

# The WTO Trade Facilitation Agreement:

A roadmap for SMEs



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A roadmap for SMEs<sup>1</sup>

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<sup>1</sup> Nothing in this paper should be relied upon as legal advice.

<sup>2</sup> This paper has been written by Colette van der Ven, Founder and Director of TULIP Consulting. The author thanks Nazia Mohammed for research support.

# 1. Introduction

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Small and medium-sized enterprises (SMEs) are significant contributors to the world economy. However, their participation in international trade is limited compared to larger firms: only about a third of exports from developed countries is carried out by SMEs, and this figure is even lower in developing countries.<sup>3</sup>

There are a number of reasons for this, which differ depending on type of sector/product at issue (e.g. goods versus services), the SME's country of origin, and the destination market. In general, it is more difficult for SMEs, compared to larger businesses, to absorb the costs involved in exporting to a third country – both in terms of costs and administrative hurdles.<sup>4</sup>

Acknowledging the uneven playing field for SMEs, the internationalization of SMEs is an integral part of many countries' development strategies. Indeed, enabling SMEs to engage in international trade can bring numerous advantages in terms of growth, competitiveness, and long-term sustainability.<sup>5</sup> Furthermore, SMEs that are involved in export are found to be more productive, pay higher wages and generate more jobs.<sup>6</sup>

A relevant development that could facilitate the internationalization of SMEs is the World Trade Organization (WTO) Trade Facilitation Agreement (TFA). The TFA, which entered into force in 2017, sets out multilateral rules to facilitate trade procedures that take place when a product crosses an international border.<sup>7</sup> Specifically, it contains provisions that aim to simplify, modernize and harmonize export and import procedures. Given that SMEs are disproportionately burdened by the costs and paperwork associated with border clearance, the TFA, once fully implemented, is expected to be particularly beneficial for SMEs.<sup>8</sup>

Against this background, this paper sets out a roadmap that SMEs can use to understand, navigate, and take advantage of a select number of provisions in the TFA.

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<sup>3</sup> WTO (2016), World Trade Report: "Levelling the trading field for SMEs," available at: [https://www.wto.org/english/res\\_e/booksp\\_e/world\\_trade\\_report16\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/world_trade_report16_e.pdf).

<sup>4</sup> OECD (2019), "Helping SMEs internationalise through trade facilitation," available at: <https://doi.org/10.1787/18166873>.

<sup>5</sup> European Commission (2020), "An SME Strategy for a sustainable and digital Europe," available at: [https://ec.europa.eu/info/sites/info/files/communication-sme-strategy-march-2020\\_en.pdf](https://ec.europa.eu/info/sites/info/files/communication-sme-strategy-march-2020_en.pdf).

<sup>6</sup> The Journal (2013), "Small business benefits from internationalisation," available at: <http://www.thejournal.co.uk/business/business-news/small-business-benefits-from-internationalisation-4449700>.

<sup>7</sup> OECD (2019), "Helping SMEs internationalise through trade facilitation," available at: <https://doi.org/10.1787/18166873>.

<sup>8</sup> Ecorys (2018), "Study on the use of Trade Agreements," available at: <https://www.ecorys.com/sites/default/files/2019-07/study-on-the-use-of-trade-agreements%20%283%29-compressed.pdf>.

## 2. The internationalization of SMEs

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The internationalization of SMEs is a challenge both for developed and developing countries: on average, SMEs represent 33 percent of exports in developed countries, but only 18 percent of exports in selected developing countries.<sup>9</sup> Imports follow a similar pattern: on average, SMEs represent 40 percent of imports in developed countries and about 34 percent in a range of developing countries.<sup>10</sup> Since the challenge is most significant in developing countries, this is the focus of most of the literature. Yet it is also worth studying the challenges related to the internationalization of SMEs in developed countries – and how these might differ.

Despite the fact that SMEs represent the largest portion of firms in developed economies (98% of industrial firms in OECD countries) and that international trade is the engine of many of these economies, SMEs remain underrepresented in their exports.<sup>11</sup> As illustrated by Figure 1 below, large firms conduct the majority of all exports in almost all OECD countries. Export shares for SMEs exceeds 40% only in Estonia, Italy, Cyprus, Turkey and Portugal.

With the exception of Turkey, EU Members have the highest SME shares in exports. Most SME participation in international trade in EU Members is, however, with neighboring European countries. The percentage generally declines when looking at trade figures with non-European countries such as the United States and China.<sup>12</sup> This is also illustrated by Figure 1: while EU countries score relatively high in SME participation in overall export, most of this is in fact intra EU trade (light blue column). SME exports to non-EU Members (dark blue column) is lower in the majority of European countries, with the exception of the United Kingdom.

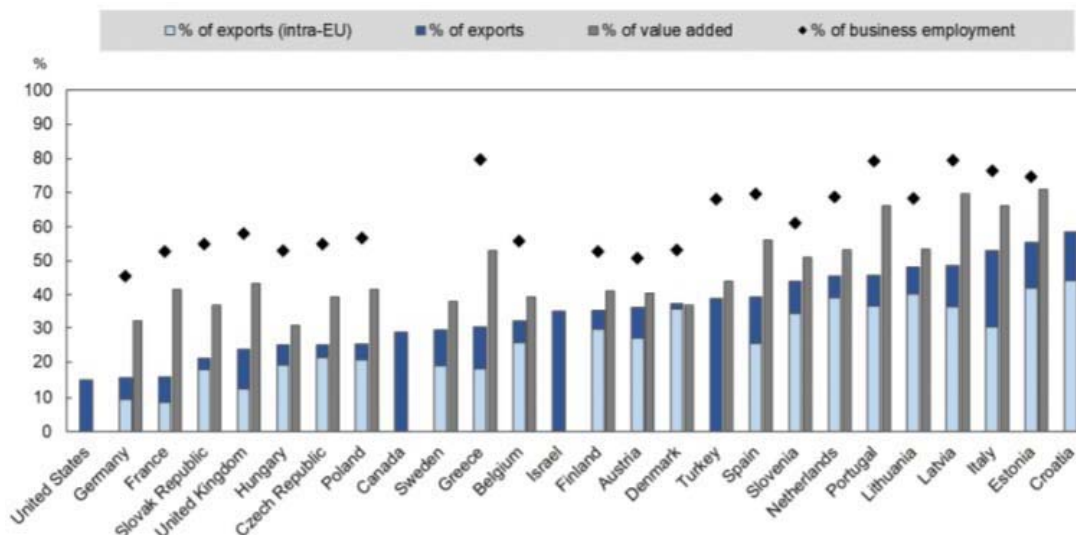
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<sup>9</sup> OECD (2019), “Helping SMEs internationalise through trade facilitation,” available at: <https://doi.org/10.1787/18166873>.

<sup>10</sup> *Ibid.*

<sup>11</sup> WTO (2016), World Trade Report: “Levelling the trading field for SMEs,” p. 32, available at: [https://www.wto.org/english/res\\_e/booksp\\_e/world\\_trade\\_report16\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/world_trade_report16_e.pdf).

<sup>12</sup> *Ibid.*

**Figure 1: SMES PARTICIPATION IN EXPORTS IN SELECTED DEVELOPED COUNTRIES<sup>13</sup>**

This suggests that there is scope to increase the export value of European SMEs towards destinations outside the EU. Indeed, a 2009 study funded by the European Commission found a direct link between internationalization and increased SME performance, specifically in areas related to growth, competitiveness, and long-term sustainability.<sup>14</sup> Given that the internationalization of SMEs creates economic welfare gains, the study found that public support for SMEs should play an important role in promoting greater internationalization.

There are various ways in which public policy initiatives can support SMEs to export to promising markets, including increasing financing, helping SMEs connect to buyers in foreign markets, and providing support on risk management. Another way would be by addressing barriers that relate to difficult, costly and time-consuming border crossing procedures, which SMEs have highlighted to constitute a key barrier to internationalization.<sup>15</sup> For example, border clearance issues that have been recorded, mostly in low-income countries, include: a lack of transparency of rules and regulations, often resulting in discretionary application; delays and costs associated with border procedures; excessive bureaucracy; limited and uncoordinated working hours for customs personnel; the application of discriminatory taxes and other charges; cumbersome procedures for verifying containerized imports; and the heterogeneity of requirements and standards. Procedures can be both destination and product-specific, which increase the cost of time, and certainty with respect to delivery.<sup>16</sup>

One way to address these obstacles is by encouraging and/or requiring governments to adopt measures that streamline and simplify border crossing procedures for products entering or leaving a country. This is also known as trade facilitation. Several reports have found that the adoption of trade facilitation measures is predicted to have a disproportionately positive impact on SMEs, compared to larger firms. In contrast to larger firms, SMEs lack the resources to address complex trade documentation requirements, navigate

<sup>13</sup> OECD (2019), "Helping SMEs internationalise through trade facilitation," available at: <https://doi.org/10.1787/18166873>.

<sup>14</sup> The Journal (2013), "Small business benefits from internationalisation," available at:

<http://www.thejournal.co.uk/business/business-news/small-business-benefits-from-internationalisation-4449700>.

<sup>15</sup> OECD (2019), "Helping SMEs internationalise through trade facilitation," available at: <https://doi.org/10.1787/18166873>.

<sup>16</sup> ITC (2018), "Supporting SMEs through trade facilitation reforms: Toolkit for policymakers," available at

[http://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/Supporting%20SMEs%20through%20trade%20facilitation%20reforms\\_final\\_Low-res.pdf](http://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/Supporting%20SMEs%20through%20trade%20facilitation%20reforms_final_Low-res.pdf).

unfamiliar regulatory environments, and absorb the additional costs.<sup>17</sup> Moreover, SMEs typically ship either infrequently, or in small batches only, making costs related to inefficient border-crossing procedures especially onerous.

By simplifying border-crossing procedures, trade facilitation could level the playing field for SMEs, thus creating conditions that would enable SMEs to compete. The benefits of trade facilitation will have larger pay-offs when exporting to countries that have costly and inefficient border-crossing procedures in place - often LDCs and developing countries. In this context, it is important that SMEs are familiar with the obligations that WTO Members have agreed upon in the Trade Facilitation Agreement (TFA), and how they can benefit from these obligations.

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<sup>17</sup> OECD (2019), "Helping SMEs internationalise through trade facilitation," available at: <https://doi.org/10.1787/18166873>.

# 3. How the TFA can benefit SMEs

## A. The Trade Facilitation Agreement (TFA)

On 22 February 2017, the WTO Trade Facilitation Agreement (TFA) entered into force. It requires those WTO Members that have ratified the TFA – roughly three-fourth of the membership – to adopt a variety of different measures aimed at enhancing transparency, improving governance through disciplines on rule and decision-making processes; implementing streamlined and modernized border procedures and control techniques; and enhancing the movement of goods in transit.

As a multilateral agreement, implementation of the TFA provides the basis for a common set of trade facilitating standards, which creates a more predictable trading environment. Once fully implemented, it facilitates access to an increased number of markets and sectors with which SMEs can do business. Specifically, the TFA contains 12 technical measures that aim to expedite the movement, release and clearance of goods across the border. These are set out in the Box 1 below.

### **Box 1: List of Provisions in Section 1 of the Trade Facilitation Agreement**

1. Publication and availability of information
2. Comments and consultations
3. Advanced rulings
4. Procedures for appeal or review
5. Measures to enhance impartiality, non-discrimination and transparency
6. Disciplines on fees and charges
7. Release and clearance of goods
8. Border agency co-operation
9. Movement under customs control
10. Import, export and transit formalities
11. Freedom of transit

The implementation of some of these provisions, listed in Table 1 below, are expected to have a particularly significant impact on facilitating cross-border transactions for SMEs.<sup>18</sup>

<sup>18</sup> These categories are based on the findings from a 2018 Report by the International Trade Center (ITC) (2018), “Supporting SMEs through trade facilitation reforms: Toolkit for policymakers.” The 12 categories contained in Box 1 do not always neatly correspond to the categories in Table 1 below, as they sometimes specifically refer to sub-categories of various provisions, in order to be more precise.

**Table 1: OVERVIEW OF PROVISIONS THAT ARE MOST LIKELY TO BENEFIT SMEs<sup>19</sup>**

| TFA provisions most likely to benefit SMEs                                   |
|--|
| Publication and availability regarding clearance for importing and exporting |
| Advance rulings  |
| Single window  |
| Risk management  |
| Publication of release times   |
| Use of custom brokers  |
| Expedited shipments  |

## B. Provisions most likely to benefit SMEs<sup>20</sup>

To get a more detailed understanding of the relevance of the TFA for SMEs and the benefits of the TFA, the section below explains, for each of the items that are expected to have significant benefits for SMEs, what the provision entails, how SMEs can benefit, and concrete actions SMEs must take in order to take advantage of the provision.

**Understanding the provision:** This provision requires that countries<sup>21</sup> publish trade-related information in an easily accessible and non-discriminatory manner. This type of information subject to this provision includes:

- Importation, exportation, and transit procedures, restrictions and prohibitions
- Required forms and documents
- Applied duties and tax rates
- Import and export fees
- Penalties for violations
- Appeal procedures

### *Publication and availability of information*

Moreover, countries are required to publish on the internet practical guides or step-by-step descriptions of their import, export and transit and appeal procedures; copies of the relevant forms and documents that will be required, and the details of how to contact the enquiry point for additional questions.

<sup>19</sup> ITC (2018), "Supporting SMEs through trade facilitation reforms: Toolkit for policymakers," available at [http://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/Supporting%20SMEs%20through%20trade%20facilitation%20reforms\\_final\\_Low-res.pdf](http://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/Supporting%20SMEs%20through%20trade%20facilitation%20reforms_final_Low-res.pdf).

<sup>20</sup> This section is based on, and adds to, the 2018 ITC report "Supporting SMEs through trade facilitation reforms: Toolkit for policymakers."

<sup>21</sup> For ease of reference, in this section of the paper, we use the word "countries" to refer to WTO Members that have ratified the TFA.



**Benefits for SMEs:** The accessibility of timely information and relevant forms and documents is critical for SMEs, as they often lack the time and/or resources to conduct the research needed to understand market entry requirements. Indeed, an ITC Survey finds that publication and availability of information on clearance for exporting and importing were ranked first by SMEs as the most onerous administrative procedure, whereas large firms reported issues related to transparency of controls and inspections.

Thus, the TFA's transparency measures will reduce the time SMEs spend to research trade requirements in other countries. It also reduces costs, as it will no longer be needed to hire a local specialist. Moreover, SMEs will be better prepared when goods arrive at the border, which in turn reduces unnecessary delays.

**Taking advantage of the measure:** Most likely, the relevant information SMEs seek will be published on the government website, with general information available on the customs authority's website, and product-specific information (like food safety standards) available from the website of the relevant border authorities.<sup>22</sup> Should an SME be unable to locate the relevant information, they can get in touch with the contact point designated to provide assistance, or look at the WTO website (<https://tfadatabase.org/members>) for more information.

### *Advance rulings*

**Understanding the provision:** Under this provision, countries must provide for the opportunity to provide advanced, written decisions concerning the customs treatment of goods that a trader is planning to import. This would include giving advance responses to questions on the following:

- The HS tariff classification of the commodity
- The appropriate rules of origin that apply
- Which customs valuation method will be applicable to calculate the value of the goods
- The requirement for relief, exemption or concessions on duties and taxes
- The admissibility of goods, prohibitions restrictions, and documentary requirements

Under the TFA, countries are *required* to provide advance rulings on classification and the origin of goods<sup>23</sup> when asked to do by a business, whereas advanced rulings on other issues are optional. Advanced rulings are legally binding, and must be valid for a reasonable period of time.

Advance rulings is one of two provisions in the TFA that makes specific reference to SMEs. Specifically, the provision notes that "such requirements shall not restrict the categories of persons eligible to apply for advance rulings, with particular consideration for the specific needs of small and medium-sized enterprises." In other words, the TFA itself signals the importance of making advance rulings available for SMEs, in addition to larger traders.

**Benefits for SMEs:** Requesting an advance rulings would enable SMEs seeking to export to determine with certainty how much duty and tax it will be required to pay prior to making a transaction. This, in turn, will help with sales negotiations, as it could enable an SME to better understand whether the sale at the negotiated price is feasible. Moreover, an advanced determination has the added advantage that goods

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<sup>22</sup> ITC (2015), "SMEs and the WTO Trade Facilitation Agreement, a Training Manual," available at: [https://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/2014-2015-343%20-%20SMEs%20and%20the%20WTO%20Trade%20Facilitation%20Agreement\\_Low-res.pdf](https://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/2014-2015-343%20-%20SMEs%20and%20the%20WTO%20Trade%20Facilitation%20Agreement_Low-res.pdf).

<sup>23</sup> This excludes origin as determined under trade preference schemes.

should be able to be cleared more quickly by customs.

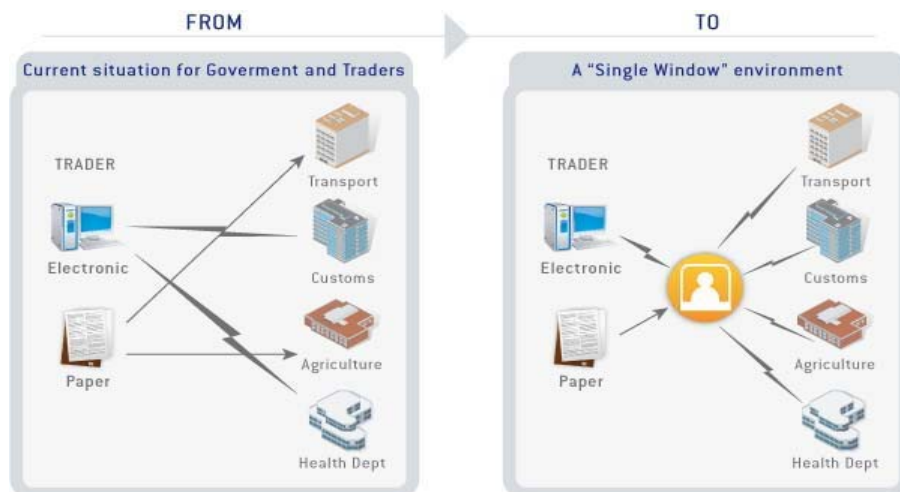
**Taking advantage of the measure:** Requesting an advance ruling is optional, and not required. While there are no restrictions on when to apply for an advance ruling, typically, advance rulings are requested in situations where the product is new or being imported for the first time, there are differences in customs treatment of the same good depending on the port it has been imported through, and there are significant amounts of taxes or duties involved.

For businesses that are considering to apply for an advance ruling, they must determine the following:

- Ensure that the question can be subject to an advance ruling. This would, at a minimum, include any questions on tariff classification. Businesses are advised to consult the customs website to identify any other matters that could be subject to an advance ruling.
- Ensure eligibility: you must be either an importer/buyer of the good, or an exporter/seller (and in some cases, a country can require that the application be made from a locally registered business or representative). For instance, a Dutch SME exporting cheese to Ghana could request the Ghanaian customs authorities an advance ruling for tariff classification and customs duties of the cheese.
- Prepare an application: to determine what information is required in the application and in what form, SMEs should check the customs website of the country they are importing to.
- Once an advanced ruling has been made, it is important to inform the customs authorities of the advance ruling at time of clearance.

### *Single window*

**Understanding the provision:** Under the TFA, countries endeavor to establish or maintain a single window, or “single entry point”, which enables a business to submit all the documents required for import, export or transit by different border authorities at the same time. The single entry point subsequently provides the different information to the relevant authorities, which process the information and return it to the single entry point.

**Figure 2: ILLUSTRATION OF A BORDER TRANSACTION WITH AND WITHOUT A SINGLE WINDOW<sup>24</sup>**

**Benefits for SMEs:** A single window can have enormous benefits for SMEs as it significantly reduces the time and transaction costs involved in border clearance. Indeed, instead of having to approach each border authority separately, and provide the required paperwork, a single window enables firms to submit all information and documents at the same time, to the same office.

**Taking advantage of the measure:** SMEs must identify the extent to which a country has implemented the single window system, and identify the procedure to follow when submitting information to the single window system. This information can be found on the customs authority website of the country to which a SME is aiming to export.

### **Box 2: Dutch Single window for Trade and Transport**

An example of a single window system is Dutch system known as Digipoort, known as the electronic post office for business, allows companies that are importing and exporting products to submit information through a single window to multiple government authorities.

This initiative enables authorities involved in the inspection of international goods flows to work together to improve their joint service, through coordinated risk selection and efficient calculation and processing of import duties for example. It is expected that this will lead to a one-stop shop concept, and consequently less red tape as it enables simultaneous controls by customs, environmental and veterinary authorities.

*Source: Coordinated Border Management in the Netherlands, WCO<sup>1</sup>*

### *Risk management*

**Understanding the provision:** Specifically, risk management aims to ensure that controls are adopted such

<sup>24</sup> UNECE, "The Single Window concept," available at: <http://tfig.unece.org/contents/single-window-for-trade.htm>.

that customs can focus on high-risk transactions, while low-risk transactions will be able to proceed with relatively little intervention. The TFA provides that the assessment of risk may be based on selectivity criteria such as the harmonized system code, nature and description of the good, country of origin, country from which goods were shipped, value of the goods, compliance record of the trader, and type of transport.

**Benefits for SMEs:** The impact of a risk management system on SMEs will depend in part on the type of goods the SME exports, as well as the specific selection criteria an importing country has adopted. If frequency of transaction is a factor, then SMEs may be considered high risk operators, given that they typically export in smaller quantities. However, if the selection criteria focus on country of origin, then SMEs from the Netherlands could be expected not to be included in the high risk consignments, as the Netherlands is a destination that is not considered to be create a high risk.

**Taking advantage of the measure:** For exports that are typically not considered “high risk”, risk management could result in less frequent inspections. SMEs could increase the chance of not being considered a “high risk” transaction by ensuring to apply and adopt customs procedures accurately. Requesting advance rulings may help with this.

#### *Establishment and publication of average release times*

**Understanding the provision:** This provision encourages countries to publish their average release time of goods, inter alia through using tools like the Time Release of the World Customs Organization. For example, this could involve total average time required to release a consignment between moment of entry and exit.

**Benefits to SMEs:** Information about average release times could be an additional consideration for SMEs to take into account, when considering different countries as potential export destinations. Countries with high release times could send a signal that border clearance will experience significant delays.

**Taking advantage of the measure:** The best place to look for time release information is the World Customs Organization. Figure 4 below provides an overview of the type of information that SMEs can obtain from the World Customs Organization. An example of average release times for different goods in India is provided below.

**Table 2: AVERAGE RELEASE TIME FOR VARIOUS PRODUCTS IN INDIA, 2018<sup>25</sup>**

| Commodity                             | Release time in hours |
|---------------------------------------|-----------------------|
| Food items (chapters 7, 8 and 9)      | 247.18                |
| Pharmaceuticals (chapter 30)          | 138.49                |
| Fertilizers (chapter 31)              | 134.19                |
| Plastics (chapter 39)                 | 131.54                |
| Textiles (chapters 59 and 60)         | 173.06                |
| Auto components (tariff heading 8708) | 91.52                 |

<sup>25</sup> WCO (2018), “Guide to Measure the Time Required for the Release of Goods,” Ver. 3, available at: [http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/instruments-and-tools/tools/time-release-study/time\\_release\\_study.pdf?db=web](http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/instruments-and-tools/tools/time-release-study/time_release_study.pdf?db=web).

*Limits on mandatory use of custom brokers*

**Understanding the requirement:** from the moment of the entry into force of the TFA, countries may not introduce the mandatory use of customs brokers. In other words, if a firm wishes to use a customs broker it may do so, but this cannot be a requirement. There is one caveat to this provision, which is that it only prevents countries from imposing new legislation; it does not affect existing legislation that makes customs brokers mandatory.

**Benefits to SMEs:** By prohibiting countries from adopting new legislation that makes customs brokers mandatory, SMEs can save costs that otherwise would have been paid to a customs broker. It could also help SMEs obtain greater control over customs operations, and provide greater efficiency in compliance with customs formalities.

**Taking advantage of the measure:** The first step for SMEs to take to use this provision is to know whether old, custom-warranting legislation is in place. In the case it is not, SMEs must consider what would be most efficient/costly to do: hiring a customs broker might still make sense, especially if the SME does not have sufficient expertise in the customs situation and it is the first time they are exporting. SMEs should also do some research about the terms and conditions that apply when making one's own customs declarations.

*Expedited shipments/rapid release of express consignments*

**Understanding the requirement:** Under this provision, countries are required to put in place procedures that allow for the release of expedited shipments as rapidly as possible after arrival, on the condition that all the required paperwork has been released. To provide for accelerated release of goods, the TFA encourages countries to establish *de minimis* rule – rules that waive the collection of duty when they are below a certain threshold – and simplified documentation processing. Countries are allowed to attach certain conditions to rapid release procedures, including limiting the express delivery option to operators that submit information in advance of arrival, maintain a high degree of control over packages from pick-up to delivery, assume liability for payment of duty and taxes on the good, have a good compliance record, pay any fees customs may charge for special services, provide adequate infrastructure, and pay customs expenses related to processing the shipments.

**Benefits for SMEs:** it provides the opportunity to ensure that consignments shipped via express operators will not encounter border delay. Specifically, the intended beneficiaries of these provisions will be express delivery operators, including DHL, UPS, etc. This could have a direct benefit especially for SMEs that are using these services to ship their consignments to customers in the context of business to consumer e-commerce transactions.

### C. Other TFA provisions and their benefits for SMEs

The provisions highlighted above are expected to have most significant benefits for SMEs in general, including SMEs. However, there are additional provisions in the TFA that are expected to benefit SMEs. These are listed and explained in the table below:

Table 3: OVERVIEW OF ADDITIONAL TFA PROVISIONS THAT ARE RELEVANT FOR SMEs<sup>26</sup>

| Provision  | What is about?  | Implications for SMEs   |
|--|---|---|
| <b>Opportunity to comment and consultations (Art. 2)</b>                               | This requirement provides business the opportunity to comment on proposed legal or regulatory amendments.   | It enables SMEs to voice any concerns they may have vis-à-vis any proposed laws, or amendments to laws. This, in turn, can make sure  |
| <b>Fairness in resolving customs disputes via appeal and review mechanisms (Art.4)</b> | This requires countries to ensure that administrative decisions are applied in a non-discriminatory manner and can be appealed.   | This enables SMEs that disagree with a decision on, for instance, tariff classification or, to get a second opinion by appealing these decisions.   |
| <b>Disciplines on fees and charges (Art. 6.2)</b>                                      | This requires countries to publish information about fees and charges, and limit such fees and charges to the approximate cost of the services rendered.                                      | Fees and charges are particularly burdensome for SMEs. Accordingly, this provision safeguards SMEs from overpaying. However, in some situations, it could also adversely affect SMEs. This would be particularly the case if fees are calculated on the basis of the value of the consignment, given that SMEs typically ship consignments of less value. |
| <b>Fairness in resolving customs disputes and penalty discussions (Art. 6.3)</b>       | This provision requires that parties can be penalized only if they have indeed violated customs laws or procedural requirements, and that the penalty must be proportionate to the violation. | This provision prevents that SMEs that have made minor mistakes, such as clerical errors or oversights, will not be subject to disproportionate penalties.  |
| <b>Pre-arrival processing (Art. 7.1)</b>   | This provision requires that countries put in place systems that allow traders to submit documentation before goods arrive.   | This provision could speed-up border processing systems, and reduce storage costs at ports.   |
| <b>Offering electronic payments (Art. 7.2)</b>   | This provision encourages governments to enable electronic payments in customs-processes.   | SMEs could benefit if they have access to pay taxes and fees by using secure available and reliable payment systems.  |
| <b>Separating release from clearance (Art. 7.3)</b>                                    | This requires that countries allow for the release of the goods even without the final customs duties, taxes, fees and charges being  | SMEs can benefit from this provisions if (i) they are allowed release on securities; and (ii) the type of securities demanded are   |

<sup>26</sup> Author's elaboration, based on ITC (2018), "Supporting SMEs through trade facilitation reforms: Toolkit for policymakers," available at [http://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/Supporting%20SMEs%20through%20trade%20facilitati on%20reforms\\_final\\_Low-res.pdf](http://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/Supporting%20SMEs%20through%20trade%20facilitati on%20reforms_final_Low-res.pdf).



|   |  |   |
|---|--|---|
|   | <p>calculated.</p> <p>Administrations demand securities when stuff is released without the payment, which can cost money.</p>  | low costs so they are affordable.   |
| <b>Use of post clearance audit (Art. 7.5)</b>                                   | This requires that countries adopt and maintain a post-clearance audit to ensure compliance with customs-related laws and regulations. In doing so, monitoring can be extended from the border phase to the post-release phase. Audit-based controls requires that firms use the generally accepted accounting principles. Companies may be audited based on their risk profiles.  | SMEs generally are not able to hire professional accountants, and may not always follow generally accepted accounting principles (GAAP). As a result, SMEs may not qualify for schemes like post clearance audits, or authorized operators (discussed below).   |
| <b>Trade facilitation measures for authorized operators (Art. 7.7)</b>          | The TFA sets out provisions to provide authorized operators with faster processing. Firms can gain authorized operator status if they comply with a number of conditions set out by the customs authorities, which could include appropriate record of compliance in past border transactions, necessary internal controls, financial solvency and supply chain security. Faster access can be provided by simplified declarations, rapid release times, deferred payment facilities, etc. | The provisions in the TFA on authorized operators specifically mention SMEs. While this means that SMEs would, in theory, encounter less restrictions, obtaining authorized operator status will be challenging, as SMEs may not be able to afford the security requirements needed to qualify for authorized economic operator status. |
| <b>Use of copies of supporting documents, for faster processing (Art. 10.2)</b> | Under this requirement, countries must accept copies (paper or electronic) of supporting documents, and should not require the originals.  | SMEs are expected to benefit from this provision, as they are more likely asked for originals compared to larger businesses due to risk perception  |
| <b>Use of international standards (10.3)</b>                                    | This provision requires that countries use international standard, for instance, HS codes as basis for procedures pertaining to importing or exporting   | This provision could render border procedures across different countries more efficient for SMEs, as they have to comply with only one standard as opposed to a number of different ones.   |



In sum, a large number of TFA provisions could remove obstacles related to slow, inefficient, obscure and costly border clearance procedures. SMEs that are considering exporting into new markets should be mindful about these different considerations in order to take maximum advantage of them. Indeed, for most of these provisions – especially for provisions such as advance rulings, pre-arrival processing, or the possibility of utilizing expedited shipment – awareness prior to engaging in international trade is required in order to reap the benefits. Moreover, the implementation of TFA provisions will look differently for different countries. This means that, in conducting research to identify market opportunities in third countries, SMEs must ensure that they identify, in addition to typical conditions of competitiveness, how the country has gone about implementing some of the key TFA provisions. To better understand this, it is also key to take into account flexibilities that the agreement provides to developing and least- developed countries, as will be discussed in the next section.



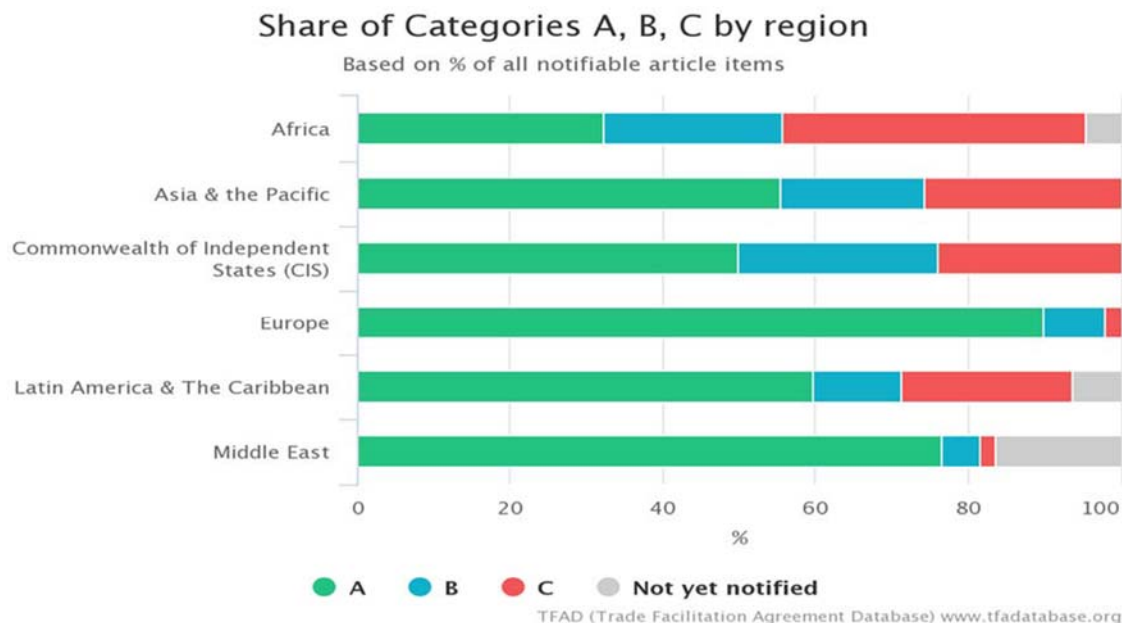
## D.Flexible implementation

Many developing and least-developed countries lack the capacity to implement the requirements set out in the TFA. Accordingly, the TFA has built in flexibilities, enabling developing countries and LDCs to make implementation commitments based on different time frames and conditions. Specifically, developing countries and LDCs may notify different TFA provisions in categories, A, B, C – depending on their capacity to implement.

- For provision notified under Category A, developing countries implement upon entry into force of the agreement, and LDCs within one year of entry-into-force of the TFA.
- For provisions notified under Category B, developing countries and LDCs have implementing obligations after a transitional phase;
- For provisions notified under Category C, developing countries and LDCs have implementation obligations only following a transitional phase and contingent on receiving technical assistance.

As illustrated in the graph below, a large number of developing countries and LDCs have made Category B and C notifications, which, in practical terms, means that these countries are only required to comply with different TFA provisions after a transitional phase, or a transitional phase and contingent on receiving technical assistance.

**Figure 3: OVERVIEW OF CATEGORIES A, B, AND C COMMITMENTS BY REGION<sup>27</sup>**



When engaging in a market analysis, SMEs should consult the relevant resources of the WTO to better

<sup>27</sup> WTO, Trade Facilitation Agreement Database, “Regional breakdown,” available at: <https://tfadatabase.org/notifications/regional-breakdown>.

understand the types of commitments a country has made under the TFA. For example, the <https://tfadatabase.org/notifications/list> contains a country-by-country overview of notifications made per provision in each of the different categories. This enables SMEs to check a country's implementation status. A dialogue between businesses aiming to export in developing countries and those that are implementing donor funding may also further advance targeted development assistance.

### **Box 3: The Netherlands contribution to TFA technical assistance**

There are different programs through which donor governments can support developing countries and LDCs which have notified requests for technical assistance under Category C. This includes, the World Bank Trade Facilitation Support Program, which provides technical assistance, knowledge learning and measurement to developing countries to align their trade practices with the TF. The Global Alliance for Trade Facilitation focuses on providing support to developing countries to implement the TFA through public-private cooperation and multi-stakeholder dialogue, with a key goal to improve competitiveness for SMEs. The Netherlands offers assistance under various programs, including the World Bank Trade Facilitation Support Program, but also focuses on regional programs such as Trademark East Africa and ECOWAS/UEMOA Trade Facilitation West Africa Program. Indeed, focusing on regional implementation – as opposed to national implementation – has been found to enhance the benefits of trade facilitation.

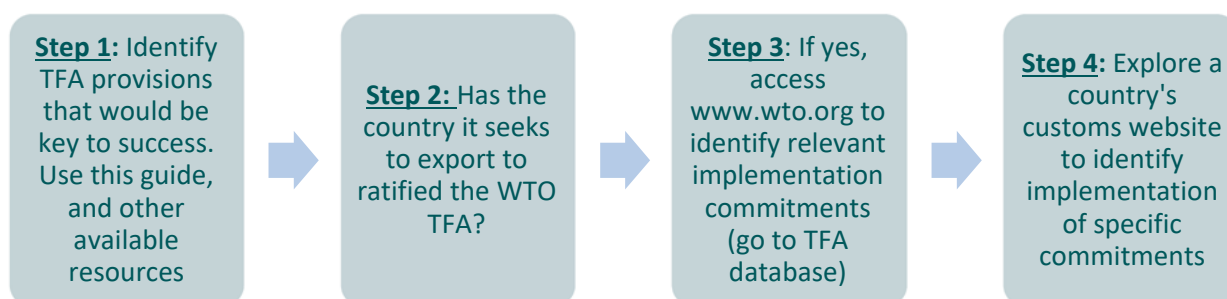
Source: <https://www.tfafacility.org/netherlands>

## E. Conclusion

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To bridge the gap between international trade agreements and SMEs, this paper has explained the importance of the TFA for the internationalization of SMEs. Specifically, it has focused on those provisions in the TFA that are expected to have the most benefits for SMEs, and explained how SMEs could benefit from utilizing these provisions. Moreover, it has explained that to experience the benefits of the TFA, it is imperative that SMEs adopt a proactive approach, by following a number of different steps illustrated in Figure 6 below.

**Figure 4: OVERVIEW OF RELEVANT STEPS TO TAKE TO OBTAIN RELEVANT INFORMATION ABOUT TRADE FACILITY**



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