lao PDR = Lao People's Democratic Republic, AMS = ASEAN Member State, ASW = ASEAN Single Window, MFN = most favoured nation, NSW = national single window, ASEAN = Association of Southeast Asian Nations, TRS = time release study, SPS = Sanitary and Phytosanitary Measures, TBT = technical barrier to trade, MRA = mutual recognition arrangement.

Source: ASEAN Secretariat (2022).

Notwithstanding the enormous progress made since the publication of the baseline ASTFI report, trade facilitation is a continuous process and must adapt to emerging challenges and opportunities in international flow of goods. The continual liberalisation of ASEAN economies requires greater trade facilitation to reap maximum benefits, particularly for smaller businesses that may be excluded due to high trade transactions costs. ASEAN must continuously strive to better implement existing measures, strengthen institutional mechanisms, and identify new areas of cooperation not only within ASEAN, but also with external trade partners.

ASTFI II has the following recommendations for ASEAN's consideration.

- Given RCEP, ASEAN must catch up with its five partners in implementation of trade facilitation measures and enhance efforts to extend them.
- As an example of joint learning and regional cooperation between AMS, institutionalising discussions amongst the NTFCs would further facilitate trade within ASEAN. AMS may wish to establish an ASEAN-level federation of NTFCs to identify and solve region-wide trade facilitation issues.
- Work towards a common framework for issuance of advance rulings on origin and valuation, so that ASEAN traders have greater certainty when trading intra-regionally. The ASEAN–Australia–New Zealand FTA already contains provisions on advanced rulings (Kieck, 2020), although the implementation is on a best endeavour basis. Similar provisions could be added to ATIGA. ATIGA's current provision on advanced ruling is not mandatory. The RCEP has clearer commitments, unlike the ATIGA and AANZFTA, and could be used as a model for improving the trade facilitation provisions in ATIGA.
- Learning from experiences of Singapore and Thailand, other AMS could expedite improvements in their AEO programmes and signing MRAs with other AMS. Work towards ASEAN-wide recognition of AEOs from other AMS.
- Increase the number of government agencies participating in the NSW, as well as enhance coordination amongst government agencies. In some AMS, update Customs law to include additional facilitation provisions.
- Monitor and evaluate the performance of ACTS by assessing its trade facilitation benefits.
- Institutionalise regular conduct and publication of TRS to continually solve bottlenecks in the cargo clearance process.
- Implement cross-border coordination between neighbouring countries for seamless flow of goods.

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Appendix I

Table A1.1. ASEAN Seamless Trade Facilitation Indicator (ASTFI) Sub-indicators and Components.

Transparency and Information on Laws, Regulations, and Procedures	
VA01	Customs Website/Trade Portal and Information
VA02	Information on Export and Import Formalities of Regulatory Agencies
VA03	National Trade Repository (NTR) and ASEAN Trade Repository (ATR)
VA04	Implementation of Interactive Information Channels/Customs Contact Centre
Communication with and Active Engagement of the Private Sector	
VB01	National Trade Facilitation Committee (NTFC), and Equivalent Title and Mechanisms
VB02	Stakeholders, including Micro, Small, and Medium-sized Enterprises (MSMEs)
Clearance	
VC01	Advance Rulings (AR) for Classification and Valuation
VC02	Pre-Arrival Processing
VC03	Best Practice Risk Management
VC04	Separation of Release from Final Determination and Payment of Customs Duties
VC05	Electronic Payment
VC06	Appeal and Review Mechanism
VC07	Post-Clearance Audit (PCA)
VC08	Dwell Time publication
VC09	Time Release Study publication
VC10	Trade Facilitation Measures for Trusted Traders or Authorized Economic Operators
VC11	Self-Certification
VC12	Simplified or Expedited Clearance
VC13	Temporary Admission
Import / Export Formalities and Coordination	
VD01	Documentation Requirements
VD02	Acceptance of Copies
VD03	National Single Window
VD04	ASEAN Single Window
VD05	Border Agency (Customs, Immigration, Quarantine / CIQ) Coordination (Domestic)

Cross-Border Coordination and Transit Facilitation	
VE01	Border Agency Institutional Coordination (With bordering countries)
VE02	Border-crossing operational coordination with neighbouring countries
VE03	Computerised System for Transit
VE04	Transit Guarantee Mechanism
VE05	Simplified Procedures for Authorized Transit Traders (ATT)
Transport Facilitation	
VF01	Procedures for Issuance of ASEAN Goods Vehicle Cross Border Permits
VF02	Electronic Data Interchange (EDI) and Port Community
VF03	Land Transport Facilitation: operationalisation of Protocol 1, Protocol 2, and Protocol 4
VF04	Land Transport Facilitation: operationalisation of the AFAFIST and the AFAMT
E-commerce	
VG01	Legal Framework and operationalisation of e-identification and authorisation
VG02	Revenue Collection Framework for Cross-Border E-commerce Trade
VG03	Legal Framework for Domestic and Cross-Border E-commerce dispute settlement

Source: ASEAN Seamless Trade Facilitation Indicators (ASTFI) Survey 2020.

Appendix II

Scoring

Scoring is graduated to measure improvements over time as well as movement towards internationally agreed best practice and/or operationalisation of ASEAN agreements and plans.

A uniform scoring method is used whereby:

- 0% is taken to mean that a programme/regulation/practice has not been adopted or implemented;
- 33% is taken to mean that a programme/regulation/practice is being piloted/under development/implemented in a limited scale;
- 66% is taken to mean that a programme/regulation/practice is being implemented on a wider scale or a higher level of performance; and
- 100% is taken to mean that a programme/regulation/practice is being fully implemented or at the internationally accepted best practice.

This structure is consistently applied to all variables, yet variation in wording may occur to reflect the nature of the measure or principle under verification. The discrete nature of the scoring allows for clear measurement. Nonetheless, there are instances when a country lies between two scoring levels. Although the score would be the lower of the two levels, the discussion in the report describes the country being well into the next level. This acknowledges that countries undertake reforms and improvements over the course of many years, if not decades, in light of changing market, economic and technological environments. The scoring approach has been approved by ATF-JCC.

Appendix III

Table A1.2. Concordance between ASTFI and UNTF surveys

UN Global Survey on Digital and Sustainable Trade Facilitation	ASEAN Seamless Trade Facilitation Indicators
Transparency	
Publication of existing import–export regulations on the internet	VA01. Customs Website/Trade Portal and Information VA02. Information on Export and Import Formalities of Regulatory Agencies VA03. National Trade Repository (NTR) and ASEAN Trade Repository (ATR)
Stakeholders' consultation on new draft regulations (prior to their finalisation)	VB02. Stakeholder Consultation, including Micro, Small and Medium-sized Enterprises, Consultations on Rules and Regulation on Trade Related Measures including NTMs
Advance publication/notification of new trade-related regulations before their implementation	
Advance ruling on tariff classification and origin of imported goods	VC01. Advance Rulings (AR) for Classification, Origin and Valuation
Independent appeal mechanism	VC06. Review and Appeal Mechanism
Formalities	
Risk management	VC03. Risk Management
Pre-arrival processing	VC02. Pre-Arrival Processing
Post-clearance audits	VC07. Post-Clearance Audit
Establishment and publication of average release times	VC08. Dwell time publication VC09. Time release study and publication
Trade facilitation measures for authorised operators	VC10. Trade Facilitation Measures for Trusted Traders or Authorized Economic Operators
Expedited shipments	VC12. Simplified or Expedited Clearance
Acceptance of copies of original supporting documents required for import, export or transit formalities	VD01. Documentation Requirements VD02. Acceptance of Copies
Institutional Arrangement and Cooperation	
National Trade Facilitation Committee or similar body	VB01. National Trade Facilitation Committee (NTFC), and Equivalent Title and Mechanisms
National legislative framework and/or institutional arrangements for border agencies cooperation	VD05. Border Agency (Customs Authority, Immigration, Quarantine) Coordination (Domestic) VE01. Border Agency Institutional Coordination (With bordering / neighbouring countries) VE02. Border-crossing operational coordination with the neighbouring countries

UN Global Survey on Digital and Sustainable Trade Facilitation	ASEAN Seamless Trade Facilitation Indicators
Government agencies delegating border controls to Customs authorities	VD05. Border Agency (Customs Authority, Immigration, Quarantine) Coordination (Domestic)
Paperless Trade	
Automated Customs System	VD01. Documentation Requirements
Internet connection available to Customs and other trade control agencies	VD03. National Single Window
Electronic submission of Customs declarations	VD01. Documentation Requirements.
Electronic application and issuance of import and export permit	VD03. National Single Window
Electronic Submission of Air Cargo Manifest	VD02. Acceptance of Copies
E-Payment of Customs Duties and Fees	VC05. Electronic Payment
Cross Border Paperless Trade	
Laws and regulations for electronic transactions	VG01. Legal Framework and operationalisation for inter-operable, mutually recognised, secure, reliable and user-friendly e-identification and authorisation VG02. Revenue Framework for Cross-Border E-commerce Trade VG03. Legal Framework for Domestic and Cross-Border E-commerce dispute settlement
Recognised certification authority	
Electronic exchange of Customs Declaration	
Electronic exchange of Certificate of Origin	VD04. Link to ASEAN Single Window
Electronic exchange of Sanitary & Phyto-Sanitary Certificate	VD04. Link to ASEAN Single Window
Paperless collection of payment from a documentary letter of credit	

Source: United Nations Global Survey on Digital and Sustainable Trade Facilitation, untfsurvey.org, 2021 and ASEAN Seamless Trade Facilitation Indicators (ASTFI) Survey, 2020.





Chapter 2

Trade Facilitation in Brunei Darussalam and the Results of the ASTFI II Follow-up Study*

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* This report is based on 2020 data of the ASTFI II follow-up study survey.

1. Overall Trade Facilitation Environment

Brunei Darussalam's economy is primarily driven by oil and gas, which accounted for about half of its gross domestic product (GDP) and merchandise exports and four-fifths of government revenue in 2021. This high dependence on non-renewable resources makes Brunei Darussalam vulnerable to volatile international oil and gas prices. Since the oil price collapse in mid-2014, Brunei Darussalam has been experiencing fiscal pressures and has undergone fiscal consolidation. The economy contracted for 4 consecutive years from 2013 to 2016, but has since achieved modest growth. Despite the challenges posed by the coronavirus disease (COVID-19) pandemic, Brunei Darussalam's economy grew by 1.1% in 2020, owing to swift outbreak containment measures that enabled a quick resumption of service activity, as well as robust growth of the downstream oil and gas sector. However, the economy contracted by 1.6% in 2021, in part reflecting the impact of the reimposition of stringent restrictions during the second half of 2021 to contain the COVID-19 outbreak fuelled by the virulent Delta variant.

Brunei Darussalam's merchandise exports decreased markedly from B\$13.438 billion in 2014 to B\$9.122 billion in 2020, but recovered strongly to B\$14.134 billion in 2021 thanks to the sharp rise in oil and gas prices (Table 2.1). The main export is mineral fuels, which contributed 78% of total merchandise exports in 2021. Brunei Darussalam's largest exports partners are THE Association of Southeast Asian Nations (ASEAN), Japan, China, and Australia. Meanwhile, merchandise imports have surged from B\$4.556 billion in 2014 to B\$9.722 billion in 2021. Since 2019, mineral fuel imports have jumped, following the commencement of a large oil refinery and petrochemicals complex, making up three-fifths of total merchandise imports in 2021. Other key imports are machinery and transport equipment, manufactured goods, and food. Brunei Darussalam's largest import partners are ASEAN, China, Australia, US, and the European Union. While Brunei Darussalam is a net exporter of merchandise goods, it is a net importer of services. Brunei Darussalam's services trade exports are mainly in transport and travel, while imports consist of transport, travel, construction, and business services.

The country's trade performance and the pace of diversification, especially in the downstream oil and gas sector, suggest that trade facilitation will play a more substantial role in the future to help expand non-oil and gas exports and broaden the revenue base.

Table 2.1. Brunei Darussalam's Merchandise Trade, 2014–21
(B\$ million)

	2014	2015	2016	2017	2018	2019	2020	2021
Total Exports	13,438.0	8,714.8	6,790.0	7,711.6	8,871.8	9,886.2	9,121.8	14,133.8
Mineral Fuels	12,432.1	8,102.9	5,973.6	6,907.0	8,072.9	9,031.4	7,435.5	11,037.2
Others	1,006.0	611.9	816.4	804.5	798.9	854.8	1,686.3	3,096.6
Total Imports	4,556.2	4,447.5	3,689.0	4,256.8	5,622.3	6,956.9	7,338.6	9,721.7
Machinery and Transport Equipment	1,755.0	1,752.5	1,214.7	1,452.0	2,154.0	2,048.3	1,944.5	1,422.2
Manufactured goods	684.8	953.8	736.3	1,028.1	1,600.2	965.0	827.1	547.5
Food, beverages and tobacco	680.9	679.0	668.3	614.6	662.0	673.8	767.2	799.7
Chemicals	384.5	323.2	335.5	339.3	358.6	489.4	669.3	578.5
Mineral Fuels	462.5	269.8	314.4	366.4	370.3	2,341.6	2,679.6	5,832.3
Miscellaneous Manufactured Articles	500.8	381.3	343.3	351.4	396.0	379.7	404.8	425.9
Others	87.7	87.9	76.3	104.9	81.3	59.0	46.1	115.6
Trade Balance	8,881.8	4,267.3	3,101.0	3,454.8	3,249.5	2,929.3	1,783.2	4,412.1

Source: Department of Economic Planning and Statistics.

1.1. Trade Policy and Institutions

Under Brunei Darussalam's Constitution, His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam is the head of state and has absolute executive and legislative powers. His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam is also the head of government and is served by the Council of Cabinet Ministers, in which His Majesty is also the Prime Minister, Minister of Defense, Minister of Finance and Economy, and Minister of Foreign Affairs. The Legislative Council advises and debates on policies under consultation or implementation, and considers and approves annual government budgets. All the cabinet ministers and legislative members are appointed by His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam. Brunei Darussalam's legal system is based on the Common law and Sharia law.

In January 2021, Brunei Darussalam released the Economic Blueprint, which acts as a guide for stakeholders to build on the country's economic successes through well-defined aspirations and policy directions complementing the efforts to achieve Wawasan Brunei 2035's Goal 3: Dynamic and Sustainable Economy. There are six aspirations in the economic blueprint: (i) Aspiration 1 – Productive and Vibrant Businesses; (ii) Aspiration 2 – Skilled, Adaptive and Innovative People; (iii) Aspiration 3 – Open and Globally Connected Economy; (iv) Aspiration 4 – Sustainable Environment; (v) Aspiration 5 – High Quality and Competitive Economic Infrastructure; and (vi) Aspiration 6 – Good Governance and Public Service Excellence.

In recent years, Brunei Darussalam has undergone significant institutional changes and policy reforms to improve the business environment, facilitate trade, and attract foreign direct investment (FDI). The Ease of Doing Business Steering Committee, an inter-ministerial and multi-agency institutional setup, has successfully coordinated and implemented various reforms which have seen Brunei Darussalam climbing up the ranks in the World Bank's Doing Business (DB) rankings. Brunei Darussalam was ranked 66th in the latest edition (DB2020), up from 105th in DB2015. It took 5 days and three procedures to start a business in 2020, substantially faster compared to 104 days and 18 procedures in 2015. Meanwhile, in the World Economic Forum's Global Competitiveness Index, Brunei Darussalam climbed six places to the 56th position in 2019.

The Ministry of Finance and Economy (MOFE), in cooperation with other ministries and agencies, leads the formulation and implementation of Brunei Darussalam's trade policy. Brunei Darussalam remains committed to free and open trade, and is of the view that active engagement in Free Trade Agreements (FTAs) with key strategic partners will help increase market access and investment inflows to help its diversification efforts. Under the ASEAN framework, Brunei Darussalam has FTAs with Australia and New Zealand; China; Hong Kong, China; India; Japan; and the Republic of Korea. Brunei Darussalam also has a bilateral agreement with Japan (Brunei Darussalam-Japan Economic Cooperation Partnership Agreement). More recently, Brunei Darussalam, along with the other nine ASEAN Member States (AMS) and their five FTA partners, signed the Regional Comprehensive Economic Partnership (RCEP) in November 2020 and the Agreement entered into force on January 1, 2022.

Brunei Darussalam has very low tariffs. The simple average applied most favoured nation (MFN) rate has decreased from 3.7% in 2007 to 0.2% in 2020. Non-tariff measures (NTMs) are dominated by Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary requirements (SPS), contributing to 44% and 31% of the total of 558 NTMs, respectively. Most of the NTM regulations are for public health safety considerations on product quality.

1.2. Other Trade-related Reforms

Over the past several years, numerous reforms have been implemented to improve the business environment. Various investment and tax incentives have been introduced; for instance, encouraging the establishment of industrial and economic enterprises under the Investment Incentives Order 2001 and changes to the Income Tax Act (Chapter 35), enacted in 1949, to gradually reduce the corporate tax rate from 27.5% in 2008 to 18.5% as of present. In 2016, Darussalam Enterprise (DARe) was set up to support local micro, small, and medium-sized enterprises (MSMEs) by providing capacity building programs, industrial space, international market access opportunities, and financing. Other institutional setups include the Brunei Economic Development Board (BEDB), supported by the FDI Action and Support Centre (FAST, a function under the BEDB) which is responsible for the promotion and engagement of new investment to the country and for supporting and facilitating incoming investment on a fast-track approval process right up to the operation of the FDI projects. FAST also provides after-care support for FDI projects on issues such as expansion, export facilitation, and utilities, amongst others.

Brunei Darussalam has made amendments to its Intellectual Property Rights regime by passing various legislations on copyright, patents, trademarks, industrial designs and plant varieties protection as well as establishing the Brunei Intellectual Property Office in 2013. Brunei Darussalam has also acceded to and participated in various Intellectual Property Rights agreements and treaties to comply with international standards.

The Competition Commission of Brunei Darussalam was established in 2017 to promote fair competition through the enforcement of the Competition Order 2015. The Order has the objectives of enhancing economic efficiency and consumer welfare by prohibiting anti-competitive agreements, abuse of dominant power, and anti-competitive mergers. The Department of Economic Planning and Statistics in MOFE, through the Department of Consumer Affairs, is tasked with administering two important pieces of legislation – consumer protection and price control. Consumer protection came into force in 2012 under the Consumer Protection (Fair Trading) Order 2011 to protect consumers against unfair business practices. The Price Control Act (Chapter 142), enacted in 1974, regulates prices of selected essential goods specified in the law, sale activities, and display of prices.

To support fair trade and competitiveness and to address safety and consumer protection, the National Standards Centre is tasked with facilitating standards and conformance in accordance with national, regional, and international requirements. The National Standards Centre also provides guidance and information on standards, conformity assessment, and accreditation to government ministries and other related agencies.

The Government of Brunei Darussalam takes an active stance on corporatisation, with the view to improving accountability and governance, thereby enhancing efficiency and productivity. Darussalam Assets plays an integral role in the Government-led initiative to spur economic development, with the strategy to turn Government-Linked Companies within its portfolio into world-class corporations. Its portfolio of companies covers various sectors of the economy including aviation, telecommunications, power utilities, logistics, agribusiness, food and beverage, leisure and tourism, medical, education, hospitality, and real estate. In an effort towards a balanced budget, the Brunei Darussalam Government is also engaging the private sector and FDI to work with the public sector, especially in infrastructure development through public-private partnership to address Brunei Darussalam's infrastructure gap and to realise the objective of several economic and social policies, including stimulation of private sector growth, investment opportunities, and streamlining the public sector workforce.

1.3. Trade Facilitation Measures during the COVID-19 Pandemic

An immediate impact of the COVID-19 pandemic can be seen in the shortage of certain goods and shipping delays, and consequently a surge in freight costs and prices of imported items, due to international trade and supply chain disruptions. In particular, imported meat products, which require Halal import certification, have been in short supply as the number of physical inspections carried out in the exporting country is now limited. Similarly, prices of fruits and vegetables have increased markedly due to limited supply amid mobility restrictions in agricultural producing countries. Prices of certain food commodities, such as wheat and oils, have also risen sharply in recent months due to the effects of the war in Ukraine.

The Brunei Darussalam Government has implemented numerous measures to address the impact of COVID-19, focusing on maintaining the well-being of the people, protecting jobs, and supporting businesses. Measures directly related to facilitating trade include opening the Sultan Haji Omar 'Ali Saifuddien Bridge linking the Brunei-Muara District and Temburong District (which allows road travel between the eastern and western part of Brunei Darussalam without having to go through Malaysian borders), arrangement with Malaysia's border control to allow entry and exit for the purpose of trade, alleviating financial burden on hard-hit sectors such as granting deferment on loan principal repayments, providing discounts on corporate income tax, waiving trade and payment transaction fees, exemption of customs and excise duties on personal hygiene products, and encouraging participation on e-commerce platforms. Travel bans, which were erected in March 2020, have recently been lifted to allow the resumption of non-essential travel.

1.4. ASTFI II Survey

A follow-up ASEAN Seamless Trade Facilitation Indicators (ASTFI II) questionnaire survey was conducted in the second half of 2020 with regulatory agencies to assess progress in the trade facilitation environment and performance of trade facilitation indicators across seven domains: (i) Transparency and Information on Laws, Regulations, and Procedures; (ii) Communication with and Active Engagement of the Private Sector; (iii) Release and Clearance Formalities; and (iv) Import/Export Formalities and Coordination; (v) Cross-Border Coordination and Transit Facilitation; (vi) Transport Facilitation; and (vii) E-commerce. The next few sections describe the trade facilitation environment of key regulatory agencies, followed by a discussion of the results of the ASTFI II survey and highlighting the changes from the ASTFI I survey conducted in the first half of 2018.

2. Trade Facilitation Environment – Customs and Major Agencies

2.1. Customs

The Royal Customs and Excise Department (RCED), under the purview of MOFE, is tasked with facilitating customs procedures. To make trading easier, RCED introduced an electronic customs system (e-Customs) in 2010. The e-Customs system allows the trading community to submit applications electronically to RCED for processing, including automatic calculations of customs duties and billing, resulting in a faster turnaround time. In addition, this central database enables ease of information retrieval and sharing, thereby facilitating monitoring of risks.

Implementation of the e-Customs system is the first step towards establishing the Brunei Darussalam National Single Window (BDNSW). The BDNSW was implemented in 2013 to simplify trade-related processes and procedures through an integrated platform and allows for electronic submission of customs declarations and permit applications for approval from 20 government agencies and online payment of customs or excise duties. Essentially, this eases the flow of information as well as enhances transparency and efficiency. This has resulted in an improvement in key indicators of 'Trading across Borders' in the World Bank's DB Report. For instance, the time taken for documentary compliance to import goods has reduced from 144 hours in 2016 to 132 hours in 2020. While this improvement is encouraging, trade transaction costs remain much higher than other AMS.

There are five steps involved to import or export goods through BDNSW. First, importers or exporters are required to register with RCED or appoint a customs agent (forwarder) on their behalf. Second, application of import or export permits for restricted and controlled items is to be lodged with the regulatory agencies. Third, online declaration can be submitted 2 weeks in advance before import or export. Fourth, importers are required to pay custom or excise duties online during submission of declaration (no duties are imposed on export products). And fifth, an approved customs declaration to be presented during customs inspection and clearance of goods, together with other supporting documents (e.g. approved import declaration, bill of lading/air waybill, packing list, commercial invoice, license/permit), when required.

Since April 2018, the BDNSW has undergone several enhancements, including online manifest submission, blanket approval of permits, mandatory advance duty payment upon declaration submission, and online risk profiling.

2.2. Major Agencies

There are several regulatory agencies involved in the trade facilitation process, particularly in granting license or permit for restricted and controlled goods. The major agencies covered in this report are the Brunei Darussalam Food Authority (BDFA) and Department of Pharmaceutical Services (DPS) in MOH; Halal Food Control Division (HFCD) in MORA; Department of Agriculture and Agrifood (DoAA), Department of Fisheries, and Forestry Department in the Ministry of Primary Resources and Tourism (MPRT); and the Authority for Building Control and Construction Industry (ABCi) at the Ministry of Development (MOD).

BDFA oversees the importation of food products to ensure that they are safe for consumption, while DPS regulates pharmaceutical products, including medicines, health supplements, herbal products, and cosmetics. HFCD is in charge of granting approvals for importation of Halal meat products. It maintains stringent standards for Halal meat import, such as requiring approved Halal supervisors and physical inspection of the abattoirs in the exporter's country in which the full costs are borne by the importer. The final decision on issuing of import permit is made by the Board for Issuing Halal Import Permit. In addition to HFCD, importers of Halal meat products also require endorsement from DoAA, BDFA, and RCED. For non-Halal meat products and processed food products, import permit approval is only sought from BDFA.

DoAA is tasked with issuing permits for agricultural commodities such as live animal and animal products, animal feed, veterinary drugs, plants and plant products, inorganic and organic fertilisers, and agricultural pesticides. Department of Fisheries issues permits for live, fresh, and frozen fish and processed seafood products, while the Forestry Department regulates sawlog, sawn timber, and other semi-finished and finished timber products. ABCi is in charge of issuing import permits for construction raw materials, including cement, red clay bricks, coarse aggregates, fine aggregates and sand.

Brunei Darussalam also restricts exports of certain goods, mainly subsidised products, to ensure adequate domestic supply and price stability. There are no export taxes or levies.

2.3. Results of the ASTFI II Survey

2.3.1. Transparency and Information on Laws, Regulations, and Procedures

Brunei Darussalam performed well in this domain. Information on laws, regulations, and procedures can be found on the customs website¹ and the BDNSW². In addition, applied duty rates are now published, which were not available in 2018. Brunei Darussalam also has a National Trade Repository³. However, it contains only eight out of the nine elements required at the ASEAN level. The missing element is the list of authorised traders. RCED has a dedicated email address for enquiries as well as a customs service counter, and services are offered in both the local language and in English.

2.3.2. Communication with and Active Engagement of the Private Sector

Communication with private sector and facilitation programmes for companies is done on ad-hoc basis, as there is no official mechanism such as a National Trade Facilitation Committee (NTFC) yet in the country. Coordination between ministries for issues pertaining to international trade also occurs on ad-hoc basis. As for the development of MSMEs, it is facilitated by DARE, which provides a Business Support Centre for businesses to obtain advice and information on business-related processes, learn about and apply for MSME programmes and initiatives, and register business-related issues, feedback, and inquiries. This internal coordination mechanism is somewhat equivalent to an NTFC.

2.3.3. Release and Clearance Formalities

Brunei Darussalam performed moderately well in this domain, but with high variation amongst its indicators. Advance rulings are restricted only to the applicants and are not published. While the exclusivity of advance rulings may be arguably sensible, since export-import transactions could be rather unique, it is not in accordance with best practice whereby advance rulings are publicly available. As for pre-arrival document processing, it is available in the two major ports (Muara Port and Brunei International Airport) and also at all other seaports, airports, and land border crossings.

¹ <https://tradingacrossborders.mofe.gov.bn/SitePages/home.aspx>

² <https://bdnsw.mofe.gov.bn/Pages/Home.aspx>

³ <https://bdntr.mofe.gov.bn/SitePages/home.aspx>

RCED adopts risk management commonly applied by Customs in other countries, i.e. assessing import goods by applying inspection randomly or based on some risk factors, and the target rate of inspection is 70%. The other major agencies also apply a system of risk management, but there is some heterogeneity. DoAA, Department of Fisheries, and the Forestry Department inspect shipments randomly and based on risk factors, and DPS conducts 100% inspection for specific products (e.g. narcotic drugs). However, BDFA and ABCi do not conduct border inspections. For DoAA, risk-based physical inspection is conducted due to strict requirements on imports of raw food or vegetables. For example, consignments containing imported raw beef meat from India are inspected for every consignment, but such consignments from Australia are inspected only once over a period of time (e.g. once every 3 months). HFCD has a unique system of risk management to fulfil the requirements of Halal food products. As noted earlier, risk management applied by HFCD involves physical inspection by HFCD officials at the producers' premises in their home country. This applies once for processed food and every time for raw food (e.g., meat such as chicken or beef). RCED and most major agencies therefore apply a system of risk management but it is not fully integrated yet.

RCED now allows the release of imported goods without payment, based on a provisional manifest or declaration submission with guarantee (previously, a complete manifest was required). However, it only applies to Authorised Economic Operators (AEO) under the Sutera Lane Merchant Scheme. Non-AEOs must still make full payment before the goods are released. RCED allows all necessary payments for importation and exportation to be made electronically. Other agencies such as DoAA, Department of Fisheries, and HFCD also allow electronic payment, but payment at others, such as DPS and ABCi, are still done manually. For review and appeal mechanism, there is a mechanism for initial appeal reviews to Customs (e.g. customs tribunal), but judicial appeal is not yet available.

Consistent with the application of the risk-based approach for the arrival of imports, RCED implements post-clearance audit. HFCD does not implement post-clearance audit, but this is not necessary since the risk management system for Halal food involves careful inspection before the importing is done. DoAA also does not implement post-clearance audit due to strict physical inspection of consignments from high-risk importers. DPS conducts inspection under post-market surveillance activities. For cement import, the Public Works Department in MOD conducts post-clearance audit on behalf of ABCi.

Following the privatisation of Muara Port, the Muara Port Company Sdn Bhd keeps records of container dwell times and publication is only on an ad-hoc basis. On time release study (TRS), RCED only conducts it on an ad-hoc basis and does not publish it and is only used for internal purposes. The last TRS was done in 2018.

RCED has a Trusted Traders and AEO program; however, mutual recognition agreements are not established yet. Brunei Darussalam's AEO program is in the process to obtain recognition on whether it is in accordance with the World Customs Organization standard. The ASEAN-Wide Self-Certification scheme was implemented in September 2020, and eligible exporters in Brunei Darussalam can therefore self-certify the origin of their goods under ASEAN Trade in Goods Agreement. RCED allows expedited clearance for air, sea, and land cargo. Simplified declaration for expedited shipments and packages of a value under *de minimis* are allowed. Targeted traders are (i) express couriers (*de minimis*), (ii) perishable items, (iii) government consignments, (iv) emergency aids, and (v) AEO. Meanwhile, temporary admission regime is implemented in Brunei Darussalam, but it is not yet in full compliance with Istanbul and/or Admission Temporaire/Temporary Admission Convention.

2.3.4. Import/Export Formalities and Coordination

Brunei Darussalam scored moderately high in this domain. RCED and almost all major agencies accept submission of digital copies of traders' documents. Original copies, however, are still required by DoAA, except for the issuance of import permit.

Brunei Darussalam implemented its NSW in 2013. The BDNSW covers 20 major agencies related to trade facilitation and is operating truly as a 'single window' for importation (i.e. permits are all submitted and issued through the BDNSW system, not separately by each agency and then sent to the NSW system). Application for export permit or license is not fully implemented through the single-window system and is therefore an area for improvement in terms of NSW implementation. The BDNSW is now connected and integrated to the ASEAN Single Window, with ATIGA Form D being exchanged through it. In 2018, the link to ASEAN Single Window was at a pilot stage. However, the current institutional arrangement for border agency coordination (customs, immigration, and quarantine) is only done on an ad-hoc basis, and is not applicable for all border posts.

2.3.5. Issues and Challenges

The survey results suggest that there are gaps in the trade facilitation process compared with best practice. The gaps identified from the survey are as follows. First, more information can be provided to the public, such as publication of the advance rulings applications on the trade portal or customs website. Second, communication and consultation process with the private sector is done on an ad-hoc basis; a formal structure has not been established within the decision-making process in trade facilitation. Third, while RCED and the major agencies apply a system of risk

management, these systems are not integrated or consolidated. In addition, some major agencies have not implemented a post-clearance audit system. Fourth, there is currently a trusted trader programme (Sutera Lane Merchant Scheme) but mutual recognition agreements have not been formed with other AMS. Fifth, some major agencies have not mainstreamed electronic payment systems; DoAA applies it partially (only for import permit), while payment to DPS and ABCi is done manually. Sixth, dwell time publication is only available on an ad-hoc basis. Moreover, TRS is not publicly available and is only conducted for internal use. Seventh, permit application via BDNSW is fully implemented only for importation, while it is only partially implemented for exportation (i.e. by a few major agencies only). Eighth, coordination with border agencies is done on an ad-hoc basis, and only for selected border posts.

3. Trade Facilitation Environment – Transit, Transport, and E-commerce

Brunei Darussalam's transport infrastructure consists of a maritime port (Muara Port), an international airport (Brunei International Airport), and a road network linking the country to Sabah and Sarawak. There are nine legal entry and exit points. The responsible transport agencies in the Ministry of Transport and Infocommunications engaged in transport facilitation are the Department of Civil Aviation, Land Transport Department, and Maritime and Port Authority of Brunei Darussalam, in close collaboration with relevant government agencies.

Brunei Darussalam's logistics infrastructure is relatively underdeveloped, ranking 80th in the World Bank Logistics Performance Index in 2018. Likewise, Brunei Darussalam has one of the lowest shipping connectivity scores, as measured by the United Nations Conference on Trade and Development Liner Shipping Connectivity Index. This could be attributed primarily to the size and structure of the Brunei Darussalam economy.

Although Brunei Darussalam has one of the highest internet penetrations in Southeast Asia, e-commerce is still in its infancy. Nonetheless, there is vast potential to grow it. An e-commerce survey conducted by the Authority for Info-communications Technology Industry found that around three-quarters of the population use e-commerce to shop, bank, and pay bills, while almost three-fifths of online shoppers preferred to shop via shopping websites and one-quarter preferred to shop using social media platforms. The Brunei Darussalam Government established a Digital Economy Council in 2019 to spearhead the development of the digital economy, and Ministry of Transport and Infocommunications recently published the country's first Digital Economy Masterplan 2025.

3.1. Results of the ASTFI II Survey

3.1.1. Cross-Border Coordination and Transit Facilitation

Brunei Darussalam needs to make greater efforts to improve cross border coordination and transit of traded goods with its neighbouring ASEAN Member States. There is some, but limited, cross-border coordination (i.e. the institutional and operational arrangement) between Brunei Darussalam and Malaysia, such as intelligence and information sharing, and alignment of working hours.

3.1.2. Transport Facilitation

There is work to be done for Brunei Darussalam in furthering transport facilitation. There are currently no standard procedures for the issuance of ASEAN goods vehicle cross-border permits. There is also no electronic data interchange platform available in the country. As for the implementation of ASEAN's agreement for transport facilitation, all three protocols under the ASEAN Framework Agreement on the Facilitation of Goods in Transit have been ratified, but have not been operationalised. However, the other two agreements (ASEAN Framework Agreement on the Facilitation of Inter-State Transport and ASEAN Framework Agreement on Multimodal Transport) have yet to be ratified.

3.1.2. E-commerce

Presently, e-commerce is protected sectorally, and the main legislations governing e-commerce are the Electronic Transactions Act 2004 (Chapter 196) and the Computer Misuse Act (Chapter 194). In addition, there are also other related laws that provide consumer protection, intellectual property protection, and regulation of online business activities.

Brunei Darussalam is currently in the process of strengthening its e-commerce protection regime and is considering further revisions to the existing legal framework, as well as the promulgation of new laws that would further strengthen privacy and data protection.

Brunei Darussalam follows the de minimis rule for the revenue framework for e-commerce international transactions. Currently, there is no legal framework for e-commerce dispute settlement; however, studies are being conducted for the establishment of a legal framework for online dispute resolution.

3.1.3. Issues and Challenges

The survey results show that there are significant challenges with regard to cross-border transport facilitation and development of e-commerce. First, cross-border agency coordination can be strengthened, particularly in facilitating the transport of goods. Second, ratification of ASEAN-level agreements should avoid further delays, as well as their implementation. Third, laws and regulations covering e-commerce are still at an infancy stage, which may limit the opportunities accorded to MSMEs as well as hinder the adoption of digital tools.

4. Conclusions and Recommendations

Overall, the ASTFI II survey showed some improvements over the ASTFI I survey. Transparency and information on laws, regulations, and procedures scored highest and e-commerce registered the largest score increase.

The discussion on the issues and challenges presented earlier suggests the following as the key directions to for trade facilitation reforms to close the gap with best practice. First, more information should be provided to the public, such as publication of advance rulings, dwell time, and TRS. Second, there should be an intensification of efforts for socialisation and consultation with the private sector; in particular, to establish an official platform for NTFC. Third, the various risk management practices can be integrated into a risk management system, and similarly for a post-clearance audit system.

Fourth, permit application via BDNSW should be expanded to cover processes for exportation, especially given the country's track record in successfully implementing a full NSW for importation. Fifth, digitalisation of document processing and payment should be encouraged to increase efficiency; at present, this has yet to be mainstreamed in a few major agencies. Related to this, it is important to ensure sufficient investment in technology for trade facilitation, such as installing an electronic data interchange system.

Sixth, movement of goods across borders can be expedited by encouraging the use of approved simplified processes such as pre-clearance or expedited clearance and self-certification programmes. Seventh, border agency coordination should be strengthened to facilitate the transport of goods across borders, such as establishing standard procedures. Eighth, delays should be avoided to ratify and implement ASEAN-level agreements. Ninth, e-commerce laws and regulations should be introduced to spur the development of the e-commerce industry and the digital economy. And last, it is also important to conduct further reforms in other policy areas, such as FDI and fiscal policy to promote export diversification.





Chapter 3

ASEAN Trade Facilitation Indicators II: Cambodia

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1. Introduction

Cambodia has achieved remarkable economic growth of approximately 7% per year over the past 2 decades, becoming one of the fastest-growing economies in the region. It graduated from a low-income to a lower middle-income country in 2015.¹ The gross national per capita income in 2019 was \$1,638, approximately two-fold increase from \$812 in 2010. Due to the COVID-19 pandemic, however, the growth rate in 2020 is estimated to have contracted 3.1%, dropping the gross national per capita income to \$1,552 in 2020 (World Bank, 2022). Poverty reduction occurred quickly – falling from 48.0% of the population in 2007 to less than 14.0% in 2014.² However, with the updated national poverty line, the new poverty rate increased to 17.9% in 2019 (Government of Cambodia, Ministry of Planning, 2021).

Open trade policy is an integral part of Cambodia's growth strategy since its shift from a planned to a market economy in the early 1990s. The development of a liberal trade policy has been supported by development partners and continues to be a key pillar of Cambodia's economic policy. The share of trade to gross domestic product (GDP) was 126% in 2020, up from 114% in 2010 and 78% in 1995.³ Today, Cambodia is one of the most open economies in the region.

The attraction of foreign direct investment (FDI) is a key contributory factor to this liberal trade regime. Taking advantage of its young and abundant labour force, Cambodia has successfully attracted FDI in the labour-intensive manufacturing of garments, all of which are destined for export markets. Exports of the garment industry have grown exponentially, topping \$10 billion for the first time in 2018, up from \$8 billion in 2017 (Hor, 2019). The International Labour Organization (2018) estimated that the garment industry has created jobs for over 1 million in Cambodia, most of whom are young women migrating from rural areas.

Table 3.1 reports Cambodia's total exports as well as for selected products. We see that exports from Cambodia have increased steadily in the past years, from \$11 billion in 2017 to almost \$18 billion in 2020. In 2021, due to the impact of COVID-19, the country's total exports slightly contracted. In terms of products, garments, textiles, and footwear (i.e. Harmonized System [HS] codes 61, 62, and 64) continue to dominate exports. At the same time, exports of leather, saddlery and harnesses, travel goods, and handbags (HS 42) have sharply increased.

¹ World Bank, The World Bank in Cambodia, <https://www.worldbank.org/en/country/cambodia/overview>

² World Bank, Cambodia, World Development Indicators, <https://data.worldbank.org/country/cambodia?view=chart> (accessed 14 July 2021).

³ Ibid.

Table 3.1. Total Exports from Cambodia, 2017–2021
(\$ million)

HS Code	Product (2-digit)	2017	2018	2019	2020	2021
61	Articles of apparel and clothing accessories, knitted or crocheted	6,348	6,586	6,001	5,188	5,819
62	Articles of apparel and clothing accessories, not knitted or crocheted	681	1,241	2,285	2,297	2,198
42	Articles of leather; saddlery and harness; travel goods, handbags, and similar containers; articles of animal gut (other than silkworm gut)	277	572	1,104	1,009	1,581
64	Footwear, gaiters, and the like; parts of such articles	880	1,040	1,268	1,123	1,392
85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles	444	512	577	762	1,081
94	Furniture; bedding, mattresses, mattress supports, cushions, and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated nameplates, and the like; prefabricated buildings	79	135	420	638	873
87	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof	378	404	442	559	690
43	Fur skins and artificial fur; manufactures thereof	292	300	290	200	475
10	Cereals	336	420	422	471	424
40	Rubber and articles thereof	256	225	225	282	422
39	Plastics and articles thereof	150	195	240	309	411
	Others	1,147	1,078	1,550	4,878	2,205
	Total	11,269	12,708	14,825	17,716	17,572

HS = Harmonized System.

Source: ITC, Cambodia, <https://intracen.org/our-work/regions-and-countries/asia-and-the-pacific/cambodia> (accessed 1 May 2022).

2. Trading Environment Indicators

A business-friendly environment plays a crucial role in the development of the private sector and thus the economic performance of a country. The Government of Cambodia has improved the country's business environment by closely coordinating and consulting with the private sector through various mechanisms, including the Government-Private Sector Forum. This success has been reflected in the World Bank's Ease of Doing Business reports and the *United Nations Global Survey on Digital and Sustainable Trade Facilitation Survey*.

Compared with 2018 when the ASEAN (*Association of Southeast Asian Nations*) *Seamless Trade Facilitation Indicators (ASTFI) Baseline Survey* was conducted, the times to export and to import in 2020 have shortened, from 8.0 days to 7.5 days and from 6.0 days to 5.8 days, respectively (Table 3.2). In addition, various efforts towards trade facilitation have occurred, such as Sub-Decree No. 27 on 29 January 2019, which terminated the role of CamControl at border-crossing points (Sok, 2019). CamControl had been acting as a technical arm of the General Department of Customs and Excise (GDCE), focussing on high-risk products. However, with its removal, GDCE became the only agency at border-crossing points, streamlining all work in one place. When necessary, GDCE also coordinates with related agencies, such as the Ministry of Agriculture, Forestry and Fisheries (MAFF) on sanitary and phytosanitary (SPS) issues and the Ministry of Health (MOH) on pharmaceutical and/or cosmetics products.

Another noteworthy trade facilitation reform was the removal of Kampuchea Shipping Agency and Brokers (Kamsab) on 30 January 2019 under Sub-Decree No. 31 dated 5 February 2019. Kamsab was established in 1979 as a state-owned agency, with the objective of facilitating trade by ship. However, given the growth of international trade and the private sector, the role of this agency has been greatly diminished. The termination of Kamsab thus helped reduce the level of complexities in doing business for the private sector (Sok, 2019).

Table 3.2. Cambodia's Ease of Doing Business, 2006–2020

Indicator	2006	2010	2014	2018	2020
Trading across Borders					
Distance to border (km)	49.80	61.23	65.87	67.28	67.3
Time to export (days)	43.00	22.00	22.00	8.00	7.50
Time to import (days)	54.00	29.00	24.00	6.00	5.80

Source: World Bank, Business Enabling Environment, <https://www.worldbank.org/en/programs/business-enabling-environment/doing-business-legacy>

As shown in Table 3.3, the improvement in trade facilitation is reflected in all indicators of the United Nations Global Survey on Digital and Sustainable Trade Facilitation between 2015 and 2021 (United Nations, 2021). In particular, Cambodia's rapid progress in introducing paperless trade is remarkable, increasing from a 29% implementation rate in 2015 to 66% in 2021. In this regard, the introduction of the National Single Window (NSW), Phase 2 (2019–2023) is a significant step; the ASEAN Single Window – for the exchange of electronic documents amongst ASEAN Member States – is also now available. This includes the exchange of certificates of origin since July 2019 and ASEAN customs declaration documents since December 2020 (WTO, 2021).

Table 3.3. United Nations Global Survey on Digital and Sustainable Trade Facilitation, Cambodia, 2015–2021

Indicators	2015	2017	2019	2021
Digital and Sustainable Trade Facilitation				
Transparency	86.67	93.33	93.33	100
Formalities	79.17	79.17	91.67	91.67
Institutional Arrangements and Cooperation	77.78	77.78	77.78	88.89
Paperless Trade	29.63	40.74	62.96	66.67
Cross-Border Paperless Trade	0	0	27.78	55.56

Source: United Nations, Trade Facilitation and Paperless Trade in Cambodia, <https://www.untfsurvey.org/economy?id=KHM>

3. Trade Facilitation

As previously mentioned, Cambodia is one of the most liberalised economies in the region, joining ASEAN in 1999 and the World Trade Organization (WTO) in 2004. In 2016, Cambodia became a signatory to the WTO Trade Facilitation Agreement. Cambodia has thus become actively engaged in trade facilitation reforms to reduce trade transaction costs and to improve trade competitiveness. Part of this reform is the development of the NSW; the infrastructure is complete, and the country is currently in the process of having relevant government agencies linked to the system. The update of the Automated System for Customs Data (ASYCUDA), with support from ARISE+ Cambodia, is also expected to enable GDCE to conduct customs clearances more efficiently.

According to the second ASTFI conducted in 2021, trade facilitation in Cambodia has generally improved compared to 2018. If broken down by component, cross-border coordination and transit facilitation have improved the most, followed by import/export formalities and coordination as well as communication with and active engagement of the private sector.

3.1. Transparency of Information

The GDCE website,⁴ National Trade Repository (NTR),⁵ and other agency websites contain adequate trade-related information for traders and the public. The GDCE and NTR websites are the main platforms for agencies to disseminate trade-related information to the public. They include information, for example, on how to obtain a certificate of origin from the Ministry of Commerce (MOC)⁶ and an SPS certificate from MAFF.⁷ Overall, the public has adequate access to information on export and import formalities of regulatory agencies. The Department of Import and Export, MOC,⁸ and the Council for the Development of Cambodia (CDC)⁹ also provide important trade-related information on their websites.

Regarding the NTR and ASEAN Trade Repository, these are well aligned with the ASEAN Trade in Goods Agreement (ATIGA). The Ministry of Economy and Finance hosts the NTR on behalf of all line agencies and institutions engaged in Cambodia's import/export processes. The NTR Secretariat, located in its Department of Economic Integration and ASEAN, manages the content. The NTR also provides links to websites of relevant trade agencies and institutions. By having URLs for various trade-related topics on the ASEAN Trade Repository website, Cambodia's NTR is connected to the ASEAN Trade Repository.¹⁰ However, relevant institutions and agencies need to maintain their efforts in providing the necessary information for traders by updating their websites on a regular basis.

CDC also provides English translations of some trade-related information and investment-related laws and regulations on its website. GDCE serves as an enquiry point for both domestic and international traders.¹¹ Traders can also contact GDCE by phone, e-mail, Facebook, and Telegram. Separately, traders are also encouraged to consult the Customs Tariff Book for more official and up-to-date tariff information, as indicated on the GDCE website.¹² Because online content may be the primary source of information on the country's trading environment for traders abroad, updating it on a regular basis can enhance trade facilitation.

⁴ GDCE, <https://www.customs.gov.kh/en>

⁵ Cambodia National Trade Repository, <https://cambodiantr.gov.kh>

⁶ GDCE, Certificate of Origin, <https://www.customs.gov.kh/en/customs-procedures/3644-certificate-of-origin?ref=3721>

⁷ GDCE, Sanitary and Phytosanitary Certificate SPS, <https://www.customs.gov.kh/en/customs-procedures/3650-sanitary-and-phytosanitary-certificate-sps?ref=3721>

⁸ MOC, <https://www.moc.gov.kh/> [in Khmer].

⁹ CDC, <https://cdc.gov.kh/>

¹⁰ ASEAN, ASEAN Trade Repository, <https://atr.asean.org/index.php/topic>

¹¹ GDCE, Role and Responsibility, <https://www.customs.gov.kh/en/about/79-role-and-responsibility>

¹² GDCE, Customs Tariff of Cambodia 2017, <https://www.customs.gov.kh/en/customs-procedures/6952-customs-tariff-of-cambodia-2017?ref=104>

The Institute of Standards of Cambodia (ISC) also regulates trade by overseeing safety standards of imports and exports. Information on procedures for traders is available on its website in both Khmer and English.¹³

3.2. Communication and Active Engagement of the Private Sector

Cambodia communicates and engages with the private sector through various mechanisms. These arrangements serve as meeting places in which the government and private sector can discuss trade issues.

The inter-ministerial National Trade Facilitation Committee was officially established in 2020 with a clear structure; the minister of Economy and Finance is the chair, and the director-general of GDCE is the permanent vice-chair.¹⁴ In total, it consists of 13 members, of which 12 are representatives from related government agencies and 1 is from the Cambodia Chamber of Commerce representing the private sector. The secretariat is located in GDCE with support from development partners. Amongst them, ARISE+ Cambodia, financed by the European Union and the Government of Germany, is working closely with GDCE, MOC, and other related agencies on trade facilitation reform agendas from 2019 until 2023. The three key components of ARISE+ are to (i) improve customs, trade facilitation, and standards; (ii) strengthen institutional capacities and improve regulatory practices for international trade; and (iii) enhance private sector engagement in trade, notably of small and medium-sized enterprises (SMEs) (ARISE+ Cambodia, 2020). The United Nations Conference for Trade and Development also stepped up its support to Cambodia, especially to the National Trade Facilitation Committee through an e-learning webinar series as part of a capacity-building programme (UNCTAD, 2021).

One of the main stakeholder consultation mechanisms is the Customs–Private Sector Partnership Mechanism (CPPM).¹⁵ It was created by Prakas No. 906 on 9 October 2009, with an objective to enhance private sector compliance with customs laws and regulations. The CPPM is co-chaired by the director-general of GDCE and the president of the Cambodia Chamber of Commerce. The CPPM holds regular meetings and has four sectoral working groups:¹⁶ Customs Export-Oriented Garment Industry, Customs Export-Oriented Non-Government Industry, Customs Domestic Market-Oriented Business, and Customs-SMEs Working Group. Providing platforms to deal with important customs laws and regulatory concerns, the working groups met on a frequent basis.

¹³ ISC, <https://isc.gov.kh/en>

¹⁴ Sub-Decree No. 18, signed by the Prime Minister dated 26 February 2020.

¹⁵ GDCE, Customs-Private Sector Partnership Mechanism (CPPM), <https://www.customs.gov.kh/en/customs-procedures/3403-customs-private-sector-partnership-mechanism-cppm?ref=392>

¹⁶ In the ASFTI I survey, there were only three working groups.

Another important mechanism for private sector consultation is the Government–Private Sector Forum, which was established in 1999. It is conducted bi-annually, chaired by the prime minister, and has the status of a cabinet meeting. The forum has 10 working groups: Agriculture and Agroindustry; Tourism; Manufacturing and SMEs and Services; Law, Tax, and Governance; Banking and Financial Services; Transport and Infrastructure; Export Processing and Trade Facilitation; Industrial Relations; Unhusked Rice and Rice; and Power and Mining Resources.¹⁷ The most recent forum was held in January 2020 (Hun, 2020).

Bilateral consultations between relevant government agencies and the business community are also regularly held. For example, Cambodia–Japan Public–Private Sector meetings have been held biannually since 2009. The most recent meeting was in February 2021, co-chaired by the CDC secretary-general and the Ambassador of Japan to Cambodia.

Separately, government agencies also hold consultations with the private sector on an as-needed basis. For example, ISC and MAFF focal points noted that their agencies hold meetings with the private sector to discuss trade-related issues. Regularising these meetings may significantly improve discussions on trade facilitation issues.

3.3. Release and Clearance Formalities

Release and clearance formalities have slightly improved over the past few years. For example, GDCE has refreshed its website to provide a clearer outline of the procedures for requesting advanced rulings.¹⁸ Before the cargo arrives, an application for an advanced ruling must be made in writing. Decisions on advanced rulings for HS-code classification are published on the GDCE website. As of March 2020, 156 advanced rulings were listed, compared to only 71 in 2018 (GDCE, 2015a). Firms that request advance rulings are mostly large foreign firms. Therefore, enhancing information on advanced rulings relevant to all traders and firms may be needed to promote their wider use.

Pre-arrival processing involves the (electronic) submission of relevant declaration data of goods or cargo to the relevant authorities before the arrival (for import) or prior to the departure (for export) of goods. Although pre-arrival processing is used, the process is still being done manually. With support from ARISE+ Cambodia, an e-system is being developed. Once it is operational, it is expected to further enhance trade facilitation with shorter clearance times.

¹⁷ CAMFEBA, Government–Private Sector Forum, <https://www.camfeba.com/representative.html>

¹⁸ GDCE, Advanced Ruling, <https://customs.gov.kh/en/customs-procedures/371-advanced-ruling?ref=378>

Risk management is another important component of trade facilitation. GDCE conducts risk management and implements inspections based on risk indicators, with target inspection rates of 20.0% for imports and 0.5% for exports. Risk indicators are based on GDCE risk profiles, put into ASYCUDA and the Customs Risk Management Database System. High-risk shipments are subjected to physical inspection.

The separation of release from final determination as well as payment of customs duties have improved slightly. Normally, traders can clear customs after paying duties and taxes. The early release of goods without payment is also allowed by completing the manifest and declaration submissions with a guarantee.

Electronic payment is available at GDCE and other major agencies and institutions, such as CDC, MAFF, and the Ministry of Mines and Energy. They also accept cash and checks. However, all forms of payment are not accepted at all agencies; thus, electronic payment services need to be enhanced to further improve trade facilitation.

Appeals and review mechanisms are fully functional in Cambodia. Traders can file an appeal against a GDCE judgment, and any request for an explanation for the decision is accommodated. Traders can also appeal to a higher management level and a competent court. However, in practice, this option is seldom used.

A post-clearance audit is a systematic review of a trader's relevant commercial systems and processes, financial and non-financial records, physical stock, and other assets. It is conducted after the release of goods and is a means to measure and to improve compliance. In accordance with Prakas No. 388 (2008), GDCE is allowed to undertake a post-clearance audit within 3 years following the filing of a declaration. Enhancing the role of other relevant agencies and institutions for post-clearance audit can further improve risk management and improve compliance.

Dwell time is the amount of time between the arrival of cargo at a port and the release of goods from the port's premises after all permits and clearances have been acquired. In Cambodia, dwell time has slightly improved. Port authorities now publish related information on an ad-hoc basis. Although dwell time is not specifically mentioned, related information is published in time-release studies (GDCE, 2020). Shifting publication to a more regular basis can further improve trade facilitation; as some ports use ASYCUDA, it should not be difficult to extract dwell times from the data stream.

A time-release study is a method for calculating the average time between the arrival of goods and their release. Although such studies were conducted by GDCE in 2013 and 2019, they only occur on an ad-hoc basis and with support from development partners. Moving publication to a more regular basis can further improve the trade facilitation.

Trade facilitation measures for trusted traders or authorised economic operators are available in Cambodia through the Best Trader Incentive Mechanism. The GDCE website contains information on the programme, relevant laws and regulations, and selection criteria.¹⁹ To become a best trader, a trader must meet various criteria, such as being at rank 1 in the Trade Credibility Management System at the time of application. In April 2021, the number of best traders was 43, up from only 17 in 2017. An authorised economic operator programme is not yet available. Cambodia is planning to implement it by the end of 2022, and mutual recognition agreements will be considered after that.

Self-certification was put into use in early 2021, after a few pilots. Implementing the ASEAN-Wide Self-Certification mechanism can help reduce traders' documentation burdens when seeking preferential tariff treatment and enhance the use of ATIGA tariff concessions.

3.4. Import and Export Formalities

To improve trade facilitation, GDCE has accepted electronic copies of declaration documents for all traders through the NSW since the promulgation of the E-Commerce Law in November 2019. Previously, traders would spend hours delivering actual copies from GDCE headquarters in Phnom Penh to the port in Sihanoukville. However, today, traders still need to submit original copies for some documents. Other relevant agencies and institutions, such as CDC, MAFF, Department of Export-Import, and ISC, also accept digital copies. However, the Ministry of Mines and Energy does not.

In regard to the acceptance of copies, it differs amongst the relevant agencies. GDCE accepts certified true copies or notarised copies, but others, such as CDC, MAFF, Department of Export-Import, and ISC, only accept original copies.

The development and operationalisation of the NSW are key to trade facilitation reform. GDCE is the lead agency, with participation from CDC, ISC, MAFF, MOC, and Ministry of Health. Trade-related documents that can be submitted online through the NSW include export and import permits, certificates of origin, and licenses. The NSW is currently being connected to the ASEAN Single Window. Documents, such as ATIGA Form D and ASEAN Customs Declaration Document, are being exchanged with other countries through the ASEAN Single Window. The live operation of the ASEAN Customs Declaration Document began on 31 December 2020 amongst Cambodia, Myanmar, and Singapore; Malaysia and Thailand followed in March 2021.

¹⁹ GDCE, Best Traders, <https://www.customs.gov.kh/en/customs-procedures/353-best-traders?ref=714>

3.5. Cross-Border Coordination with Neighbouring Countries

Border agency institutional coordination has witnessed some progress. Trans-border institutional arrangements have been implemented but on an ad-hoc basis. Memoranda of understanding have been signed between GDCE and neighbouring Lao People's Democratic Republic (Lao PDR), Thailand, and Viet Nam on customs coordination.

Regarding a computerised system for transit, Cambodia has been one of the first countries to participate in the ASEAN Customs Transit System (ACTS) from October 2020. Other countries include Lao PDR, Malaysia, Thailand, and Viet Nam. In Cambodia, both technical systems and domestic regulations are in place for its implementation. However, as of June 2021, only three ACTS transit movements had been successfully conducted. One transit was completed from Malaysia to Cambodia through Thailand in February 2021. The limited usage of the ACTS was primarily due to the challenges faced by the COVID-19 pandemic, requiring members to take additional precautionary measures.

With regard to simplified procedures for authorised transit traders, it is now in full operation. Traders can apply for such status at GDCE by submitting required documents, following the ACTS registration guide, which is also available in Khmer (GDCE, 2015b).

3.6. Transport Facilitation

Issuance of ASEAN goods vehicle cross-border permits can occur in Cambodia. As a participating member, Cambodia has applied quotas of 500 permits for all ASEAN Member States.

For land transport facilitation, Cambodia has already ratified Protocol 1 (designation of transit transport routes and facilities), Protocol 2 (designation of frontier posts), Protocol 4 (technical requirements of vehicles), and Protocol 7 (customs transit system) under the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT).²⁰ However, only Protocol 2 is being implemented. Enhancing the implementation of the remaining protocols would help improve trade facilitation in Cambodia.

The ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST) and the ASEAN Framework Agreement on Multimodal Transport (AFAMT) have been ratified by the Parliament. However, there are no laws or regulations in place yet for implementation.

²⁰ Protocols 1 and 4 are under the authority of the Ministry of Public Works and Transport. Protocols 2 and 7 fall under the authority of GDCE.

3.7. E-Commerce

Regarding a legal framework and operationalisation of e-identification and authorisation, Sub-Decree No. 246 dated 29 December 2017 allows the use of digital signatures (DFDL, 2018). Moreover, the Electronic Commerce Law was promulgated, having passed the National Assembly in November 2019. The following year, Sub-Decree No. 134 on Classifications, Formalities and Procedures on the Issuance of Permits and Licenses to Intermediaries and Electronics Service Providers and Exemption, and Prakas No. 290 on the Provision of Permits and Licenses for Electronic Commerce, were issued (DFDL, 2020).

4. Conclusion

Over the last few decades, the integration of Cambodia's economy into regional and global economies has contributed to its impressive economic performance. Cambodia has undertaken various efforts to streamline the trade process and to enhance trade facilitation. As a result, both trade activities and the capacity of its trade-related agencies and institutions have increased.

Overall, Cambodia's trade facilitation regime has significantly improved, as evident from the ASTFI I and ASTFI II survey results. However, more efforts towards further improvements are needed.

To enhance the transparency of information on laws, regulations, and procedures, more effort is needed to provide necessary and sufficient information for traders by updating the websites of the relevant agencies and institutions on a regular basis. Communication and engagement with the private sector can be further enhanced by regularising the meetings between trade-related agencies and institutions and the private sector. To enhance trade facilitation, wider adoption of digital copies for documentation and broader acceptance of electronic payments by regulatory agencies and institutions should be promoted. Cross-border cooperation and transport facilitation should be improved by working closely with neighbouring countries to overcome regulatory differences. Dwell-time and time-release studies should be conducted and published on a regular basis, as such information is important for both policymakers and traders.

Acceptance of online payments by major agencies has increased, partly as a measure to respond to the COVID-19 pandemic. These have helped traders save time, leading to smoother business transactions. Continuation of this practice, even after the pandemic, will benefit traders and help boost competitiveness for trading firms.

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Chapter 4

Trade Facilitation in Indonesia and Results of the ASTFI II Study

Dr Firman Bunyamin

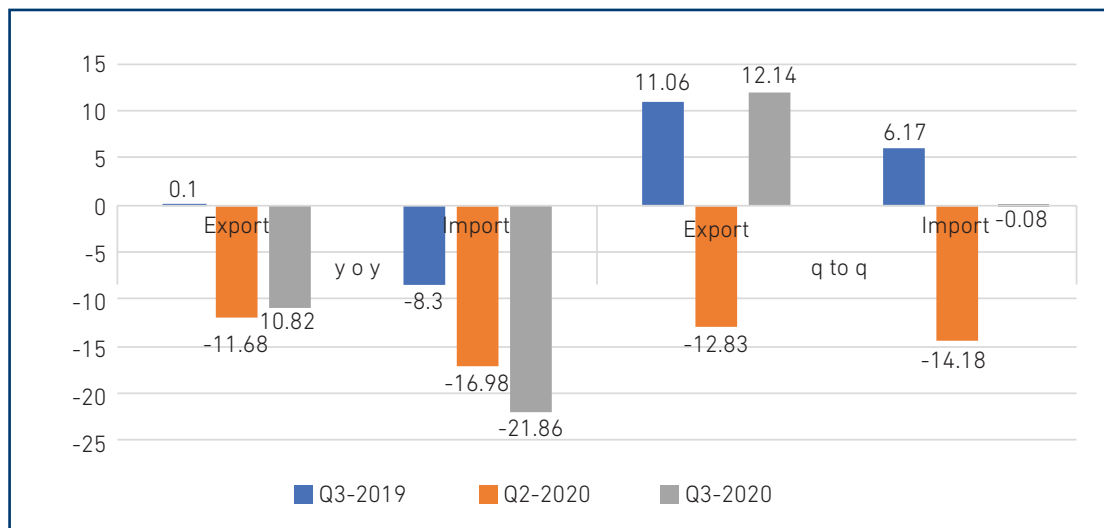
Mr Eko Yulianto

Ministry of Finance of the Republic of Indonesia

1. Overall Trade Facilitation Environment

2020 has been a challenging period not only for Indonesia but also for most of the global economy, with the coronavirus disease (COVID-19) significantly disrupting trade, as shown in Figure 4.1.

Figure 4.1. Trade Growth of Indonesia, Q3-2019, Q2-2020, Q3-2020 (y. on y., q. to q.) (%)



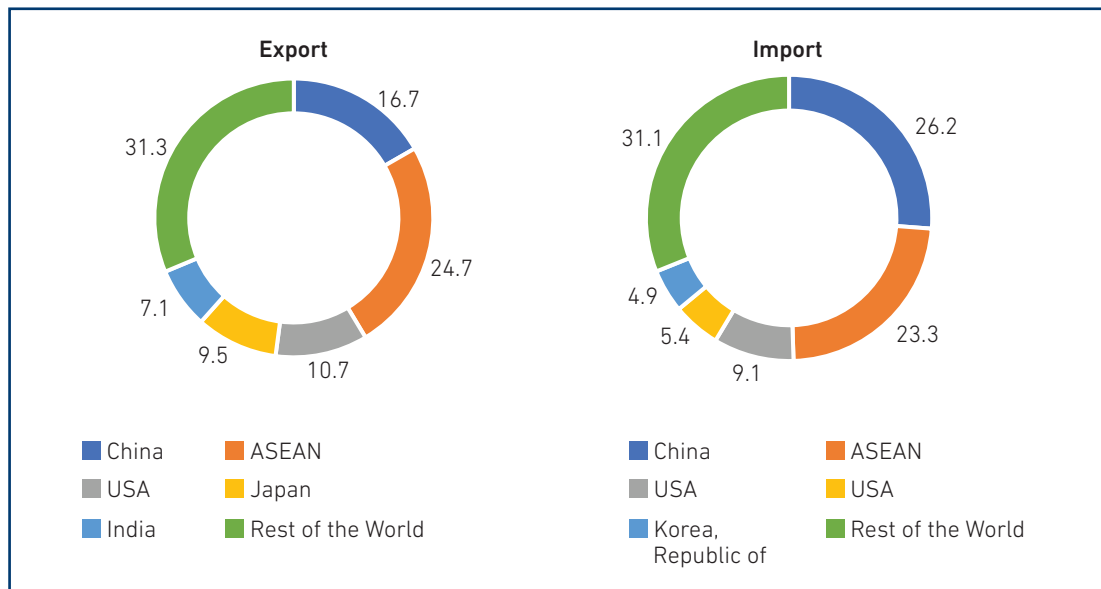
Source: Official Statistic Release (Statistics Indonesia, November 2020), 12 January 2021. https://www.bps.go.id/website/materi_ind/materiBrsInd-20201105120056.pdf

Figure 4.1 shows that during the pandemic period, Indonesia's trade contracted in both Q2-2020 and Q3-2020 on a year-on-year basis. However, the quarter-to-quarter data indicate positive developments in the future following various government efforts with regard to economic recovery.

By 2019, Indonesia's trading partners were still predominantly Association of Southeast Asian Nations (ASEAN) countries and several others such as China, Japan, United States, the Republic of Korea (henceforth, 'Korea'), and India (Figure 4.2). ASEAN accounts for 24.7% (\$41.4 billion) of Indonesia's total exports, making it the major export destination and also the source of 23.3% (\$39.9 billion) of its imports.

With regard to the top commodity imports and exports, the main exported products to the global market are still in line with the previous period, such as mineral fuels, mineral oils, and animal or vegetable fats and oils (HS code 27 and 15) with a total value of \$51.7 billion, accounting for 30.8% of the total. Likewise, Indonesia's main imported products are also the same as last year, consisting of electrical products, electrical equipment, and machinery (HS Code 84 and 85), with a total value of \$46.8 billion, or 27.3% of the total. In summary, the values of exported and imported goods are \$167.6 billion and \$171.2 billion, respectively.

Figure 4.2. Indonesia Top Export and Import Destination in 2019
(in %)



ASEAN – Association of Southeast Asian Nations, USA = United States of America.

Source: International Trade Centre (2020).

Facilitation is one of the essential strategies of Indonesia to restore declining trade. During 2018–2020, Indonesia implemented two free trade agreements (FTAs), the *ASEAN-Hong Kong Free Trade Agreement* and the *Indonesia-Australia Comprehensive Economic Partnership Agreement*. Not only do these agreements offer preferential tariff arrangements, but they also cover other elements that simplify trade. The elements are basically adopted from the World Trade Organization's (WTO) Trade Facilitation Agreement (WTO-TFA), most of whose indicators Indonesia has been implementing. Bringing the WTO provisions into the regional agreement would strengthen the commitment to accelerate the implementation of overall indicators.

There has been a proliferation of FTAs during 2021–2022 with Indonesia implementing the *Indonesia-European Free Trade Association (EFTA)* and the *Comprehensive Economic Partnership Agreement (IECEPA)*, and it is also on the verge of implementing the *Regional Comprehensive Economic Partnership (RCEP)*, which is expected to be effective by the end of 2022. RCEP would be the biggest free trade agreement of ASEAN and their five largest trading partners as it will cover almost a third of the global population and 30% of global gross domestic product.¹ These agreements strongly encourage cooperation in developing trade facilitation.

¹ <https://www.cnn.com/2021/11/03/worlds-largest-trade-deal-rcep-to-come-into-force-in-january-2022.html>

Even though World Bank data in general present only a slight improvement in facilitating trade, two indicators for Trading Across Borders show that Indonesia has made decent progress throughout 2018–2020 (Table 4.1).

Table 4.1. Indonesia Trading across Borders Achievement 2018–2020

Economy	Indonesia	
	2020	2018
Time to export: Documentary compliance (hours)	61	61
Time to import: Documentary compliance (hours)	106	106
Time to export: Border compliance (hours)	56	63
Time to import: Border compliance (hours)	99	99
Cost to export: Documentary compliance (USD)	139	139
Cost to import: Documentary compliance (USD)	164	164
Cost to export: Border compliance (USD)	211	254
Cost to import: Border compliance (USD)	383	383

Note: DB 2019 scores are adjusted. They are based on 10 topics and reflect data corrections.

Source: World Bank Trading Across Borders (2020).

As shown above, 'time to export' and 'cost to export' were reduced by 7 hours (11%) and \$43 (17%), respectively, because Indonesia has simplified customs procedures and integrated information technology (IT). On this account, some projects are considered large-scale works since they require some related stakeholders, as discussed in the next sections.

2. Trade Facilitation Environment – Customs Authority

In enhancing its trade facilitator role, Customs has made several reforms, particularly during 2018–2020, as a continuation of the existing programmes. These programmes include simplification procedures, IT-based service development, and expansion of customs incentives/facilitations.

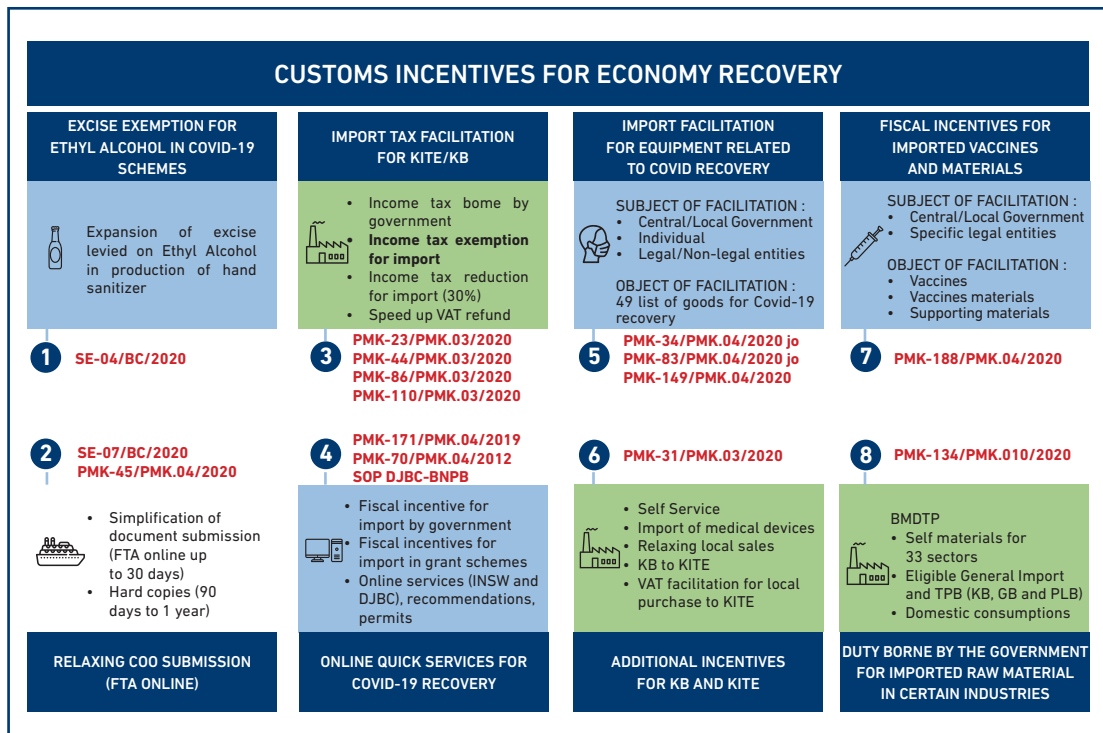
• Developing Customs Facilitation During Pandemic and Economic Recovery

Some unexpected circumstances during the pandemic prevented economic activities:

- The production of medical equipment for COVID-19 was not sufficient to meet sharply increased domestic needs.
- Domestic industry was disrupted due to social and physical distancing protocols.
- Sluggish global demand affected goods produced by Bonded Area/*Kawasan Berikat* (KB) and *Kemudahan Impor Tujuan Ekspor* (KITE) firms (both are export-oriented manufacturers).²
- Public purchasing power decreased, aggregate demand began to fall, and production capacity reduced abruptly.

To overcome these conditions, customs incentives were launched, as described in Figure 4.3.

Figure 4.3. Customs Incentives for Economic Recovery (Trade Facilitation)



Source: Directorate General of Customs and Excise.

² See the explanatory notes at the end of this paper for the explanation about KITE.

The figure demonstrates that the customs incentives can be divided into import duties and import related taxes, simplification of procedures, and online services.

Up until now, many firms have been utilising customs facilitation through industrial assistance programmes – 1,371 KB, 33 duty free shops, 379 KITE, eight exhibition facilities, and 12 special economic zones. The central importance of these facilitations lies in the fact that they grant incentives, as explained in Figure 4.3.

Furthermore, after the KB and KITE firms obtained customs facilities, they showed increased performance compared to the previous year. The facilities reduce costs, allowing firms to meet increasing demand during the pandemic season. For example, the export value of KITE and KB in December 2020 increased by 36.24% year-over-year, and 28.67% month to month. The import value of KITE and KB in the same period still showed a lower performance of -0.86% year-over-year; however, improvement can be seen in the import value from December 2020 compared to November 2020 (m. to m.), which increased 12.21%.³

- **The Establishment of the National Logistic Ecosystem⁴**

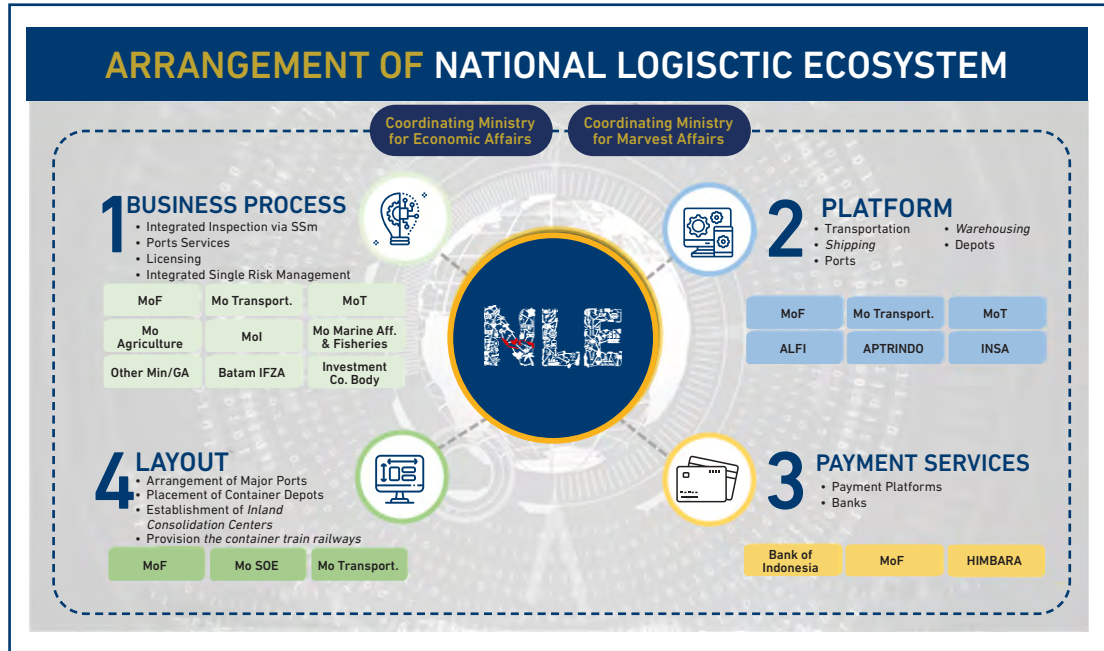
In 2019, the National Logistic Ecosystem (NLE)⁵ was initiated as a trade facilitation effort that was more integrated and holistic. NLE is a logistic ecosystem that synchronises the flow of international goods and documents measured from the arrival of the means of transport (ships, planes, trucks, etc.) to the arrival of the goods at the warehouse. Using a national single window system, NLE incorporated cooperation between government and private agencies through data exchange, simplification processes, elimination of repetition and duplication, and application of an IT system that connects all related logistic processes and existing logistic systems.

³ Source DGCE, subject to revision.

⁴ <https://nle.kemenkeu.go.id/portal/#/>, 12th January 2021

⁵ Presidential Instruction No. 5/2020.

Figure 4.4. Arrangement of the National Logistic Ecosystem



Source: Directorate General of Customs and Excise.

In the implementation of NLE, Customs has issued regulations that ease doing business, such as simplified unloading of goods, periodic loading/unloading permits, ease of truck loosing and risk management, and unloading permit submissions through the NLE platform.⁶

Subsequently, Customs issued regulations stipulating more technical matters that include expansion of online services, rewards to specific warehouse entrepreneurs, customer service standards, harmonisation of customs areas, facilitation for warehouses under customs control, and free-trade zones.⁷

• Expansion of Customs Facilitations

In 2018, Customs launched a programme of rebranding Bonded Area-KB⁸ to be easier and more efficient, reducing requirements from 18 to four by eliminating repeated procedures and transactional permits from 45 to three, while allowing self-service for certain categories.

⁶ Ministry of Finance Regulation No. PMK108/PMK.04/2020.

⁷ Ministry of Finance Regulation No. PMK109/PMK.04/2020.

⁸ Ministry of Finance Regulation No. PMK131/PMK.04/2018.

In addition, optimising KB-Horticulture empowered farmers via a subcontract system. Consequently, KB firms can increase exports; at the same time, farmers have additional income and knowledge of fruit and vegetable farming. Currently, KB-Horticulture has been operating in Lampung, Bener Meriah, and Blitar, amongst other places.

Moreover, since there is a limited number of Customs officials, the self-service KB-Mandiri programme has been implemented for 119 firms. Through this programme, KB-Mandiri enjoys time- and cost-efficiency by running independent inventory management. Customs control roles are replaced by installing technologies such as closed-circuit television and IT inventory. The programme was officially inaugurated in 2019 by the Vice Minister of Finance to attract more investment.

In 2019, other incentives were provided in the form of exemptions for duty and import taxes on goods and/or materials, and/or machines imported by small and medium-sized industries. These exemptions are to encourage firms to be more export-oriented.⁹ The regulation is basically an expansion of coverage to the above-mentioned recipients in which domestic materials are used.

In terms of external evaluation, Customs conducted a customer satisfaction survey in 2019 to evaluate the following: (1) Goods clearance for priority clients/Mitra Utama (MITA) using electronic declarations; (2) Electronic reservation for excise labels; (3) Import documents services; and (4) Customs declaration for Free Trade Zones. The results indicate that, in 2019, the achievement index was higher than the target index (4.61 vs 4.31), which was even better than the previous achievement (4.20), as seen in Table 4.2.

Table 4.2. Satisfaction with Customer Service Index, 2015–2019

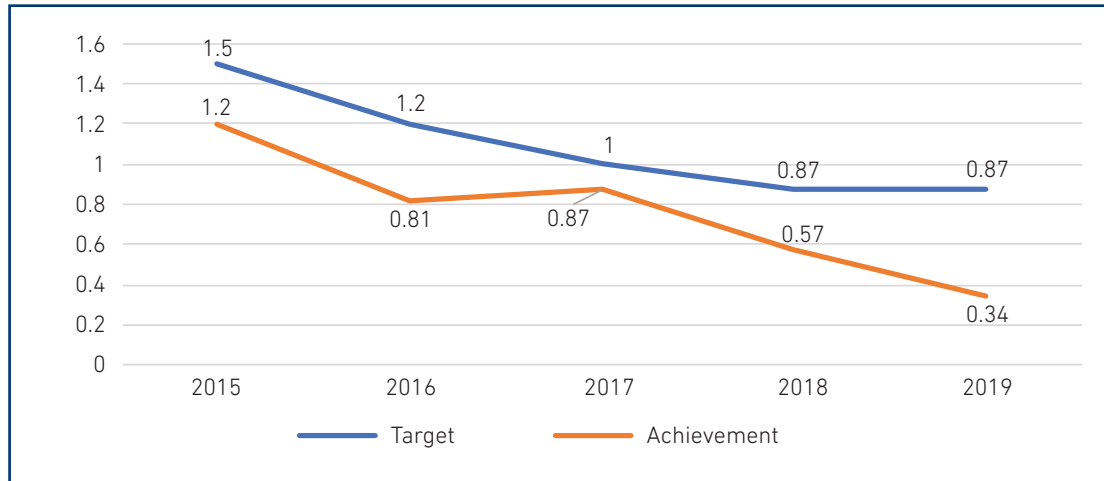
Year	2015	2016	2017	2018	2019
Target	3.94	4.00	4.06	4.34	4.34
Achievement	3.89	4.04	4.38	4.20	4.61

Source: Directorate General of Customs and Excise (2020).

Another achievement from this component is in dwelling time, which is the time taken for imported goods that are unloaded from the ship to exit the port. A higher dwelling time can result in high import costs that become a burden on economic growth. Dwelling time consists of three stages: (1) pre-clearance; (2) custom clearance; (3) post-clearance. Figure 4.5 shows the progress of dwelling time during 2015–2019. In 2019, customs clearance took 0.34 days, exceeding the target of 0.87 days. Overall, during the period, there is a decreasing trend of customs clearance time.

⁹ Ministry of Finance Regulation No. PMK110/PMK.04/2020 amending No 177/PMK.04/2016.

Figure 4.5. Target and Achievement of Customs Clearance Process, 2015–2019
(In days)



Source: Directorate General of Customs and Excise.

2.1 Results from ASTFI II Survey

The survey was conducted in September 2020, engaging Customs and other government agencies to obtain an overview of the implemented trade facilitations. Customs has five questionnaire components: 1) Transparency and Information on Laws, Regulations and Procedures; 2) National Trade Facilitation Committee (NTFC), and Equivalent Title and Mechanisms; 3) Release and Clearance Formalities; 4) Import/Export Formalities and Coordination; and 5) Cross-Border Coordination and Transit Facilitation.

2.2 Transparency and Information on Laws, Regulations, and Procedures

The performance of this component is impressive and mostly resembles the results of the previous survey. However, there are some significant qualitative improvements. There is an extension of available information following an increasing number of Indonesia's FTAs. The website provides information on the AHKFTA, in addition to ATIGA, AANZFTA, ACFTA, AIFTA, AJCEP, and AKFTA, and IECEPA. It also makes available information on bilateral FTAs such as the IJEPA, IPPTA, ICCEPA, Indonesia-Palestine Memorandum of Understanding, and IACEPA, Indonesia-Mozambique PTA (IMPTA), and Indonesia-Korea Comprehensive Economic Partnership Agreement (IKCEPA). More

importantly, clients can submit public complaints, Yacht and Vessel Declarations, consignment tracking, as well as registration and status of International Mobile Equipment Identity for mobile phones purchased from abroad. However, some of the information is still available in Bahasa.

In Q2-2019, Customs provided a new mobile service, the *Noni Bravo* chat bot. It is accessible through the customs website or a specific link¹⁰ using both Bahasa Indonesia and English. The service is a webchat development applying artificial intelligence for its database and information processing, so that it can serve a larger number of inquiries. By the end of 2019, chat bot usage had reached 17.35% of all communication channels, with an increasing trend. Accordingly, customer satisfaction rates with customs communication channels had increased from 80.14% to 85.10%. In 2018 and 2019, the Customs contact centre was granted awards by The Best Contact Centre Indonesia and the Indonesia Contact Centre Association. Apart from the overall performance, there is a remaining space for improvement, as described in the previous survey related to the availability of English-version contents, which is challenging for Indonesia as a non-speaking English nation.

2.3. Communication and Active Engagement of the Private Sector

In terms of communication and active engagement of the private sector, Indonesia performed better than in the previous survey with IT development. In 2018, the National Trade Facilitation Committee (NTFC, or KNFP in Bahasa) was established. This committee coordinates government agencies and the private sector to implement the WTO-TFA nationally. Hence, communication with the private sector can be independently conducted by any agency in the NTFC division. For example, Customs has invited businesses for consultations, eight times a year. However, Customs also had consultations with other agencies such as Indonesia's national single window (INSW) and the Ministry of Trade. Currently, the NTFC portal is being incorporated into the INSW website to provide information regarding trade facilitation, regulations, and inquiry mechanisms from external parties.

Customs saw a structural transformation in 2021 through a new enlarged division of public relations separate from the former Division of International Relations and Public Affairs.¹¹ The new division which is called the Directorate of Communication and Customer Service and it has greater authority than its predecessor so is able to respond more effectively.

¹⁰ Telegram:@nonibravo_bot.

¹¹ Ministry of Finance Regulation No. 118/PMK.01/2021.

2.4. Release and Clearance Formalities

Indonesia's performance in this component is quite good, and it has not changed much from the previous survey. Despite this, an improvement was made in 2020 via a self-certification mechanism and formulating a draft regulation regarding advance rulings on origins to meet the WTO-TFA agreement. Indonesia is expected to implement the regulation by 2022 according to the agreement.

Finally, in February 2022 the advance ruling on origins came into force¹² which is expected to greatly help both the business sector and Customs. Under this new regulation, an importer can now seek a decision from Customs on the origin of imported goods prior to submission of the import declaration. As a result, the number of disputes over origin determination that lead to complicated clearance processes is expected to be much reduced.

In terms of formalities for pre-arrival (import) or pre-departure (export), Indonesia has a moderately high performance, as in the previous survey. These formalities currently apply to all ports without specific location restrictions. Importers can submit declarations prior to arrival of cargoes or goods (inward manifest). An Authorized Economic Operator (AEO)/MITA can even submit the inward manifest up to 7 days after the clearance approval. In 2019, Customs stipulated¹³ submission of export declarations no later than 7 days before the goods enter customs areas. The regulation allows exporters to prepare formalities in advance, so that the clearance will be completed more rapidly. As Indonesia has little trade occurring at land borders, the pre-arrival and pre-departure formalities are not available there; nonetheless, the clearance process is also quick since it is not so busy. This is the reason that the score has been stagnant since the earlier survey.

Additionally, to support the acceleration of release and clearance formalities, Customs has implemented risk management in accordance with best practices recommended by the World Customs Organization (WCO). Likewise, as indicated in the previous survey, the inspection of imported goods is carried out with high selectivity, with the proportion of red channels not exceeding 10%. The inspection typically takes place at traders' warehouses, and currently it can even be conducted jointly by Customs and Quarantine using an online application.¹⁴

Despite this, Customs has implemented a post-clearance audit mechanism. If necessary, Customs can collaborate with the Tax administration for joint audit programmes. These measures are very efficient for traders. Moreover, KB can file single submission of tax and customs documents for purchasing local raw materials.¹⁵

¹² Ministry of Finance Regulation No. 7/PMK.04/2022

¹³ Ministry of Finance Regulation No. 21/PMK.04/2019.

¹⁴ DGCE Decree No KEP – 216/BC/2020.

¹⁵ Pilot project in August 2019, Mandatory in January 2020.

Customs has performed very well facilitating the movement of goods, particularly those required as production inputs. As illustrated in the previous results, this is made possible by executing guarantees. However, for reputable firms such as MITA/AEO, the duties can be paid using periodic customs obligation settlements in the following month.¹⁶

Apart from that, the use of electronic payments for customs obligations for both import and export has been standard, as described in the previous survey. Customs has expanded this system by collaborating with several e-commerce marketplaces¹⁷ to provide payment after receiving the billing code from the customs computer system. Customs also applies objections and appeals to the tax court, as practiced globally. During the pandemic, objections could be filed through electronic application¹⁸ and via postal services.

Regarding the clearance measurement, there are two indicators used by Customs: dwell time and TRS. Under these elements, Indonesia has performed remarkably well. Dwell time¹⁹ and TRS Information are available to public and evaluated to improve client services. In 2020, TRS was extended to more Customs offices, including Tanjung Priok, Belawan, Tanjung Perak, Tanjung Emas, Makassar, Balikpapan, and Palembang.²⁰

AEO/MITA was meant to provide a very low risk importer/exporter status to firms that have met certain criteria. AEO has lower risk level than MITA because it must fulfil WCO standards and supply chain security criteria. In the beginning of the programme, there were only five firms granted AEO status. By 2020, 137 companies were registered as AEO, 75 more than there were in 2017. In 2021 the number of AEO firms has just increased slightly to 141. Meanwhile, the number of MITA firms has increased from 301 in 2017 to 636 in 2020. In terms of MRA, Indonesia performs better than in the previous survey. An MRA has been implemented with Korea to optimise the benefits of AEO. Currently, Indonesia is not only exploring the possibility of future MRAs, but is also having discussions with Hong Kong, Australia, China, and the United Arab Emirates.

Regarding self-certification, Indonesia performed better under this indicator compared to the previous survey. The self-certification is now fully operational and available not only for ATIGA but also for IECEPA²¹ and the Indonesia-Australia Comprehensive Economic Partnership Agreement.²² In the future, the use of self-certification will potentially increase and become a common practice, provided that such mechanism has been established in both agreements.

¹⁶ DGCE Decree No PER-11/BC/2017 and No. PER-4/BC/2015.

¹⁷ Tokopedia: <https://www.tokopedia.com/mpn/>, 12th January 2021

¹⁸ Customs office of Tanjung Priok, possible to extend at other offices.

¹⁹ <http://bictonline.pelindo1.co.id/DT/>

²⁰ <http://dwellling.pelindo.co.id/>

²¹ Dashboard INSW, 12 January 2021

²² TRS 2020 result analysis had been submitted to ERIA.

Indonesia has also implemented expedited shipment/clearance procedures, especially for postal goods and air cargo in connection with the characteristics of goods that must be immediately removed from customs areas. For example, there are several time-sensitive goods such as perishable goods, body organs, live stocks, international postal items, and medical devices (COVID-19 vaccines, gloves). Expedited shipment/clearance has not been applied to land cargo due to the geographic conditions. Since Indonesia is an archipelago, international trade through land borders is still very small and still feasible using normal procedures.

International trade in practice is not limited to conventional means such as import and export per se, but also other related activities such as import for temporary purposes. Some construction projects in host countries may use heavy equipment only until the end of contracts. These goods then must be returned to home countries. Therefore, importers are relieved from paying normal duties; in some cases, importers are exempted from the duties altogether. In facilitating this, Indonesia has a procedure known as temporary admission,²³ which pertains not only to commercial projects, but also to other purposes such as tourism and recreational and sporting events, as well as exhibitions.

3. Trade Facilitation Environment – Major Agencies (including Quarantine)

3.1. Import/Export Formalities Coordination

Indonesia performs quite well regarding import/export formalities coordination. All supporting documents can be submitted electronically except for specific circumstances, such as 'red channelling' for physical inspection by Customs and document verification by other agencies. In the pandemic, the submission of certificates of origin could be done through email, with the hard copy delivered to Customs between 90 and 360 days later.²⁴

Some progressive improvements have been made by allowing electronic certificates of origin (E-COOs) since 2018. Following the implementation of electronic Form D, Indonesia has concluded memoranda of understanding with trading partners such as Korea and China to implement electronic Form AK²⁵ and Form E.²⁶ Accordingly, Indonesia can exchange COO data electronically with all ASEAN member countries at all ports of entry. Considering that 12 non-electronic COOs

²³ Ministry of Finance Regulation No. 122/PMK.04/2021

²⁴ Ministry of Finance Regulation No. 82/PMK.04/2020.

²⁵ Effectively implemented by 1st February 2020

²⁶ Effectively implemented by 15th October 2020

under FTAs have been implemented earlier by Indonesia, it is encouraging that the initiative is extended to the nine remaining ones. Furthermore, Indonesia also has started a new initiative in 2020 to exchange electronic export data with Singapore in order to accelerate clearance processes.

INSW, as a system that enables a single submission of data and information, a single and synchronous processing of data and information, a single decision for customs release and clearance, and an environment that connects Indonesia with other countries, is fully implemented. INSW was initiated at the end of 2007; as of 2020, it covers Customs and 15 major agencies. In the beginning of 2018, INSW was implemented in 22 Customs and Excise service offices; to date, 88 Customs and Excise service offices have integrated with the INSW system.²⁷

INSW covers export and import activities (not transit and transshipment) and allows major documents needed to clear trade. Currently, submission of some permits/licences has not yet been included in the system. Traders are still obliged to apply for permits through each ministry/agency system and transmitted to INSW for goods clearance processes. Nonetheless, INSW can facilitate IACEPA by providing a feature to execute validation and calculation of the tariff rate quota arrangement.

Since NLE has become a national strategic project that integrates ever more private agencies, INSW is developing a transit and transshipment regime as part of its coverage. Moreover, to support the implementation of NLE, INSW provides several single submission programmes, such as: Single Submission (SSm) of Customs and Quarantine, which allows a joint inspection process by both Customs and Quarantine; SSm of Licensing, which allows a one-door system for all import-export-related permits; SSm of Means of Transport, which allows a one-door system for carriers to perform all clearance processes in ports; DO Online, which allows online payment for DO redemption process and other payments of fees; and lastly SP2 Online, which allows online submission to unload/load goods from and to temporary storage facilities at ports. The mandatory implementation of single submission and joint inspection by Customs and Quarantine will significantly reduce clearance time by 35% to 56% (0.6 to 2.1 days) and clearance costs by 50% to 68%.²⁸

Moreover, as mandated in article 45 of the ASEAN Trade in Goods Agreement, Member States shall develop and implement a comprehensive ASEAN Trade Facilitation Work Programme, which sets out actions and measures with specific targets and timelines of implementation. To comply with this commitment, Indonesia has already established the Indonesia National Trade Repository, which contains trade rules and regulations through the existing INSW portal.

²⁷ Ministry of Finance Regulation No. 220/PMK.01/2019.

²⁸ Based on internal Customs survey at major ports.

This repository is used for traders as the single, more convenient reference to find information on import and export procedures, resulting in better compliance with rules and regulations. The Indonesia National Trade Repository delivers information that includes: (1) tariff nomenclatures; (2) most-favoured-nation, preferential tariffs; (3) Rules of Origin; (4) non-tariff measures; (5) national trade and customs laws and rules; (6) procedures and documentary requirements; (7) administrative rulings; (8) best practices in trade facilitation applied by each Member State; and (9) list of authorised traders of Member States. This repository is also connected with the ASEAN Trade Repository.

4. Trade Facilitation Environment – Transit, Transport, and E-Commerce

4.1. Cross-Border Coordination and Transit Facilitation

Indonesia still performs well regarding cross-border coordination. Customs has agreements with neighbouring countries (i.e. Malaysia, Timor-Leste, the Philippines, and Papua New Guinea) and collaborates officially with other relevant agencies (i.e. Ministry of Home Affairs, Ministry of Trade, and Immigration) for the implementation of these agreements. Border agency coordination with Malaysia is conducted by the local government as part of the General Border Committee of Indonesia-Malaysia in which Customs becomes part of 'Sosek Malindo' forum. In terms of operation, it aligns working hours and joint controls. However, the issuance of cross-border permits for vehicles transporting goods is still in the pilot stage.

4.2. Transport Facilitation

For transport facilitation, Indonesia needs to accelerate the implementation of the related agreements. All three protocols under the AFAFGIT agreement have been ratified and the regulations are already in place, despite not yet being operationalised.²⁹ Since the schedule for operationalisation from ASEAN has yet to come, Indonesia is still engaged in the AFAFGIT implementation process. The ASEAN Framework Agreement on Multimodal Transport has been ratified, while the AFAMT agreement has yet to be operationalised.³⁰ When it comes to unifying

²⁹ Protocol 1: Presidential Regulation No. 70/2011.

Protocol 2: Presidential Regulation No. 105/2020.

Protocol 4: Presidential Regulation No. 86/2000.

³⁰ AFAMT: Presidential Regulation No. 14/2016.

land transport amongst member countries with different environment and regional characteristics, there may be technical problems arising from the implementation of these agreements. However, full implementation is expected to generate economic growth at cross-border regions. Nevertheless, Indonesia has made efforts in accelerating the distribution of goods/logistics for both national and international transactions through two strategic programmes under the NLE framework, which are the SSm of Means of Transport (Domestic Manifest, International Departures and International Arrivals applications) and the Platform Warehouse and Platform Trucking. These programmes stimulate trade by improving logistics and transportation aspects of trade, not only in Indonesia but also in ASEAN.

4.3. E-Commerce

In terms of e-commerce, Indonesia's performance is significantly improved. Currently, there is an operational legal framework to govern e-identification and authorisation,³¹ and a revenue collection framework is being operationalised for e-commerce, particularly for low-value imports subject to waivers of duties and taxes. An online dispute resolution mechanism system has also been implemented.³²

On average, 90% of Indonesia's e-commerce transactions were executed through consignment in 2020. This implies an increasing trend by 1,000% compared to 2017. In anticipating the vast possibilities of e-commerce particularly of the low-value goods, Indonesia has released regulations on relevant taxes.³³ The development of e-commerce bonded logistics centres³⁴ is an initiative of Customs for circulation in specific areas.

The other e-commerce initiative is the Delivery Duty Paid (DDP) scheme to expedite clearance, increase transparency, create data integrity, and apply legal certainty based on risk management principles. Data from the Customs system show that DDP will cut clearance time by at least 50% (DDP: 1.01 hours vs non-DDP: 2.18–14.59 hours). Currently, five big marketplace platforms have taken part in this collaboration.

³¹ The Government Regulation No.71/2019.

Minister of Communication and Informatics Regulation No. 11/2018.

³² Government Regulation No. 80/2019.

³³ Ministry of Finance Regulation No. 199/PMK.010/2019.

³⁴ Ministry of Finance Regulation No. 28/PMK.04/2018.

5. Recommendations

The discussion in earlier sections has presented the following suggestions for improving trade facilitation.

First, since accessible information is an essential element for trade facilitation, an important factor for its improvement is information in English on all communication channels. Though this demands extra effort and resources, producing information in an international language would heighten Indonesia's profile in the global economy.

Second, advance ruling is an important part of trade facilitation that requires improvement in Indonesia. By reason of legal certainty and uniformity in its implementation amongst Customs offices, the decision of advance ruling (with redacted information) should be available and open to the public as reference for traders and stakeholders, taking into account the level of awareness of traders and stakeholders of the purpose of such publication. Determining classification, valuation, and origin has been more complicated as reflected in increasing trade values, diverse characteristic of goods, and different procedures of each country of origin. The results would contribute to reducing possible inaccuracy of duties and import taxes. During the pandemic, it was suggested to create online systems for submission of advance ruling requests and receiving decision results. This service would reduce trading costs and time significantly for businesses. Customs has included advance ruling as a strategic project in 2021 that has been implemented in 2022 according to the WTO-TFA agreement. It is expected that advance ruling on origin will not produce complex administrative requirements, as the trend of trade under FTA schemes is increasing over time.

Third, the Pre-Arrival Processing regime (PAP) has been fully operational at all Indonesian ports to speed up customs clearance process, except at land borders. Although the movement of goods through land borders is still very small compared to those by sea and air, Indonesia can consider implementing PAP at remote land borders. The facility could generate trade and develop economic growth in the regions.

Fourth, the creation of a special unit to manage advance ruling on origin is still relevant as the utilisation of COOs, E-COOs, and self-certification has been growing significantly following increased participation in FTAs. In the short term, improving advance ruling on origin can be achieved by enhancing human resources capacity. Intensive high-quality training for customs officers is essential to have expert qualifications, recognised by both national level and WCO standards. By the time advance ruling on origin is implemented in 2022, committed to WTO-TFA, Customs will have anticipated with qualified resources. Currently, the number of inquiries regarding advance ruling on origin and COO through communication channels is large.

Fifth, Indonesia has a striking progress on the development of registered AEO for the last five years, and the trend keep going upward. Expanding the scope of AEO by concluding MRA with other ASEAN Member States (AMS) is very important. ASEAN is Indonesia's main trading partner supplying inputs for production, as well as a major international market. The existence of the MRA will accelerate ASEAN as a regional production base. Promoting MRA with non-AMS is also encouraged to broaden supply chain connectivity across the regions.

Sixth, the self-certification is fully operational in the ASEAN scheme, as well as in IACEPA. The main implementation issue is validity of information in the certificate. This is the reason that some countries are reluctant to adopt self-certification. In the future, it is strongly recommended to push other firms to become registered exporters eligible for utilising self-certification. The more companies apply for export registration, the lower the risks in the clearance process, and the less restrictive customs control can be.

Seventh, coordination amongst agencies should be improved. The establishment of National Single Risk Management is essential to generate efficiency and effectiveness of trade facilitation. Integrating risk management systems of related ministries/agencies is feasible via INSW. Hence, the different definition of firm risk status amongst agencies can be reduced. Currently, the Ministry of Health has adopted a single risk management which follows the same criteria used in Customs for business actors and goods. The joint inspection programme by Customs and Quarantine can be an early strategic stage toward achieving national single risk management, considering that the programme uses an electronic application of submissions, inspections, and single profiles between Customs and Fish and Agriculture Quarantine.

Eighth, transport facilitation performance needs improvement, since it has only moved up slightly from the previous period. In more detail, the ratification of the AFAFIST agreement and designation of frontier posts should be a priority. If Indonesia can promote transport facilitation along with PAP for land borders, it would make trade more attractive at borders.

Ninth, so far, one other e-commerce indicator that needs to be improved is the operationalisation of a legal framework harmonised with other AMS. This is not only Indonesia's homework but also the job of every AMS. Finally, extensive coordination and consultation amongst AMS experts is urgent to encourage commitment.

Explanatory Notes

AANZFTA

ASEAN-Australia-New Zealand Free Trade Agreement, a comprehensive regional trade agreement between ASEAN Member States (Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Viet Nam), Australia, and New Zealand.

ACFTA

ASEAN-China Free Trade Agreement, a comprehensive regional trade agreement between ASEAN Member States (Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Viet Nam) and China.

AEO

Authorized Economic Operator, a programme that create customs-to-business partnerships aimed at securing the supply chain and facilitating legitimate low-risk trade.

AFAFGIT

ASEAN Framework Agreement on The Facilitation of Goods in Transit, the generic standards aimed for the implementation of an international transit system amongst ASEAN Member States.

AFAFIST

ASEAN Framework Agreement on The Facilitation of Goods of Inter-State Transport, the standards aimed for simplification and harmonization of transport and customs procedures for goods in transit and inter-state transport of goods amongst ASEAN Member States.

AHKFTA

ASEAN-Hongkong Free Trade Agreement, a comprehensive regional trade agreement between ASEAN Member States (Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Viet Nam) and Hongkong.

AIFTA

ASEAN-India Free Trade Agreement, a comprehensive regional trade agreement between ASEAN Member States (Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Viet Nam) and India.

AJCEP

ASEAN-Japan Free Trade Agreement, a comprehensive regional trade agreement between ASEAN Member States (Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Viet Nam) and Japan.

AKFTA

ASEAN-Korea Free Trade Agreement, a comprehensive regional trade agreement between ASEAN Member States (Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Viet Nam) and Korea.

ASEAN

Association of South East Asian Nations, a political and economic union of ten member states in South East Asia.

ATIGA

ASEAN Trade in Goods Agreements, an upgraded trade agreements amongst ASEAN Member States from the previous ASEAN Free Trade Agreement-Common Effective Preferential Tariff (AFTA-CEPT).

BMDTP

Bea Masuk Ditanggung Pemerintah in Bahasa, an import facilitation scheme by which duty levied on imported goods in certain industries is borne by the Government.

COO

Certificate of Origin, an international trade document which attests that the product listed therein has met certain criteria to be considered as originating in a particular country.

DDP

Delivered Duty Paid, a delivery agreement whereby the seller assumes all of the responsibility, risks, and costs associated with transporting goods until the buyer receives or transfers them at the destination port.

DGCE

Directorate General of Customs and Excise, a government agency under the Ministry of Finance of Republic of Indonesia responsible for collecting duty, import taxes, excise, and trade facilitation.

DO

Delivery Order, a document that can be issued by the owner of freight, consignee, shipper or a carrier to deliver the goods to another party.

FTA

Free Trade Agreement, an agreement between two or more countries where the countries agree on certain obligations that affect trade in goods and possibly other topics.

GB

Gudang Berikat in Bahasa, a Bonded storage places to temporarily store imported goods might be complemented with 1 (one) or more production activities such as packaging/repackaging, sorting, knitting, packing, adjustment, cutting, of certain goods within a certain period of time.

HS

The Harmonized System also known as The Harmonized Commodity Description and Coding System is a standardised numerical method of classifying traded products.

IACEPA

Indonesia-Australia Comprehensive Economic Partnership Agreement, a comprehensive regional trade agreement between Indonesia and Australia.

ICCEPA

Indonesia-Chile Comprehensive Economic Partnership Agreement, a comprehensive regional trade agreement between Indonesia and Chile.

IECEPA

Indonesia-European Free Trade Association (EFTA) Comprehensive Economic Partnership Agreement, a comprehensive regional trade agreement between Indonesia and EFTA member states which are Iceland, Liechtenstein, Norway, and Switzerland.

IJEPA

Indonesia-Japan Economic Partnership Agreement, a comprehensive regional trade agreement between Indonesia and Japan.

INSW

Indonesia National Single Window, an integrated system that allows for a single submission of data and information, single synchronous processing of data and information, and single decision making for customs release and clearance of cargoes.

IPPTA

Indonesia-Pakistan Preferential Trade Agreement, a regional trade agreement between Indonesia and Pakistan only for trade in goods.

KB

Kawasan Berikat in Bahasa, bonded zones or commercial areas in Indonesia granted favourable taxation policies which are managed by the Customs administration.

KB Mandiri

Kawasan Berikat Mandiri in Bahasa, self-served bonded zones in Indonesia authorised by the Customs administration for independently delivering service and control.

KITE

Kemudahan Impor Tujuan Ekspor in Bahasa, duty drawback facility granted by the Customs administration for firms with export orientation.

KNFP

Komite Nasional Fasilitas Perdagangan in Bahasa, a special committee responsible for coordinating the implementation of the WTO Trade Facilitation Agreement in Indonesia.

MITA

Mitra Utama in Bahasa, priority clients or economic operators with special treatment by the Indonesian Customs for conducting import and export without physical and document inspection.

MRA

Mutual Recognition Arrangement, a broad concept where signatory countries close an agreement or arrangement to mutually recognise their AEO.

NLE

National Logistic Ecosystem, a logistic ecosystem that synchronises the flow of international goods and documents measured from the arrival of the means of transport (ships, planes, trucks, etc.) to the arrival of the goods at the warehouse.

NTFC

National Trade Facilitation Committee, mandated under the WTO Trade Facilitation Agreement to be implemented by all members.

PLB

Pusat Logistik Berikat in Bahasa, a place for storing goods from outside the Customs territory and/or goods originating from other places within the Customs territory within a certain period of time, and might be complemented by one or more simple activities.

RCEP

Regional Comprehensive Economic Partnership, a comprehensive regional trade agreement between ASEAN and its five biggest trading partners which are Australia, China, Japan, New Zealand, and Republic of Korea.

SSm

Single Submission, an integrated permit system for business streamlining multi-agency permit procedures into one single submission in Indonesia.

TPB

Tempat Penimbunan Berikat in Bahasa, a building, place, or area that meets certain requirements used to store goods for a specific purpose by obtaining a suspension of Import Duty. In broader scope, TPB include KB, KB Mandiri, GB, and PLB, but these do not apply the other way around.

TRS

Time Release Study, a unique tool and method to measure the actual performance of border procedures including Customs activities in a systematic and standardised way by measuring the time taken to release and/or clear goods.

VAT

Value Added Tax, a tax imposed on every value added of goods or services in circulation from producers to consumers in Indonesia. In other countries is also known as Goods and Services Tax (GST).

WCO

World Customs Organization, an independent intergovernmental body whose mission is to enhance the effectiveness and efficiency of Customs administrations.

WTO

World Trade Organization, an intergovernmental organisation that regulates and facilitates international trade between nations. Governments use the organisation to establish, revise, and enforce the rules that govern international trade.

WTO-TFA

World Trade Organization-Trade Facilitation Agreement, a specific set of measures under the WTO that streamline and simplify the technical and legal procedures for international trade.





Chapter 5

Trade Facilitation in Lao PDR: Results from Follow-up ASTFI survey

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1. Overall Trade Facilitation Environment

The coronavirus disease (COVID-19) pandemic severely curtailed the Lao People's Democratic Republic's (Lao PDR) gross domestic product growth rate from over 5.5% in 2019 to 0.5% in 2020. Imports and exports in 2020 were just above \$5 billion, falling from \$5.8 billion in 2018. Some border checkpoints had to be closed, which impacted customs revenue collection. In response to the pandemic, the government instituted various policies to maintain the flow of goods across the border, such as using letters and notices from the COVID-19 taskforce as a mechanism to overwrite or simplify the process. Goods were subject to exemption not only from customs duties and taxes, but also from inspections and formal customs procedures, depending on the letter and notice from the taskforce. However, unlike some other countries, the pandemic did not have much impact on digitalisation of trade processes due to limited infrastructure.

Since 2018, Lao PDR has been making progress on some aspects of trade facilitation by implementing the Trade Facilitation Roadmap for 2017–22, which was adopted in 2017 with the goals of reducing the time taken for completing the regulatory formalities by 50% and the documentation for exports-imports by 30%. The Prime Minister's Order no. 12/PM on facilitating import-export, temporary import, transit, and transfer goods in Lao PDR was issued in 2019. Amongst the main activities that were carried out include developing institutional mechanisms for effective coordination amongst line departments and strengthening governance structures at the sub-national level for improved communication, monitoring, and implementation. However, cross-border cooperation and regional integration has been partially implemented and some priority measures, like the publication of Service Charters, establishment of the National Single Window, enabling regulations for digital signatures, centralisation of payments and one-stop inspections, etc. have been delayed.

Government agencies have streamlined procedures and times for dealing with documents related to the import of vehicle spare parts and the export of minerals.¹ The procedure regarding mineral exports will take only 3 days by reducing the frequency of issuing Customs Letters from every shipment to the checkpoints, as well as shortening document processing of concerned ministries, particularly the Ministry of Energy and Mines.

Secondary indicators of trade cost in Lao PDR did not see any change between 2018 and 2020. The trading across borders in Lao PDR in 2020 was 77.67, which is the same as the previous few years. However, secondary indicators of trade facilitation derived from the United Nations Trade Facilitation survey shows some progress over time. Improvements are seen in cross-border paperless trade, formalities, and transparency.

¹ See progress in Doing Business reform at <http://db.investlaos.gov.la/en/reform-topics/trading-across-borders/reforms-updates/>.

Lao PDR participated in the follow-up Association of Southeast Asian Nations (ASEAN) Seamless Trade Facilitation Indicators (ASTFI) project. We received responses from the Customs department of the Ministry of Finance (including for e-commerce questionnaires), the Ministry of Agriculture and Forestry (MAFF) (including for quarantine questionnaires), the Ministry of Science and Technology (MoST), the Ministry of Energy and Mining, and the Ministry of Health. The transport questionnaire was responded by the Ministry of Public Works and Transport. We also conducted a meeting with a Customs official to validate the response on the relevant questionnaire.

Overall, Lao PDR made some progress in trade facilitation. On Components A and B, Lao PDR already performed well high in 2018. In 2020, the implementation of an interactive information channel or Customs contact centre, which was found to be lacking in 2018, is still a major issue that needs to be addressed. Major improvements in component C, Release and Clearance Formalities, include added provision of advanced rulings in the Customs Law, introduction of an Authorized Economic Operator (AEO) programme, and introduction of self-certification programme through ASEAN-wide Self-Certification (AWSC). Some of the other elements that were lacking in 2018 are currently under development, especially dwell time publication and provision of simplified or expedited clearance. Component D – import and export formalities – saw an improvement due to implementation of the ASEAN Single Window. Other scores within this component remained unchanged. But no major improvements in cross-border coordination have been observed between 2018 and 2021. Component F (transport facilitation) improved due to the introduction of procedures for issuance of ASEAN Goods Vehicle Cross Border permits, and operationalisation of land transport facilitation protocols. On Component G (E-commerce), there was slight improvement due to piloting of revenue collection framework for cross-border e-commerce trade.

The rest of the report discusses in greater detail the changes in each question across all the components of the ASTFI survey.

2. Trade Facilitation Environment – Customs Authority

The Lao Trade Portal provides all trade-related information. The information is available in both English and local language, except for a few pages. The website is managed by the Department of Import/Export, working with focal points from line agencies of the national trade facilitation committee, for any update on trade-related regulations. There is no major plan to upgrade the platform yet. However, the Customs website will be upgraded and improved in some areas to enhance regulations information distribution.

While the Interactive Information Channels/Customs Contact Centre is not fully developed yet, the custom website is currently developing an interface which allows the user to contact with staff for clarification or information inquiry. The initial plan considered establishing a physical help desk but, due to the pandemic, upgrading the website is being prioritised. So far, the contact centre is available only in the Lao language, though English language communication could be done by an email or any message apps. If the first contact cannot communicate well in English, Customs has international corporation divisions that can take care of communication in English. Integrating English language service directly into the contact centre would improve trade facilitation for foreign businesses.

Since 2018, Lao PDR added a new institutional feature for trade facilitation in the form of Provincial Trade Facilitation Secretariats. As noted in the Baseline ASTFI report, the Trade Facilitation Secretariat (TFS), which fulfils the role of NTFC, was already established in 2010 and is headed by the Deputy Prime Minister. The TFS has held regular meetings two times per year, with additional meetings scheduled to address more urgent issues. To further support trade facilitation at the subnational level, the Prime Minister's Decision No. 48/PM in 2018 established Provincial/Capital Trade Facilitation Committees (PTFCs). The Vice Governor is the Head of PTFC and each director of the Provincial Department of Industry and Commerce, the Provincial Department of Public Works and Transport, the Provincial Department of Agriculture and Forestry, the Provincial Department of Health, the Provincial Department of Science and Technology, and the Provincial Department of Customs are deputy heads of PTFC. Membership includes deputy directors of the Provincial Department of Energy and Mines, the Provincial Department of Post, Telecommunications and Communication, the Provincial Tax Department, the Provincial Department of Planning and Investment, the Department of Finance, the Department of Foreign Affairs, the Provincial Department of General Affairs, the Governor's Office, the Department of Natural Resource and Environment, the Provincial Department of Economic Police Department, the Provincial Traffic Police Department, and the Vice President of Chamber of Commerce and Industry (Provincial level). This committee can organise their own meeting to solve an urgent issue locally. This committee is also able to propose such an issue to the National Committee for further resolution. In 2021, there were more than 47 activities/meetings held under Provincial Trade Facilitation Committee.

For stakeholder consultation, generally this can be done through the non-tariff measure working group. However, there is also an alternative channel that the traders can use to interact with Customs. According to the Law on Making Legislation, Customs has to organise the public consultation session while drafting new laws or amending existing laws. Moreover, when the laws come into force, dissemination workshops must be held to make sure concerned bodies, especially the private sector, has a better understand how to amend it. In addition, due to COVID-19, the law allows public consultation through online channels.

In the amendment to the Customs Law in 2020, Lao PDR introduced a provision for advance rulings. Customs has published the procedures for traders to request advance rulings for all three classifications, origins, and valuations. These procedures are indicated in the new Customs law. However, given that it is a new provision, its use by the trading community is limited. In 2020, there were approximately 20–30 applications for advance rulings. For the moment, the custom has not published the advance rulings yet. The dissemination of the advance rulings provision through workshops or seminars to let the traders know and understand its benefits and how they work is needed. The online channel for advance rulings is not available. However, there is a plan to make advance rulings available on the Customs website.

A more efficient risk management system has yet to be developed. Currently, the inspection for the clearance process is 50%. Customs aims to reduce physical inspections as much as possible. In practice, however, decreasing physical inspection still faces many challenges; for example, even if the transaction indicates low risk such as via a green channel or yellow channel, some custom officers at border checkpoints insist on conducting physical inspections because they feel that the risk profile is not up to date and override the risk management categorisation. Currently, there is no single inspection; besides that from Customs, by law an inspection is also able to be done by other parties such as the Department of Agriculture, and Department of Livestock and Fishery (MAFF), and the Department of Food and Drug (Ministry of Health). In order to overcome this, Customs is working with other government agencies to establish a joint risk management system. In 2021, the Trade Facilitation Road Map implemented risk management for authorities from Customs, the Agriculture Department and Livestock and Fishery Department, and the Food and Drug Department. This comprehensive management system is planning to pilot in early 2022. Recently, an MOU on the implementation of risk management and coordination mechanisms between Customs, the Agriculture Department and Livestock and Fishery Department, and the Food and Drug Department was signed.

According to dwell time publications, the Customs or Port Authority does not publish average dwell time information. Customs only publishes the results of the time release study (TRS). According to Prime Minister Order No.12, the Trade Facilitation Committees must conduct the TRS regularly. Therefore, it should be conducted every 2–3 years. The TRS is planned to be conducted again in 2022 and 2024 under the Lao Competitiveness and Trade Project supported by the World Bank.

Another major development since 2018 is the introduction of the AEO programme, embedded in the Customs law. The Ministry of Finance issued instruction No.1159/MF in 2019 detailing AEO criteria, requirements, benefits, and associated procedures. In order to apply for AEO, a business operator must be legally registered and hold an account in the Lao PDR tax payment system. The firm in question should have conducted import-export activities for at least 3 years with a tax payment declaration of at least 250 sets per year. Moreover, the firm must have a record of at least

98% correct tax payment declarations and have never violated Customs and other relevant laws for at least 3 years prior. In addition, the business operator also must have financial liquidity, an accounting system consistent with Lao PDR Customs law, and a security system for product and packaging transportation, building, staff, business partners, and firm information. If the firm is a chain or branch of an AEO firm in a foreign country, it would be under special consideration.

Customs plans to launch the AEO programme if there are at least four applications. However, currently there is only one application. In order to overcome this, Customs plan to find the obstacle for the business operators to join the AEO programme. Customs has not concluded Mutual Recognition Agreements (MRAs) yet; to do that, the national AEO programme must finish its evaluation within a year of launching. After the MRA's launching, Customs plans to look for the mutual recognition, arrangement, or negotiation with key trade partners, such as Viet Nam or China, where they have reactive AEO programmes in the community. In 2021, the Customs Department issued Agreement No. 03682/CD on a pilot authorising border Customs to grant preferences for 11 AEOs under ASEAN Trade in Goods Agreement Form D (ATIGA-Form D) without applying preferences. As of this writing, Lao PDR has one company as AEO.

For ASEAN-wide Self-Certification, Lao PDR has implemented a pilot stage for both certified manufacturers and certified exporters (SCPP 1). Lao PDR recently promulgated Decision 1206/IC.DIMEX on the Self-Certification of Origin under the ATIGA, which details how to become a Certified Exporter in the country, specifying the various requirements, such as being an exporter that conforms to the nation's laws possessing experience in the exportation of goods, and having a clean history concerning certifications of origin.

Regarding Simplified or Expedited Clearance, there are two categories of clearance procedures. For shipments under the de minimis threshold of \$150, there is no need for detailed customs declarations. Goods valued beyond this threshold are subject to full customs procedures. Due to an increase in e-commerce, Customs is planning to develop a low-value shipment programme. This programme will make a second category for shipments that have a value above (but not too far above) the de minimis threshold. Shipments under this category will have a simplified declaration process.

The use of paperless documentation is still limited. The current restriction in using digital documents is more a limitation of technology than due to regulation. In the revised customs law, electronic documents are allowed. For the Automated System for Customs Data (ASYCUDA) system, physical documents are still required even though there is a function that can

accommodate the submission of electronic copies. In order to accept electronic documents, the ASYCUDA system needs to be upgraded. Customs has already informed UNCTAD (the owner of the ASYCUDA system) to upgrade the system, which is expected to be done in 2022. During the COVID-19 pandemic, goods were permitted to be released first and the original documents submitted later if the traders did not have them.

A few trade-related government agencies are currently using the LNSW. The Lao National Single Window system is implemented for vehicle import permit (MOIC), technical import permit (MPWT), and food import permit (MOH). LNSW has been implemented for Vientiane Capital (Vientiane logistic Park dry port and Thanaleng and Sokxay customs office)², Luangnamtha province (Borten checkpoint), Khammouane province (Friendship Bridge 3 checkpoint, Naphao checkpoint and ThaKhek e-economic zone), Savannakhet province (Friendship Bridge 2 checkpoint, Savan Logistic, Dansavan Checkpoint, Champasak province (Vangtao checkpoint and Vangtao dryport customs office) but for Nongnokkhien checkpoint not use because the problem with internet connection. Therefore, LNSW implemented in 9 checkpoints and 2 special economic zones including 2 dry ports, which covers about 40% of total trade transactions across the country. Recently, the LNSW has been renamed as NSWA+(National Single Window ASYCUDA+) after LNSW was integrated with ASYCUDA WORLD. Economic operators and shipping agencies can file declaration through NSWA+ without needing to print supporting documents. NSWA+ plans to introduced to all the borders in Laos in 2023. Furthermore, the system for Department of Agriculture and Department of Livestock and fisheries is being developed for issuance of import permits. The major barrier for other government agencies to join is technological. Based on the survey, most government agencies apart from Customs do not have electronic support.

Regarding linkages to the ASEAN Single Window, Lao PDR has a separate system that exchanges form D because the LNSW was deployed to other government agencies simultaneously with it. Therefore, for avoiding interruptions, the government decided to develop the separate applications to implement ASEAN Single Window. There is a plan to integrate Lao NSW with ASEAN Single Window in the near future.

For Border Agency Coordination (Domestic), there is institutional arrangement for border agency coordination in major ports but only on an ad hoc basis amongst Customs, Immigration, and Quarantine. Working hours of border agencies are aligned; however, this is not applicable for all ports/borders. Regarding Simplified Procedures for Authorized Transit Traders, although there is a regulation for authorising them, Customs has not done so yet.

² Friendship 1 checkpoint has stopped using LNSW because there's no declaration goods anymore.

3. Trade Facilitation Environment – Major Agencies

Besides Customs, five trade-related government agencies responded to the ASTFI questionnaire. Because we are unable to validate the responses of these agencies via a workshop, we rely on the submitted responses and internet research for this report.

The transparency of laws and regulations of government agencies is high. All government agencies have their regulations and procedures listed in the Lao Trade Portal, which is regularly updated. The portal contains a search function, which allows the trader to look for updates from different trade-related agencies. Between January 2018 and December 2021, the Lao Trade Portal had notifications for 391 laws and regulations issued by various government agencies, out of which 33 were issued by MAFF, 78 were issued by the Ministry of Industry and Commerce, 13 by the Ministry of Technology and Communications, 2 by the Ministry of Energy and Mines, and six by the Ministry of Health.

Related to risk management, MAFF and MoST reported conducting inspections at the border. While MAFF conducts 100% inspection, the MoST inspection rate is 50%. Overall, according to the Lao Trade Portal, eight agencies have issued inspection requirements to cover various products. MAFF requires inspection by veterinary officers of live animals (including those in transit to third countries), animal feeds, veterinary medicines, etc. and by a plant protection officer for plants, plant seeds, fertilisers, pesticides etc. Likewise, MoST requires sample inspection of information and communications technology devices. Authorities from health department are also working at the border in order to conduct the inspection.

The use of digital technology is still limited amongst trade-related government agencies, which has not changed since 2018. Electronic payment was not accepted by MAFF, MoST, and the Ministry of Health. None of the responding agencies allowed digital copies of documents, citing regulations, nor do any of the respondents use computerised system for processing permits and applications.

The plant quarantine division of the MAF noted that there is no cross-border institutional coordination with neighbouring countries, but at the operational level, there is an annual meeting.

4. Trade Facilitation Environment – Transit, Transport, and E-Commerce

One of the key developments related to border-crossing operational coordination with neighbouring countries is that Customs launched a pilot project called Single Inspection Project Mekong GMS partner with Viet Nam establishing common control areas. The results of the project are impressive, and Customs would like to deploy to other checkpoints with Thailand and China. However, in some countries such as Thailand, the law does not allow their officers to work outside the custom territory. Thailand amended their laws to allow the Thai Custom Authority to work outside the customs territory, but there is no concrete arrangement with Thailand. Lao PDR's Customs Authority has also started to talk with China's Custom Authority in order to arrange joint custom control, but it is still in an early stage.

With the full operationalisation of the ASEAN Customs Transit System (ACTS) since October 2020, which introduced computerised systems to facilitate transit from five other implementing member states. ACTS allows single electronic Customs transit declarations and free movement for trucks and drivers, with no trans-shipment and loading/unloading requirements at the border. While Lao PDR has also joined other transit schemes with neighbouring countries, these do not have any computerised elements. Nonetheless, transit of goods was affected by the COVID-19 pandemic.

Regarding the implementation of the ASEAN Framework Agreement on the Facilitation of Goods in Transit, Protocols 2 and 4 have been ratified and implemented. Likewise, national laws and regulations are now in place for ASEAN Framework Agreement on Multimodal Transport.

Regarding e-commerce, the Lao PDR government issued the Decree on E-Commerce No. 296/GOV dated 12 April 2021, which went into effect on 4 June 2021. This law mostly deals with domestic e-commerce activities, including operation of the e-commerce marketplace. It does not contain any particular reference to cross-border e-commerce transactions.





Chapter 6

Trade Facilitation in Malaysia

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1. Introduction

Within the context of economic integration in the Association of Southeast Asian Nations (ASEAN), a key component of the ASEAN Economic Community (AEC) is the ASEAN Single Window (ASW) for trade facilitation (TF). It is a regional initiative that connects and integrates the National Single Windows (NSWs) of the ASEAN Member States (AMS) to expedite cargo clearance. The ASW initiative, agreed by ASEAN leaders at the 9th ASEAN Summit in 2003, culminated in the signing of the (ASW) Agreement in the 11th ASEAN Summit in 2005, and followed by the signing of the (ASW) Protocol to establish and implement the ASW in 2006.

In addition to the key TF initiative of the ASW mentioned above, there are other reforms in TF of the AMS¹ which include the following areas: publication and availability of information (for example enquiry points); advance rulings (ARs); appeal or review; disciplines on fees and charges imposed on or in connection with importation and exportation; release and clearance of goods (including, inter alia, pre-arrival processing (PAP), risk management, post-clearance audit (PCA), authorised economic operators (AEOs), and expedited shipments; border agency cooperation; formalities connected with importation and exportation and transit (for the single window, temporary admission of goods); freedom of transit; and customs cooperation.

To implement the above ASEAN commitments, the AMS can also utilise the assistance and support of the Trade Facilitation Agreement (TFA) of the World Trade Organization (WTO) (Tham, 2017), which entered into force on 22 February 2017. This Agreement contains provisions for expediting the movement, release, and clearance of goods, including goods in transit. It also sets out measures for effective cooperation between customs and other appropriate authorities on TF and customs compliance issues and contains provisions for technical assistance and capacity building in this area.

Despite the above initiatives, the rate of implementation of TF measures within the region is uneven due to the different state of readiness and capabilities of the AMS (Tham, 2017). As TF is considered a key factor for reducing trade costs and increasing international trade efficiency in ASEAN, this chapter focuses specifically on the Malaysian case to examine the TF initiatives and the extent of progress in the country.

¹ http://mytraderepository.customs.gov.my/en/Pages/bp_fac.aspx

The chapter is organised as follows. The next section, Section 2, traces the development of the NSW and TF initiatives in Malaysia to set the background of the study. Section 3 compares the survey findings of the Economic Research Institute for ASEAN and East Asia (ERIA) for the ASEAN Seamless Trade Facilitation Indicators (ASTFI) I (see also Narjoko et al., 2021) and ASTFI II to identify the progress in the TF environment of Malaysia between 2018 and 2021. Section 4 concludes the study on TF by highlighting the major improvements and the remaining challenges in adopting the relevant initiatives. It also forwards some key recommendations for moving forward the TF eco-system in the country.

2. Trade Facilitation: The Malaysian Context

2.1 National Single Window and National Trade Repository

Malaysia developed a single gateway for trade through the National Single Window (NSW), which has been in operation since 2009. It is an initiative of the Malaysian Government, led by the Ministry of Finance (MOF).² The NSW is aimed at reducing the cost of doing business through simplifying clearance procedures and facilitating the electronic exchange of trade-related data for the TF system. Approximately 80% of the country's trade is processed by the NSW (Azhar, 2021).

As a one-stop TF system that links members of its trading community (comprising manufacturers, importers and exporters, forwarders, shipping agents, terminal and port operators, banks, port authorities, PIAs and Customs), the NSW for TF comprises six core eServices: ePCO (for the issuance of preferential certificates of origin), ePermit, ePermitSTA (for sensitive trade items or dual-use items including nuclear materials, sensors, and telecommunications security under the purview of the Strategic Trade Act 2010 or STA 2010), eManifest (for port users to electronically submit cargo manifests and vessel information), eDeclare, and ePayment.

The progressive development of the NSW's architecture also involved the NSW-ASW integration. Hence, the NSW is integrated with the ASW, and the exchange of documents with NSWs of other AMS is fully operational (live exchange in the production environment). The document that is currently being exchanged through the ASW is the e-ATIGA Form D Certificate of Origin.³ The RMCD is an agency under the MOF and is the NSW technical lead agency, and the Ministry of International Trade and Industry (MITI) is the ASW lead agency for Malaysia.

² Malaysia's National Single Window (<https://www.miti.gov.my/index.php/pages/view/1149>)

³ On 1 January 2018, Malaysia transited into live operation of the e-ATIGA Form D Certificate of Origin exchange – preferential treatment under ATIGA based on the e-ATIGA Form D transmitted through the ASW-NSW system.

Further to the above developments, the RMCD introduced a new system to replace the custom clearance function of the NSW, called uCustoms⁴ in 2017. The uCustoms system, which was supposed to be deployed in phases at all Customs offices nationwide, has currently been put on a temporary halt to allow for a review of technical issues and re-assessment of the system features considering the current needs and regulations. This is to ensure that the new system will be able to fully support end-to-end document exchange under the single window environment.

Malaysia has also developed a National Trade Repository (MNTR) aimed at harmonising the regional disciplines on transparency to trade. It is a single platform for accessing trade-related information of AMS, providing comprehensive information on the ASEAN Trade Repository (ATR). The ATR, in turn, provides links to relevant pages in the MNTR. It contains information⁵ on the trade and customs laws and procedures of all AMS and trade-related information, which are: tariff nomenclature; most favoured nation (MFN) tariffs, preferential tariffs offered under the agreement and other agreements of ASEAN with its dialogue partners; rules of origin (ROO); non-tariff measures (NTMs); national trade and customs laws and rules; procedures and documentary requirements; ARs; best practices in TF applied by each AMS; and list of authorised traders of AMS (Intaravitak and Munadi, 2009).

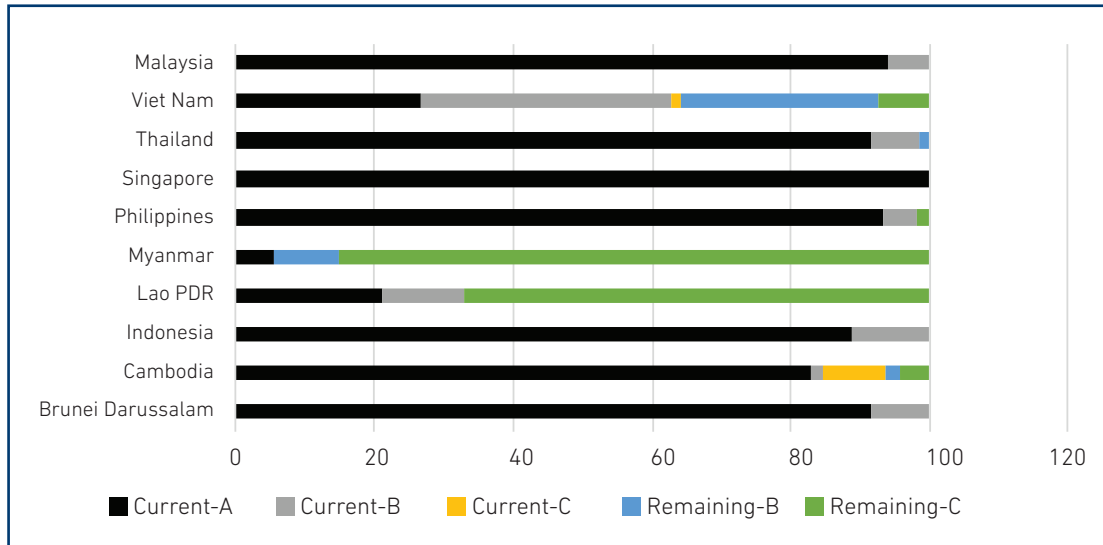
2.2 Trade facilitation initiatives and progress

Malaysia ratified the WTO TFA on 26 May 2015. The current rate of implementation⁶ commitments of Malaysia under the agreement stands at 100% (like that of Singapore Indonesia and Brunei), as shown in Figure 6.1 (see also Appendix Figure 1 for the rate of implementation by measure). Worth noting here is that Malaysia fully implemented Articles 7.8 (expedited shipments) and 11.9 (advanced filing and processing of transit documents and data prior to the arrival of goods) on 1 June 2021, ahead of the notified deadline of 22 February 2022 (WTO, 2021).

⁴ The 'u' in uCustoms stands for 'ubiquitous,' which conveys the idea that the new system is always accessible through all sorts of connected devices.

⁵ The categorised information in the MNTR is defined in Article 13 of the ASEAN Trade in Goods Agreement (ATIGA).

⁶ The percentage of implementation is calculated as the count of each of the 238 notifiable article items (set out in the 12 Articles of Section 1 of the TFA) according to each category of commitment and the implementation date notified by Malaysia.

Figure 6.1. Malaysia and ASEAN - Implementation Progress on Trade Facilitation (%)

Notes: Current – current rate of implementation commitments; Remaining – rate of future implementation commitments. Category A = developing members will implement the measure by 22 February 2017 and least developed countries by 22 February 2018; Category B = members will need additional time to implement the measure; and Category C = members will need additional time and capacity building support to implement the measure.

Source: WTO (2022), <https://tfadatabase.org/implementation/progress-by-member>

At the national level, to drive seamless cross-border trade through digitalisation, Malaysia has built cross-border logistics facilities (Digital Free Trade Zone (DFTZ), 2017) to boost the country's 2016 eCommerce roadmap. This initiative, a collaboration between the Malaysian Digital Economy Corporation (MDEC)⁷ and the RMCD, caters for the high volumes of small parcels and buyers' expectations for quick fulfilment in cross-border e-commerce. The DFTZ comprises three components: an e-fulfilment hub, e-service platform, and satellite services hub. According to the MITI, as of 2018, about 2,072 Malaysian small and medium-sized enterprises (SMEs) were on the ecommerce platforms in the DFTZ (Tham, 2018).

The National Logistics and Trade Facilitation Masterplan (2015–2020), under the supervision of the Ministry of Transport (MOT) and launched in 2015, was developed to provide strategic directions to further improve the productivity and competitiveness of the logistics industry as well as trade facilitation in line with Malaysia's aspiration to be 'The Preferred Logistics Gateway to Asia'. It outlines five strategic shifts and 21 action items for implementation. Basically, it underscores improvements in the cargo clearance system, paperless trading, and security of trade documents as one of the strategic shifts of the plan.

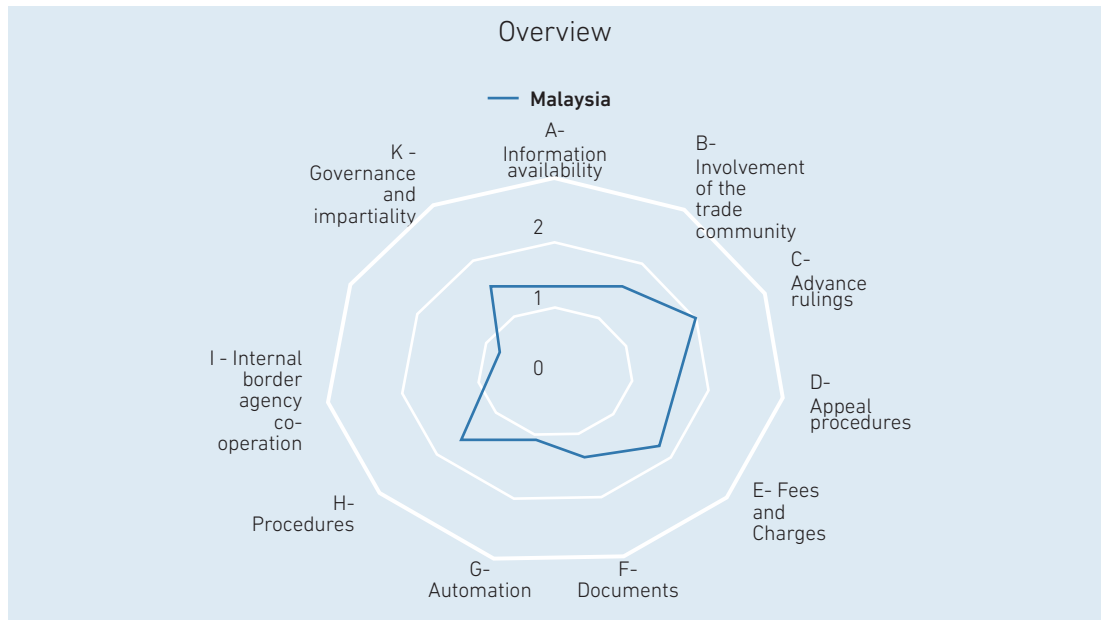
⁷ The catalytic partner for DFTZ during the initial stage is China's Alibaba Group and the Electronic World Trade Platform (eWTP) to boost international e-commerce trade between China and Malaysia.

That said, the implementation of the Logistics and Trade Facilitation Masterplan has faced several challenges, which include limited compliance with standards, clearance coordination challenges, and cargo security concerns. More recently, the domestic logistics industry has been cited as facing constraints, such as inadequate infrastructure and limited internet connectivity, the low adoption of digitalisation, and burdensome regulations (MIDA, 2020).

The logistics and transport industry are classified and regulated through a polycentric system of governance. Therefore, it has impacted Malaysia's logistics performance, as the country's Logistics Performance Index (LPI) dropped drastically from 27th position (score of 3.48) to 41st position (score of 3.22) out of 160 countries between 2007 and 2018 (World Bank, 2022). In 2018, the lowest score of 2.9 was recorded for customs, which relates to the efficiency of the clearance process (speed, simplicity, and predictability of formalities). Despite the relatively higher scores for the ability to track and trace consignments, and the timeliness of shipments in reaching destinations within the scheduled or expected delivery times, the ranking of the country slipped from 28 to 47 and 26 to 53 for the two dimensions, respectively.

According to the Organisation of Economic Co-operation and Development (OECD, 2022), Malaysia's performance in TF, at 1.418 in 2019 on average, had in fact improved since 2017 in the areas of involvement of the trade community (1.57), ARs (2.00), appeal procedures (1.63), fees and charges (1.77), streamlining of procedures (1.61), internal border agency cooperation (0.90), and cross-border agency cooperation (0.80) (see Figure 6.2). Having said that, the OECD suggested further areas of improvement in some of those areas given their trade flow increase and cost reduction potentials. These include the following:

- Information availability – provide a dedicated interactive page for professional users/companies;
- Involvement of the trade community – improve the inclusiveness of consultations with the private sector through notice-and-comment frameworks and drafts for comments;
- ARs – publish information on ARs of significant general interest; and
- Formalities – (i) documents – reduce the number of documents required for import and export and the time necessary to prepare such documents; (ii) automation – integrate the electronic payment system with the automated declaration/cargo processing systems and support PAP in electronic format; (iii) procedures – complete the development of the Single Window currently under elaboration, complete the development of PAP of import documentation, expand the use of AEO programmes, and expand the application of PCAs and simplify procedures in terms of the associated time and costs.

Figure 6.2. Malaysia's Trade Facilitation Performance, 2019

Note: The 11 TF indicators take values from 0 to 2, where 2 designates the best performance that can be achieved. The variables in the Trade Facilitation Indicators dataset are coded with 0, 1, or 2.

Source: OECD (2022), http://www.compareyourcountry.org/trade-facilitation/en/0/1_1/all/default

2.3. Trade facilitation efforts since COVID-19

Several (temporary) TF measures have been implemented since the COVID-19 pandemic. They include the following:

- To beef up clearance efficiency for customs and the Malaysian Quarantine and Inspection Services (MAQIS), the RMCD has set up a special lane to process reefer containers and perishable goods, facilitate the declaration of the K1 form (import), and expedite the release of reefer containers process (*The Star*, 2021).
- In March 2020, Malaysia exempted import and excise duties for manufacturers of hand sanitisers that use raw materials (undenatured ethyl alcohol and denatured ethyl alcohol) and subsequently suspended the standard requirements and provided special exemptions to clear non-essential goods at affected ports (Shankar, 2020).
- A NTM in the form of an export prohibition (temporary ban) on face masks to meet local demand was implemented on 7 March 2020 (ITC, 2021).

3. ASEAN Seamless Trade Facilitation Indicators II: Survey Results

3.1. Stakeholder engagement

Five ministries (including nine agencies; see Appendix Table 1), namely, MITI, RMCD, MOT, Ministry of Agriculture and Food Industries (MAFI), and Ministry of Health (MOH), responded to the ASTFI II questionnaire on seven TF components (see Appendix Table 2) of the survey instrument: (A) Transparency and information on laws, regulations, and procedures; (B) Communication with and active engagement of the private sector; (C) Release and clearance formalities; (D) Import/export formalities; (E) Cross-border coordination and transit facilitation; (F) Transport facilitation; and (G) E-commerce. The feedback from the ministries was further verified by the through a validation workshop conducted over three sessions on 18, 19, and 31 March 2021.

Worth mentioning here is that the RMCD, the lead agency for TF, does not regulate the exports and imports of commodities. Where the importation of any goods is subject to permits, licenses, and/or approvals, they shall be applied to and produced by the respective PIAs. Only two key regulations come under the purview of Customs, which are (i) Customs (Prohibition of Import) Order 2017; and (ii) Customs (Prohibition of Export) Order 2017.

The results for both the ASFTI I and ASFTI II surveys are comparable as the same methodology for scoring the TF indicators was employed in both surveys, and the same set of respondents was surveyed in both years, except for the MOF in the ASTFI II. This, however, does not pose a problem for the scoring as the information required from the MOF, related to e-commerce, was jointly discussed with MITI and feedback was given by MITI.

3.2. Key findings

The overall findings for Malaysia suggest improvements for five components of TF (components A, C, D, E, and F) between 2018 and 2021, except for e-commerce (component G). The following discussion details the progress in the TF environment for specific indicators (see Appendix Table 2) of the seven components.

(A) Transparency and information on laws, regulations, and procedures

Malaysia fared well for all indicators of transparency and information on laws, regulations, and procedures. The previous incomplete information from the 'Customs Website/Trade Portal and Information (SVA1) indicator' related to transit and transshipment procedures in the ASTFI I has now been addressed in the ASTFI II. Based on the response received from the questionnaire and consultation validation meeting with the RMCD, the information related to transit and transshipment is now available in Section 35A–35N of the Customs Act 1967 via the Customs (Amendment) Act 2019 (Amendment Act).⁸ The Amendment Act significantly overhauls the legislative provisions regulating transit and transshipment activities and includes provisions for regional transit. Detailed procedures for transit and transshipment are also spelled out in the Amendment Act. Amongst others, the Amendment Act introduces provisions to safeguard goods moved under transit and transshipment, requirements for the owners of goods in transit or transshipment or their agents to be immediately liable to pay duties leviable when transit/transshipment procedures are interrupted, as well as heavy penalties for a breach of the transit and transshipment procedures.

The RCMD also has various information channels, apart from its own website, including social media platforms, namely Facebook, Twitter, and Instagram (see Appendix Table 3). Both the local language and the English language are used in the different information channels. Further, on the RMCD website, there is a form for the public to address complaints and a Customs Consultation (Call) Centre for making general enquiries. If information related to transit and transshipment is needed, the public can seek information/advice via the RMCD website and the Customs Call Centre.

Besides the RMCD, information on export and import formalities (SVA2) is also complete for all remaining ministries/agencies. For example, MITI maintains separate websites (see Appendix Table 3) containing the following information: (i) strategic items – legislations (Strategic Trade Act 2010 [Act 708]; Strategic Trade Regulations 2010 [P.U. (A) 482/2010]; and Strategic Trade (Strategic Items) (Amendment) Order 2018), list of commodities, exporting documents and documentary requirements for export permits; and (ii) motor vehicles, iron and steel and heavy machinery – legislations, list of commodities, exporting/importing documents, and documentary requirements for licensing and (export/import) permits.

(B) Communication with and active engagement of the private sector

As that of Component A, Malaysia maintained its progress in engaging the private sector between 2018 and 2021 as it has in place an equivalent mechanism for the National Trade Facilitation Committee (NTFC; SVB1), and it has available structures for stakeholder consultations that also cater to micro, small, and medium-sized enterprises (MSMEs; SBV2).

⁸ The 2019 Customs Regulations.

The Trade Facilitation Cluster Working Group (TFCWG), established in 2015 under the National Logistics Task Force (NLTF), is the NTFC of Malaysia. The working group⁹ was established under the National Logistics and Trade Facilitation Master Plan (2015–2020). It is coordinated by MITI, is co-chaired by MITI and the RMCD, and comprises members from both the government and private sector. Various efforts have been undertaken by the TFCWG to strengthen Malaysia's position as a preferred regional logistics hub in line with the emergence of digital trade and the maritime ports sector. To ensure certainty of implementation, initiatives proposed under the masterplan have also been incorporated in the Eleventh Malaysia Plan (11MP, 2016–2020). The five initiatives/strategies under the 11MP related to developing the logistics industry and facilitating trade are: strengthening institutional and regulatory framework; enhancing trade facilitation mechanism; building freight infrastructure efficiency and capacity; deploying technology in the logistics chain; and strengthening the capabilities of logistics service providers (EPU, 2021).

On the issue of stakeholder consultations on trade-related measures, the RMCD organises roundtable discussions on an ad hoc basis, and it also participates in formal consultations involving other agencies, such as the Malaysian Investment Development Authority (MIDA). The RMCD has several different types of consultations: Biannual formal consultations at the national and state levels, known as the Customs-Private Sector Consultative Panel; Informal frequent discussions held regularly to discuss new issues and new policies;¹⁰ Joint Development Area (relating to oil and gas) meetings; and Consultations relating to sales and services tax (SST) – (i) technical consultation quarterly meetings between RMCD officers and private sector/accounting firms; and (ii) hand-holding sessions with the SST ambassador at the premises of associates.

MITI also conducts stakeholder consultations through the following working groups – Technical Working Group on Trading Across Borders (TWGTAB) (working group under PEMUDAHA,¹¹ 2007, a special task force to facilitate business) and the TFCWG (NTFC). The consultations are held regularly, once every two months. In addition, focus group engagements are convened whenever there are urgent issues to be addressed. Likewise, the Department of Quarantine and Malaysian Inspection Services (MAQIS) has its formal consultative mechanisms, which are the Coordination Committee for Quarantine, and the Inspection and Trade Facilitation Committee, conducted twice a year, apart from additional public consultations (when necessary).

⁹ Commencing in 2021, TFCWG, as the NTFC, is also overseeing the implementation of TF strategies under the National Trade Blueprint 2021–2025.

¹⁰ The government circular on National Policy on the Development and Implementation of Regulations 2013 provides legal mandate for public consultations on new regulations.

¹¹ PEMUDAHA consists of public and private sector membership that collaborates on policy, process, and regulatory improvement in Malaysia.

As in the case of MITI, the MOH and the Department of Veterinary Services (DVS) also engage various stakeholders and conduct regular consultations to discuss issues on food safety, and animal and animal products, respectively. Stakeholders are also actively involved during the meetings of various committees on standards and regulations development. Based on the standard procedures for the enactment or amendment of legislation, public engagements are carried out prior to the gazette¹² of new/review of regulations. For the Food Safety and Quality Division (FSQD) of the MOH, dialogues with the food industry are convened as necessary to facilitate the industry in complying with new legislation/amendments. In addition, the Steering Committee for Food Safety under the National Food Safety and Nutrition Council convenes at least once a year and provides a platform for engagement with representatives from government agencies, industry associations, SME Corporation Malaysia,¹³ consumer associations, and academia in monitoring the implementation of the 2010–2020 Food Safety Action Plan and in supporting the National Food Safety policy. The 2010–2020 Food Safety Action Plan includes sections on information technology (IT), data collection, and dissemination and cooperation between agencies, amongst others. Apart from the National Food Safety and Nutrition Council, the Malaysian National Codex Committee, established in 1985, is another consultative forum on food safety.

Whilst most of the above agencies conduct regular meetings with their stakeholders, some agencies, such as the Department of Fisheries (DOF) and the Department of Agriculture (DOA), hold such meetings only on an ad hoc basis. Having said that, the DOF has a formal consultation mechanism for this purpose, the *Majlis Perundingan Industri*. The National Pharmaceutical Regulatory Agency (NPRA) and the Pharmacy Enforcement Division (PED) both have regular dialogue sessions with their stakeholders, and both agencies use a unified public consultation platform to gather feedback from the industry on new guidelines related to the pharmaceutical industry, which is then followed with public closure reports. Interestingly, all agencies are inclusive in their stakeholder consultations, as the MSMEs are invited to these discussions.

Other working groups on TF initiatives that focus on enhancing the efficiency and effectiveness of work procedures, especially to enhance supply chain activities by collaborating as smart partnerships with the private sector, include the Working Group on Efficiency Issues and smart partnerships between Customs and the Malaysia Productivity Corporation (MPC) and Invest KL.

¹² Refers to the official notification (publication) of public notices issued by the Government.

¹³ SME Corporation Malaysia (SME Corp. Malaysia) is the central coordinating agency under the Ministry of Entrepreneur Development and Cooperatives that coordinates the implementation of development programmes for small and medium-sized enterprises (SMEs) across all related ministries and agencies.

These working groups and partnerships have addressed the following issues, amongst others: Administer ARs effectively to ensure that they are issued in a reasonable and time-bound manner; and expedite the approval process for scrap/waste disposal¹⁴ by Licensed Manufacturing Warehouse (LMW).

(C) Release and clearance formalities

Overall, marginal improvements were observed for release and clearance formalities between 2018 and 2021. The two indicators within component C that saw progress over the review period are self-certification (SVC11) and simplified/expedited clearance (SVC12). The reason being the ASEAN-Wide Self-certification (AWSC) became fully operational on 20 September 2020 and the RMCD allowed expedited shipment/clearance procedures for goods entering through air-cargo facilities, using air courier service. For the land border, Malaysia and Thailand have an agreement of expedited clearance, especially for the transport of perishable goods from Thailand to Singapore through Malaysia. There is, however, no provision of de minimis¹⁵ shipment value for goods entering through land and sea.

Malaysia maintained its progress from ASTFI 1 to ASTFI II for advance rulings (ARs) (SVC1), best practice risk management (SVC3), electronic payment (SVC5), appeal and review mechanism (SVC6), post-clearance audit (PCA) (SVC7) and temporary admission (SVC13).

Except for the ARs on origin, the ARs on classification and valuation have been implemented since April 2007.¹⁶ The procedures and decisions for both ARs are published on the Customs website. The standard operating procedures and guides for ARs on origin were completed prior to the ASTFI II. However, the Revised Customs Act 1967 (Customs (Amendment) Act 2019) introduced on 9 July 2019 includes a new chapter on the origin of goods,¹⁷ which is related to preferential and non-

¹⁴ Mohd et al. (2018) report that the application for approval to dispose scrap by a LMW takes about two months to complete. The MPC therefore has recommended Customs to implement an efficient application process approval for scrap disposal by considering a risk-based categorisation of scrap.

¹⁵ The exemption for packages under de minimis is a privilege extended only for air cargo in the Malaysian context, and the value is fixed at RM500 (US\$115, subject to the conversion rate) for imports.

¹⁶ The scoring for ARs is based only on classification and valuation.

¹⁷ The amendment act introduces a new chapter (Part XA) that regulates various aspects relating to the origin of goods, including the appointment of issuing authorities, application for preferential and non-preferential certificate of origin, registration for producing a declaration of origin, responsibility of the importer, producer, and exporter, eligibility criteria to claim preferential tariffs, and verification of origin-related documents and information.

preferential tariff treatment,¹⁸ and the relevant sections of the act still need to undergo domestic legal review. The implementation of ARs on origin however can only commence once the domestic legal review is completed. It is worth noting here that an online Customs Rulings Database containing ARs has been made available to traders, but requests for ARs still need to be made in writing.

The RMCD and most of the major agencies perform risk management,¹⁹ with less than 100% inspection (with no specific target) according to risk assessment, such as critical goods and high-risk companies. The following are the inspection practices adopted by the other major agencies:

- MAQIS is the Competent Authority to conduct inspections at the border in Peninsular Malaysia and the Federal Territory of Labuan with a target rate of 10%–20% of consignments, depending on the risk factors (type of cargo, history of the trader, import source) or specific directives (for example, outbreak of diseases). For plants, MAQIS conducts inspections based on international standards established by the International Plant Protection Convention. Specifically, the International Standards for Phytosanitary Measures ISPM 23, 31, and 32 are applicable for the inspection of plants, whilst random inspections based on physical/clinical symptoms are carried out on live animals and fish. Risks of commodities and pest interception are considered by MAQIS during inspections to enable profiling of commodities with low risks to be established. Meanwhile, for Sabah and Sarawak, the Competent Authority for inspection at the entry points are their respective DOA and DVS.
- The FSQD of the MOH sets a 1% target inspection rate for incoming consignments under the Annual National Monitoring Programme for Imported Food. Sampling²⁰ is also carried out according to contravention history, current food crisis incidences, information from international bodies/other countries, and current trends in food safety.
- Within the MOH, the PED stations its officers at the entry point to assist the RMCD in the release and clearance process of related commodities by engaging in screening and random physical inspections.

¹⁸ Preferential rules pertain to whether the goods qualify for free or reduced duty rates under bilateral, multilateral, or international trade agreements to which a country is party. Non-preferential rules relate to important aspects of the treatment of imported goods.

¹⁹ Risk management is done by the Customs Verification Initiative Unit of the RMCD, and the target approach is based on selective criteria. The Customs Verification Initiative tags targeted declaration in the system by giving instruction for assessment officers to act accordingly.

²⁰ The FSQD imposes a risk-based approach inspection at the entry points. The risk attributed to food is prescribed with different levels of examination. The levels of examination vary from Level 1, where food is automatically released without inspection, to Level 6, where food is automatically rejected. Sampling activity is carried out through a risk-based approach for Level 3 Examination (Monitoring) and Level 4 Examination (Surveillance). Subsequently, if the food products have been found to contravene food safety, enforcement action will be taken, and the next consignment will be detained three times consecutively under Level 5 Examination (Hold, Test, and Release).

- In the case of medical devices, it is noted that the border control mechanism is under development²¹ and Malaysia has completed the ratification of the ASEAN Agreement on Medical Devices Directive (AMDD)²², and has ratified all articles in AMDD. The Medical Device Authority (MDA) and the NPRA have decided to revise the dossier requirement for the ancillary component of combination product to facilitate the stakeholders.

In the case of electronic payment that was introduced in 1996, RMCD and all agencies²³ accept duties, taxes, and fees electronically. This is also applied to importers for bottled drinking water and natural mineral water. The payment must be made electronically on the Food Safety System Malaysia (FoSIM) platform. E-payment is also accepted by NPRA through the QUEST3+ online registration system, as well as cheques, bank draft and credit/debit card payment over the counter except for some activities whereby the module has not been developed.²⁴ Other agencies, such as the DVS and DOA, also accept cash, cheques, and payments made over the counter. E-payment, however, is not allowed for the following: (i) Payment to PED for import and export authorisation for dangerous drugs and psychotropic substances,²⁵ which need to be applied and paid manually in accordance with the related international conventions (see Appendix Table 3); and (ii) Payment for export permits to DOF for species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora, for which cash payment must be made over the counter.

In terms of the appeal and review mechanism, the RMCD allows traders to request for the Customs Authority to review their decisions and, if necessary, to seek redress in a judicial appeals court. In the case of the PCA, the RMCD, MDA, and MAQIS conduct such audits²⁶. The mechanisms of the former three are detailed below: (a) The RMCD conducts PCA for selected traders/declaring agents via both a risk management framework as well as random selection; (b) The MDA conducts PCA on importers based on random selection and the post-market status in accordance with the existing risk management framework; and (c) MAQIS conducts a post-border audit on selected importers.

²¹ There is only random inspection/audit at the company/establishment site (manufacturer, authorised representative, importer, distributor) on regulatory control.

²² Malaysia signed the AMDD on 21 November 2014.

²³ MITI regulates the export (including transit, transshipment and brokering) of strategic items (military and dual use) as stated in the Strategic Trade (Strategic Items) (Amendment) Order 2018 but does not impose any fees on its services. MITI also clarified in the validation workshop that it does not collect any fees for the certificate of origin (CoO). Likewise, the FSQD regulates imports of food products, but it does not impose import permits for the importation of food, hence no payment is required.

²⁴ E-payment for now is not allowed as the module has not been developed by the NPRA, but they are progressing towards e-payment for lot release certificates.

²⁵ Digital copies are prohibited under the Dangerous Drugs Act 1952 and its Regulations, and the Poison Act 1952 and Poisons (Psychotropic Substances) Regulation 1989.

²⁶ MITI does the evaluation on the exports of strategic items, such as on the end-user.

For agricultural products (including fruits and vegetables; not limited to plants), some post-entry requirements must be complied with, such as sampling, pest interception, and lab analysis. The criterion to sample is set by the departments in charge of relevant policies, such as the DOA, DVS, Fisheries Development Authority (LKIM) DOF and Federal Agricultural Marketing Authority (FAMA), as well as other agencies as stated in the export/import permits issued by MAQIS. The process involves sampling during the inspection at the entry point. The jurisdiction of MAQIS is confined to three areas, which are entry points, quarantine stations, and quarantine premises.²⁷

The FSQD, PED, and NPRA also conduct audits after importation. The FQSD monitors compliance and verifies the adequacy of relabelling process in the domestic market, and in the importer's warehouse. Similarly, the licensing of imported bottled drinking water and natural mineral water also requires audit verification at the importer's warehouse. The PED conducts routine inspections, yearly, of licence holders (including the importers) under the Poisons Act 1952, whilst the NPRA conducts Lot Release activity on imported biological products, such as vaccines and plasma-derived medicinal products. Lot Release activity involves review of Batch Release Certificates from the country of origin, review on Lot Summary Protocol (manufacturing and quality control data on vaccine/plasma product lot), as well as cold chain inspections and physical appearance testing to ensure the safety, quality, and effectiveness of the products received. Cold chain inspection is conducted at the warehouse after custom clearance at the entry point. The objective of the cold chain inspection is to ensure the products are transported within the required storage temperature throughout the delivery journey, from the country of origin to Malaysia. If all the Lot Release requirements are fulfilled, a Lot Release Certificate is then issued to the product registration holder to allow the distribution of the imported batch to the market.

Importantly, the RMCD allows for the temporary admission of certain goods under the ATA Convention, with total conditional relief from duties and taxes. The Malaysian International Chamber of Commerce and Industry is the authorised body to issue the ATA Carnet.

While progress has been made in the six indicators of release and clearance formalities, Malaysia did not record changes for other indicators, namely SVC2, SVC4, SVC8, SVC9, and SVC10, between 2018 and 2021. Some observations made in the ASFTI II regarding the afore-mentioned indicators include the following:

⊕ In the case of PAP,²⁸ the regime is operational in the main and major seaports and airports, Port

²⁷ Planting materials, live animals, and fish, which require quarantine, are placed for a period in quarantine stations or quarantine premises for further pests and diseases observation, where testing is carried out to ensure they are pest and disease-free.

Klang, Penang Port, Johor Port, and Kuala Lumpur International Airport.

- ➔ The RMCD allows for the automatic release of goods with pending duty/taxes (deferred payment) through the AEO system. This does not apply to goods subject to OGA or PIA approvals.
- ➔ The RMCD publishes dwell time information on an ad hoc basis, and it is published separately for pre-clearance, customs clearance, and post clearance. The dwell time publication was published and distributed in two exit Conferences held in 2014 and 2015 with the Asian Development Bank (ADB), Regional Office for Capacity Building, and World Customs Organisation (WCO). The latest dwell time information was published in the 8th Time Release Study (TRS).
- ➔ The RMCD conducts a TRS annually, albeit by different scopes, and bi-annually using the same scope. The results of the TRS study are then published by scope. (The RMCD has conducted 15²⁹ TRS studies since 2003 covering various scopes and modes.)
- ➔ The RMCD maintains an AEO programme and has concluded three mutual recognition arrangements (MRAs), with Japan (1st MRA on AEO programme), Hong Kong and the Republic of Korea. As of August 2022, a total of 114 companies (199 operators) have been accredited under the AEO programme.³⁰ Bilateral AEO MRAs with Thailand, Singapore, China, Australia, New Zealand, and the United States (US) are under negotiations.

(D) Import/export formalities and coordination

Like that of Component C, significant progress was recorded for documentation requirements (SVD1) and acceptance of copies (SVD2) of the import/export formalities and coordination component between the ASTFI I and ASTFI II.

All traders can now attach digital copies of required documents to their declaration submission for selected products at selected ports. For example, the PED accepts all forms of digital copies (including plain copies and certified copies for licenses, and list of products under license) as it can verify the authenticity of the certificates from its system. Beyond digital copies, some agencies accept other forms of documentation. The DOA accepts originals and certified true copies of sanitary and phytosanitary (SPS) certificates and photocopies of supporting documents. In the case of the DVS, it only started to accept e-Cert after being approached by Vet Hygiene Solutions of New Zealand in 2018 to move ahead with digital copies. As for MAQIS, it accepts originals, digital copies, and plain copies subject to the various departments' policies and the ministry's directive. For documentary requirements, the RMCD accepts originals, certified copies (with verification

²⁸ PAP is not relevant or rather not practical for the land modality of transportation (for example, Malaysia-Singapore) as the time taken is rather short, less than 30 minutes.

²⁹ Updated based on discussion with RMCD on 24 August 2022.

³⁰ Updated based on discussion with RMCD on 24 August 2022.

from traders), and digital copies. The FSQD MOH, however, requires an original copy for import documents, such as the health certificate (HC) and certificate of analysis. In certain situations, the FSQD MOH accepts certified true copies by the agency holding the original copies (in this case, MAQIS) and digital copies subject to additional documents. As for imported bottled drinking water and natural mineral water, the FSQD MOH accepts certified true copies of licenses issued by the FSQD MOH.

That said, Malaysia maintained its progress for the NSW in the ASTFI II. This is not surprising since Malaysia is one of the early adopters of the NSW (2009) in ASEAN, which covers imports, exports, transit, and trans-shipment. Except for licenses, permits for exports and imports,³¹ certificates of origin, and import declarations and manifests can be submitted online through the NSW. As of July 2020, there were 29 PIAs from 11 ministries participating in the NSW (see Appendix Table 4). In the ASTFI I, there were 28 agencies, but now, the DOF is no longer a participating agency as the issuance of permits is made by the MAQIS on its behalf.

Worth noting here is that not all the agencies' systems, particularly those under the MOH and MAFI, are interfaced/integrated into the NSW. Generally, licensing, HCs, and product registration documents are submitted through separate systems at the FSQD, PED, NPRA, and MDA. For example, the HC for food export is currently being applied electronically using the recently launched (March 2021) FoSIM platform (see Appendix Table 3); however, for the purpose of issuance of the HC electronically, the XML is yet to be integrated with the NSW.

The integration process of some national systems with the NSW and subsequently the ASW is still ongoing, as the process is somewhat sequential and involves ASEAN regional coordination and decisions. For example, the e-Phyto system for e-SPS (sanitary and phytosanitary) certificates has been developed but has not been integrated with the NSW. In the case of the DVS,³² the department is in the process of developing a platform for the exchange of digital documentation (veterinary/ animal health certificates) through the NSW. At the regional level, the AMS are in the process of developing e-Food Safety in accordance with the agreed Message Implementation Guide on e-Food Safety.

Finally, there has been no progress for border agency customs-immigration-quarantine coordination between 2018 and 2021. Though it is operating and functional but not in all border areas and agencies in Malaysia. Worth noting here is that the RMCD's SMK was not designed to accept uploaded documents: it is stated in section 100 under the Customs Act 1967; therefore, the

³¹ DOA and MOH (Dangerous Drugs and Psychotropic Substances) use a separate system for import permits.

³² The DVS regulates the imports of live animals, products of animal origin, and animal feed/pet food.

system does not allow for digital copies, but the request can be done by email or manually at Port Klang. Most of the agencies require original copies or certified true copies. MITI accepts digital copies for ePCO, and a combination of copies for eSTA (strategic goods) and ePermit (vehicles, etc). Paper documents (originals only) need to be produced on demand by the RMCD.

(E) Cross-border coordination and transit facilitation

In the case of cross-border coordination and transit facilitation, significant progress between the ASTFI I and ASTFI II was recorded for the computerised system for transit (SVE3) under the ASEAN Customs Transit System (ACTS), which was piloted in 2017 and the land operations launched in November 2020. The ACTS is fully operational, and a guarantee mechanism has been established. There are six participating AMS – Malaysia, Singapore, Thailand, Viet Nam, Cambodia, and Lao PDR.

No change was observed for the remaining indicators of this component between 2018 and 2021. Notably, there is border agency institutional coordination where the RMCD is one of the implementing agencies under the Cross-Border Transport of the Malaysia and Thailand Agreement (2018). The MOT is also involved in this coordination. The DOA is also engaged in border agency coordination with border countries: plant quarantine under DOA Malaysia – DOA Thailand; and DOA Malaysia – Agri-food and Veterinary Authority of Singapore. Border-crossing operational coordination is also in place with the neighbouring countries (Thailand and Singapore), whereby the RMCD conducts cross-border coordination with the neighbouring countries and the alignment of working hours (6:00 a.m. to midnight, Malaysian time) between neighbouring country authorities. In addition, there is extensive operational cross-border coordination (joint controls) by MAQIS and MOH.

As for transit facilitation, Malaysia provides simplified procedures for authorised transit traders at the Bukit Kayu Hitam border with Thailand and in Johor (Bangunan Sultan Iskandar and Kompleks Sultan Abdul Bakar) with Singapore. The simplified procedures are as determined by the contracting parties (Malaysia and its two neighbours).

(F) Transport facilitation

Overall, progress was lowest for transport facilitation between 2018 and 2021, mainly due to land transport facilitation related to the operationalisation of the ASEAN Framework Agreement on the Facilitation of Inter-state Transport (AFAFIST) and the ASEAN Framework Agreement on Multimodal Transport (AFAMT) (SVF4). For land transport facilitation, Malaysia has ratified all nine protocols of the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAGIT – signed on 16 December 1998), where the last protocol ratified was Protocol 2 (Designation of Frontier Posts) on 25 April 2019. Malaysia is in the midst of amending its domestic legislations to

accommodate the ASEAN transport facilitation agreements, namely, the AFAFGIT, AFAFIST (signed on 10 December 2009) and AFAMT (signed on 17 November 2005).³³

Malaysia is involved in the implementation of ACTS for Malaysia, Singapore, and Thailand. The issuance of the ASEAN Goods Vehicle Border Permit was implemented in the ACTS pilot phase by the three pilot countries. In the pilot phase, DHL Global Forwarding Singapore successfully carried out cross-border transit operations from Singapore to Thailand through Malaysia on 23 October and 28 October 2020. The live operation of ACTS was conducted at the end of 2020 and as mentioned above, it is now fully operational. More recently, another live ACTS transit movement, along both the north–south and east–west corridors, was successfully initiated in Malaysia on 10 February 2021, which arrived safely inland in Cambodia on 13 February 2021, passing through Thailand in transit (ACTS, 2021). Malaysia has a dual involvement in the ACTS as a transit and departure country.

Regarding the Electronic Data Interchange (EDI; SVF2) and Port Community, there is an operational port community system in Port Klang, with an EDI platform in place between the port operator and some port users for major ports (Port Klang and ports in Johor) and for all port users for the main ports. For example, PKNet (1 January 2013) and *eGateway* (6 April 2020) are the digital solutions implemented to improve the efficiency of maritime transport chains in Port Klang and the ports in Johor (Pasar Gudang Port and Port of Tanjung Pelepas), respectively (see Appendix Table 3).

(G) E-commerce

Malaysia maintained its progress in e-commerce in 2018 to 2021. The legal framework for e-identification and authorisation has been established and is operational at the national level. Appendix Table 3 lists the 19 laws and regulations on e-commerce in the MNTR. Similarly, the legal framework for the domestic and cross-border e-commerce dispute settlement mechanism is operational, including the online dispute resolution system to facilitate the resolution of claims over e-commerce transactions. The Tribunal for Consumer Claims under the Ministry of Domestic Trade and Consumer Affairs has jurisdiction on all claims under the Consumer Protection Act 1999, including for e-commerce transactions.

In terms of revenue, the MOF, together with the RMCD, is jointly conducting a study to decide on the appropriate Revenue Framework for Cross Border E-Commerce Trade. The main objective of the study is to impose duty/taxes (indirect tax/consumption tax) on low value imported items. The study is also considering the appropriate revenue collection models on e-transactions, which are the vendor collection model and the account-based revenue collection model. The study was completed in the fourth quarter of 2021.

³³ Updated based on discussion with MOT on 8 September 2022.

4. Conclusions and Recommendations

Overall, Malaysia has fared well in the four components of TF: (A) transparency and information on laws, regulations, and procedures; (B) communication with and active engagement of the private sector; (C) release and clearance formalities; and (D) import/export formalities.

First, engagement in good regulatory practice is evident through the dissemination and transparency of information related to the relevant laws, regulations, and procedures, and the engagement of stakeholders in obtaining feedback for new guidelines prior to its implementation. Some developments in this regard include the following: (i) Previously, the transit and transshipment procedures were only for internal use of the RMCD, but now the policies and procedures have been made known publicly, through the Customs (Amendment) Act 2019 (Amendment Act); and (ii) Most agencies have well-defined structures/mechanisms for stakeholder consultation, and they involve all (registered) traders (including MSMEs) through regular consultations and ad hoc meetings.

Second, there are clear synergies between border inspection/controls and a comprehensive risk management framework to facilitate trade. One example is food safety and the adoption of clear methods for border inspections. The related action plans provide for more coordinated management of border clearance procedures to avoid overlap of food safety control responsibilities amongst the various regulatory agencies, whilst the risk-based inspections that have been adopted ensure effective food safety controls whilst expediting trade in low-risk products.

Third, at the national level, the expansion of AEO operators to cover more logistic services and warehouse operators is another key development. It is indeed important to include all economic operators to enhance security along all points of the supply chain.

However, the following three components deserve attention: (E) cross-border coordination and transit facilitation, (F) transport facilitation, and (G) e-commerce. That said, a major feat for Malaysia is that the ACTS is now fully operational. Evidently, there has been a 27% reduction of costs for the cross-border movement of goods using the ACTS, particularly for the case of moving goods from Malaysia to Cambodia via Thailand (Subramaniam, 2021).

Notwithstanding the above achievements, transport logistics infrastructure bottlenecks have affected the overall logistics and supply chain productivity. Seamless logistics, therefore, needs attention to ensure better air and sea connectivity, as well as to reduce choke points along the logistics supply chain.

The following are some key recommendations (specific to general) for improving the trade facilitation journey in Malaysia based on the findings obtained.

- √ *Inter-agency coordination:* Malaysia was ranked 12th (15th in 2019) with 81.5 points amongst 190 global economies in the World Bank Doing Business 2020 Report. The report acknowledged the formation of a regulatory reform committee to ensure the coordination of efforts across agencies. Yet, there should still be some consolidation or service-level agreement for import approval processes at the entry points to address inter-agency delays, particularly between the MOH and MAFI. At present, the approvals for the importation of certain products, such as fresh produce and animal-based products, involve multiple agencies (DOA, DVS, and DOF).
- √ *Customs clearance system:* The technical problems related to the uCustoms platform should be rectified, and a system should be implemented to improve the customs clearance process.
- √ *ARs:* Although the RMCD has a Customs Rulings Database that provides information on the ARs, much needs to be done. First, Customs should move ahead with allowing online applications for ARs to ensure the timely and correct receipt and routing of requests. Customs could also use the automated system to track the processing of AR requests. Second, the legal and policy framework needs to be completed so that the AR on the origin of goods can be implemented.
- √ *Transport facilitation:* Protocols require the government to enact new laws, rules, or regulations or to amend existing ones, and these domestic reforms take time to be implemented. Since all protocols of the AFAFGIT have been ratified, including Protocol 2, which is a critical component of the ACTS (Umezaki, 2019), the enactment of the relevant laws and regulations needs to be expedited to ensure full operationalisation of the AFAFGIT.

The general recommendations from the study are summarised hereon: (a) *AEO:* Concluding bilateral AEO MRAs with non-ASEAN Regional Comprehensive Economic Partnership members, such as China and Australia (which are already in the pipeline), is important for contributing to the goal of TF and supply chain security from a broader regional architecture. (b) *E-commerce:* (i) A tax on e-commerce transactions is needed to widen the tax base, provide additional revenue to the government, and eliminate any prevailing discrimination between local and foreign businesses; (ii) there should be diversification of the private e-commerce players in the eWTP, which is currently dominated by Alibaba; and (iii) the cabotage policy needs to be reviewed as e-commerce also rides on the back of submarine cables. The suggestion to remove submarine cable activities from the Malaysian definition of cabotage to attract higher-value digital investments and remain digitally connected (Ariff, 2021) should be given due consideration.

³⁴ The ASEAN AEO MRA on a pathfinder basis is already ongoing, entailing a comparison of feasibility studies on the AEO programmes.

³⁵ The Malaysian cabotage law covers maritime services, which include sub-marine cable deployment and repair. This means that when the best ship available for a cable repair is a foreign ship, a Domestic Shipping Licence Exemption is required.

Table A6.1. Respondents for the ASTFI I and ASTFI II

No.	Ministry/Agency	
	ASTFI I	ASTFI II
1	E-Commerce: Ministry of International Trade and Industry <i>National E-Commerce Council</i> <i>ASEAN Coordinating Committee on eCommerce</i> <i>via the ASEAN Work Programme on</i> <i>eCommerce</i>	E-Commerce: Ministry of International Trade and Industry <i>Digital Economy Division</i>
2	Customs: Royal Malaysian Customs Department	Customs: Royal Malaysian Customs Department
3	Transport: Ministry of Transport	Transport: Ministry of Transport
4	Other Major Agencies: Ministry of Agriculture and Food Industries <i>Department of Veterinary Services</i> <i>Department of Quarantine and Malaysian</i> <i>Inspection Services</i> <i>Department of Fisheries</i> <i>Department of Agriculture</i> Ministry of Health <i>Food Safety and Quality Division</i> <i>Pharmacy Enforcement Division</i> <i>National Pharmaceutical Control Agency</i> <i>Medical Device Authority</i>	Other Major Agencies: Ministry of Agriculture and Food Industries <i>Department of Veterinary Services</i> <i>Department of Quarantine and Malaysian</i> <i>Inspection Services</i> <i>Department of Fisheries</i> <i>Department of Agriculture</i> Ministry of Health <i>Food Safety and Quality Division</i> <i>Pharmacy Enforcement Division</i> <i>National Pharmaceutical Control Agency</i> <i>Medical Device Authority</i>

Sources: ERIA, ASTFI I (2018) Survey; Narjoko et al. (2021); and ASTFII Survey (2021).

Table A6.2. Trade Facilitation Indicators for the ASTFI I and ASTFI II

A	Transparency and information on laws, regulations, and procedures
SVA1	Customs Website/Trade Portal and Information
SVA2	Information on Export and Import Formalities of Regulatory Agencies
SVA3	National Trade Repository and ASEAN Trade Repository
SVA4	Implementation of Interactive Information Channels/Customs Contact Centre
B	Communication with and active engagement of the private sector
SVB1	National Trade Facilitation Committee, and Equivalent Title and Mechanisms
SVB2	Stakeholder, including Micro, Small, and Medium-sized Enterprises, Consultations on Rules and Regulation on Trade-related Measures including Non-Tariff Measures
C	Release and clearance formalities
SVC1	Advance Rulings for Classification and Valuation
SVC2	Pre-Arrival Processing
SVC3	Best Practice Risk Management
SVC4	Separation of Release from Final Determination and Payment of Customs Duties
SVC5	Electronic Payment
SVC6	Appeal and Review Mechanism
SVC7	Post-Clearance Audit
SVC8	Dwell Time Publication
SVC9	Time Release Study Publication
SVC10	Trade Facilitation Measures for Trusted Traders or Authorised Economic Operators
SVC11	Self-Certification
SVC12	Simplified or Expedited Clearance
SVC13	Temporary Admission
D	Import/export formalities
SVD1	Documentation Requirements
SVD2	Acceptance of Copies
SVD3	National Single Window
SVD4	ASEAN Single Window
SVD5	Border Agency (Customs, Immigration, Quarantine) Coordination (Domestic)
E	Cross-border coordination and transit facilitation
SVE1	Border Agency Institutional Coordination (with bordering countries)
SVE2	Border-Crossing Operational Coordination with the Neighbouring Countries
SVE3	Computerised System for Transit
SVE4	Transit Guarantee Mechanism
SVE5	Simplified Procedures for Authorised Transit Traders

F	Transport facilitation
SVF1	Procedures for Issuance of ASEAN Goods Vehicle Cross Border Permits
SVF2	Electronic Data Interchange and Port Community
SVF3	Land Transport Facilitation: Operationalisation of Protocol 1, Protocol 2, and Protocol 4
SVF4	Land Transport Facilitation: Operationalisation of the ASEAN Framework Agreement on the Facilitation of Inter-State Transport and the ASEAN Framework Agreement on Multimodal Transport
G	E-commerce
SVG1	Legal Framework and Operationalisation for Inter-Operable, Mutually Recognised, Secure, Reliable and User-Friendly E-Identification and Authorisation
SVG2	Revenue Collection Framework for Cross-Border E-Commerce Trade
SVG3	Legal Framework for Domestic and Cross-Border E-Commerce Dispute Settlement

Table A6.3. Trade Facilitation Regulations, Mechanisms, Initiatives and Best Practices

Ministry/ Agency	Regulation/Mechanism/Initiative/Best Practice
MITI	<p>Information Channels:</p> <ul style="list-style-type: none"> - Strategic Trade Act (STA, 2010) https://www.miti.gov.my/index.php/pages/view/sta2010?mid=105 - Approved permit https://www.miti.gov.my/index.php/pages/view/3796?mid=84 <p>ASEAN-Wide Self Certification (AWSC), 20/9/2020 https://www.miti.gov.my/index.php/pages/view/3911?mid=95#tab_379_674</p> <p>Malaysia National Trade Repository (MNTR) http://mytraderepository.customs.gov.my/en/Pages/an_pg.aspx</p> <p>National Trade Facilitation Committee (NTFC)</p> <ul style="list-style-type: none"> - Trade Facilitation Cluster Working Group (TFCWG), 2015 https://unctad.org/system/files/non-official-document/TFC_MY_EN.pdf <p>National eCommerce Strategic Roadmap, 2016 https://www.miti.gov.my/index.php/pages/view/3071?mid=409</p> <p>Dagang Net</p> <ul style="list-style-type: none"> - Electronic Declarations (eDeclare, 2002), Electronic Preferential Certificate of Origin (ePCO, 2009), Electronic Customs Duty Payment (ePayment), Electronic Manifest (eManifest) and Electronic Permit (ePermit). http://www.dagangnet.com/trade-facilitation/

Ministry/ Agency	Regulation/Mechanism/Initiative/Best Practice
MNTR	<p>Laws and Regulations Related to E-Commerce: http://mytraderepository.customs.gov.my/en/nt/Pages/ntsublinks.aspx</p> <ul style="list-style-type: none"> (i) Electronic Commerce Act 2006 [Act 658] (ii) Electronic Government Activities Act 2007 [Act 680] (iii) Personal Data Protection Act 2010 [Act 709] (iv) Digital Signature Act 1997 [Act 562] (v) Consumer Protection Act 1999 [Act 599] (vi) Communications and Multimedia Act 1998 [Act 588] (vii) Postal Services Act 2012 [Act 741] (viii) Consumer Protection Act 1999 [Act 599] (ix) Trade Descriptions Act 2011 [Act 730] (x) Computer Crimes Act 1997 [Act 563] (xi) Customs Act 1967 [Act 235] (xii) Evidence Act 1950 [Act 56] (xiii) Consumer Protection (Electronic Trade Transaction) Regulations 2012 [P.U.(A)458/2012] (xiv) Digital Signature Regulations 1998 [P.U.(A)359/98] (xv) Appointment and Revocation of Appointment of Personal Data Protection Commissioner (xvi) Personal Data Protection Regulations 2013 (xvii) Personal Data Protection (Registration of Data Users) (Regulations) 2013 (xviii) Personal Data Protection (Fees) Regulations 2013 (xix) Personal Data Protection (Compounding of Offences) Regulations 2016 (xx) Personal Data Protection (Class of Data Users) Order 2013 (xxi) Personal Data Protection (Registration of Data Users) (Amendment) Order 2016 (xxii) Central Bank's Credit Card, Debit Card & Charge Card Guideline (2016) (xxiii) Guidelines of Taxation of Electronic Commerce (xxiv) Personal Data Protection Standard 2016
PEMUDAH (2007)	<p>Technical Working Group on Trading Across Borders (TWGTAB)</p>
RMCD	<p>Information Channels:</p> <ul style="list-style-type: none"> - Customs website https://www.customs.gov.my - RMCD's official Facebook page https://www.facebook.com/JabatanKastamDirajaMalaysia - Instagram https://www.instagram.com/kastam.malaysia.official - Twitter https://www.twitter.com/KastamMalaysia
RMCD/MDEC	<p>2018 Time Release Study (TRS): http://www.customs.gov.my/ms/Documents/SUMMARY%20OF%20TRS%20EAST%20MY%202018.pdf</p> <p>AEO Scheme, 2010 http://mytraderepository.customs.gov.my/en/Pages/at_loat.aspx</p> <p>Digital Service Tax (to foreign supplies of digital services), 1 January 2020</p> <p>Customs Act 1967 (Customs Act) via the Customs (Amendment) Act 2019 (gazetted 1 January 2020)</p>

Ministry/ Agency	Regulation/Mechanism/Initiative/Best Practice
	Cross-Border Transport between Malaysia and Thailand Agreement, 2018
	Digital Free Trade Zone (DFTZ), 2017 https://mdec.my/digital-economy-initiatives/for-the-industry/entrepreneurs/dftz/
MOT	MRA on AEO Programmes with Japan, 27 June 2014 http://www.customs.gov.my/en/mp/Pages/mp_mra.aspx
	ASEAN Customs Transit System (ACTS), 2020 http://www.customs.gov.my/en/ip/Pages/ip_acts.aspx
	Electronic Customs Duty Payment (ePayment), 1996 http://www.mytradelink.gov.my/epaymentinfo
MOT	eGateway for Pasir Gudang Port and Port of Tanjung Pelepas, 6 April 2020
	Port Klang Net (PKNet), 1 January 2013.
	Logistics and Trade Facilitation Masterplan (2015–2020), March 2015 https://www.mot.gov.my/en/logistic/operators/the-logistics-and-trade-facilitation-masterplan
MOH - NPRA	QUEST 3+ https://quest3plus.bpfk.gov.my/front-end/login-chrome.php
FSQD	Food Safety Information System of Malaysia (FoSIM) http://fsis2.moh.gov.my/fosimv2/HOM/frmHOMPage.aspx
MDA	Medical Device Centralised Online Application System (MEDCAST) https://medcast.mda.gov.my/admin/user/login
	Information Channel: www.mda.gov.my Online submission for licensing and medical device registration: Medical Device Centralised Online Application System (MEDCAST) https://medcast.mda.gov.my/admin/user/login
PED	(i) Manual submissions of documents and payment: Import/export authorisation for dangerous drugs and psychotropic substances – application form can be downloaded at https://www.pharmacy.gov.my
	(ii) Online submissions: Poisons Licence Type A/B/E – https://www.mypharmac.pharmacy.gov.my/login.php
	(iii) Online submission for import/export permit under DagangNet System https://newepermit.dagangnet.com.my
MOF	myTRADELINK (official portal for trade facilitation), 5 September 2012 http://www.mytradelink.gov.my/frontpage
	National Single Window (NSW), 2009 - Electronic Preferential Certificate of Origin (ePCO) system, 2009
	Electronic Data Interchange (EDI), 1993

Source: Compiled from various sources (websites) and validated by the relevant ministries/agencies.

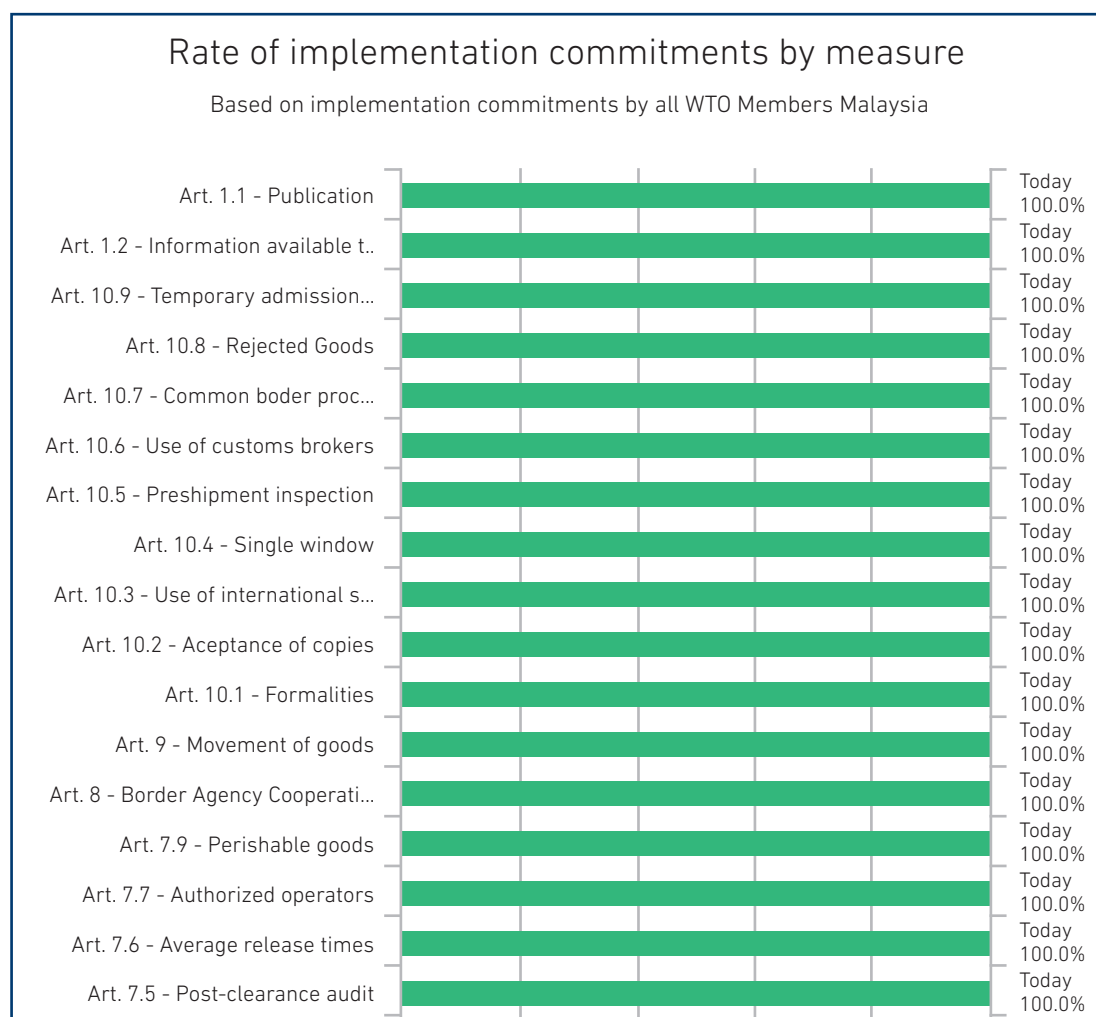
Table A6.4. Permit Issuing Agencies

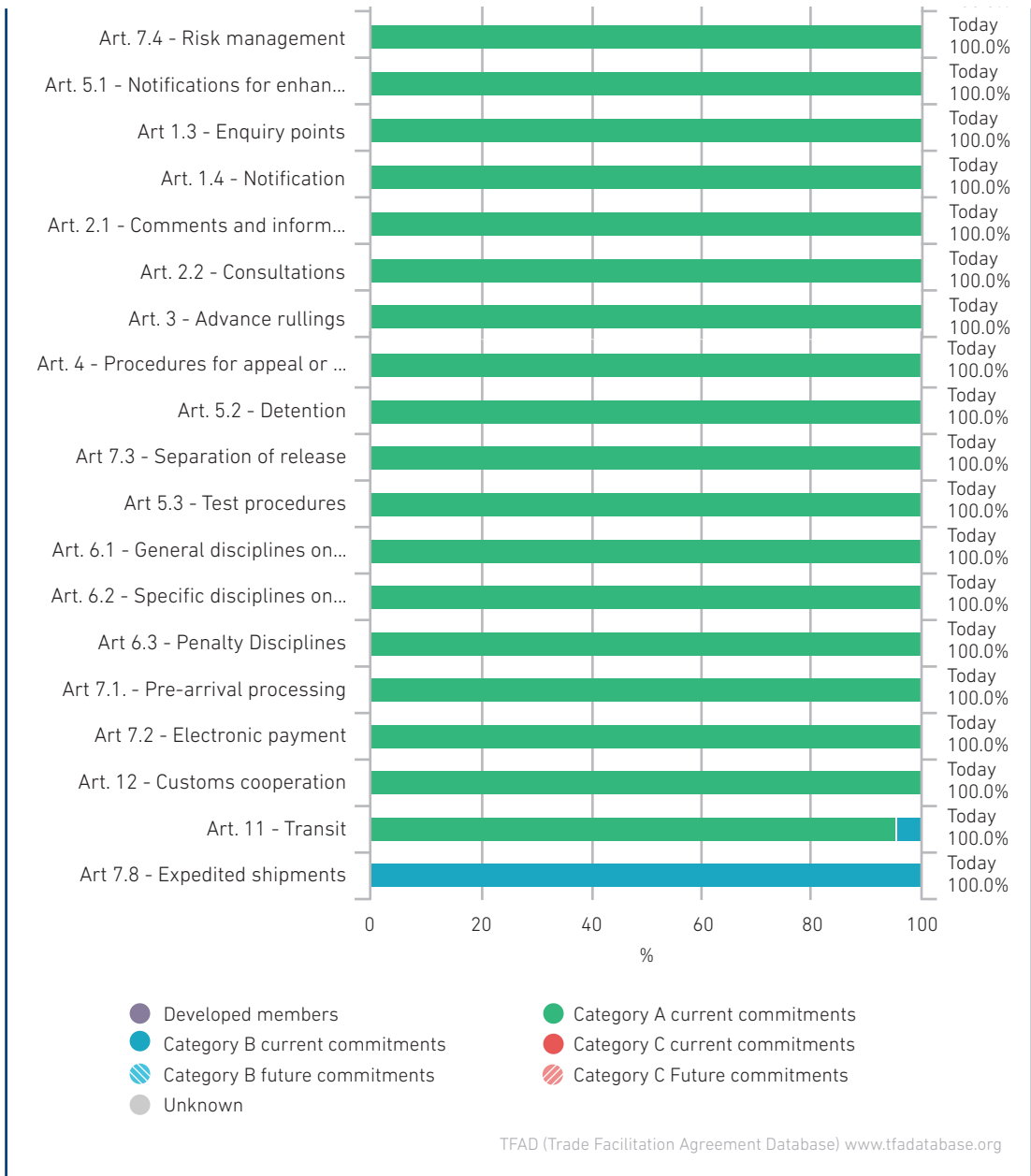
No.	Ministry/Agency
Ministry of Home Affairs	
1	Film Censorship and Enforcement Division
2	Royal Malaysian Police
Ministry of Works	
3	Construction Industry Development Board (CIDB)
Ministry of Health	
4	Pharmaceutical Services Programme
5	National Pharmaceutical Regulatory Agency (NPRA)
6	Pharmacy Enforcement Division (PED)
Ministry of International Trade and Industry (MITI)	
7	Import and Export Control Section
8	Trade and Industry Cooperation Section
9	Strategic Trade Secretariat
Ministry of Agriculture and Food Industries (MAFI)	
10	Paddy and Rice Industry Division
11	Malaysian Quarantine and Inspection Services (MAQIS)
12	Department of Veterinary Services (DVS)
13	Pesticide Control and Fertilisers Division, Department of Agriculture (DOA)
14	Plant Biosecurity Division, Department of Agriculture (DOA)
15	Federal Agricultural Marketing Authority (FAMA)
16	Malaysian Pineapple Industry Board
Ministry of Plantation Industries and Commodities	
17	National Kenaf and Tobacco Board
18	Malaysian Cocoa Board
19	Malaysian Timber Industry Board
Ministry of Science, Technology and Innovation	
20	Atomic Energy Licensing Board
21	SIRIM QAS International Sdn Bhd - Civil and Construction Section
22	SIRIM QAS International Sdn Bhd - Communication and Multimedia Certification Section
Ministry of Energy and Natural Resources	
23	Department of Environment (DOE)
24	Department of Wildlife and National Parks Peninsular Malaysia
25	Energy Commission

No.	Ministry/Agency
Ministry of Communications and Multimedia	
26	Malaysian Communications and Multimedia Commission
Ministry of Urban Development and Natural Resources, Sarawak State Government	
27	Sarawak Timber Industry Development Corporation
28	Forest Department Sarawak
Ministry of Modernization of Agriculture, Native Land and Regional Development	
29	Veterinary Division, Department of Agriculture Sarawak

Sources: Based on the survey instruments of ASTFI I and ASTFI II (ERIA, 2018; 2021).

Figure A6.1. Rate of Implementation Commitments, by Measure





Source: WTO TFA Database (2022), <https://tfadatabase.org/members/malaysia>

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Chapter 7

ASEAN Trade Facilitation Indicators II: Myanmar

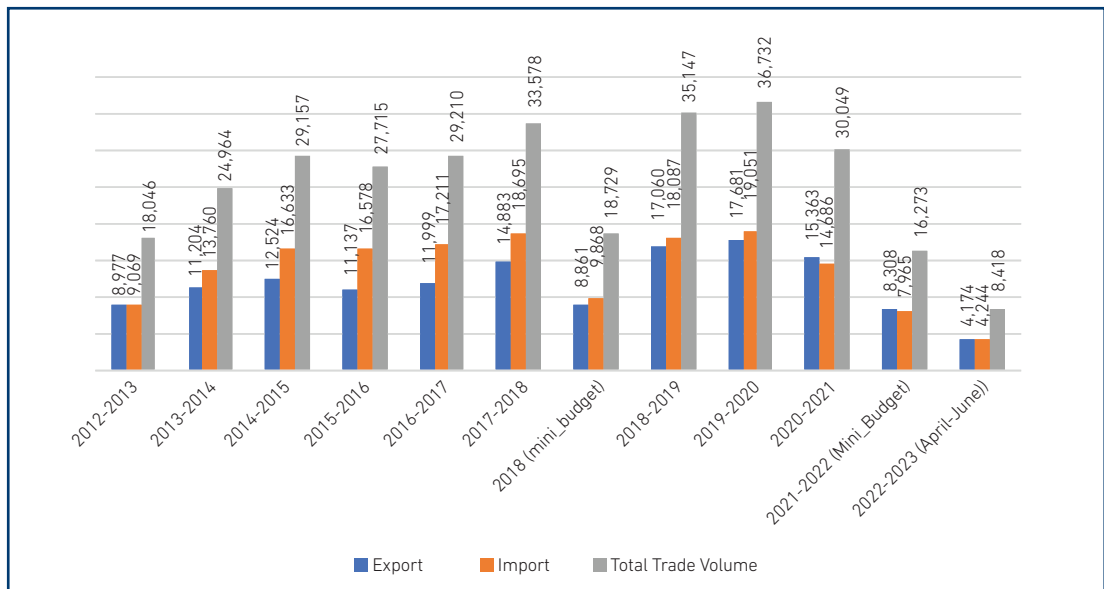
Ms Pa Pa
Ministry of Commerce

1. Overall Trade Facilitation Environment

1.1. Introduction

The Government of Myanmar has been undertaking economic reforms – including those related to trade policies and trade facilitation measures – to reintegrate the country into the global economy and to promote sustainable growth. As a result, Myanmar's trade volume has increased since fiscal year (FY) 2013, except for FY2021 (Figure 7.1). However, Myanmar's international trade did increase in the first part of FY2022 (World Bank, 2022). Myanmar's trade as a proportion of gross domestic product has also grown from around 42.00% in FY2014 to 53.15% in FY2021, peaking at 62.45% in 2018 (WTO, 2020).¹

Figure 7.1. Trade Volume of Myanmar, Fiscal Year 2012–13 to Fiscal Year 2022–23
(\$ million)



Source: Government of Myanmar, Ministry of Commerce, <https://www.commerce.gov.mm/>

¹ Trading Economics, Myanmar – Trade (% Of GDP), <https://tradingeconomics.com/myanmar/trade-percent-of-gdp-wb-data.html> (accessed 8 September 2022).

1.2. Trade Facilitation

Myanmar recognises that trade facilitation will increase imports and exports, thereby achieving its economic goals. In this context, consecutive governments since 2011 have made continuous efforts to reform the trade sector and to strengthen regional and international cooperation and linkages. Myanmar's efforts to improve the trade facilitation environment are reflected in the reports of its second World Trade Organization (WTO) trade policy review, and the second *Association of Southeast Asian Nations (ASEAN) Seamless Trade Facilitation Indicators (ASTFI II) Survey* conducted in 2020 (WTO, 2020). According to these reports, significant improvements since 2018 include: (i) full operationalisation of the National Trade Repository (NTR); (ii) strengthening stakeholder consultations in drafting trade-related laws, rules, regulations, and policies; (iii) availability of pre-arrival processing for all transport modalities; (iv) notifications of non-tariff measures (NTMs) to WTO and ASEAN; (v) full operationalisation of the ASEAN-Wide Self-Certification programme; (vi) launch of an online portal, TradeNet2.0, for export/import license application and e-payment; (vii) restructuring of the National Committee for Trade Facilitation (NCTF) and the establishment of four associated working groups; (viii) improvement of transparency by uploading Myanmar's NTMs into the ASEAN Trade Repository in English since 2019 (ATR, 2023);² and (ix) liberalisation of import and export licensing requirement for some tariff lines. Myanmar also conducted its second ASEAN Trade in Goods (ATIGA) gap assessment in 2020 to ensure the timely and full implementation of the ATIGA (ITC and ARISE+ Myanmar, 2020). According to the assessment, Myanmar has made significant progress in ATIGA implementation and trade facilitation over the past 5 years.

The development of the private sector has been prioritised in Myanmar, as it is the country's engine of economic growth. The Private Sector Development Committee was formed with members from both the private sector and government agencies in 2016, and formal consultation meetings have been organised regularly. In addition, each regulatory agency has been working closely with the private sector, for example, by inviting them to formal consultation meetings on proposed laws and regulations and to help identify barriers to trade.

² ASEAN Trade Repository, Country Myanmar, https://atr.asean.org/links/result?level=2&id_topic1=44&id_topic2=&country_code=mm&key=

1.3. COVID-19 Pandemic

Myanmar's trade facilitation efforts prompted by the COVID-19 pandemic have also been noteworthy. Several measures were introduced by relevant agencies since 2020 to mitigate the negative impacts of the pandemic on businesses and to ensure the smooth flow of essential goods and supplies into and from Myanmar. The Myanmar Customs Department (MCD) made commitments to ensure supply chain connectivity during the pandemic and has been operating customs clearances daily at all clearance sites across the country to accelerate import procedures and the rapid release of goods to help fight against COVID-19 (UNCTAD, 2020).³

An online licensing system was implemented to improve trade facilitation while keeping social distances during the pandemic, and export/import licenses could be applied via TradeNet 2.0 starting from December 2020. In addition, the Food and Drug Administration (FDA) established an e-submission system in 2020.⁴ Thus, import recommendations, import health certificates, and export health certificates can be applied for via this portal, and laboratory fees, application assessment fees, and notification fees can be paid electronically since the beginning of 2021. Likewise, the Department of Agriculture also established an electronic application system for issuing relevant endorsements for the import and export of seeds, fertilizers, and pesticides.⁵ Although other major agencies still have not fully implemented electronic systems for applications and approvals, the United Nations Economic and Social Commission for Asia and the Pacific (2021) stated that Myanmar, despite being a small economy, performs well in facilitating paperless trade and moving essential supplies within ASEAN to address the challenges posed by the COVID-19 pandemic.

³ MCD, 'Myanmar Customs Department Is Operating Customs Clearance at All Clearance Sites across Countries, Every Day, for Rapid Release and Clearance of Essential Items Imported into Myanmar to Treat and Combat COVID-19', <https://www.maccs.gov.mm/> [in Burmese].

⁴ Government of Myanmar, Ministry of Health, Department of Food and Drug Administration, E-Submission System Registration Login, <https://esubmission.fda.gov.mm/>

⁵ Government of Myanmar, Ministry of Agriculture, Livestock, and Irrigation, Department of Agriculture, Registrations of Agricultural Input, <https://mairs.doa.gov.mm/>

1.4. Secondary Sources

Myanmar's implementation rate of trade facilitation measures increased significantly, from 40% in 2017, to 60% in 2019, and to 66% in 2021. However, Myanmar's implementation rate still was below the average amongst ASEAN Member States (UNESCAP and ASEAN, 2021). Moreover, the country's rank in the Logistics Performance Index slipped from 113 in 2016 to 137 in 2018, the lowest amongst the ASEAN Member States (World Bank and IFC, 2020). Although Myanmar improved its ranking in the World Bank's Doing Business reports from 171 in 2018 to 165 in 2020, the country made no progress in reducing trade costs between 2018 and 2020.⁶ Table 7.1 reflects World Bank data for Myanmar regarding the time and costs associated with crossing borders.

Table 7.1. Ease of Doing Business Indicators, Myanmar, 2015–2020

Trading across Borders	2020	2018	2017	2016	2015
Cost to Trade (\$)					
Cost to Import					
Border compliance	457	457	457	367	367
Documentary compliance	210	210	210	115	115
Cost to Export					
Border compliance	432	432	432	432	432
Documentary compliance	140	140	140	140	140
Time to Trade (hours)					
Time to Import					
Border compliance	230	230	232	120	120
Documentary compliance	48	48	48	48	48
Time to Export					
Border compliance	142	142	144	144	144
Documentary compliance	144	144	144	144	144

Source: World Bank, Business Enabling Environment, <https://www.worldbank.org/en/programs/business-enabling-environment/doing-business-legacy>

Myanmar still has room to enhance efforts to improve trade facilitation and to reduce trade costs, particularly full operationalisation of a national single window (NSW), implementation of a transit system, publication of dwell-time information, implementation of an authorised economic operators scheme, and coordination of domestic border agencies (i.e. customs, immigration, and quarantine) at the operational level and with neighbouring countries.

⁶ World Bank, Business Enabling Environment, <https://www.worldbank.org/en/programs/business-enabling-environment/doing-business-legacy>

2. Results from the ASEAN Seamless Trade Facilitation Indicators (ASTFI II) Survey

The ASTFI II survey was conducted during the second half of 2020 with government agencies on seven components: (i) transparency and information on laws, regulations, and procedures; (ii) communication with and active engagement of the private sector; (iii) release and clearance formalities; (iv) import/export formalities and coordination; (v) cross-border coordination and transit facilitation; (vi) transport facilitation; and (vii) e-commerce. The results of the survey are summarised below.

2.1. Transparency and Information

Myanmar has made significant progress in improving the transparency of information on laws, regulations, and procedures. The NTR has been updated with all trade-related information in both English and Burmese.⁷ The NTR contains all nine prescribed elements and a database, at a product-specific level, for all free trade agreements. It is linked to the ASEAN Trade Repository as well; the ASEAN Trade Repository also provides links to relevant pages of Myanmar's National Trade Portal. Information on the export and import formalities of other agencies is accessible via their established websites as well as the NTR. In addition to the official websites, MCD and other agencies provide updated information through Facebook.⁸ MCD also maintains websites that contain all customs-related information, except procedures for transshipments.⁹ The information – except the laws and procedures for transit¹⁰ – is available in English and Burmese. It would be more effective and efficient if the websites contained all customs-related information both in English and Burmese.

⁷ Myanmar National Trade Portal, <https://www.myanmartradeportal.gov.mm/en>

⁸ Commercial News, Facebook, <https://www.facebook.com/mocommerce>; Ministry of Natural Resources and Environmental Conservation-Forestry, Facebook, <https://www.facebook.com/MONRECForestryMyanmar>; Food and Drug Administration, Myanmar, Facebook, <https://www.facebook.com/myanmarfda>; Maccs, Facebook, <https://www.facebook.com/profile.php?id=100011606079051>; Government of Myanmar, Ministry of Transport and Communications, Department of Communications, <https://www.ptd.gov.mm/ServicesDetail.aspx?id=W5nELJRP5rSRnIRkB5nA8A%3d%3d>

⁹ MCD, <https://www.customs.gov.mm>; and MCD, Myanmar Automatic Cargo Clearance System (MACCS), <https://www.maccs.gov.mm/>

¹⁰ MCD, Myanmar Automatic Cargo Clearance System (MACCS), Transit, <https://www.maccs.gov.mm/Transit>

MCD established the Customs Contact Centre with an operational help desk to respond to queries of exporters and importers.¹¹ Although the help desk is operational, the service is provided only during traditional office hours. MCD needs to provide 24/7 help desk services for local and foreign enquiries. In addition, customs-related information must be provided in English on the MCD website to improve transparency and to implement World Customs Organization Transparency and Predictability Guidelines.

2.2. Communication with and Active Engagement of the Private Sector

Myanmar performs well under this component. The NCTF, established in 2016 and restructured in 2019, comprises representatives from relevant government agencies and the private sector. It conducts regular meetings every 6 months as well as those on an as-needed basis.

In addition to the NCTF, the Private Sector Development Committee, formed in 2016, comprises members from the private sector and government agencies. Formal consultations with stakeholders, including micro and small and medium-sized enterprises (SMEs), are organised regularly by the Private Sector Development Committee. In addition, different government agencies organise stakeholder consultations in which private sector representatives help identify barriers to trade.

2.3. Release and Clearance Formalities

Despite progress since 2018, release and clearance formalities can be improved in Myanmar. Myanmar has implemented best practices in pre-arrival processing, self-certification, and appeals and review mechanisms. Pre-arrival processing is available, and a release decision is issued before arrival for all transport modalities (i.e. air, sea, and land). The ASEAN-Wide Self-Certification scheme has been fully operational since 2020. Appeals and review mechanisms are in place within the judicial authority.

Electronic payments have improved. Since 2020, traders can pay duties, taxes, and fees electronically for exports or imports to MDC and some other agencies. Advance rulings are available only for classification and valuation. However, these are not published online, and traders cannot request nor receive them online. Advanced rulings for origin are also not available.

¹¹ MCD, Myanmar Automatic Cargo Clearance System (MACCS), Hot Line, <https://www.maccs.gov.mm/Hot%20Line>; and MCD, FAQs, <https://www.customs.gov.mm/FAQs>

Time-release studies are conducted sporadically and only with the assistance of development partners; their results are published on an ad-hoc basis. However, under an ASEAN trade transaction cost study, Myanmar was able to conduct time-release studies twice, in 2019 and 2021, and has published them online.¹² Furthermore, MCD conducted a time-release study in 2021 by utilising World Customs Organization online software, without any technical and financial assistance from development partners. This demonstrates the capacity development of MCD in improving transparency, a main pillar of trade facilitation.

The early release of goods without payment is allowed based on a completed manifest and declaration submissions with a guarantee. If MCD allowed the early release of goods without payment based on a provisional manifest or declaration submissions without a guarantee, Myanmar's implementation for early release of goods would be regarded as a best practice.

Strengthening cooperation between MCD and relevant government agencies is required for consolidating risk management. Although MCD and other agencies perform risk management according to best practices, the procedure is still not integrated. The target rate of inspections by different regulatory agencies also varies. MCD implements post-clearance audits in compliance with best practices. However, other agencies still need to implement post-clearance audits for improving trade facilitation. Simplified or expedited clearance is available only for air cargo, not for land and sea cargo. Temporary admission is available only for certain goods, with total conditional relief from duties and taxes granted. This is not in full compliance with the Admission Temporaire–Temporary Admission (ATA) and Istanbul conventions. Although an authorised economic operator programme was launched in 2018 and standard operating procedures were adopted in 2019, the programme is not yet applicable in Myanmar, and mutual recognition agreements have not been established. The publication of dwell-time studies should be prioritised, as these have not been completed in Myanmar.

2.4. Import/Export Formalities and Coordination

Myanmar's performance under this component is impressive. Until the end of 2020, MCD and other agencies in charge of more than 50% of the trade volume allowed traders to attach digital copies of required documents to declaration submissions/their applications. However, some agencies were not ready to accept digital copies. Thus, Myanmar must establish a fully functional NSW, which will help MCD and other agencies implement paperless trade, thereby reducing trade costs.

¹² MCD, Time Release Study (TRS), [https://www.customs.gov.mm/Time%20Release%20Study%20\(TRS\)](https://www.customs.gov.mm/Time%20Release%20Study%20(TRS))

Although an NSW has not been established in Myanmar, an NSW routing platform has been implemented to connect with the ASEAN Single Window. Myanmar joined ASEAN Single Window live operations to exchange ATIGA Form-D and the ASEAN Customs Declaration Document in December 2019. Therefore, the exchange of documents with NSWs of other ASEAN Member States is fully operational. Coordination amongst border agencies (i.e. customs, immigration, and quarantine) has been set up but only at major ports on an ad-hoc basis. Myanmar, therefore, must ensure that institutional arrangements for border agency coordination are available and functional and cover all agencies at the operational level to improve trade facilitation.

2.5. Cross-Border Coordination and Transit Facilitation

Myanmar's performance under this component is relatively weak. Coordination with border agencies of neighbouring countries exists, but not all agencies are involved. Only two of four quarantine agencies (i.e. the Department of Agriculture and Department of Fisheries) and the Department of Immigration have set up transborder institutional arrangements (e.g. one-stop border control, exchange programmes, and joint border committees) with their counterparts from Thailand. MCD and the Livestock Breeding and Veterinary Department have set up transborder institutional arrangements but only on an ad-hoc basis.

In terms of border-crossing operational coordination with neighbouring countries, Myanmar has made some progress. MCD; departments of Immigration, Agriculture, and Fisheries; and the Livestock Breeding and Veterinary Department have been aligning working hours with neighbouring country authorities. Other agencies need to enhance their efforts to implement the other two border-crossing coordination components (i.e. development of common facilities and joint controls with neighbouring country authorities) for seamless trade.

MCD has made progress in implementing the ASEAN Customs Transit System (ACTS) starting with Phase A (pilot test) with Thailand in 2021 (WTO, 2020). Myanmar needs to make an effort towards the full implementation of the ACTS, establish a computerised system for transit (i.e. a transit guarantee mechanism), and develop simplified procedures for authorised transit traders to improve seamless transit facilitation within the region.

2.6. Transport Facilitation

Transport agencies have made significant progress under this component since 2018. Myanmar has already established standard procedures for the issuance of goods vehicle cross-border permits, up to a limited number. The Department of Transport and Planning issues licenses to transport operators. Then, the Ministry of Transport and Communications issues permits for cross-border transport. Currently, cross-border transport is mutually agreed upon and implemented under the Thailand–Myanmar Initial Implementation of the Cross-Border Transport Agreement. In addition, vehicles, with applied quotas for cross-border trade, are allowed under this agreement. However, it has been suspended since March 2020 due to the COVID-19 pandemic.

Regarding electronic data interchange in the port community, Myanmar has made progress. An electronic data interchange messaging platform is in place at the main port, connecting the port regulator, operator, and all port users.

Protocols 1 (designation of transit transport routes facilities), 2 (designation of frontier post), and 4 (technical requirement of vehicles) of the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT) have been ratified. Two out of the three protocols (i.e. 1 and 4) have been fully operationalised. Although Myanmar has ratified Protocol 2, there are no national laws nor regulations in place to implement it.

Myanmar has already ratified the ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST) and ASEAN Framework Agreement on Multimodal Transport (AFAMT). National laws and regulations are in place for both frameworks. The implementation of those frameworks is underway, and significant steps are being taken by the Ministry of Transport and Communications.

2.7. E-Commerce

Myanmar's performance under this component has improved significantly, but more efforts are needed for improving e-commerce utilisation. The Electronic Transaction Law came into effect in 2004; it includes some aspects of e-authentication and e-identification, but it is insufficient to address interoperable, mutually recognised, secure, reliable, and user-friendly e-authentication and authorisation. Other laws, such as the Consumer Protection Law, Telecommunication Law, Competition Law, Trademark Law, Myanmar Companies Law, and Foreign Exchange Management Law, cover aspects of e-commerce activities.

Myanmar is currently drafting an e-commerce law and cybersecurity bill (Myanmar Digital News, 2020; Myanmar Centre for Responsible Business, 2022). The Ministry of Commerce has also been drafting an e-commerce strategy and e-commerce guidelines to encourage e-commerce activities, protect consumers, and support Myanmar in attaining the Sustainable Development Goals. The guidelines are being drafted with the advice, feedback, and recommendations of both the private and public sectors. Once enacted, the guidelines will also allow e-commerce-related disputes to be settled in a fair and transparent manner (Myanmar Digital News, 2020).

There is a revenue framework for e-commerce, especially for low-value imports on which duties and taxes are not collected. Myanmar maintains threshold values for customs at a minimum in line with the provisions contained in the WTO Trade Facilitation Agreement.

3. Challenges in Trade Facilitation

Myanmar has made significant improvement in six of the seven components of the ASTFI II. Despite progress, the survey results suggest that there are performance gaps amongst trade-related agencies. The following challenges need to be overcome to reduce these gaps.

First, the existing – or lack of – information and communications technology infrastructure is a significant challenge faced by some major agencies. Without such infrastructure, the sharing of trade-related information, implementation of a paperless application process, adoption of e-payment systems, establishment of a computerised system for transit, full operationalisation of an NSW, and evolution of e-commerce cannot occur.

Second, financial and technical assistance supported by development partners is elusive for all trade-related agencies in Myanmar. Developing infrastructure and border control facilities at ports needs both financial and technical assistance. Targeted assistance for capacity building to implement trade facilitation measures, formulate relevant policies, and apply international best practices for cross-border transport operations are necessary to facilitate trade in Myanmar. Strengthening cooperation with other ASEAN Member States to obtain technical assistance under regional programmes may be the best way to tackle challenges.

Third, insufficient human resources and well-trained personnel with expertise in their respective fields limit the performance of MCD and other agencies in implementing trade facilitation measures. For example, enough well-trained staff are essential for updating the website of each agency with relevant information in both Burmese and English and populating the ASEAN Trade Repository with Myanmar's NTMs and relevant information. Likewise, it is difficult to provide 24/7 services at the Customs Contact Centre if there are not enough well-trained employees.

Fourth, strengthening cooperation and coordination amongst agencies is a significant challenge for improving trade facilitation. Although an institutional arrangement for border agency coordination at the major ports has been set up, it exists on an ad-hoc basis. Coordination with associated agencies of neighbouring countries needs to be strengthened for sharing common facilities and undertaking joint controls to improve trade facilitation. However, successful implementation of those programmes will depend on the strong political will of the concerned countries.

Above all, developing peace and stability along border areas remains a major challenge in improving overland trade, which is critical for reducing poverty and improving livelihoods.

4. Conclusion and Recommendations

The results from the ASTFI II highlight significant improvements in trade facilitation in Myanmar since 2018. Except for cross-border coordination and transit facilitation, noticeable progress has been made in most areas. The results of the ASTFI II also reveal Myanmar's movement towards best practices and operationalisation of ASEAN agreements and plans. Despite progress, however, there is still ample room for improvement. Based on the results of the findings in this study, below are recommendations:

- (i) Trade-related information of other agencies should be updated on a regular basis.
- (ii) The Customs Contact Centre should provide 24/7 help desk services for local and foreign enquiries.
- (iii) Attracting and retaining qualified staff members and providing programmes on English proficiency and information and communications technology will help Myanmar maintain the NTR.
- (iv) National-level coordination amongst agencies is crucial for full implementation of cross-border paperless trade, as some agencies have not fully implemented their e-systems for applications and approvals.
- (v) The NSW should be made operational as soon as possible, as it would help implement national-level paperless trade while improving the efficiency of the cargo clearance process.
- (vi) Agencies need to strengthen coordination not only with those of neighbouring countries but also within Myanmar. The operational and functional institutional arrangements for border agency coordination in major ports should be set up, and this arrangement should be applicable for all ports.

- (vii) The implementation of a transit system should be prioritised. Although MCD has been undertaking a legal review of a transit system, it still needs to overcome challenges such as lack of funding, shortage of skilled and professional staff, lack of modern and required laws and regulations, and inadequate public awareness about transit. These challenges can be overcome by enhanced cooperation and coordination amongst stakeholders and increased participation in regional cooperation programmes.

In conclusion, the agencies that participated in the survey need to make continuous efforts towards improvement in the areas where there is weakness and to undertake reforms, relying on guidance from multilateral and regional instruments such as the *2030 Agenda for Sustainable Development*, as well as WTO and regional agreements and initiatives that aim to help Myanmar become a more resilient, more prosperous, peaceful economy.

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Chapter 8

Results from the Follow-up ASEAN Seamless Trade Facilitation Indicators (ASTFI II) – Philippines

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1. Introduction

The ASEAN Economic Ministers (AEM) adopted the ASEAN Seamless Trade Facilitation Indicators (ASTFI), designed to measure and monitor the extent to which trade facilitation measures are implemented in the region through various Association of Southeast Asian Nations (ASEAN) agreements, such as the ASEAN Trade in Goods Agreement (ATIGA), the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT), and the various sectoral work plans relevant to trade facilitation. To support the AEM decision, ERIA was commissioned to develop the methodology and conducted the baseline survey for the ASTFI.

The first baseline ASTFI data collection in the Philippines was conducted in 2018 with support from country researchers and government focal points. The ASTFI report was submitted to the ASEAN Trade Facilitation Joint Consultative Committee (ATF-JCC) in July 2018.

A follow-up activity was conducted starting in September 2020 to study and examine the extent to which trade facilitation measures have been implemented ASEAN-wide and at the ASEAN Member States (AMS) level since the baseline study. The responses were collected from government offices that regulate trade (e.g. Department of Trade and Industry, Bureau of Customs, Department of Agriculture, Food and Drug Administration) and other relevant agencies involved in the implementation of trade facilitation initiatives and measures. The responses received were collated and verified through desk research to arrive at one consistent set of responses per country. Online meetings and consultations were also undertaken to validate the responses from government agencies.

This public version of the report highlights the improvement of the trade facilitation environment in the Philippines, including the initiatives and measures implemented by the country from the ASTFI baseline study in 2018 until October 2022.

2. Trade Overview

The Philippine economy was on an upbeat before the onslaught of the COVID-19 pandemic. As expected, the pandemic greatly affected the Philippine economy in 2020 as evidenced by the 9.5% contraction in the GDP. There was no growth in all of the sectors of the economy with the industry sector registering the highest contraction at 13.1%. This is rather expected since many companies and establishments shutdown during the lockdown period.

The effective management of COVID-19 risks, a calibrated reopening of the economy, roll-out of the vaccine, and the speedy passage of key reforms contributed to the recovery of the economy. The Philippines' total external trade in goods indicated an annual growth rate of 18.1% in February 2022, amounting to US\$15.85 billion compared with annual growth of only 4.6% in the previous year.

Table 8.1. Year-on-year Growth Rate of the Value of Philippine Exports for Top Ten Major Commodity Groups: February 2022

Philippine Exports – Commodity Group	Annual Growth Rate (%)
1. Cathodes and sections of cathodes, of refined copper	130.2
2. Coconut Oil	118.2
3. Other mineral products	27.5
4. Electronic equipment and parts	17.2
5. Electronic products	15.1
6. Chemicals	14.2
7. Other manufactured goods	12.2
8. Ignition wiring set and other wiring sets used in vehicles, aircrafts and ships	6.4

Source: PSA (2022). Highlights of the Philippine Export and Import Statistics February 2022 (Preliminary), <https://psa.gov.ph/statistics/foreign-trade/fts-release-id/> (accessed June 2022).

¹ See progress in Doing Business reform at <http://db.investlaos.gov.la/en/reform-topics/trading-across-borders/reforms-updates/>.

Amongst the 10 major commodity groups, eight recorded an annual growth rate in terms of export value (shown in Table 8.1), which was led by cathodes and sections of cathodes, of refined copper (130.2%). This was followed by coconut oil (which includes crude and refined) (118.2%); other mineral products (27.5%); electronic equipment and parts (17.2%); electronic products (15.1%); chemicals (14.2%); other manufactured goods (12.2%); and ignition wiring sets and other wiring sets used in vehicles, aircrafts, and ships (6.4%). The year-to-date annual total export earnings represent an annual increase of 11.9% compared with the year-to-date annual total export value earned in January–February 2021. In February 2022, the United States had the highest export value, with a 15.7% share of total exports and with 85% of the country's imported goods sourced from Asia-Pacific Economic Cooperation (APEC) member countries, i.e., raw materials and intermediate goods, capital goods, mineral fuels, and lubricants and related materials.¹

3. Key Trade Facilitation Reforms

The pandemic caused by the COVID-19 virus in 2020 has severely hampered the movement of goods across borders. The movement of goods was notably slower during the pandemic period as compared to the period prior to the pandemic. To address the mounting task of preventing the spread of COVID-19 and maintaining economic activities, the Philippine government re-activated the Inter-agency Task Force (IATF) for the Management of Emerging Infectious Diseases. This task force was created under Executive Order No. 168 in May 2014 and was organised as government's instrument to assess, monitor, contain, control, and prevent the spread of any potential epidemic in the Philippines.

The IATF was convened in January 2020 and recommended measures that restricted the movement of goods and persons. At that time, only the deliveries of essential commodities (food, medicine) were allowed across localities. Public transportations were halted and only authorised persons outside of residence (APOR) were permitted to travel.

With the protocols issued by the IATF, the Department of Trade and Industry (DTI) identified the critical industries and business establishments that will be allowed to operate and issued corresponding regulations to operationalise them. The DTI likewise made sure to improve the supply chain movement and minimise the disruptions during the pandemic. Some of the regulations that were issued to set the operating guidelines of the tax and duty-exempt importations of supplies and equipment and to identify the critical health equipment and supplies needed to address the spread of COVID-19.

¹ Highlights of the Philippine Export and Import Statistics February 2022 (Preliminary), (<https://psa.gov.ph/statistics/foreign-trade/fts-release-id/167219>).

The Philippines is a signatory to several Agreements that are aimed at facilitating trade and implementing reforms agreed on by member nations. Since the Baseline Study was conducted in 2018, some of the reforms that the country is currently implementing were anchored on different laws, Agreements, and initiatives. These reforms include the ATA Carnet, AEO, ATIGA e-Form D, and ACDD. Implementing guidelines have been issued for the ATA Carnet System in the Philippines, which allows the importation/exportation of conditional duty- and tax-free goods for up to one year. However, the implementation date of the system is subject to compliance by the National Issuing and Guaranteeing Association (NIGA) of its duties and responsibilities under the Istanbul Convention, the only association that will be accredited to issue temporary admission papers (TAP) and to guarantee the amount of security and other charges to be imposed. The PCCI can only perform its mandate as the NIGA once it has become affiliated with the International Chamber of Commerce (ICC), World Chambers Federation (WCF) ATA International Guarantee Chain.

The ICC has acknowledged the PCCI as the NIGA for ATA Carnet, as endorsed by the DOF through the BOC. The PCCI has complied with ICC World ATA Carnet Council (WATAC) requirements and is comprised of representatives from countries and territories where Carnets are issued and accepted.²

On 30 December 2019, the Philippines joined Indonesia and Malaysia in exchanging the electronic Certificate of Origin (e-CO), known as the ASEAN Trade in Goods Agreement (ATIGA) via the ASEAN Single Window (ASW). CMO 15-2019 governs the application, submission, and processing of e-CO. It aims to facilitate the transmission of e-CO for export products and the receipt of e-CO for imported products.

CMO 9-2020 established the Authorized Economic Operator (AEO) programme for importers and exporters. It also provides guidelines for the application. The programme is in compliance with the WCO SAFE Framework Agreement to which the Philippines is committed. An AEO office was built with the following units: Accreditation Unit, Post Validation Unit, and Mutual Recognition, Statistical and Records Management Unit. The first company granted level 1 AEO accreditation was Toyota Motors Philippines Corp. (TMPC).

The ASEAN Customs Declaration Document (ACDD) Portal was formally launched on 6 December 2022, Customs Commissioner Ruiz mentioned that the digital tool is expected to improve bureaucratic efficiency, strengthen market competition, and reduce barriers to entry and limits to entrepreneurship. The portal is the platform for the exchange of ACDD messages between the Philippines' ASW gateway and the ASW gateways of its ASEAN neighbours.³ CMO 26-2022 provides the guidelines and procedures for the use of the ACDD Portal by BOC-authorized personnel and exporters.

² <https://www.portcalls.com/pcci-finalizing-bond-requirement-under-ata-carnet-system/>

³ <https://www.manilatimes.net/2022/12/11/business/top-business/boc-launches-acdd-portal/186982/1mp>

The Philippine Bureau of Customs (BOC) was part of the organised government Task Force and issued several regulations that allowed the unhampered processing and release of cargoes at the ports considering the welfare of the stakeholders, the transacting public, and employees. Electronic submission of documents was allowed, and no face-to-face transactions were permitted.

The Congress passed Republic Act (RA) No. 11469, otherwise known as the Bayanihan to Heal as One Act, which provided the administrative and legal backing for the exemption/conditional relief of customs duties and taxes on imports on essential goods during crises and epidemics. In Bayanihan Act 2, the DICT was instructed to fast-track the improvement of ICT infrastructure as the demand for internet connectivity surged amongst businesses, industries, students, workers, and the larger public since the start of the pandemic. Their focus was on promoting faster telecom tower build-up through reduced permitting requirements to streamline regulatory processes and procedures and contribute to the development of the sector.

The pandemic accelerated the need for the BOC to ensure that the frontline services were 100% fully automated: by allowing the online submission of documents through its Customer Care Portal System; by upgrading its electronic-to-mobile (e2m) system to computerise manual processes, and to upgrade its overall performance, stability, and maintainability; and, by accepting online payment options like PayMaya or mobile wallets for miscellaneous fees payments. The BOC issued CMO 08-2020, which sets the guidelines for the implementation of zero-contact policy at the assessment offices of the BOC pursuant to RA No. 11032 or the Ease of Doing Business and Efficient Government Service Delivery Act to mitigate the spread of the COVID-19 virus.

In the recent State of the Nation Address, in terms of the economy, President Ferdinand Marcos, Jr. said that his government would implement sound fiscal management. Some of the solutions to increase revenue collection are as follows: (1) tax reforms; (2) realign expenditure priorities; (3) promote productivity-enhancing investments; (4) support fully the Ecozones by bringing in high-tech manufacturing as well as all emerging technologies; (5) imposition of VAT on digital service providers; (6) for the BOC, promote streamlined processes through the use of ICT; (7) exports of goods are projected to increase by 18% this year, 6% by 2023, and 8% from 2024 onwards; (8) support the agricultural sector by introducing new technologies; (9) creation of the Center for Disease Control and Prevention, and a vaccine institute for a stronger health care system; and (10) for the Philippine Competition Commission to look into the cartel in the pharmaceutical companies

President Marcos, Jr. also said that the DICT should identify and utilise innovations to improve governance. Documents and records stored in the government warehouse and archives need to be digitised, harmonised, and shared across departments and agencies in a secure manner. He also mentioned that an important part of digital transformation is the use of the national ID. Universal connectivity will be a vital component to achieve the government's plan (SONA 2022). The DICT is to deploy digital connectivity across the various islands through the implementation of the National Broadband Plan connecting the Geographically Isolated and Disadvantaged Areas (GIDA) via the 'Broad Band ng Masa' Project.

3.1. World Trade Organization Trade Facilitation Agreement (WTO-TFA)

On 22 February 2017, the WTO-TFA entered into force after a required two-thirds of WTO members ratified it. The agreement contains provisions to facilitate the movement, release, and clearance of all goods, including goods in transit. It was considered a landmark agreement.

The agreement has three main objectives, namely: a) to expedite the release of goods that cross international borders; b) to improve cooperation amongst customs authorities; and c) to provide technical assistance and capacity building on customs and trade facilitation matters to developing countries and least-developed countries.⁴

In October 2016, the Philippines deposited its Instrument of Acceptance to the WTO-TFA. Based on the Philippines' status of implementation, the current rate of implementation commitments stands at 98.3% with a time frame spanning from February 2017 to June 2022.⁵ Under Category A commitments, the country obtained a current rate of implementation of 93.3%, which is quite high. On the other hand, the rate for Category B commitments attained was 5%, which has been duly complied with as of 12 March 2021. The rate gathered for Category C, which covers the Article on the National Single Window, was only at 1.7% and is yet to be fulfilled to reach a perfect score of 100%.

Category A covers articles on publication, information availability through the internet, consultations, advance rulings, pre-arrival processing, electronic payments, risk management, post-clearance audit, authorised operators, expedited shipments, temporary admission, customs cooperation, and the like. As for Category B, the articles covered are border agency cooperation, rejected goods, and notification for enhanced controls or inspections.

Under Category C, with a 30 June 2022 definitive date of implementation, the Philippines has requested additional assistance and support for capacity building that was not earlier anticipated, specifically: a) training and other forms of technical assistance to build the capacity of the human resources of each government agency and other relevant sectors that shall form part of the National Single Window (NSW) programme; b) funding for the development of a programme or software that will be used as the operating system for the NSW; and c) funding for the upgrade of the current ICT equipment that will be used for the implementation of the NSW at all ports of entry and at the facilities of participating sectors and government agencies.⁶ Assistance to this category will be facilitated by other WTO member countries.

⁴ https://www.usitc.gov/publications/332/journals/wto_trade_facilitation_agreement.pdf

⁵ <https://tfadatabase.org/members/philippines>

⁶ <https://www.portcalls.com/unescap-ph-significant-strides-trade-facilitation/>

The Philippine Bureau of Customs (BOC), in cooperation with the World Customs Organization (WCO), conducted a gap analysis on the BOC's compliance to the WTO-TFA under the WCO's Mercator Programme, as supported by the United Kingdom's Prosperity Fund on Trade Facilitation in Middle Income Countries Programme. To date, under the Framework of the WCO's Self-Assessment Maturity Model vis-à-vis compliance to the WCO Mercator Programme Implementation Plan and WTO-TFA, the BOC continuously and progressively fulfils the fundamental deliverables under the aspects identified.

3.2. Customs Modernization and Tariff Act

The passing of RA No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA), simplified customs procedures, pushed for full customs automation, and aligned the Tariff and Customs Code of the Philippines (TCCP) with the Kyoto Convention and other international standards and practices to make it easier for traders, importers, exporters, and other stakeholders to comply with border requirements.

The BOC, as the focal agency for cross-border trade, has executed several paperless trade systems, including the Electronic-to-Mobile (e2m) System, Philippine National Single Window (PNSW), TradeNet, and the World Bank funded Philippine Customs Modernization Program as some of the agency's projects for a paperless trade system.

A new regulation has been issued by the BOC: rules for the establishment, supervision, operations and control of customs facilities and warehouses (CFW). CMO 18-2022 took effect on July 8 and implements Customs Administrative Order (CAO) 9-2019 under the CMTA. It aims to protect government revenues and prevent customs fraud.

The Port Operations Coordinating Division (POCD) shall establish a compliance rating system to ensure that the rules and regulations are properly implemented. The compliance rating system shall be used to measure and assess the compliance and performance levels of all CFWs. It will be utilised as a risk management mechanism in evaluating any CFW application.⁷

The CAO 7-2022 aims to simplify accreditation procedures for BOC stakeholders such as importers, including the use of mandatory receipt of electronic notices subject to submission of the required documents. A separate guideline shall be issued by the BOC for the application for accreditation of non-regular importers; importers of postal items; importers through informal entry processes; locators of free zones; and other importers as may be determined by the Commissioner. A new processing fee of ₱2,000 will be charged for new applications or the renewal of accreditation.

⁷ <https://www.portcalls.com/boc-rules-on-setting-up-cfws-now-in-effect/>

The BOC will establish an efficient IT-based mechanism to monitor the compliance of accredited importers.

3.3. National Single Window

Implementation of the NSW and TradeNet, which was developed to become the new NSW, is expected to further advance paperless trade systems in the Philippines. Several other government agencies have also established their own systems to facilitate information processing in completing trade transactions.

The Philippine Ports Authority's automation projects include the Electronic Accreditation System, Electronic Permit Management System, and Internet-based Port Operations and Receipting for Terminals System.

The Maritime Industry Authority is working on its Integrated Domestic Shipping Information System, whilst the Civil Aviation Authority of the Philippines maintains electronic systems that are limited to air navigation and air traffic systems and equipment.

To improve its domestic paperless trade environment and its readiness to participate in cross-border paperless trade, the report said the Philippines should complete the integration of trade regulatory government agencies into TradeNet, the Port Community, and other paperless trade systems that are interoperable within and across borders.

This would involve the Philippines enhancing its national technical capacity in this area, designing a long-term plan, and continuing the exchange of selected data and documents.

3.4. Ease of Doing Business and Efficient Government Service Delivery Act of 2018

The country passed RA No. 11032 or the Ease of Doing Business and Efficient Government Service Delivery Act of 2018 to help facilitate trade and address the inefficiency in the business sector. The law was signed and became effective and provides the creation of the Anti-Red Tape Authority (ARTA) – the government agency mandated to monitor and ensure compliance with the national policy on anti-red tape and ease of doing business in the country. ARTA is currently exerting its mandate to encourage regulatory agencies to participate in the NSW.

The United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) mentioned in their report that the Philippines has shown 'strong political will' and made 'significant progress in implementing trade facilitation' and paperless trade despite the pandemic.

However, 'more remains to be done to further enhance trade efficiency, particularly by adopting digitalisation of trade procedures across all agencies,' according to the report entitled 'Readiness Assessment for Cross-Border Paperless Trade: The Philippines', as mentioned by UNESCAP (Portcalls, 15 March 2022, *UNESCAP Cites PH 'Significant' Strides in Adopting Trade Facilitation*).

The country's trade facilitation implementation level is significantly above the Asia-Pacific regional average and Southeast Asian subregional averages, the report noted, but it also found execution of cross-border paperless trade remains 'uneven' amongst agencies and stakeholders. Still 'the progress is trending in the right direction.'

It was pointed out in the report that the successful implementation of cross-border paperless trade comes with significant benefits, having the potential to slash trade costs by 13% across Asia and increase regulatory compliance, reduce illicit financial flows, and facilitate engagement in an increasingly digital global economy.

The report, which was co-published with the Philippine Bureau of Customs, looked into the country's readiness for cross-border paperless trade, i.e. conducting international trade based on electronic data and documents, amongst others.

It also put forward recommendations to advance implementation of cross-border paperless trade measures.

It examined trade facilitation measures adopted during the pandemic, noting that 'paperless trade was recognised as an effective way to mitigate trade disruptions during the COVID-19 crisis, providing more seamless and resilient trade opportunities.' As a result, the customs bureau and other agencies sped up efforts to enable paperless trade, in the process improving ICT infrastructure.

The Philippines had a very high rate of 94.1% in implementing the World Trade Organization Trade Facilitation Agreement and scored 86.02% in the 2021 UN Global Survey on Digital and Sustainable Trade Facilitation, higher than the Southeast Asia average of 74.29%, the UNESCAP report noted.

Still, the Philippines' cross-border paperless trade measures have low implementation rates, and the country is still working on achieving full implementation of its cross-border trade measures, the report said.⁸

⁸ <https://www.portcalls.com/unescap-ph-significant-strides-trade-facilitation/>

3.5. ASEAN-Wide Self-Certification (AWSC) Scheme

The AWSC is a scheme that will simplify and streamline procedures to claim and avail ATIGA preferential tariff rates for intra-ASEAN exports. It is a trade facilitation initiative that authorises qualified exporters to self-certify the origin status of their goods to make them eligible for ATIGA tariff preferences.

The BOC has issued Customs Memorandum Order (CMO) 24-2020 to set the policies and guidelines that will allow certified exporters to declare the origin status of their goods themselves on permitted commercial documents to claim preferential tariff treatment under ATIGA. The CMO covers the originating goods of certified exporters that are exported to and imported from AMS.⁹

3.6. Regional Comprehensive Economic Partnership (RCEP)

The RCEP Agreement, signed on 15 November 2020, is an agreement to broaden and deepen ASEAN's engagement with Australia, China, Japan, Korea, and New Zealand. Together, these RCEP participating countries account for about 30% of global GDP and 30% of the world's population. The objective of the RCEP Agreement is to establish a modern, comprehensive, high-quality, and mutually beneficial economic partnership that will facilitate the expansion of regional trade and investment and contribute to global economic growth and development. Accordingly, it will bring about market and employment opportunities to businesses and people in the region. The RCEP Agreement will work alongside and support an open, inclusive, and rules-based multilateral trading system.¹⁰

The deal, upon entry into force, will improve market access with tariffs and quotas eliminated in over 65% of goods traded and will make business predictable with common rules of origin and transparent regulations. It aims to encourage firms to invest more in the region, including building supply chains and services, and to generate jobs.

Chapter 4 of the agreement covers the Customs Procedure and Trade Facilitation Measures that member countries are expected to implement. The specific measures set out in this chapter include: a) customs procedures; b) pre-shipment inspection; c) pre-arrival processing; d) advance rulings; e) release of goods; f) application of information technology; g) trade facilitation measures for authorised operators; h) risk management; i) express consignments; j) post-clearance audit; k) time-release studies; l) review and appeal; m) customs cooperation; n) consultations and contact points; and o) implementation arrangements.

⁹ <https://www.portcalls.com/boc-implements-asean-self-certification-scheme/>

¹⁰ <https://asean.org/summary-regional-comprehensive-economic-partnership-agreement/>

3.7. Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific

The Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific is an inclusive and highly flexible cooperation and capacity building platform where countries can participate regardless of their levels of development. In the most recent regional trade facilitation report by the Asian Development Bank and ESCAP, the latest estimates suggest that the framework helps reduce trade costs by more than 20% in most of the developing countries of the region. The five countries that have ratified or acceded to the treaty – Azerbaijan, Bangladesh, China, the Islamic Republic of Iran, and the Philippines – are committed to regional cooperation in this critical area. Armenia and Cambodia signed the treaty in 2017, whilst several other ESCAP members were in the process of completing their accession in 2021.¹¹

4. Highlights and Key Findings of ASFTI II Survey

In the Philippines, the ASTFI II Project was carried out from in September 2020 to March 2021 to ascertain if there are significant developments on the components previously assessed in 2018. The ASTFI II questionnaire was distributed to 25 government agencies for them to respond questions to the seven components, namely: 1) Transparency and Information on Laws, Regulations, and Procedures; 2) Communication with and Active Engagement of the Private Sector; 3) Release and Clearance Formalities; 4) Import / Export Formalities and Coordination; 5) Cross-Border Coordination and Transit Facilitation, of which is not applicable to the Philippines, 6) Transport Facilitation: and, 7) e-Commerce.

The Bureau of International Trade Relations (BITR) of the DTI was the focal agency that coordinated all the activities pertaining to ASTFI II Survey. The BOC was identified as the lead agency on matters pertaining to trade facilitation at the border.

¹¹ <https://customs.gov.ph/paperless-trade-agreement-enters-into-force/>

4.1. Transparency and Information on Laws, Regulations, and Procedures

Significant improvements have been made to the BOC website, and it is now a comprehensive source of information, regulations, laws, procedures, and documentary requirements for imports and exports. Aside from the regulations and issuances, the BOC website contains information on various programmes, references, port updates, and monthly entries processed that can be downloaded. It also contains links to the Philippine Tariff Finder of the Tariff Commission (TC), results of the Time Release Study (TRS), and the AEO programme of the BOC. The website is continuously being improved to cater to the needs of the transacting public and other stakeholders.

Aside from the BOC website, the BOC-CARES facility is active on social media, such as Facebook and Twitter, to provide news and updates about customs-related issues and topics.

The PNTR is being maintained and updated. The website has tariff nomenclatures, laws, rulings, a tariff finder, and commodity search that are available to users. Importers and traders can browse specific import regulations, procedures, and the documentary requirements of various Trade Regulatory Government Agencies (TRGAs) on the website. The DTI's website also contains a link to the PNTR website.

The BOC is continuously maintaining an interactive information centre. The BOC also established its Customer Care Center (CCC) in 2020 in almost all its ports and sub-ports as a one-stop shop for customs services. The establishment of the CCC is part of the BOC's goal to implement zero-contact policy and eradicate corruption and enhance trade facilitation. It was also meant to comply with RA 11032, or the Ease of Doing Business and Efficient Government Service Delivery Act. Likewise, information was disseminated through the Customer Assistance and Response Service (BOC-CARES) and Public Information Assistance Division (PIAD).

Also, the BOC created the Customer Care Portal in 2019, a web-based application that allows stakeholders to submit electronically their concerns, complaints, feedback, or suggestions and upload documents required for accreditation. In the said portal, issues, concerns, and requests are assigned a unique number that clients can use to track the progress online.

4.2. Communication with and Active Engagement of the Private Sector

Executive Order No. 136 was signed on 18 May 2021, creating the Philippine Trade Facilitation Committee (PTFC) in compliance with the country's commitment under the World Trade Organization – Trade Facilitation Agreement (WTO-TFA). It is a decision-making body to streamline and improve customs procedures and facilitate the implementation of rational, efficient, and simple customs rules.

The issuance of the EO is expected to reduce the cost of trade transactions and enable micro, small, and medium-sized enterprises to participate more actively in various international trade activities.

Based on the EO, the PTFC shall study, propose, and coordinate the position, activities, or actions of the Philippine government on matters pertaining to the implementation of the WTO-TFA and other trade facilitation commitments.

As per the EO, the PTFC shall be chaired by the DOF and co-chaired by the DTI. The BOC shall serve as vice-chairperson, and some of the government agencies serve as members. The body will also represent and advance the country's interests in trade facilitation meetings and submit reports on the compliance of the Philippines with the WTO-TFA and other trade commitments.

The PTFC is also directed to coordinate with the ARTA for the implementation of RA 11032, or the Ease of Doing Business and Efficient Government Service Delivery Act of 2018, in relation to trade facilitation.

They shall undertake outreach, advocacy, capacity-building, and studies amongst their members and stakeholders to increase awareness of the best practices and benefits of trade facilitation.

Prior to the signing of EO No. 136, it was reported that there are some equivalent mechanisms for the NTFC, as follows: the Inter-Agency Committee on the ASEAN Economic Community (CAEC) created under AO 20-2011 and the Committee on Tariff and Related Matters (CTRM), responsible for trade facilitation measures in the government.

One Country, One Voice (OCOv), launched in 2011, is the DTI's consultative mechanism to allow stakeholders' participation in trade policy formulation. It facilitates transparency and accountability as the government undertakes the process of engaging in dialogue, building mutual trust, and arriving at rational, sound, and balanced trade policies in pursuit of national development.

The Department of Finance with the Bureau of Customs jointly organised the 2nd Meeting of the Technical Working Groups (TWG) of the PTFC and the PTFC Roadmap Writeshop (Bureau of Customs, 2022). It was attended by government officials and private sector representatives from the PTFC Compliance Monitoring Technical Working Group, PTFC Trade Policy Review Technical Working Group, and the PTFC Ad-Hoc Technical Working Group. The committee invited representatives from the World Bank for them to share the best practices of other countries that would help them in refining the draft PTFC Roadmap as well as to brief them on the roles of the national trade facilitation committees.¹²

The BOC highlighted the importance of the PTFC Roadmap in carrying a clear service framework by the BOC and TRGAs in supporting micro, small, and medium-sized enterprises (MSMEs) and the trading community in general access to the global market.

Through several online and face-to-face workshops, the Trade Facilitation Champions have gained an excellent understanding of the strategic importance of trade facilitation with the support of the WCO.

4.3. Release and Clearance Formalities

The Philippines has made a notable improvement in terms of release and clearance formalities. One of the most notable improvements has been self-certification. The ASEAN-wide Self-certification (AWSC) scheme allows qualified exporters to self-certify the origin status for their goods to be eligible for tariff preferences under the ASEAN Trade in Goods Agreement.¹³

The BOC issued Customs Memorandum Order (CMO) 24-2020, which took effect on 20 September 20 and implements the AWSC under the First Protocol to amend ATIGA, which was signed in 2018. The said protocol provides for a simplified and streamlined procedure in claiming and availing of ATIGA preferential tariff rates for intra-ASEAN exports.

The certified exporter status may be used instead, in lieu of the CO Form D, which still requires exporters to apply for every shipment manually and do so only during office hours. The ASWC promotes convenience and cost savings because it does away with the administrative limitations of the CO Form applications, improving distribution timelines so even weekend shipments will not be delayed.

¹² <https://customs.gov.ph/philippine-trade-facilitation-committee-ptfc-technical-working-groups-draft-the-ptfc-roadmap-2022-2028/>

¹³ <https://www.philstar.com/business/2021/10/17/2134632/eporters-want-easier-application-asean-self-certification-scheme/amp/>

Self-certification by Approved Exporters is also being implemented under RCEP to facilitate claiming and availing of RCEP tariff rates. The guidelines are outlined in CMO 12-2023.

The government is continuously improving in terms of the separation of release from the final determination and payment of customs duties by allowing the tentative release of shipments to importers to avoid delay, whilst the Valuation and Classification Review Committee (VCRC) is deliberating on the valuation and/or classification issue. Under the guideline, the importer needs to pay a guaranteed equivalent to the difference in the amount of duties and taxes computed based on the recommended value and/or tariff classification.

The BOC and most of the agencies are now using electronic payments for the payment of duties, taxes, and fees. Aside from electronic payment, the BOC uses PayMaya as another payment mode. On 11 June 2020 the BOC signed a Memorandum of Agreement with the Bureau of Treasury, Development Bank of the Philippines, and PayMaya aimed at ensuring tax collection efficiency and seamless customs service. Its effort is pursuant to RA 8792, also known as the E-Commerce Act of 2000 and RA 11032, or Ease of Doing Business and Efficient Government Services Delivery Act of 2018, mandating all offices and agencies to improve transactions systems and procedures.

Further, other agencies use online banking, mobile banking, Banknet Bill Payment, and over-the-counter payments through the agency's cashier.

The BOC is continuously upgrading the appeals and review system. CAO 02-2020 was issued to provide guidelines on the right to administrative remedies of an aggrieved importer or exporter pertaining to dispute settlement or protest arising from customs valuation, rules of origin, tariff classification, and other customs issues.

Other BOC regulations include CAO 13-2020 (Imposition of Penalties, Surcharges, Interests and Other Charges for Lifting, Claiming, or Recovering Part of the Proceeds in the Sale of Impliedly Abandoned Goods) and CMO 4-2021 (Codification of the Appeals Procedures under the Customs Modernization and Tariff Act (CMTA) and Relevant Rules and Regulations).

CAO 01-2019 was issued to implement Sections 1000 to 1006 of the CMTA on the post-clearance functions of the BOC, including its prior-disclosure programme. Other agencies also conduct post-clearance audits, and the specific activities they perform are as follows: conduct compliance inspection of targeted registered entities; conducts post-market surveillance on retail outlets; and perform post-market surveillance on health products.

During the pandemic, the BOC also allowed the submission of scanned copies of Certificates of Origin from free trade agreement (FTA) partners to facilitate customs clearance, provided that the hard copy submitted was within 30 days from the filing of the import entry.

A slight improvement was noticed primarily because of the availability of statistics on dwell time published by the BOC in their Annual Report. The statistics, however, were published starting 2019 only. It was noticed that the container dwell time was kept within the desired levels in 2020. Yard utilisation at the two premier ports have significantly declined.

In terms of the Time Release Study, the BOC improved when the results were released and published in 2019 and 2020. Though, the TRS is yet to be implemented in most of the BOC's ports and sub-ports.

The import TRS indicated a slight improvement in customs processing compared to 2019. Much of the delay in 2019 TRS was noted in post-customs processing, which slightly improved in the 2020 TRS. Its performance can be attributed to the enhanced systems and procedures that have been implemented following the 2019 TRS. These include, amongst others, the implementation of the Commissioner's 'No Contact Policy' that was carried out under CMO 08-2020, the Modified Declaration Verification (GDVS) pursuant to CMO 01-2020, and the Provisional Goods Declaration (PGD) pursuant to CMO 07-2020. Likewise, the policy of the current District Collector of MICP for the same-day processing and clearance of goods is significant as it also contributed to the improvement in time release for import shipments.

Trade facilitation measures for trusted traders or authorised economic operators slightly improved. CAO 05-2017 and CMO 09-2020 were issued by the BOC to provide rules and regulations in establishing the said programmes in the country. The BOC also affirmed that it is ready to sign any mutual recognition agreements for AEO with dialogue partners.

In terms of self-certification, a significant leap was perceived that can be attributed to the full implementation of the ASEAN Self-Certification Scheme, which took effect in September 2020.

On 17 January 2022, the Philippine ambassador deposited the ATA Carnet Instrument of Accession, which was accepted by WCO Secretary General Mikuriya in Brussels, Belgium.

4.4. Import/Export Formalities and Coordination

Under this component, the Philippines improved on its performance, although there are still issues that need to be resolved, such as the integrity of the scanned copy of goods declaration and its supporting documents. A Joint Memorandum Circular 01-2020 was issued in August 2020, entitled 'Mandatory Online Filing, Processing and Payment of Port Charges, Cargo Handling Charges, Other Cargo Handling Related Charges and Ancillary Fees and Customs Taxes and Duties.' It mandated the port users to file applications for permits and clearances, including documentary requirements, through the online platforms and pay the corresponding fees online through accredited banks.

As reported by the DoF, TradeNet is already interconnected with the ASW. The e-CO filed through TradeNet is now being exchanged amongst ASEAN members through the ASW. Electronic copies of sanitary and phytosanitary documents are already scheduled to be exchanged soon in the ASW.

The DoF, through the alternate chairperson of the NSWSC, recognised and acknowledged the successful onboarding of e-CO in the TradeNet.gov.ph platform. It is being implemented in all ports and sub-ports of entry in compliance with CMO 15-2019. All e-COs are transmitted to ASEAN through the ASEAN Single Window System.

The 4th Meeting of the NSW-TWG, convened on 12 May 2022 and attended by the 54 TRGAs, highlighted the progress of the activities and programmes of the TWG in implementing the NSW and the ASW. The Vice-Chair for Technical Matters provided an intervention tackling the activities in implementing the Framework Agreement on Facilitation of Cross-Border Paperless Trade in Asia and the Pacific.

Further, the NSW-TWG agreed to endorse the implementation of the proposed activities and international technical assistance from the USAID ASEAN Project Implementation (API) Project and the UN Economic and Social Commission for Asia and the Pacific (UNESCAP).¹⁴

The ASEAN Customs Declaration Document (ACDD) is the next document required to be exchanged using the ASW System. Its data elements are based on the export declaration (ED) issued by the BOC at the time of exportation. The United States Agency for International Development (USAID), through the ASEAN Policy Implementation (API) Project, is currently implementing a technical assistance project to the BOC for the Electronic Exchange of ACDD in the ASW System.

The DOF and BOC issued CAO 15-2020, which sets out the guidelines for boarding formalities. BOC officials and employees cooperate with the quarantine authorities in the enforcement of the port quarantine regulations promulgated by the Bureau of Quarantine.

4.5. E-Commerce

According to the DICT, the Philippine House of Representatives has introduced a Bill, the Digital Economy Taxation Act of 2020, which aims to subject the value created in the digital economy to withholding/income tax and value-added tax (VAT).

¹⁴ <https://customs.gov.ph/boc-chairs-the-4th-meeting-of-the-national-single-window-technical-working-group-nsw-twg/> (1 June 2022).

RA 8792 was adopted on 14 June 2000 and recognises the use of electronic commercial and non-commercial transactions and electronic signatures. The law prescribes for the piracy of protected materials using telecommunication networks and for the hacking of computer programmes, as well as the grounds for liability of service providers. In 2022, the e-Commerce Philippines Roadmap was issued to support e-commerce growth.

Twenty years since the law was passed, the government needs to revisit the law to make it more relevant to the times and future-proof it to take into account the substantial developments in technology, the use of the internet, and the growing e-commerce sector/online transactions as mentioned by DTI Secretary Ramon Lopez (PNA, 2020).

In the 19th Congress, the House and Ways Means Chair refiled the Digital Economy Value Added Tax Law. He enumerated that digital services, such as advertising subscription-based services, and other online services via the internet are considered VAT-able (Cabanban, 2022). The estimated revenue on digital transactions and the digital economy taxation service in five years is 226.5 billion.

Also, the House Technical Working Group will study the possibility of taxing digital assets, including non-fungible tokens (NFTs) and cryptocurrency, as well as digital gambling.

5. Conclusion and Key Recommendations

The Philippines had a modest improvement in its implementation of trade facilitation measures. It was noted that the biggest leap in communication with and active engagement of the private sector was attained after EO No. 136 was signed on 18 May 2021.

Whilst there has been an increase in release and clearance formalities, the government needs to improve on many of the activities in this component. Most of its components notably have not reached significant improvement and the BOC and other agencies have not fully implemented programmes or issued the needed regulations in the area of cargo release and clearance formalities.

Another component that showed significant improvement is border agency coordination, i.e. the Bureau of Customs, Bureau of Immigration, and Bureau of Quarantine, as well as the implementation of e-CO, which can be exchanged by Philippine exporters with other ASEAN member states through TradeNet. The BOC and TRGAs are working to onboard TradeNet to allow online applications of import and export permits.

The pandemic has battered the Philippine economy in 2020 and it is barely recovering in 2021. The government, however, has responded well in ensuring the unhampered flow of goods across border considering the health and safety of workers. Laws were enacted by the Congress and the Executive Branch issued corresponding regulations that provided the needed budget to implement measures that will contain the spread of COVID-19 virus and ensure the welfare of the people and provide exemption/conditional relief of customs duties and taxes on import of essential goods. Notably, government agencies at the port have utilised various technologies (e.g. submission of documents online, electronic payment, conduct of online consultations) to facilitate trade.

Based on the results of the survey done and assessment made in the ASTFI II study, the following are the set of recommendations for the seven components:

A. Transparency and Information on Laws, Regulations, and Procedures

BOC and PNTR Websites

The success gained in creating a more informative and stakeholder-friendly BOC and PNTR websites must be sustained. The contents of the websites can be further improved by adding more information, statistics and links to various agencies to assist the traders and other stakeholders in their business planning and decisions. In the event that there will be some changes in the leadership that will result in the forthcoming election in 2022, these should not be an excuse to overhaul the effective and efficient measures that are currently in place.

B. Communication with and Active Engagement of the Private Sector

NTFC

The recent signing of EO No. 136 creating PTFC is a significant development in the trade facilitation effort for the Philippines. A more permanent policy-making body is now in place to give direction in the implementation of policies in relation to trade facilitation across FTAs and other relevant agreements that the country has TF commitments.

However, the EO should have included in its membership representatives from the private sector in order to enhance the communication and consultation of trade facilitation measures that the PNTRF will agree and implement.

C. Release and Clearance Formalities

Advance Rulings

Under the CMTA, advance rulings on Customs Valuation and Rules of Origin are handled by the BOC. Whilst the advance rules for tariff classification have been implemented quite well, because there is transparency where rulings are posted on the website, etc. there is a need to improve the advance rulings on Customs Valuation methods and preferential and non-preferential rules of origin on goods.

Pursuant to Section 1100: Classification Ruling of the CMTA, the Tariff Commission issues Advance Rulings on Classification.

- Since January 2021, parties (importers and exporters) may file their applications for advance rulings online using the Tariff Classification Information System-Online Application System.
- Online payments are accepted by Tariff Commission via GCash and Landbank Link.Biz Portal.
- Commission Order No. 2017-01 on the Procedure on Application for an Advance Ruling on Tariff Classification Related to Importation or Exportation of Goods provides concrete guidance to parties on how to successfully apply for advance rulings with the Tariff Commission.
- All advance rulings issued by the Tariff Commission are posted on its website (<https://tariffcommission.gov.ph/tcc-rulings-issued>) for guidance by the BOC and the business community/public.

The BOC must step up its efforts on disseminating information on the benefits of applying for advance ruling. The trading community must be motivated to apply for advance rulings since the rules will provide transparency and predictability in making sound business decisions that are inherent to tariff classification and valuation and, thereby, facilitate the cargo clearance process. Transparent and simplified procedures that are integrated with the use of technology (via online application), can enhance the use of this facility. Stakeholders in the private sector, including the business chambers, can be tapped by the BOC to convince and encourage their members to use the advance rulings facility.

The BOC must be actively responsive to online queries of the public especially those that deals on issues pertaining to goods classification, valuation, and origin.

The BOC Customer Care Portal should actively provide the status of applications and responses on advance rulings. The Portal should provide a real-time status of the application.

Payment for the application of advance ruling should be made online instead of going to the Landbank. This is to avoid face-to-face transaction.

Risk Management

There was a report that inspection of shipments tagged as Red is being left to the Port operators who randomly selects the container that will be inspected 100%. This practice should be clarified further because inspection of goods is an integral function of the BOC under Section 1111 of the CMTA.

The government should regularly practice the risk management process cycle, as follows: identify the risk, analyse the risk, evaluate or rank the risk, treat the risk, monitor and review the risk. By doing this, it allows the government to allocate its scarce resources to the high-risk cargoes while increasing its efficiency of the clearance process for low-risk shipments.

However, the Single Window could play a vital role in facilitating trade by applying a system of risk-based selectivity to target consignments posing a potential risk. Customs as a lead agency must build the necessary features in the Single Window environment to facilitate risk-based interdiction which is applicable to all participating government agencies.

It is also recommended for the government to secure and follow the principles and guidelines of ISO 31000 series.

Electronic Payment

The pandemic necessitates the streamlining and re-engineering of government processes to avoid face-to-face interaction and prevent the spread of COVID-19 virus. The ARTA for its part, has issued Joint Memorandum Circular No. 01 series of 2020 mandating online filing, processing and payment of port charges, cargo handling charges, permits and customs duties and taxes. This order must be implemented and complied with by the TRGAs and should fast track the development of their automated programs that include payment system with the aim to improve the ease of doing business in the trading community. Aside from the TRGA's own electronic payment system, other electronic payment platforms from service providers (e.g. PayMaya, GCash,) must be made available for all port users, including importers, exporters, freight forwarders, logistics companies, cargo truck operators, container yard operators and other stakeholders.

Dwell Time

Like the TRS, statistics on container Dwell Time was not made regularly available at BOC website until 2019. The information was just published in the BOC Annual Reports for 2019 and 2020. There is a need to make these statistics a regular content of the BOC website to enable the BOC and other ports users assess the movement of containers at the various ports.

Time Release Study

The BOC implemented the TRS in 2019 and 2020 only. Further, it was observed that TRS is not implemented in all of BOC's ports and sub-ports. This activity must be sustained and made part of the annual BOC Report to better monitor performance of all ports and sub-ports.

AEO Program

The BOC's effort on increasing the membership to the AEO was noted to be running on snail pace even with the guidelines and regulations already issued. The BOC needs to accelerate the implementation of AEO Program since this will improve the security and at the same time ensure seamless movement of goods across borders. BOC under its AEO Program should also engage other AMS and establish a Mutual Recognition Arrangements (MRAs) that will facilitate cross-border trade. There are already other AMS that have signed MRAs with other AMS and non-AMS. The BOC must intensify its effort on information dissemination with the trading community on the advantages and benefits of membership to the program. Endorsement of private sectors' officials and chambers must be solicited to convince significant number of their members to join the program.

ATA Carnet Scheme

Noting the adoption and ratification of the ATA Carnet, the BOC has issued necessary regulation to implement the said scheme. CAO 02-2022, approved and signed on 18 March 2022, covers the importation and exportation of conditional duty- and tax-free goods under the WCO Convention on Temporary Admission (Istanbul Convention).

The BOC appointed the Philippine Chamber of Commerce and Industry as the National Issuing and Guaranteeing Association (NIGA) under the ATA Carnet system. The NIGA is authorised to issue ATA Carnets. An IT system should be established to verify, facilitate, and monitor the status of goods temporarily admitted under the scheme.

To facilitate the implementation of the ATA Carnet System scheme, particularly in the release of goods for exhibition, the following approaches could be considered:

- a. Information dissemination whether through printed or electronic documents;
- b. Training of personnel as well as users; and
- c. Installation of a help desk or customer care assistance to provide information and technical support (e.g. electronic or computer problems).

D. Import / Export Formalities and Coordination

Acceptance of Copies

While the BOC has allowed the electronic submission of digital copy of documents especially during the pandemic, the original copies were however required to be submitted still to BOC. It is imperative that BOC resolve the issues on the integrity of the scanned copy of the goods declaration and the supporting documents. If the aim is to further facilitate trade, then the BOC must resolve the verification on the authenticity of documents process including the signatures and free the importers and traders' burden of submitting the hardcopies.

On the acceptance of scanned COs for customs clearance, since it is required under the FTAs to present hard copies at the time of importation, it is suggested that the agreements be amended to make the arrangements permanent.

NSW Stability and Sustainability

The Philippines should aggressively implement the policy setup for the National Single Window (NSW). To realise this, it is imperative that all government agencies should actively participate in the physical development of the single window in the country.

It was observed that most of the countries in Asia have adopted the PPP model like Japan, Korea, Singapore, Thailand, and Malaysia. The Philippine government should consider also adopting PPP for NSW in order to sustain its development and implementation.

There should be a support of 24 x 7 call center to respond to queries and day to day operation.

The Philippine National Single Window should be able to handle all type of documents in the cross-border trade. These documents include cargo manifest goods declaration, permits and clearances, proof of payment, release orders and other documents needed in the supply chain and transportation.

There is a need for increase the capacity building activities in all TRGAs including the private sector in relation to cross border trade. Training and retraining of public and private sector are necessary for them to adopt to the changes and development in the automated world of trade.

In the long run, there is a need to pass a law relating to the management of the NSW, including the rights and obligations integral to the use of the system. While the NSW was created and managed successfully even without the need for a specific law, the enactment of a statute would provide several benefits and ensure its sustainability in the long run, specifically:

- The law will create and establish a separate office that can concentrate its effort on the Management and maintenance of the system;
- The law will define the roles and authorities of the various TRGAs involved in managing the system.
- The law will provide the rights and obligations, including penalties for misuse or other possible violations, of the parties using it. This will assist in identifying the provisions to the needs of the specific system and help in pinpointing the parties that should be liable or responsible for certain actions. This is essential because of the number of stakeholders involved in a single transaction namely, the contractual parties (importers, exporters, value-added service providers, brokers, freight forwarders, etc.), government agencies, and including the internet service providers.
- The law will ensure that funding for its maintenance, improvement and sustainability will be appropriated through the General Appropriations Act (GAA) that Congress enact annually.

ASW

The Philippines has to accelerate its pace on onboarding the TRGAs specially the agencies of the DA into the TradeNet. Although the country has already started to exchange the eCOs via the TradeNet, electronic copies of sanitary and phytosanitary documents are yet to be exchanged. These documents are already part of the ATIGA electronic form D that are now being submitted and exchanged via the ASW.

Furthermore, by having the TRGAs in the TradeNet, stakeholders will have an easy time accessing the links to other agencies with a single window or portal becomes available.

E. Cross-Border Coordination and Transit Facilitation

While there was a notion that ACTS may not be easily applicable to the Philippines, the BOC maintained that the study made by EU-ARISE Plus on ACTS can be adopted for BIMP-EAGA member countries. In lieu of this, the BOC should request for a technical assistance from EU-ARISE Plus to prepare a feasibility study of adopting ACTS on BIMP-EAGA.

F. Transport Facilitation

The International Maritime Organization (IMO) has adopted the mandatory requirements for the electronic exchange of information on cargo, crew and passengers as part of a revised and modernised annex to the Convention on Facilitation of International Maritime Traffic (FAL).

The Department of Transportation (DOTr) should lead the development of the Port Community System (PCS) as required by the IMO. The PCS is a single electronic platform (similar to NSW), that facilitates end-to-end flow of information that is accessible for port users, trade and logistics businesses and government agencies. The system must aim to achieve efficiency and service excellence for the port and the port community and facilitate trade - by the sea, land, rail and inter-modal, transit. The PCS will likewise eliminate the need for face-to-face transaction amongst the members of the port communities and help to contain the further spread of COVID-19 virus.

To operationalise the PCS, interconnection amongst the various systems operated by government sector (Immigration, BOC and other government regulatory agencies, PPA, DOH, Navy and Coast Guard) as well as the private sector (Shipping Lines/Agents, Freight Forwarders, Shipper/ Consignee, Port operators) must be established.

As mandated by the IMO under the FAL and in accordance with the purpose of achieving efficient and excellent service for the port and the port community and facilitating trade, the Philippine should start planning its PCS, with the specific objectives of:

- a) Integrating all stakeholders related to logistics and transportation of goods by sea, land, rail and air which will serve a community of port and logistics service providers, businesses and government agencies
- b) Connecting the ports, airports, Free Trade Zones, bonded warehouses, depots and warehouses with their community of service users for the exchange of information to achieve greater operational efficiency
- c) Facilitating information exchange in Business-2-Government and Business-2-Business
- d) Facilitating paperless processing, increasing staff productivity and savings in cost and effort for all stakeholders
- e) Providing real-time information to support operational decision-making and use of historical data for trend analysis, forecasting and operation optimisation for the whole industry
- f) Providing a database for capturing all ships and container/cargo information and used as a 'window' for each port's Terminal Operations System to receive and disseminate such information real-time
- g) Eliminating the use of telephone or fax by port users in requesting for information in relation to container and vessel e.g., Berthing Schedule, Vessel Arrival/Departure Schedule, etc.

Recommended Approach in Developing the PCS

The national government should create a governance body – the PCS Steering Committee (PCS-SC) to be composed of the DOTr (as lead agency), PPA, DOH, and DTI, amongst others.

The PCS-SC should be supported by a PCS Technical Working Group (PCS-TWG) with membership composed of the BOC, Bureau of Immigration (BI), Philippine Navy and Philippine Coast and other concerned TRGAs.

The following should be considered in planning for the establishment of PCS:

- a) Adopt the NSW design concept;
- b) Private sector participation in the steering and working group levels;
- c) Key IT Infrastructure
 - Deployment model
 - Data Security
 - Network Security
 - Regulatory Compliance
 - System availability and disaster recovery
 - Back-up system
 - Identity management
- d) In the implementation, start first with amongst the relevant agencies from the government sector and operate from a period to stabilise the system operation. When the system has stabilised and reached its efficiency level, then integrate the relevant members in the private sector.

G. E-Commerce

Amendments to the E-Commerce Act must be pursued specifically to: a) simplify the requirements on the recognition of electronic and digital signatures that is consistent with the UNCITRAL Model Law on Electronic Commerce (MLEC) and the 2007 UN Convention on Electronic Communications; b) facilitate further the electronic notarisation; and, c) expressly recognise automated/electronic and smart contracts.

The Supreme Court issued the 2020 Interim Rules on Remote Notarization of Paper Documents allowing the notarisation of documents through videoconferencing in areas under community quarantine. The interim rules shall be limited to the notarisation of paper documents and instruments with handwritten signatures or marks using videoconferencing facilities but not the execution of notarial wills. The same goes for the notary public, where he shall schedule a videoconferencing session where he will perform the notarial act in accordance with the Interim Rules (The Daily Tribune, 7 August 2020).

The Supreme Court must issue the corresponding special rules on the use of electronic notarisation.

In terms of import and export procedures, the stakeholders who filed online goods declarations – with the undertaking to submit the original copies of supporting documents uploaded in the Customer Care Portal System (CCPS) – are required to print the entry declaration, affix their signatures, and submit the same to the BOC as notarised for these documents to be admissible in court.

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Chapter 9

Trade Facilitation in Singapore: Results from the ASTFI II Survey

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1. Overall Trade Facilitation Environment

Singapore's economy relies heavily on trade – the country's trade–gross domestic product (GDP) ratio is over 300%¹ – and the country is also a regional and global supply chain logistics hub. Its container throughput is about 3 million 20-foot equivalent units per month; it was the second-busiest port in 2020 after Shanghai (*China Daily*, 2021). Many global logistics companies use Singapore as their regional hub. This position was achieved through a combination of building connectivity (e.g. transport and regulatory), regular innovation in infrastructure, and private sector engagement (Lam and Ramakrishnan, 2017). Singapore continues to make investments in each of these fronts, making continuous progress in trade facilitation.

Singapore has a 100% implementation rate on measures related to paperless trade, import/export formalities, transparency, and transit.² Amongst these, implementation rates on formalities and transit increased from 88% and 92%, respectively, in 2017. It has an 88% implementation rate for institutional arrangements and cooperation and 72% in cross-border paperless trade, the same as in 2017. Although the World Bank's Trading across Borders indicator did not change between 2018 and 2020,³ Singapore was already scoring very high, so further improvement would be difficult to detect. In fact, Singapore's progress is likely to be more of a qualitative aspect of existing measures, as trade facilitation measures are already excellent.⁴

Singapore also continued building deeper connections with other economies, with implications for trade facilitation. Since 2018, several free trade agreements have entered into force, including the European Union (EU)–Singapore Free Trade Agreement on 21 November 2019 – the first between the EU and an Association of Southeast Asian Nations (ASEAN) country. In a survey conducted by the European Chamber of Commerce in Singapore, 57% of respondents found Singapore's trade facilitation measures in customs procedures to be useful (EuroCham Singapore, 2021).

¹ Statista, Trade to Gross Domestic Product (GDP) Ratio of Singapore from 2011 to 2020, Economy and Politics, <https://www.statista.com/statistics/1113850/singapore-trade-to-gdp-ratio> (accessed 20 April 2022).

² United Nations, Singapore, UN Global Survey on Digital and Sustainable Trade Facilitation, <https://untfsurvey.org/economy?id=SGP> (accessed 20 April 2022).

³ Trading Economics, Ease of Doing Business in Singapore, <https://tradingeconomics.com/singapore/ease-of-doing-business> (accessed 20 April 2022).

⁴ WTO, Singapore, Trade Facilitation Agreement Database, <https://tfadatabase.org/members/singapore> (accessed 20 April 2022).

In November 2020, Singapore Customs signed a letter of intent with the United States to form a connection between the two countries' national single windows (NSWs) to facilitate the exchange of trade data (CBP, 2020; The Straits Times, 2020). Similar facilitation has been conducted with Australia, and options are being explored with China, Indonesia, and the Netherlands (ABP, 2020). Furthermore, Singapore's authorised economic operators enjoy mutual recognition in 10 other countries, including Thailand from 2019.

At the peak of the pandemic, while Singapore implemented stringent measures to restrict economic activity and physical movement in an effort to control the spread of COVID-19, it maintained its commitment to keeping all Singaporean borders open. This was done to ensure the smooth flow of goods, particularly essential items, amidst the challenging circumstances. Singapore Customs undertook various safety measures such as mask wearing and virtual meetings. To reduce physical interaction, it also encouraged the public to use its digital services, including innovations at checkpoints through the Customs@SG app, digitalisation of processes via FormSG, the Electronic Origin Data Exchange System, and Electronic Banker's Guarantee Programme.

Continuing its work on monitoring trade facilitation in ASEAN, the Economic Research Institute for ASEAN and East Asia (ERIA) conducted a follow-up ASEAN Seamless Trade Facilitation Indicator (ASTFI) survey in 2020, using the same questionnaire from 2018 with slight modifications (ERIA, 2021). In Singapore, nine government ministries/agencies responded to the questionnaire: the Central Narcotics Bureau, Health Sciences Authority, Ministry of Health, Ministry of Trade and Industry, National Environment Agency, National Parks Board, Singapore Customs, Singapore Food Agency, and Singapore Police Force.

With already high scores from the 2018 baseline ASTFI I survey, Singapore shows continued progress in trade facilitation in the ASTFI II survey thanks to multiple domestic reforms as well as full implementation of ASEAN-wide initiatives. Regarding transparency of and information on rules and regulations, Singapore has fully implemented relevant policies and practices.

In the baseline ASTFI I survey, the information on non-tariff measures was in different places and was difficult to locate. However, with the development of the TRAINS database in 2019 – an outcome of the collaboration between ERIA, the United Nations Commission on Trade and Development (UNCTAD), and ATR (thus Singapore) – this information is now easily available (MFA, 2019).⁵

⁵ UNCTAD, TRAINS, <https://trainsonline.unctad.org/home> (accessed 20 April 2022).

⁶ ASEAN, ASEAN Trade Repository, <https://atr.asean.org/>, (accessed 20 April 2022).

However, information about non-tariff measures cannot be accessed directly from Singapore's NTR. This information needs to be accessed by going through the ATR, which links to the online repository of Singapore's statutes, Singapore Statutes Online.⁶ This website only lays out laws – without the convenience and clarity expected of a non-tariff measures database. While the progress since 2018 is noteworthy, Singapore should strive to link the TRAINS database directly to its NTR to enhance transparency.

On the next component, communication with and active engagement of the private sector, Singapore's status is unchanged due to the lack of development of a formal National Trade Facilitation Committee (NTFC). Nonetheless, Singapore has a well-known practice of private sector engagement in a whole-of-government manner. Formalisation of the committee would align Singapore better with recommendations but may not make any substantive difference to the trade environment.⁷

Singapore also made improvements in the third component – release and clearance formalities. One notable positive change was the publication of dwell-time and time-release studies on an ad-hoc basis, which were non-existent in 2018. This information was publicly shared for the first time as part of the ERIA baseline trade transactions cost (TTC) project, which is also publicly available (Singapore Customs, 2020). Singapore will also conduct these studies for follow-up TTC studies. However, this information is not published regularly. Institutionalising regular conduct and publication of dwell time and time release study would help Singapore improve its already efficient trade procedures.

Another improvement is the full operationalisation of ASEAN-Wide Self-Certification, which was in a pilot stage in 2018. The status of simplified and expedited clearance remains unchanged, with continued lack of a de minimis exception for land borders. Another trade facilitation progress regarding Singapore's Authorized Economic Operator Programme is that a mutual recognition agreement (MRA) was signed between Singapore and Thailand in 2019. Although Singapore has already signed such agreements with 10 nations, this was the first with another ASEAN member. On the fourth component – import/export formalities – Singapore's ASTFI II status is the same as in the baseline. Singapore had already achieved best practices in terms of the use of digital documents, a well-developed NSW (i.e. TradeNet), and domestic coordination across border agencies. TradeNet was established several decades ago, and Singapore is currently building the Networked Trade Platform (NTP) as a trade and logistics information technology ecosystem

⁷ Since the drafting of this report, the United Nations Trade Facilitation (UNTF) Survey (<https://www.untfsurvey.org/economy?id=SGP>) has updated Singapore NTFC's status from 'partial implementation' in 2019 to 'Full implementation' in 2021.

connecting business, community systems and platforms, and government systems. When completed, it will replace TradeNet as Singapore's NSW.

Commitment to such continuous progress should be emulated in other ASEAN members. Singapore has been exchanging ASEAN Trade in Goods Agreement (ATIGA) e-Form D and the ASEAN Customs Declaration Document with other participating ASEAN members, although information on the integration with the NTR and ATR are not available. Instead, the NSW provides links to the Singapore Customs website for additional information on customs matters.⁸

On the fifth component – cross-border coordination and transit facilitation – Singapore's performance improved due to full operationalisation of the ASEAN Customs Transit System (ACTS), which increased the scores for computerised system of transit, transit guarantee mechanism, and simplified procedures for authorised transit traders. For the sixth component, transport facilitation, Singapore improved due to the full implementation of ASEAN transport facilitation agreements. The last component on e-commerce also shows improvement after Singapore fully implemented a revenue framework for cross-border e-commerce trade and conducted a study on a legal framework for dispute settlement in domestic and cross-border e-commerce trade.

The rest of the report discusses in greater detail the changes in each question across all components of the ASTFI II survey.

2. Trade Facilitation Environment – Customs Authority

According to the response from Singapore Customs, all major elements of customs procedures for imports and exports are present. Transparency of rules and regulations is maintained by having a fully functional NTR that contains all trade-related information required by the private sector. A customs contact centre responds to any queries from traders.

Regarding engagement with the private sector, an NTFC exists but does not have all necessary elements for full institutionalisation. This was also confirmed by another survey, which categorised the presence of the NTFC as 'partially implemented'.⁹ The NTFC conducts consultations as needed, but does not have an established terms of reference nor regular consultations with the private sector.¹⁰ Furthermore, no members or advisors from the private sector sit on the NTFC. Singapore Customs also noted that it does not have a formal consultation mechanism with the private sector. However, Singapore does have a well-documented culture of engagement with the private sector, even if it is not formalised in the NTFC.

⁹ United Nations, Singapore, UN Global Survey on Digital and Sustainable Trade Facilitation, <https://untfsurvey.org/economy?id=SGP> (accessed 20 April 2022).

¹⁰ In the baseline survey, it was reported that the NTFC is present with established terms of reference.

Most of the facilitative customs procedures are fully implemented by Singapore Customs. These include pre-arrival processing, risk management, electronic payments, a review and appeals mechanism, post-clearance audit, Authorized Economic Operator Programme, ASEAN-Wide Self-Certification, and temporary admission under the Istanbul Convention.

While procedures for applying for advanced rulings on origin, classification, and valuation are available, publication of advanced rulings require the consent of traders. Those that are published can be accessed by traders.¹¹

On the separation of release from final payment, a release without guarantee is available under certain schemes, such as the Major Exporter Scheme, Import Deferment Goods and Services Taxes (GST) Scheme, Approved Import GST Suspension Scheme, Licensed Warehouse Scheme, Zero GST Warehouse Scheme, and Container Freight Warehouse. In cases where goods are imported under the Temporary Import Scheme, guarantees are required before suspending payments.¹²

Electronic payment is the default means for traders importing goods into Singapore. For a small number of imports hand-carried into Singapore by traders, other modes of payment are also available if the traders are unable to pay electronically.

According to the survey, dwell-time and time-release study report publication is regular; however, only one dwell-time and time-release report was found online (Singapore Customs, 2019a). For the 2018 baseline survey, it was reported that no dwell-time publication occurred. Singapore Customs is working towards publication on a more regular basis.

The Singapore Authorised Economic Operator programme is well-developed and known as the Secure Trade Partnership (STP)-Plus programme.¹³ Companies can apply to receive this status, and upon fulfilling the eligibility criteria, they enjoy additional trade facilitation benefits such as prioritised customs clearance. Apart from robust security measures, a company must also have good compliance records with Singapore Customs to be certified under the STP-Plus programme. The Singapore Customs website records at least 80 companies that have STP-Plus status as of 4 April 2022.¹⁴

¹¹ Singapore Customs, Application for Customs Ruling on Classification of Goods. <https://www.customs.gov.sg/businesses/harmonized-system-hs-classification-of-goods/application-for-customs-ruling-on-classification-of-goods> (accessed 20 April 2022).

¹² Singapore Customs, Temporary Import Scheme, Importing Goods, <https://www.customs.gov.sg/businesses/importing-goods/temporary-import-scheme> (accessed 20 April 2022).

¹³ Singapore Customs; Secure Trade Partnership (STP) and STP-Plus; Customs' Schemes, Licences, and Framework, <https://www.customs.gov.sg/businesses/customs-schemes-licences-framework/secure-trade-partnership-stp#:~:text=The%20programme%20encourages%20companies%20to,keeping%20the%20supply%20chain%20secure.> (accessed 20 April 2022).

¹⁴ *Ibid.* Note that only companies that consented to having their names publicly listed are included in this document.

Singapore Customs actively seeks to sign MRAs with other Customs Administration so that each customs administration's authorised economic operator can be recognised as low risk by the other, making them eligible for expedited clearance procedures. At the time of the baseline survey, Singapore had signed an MRA with non-ASEAN members only. Singapore is currently in discussion with Members, with targeted implementation on a pathfinder approach by 2025.

ASEAN-Wide Self-Certification came into effect on 20 September 2020; self-certification was at a pilot stage in the 2018 baseline survey. Participation in the scheme requires that traders show a substantial amount of experience in export procedures and possess a 'manufacturers' declaration'.¹⁵ Since September 2020, Singapore garnered 65 certified exporters who can self-certify their products under the scheme. Singapore Customs and the Ministry of Trade and Industry are continuing to promote greater awareness and utilisation of the scheme as well.

Expedited or simplified clearance is available for all air cargo, but there is no exemption under *de minimis* available for sea and land cargo. The import-export procedures are fully digitised, which means that traders do not need to provide a paper copy for declaration. TradeNet streamlines procedures from 13 agencies, with Singapore Customs as the lead agency. It also exchanges ATIGA e-Form D and ASEAN Customs Declaration Document through the ASEAN Single Window. While the exchange of ATIGA e-Form D commenced in January 2018, exchange of the ASEAN Customs Declaration Document began only in December 2020. Singapore is currently one of five ASEAN members to exchange the ASEAN Customs Declaration Document (USAID, 2021).

There is good coordination amongst customs and immigration at the institutional and operational level. The number of agencies involved in TradeNet increased from 11 in 2018, with the addition of the National Parks Board and Ministry of Home Affairs. Further, there is cross-border coordination between the immigration authorities of Singapore and counterparts in Indonesia and Malaysia. The Singapore Immigration and Checkpoints Authority participates in regular bilateral meetings with its Indonesian and Malaysian counterparts. These meetings deepen working-level cooperation and discuss challenges and collaboration in the areas of immigration and border control. Border-crossing operational coordination also takes place with Malaysia, focusing on safety, security, and border-control issues. In the baseline year, no institutional or operational cross-border coordination was reported to be in place.

¹⁵ Singapore Customs, Certificates of Origins, <https://www.customs.gov.sg/businesses/certificates-of-origin/overview> (accessed 20 April 2022).

The ACTS was implemented in ASEAN members including Cambodia, the Lao People's Democratic Republic, Malaysia, Singapore, Thailand, and Viet Nam on 2 November 2020; it was in a pilot stage in 2018. A cross-border transit guarantee mechanism is in place under the ACTS, with cross-border exchange of data. Simplified procedures for authorised transit traders are available at the Woodlands Checkpoint and Tuas Checkpoint, the two land border checkpoints with Malaysia. Since the operationalisation of the ACTS, authorised traders are exempted from the presentation of goods, allowed special seals use, and do not need to provide a written signature. Under transport facilitation, Singapore Customs responded that Protocol 2 of the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT) has been fully implemented, including ratification and development of national laws and regulations.

3. Trade Facilitation Environment – Major Agencies

The ASTFI II survey indicated that government agencies are facilitating trade at a high level. The website of Singapore Customs provides a list of prohibited or controlled goods as well as the competent authorities that oversee the trade in those goods (Table 9.1). All agencies accept electronic payment and digital copies of documents. Some agencies conduct post-clearance audit of companies that trade in goods regulated by that agency.

Table 9.1. Major Agencies Responding and Goods Regulated

Responding Agency	Goods Regulated
Singapore Police Force	Arms and explosives
Central Narcotics Bureau	Drugs and chemicals
Ministry of Health	Hazardous biological agents and selected microbial toxins
National Environment Agency	Radioactive materials and hazardous substances
Singapore Food Agency	Food products
National Parks Board	Wildlife specimens
Health Sciences Authority	Therapeutic and health products

Source: Singapore Customs, Controlled and Prohibited Goods for Transport, Importing Goods, <https://www.customs.gov.sg/businesses/importing-goods/controlled-and-prohibited-goods-for-import> (accessed 20 April 2022).

None of the agencies indicated that they have a formal consultation mechanism with stakeholders. Similar to the NTFC, while Singapore is reputed for its business-friendly governance, this practice has not been institutionalised in any regulatory requirement. Having such a formal arrangement, however, is part of the World Trade Organization Trade Facilitation Agreement (Hansen, 2015).

Singapore explained that regular private sector engagements do occur. The Ministry of Trade and Industry directly engages various business associations in Singapore. For example, its ministers and/or senior management meets up with Singapore's apex business chamber, the Singapore Business Federation, at least every quarter. For other local and foreign chambers of commerce such as Singapore Chinese Chamber of Commerce and Industry, Singapore Indian Chamber of Commerce and Industry, Singapore International Chamber of Commerce, and American Chamber of Commerce, ministers and/or senior management engages them typically once a year.

In addition, government statutory boards, such as Enterprise Singapore and the Singapore Economic Development Board, focus on supporting the private sector. Enterprise Singapore champions enterprise development and works with companies to build capabilities, innovate, and internationalise, while Singapore Economic Development Board works with companies to transform their operations to boost productivity and to generate growth in adjacent and disruptive areas by growing businesses out of Singapore. To ensure that private sector views are heard at the highest level, the boards include executives from the private sector.

Other governmental agencies, such as the Singapore Tourism Board, Infocomm Media Development Authority, Marine and Port Authority, and Civil Aviation Authority of Singapore also engage the private sector in their specific areas of responsibility. For example, the Infocomm Media Development Authority engages multiple stakeholders to seek their views on a wide range of issues, such as competition in the provision of telecommunications and media services and intellectual property-based interconnection in Singapore. In addition, Singapore has a pro-enterprise panel, chaired by the head of the Civil Service, which comprises business leaders supported by a network of senior public officers. It serves as an advocate for businesses within the government with the aim of creating a more pro-enterprise environment that enable businesses to grow. This arrangement seems to be working well in Singapore given its size, history, and advanced development stage, but it is possible that formalisation may be needed to solve cross-border issues that may arise.

The use of the NSW is widespread. The number of agencies using it increased from 11 in 2018 to 13 in 2020. Of the responses received, two agencies indicated that they use their own system rather than the NSW. The Central Narcotics Bureau uses the GoBusiness Licensing System, and the National Parks Board uses its own computerised system.

4. Trade Facilitation Environment – Transit, Transport, and E-Commerce

Progress was made on transit facilitation in Singapore, which was mostly because of operationalisation of the ACTS. Singapore Customs had already conducted several outreach sessions to raise awareness of the ACTS amongst the trading community in Singapore. Most traders are interested in using the ACTS. During the 2018 survey, Singapore carried out a pilot trial with Malaysia and Thailand before its full implementation.

However, no further progress was made in formal or operational coordination with bordering agencies. In the baseline survey, the Immigration and Checkpoints Authority indicated that there was no coordination mechanism for both institutional and operation with Malaysia, Singapore's only bordering country by land. That is still the case, with the immigration authorities coordinating on security issues but not necessarily on trade facilitation. This is also reflected in similar questions in the United Nations survey.¹⁶ Indeed, 'alignment of working days and hours with neighbouring countries at border crossings' and 'alignment of formalities and procedures with neighbouring countries at border crossings' were both considered fully implemented, while the latter was only partially implemented in the 2017 survey.¹⁷ Singapore noted that many of the processing and decision-making work to facilitate the clearance of goods are carried out away from borders at higher-level coordination meetings, before being executed by agencies located at the borders.

Singapore also made progress in transport facilitation by implementing ASEAN land transport protocols, thus scoring full points. In 2019, Singapore, Malaysia, and Thailand agreed to conduct the pilot to test the AFAFGIT Protocols.¹⁸ With the full ratification of the AFAFGIT, the Land Transport Authority will be installing road signs to indicate transport routes for ASEAN goods vehicles operating in Singapore. These transit transport routes are part of the ASEAN Highway Network (LTA, 2019).

¹⁶ United Nations, Singapore, UN Global Survey on Digital and Sustainable Trade Facilitation, <https://untfsurvey.org/economy?id=SGP> (accessed 20 April 2022).

¹⁷ *Ibid.*

¹⁸ ACTS, ASEAN Goods Vehicle Cross-Border Permit (AGVCBP), Trader's Guide, <https://acts.asean.org/traders-guide/ASEAN-goods> (accessed 20 April 2022).

Regarding ASEAN goods vehicle cross-border permits, the Land Transport Authority indicated that such procedures are in place and issued with quotas. There is no clear information on how to apply for this permit; instead, interested parties are directed to contact LTA through an online feedback form.¹⁹ Likewise, there is some discrepancy with the response from the baseline survey, in which it was indicated that no quotas are applied. Quotas are actually a part of the ASEAN agreement, since there is a limit of 500 permits at the national level for transport operators.²⁰ The discrepancy could also be due to the fact that implementation in 2018 was on a smaller scale. Regarding electronic data interchange, the status remained the same as in 2018.

Regarding the e-commerce component, Singapore already put into place the Electronic Transactions Act 2010 that provides a legal framework for e-identification and authorisation, but an ASEAN-wide harmonised system has not yet been developed. Singapore also reported that a revenue framework for cross-border e-commerce trade is operational, thus scoring full points. Singapore maintains a regime that collects revenue for all imports and grants tax relief for low-value goods. No such provision was available during the 2018 survey. Singapore also reported that a dispute settlement framework for e-commerce trade is under study.

5. Conclusions and Recommendations

Overall, Singapore's continued improvement of its trade facilitation environment is a welcome sign for the movement of goods into Singapore and across the globe. Although some elements are still missing, at the practical level, there is good practice of private sector engagement. Progress in implementing ASEAN-level agreements in cross-border transit is a welcome sign for lowering trading costs within ASEAN.

Going forward, Singapore can lead the way for ASEAN to develop a facilitative approach to cross-border e-commerce by developing a domestic system that can work well with other ASEAN members. Although, on average, the efficiency of Singapore's clearance procedures is high, regular publication of dwell-time and time-release studies can also help identify existing bottlenecks in specific areas, such as agricultural products, that are subject to more scrutiny.

¹⁹ Singapore Customs, ASEAN Customs Transit System, <https://www.customs.gov.sg/businesses/asean-customs-transit-system/overview> (accessed 20 April 2022).

²⁰ ACTS, ASEAN Goods Vehicle Cross-Border Permit (AGVCBP), Trader's Guide, <https://acts.asean.org/traders-guide/ASEAN-goods> (accessed 20 April 2022).

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Chapter 10

ASEAN Trade Facilitation Indicators II: Thailand

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1. Overall Trade Facilitation Environment

1.1. Progress

Thailand has made significant progress towards its implementation commitments under the World Trade Organization (WTO) Trade Facilitation Agreement. Thailand's rate of implementation on its commitments, as of March 2022, was 98.7% (i.e. Category A, 91.6%; Category B, 7.1%), compared to 93.7% in 2018. In fact, some provisions under Category B were implemented earlier than their deadlines (i.e. Article 4.4, Article 6.3.4, and Article 7.1.1) (Table 10.1). The new and improved Customs Act B.E. 2560 (2017) includes revisions that cover commitments towards procedures for appeal and review (Article 4.4) and penalty disciplines (Article 6.3.4). In 2018, following the new Customs Act, Thailand's Customs Department announced ministerial regulations implementing pre-arrival processing for all airports and seaports. Thailand is expected to achieve full implementation of the Trade Facilitation Agreement in 2024. There is only one key measure left to be implemented, which is test procedures under Article 5.3.

**Table 10.1. Thailand's Commitment under Category B
of the World Trade Organization Trade Facilitation Agreement**

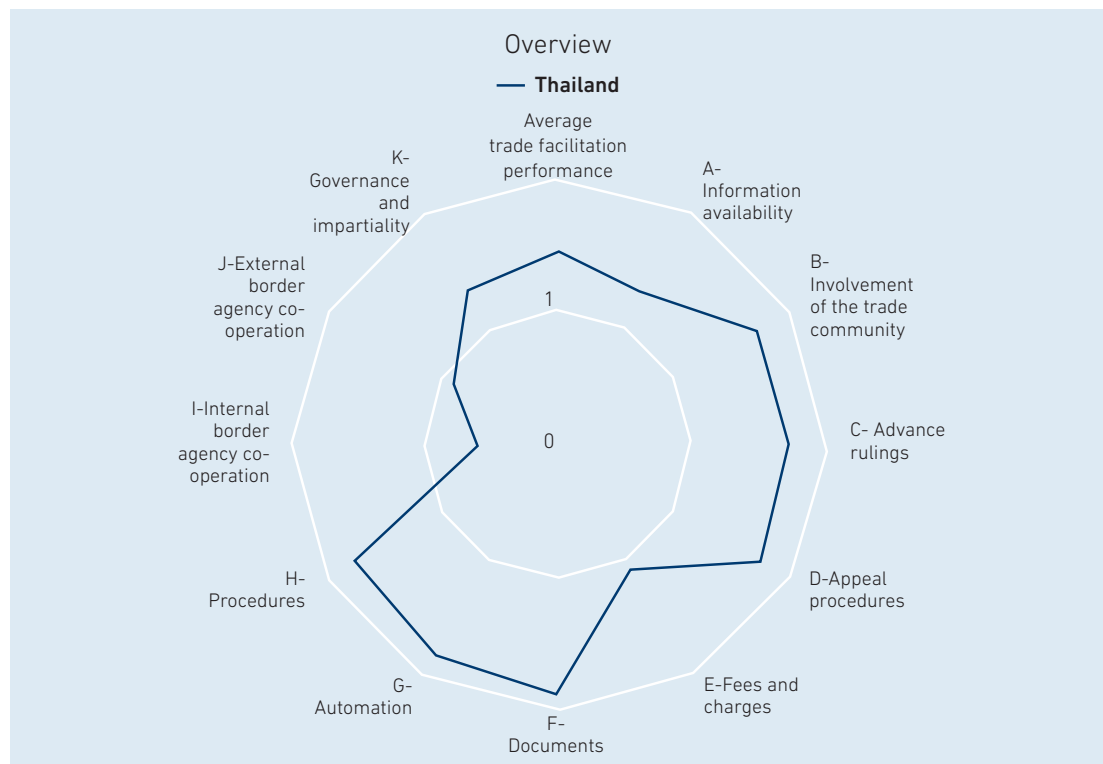
Provision	Heading/Description	Commitment Under Category B	Indicative Date of Implementation	Definitive Date of Implementation
Article 4.4	Procedures for appeal and review	5 years	22 February 2022	22 February 2018
Article 5.3	Test procedures	7 years	22 February 2024	22 February 2024
Article 6.3.4	Penalty disciplines	5 years	22 February 2022	22 February 2018
Article 7.1.1	Pre-arrival processing	5 years	22 February 2022	22 February 2019
Article 11.1	Freedom of transit	5 years	22 February 2022	22 February 2022
Article 11.8	Freedom of transit	5 years	22 February 2022	22 February 2022
Article 11.9	Freedom of transit	5 years	22 February 2022	22 February 2022
Article 12.2	Customs cooperation/ exchange of information	3 years	22 February 2020	22 February 2020
Article 12.6.1	Customs cooperation/ provision of information	3 years	22 February 2020	22 February 2020

Source: WTO (2018).

According to the Organisation for Economic Co-operation and Development (OECD), Thailand's average trade facilitation performance scored 1.439 (out of 2.000) in 2019.¹ Between 2017 and 2019, whilst performance in many areas remained stable, Thailand's performance improved in the areas of involvement of the trade community (1.710), advance rulings (1.710), simplification and harmonisation of documents (1.880), and streamlining of procedures (1.740). OECD recommended improvements in other areas as follows:

- (i) **Fees and charges.** Provide comprehensive information on applicable fees and charges on the Customs Department website, and reduce fees charged for services during normal working hours.
- (ii) **Formalities (automation).** Complete the development of automated pre-arrival processing, and expand the electronic clearance of import and export documentation.
- (iii) **Formalities (procedures).** Expand the use of the authorised economic operator programme, support controls of other border agencies through a risk management system, expand the application of post-clearance audits, and further simplify procedures in terms of both associated time and costs.

Figure 10.1. Trade Facilitation Performance of Thailand, 2019

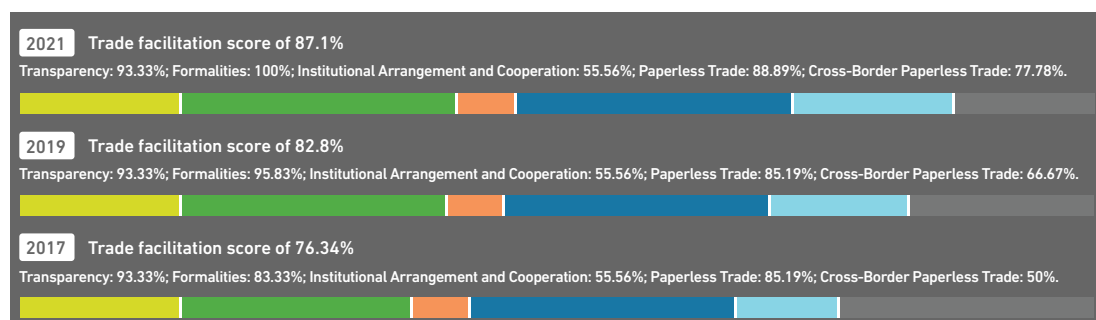


Source: OECD, Trade Facilitation Indicators, Thailand, <https://www.compareyourcountry.org/trade-facilitation/en/1/THA/THA/default>

¹ OECD, Trade Facilitation Indicators, Thailand, <https://www.compareyourcountry.org/trade-facilitation/en/1/THA/THA/default>

The United Nations (2021) found that the average trade facilitation score for Thailand was 87.1% in 2021, an increase from 76.3% in 2017 and 82.8% in 2019 (Figure 10.2). In detail, there were improvements noted in the implementation rate for formalities, paperless trade, and cross-border paperless trade. Other improvements were made under formalities, as all key formality elements (i.e. risk management, pre-arrival processing, and post-audit clearance) were fully implemented in 2021. A challenge remains for implementing institutional arrangements and cooperation, as the implementation rate has remained low at 55.6% since 2017. This is mainly due to a lack of implementation in government agencies delegating border control to Customs Department authorities and partially implementing the legislative framework for border agency cooperation. Similarly, the implementation rate for measures under transparency has had a score of 93.3% over three surveys. This is mainly due to the partial implementation of the independent appeal mechanism.

Figure 10.2. Score Comparisons for the United Nations Global Survey on Digital and Sustainable Trade Facilitation for Thailand, 2017–2021



Source: United Nations, UN Global Survey on Digital and Sustainable Trade Facilitation, <https://www.untfsurvey.org/economy?id=THA>

1.2. COVID-19 Pandemic

As the COVID-19 pandemic placed increased burdens on importers, the Customs Department adopted several measures to ease restrictions in response to the situation. These included temporary measures to facilitate the flow of goods during the pandemic:

- (i) **Regulations on the transit and transshipment of goods.** Thailand has exempted the regulation for importers to send transit and transshipment goods out of Thailand within 30 days from the date that the goods entered the country. This measure was implemented only for transit and transshipment goods imported from 26 March to 30 September 2020 and has been extended three times (i.e. 1 October 2020 to 31 December 2021, 1 January to 31 March 2022, and 1 April to 30 September 2022).²

² Ministerial regulation on prescribing that importers for the transit or transshipment of goods are exempted from complying with the Customs Kaw in whole or in part B.E. 2564 (2021).

- (ii) **Exemption of import tariffs on some medical products.**
- (iii) **Easing of certificate of origin (COO) submission requirements.** As the pandemic could lead to delays in the submission of original documents from overseas, the Customs Department allowed the use of photocopies of the COO for customs clearance purposes to qualify for duty privileges or exemptions. The importer must include an explanatory remark in the import entries accompanying the goods stating, 'Request to use a copy of the COO for a temporary period and will present its original thereafter'. The importer must also submit a request to the customs office or port, using the form appended to the notification along with a photocopy of the COO. Importers were required to submit the original COO to the Customs Department within 30 days after the release of the shipment. If there were further delays related to the pandemic preventing the timely submission of the original COO, an importer could extend the deadline by up to 30 days by submitting a petition at least 7 days before the original deadline. If importers failed to submit the original COO by the deadline, they would not be entitled to duty reductions or exemptions and would be responsible for the customs duty shortfalls. The free trade and related agreements that were included under this scope were the ASEAN–Australia–New Zealand Free Trade Agreement (FTA), ASEAN–China FTA, ASEAN–Hong Kong FTA, ASEAN–India FTA, ASEAN–Japan Comprehensive Economic Partnership, ASEAN–Republic of Korea FTA, ASEAN Trade in Goods Agreement (ATIGA), Japan–Thailand Economic Partnership Agreement, Regional Comprehensive Economic Partnership, Thailand–Chile FTA, Thailand–India FTA, and Thailand–Peru FTA. So far, this measure was applicable for six periods (i.e. 16 April to 30 September 2020, 1 October to 31 December 2020, 1 January to 31 March 2021, 1 April to 30 September 2021, 1 October to 31 March 2022, and 1 April to 30 September 2022).³
- (iv) **Using dummy permit numbers.** The Customs Department issued a temporary measure to enable customs clearance with vehicles using dummy permit numbers through the ASEAN Customs Transit System (ACTS). This measure was applicable from 1 August 2021 to 31 March 2022 and was extended from 1 April to 30 September 2022.⁴

³ Notification of Customs Department No. 81 B.E. 2563 (2020) Re: Presentation of the Certificate of Origin for Importers Affected by the Coronavirus Disease (COVID-19) Pandemic, Notification of Customs Department No. 166 B.E. 2563 (2020) Re: Presentation of the Certificate of Origin for Importers Affected by the Coronavirus Disease (COVID-19) Pandemic, Notification of Customs Department No. 203 B.E. 2563 (2020) Re: Presentation of the Certificate of Origin for Importers Affected by the Coronavirus Disease (COVID-19) Pandemic, Notification of Customs Department No. 50 B.E. 2564 (2021) Re: Presentation of the Certificate of Origin for Importers Affected by the Coronavirus Disease (COVID-19) Pandemic, Notification of Customs Department No. 149 B.E. 2564 (2021) Re: Presentation of the Certificate of Origin for Importers Affected by the Coronavirus Disease (COVID-19) Pandemic, Notification of Customs Department No. 47 B.E. 2565 (2022) Re: Presentation of the Certificate of Origin for Importers Affected by the Coronavirus Disease (COVID-19) Pandemic.

⁴ Notification of Customs Department No. 117 B.E. 2564 (2021) Re: Using a Dummy Permit Number under ASEAN Customs Transit System (ACTS) during the Coronavirus Disease (COVID-19) Pandemic, and Notification of Customs Department No. 40 B.E. 2565 (2022) Re: Using a Dummy Permit Number under ASEAN Customs Transit System (ACTS) during the Coronavirus Disease (COVID-19) Pandemic.

2. ASEAN Seamless Trade Facilitation Indicators (ASTFI) II Results

The ASTFI II survey was circulated to relevant agencies in September 2020. Twenty agencies from 10 different ministries responded to the ASTFI II questionnaires on the seven components regarding trade facilitation: (i) transparency and information on laws, regulations, and procedures; (ii) communication with and active engagement of the private sector; (iii) release and clearance formalities; (iv) import/export formalities; (v) cross-border coordination and transit facilitation; (vi) transport facilitation; and (vii) e-commerce. However, the lists of agencies responding to the ASTFI II are slightly different from those to the ASTFI I. Some agencies covered under ASTFI I were found to be irrelevant, so those agencies were excluded, while some new related agencies were added to the ASTFI II.

2.1. Transparency and Information on Laws, Regulations, and Procedures

Thailand performed well under this component; yet there were no significant changes compared to the previous review. The Customs Department website contains relevant information in both Thai and English, except for some information on transit procedures and customs procedures for transshipment. The issue was mentioned in the ASTFI I result but still has not been addressed.

Regarding the National Trade Repository (NTR) and ASEAN Trade Repository, the NTR website acts as an information gateway for Thailand's trade in goods, trade in services, and e-commerce. It provides related information on FTAs, national trade, and customs laws and regulations. However, some content on the website is only available in Thai, such as the list of authorised traders and court rulings. This information should be translated into English, where possible, to better serve foreign traders.

The Customs Department also maintains the Customs Care Center, which provides services to entrepreneurs and the public for enquiries and information on any customs-related matter. Its website is only available in Thai, but the call centre services are supported in both Thai and English.

As part of the strategy under Customs 4.0 – which focusses on using technology to create transparency and efficiency in the customs process – the Customs Alliances Programme,⁵

⁵ The Customs Alliances Programme is part of an initiative of the Customs Department to enhance the interaction between traders and the Customs Department via the implementation of a new mobile-friendly application. Applicants to the initiative recognised as low risk will receive immediate advice on customs-related issues from account officer experts assigned by the department.

launched in 2018, has expanded its cooperation to the provincial level through various activities, such as seminars on tariff e-services, time-release studies, and public hearings on fee collection for goods declarations (Customs Department, 2019).

2.2. Communication with and Active Engagement of the Private Sector

Thailand has performed very well under this component. The National Trade Facilitation Committee (NTFC) under the Ministry of Commerce acts as a trade facilitation focal point and continues to have strong engagement with related government agencies and the private sector. Regarding stakeholder consultations, Article 77 of the Constitution establishes the principle that before every legislative drafting process begins, the government agency shall arrange a public consultation, analyse any potential impacts in a comprehensive and systematic manner, including publishing the result of the public consultation and the impact assessment, and take them into account in every step of the legislative drafting process. (Government of Thailand, 2017).

Complying with this principle, the Act on Legislative Drafting and Evaluation of Law B.E. 2562 (2019) was enacted. It stipulates tasks and criteria with which all government agencies must comply, including rules for drafting laws following Article 77. An online law portal has also been established as a legal information centre and channel for government agencies to hold public hearings as well as to disclose information about the hearings to the public. However, the act enforces only a drafting process for primary legislation (i.e. an organic act, act of Parliament, or legal code) and does not include subsidiary legislation. Therefore, the drafting process for such ministerial regulations or announcements does not require a public hearing process, and it is up to the agency to formulate guidelines for consultation.

In fact, consultation frequency depends on the agency and the context. For example, consultations for the Customs Department on the Customs Alliances Programme are held quarterly, whilst consultations for authorised economic operators and advance rulings depend on requests from the private sector.

2.3. Release and Clearance Formalities

There were no significant improvements in the many indicators for release and clearance formalities. Regarding risk management, the Customs Department still conducts risk-based inspections on importing and exporting goods. Other agencies undertake 100% inspection of shipments, whilst still others carry out random inspections.

The Customs Department allows goods to be released without payment, but importers must submit all required documents with a guarantee that covers all applicable duties and taxes, according to the Notification of Customs Department No. 108 B.E. 2561 (2018). There was no change in the regulations from 2018.

Pre-arrival processing is still only allowed for air and sea. According to the Customs Department, goods transport by land is different in nature than those of air and sea, as there is no transit time for cross-border trade; therefore, there is no immediate need for pre-arrival processing by land. In 2020, according to the Notification of Customs Department No. 130 B.E. 2563 (2020), Thailand adopted procedures allowing for the expedited release of goods through borders, in addition to the expedited release in air cargo facilities that had already been in place.

There is still no publication of dwell-time information. A time-release study is now conducted regularly for the main points of entry (i.e. Laem Chabang Port and Suvarnabhumi Airport) every 2 years. Time-release studies for borders are still conducted on an ad-hoc basis. To date, studies were conducted for the Aranyaprathet Customs House in 2015 and Sadao Customs House in 2021.

As part of the *National e-Payment Master Plan*, the Comptroller General's Department signed a memorandum with Krungthai Bank to increase channels for receiving payments from the private sector to reduce the process of government agencies transferring money to the Treasury (Comptroller General's Department, 2020). All agencies now allow electronic payments for duties, taxes, and fees through internet banking, counter services, or QR codes via electronic data capture. This is a major improvement from the previous review.

There have also been some major improvements on the ASEAN-Wide Self-Certification Scheme, a trade facilitation initiative that allows certified exporters – those who fulfil minimum eligibility criteria on ATIGA certification procedures – to self-certify the origin status for their goods to be eligible for ATIGA tariff preferences. With this implementation, certified exporters are now able to make origin declarations for all ASEAN Member States. Two associated pilot projects were implemented in Thailand during 2016–2019.

Since 2020, self-certification is fully operational in Thailand for certified exporters. According to the Notification of Customs Department No. 152 B.E. 2563 (2020), exporters in Thailand can now receive proof of origin to obtain preferential treatment under ASEAN through three channels: manual COO, Form D through the ASEAN Single Window, and self-certification. As of January 2022, there were 783 certified exporters under the ASEAN-Wide Self-Certification Scheme. The Customs Department and Department of Foreign Trade have held several seminars on the programme to create understanding for exporters regarding the forms. In 2021, the value of Thai exports using self-certification was \$1,901.07 million, an increase of 38.19% from the previous year (Commerce News Agency, 2022).

Regarding an authorised economic operators programme, the Customs Department has made some progress towards the establishment of mutual recognition arrangements with other ASEAN Member States. Thailand signed mutual recognition arrangements with Hong Kong in 2015, Korea in 2016, Singapore in 2018, Australia in 2021, and Japan in 2022; mutual recognition arrangements are currently under negotiation with China, Malaysia, and New Zealand.

2.4. Import/Export Formalities and Coordination

The Customs Department now allows all traders to attach digital copies to file entry declarations. According to the Notification of Customs Department No. 134 B.E. 2561 (2018) on Electronic Customs Procedures, the Customs Department requires no paper documentation unless required by an FTA or other agencies. The Customs Department and most agencies also still accept original documents and certified true copies. However, as stated previously, due to the pandemic, the Customs Department temporarily allowed traders to use photocopies of COO for customs clearance purposes. The importer had to submit the original certificate within 30 days after the release of the shipment or a penalty would be applied.

The NSW has made considerable progress since the last review. Currently, the NSW supports a single-point electronic application/issuance with following services:

- (i) customs declaration submission for import and export;
- (ii) e-submission of notification of import or export of hazardous substances (i.e. a single-entry form);
- (iii) an electronic system for applying or issuing a permit to send or to bring fossils or transformed fossils either found in Thailand or out of Thailand; and
- (iv) an online system for applying or issuing permits, rubber quality certificates, and rubber quality test and fee payments through single submission, jointly developed by the Customs Department, Department of Agriculture, and Rubber Authority of Thailand.

A pilot project, jointly developed by the Department of Foreign Trade, Federation of Thai Industries, and Board of Trade of Thailand, for COO application/issuance via the NSW Single Form was launched in 2020. The three agencies have already agreed on the business process and technical specifications for the COO. The Customs Department has also completed the development of an e-COO system via the NSW Single Form and collaborated with the Department of Foreign Trade for system testing. This pilot will cover only e-COO with Thailand's non-ASEAN FTA partners for general use, not those for preferential tariff treatment purposes.

Regarding ASEAN Single Window development, Thailand has been exchanging ATIGA e-Form D through the ASEAN Single Window with all 10 ASEAN Member States since 2019. As ASEAN is moving towards covering more trade documents, Thailand also started exchanging the ASEAN Customs Declaration Document with Cambodia and Singapore in March 2021 and expects to exchange it with all ASEAN Member States by the end of 2022. In addition, ASEAN Member States are working on aligning the data structure of an e-phytosanitary certificate with *International Plant Protection Convention E-Phyto Guidelines*. Thailand is currently conducting a test exchange of such data with Indonesia using the latest agreed structure, hoping for live operation by 2022.

Institutional arrangements for border coordination exist and are now functional for all ports/borders and all regulatory agencies.

2.5. Cross-Border Coordination and Transit Facilitation

Border-crossing operational coordination has been much improved. All three components, which comprise the development of common facilities, joint controls with neighbouring country authorities, and alignment of working hours between neighbouring country authorities, are now in place. The 21st Meeting of the Joint Commission on Thailand–Lao People's Democratic Republic (Lao PDR) Cooperation in 2018 discussed key issues to enhance mutually beneficial cooperation in major areas. One of the issues was accelerating the facilitation of cross-border passenger and cargo transport by developing a common control area at the Mukdahan–Savannakhet border crossing, enabling single-stop inspections and cargo clearances, following the creation of a common control area at the Lao Bao–Dansavanh checkpoint on the border of Viet Nam and Lao PDR (MFA, 2018). This would reduce time at the border checkpoint and, in upgrading its Route No. 12 to an international transport route, enhance the efficiency and convenience of passenger and cargo transport between the two countries. Thailand and Lao PDR are still in the process of negotiating an addendum to the memorandum of understanding.

A transit procedure is already in place electronically for the cross-border exchange of data since 2017, according to the Customs Notification No. 139/2560 B.E. (2017). However, in 2021, the Customs Department announced a new notification regarding the electronic transit procedure, Customs Notification No. 185/2564 B.E. (2021), to replace the previous notification. The latest notification includes transit by rail.

Following three implementation phases of the pilot projects, Thailand – along with five other ASEAN Member States – finally adopted the ACTS in 2020. Under the system, businesses can track the movement of their goods from loading at the departure point to delivery at the destination point. The Customs Department also activated a tracking system with e-lock technology as a tool to supervise, inspect, and track the transport of transit goods and to increase the efficiency of customs control. According to the Customs Department, authorised transit traders are allowed simplified procedures in one or more of the following: (i) the right to use a multiple journey guarantee, (ii) exemption of presentation of goods, and (iii) allowance of special seals usage.

2.6. Transport Facilitation

In Thailand, the Department of Land Transport, Ministry of Transport, is the government agency responsible for issues related to cross-border road transport. The scope of responsibility, in practice, mainly covers the issuance of cross-border road transport permits to qualified transport operators, whilst cross-border procedures, such as imports or exports over land borders, fall under the responsibility of the Customs Department.

ASEAN goods vehicle cross-border permits fall under the ASEAN *Framework Agreement on Facilitation of Goods in Transit* (AFAFGIT) and ASEAN *Framework Agreement on Facilitation of Goods in Transit* (AFAFIST). Currently, there are six ASEAN Member States (i.e. Cambodia, Lao PDR, Malaysia, Singapore, Thailand, and Viet Nam) in the ACTS project, which is the first step of AFAFGIT implementation.

For this component, there was improvement on the implementation of Protocol 2 on the designation of a frontier post under the AFAFGIT. According to the Notification of Customs Department No. 169 B.E. 2563 (2020), Thailand initially designated frontier posts at seven points: Aranyaprathet Border Office, Chiang Khong Border Office, Mae Sai Border Office, Mae Sot Border Office, Mukdahan Border Office, Nong Khai Border Office, and Sadao Border Office. The notification also provides customs transit procedures in detail.

However, the COVID-19 pandemic makes it difficult to pinpoint an exact time for full implementation. Still, Thailand already has experience in managing the issuance of permits with applied quotas for multiple agreements under the Greater Mekong Subregion Cross-Border Trade Agreement and without quotas under the Thailand–Lao PDR bilateral trade agreement. Although ASEAN agreements are yet to be fully implemented, all standard procedures have been laid out for future implementation.

2.7. E-Commerce

There has been no significant improvement for this component. The Amendment to the Electronic Transaction Act (No. 4), B.E. 2562 (2019) on Digital Identification was enacted and enforced in 2019. The Electronic Transactions Development Agency was assigned to support the development of electronic transactions and e-commerce. Additional related regulations have been enacted under a period of review, including:

- (i) **Personal Information Act.** This was enacted in 2019 but is not yet enforced. Full enforcement was postponed to June 2022 due to several procedures linked to the act that have yet to be completed, including the appointment of members of the Personal Data Protection Committee.
- (ii) **Cybersecurity Act.** Enacted in 2019, this will allow the government to track, monitor, and access digital data to prevent and to mitigate cybersecurity threats.

According to the amendments to the Revenue Code No. 53 B.E. 2564 (2021), foreign e-commerce businesses are liable for a 7% value-added tax (VAT) on services provided to customers in Thailand, beginning 1 September 2021. Foreign e-services providers are required to pay VAT if they derive revenue over B1.8 million per year from e-services provided to individual customers in Thailand. To facilitate taxpayers, VAT processes – such as registration, return filing, and payment – can be performed electronically through the Revenue Department's Simplified VAT System for E-Service (SVE) online platform.

There is no specific legal framework for domestic and cross-border e-commerce dispute settlements. Consumer protection-related legislation is already in place (i.e. the Consumer Protection Act and Product Liability Act), which provides protection for consumers whether using e-commerce or any other form of commerce. Regarding cross-border e-commerce dispute settlements, an online dispute resolution system, TalkDD, developed by the Thailand Arbitration Center, is operational. The Thailand Arbitration Center also signed a joint agreement with the Rights and Liberties Protection Department, Ministry of Justice, to promote and to expand an online dispute resolution system to cover different types of disputes, not only those concerned with e-commerce.

The ASEAN Committee on Consumer Protection completed a feasibility study on the ASEAN online dispute resolution network in 2020. The study found that for a regional online dispute resolution network to function properly, national online dispute resolution systems need to be put into place. Interfacing of the existing online dispute resolution systems across sectors or countries could be piloted, at least for a few ASEAN Member States. The committee should start a dialogue on common legal, procedural, and information technology standards that would enhance interoperability as well as lead to greater effectiveness of the ASEAN online dispute resolution network.

3. Customs Authority

Following the Customs 4.0 strategy, more strategies and programmes have been introduced.

- (i) **NSW e-tracking on mobile phones.** A mobile application allows traders to track customs clearance status. It was introduced as an additional channel to access the e-tracking system, which was already in place through the Customs Department website.
- (ii) **E-lock system.** This tracking system under electronic key system technology is a tool to supervise, inspect, and track the transport of transit goods and to increase the efficiency of customs control.
- (iii) **E-drawback.** The Customs Department has developed an electronic tax refund system through the NSW for entrepreneurs who use tax refunds for export to receive quick and accurate refunds.
- (iv) **Customs Trader Portal.** According to Customs Notification No. 94/2564 B.E. (2021), the Customs Trader Portal is a way for Thais to register as customs formality operators. Previously, there were only two methods: manual and e-customs. To register via the Customs Trader Portal, a registrant must complete an identity verification via a partner application, which is currently limited to three methods: using an online application, Pao Tang; via Krungthai ATMs; or at all branches of Krungthai Bank.

4. Other Agencies

The NSW has achieved the most success in government-to-government (G2G) data exchange, which is primarily concerned with documents used in customs formalities, such as permits, certificates, specification documents, logistics data, and manifests. Importers and exporters are no longer required to provide these documents when contacting different government agencies. As of now, there are 36 government agencies exchanging data through the G2G information interface under the NSW. In the ASTFI I, there were also 36 government agencies exchanging data through G2G; however, some agencies, such as the Department of Agriculture, Department of Foreign Trade, and Department of Livestock Development, only exchanged data for some products at that time. Now, data exchange for all 67 products under the supervision of Department of Foreign Trade is possible through the NSW.

There are currently 21 government agencies already connecting via the business-to-government (B2G) information interface under the NSW compared to 16 government agencies previously. There are also four more government agencies that are under development to connect via B2G. Five private sector entities are connecting via the business-to-business (B2B) information interface under the NSW, with 18 commercial banks providing e-payment and e-guarantee services. These numbers have not changed from the ASTFI I.

Thailand's NSW plans to:

- (i) develop a system connecting insurance policy information between insurance companies and the Customs Department through B2G,
- (ii) study and develop an electronic data linkage system between logistic operators and seaports and airports,
- (iii) develop and pilot the exchange of e-phyto certificates via NSW and the International Plant Protection Convention E-Phyto Hub, and
- (iv) study and develop a system for linking import-export data for products transported through the postal service.

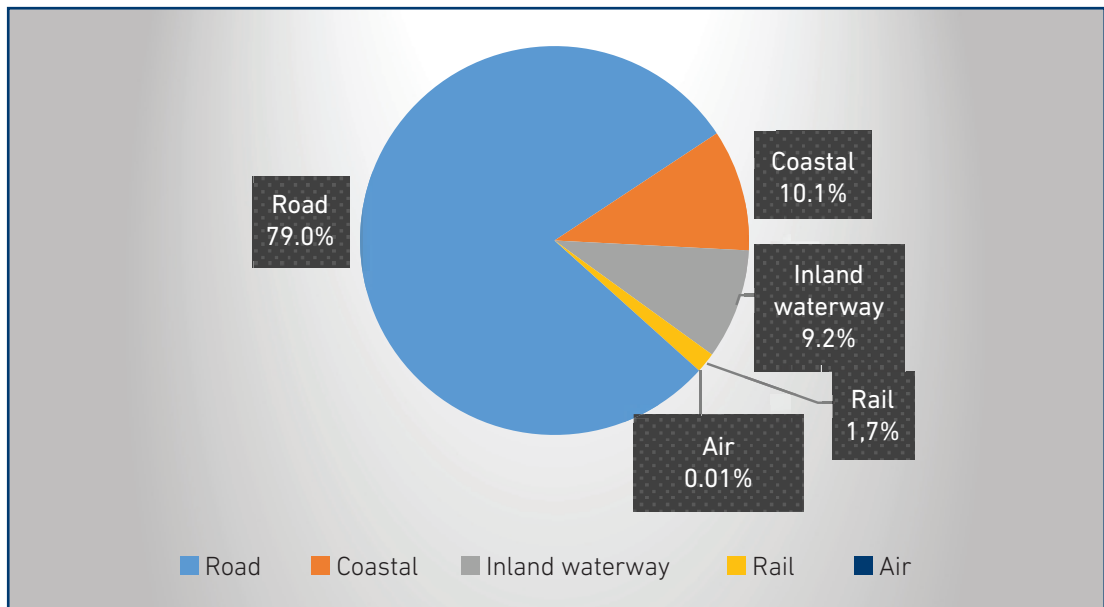
5. Transit, Transport, and E-Commerce

Thailand's modes of transport can be divided into five main categories:

- (i) **Roads.** This mode is transport by various types of trucks, such as pick-up trucks, container trucks, and refrigerated vehicles.
- (ii) **Rail.** This includes freight trains with many routes and various types of transport, both for bulk goods packed in containers and liquid products. There is only one service provider, the State Railway of Thailand.
- (iii) **Pipelines.** This comprises the transport of liquid products, such as water, oil, natural gas, and chemicals.
- (iv) **Water.** Inland waterways mostly transport heavy-load products, such as bulk grain and building materials. For coastal transport, feeder ships are used to transport products from sub-ports to main ports or deep-sea ports.
- (v) **Air.** This is often used to transport high-value cargo, products requiring special care, low-weight products, and perishable goods, such as jewellery, electronic parts and equipment, and flowers.

Thailand's road freight volume accounted for 79% of the total freight volume in 2019 (Figure 10.3). A characteristic of road transport is that freight is delivered directly from the sender to the receiver (i.e. door-to-door transport), unlike other modes of transport that cannot provide complete transport services. This makes road transport the main mode of transport, and it plays a large role in the overall transport sector of the country. However, the Ministry of Transport is promoting the use of the rail system and water transport to reduce logistical costs and traffic congestion due to the high costs incurred from road transport.

Figure 10.3. Thailand's Domestic Freight Transport by Mode, 2019



Source: Government of Thailand, Ministry of Transport, Marine Department.

Thailand is a part of multiple cross-border transport agreements apart from ASEAN, including the Greater Mekong Subregion and other bilateral agreements (Table 10.2).

Table 10.2. Status of Cross-Border Transport Agreements with Thailand

	Agreement	Current Status	Permit
ASEAN	AFAFGIT	Initially planned for full implementation in 2020 under the ASEAN Customs Transit System. However, due to border restrictions preventing goods vehicles from entering other countries' territories, the issuance of the ASEAN goods vehicle cross-border permits has been put on hold. Until the situation improves and border restrictions can be relaxed, cross-border road transport must be carried out by transferring goods to local vehicles at the border.	500 permits under full implementation of both agreements
	AFAFIST	Some ASEAN Member States are still undergoing internal processes to ratify the agreements, including Brunei Darussalam, Indonesia, and Malaysia.	
	AFAMT	Thailand participated in the pilot implementation of the AFAMT as one of the programmes under the regional action plan for the implementation of AFAMT, 2020–2025, but the programme was put on hold due to the COVID-19 pandemic. In October 2021, the 41st ASEAN Transport Facilitation Working Group Meeting agreed to extend the pilot implementation to March 2022.	
	GMS	GMS CBTA	
	Initial implementation of GMS CBTA Mukdahan–Savannakhet and Dansavanh–Lao Bao	Operating with a 1-year permit issued to qualified transport operators annually.	With quota
	Initial implementation of GMS CBTA Aranyaprathet–Poipet	Operating with a 1-year permit issued to qualified transport operators annually.	With quota
	Initial implementation of GMS CBTA Mae Sot–Myawaddy	Operating with a 1-year permit issued to qualified transport operators annually.	With quota
	MOU on the Early Harvest of CBTA	Operating with a 1-year permit issued to qualified transport operators annually.	With quota
Bilateral	Thailand–Lao PDR Bilateral Agreement	Operating with a 5-year permit.	No quota applied

AFAFGIT = ASEAN Framework Agreement on the Facilitation of Goods in Transit, AFAFIST = ASEAN Framework Agreement for the Facilitation of Inter-state Transport, AFAMT = ASEAN Framework Agreement on Multimodal Transport, ASEAN = Association of Southeast Asian Nations, CBTA = Cross-Border Transport Agreement GMS = Greater Mekong Subregion, Lao PDR = Lao People's Democratic Republic, MOU = memorandum of understanding

Source: Department of Land Transport; validation workshop for ASTFI II.

There are two cross-border road agreements for goods under ASEAN. The AFAFGIT aims to create a suitable environment in which a vehicle operating under the transit system can move goods by road from a point of departure in any ASEAN Member State to a point of destination in any other Member State via any number of transit countries without intermediate unloading and with minimal procedures at borders. In addition, the AFAFIST aims to facilitate the interstate transport of goods between and amongst ASEAN Member States, allowing transport operators to undertake the transport of goods into and/or from other Member States.

Under the ACTS, the AFAFGIT is used as the legal grounds to support implementation. The AFAFGIT initially planned for full implementation in 2020 under the ACTS. However, due to pandemic border restrictions preventing goods vehicles from entering other countries' territories, the issuance of ASEAN goods vehicle cross-border permits has been put on hold. Until the situation improves, and border restrictions can be relaxed, cross-border road transport must be carried out by transferring goods to local vehicles at the border.

All cross-border road transport operations are facing the same difficulties under the COVID-19 pandemic. Therefore, the Department of Land Transport has decided to proceed with permit issuance only when it is confirmed by other countries that cross-border road transport operations can be fully carried out without the need to transfer goods from foreign vehicles to local vehicles at the border.

6. Conclusions and Recommendations

6.1. Major Improvements and Remaining Challenges

Overall, Thailand had witnessed moderate improvement in its implementation of trade facilitation measures. There were no significant improvements made on three components: transparency and information on laws, regulations, and procedures; communication with and active engagement of the private sector; and e-commerce. The other four components have improved.

Regarding release and clearance formalities, the most significant improvement was the implementation of self-certification for certified exporters under the ASEAN-Wide Self-Certification Scheme. A slight improvement is noticed, as all agencies now allow e-payment. There was also a minor improvement in the publication of a time-release study on a more regular basis. Challenges remain on pre-arrival processing, separation release from final determination and payment of customs duties, e-payment, expedited clearance, and dwell-time publication.

Regarding import/export formalities and coordination, there was a slight improvement in the coordination of border agencies, which are now functional for all ports/borders. The remaining challenge for this component is documentation requirements, as some agencies still do not allow the attachment of digital copies. Moreover, the ASEAN Single Window is yet to be fully implemented.

Regarding cross-border coordination, transit facilitation, and border-crossing operational coordination with neighbouring countries, there was a significant improvement from the baseline study, and all three components are now in place. Likewise, there was significant improvement in the transit guarantee mechanism, which is now supported by electronic means. Some simplified procedures for authorised traders are now in place.

For transport facilitation, there was an improvement in the operationalisation of land transport due to the operationalisation of the ACTS for some ASEAN Member States. One of the biggest challenges in this component is the electronic data interchange platform. This is clearly an area that requires urgent attention from related agencies.

6.2. Recommendations

Based on the results of the survey, specific recommendations for each component to further improve trade facilitation in Thailand are as follows.

- (i) **Transparency and information on laws, regulations, and procedures.** Thailand has not yet followed the previous recommendation, at least for most agencies, on translating available information into English for better access by other stakeholders.
- (ii) **Communication with and active engagement of the private sector.** The consultation mechanism for micro, small, and medium-sized enterprises should be more frequent or more regular. Electronic consultations could be an alternative method to communicate with stakeholders. In addition, Thailand should draft legislation to create an obligation for government agencies to establish a systematic consultation mechanism for stakeholders.
- (iii) **Release and clearance formalities.** Many components regarding release and clearance formalities have been improved, as more agencies have adopted e-payments, implemented self-certification, and expedited clearance through land ports. The Customs Department should work with the Port Authority of Thailand on the publication of average dwell times to give important insights into port performance.
- (iv) **Import/export formalities and coordination.** The previous recommendation on integrating the NSW with the NTR is intriguing and should be put into action. The Customs Department, as the lead agency on the NSW, should work closely with the Department of Trade Negotiations to integrate the systems together. The NTR website should also be improved to be more user friendly with frequent updates on information.

- (v) **Cross-border coordination and transit facilitation.** This component is progressing at a good pace. The trans-border institutional arrangements for border agency coordination can be further improved to either cover more borders or to involve more regulatory agencies.
- (vi) **Transport facilitation.** Thailand should work closely with neighbouring countries on specific border issues through an informal platform for faster processing and to create understanding at the operational level.
- (vii) **E-commerce.** As Thailand already has an online dispute resolution system in place, the country should collaborate and discuss associated issues with other ASEAN Member States to come to an agreement on certain minimum standards, particularly with respect to information technology protocols and operating systems. This could lead to smoother progress for the development of an ASEAN online dispute resolution.

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Chapter 11

Viet Nam

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1. Introduction

The Association of Southeast Asian Nations (ASEAN) Seamless Trade Facilitation Indicator (ASTFI) is an effective tool for measuring trade facilitation in the ASEAN region. With this indication, the ASEAN Trade Facilitation Joint Consultative Committee aims to deliver a comprehensive periodic study about the overall trade environment, the ease of doing business, time and costs of trade transactions, and trade facilitation at the regional and national levels. Following ASTFI I in 2018, the ASTFI II consists of surveys of trade-related government agencies in each AMS conducted during August–October 2020.

The survey result for Viet Nam is consolidated to analyse the national trade environment and trade facilitation performance.

Overall, Viet Nam has developed a strong legal basis to facilitate trade in line with the World Trade Organization and its bilateral and multilateral free trade agreements. Furthermore, Viet Nam has made significant progress in implementing the ASEAN Customs Transit System. Viet Nam Customs partnerships with neighbouring countries include the Computerized Transit Guarantee Mechanism for exchanging trade-related data and information; exemption of presentation of goods; exemption from written signatures; ratification of the ASEAN Framework Agreement on the Facilitation of Goods in Transit; and institutional and operational coordination with border agencies.

Despite the progress, weak coordination and reluctant participation of several ministries and government agencies regarding National Single Window (NSW) and the Viet Nam Trade Information Portal (VTIP) has resulted in delayed updates of legal documents and overlapping control mechanisms. That is one major reason Viet Nam has not made positive changes in trade facilitation, regarding for Transparency and Information on Laws, Regulations, and Procedures and Import/Export Formalities and Coordination.

Communication with and Active Engagement of the Private Sector is one of the most successful story of trade facilitation in Viet Nam, as the result of customs-business partnership enhancement, including technical assistance and legal consultation in customs procedures. To assess administrative burdens, Viet Nam conducts annual business surveys and organises face-to-face dialogues with the private sector. Based on the responses, reforms are then introduced to improve the trade environment.

The time release study of exported and imported goods in 2020 of the General Department of Viet Nam Customs (GDVC) showed that administrative procedures were time-consuming and costly because of a lack of documentation standards and information and communication technology-driven communication instruments, and weak coordination with other agencies.

Viet Nam is proposing NSW and VTIP, focusing on information and communication technology-driven collaboration between GDVC and other ministries and government agencies. It is also strongly recommended that the GDVC strengthen partnerships with business community and other relevant border authorities.

2. Overall Trade Facilitation Environment

2.1. Overview of Trade Facilitation Environment

2.1.1. Institutions and reforms

To modernise and standardise administrative procedures, Viet Nam emphasised information and communication technology (ICT)-driven solutions and measures under Resolution No. 26 / NQ-CP dated 15 April 2015, and Resolution No. 36-NQ/TW of 1 July 2014. Regarding implementation, a national programme from 2016–20 was introduced under Decision No. 181 / QD-TTg dated 26 October 2015. This required all ministries and government agencies to apply ICT in their operations. In addition, Viet Nam aims to integrate and connect ICT systems and databases on a national scale to create a widespread information-sharing environment across agencies on the basis of its e-Government Architecture Framework. Resolution No. 36a/NQ-CP dated 14 October 2015 states the goal of promoting e-government.

A wide range of ICT-driven solutions and measures are prioritised such as artificial intelligence, block chain, internet of things, big data, and open application programming interfaces. As part of Viet Nam's digitalisation efforts, since 2016, National Single Window (NSW) and Association of Southeast Asian Nations (ASEAN) Single Window (ASW) have successfully been implemented. Via these modern systems, many administrative procedures and specialised inspections of exports and imports are completed seamlessly (GDVC, 2019).

On a broader scale, Viet Nam has been a member of the World Trade Organization (WTO) since January 2007 and notified its acceptance of the WTO's Trade Facilitation Agreement (TFA) in December 2015. Previously, in July 2014, the country notified the WTO of the 15 Category A provisions that would be implemented once the TFA came into force. Viet Nam's preliminary TFA assessment conducted in 2015 classifies 14 provisions as Category B and nine provisions as Category C and provides an action plan that identifies a period of implementation. In November 2018, Viet Nam sent B and C notifications to the WTO. In 2020, six provisions of Viet Nam's Category

A had been in full compliance with the TFA, with the remainder needing to be validated as being in full compliance in 2021. Viet Nam is staying on track to put the provisions of Category B and C in full compliance with the TFA. Tables 11.1-11.3 illustrate Viet Nam's TFA compliance status through 2020:

Table 11.1. Viet Nam in Full Compliance with WTO TFA

Ref.	Article/Measure	Category	Independent assessment
1.4	Notification	A	Fully compliant
6.2	Specific disciplines on fees and charges for Customs processing imposed on or in connection with importation and exportation	A	Fully compliant
9	Movement of goods intended for import under Customs control	A	Fully compliant
10.5	Pre-shipment Inspection	A	Fully compliant
10.6	Use of Customs brokers	A	Fully compliant
11	Freedom of transit (paragraphs 1–4)	A	Fully compliant
1.1	Publication	B	Fully compliant
5.2	Detention	B	Fully compliant
6.3	Penalty disciplines	B	Fully compliant
7.2	Electronic payment	B	Fully compliant
7.6	Establishment and publication of average release times	B	Fully compliant
7.9	Perishable goods	B	Fully compliant
11	Freedom of transit (paragraphs 16–17)	B	Fully compliant
12.1–12	Customs cooperation	B	Fully compliant
5.3	Test procedures	C	Fully compliant

Table 11.2. Viet Nam Likely in Full Compliance with WTO TFA – Validation Required

Ref.	Article/Measure	Category	Independent assessment
2.1	Opportunity to comment and information before entry into force	A	2020
2.2	Consultations	A	2020
4	Procedures for appeal or review	A	2020
10.2	Acceptance of copies	A	2020
10.7	Common border procedures and uniform documentation requirements	A	2020
7.3	Separation of release from final determination of Customs duties, taxes, fees and charges	B	12/2022
7.5	Post-clearance audit	B	12/2021
10.3	Use of international standards	B	12/2021
10.8	Rejected goods	B	12/2022
7.1	Pre-arrival processing	C	12/2024
10.9	Temporary admission of goods and inward and outward processing	C	12/2024
11	Freedom of transit (paragraphs 5–10)	C	12/2024

Table 11.3. Viet Nam Not in Full Compliance with WTO TFA – Action Required

Ref.	Article/Measure	Category	Independent assessment
1.3	Enquiry Points	A	2020
6.1	General disciplines on fees and charges imposed on or in connection with importation and exportation	A	2020
7.8	Expedited shipments	A	2020
10.1	Formalities and documentation requirements	A	2020
5.1	Notifications for enhanced controls or inspections	B	12/2021
7.7	Trade facilitation measures for authorised operators	B	12/2022
1.2	Information available through internet	C	12/2022
3	Advance rulings	C	12/2022
7.4	Risk management	C	12/2024
8	Border agency cooperation	C	12/2024
10.4	Single window	C	12/2021
11	Freedom of transit (paragraphs 11–15)	C	12/2022

Source: GDVC, 2021.

As mentioned, all the measures in full compliance with WTO TFA are contributing to the improvement of Release and Clearance Formalities, Cross-Border Coordination and Transit Facilitation and Transport Facilitation in the ASTFI II.

2.1.2. Performance

Surveys conducted by GDVC and Viet Nam Chamber of Commerce and Industry (VCCI) in 2020 asked Vietnamese traders to assess the effectiveness and performance of the NSW. Responses show positive assessment about the time spent on receipt and handling of documents, better streamlined and simpler procedures, and lower costs to obtain documents. In particular, time and costs of doing customs clearance for exports and imports, cross-border transitions of goods are assessed favourably. In 2018–19, GDVC announced a reduction of about 9.22 hours and \$9.28 for an export declaration and \$28.32 for an import declaration (GDVC, 2019).

However, many difficulties and bottlenecks remain, including frequent NSW errors, submission of paper documents in parallel, unnecessary or overlapping requirements, lack of transparency for certain administrative procedures, and missing information about administrative procedures on the NSW Portal.

Trade facilitation efforts prompted by COVID-19 pandemic (if any), including measures implemented by the government that could possibly restrict trade

Amidst the spread of the coronavirus disease (COVID-19), the Ministry of Finance and Viet Nam Customs have implemented numerous solutions to enhance border governance, expand customs revenue and, ultimately, facilitate trade in goods. The customs clearance system is in operation around the clock, including holidays. Customs control has been carried out through the Viet Nam Automated Customs Clearance System/Viet Nam Customs Intelligence System (VNACCS/VCIS), cargo management and automation systems, including the NSW. Other solutions are also introduced, such as Circular No. 47/2020/TT-BTC of the Ministry of Finance and General Department of Customs to accept certificates of origin (C/O) with e-signature and e-seal and a copy or scan of the original.

To mitigate the impact of COVID-19 on socioeconomic development, Viet Nam issued Resolution No. 105 dated 9 September 2021 on 'supporting enterprises, cooperatives and business households amid the Covid-19 pandemic'. The Resolution highlights the importance of collaboration between ministries, central authorities, and provincial authorities. Subject to the appointed mission and solutions of the Ministry of Finance and GDVC, it focuses on (1) speeding up customs clearance for goods serving emergency needs, including aids, donations from foreign countries, or goods imported by domestic organisations and individuals for epidemic control, medical examination,

and treatment; (2) allowing enterprises, cooperatives and household businesses to submit scanned documents with digital signatures instead of physical documents (declarants shall submit physical documents for inspection after customs clearance is granted); (3) instructing provincial departments and sub-departments of Customs to provide adequate resources to grant clearance continuously and safely to manufacturers and processors of electronics components, enterprises, cooperatives and household businesses importing essential goods; and (4) working with the State Bank of Viet Nam to resolve difficulties of loans related to trade in rice, especially those in the Mekong Delta.

To implement Resolution No.105, Viet Nam has imported many solutions and good practices into Customs clearance. For example, in the peak period of COVID-19 in southern Viet Nam (from 1 May to 9 November 2021), Ho Chi Minh City Customs assigned the Rapid Response Team to actively work with local government agencies and hospitals. In addition, Ho Chi Minh City Customs instructed its sub-departments to cooperate with port, warehouse, and yard operators at Tan Son Nhat International Airport to reduce storage costs for aid consignments (Le Thu, Ngoc Loan, 2021). Other Customs departments of Hai Phong, Quang Ninh, and Lang Son have mobilised and optimised all resources to quickly clear and facilitate movements of goods across main national border gates by sea and land transportation. Following the suspension of entry and exit of passengers via the land border gates with neighbouring countries, Viet Nam Customs has coordinated with relevant authorities to allow trucks and drivers to pass in special areas that are located near the border. These activities require efforts of all parties concerned, especially the importers, exporters, and transporters. The time spent at the borders is longer than expected because of some additional actions and measures taken to ensure all persons involved are safe from COVID-19. Utilising close surveillance, drivers are not required for quarantine when returning to Viet Nam after staying abroad less than an hour. In addition, the Customs departments have increased working hours and assigned staffs to do customs procedures for various specific clearances of goods and vehicles at border gates (Quang Hung, Thanh Thuy, 2021).

According to the Ministry of Industry and Trade, in 2021, the export and import management agencies nationwide granted nearly 1.23 million preferential C/O, for \$69 billion worth of goods exported to the markets of Viet Nam's free trade agreement (FTA) partners like the European Union, Republic of Korea (henceforth, 'Korea'), Japan, and China. In particular, nearly \$8.1 billion worth of exports to European Union countries was accommodated with 208,600 sets of the C/O form EUR.1 under the EU- Viet Nam Free Trade Agreement (EVFTA). Also, more than \$16.3 million worth of exported goods had obtained self-certified C/Os in order to utilise preferential tariffs under this trade deal. Thanks to Viet Nam's FTA implementation, trade facilitation solutions of the Ministry of Information Technology, and C/O management agencies, the top export markets getting the highest FTA utilisation rates are Korea, Japan, and China with 50.82%, 38.36%, and 33.74%, respectively.

3. Trade Facilitation Environment – Customs Authority

3.1 Review of policy and institutional reforms and changes since 2018

3.1.1. Formulating customs management mechanisms and policies

Since 2019, the GDVC has furnished legal documents that conform to Viet Nam's regulatory frameworks. Electronic and modern customs procedures are promoted, including Decree No. 85/2019 / ND-CP dated 14 November 2019 on implementing administrative procedures through NSW, ASW, and specialised inspections of import and export goods; Decision No. 23 /QD-TTg dated 27 June 2019 replacing Decision No. 15/2017/QD-TTg dated 12 May 2017, on the updated list of imported goods subject to procedures at the import border; Circular No. 07/2019/TT-BTC of 15 February 2019 amending and supplementing Circular No. 72/2015/TT-BTC of 12 May 2015, on the application of priority regimes for customs procedures, customs inspection, and supervision on export and import activities; Circular No. 62/2019/TT-BTC dated 5 September 2019, amending and supplementing Circular 38/2018/TT-BTC dated 20 April 2018 of the Ministry of Finance, on determining the origin of exported goods import and export; Circular No.80/2019/TT-BTC of 15 November 2019, guiding the implementation of Decree No. 14/2018 /ND-CP of 23 January 2018, on border trade activities; Circular No. 81/2019 /TT-BTC of 15 November 2019 on risk management in customs operations; etc.

GDVC plays a key role ratifying legal frameworks and action programmes for trade such as regulations on goods in transit under the ASEAN Customs Transit System (ACTS) and regulations guiding the temporary detention regime according to the Istanbul Convention.

3.1.2. Promoting ICT applications in customs clearance procedures and formalities

Over the past 25 years, the GDVC has built more than 20 ICT systems to support most of the key areas of customs management such as implementation of electronic customs procedures, electronic payment, automatic port cargo management, risk management, post-clearance audit, violations, public services, NSW, ASW, and internal network management. These systems are relatively stable and smooth.

3.1.3. Modernising customs management methods

Viet Nam Customs is one of the most active forces amongst government agencies in reform and international integration. Viet Nam Customs defines modernisation and standardisation of its procedures as the core pillar of trade facilitation. In the Customs development plan through 2030, GDVC highlighted tasks including: (i) developing a risk management ecosystem in Customs operations following World Customs Organization (WCO) standards, international practices, and national socio-economic development; (ii) strengthening post-clearance audits and customs controls; and (iii) organising helpdesks, hotlines, and an online contact centre for cross-border trade inspections and controls. In this manner, GDVC can evaluate the performance of Customs control and supervision, assess the workload as well as the effectiveness and efficiency of Customs administration, and detect shortcomings and limitations of policies, laws, regulations, and structural organisation. GDVC periodically publishes data on customs release times, and results of surveys assessing the satisfaction of the private sector with customs operations and customs-business partnership.

3.1.4. Coordination with other agencies to improve specialised inspections in export-import customs clearance

As the focal point of Viet Nam's WTO TFA implementation, GDVC is actively coordinating with other agencies by (i) reviewing regulations on specialised management inspections in exports and imports; (ii) reviewing and defining Harmonized System codes to the lists of goods subject to specialised management and inspection; and (iii) unifying customs management principles and procedures for merchandise goods.

3.1.5. Developing Customs-business cooperation

To develop customs-business partnerships, GDVC conducts annual surveys and hosts dialogues, organises workshops on policy and law enforcement, supports enterprises, promulgates regulations in order to strengthen Customs-business cooperation, and assesses cross-border trade control and supervision. Evaluation covers the time and cost of doing customs clearance, cooperation on formalities with business associations at national and local levels, control and supervision, tax exemption, and obstacles to clearance. As such, GDVC is seen as the most active trade facilitation force in Viet Nam.

3.1.6. Implementation of the National Single Window

Through the NSW, enterprises can complete administrative procedures without going directly to each line agency in charge. Consequently, monetary and time cost of doing business declines, transparency is improved, and the competitiveness of the private sector is enhanced. GDVC actively coordinates and cooperates with other agencies to update trade-related information on the NSW and ASW.

3.2. Results from surveys and indicators

According to GDVC, VCCI and USAID's Report on business satisfaction and time needed to carry out administrative procedures through the NSW in 2019, amongst 188 Administrative Procedures integrated into the NSW portal, the most difficult and cumbersome are under the Ministry of Health (General Department of Viet Nam Customs, Viet Nam Chamber of Commerce and Industry, USAID, 2020). Regulations issued by other ministries include quality; technical safety and environmental protection certificates for imported motor vehicles; quality, technical safety and environmental protection certificates for special-use vehicles of the Ministry of Transport; and quality examination of imported goods of the Ministry of Science and Technology. By contrast, progress has been seen for procedures under the Ministry of Industry and Trade, and the Ministry of Agricultural and Rural Development, namely export-import permissions, goods quality inspections, food safety, SPS approvals and legal compliance announcements. Once again, GDVC gets high satisfaction ratings regarding customs-operated information systems, with easy access, updated regulations and laws, speedy interchange and information sharing, and effective communication channels and helpdesks (GDVC, VCCI, USAID, 2020).

A. Transparency and Information on Laws, Regulations, and Procedures

According to both surveys, Viet Nam achieves the highest scores for Customs Website/Trade Portal and Information, trade information from regulatory agencies, and implementation of interactive information channel. The VTIP, NSW, and ASW provide complete information on export and import formalities in both Vietnamese and English.

For the sustainability of the information portals and the effectiveness of contact centres, it is recommended for Viet Nam to strengthen role of GDVC as the focal point for VTIP and NSW. GDVC is currently reviewing the VTIP legal framework and working with member agencies to update and enrich information. It also continues to work with different stakeholders and international experts regarding the information provided by other regulatory agencies in Viet Nam.

B. Communication with and Active Engagement of the Private Sector

GDVC is the lead coordinator of the National Trade Facilitation Committee (NTFC). Communication and trade-related information are effective thanks to the ICT-based customs clearance system. In particular, VTIP has an enquiry section. In addition, GDVC has dedicated staff to answer enquiries at check points. The central and provincial customs departments receive enquiries in person through phones and websites. The service is free of charge. Finally, other agencies and other relevant authorities have their own systems and regulations to respond to enquiries.

In the future, GDVC will be required to standardise customs dossiers and documents from all relevant border agencies in line with regional and international documentary formations. Because of the bilateral cooperation between GDVC, local customs departments, and business associations (typically with Japan and Korea business associations), this is one of the most successful performance of trade facilitation in Viet Nam.

C. Release and Clearance Formalities

The ASTFI II survey shows a positive change for 'Release and Clearance Formalities.' Thanks to GDVC and great efforts to fulfil the core missions with a wide range of technical operations such as Advance Rulings for Classification and Valuation; Pre-arrival processing; Best Practices of Risk Management; Electric Payment; Post Clearance Audits. Further details are as follows:

Pre-arrival processing

The Viet Nam Customs law sets time limits for customs declarations subject to modes of transportation. Details are specified in Decree 59/2018/ND-CP and Circular 50/2018/TT-BTC. The import customs declaration must be submitted before goods arrive at the checkpoint or within 30 days from the day on which goods arrive at the checkpoint.

In general, regulations on pre-arrival processing are stated clearly in various legal documents. However, these regulations are outdated, since they do not consider the development of digitalisation and best practices of risk management. In fact, GVDC should require the applicants to submit business transaction information earlier to improve the effectiveness of risk management programmes and reactive treatments for particular shipments.

Best risk management practices

Viet Nam has a legal framework of risk management specified in Customs Law 2014 and other Ministry of Finance and GDVC decisions such as Decree 08/2015/ND-CP for the application of Customs risk management including evaluation of compliance criteria and the classification of risks, and Circular 81/2019/TT-BTC for levels of compliance assessment for customs declarants.

Since 2011, GDVC has put in place a risk management system that supports customs clearance. In principle, risk management in customs operations shall include the collection and processing of information; establishment of criteria for and evaluation of customs declarants and classification of risks; and implementation of appropriate measures for customs management. In the customs operations, the risk management results can be scrutinised by Customs staff at the clearance point. The Customs officer would need to submit a proposal and get approval from the sub-department lead to adjust the controlling channel (green, yellow, or red), and a record will need to be included in the customs dossier. Customs officers are required to provide inspection results to the risk management system. In some cases, the feedback has to be conducted manually if the inspection results need more investigations or information provided by the declarant. The collection and sharing of relevant information for the analysis of risks at GDVC and provincial level is not always timely or effective; as a result, the classification of compliance determined in the system is not always accurate.

Some of the data used to analyse risk are not up to date. More and better sources of information need to be included to feed the system, including more complete feedback from the provinces. In addition, alerts and notifications of fraud threats need to be included in the risk management system in a timely fashion. Furthermore, risk criteria are established on the VCIS system to channel goods being declared via the VNACCS system. However, the e-manifest, which must be analysed at the port prior to the arrival of the goods, is not connected to VCIS or VNACCS for automated processing and risk classification. In addition, carriers and agents often provide insufficient information on the e-manifest to Customs.

In future, GDVC risk management practices can work more efficiently and effectively if there is an integrated and consolidated ICT-driven system of risk management from spokes at sub-departments and local customs to the central hub at GDVC.

Exchange of certificate of origin and self-certification

Viet Nam has achieved significant progress in handling C/O form D under Asean Trade in Goods Agreement (ATIGA). Viet Nam officially handled C/O issuance to four ASEAN countries (Singapore, Malaysia, Thailand, and Indonesia) since 1 January 2018; and to 31 December /2018 Viet Nam received 59,053 C/O D forms from four ASEAN countries and backward certified 98,820 copies. In 2019, Viet Nam continued to expand its network with Brunei Darussalam and Cambodia, and accumulated a total of 156,878 C/O D forms received from six ASEAN countries and 194,058 issued backward via the ASW (GDVC, VCCI, USAID, 2020). As of 25 February 2020, Viet Nam has officially exchanged C/O via NSW with all nine ASEAN member states (as Philippines was the last member to connect with the Viet Nam system). In 2021, the total number of C/O that Viet Nam exchanged to other AMS via NSW was 203,663. Viet Nam is currently preparing to exchange C/O via NSW to some major partners such as the Eurasian Economic Union (EAEU), and Korea in the near future.

Together with new trade-related procedures connecting on ASW, GDVC shall accept other self-certifications for phytosanitary e-certificates and quality conformity, as well as e-declarations made by foreign traders and declarants.

Trade facilitation measures for trusted traders or authorised economic operators

According to the survey of ASTFI II, there is no change for Trade Facilitation Measures for Trusted Traders or Authorised Economic Operators (AEOs) comparing with the previous. As indicated in Viet Nam Customs Law 54/2014/QH-13, Articles 42–45, the GDVC defines criteria for a trader to be qualified as an AEO, which includes record of compliance, minimum export and sales value; utilisation of e-customs, e-tax procedures, and an ICT programme connected with the customs network; banking payments; and obedience of accounting and auditing regulations. To follow up, Decree 08/2015/ND-CP, Articles 9–12 state that the prescribed export and import value required to become an AEO is \$100 million a year for foreign products, \$40 million for domestic products, and \$30 million for agricultural and aquatic products manufactured or cultivated in Viet Nam. Regarding customs brokers, the number of annual declarations forms to be filled must equal 20,000 sheets per year. In addition, Circular No. 72/2015/TT-BTC stipulates the application of priority policy in customs procedures.

Eligible AEOs are entitled to various benefits such as (i) exemption from examination of relevant documents and physical inspection, except in cases which law violation is detected or random inspection is required (not exceeding 0.5% of total declarations); (ii) submission of an incomplete declaration or a substitute document while having a grace period of 30 days to submit the complete declaration/relevant documents; (iii) priority for tax formalities; and (iv) goods clearance at trader's premises. In 2015, the WCO conducted a gap analysis between the AEO requirements of the SAFE Framework and concluded that the AEO programme in Viet Nam meets about 80% of the framework's requirements (GDVC, 2016).

The GDVC has an AEO division under the Post-Clearance Audit department. At the Customs departments of Viet Nam's provinces and cities, AEO units are under the Post-Clearance Audit branches. Every 6 months, Customs evaluates the AEO programme.

According to GDVC, through 30 December 2019, the number of AEOs in Viet Nam is low. In total, there are approximately 70 enterprises, 23 of whom are from Viet Nam. These enterprises constitute only 1% of the number of enterprises, but account for 34.4% of trade volume equivalent to \$165 billion. Small and medium-sized enterprises, however, are excluded from the AEO programme. Without different stakeholders and enterprises in sectors of logistics, port authority, transportation, etc., Viet Nam's AEO programme limits overall benefits of the entire international supply chain and cross-border trade system. Thus, GDVC is recommended to adopt international best practices, to expand the AEO programme with loosen criteria of trade volume, and to give equal opportunities to more qualified enterprises. Viet Nam is under negotiation with Korea to conclude a bilateral Mutual Recognition Agreement on AEOs (GDVC, 2019).

Simplified or expedited clearance

Simplified or Expedited Clearance still tops performance in terms of trade facilitation in the ASTFI II survey. Viet Nam has established a legal basis for customs formalities pertaining to goods delivered by express delivery services, including time limit for submitting customs documents (at least 2 hours before the exit of vehicle); locations for customs procedures; release of goods by customs authorities when requirements are satisfied; modes of inspection, supervision and control; release of goods pending customs valuation or result of analysis and classification under which customs declarants are responsible for paying taxes subject to a guarantee for the self-declared and self-calculated tax amount; dossiers of pre-identification of customs value, origin and code of classification of goods. Especially, imports and exports shipped on express delivery valued at Vietnamese dong (D)1 million or less or incurring the sum of (regulated) taxes payable of less than D100,000 are exempted from duty and tax. Express shipments are categorised according to modes of exports and imports, trading value, and regulations on specialised controls.

Viet Nam should raise the *de minimis* value (D1 million or tax-binding less than D100,000) for gaining exemption of customs duties and taxes, which is lower than the average amongst Asia-Pacific Economic Cooperation economies (of \$100) and US *de minimis* (of \$800). The main problem with expedited shipments is the specialised inspection requirement for goods in group 2 (known as yellow channels), which includes documents and printed materials, textiles and commercial samples, and materials requiring a license and/or testing. For a specialised inspection, issuance of a testing certificate can take between 5 to 7 days. To conduct customs clearance, economic operators create their own system to sync with the VNACCS/VCIS. This linked system varies case by case, burdening enterprises. Viet Nam Customs needs to enhance standardisation and harmonisation in customs procedures for expedited and express shipments.

Import / Export Formalities and Coordination

According to the ASTFI II survey, there has been no improvement on 'Import/Export Formalities and Coordination' in terms of trade facilitation.

Viet Nam NSW is operating efficiently. After the examination of submitted documents and data, the applicants are notified through the portal in a timely manner. Most of the Ministries, and other agencies participating in the NSW, have conducted administrative procedures for receipts, approvals, acceptance and validity of E-documents, E-permissions, E-certificates subject to Electronic Transaction Law of Viet Nam. Therefore, customs dossiers and regulated documents, certificates shall be submitted, verified and accepted via the NSW and available for customs clearance.

As the leading player, GDVC focuses on simplification, standardisation, and avoiding redundancy by reviewing formalities and documentation requirements to reduce paperwork and other restrictive measures of other agencies. That is why 'Documentation Requirements' and 'Border Agency (Customs, Immigration, Quarantine / CIQ) Coordination (Domestic)' have become the most successful stories.

As reported in Vietnamese businesses' survey feedback, sometimes the NSW portal operations are poor and unstable, particularly before or after the Lunar New Year holidays. Accessibility is either impossible or very time-consuming for unknown reasons. Many complaints are about slow task processing and frequent errors that result in multiple attempts before completion, and extra submissions of documents.

Cross-border coordination and transit facilitation

In the ASTFI II, Viet Nam receives highest satisfaction rates for 'Border-crossing operational coordination with the neighboring countries', 'Computerized System for Transit', 'Transit Guarantee Mechanism', and 'Simplified Procedures for Authorized Transit Traders (ATT)'. 'Border Agency Institutional Coordination' (With bordering countries) ' has remained unchanged since the first survey.

Under Protocol 7 of the ASEAN Framework Agreement on the Facilitation of Goods in Transit, ACTS is connected to custom clearance systems of member countries in ASEAN to process electronic transit procedures, movements of goods across the territory, customs duties, and guarantees of customs payments. As a focal point for implementation, GDVC operates a separated system connecting to ACTS to handle transit procedures in Viet Nam with a department in charge and helpdesk. However, the Viet Nam-operated system under ACTS is working independently with the VNACCS/VCIS. Merging the two systems shall make transit information sharing and exchange smooth and seamless. Furthermore, Viet Nam should foster border agency coordination with neighbouring countries by setting up a technical working group to simplify operations and avoid duplication efforts and to install an effective information sharing mechanism.

Transport facilitation

Viet Nam has made great progress in terms of 'Land Transport Facilitation.' In line with the ACTS initiative, under Protocol 7 of the ASEAN Framework, Decree 08/2015/ND-CP and Decree 46/2020/ND-CP (which both came into effect on 1 June 2020) facilitate transport and transit. Goods in transit will be processed by the ACTS as an ICT connectivity instrument for electronic transit procedures, controlling the movement of goods across all member territories, assisting national customs authorities in calculating customs duties and guarantee amounts, and exchanging information for recovery of customs debts.

To enforce the sharing of information prior to arrival and departure, Viet Nam should have regulations on road transportation through land border checkpoints. More efforts should be delivered to improve efficiency of 'Procedures for Issuance of ASEAN Goods Vehicle Cross Border Permit' and 'Electronic Data Interchange (EDI) and Port Community'. GDVC is recommended to adopt best practices regarding pre-arrival processing, for example: (1) to require customs declarations for vehicles in a reliable time prior to landing, instead of 12/24; and (2) to accept a preliminary declaration prior to arrival that allows the payment of duties and taxes. Upon arrival, the preliminary declaration changes to the 'official declaration', and the shipment is cleared and released. If amendments are required, no penalties should be included apart from exceptional circumstances. Finally, Viet Nam should have a highly inclusive leadership with a roadmap and master plans for implementation the ASEAN Framework Agreement on the Facilitation of Inter-State Transport and the ASEAN Framework Agreement on Multimodal Transport with respect to land transport facilitation (GDVC, 2019).

E-commerce

Since 2006, e-commerce activities in Viet Nam are seen as traditional cross-border transactions with a difference in operating manners. E-commerce is mainly governed by Law of E-Transaction and basic legal sources like Viet Nam Commerce Law, Viet Nam Competition Law and international conventions, customs, and best practices. There is no official government document for trade facilitation on e-commerce, especially regulated tasks, operations and scope of works for GDVC and other agencies. Recently, GDVC has drafted a decree on customs control for cross-border e-commerce transactions. The scores for the 'Legal Framework and Operationalisation for Inter-Operable, Mutually Recognised, Secure, Reliable and User-Friendly E-Identification and Authorisation (SVG1)', and 'Revenue Collection Framework for Cross-Border E-commerce Trade (SVG2)' are expected to improve if this document is officially issued and enforced.

However, 'Time release publication' is still questioned by Vietnamese businesses. Even though GDVC conducts an annual time release study (TRS) in line with WCO methodology and at the government's request, the results of the study are only submitted to some international organisations such as USAID and ASEAN; they are not made accessible to the general public or the private sector in particular. To improve 'Dwell Time Publication' and 'Time Release Study', Viet Nam should conduct dwell time studies on a regular basis and inform the private sector about the results.

3.3. Analysis of main issues / challenges going forward

As the focal point in the TFA implementation, GDVC continues fostering trade facilitation of Viet Nam through the utilisation of various tools.

First, VNACCS/VCIS is used for import/export customs clearance. It is originally a system developed by Japan from the customs clearance module of the NACCS/CIS system and non-refundable aid for Viet Nam. This is a high-quality software product in terms of processing speed as well as stability. However, the upgrade, modification, and addition of functions for this component on the Vietnamese side cannot be actively implemented. This causes significant Customs difficulties for Viet Nam.

Second, GDVC continues highlighting standardisation, modernisation, simplification and transparency in order to fulfil the TFA commitments and implementing roadmap.

Third, GDVC fosters international standards and best practices to facilitate and secure cross-border trade vis-à-vis the COVID-19 pandemic.

Lastly, GDVC maintains a vital role in border agency cooperation between customs, other border agencies, and governmental authorities in Viet Nam.

4. Trade Facilitation Environment – Major Agencies (including Quarantine)

4.1. Review of policy and institutional reforms and changes since 2018

With respect to the contributions of ministries and government agencies to trade facilitation progress in Viet Nam, the greatest benefit stems from an ICT-based inter-agency mechanism connecting NSW and VTIP.

4.2. Viet Nam Trade Information Portal

VTIP, the official source for all regulatory trade information for Viet Nam, is available at www.vntradeportal.gov.vn.¹ VTIP is a product of the World Bank to support Viet Nam through the GDVC facilitating trade and implementing the WTO's TFA. VTIP provides an accessible, logical, helpful window for traders to access regulatory and procedural information. VTIP has a rich database and the right side-bar menu features search options for commodities (defined by Harmonized Service code), legal documents, procedures, forms, measures, standards and other requirements. VTIP is also an important step towards improving the predictability and transparency of the country's trade-related regulations and processes. That explains one of the best performance falling into 'Customs Website/Trade Portal and Information' and 'Implementation of Interactive Information Channels/Customs Contact Center' in both ASTFI surveys.

4.3. Viet Nam National Single Window

The Viet Nam NSW officially started on 11 November 2014, following a period of careful preparations by the Government, the Ministry of Finance, and GDVC. Through 28 February 2022, 244 Administrative Procedures have been integrated into the NSW Portal, which fall within the management domain of 13 different ministries and agencies. According to the survey on 'Business satisfaction with administrative procedures carried out through the National Single Window' (GDVC, VCCI and USAID, 2019), the most frequently carried out procedures on NSW are subject to five Ministries: Ministry of Industry and Trade, Ministry of Transport, Ministry of Agriculture and Rural Development, Ministry of Science and Technology, and Ministry of Health. The two procedures related to entering and exiting seaports are inter-agency procedures.

Overall, the implementation of the NSW reduces the time needed to carry out Administrative Procedures. The time spent by businesses has reduced for 10 out of 12 Administrative Procedures. The number of days saved in comparison with the traditional approach is between 1 and 3 days, and the number of days for handling procedures is generally within the time limit prescribed in legal documents. The implementation of the NSW also reduces costs for enterprises for almost all procedures compared to the previous traditional approach. Costs have reduced by more than half for eight Administrative Procedures, with the highest reduction for 'issuing certificates of chemical declaration' (93% reduction), 'registration for quality examination and verification of imported animal feed' (82% reduction), or 'issuing licenses to export/import industrial precursor chemicals' (73% reduction).

¹ Note that the site address belongs to the government and is official.

However, this change does not occur evenly across the procedures and line ministries. A considerable number of firms do not observe progress of the two Ministry of Health procedures pertaining to import licenses for medical equipment and appliances and receipt numbers for the notification of imported cosmetic products. The average number of days for approval of the former is still as long as 30 days, and as many as 35% of firms reported experiencing difficulties obtaining the license. Meanwhile, the latter costs businesses an average of 1 extra day compared to the direct filing of documents to the Ministry of Health previously. The cost of obtaining the latter increased by 19% on average compared to that of the traditional approach. 29% of firms reported difficulties completing the procedure. More than half of the surveyed businesses did not get the last two procedures handled within the time limit set out in legal documents.

In addition, the evaluation of time spent in each stage of a specific Administrative Procedure shows a time consumption trend as follows (in ascending order): (i) filing information, (ii) conformity assessment by the private sector, (iii) conformity assessment by the State, and (iv) receiving and processing records. This has reinforced the need for reforming the information and record receipt and processing of line Ministries.

In terms of institutional reforms, the NSW has made significant improvements on three components of Administrative Procedures, namely 'information about the processing progress,' 'reduction in the number of records' and 'clarity of templates/forms'. Amongst the procedures being surveyed, procedures of the Ministry of Trade and Industry and Ministry of Agriculture and Rural Development are easier to carry out than those of three other Ministries (Ministry of Health, Ministry of Transport, and Ministry of Science and Technology). The two most common procedures for businesses, as measured by the number of applications per firm and the total number of firms applying the procedure, are the issuance of preferential C/Os and phytosanitary certificates for plants imported, in transit, and domestically transported. They are also the easiest procedures, and only about 15% of businesses reported difficulties. Using the threshold of 25% of businesses facing difficulties as the reference value, the two procedures of the Ministry of Transport, namely 'Issuing quality, technical safety and environmental protection certificates for imported motorised vehicles' and 'Issuing quality, technical safety and environmental protection certificates for special-use vehicles' both have 28% of enterprises encountering difficulties. Similarly, 26% of businesses had difficulty with the procedure for 'Quality examination of imported goods.'

Findings pointed out the main bottlenecks as follows:

First, procedures are not fully electronic; therefore, the declarants are asked to combine both electronic and manual approaches. It is highly time-consuming and causes delays.

Second, the report on processing status is not fully informative, is returned without clear explanations, and has errors, so the traders and declarants have to withdraw and replace other documents many times before such documents are accepted.

Lastly, it takes more time and money to obtain the final approval due to unreasonable delays and postponements from the Ministries. The document processing progress at site of the Ministries is delayed, often for no discernible reason.

4.4. National Trade Repository and ASEAN Trade Repository

With respect to National Trade Repository and ASEAN Trade Repository, VTIP is currently under GDVC management and affiliated with NTFC. It is based on trade and expertise of this agency with commodity coding and classification, along with a database of trade statistics. However, VTIP is losing ground and becoming increasingly less relevant as information is not updated sufficiently as a result of a lack of attention and investment. VTIP users have to search, collect and verify trade-related information from other GDVC websites and private service providers. Lack of connectivity between VTIP and other functional websites of GDVC, MOIT, and VCCI results in poor operation and low attractiveness for users. Without a technical working team in charge of VTIP and an inter-agency agreement to share information for updating VTIP, there is a great threat to its existence. Therefore, NTFC should issue an inter-agency decision requiring agencies to send updated information to VTIP.²

Viet Nam should think about renovation of and investment in VTIP in alignment with themes and importance of National Trade Repository and ASEAN Trade Repository.

² The Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT) inquiry points/offices all have inter-agency coordination MOU but they found that often the agencies were too busy doing their things and not paid enough attention to send documents to the offices. They have to use private legal service subscription to supplement the official channel. VTIP may need to rely on both the government channel and private subscription. One possibility is to use the private subscription notification and ask for official documents from the agencies in charge.

5. Conclusions and Recommendations

Trade facilitation under major agencies other than Customs is slow-moving. This is due mainly to bottlenecks in border agency cooperation and trade-related information availability. Most of the good performance reflect results of institutional and operational reforms and innovations in fields of customs controls and supervision such as risk management, post clearance audit, and time release study. Indeed, GDVC has proved to be an active focal point in implementations of international and regional agreements on trade facilitation.

5.1. Recommendations for Ministries and other agencies

First, enforce inter-agency connectivity, validity, and usefulness of the VTIP. This requires a comprehensive assessment on operating effectiveness and key performance, and then a development or investment plan primarily focusing on coordination mechanism amongst GDVC and other agencies under moderating role of a VTIP Working Group.

Viet Nam also needs a detailed programme with a specific roadmap for updating the VTIP software. VTIP should deliver more trade-related information and instruments such as monthly disaggregated trade statistics, a database of rulings searchable by Harmonized System code, information for exporters, and an online trade facilitation forum. Also, Viet Nam should pay more attention to mass media communication for VTIP using an awareness campaign, capacity building and training for to the users, SMEs, business associations.

Second, if Viet Nam assigns a VTIP Working Group as the key coordinator, it should start with a comprehensive assessment of ICT infrastructure, readiness, and availability of this portal. The VTIP Working Group should adopt international standards and best practices to set up criteria measuring, ranking, and assessing quality, performance, and effectiveness of all Administrative Procedures on the VTIPs. The main indicators should be designed for taking account of functions and tasks of every agency, rules, and standards on documentary template and operating manners, time limit for procedure processing, history of records receiving/processing, appeal mechanism, and online helpdesk.

Last but not least, Viet Nam should continue to foster institutional reforms, develop public-business partnerships, and reduce compliance costs for businesses. It is necessary to completely eliminate 'semi-manual' practices in handling Administrative Procedures on the NSW portal to promote a paperless business environment.

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