Overview of Trade Facilitation Agreement

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Abstract:
Trade facilitation plays a key role in international trade and trade supply chains, which is also an important issue of the world in general and Vietnam in particular. The new WTO Trade Facilitation Agreement (TFA) is a significant step forward for the international trading regime, representing new hope for the relevance of the WTO.

Keywords: Trade facilitation, WTO, Vietnam.

1. Introduction

After 14 years of participating in the World Trade Organization (WTO), Vietnam has become the 22nd largest export economy in the world. According to statistics of the General Department of Vietnam Customs (GDVC), in 2019, the total import and export value of the whole country reached US$ 517.26 billion, a year-on-year increase of 7.6 per cent (equivalent to an increase of US$ 36.69 billion) compared to in 2018. Vietnam's exports have increased rapidly with a high growth rate of over 15% in the period of 2011-2019 and officially reached the value of US$ 500 billion in mid-December 2019. This result leads that Vietnam has maintained the trade surplus in four year consecutively, especially this year with a trade surplus of nearly US$ 10 billion.

In the context of that domestic economic development has increase significantly and highly integrated with the regional and the world economic, at the same time it has tightly met up the requirements of reform and modernization to facilitate international trade activities, all of those have created great pressure for the Government of Vietnam in general and the Vietnam Customs in particular, including: the volume of imported and exported goods that need to be inspected increases greatly; the time for goods storage to be inspected is shortened in order to meet the requirements; the quick releasing of goods at border gates but still have to ensure the task of combating trade fraud, protecting domestic production and not losing tax revenue. Trade facilitation opens many priorities for enterprises that strictly abide by customs laws, and more tightening supervision for enterprises showing signs of smuggling and trade frauds.

Thus, trade facilitation plays a key role in international trade and trade supply chains, which is also an important issue of the world in general and Vietnam in particular. The new WTO Trade Facilitation Agreement (TFA) is a significant step forward for the international trading regime, representing new hope for the relevance of the WTO. The TFA includes novel measures to help developing countries build capacity, while also taking into consideration regulatory concerns of WTO members through the application of the general GATT exceptions to the new agreement. If the TFA is properly interpreted, the combination of capacity-building measures and a focus on technological improvements could result in a win-win situation wherein routine positive trade is streamlined, reducing time required to cross borders, while negative trade is more easily controlled and regulated at the border. It is likely that the TFA will reduce the cost of trading across borders, while improving trade for developing countries and allowing WTO members to better control trade flows, through a combination of procedural streamlining and regulatory discretion.

2. Literature review

Trade facilitation with many benefits for countries in enhancing the effectiveness of international trade, including but not limited to cost cutting, risk and uncertainty reduction, market expansion, has been increasingly received more and more interest from many countries in all over the world, especially in developing countries and least developed countries. As a category to promote international trade, trade facilitation quite received
much attention and research from many organizations and researchers, including the research on the TFA Agreement. This part of the thesis will analyze several typical researches on the TFA Agreement in WTO (the TFA WTO).

2.1. **Research on the Trade Facilitation Agreement in the framework of WTO**

Paper “The Trade Facilitation Agreement: A New Hope for the World Trade Organization” is a paper revealing potential huge benefits of the TFA Agreement to the world trade in general and to the WTO’s Members in particular. The TFA is the first multilateral agreement of WTO which includes novel measures to help developing countries build capacity, while also taking into consideration regulatory concerns of WTO members through the application of the GATT exceptions to the new agreement.

Paper “Trade Facilitation Indicators: The Impact on Trade Costs”. This paper presents the findings of the OECD indicators for assessing the economic and trade impact of specific trade facilitation measures in OECD countries. Twelve trade facilitation indicators (TFIs) have been constructed, corresponding to the main policy areas under negotiation at the WTO, with the aim to estimate the impact of addressing specific facilitation hurdles in the trade procedures of a given country. For OECD countries, the policy areas that seem to have the greatest impact on trade volumes and trade costs are advance rulings, information availability, formalities and procedures and inter-agency cooperation. If all TFIs are added their cost reduction potential would reach almost 10% of trade costs, which is an estimate consistent with existing literature. The use of individual trade facilitation indicators should enable countries to better assess which trade facilitation dimensions deserve priority.

2.2. **Research on the TF Agreement in other WTO’s Member countries**

Turning into WTO Member countries ’s legislation and their compliance with the TFA Agreement of WTO. There are a few papers which mention about this, as follows:

- Paper “Trade facilitation of Thailand and lessons for Vietnam”. This paper presents the current status of the results of the implementation of Trade Facilitation Agreement of Thailand and Vietnam, the results of these two countries in trade facilitation through trade facilitation indicators given by other international organizations such as World Customs Organization, World Bank… In addition, at the same time, the paper presents the difficulties and challenges that the two countries encounter during the implementation process of the trade facilitation, as well as the experiences that Thailand has drawn during the implementation of the trade facilitation, thereby giving lessons to Vietnam.

- Paper “The WTO Trade Facilitation Agreement: Implications for Pakistan’s Domestic Trade Policy Formulation”. This paper assesses the impact of the TFA on Pakistan’s national trade policy and shows how the process of policy formulation in Pakistan should be adjusted so that the agreement can be promptly and correctly implemented on a sustainable basis.

2.3. **Research on the Trade Facilitation Agreement in Vietnam**

- Paper “Trade Facilitation in Vietnam: Estimate the effects on trade flows” explores the effects of trade-facilitation factors and logistics performance on trade flows between Vietnam and its trade partners. The authors also develop the geometric average of these indicators to measure the bilateral efforts in country pairs. The result shows that the trade facilitation and logistics infrastructure have impacted directly on trade flows across partners and is varied for agricultural and non-agricultural products.

These two studies have evaluated in detail the advantages and disadvantages of Vietnam in the initial phase when joining the TFA Agreement. Also, the benefits of the TFA Agreement for Vietnam in implementing it are specifically analyzed. However, since the time joining in the TFA Agreement until now, after 05 years of continuous innovation and reform, currently, the actual situation in the management and administration as well as the implementation of the TFA Agreement in Vietnam has changed substantially. Therefore, it is suggested that there should exist a depth and comprehensive research on the current status of Vietnam's trade facilitation and recommendations for Vietnam on upcoming period.

3. Overview of Trade facilitation

3.1. Definition of Trade facilitation

Currently, the world has no common definition of trade facilitation. The World Trade Organization (WTO) defines trade facilitation as to simplify international trade procedures, including activities, practices and procedures related to collection, circulation and processing data and other information related to the movement of goods in international trade. The International Chamber of Commerce (ICC) defines trade facilitation as improving the efficiency of processes associated with trading in goods across national borders. This requires a comprehensive and integrated simplification effort, aimed at reducing the cost of international trade transactions. According to the World Customs Organization (WCO), trade facilitation is the removal of unnecessary trade barriers by applying modern technologies and improving management quality in a harmonious manner with common international standards.

In this thesis, Trade Facilitation (TF) is understood as policies and processes to reduce time, costs and risks when participating in international transactions but not including trade barriers such as import tax, quotas or noncommercial barriers. It also can be said that TF is the improvement of procedures, conditions and documents related to the import, export and transit process of goods in order to help goods circulate more quickly and at less cost. Meanwhile, trade promotion is the activity to increase revenues for enterprises (at national level, sometimes trade promotion is only understood as increasing export sales).

TF is most evident in stages such as reforming customs procedures, harmonizing standards, simplifying paper forms, applying non-paper transactions, etc. Trade promotion shows in activities such as fairs, exhibitions and advertising.

3.2. Benefit of trade facilitation

The benefits gained from TF can be assessed by the costs of trade transactions, including both direct and indirect costs. Direct costs include the cost of preparing customs clearance documents, freight costs, or financial costs... Indirect costs are understood as opportunity costs in the process of transporting goods from the seller to the buyer.

The benefits of facilitating trade not only include the reduction of costs in trade transactions, but also the reduction of risks in international trade transactions.

In particular, according to ADB and ESCAP (2013), for medium and long-term benefits, the four most significant benefits when trade facilitation between countries are carried out are: (i) Strengthen competitive advantages in trade; (ii) Attract foreign investment (FDI); (iii) Encourage the participation of small and medium-sized companies in international trade; and (iv) Promote economic growth. According to statistics in recent studies, trade facilitation enhancement is expected to increase per capita GDP by about 2.5% in Asia-Pacific countries (Duval & Utoktham, 2009).

According to WTO research in 2017, the implementation of the TFA by 2030 could add up to 2.7% a year in global export growth, more than 0.5% to world GDP growth and even larger gain for DCs and LDCs, when trade cost is equivalent to applying a 219% tariff on international trade. The full implementation of the TFA could boost growth for these countries by 3.5% for exports yearly, 0.9% for annual economic output and also diversity
However, to achieve TF, countries also have to spend certain costs. First of all, the cost of developing policies and applying TF is still one of the reasons why countries do not want to really conduct negotiations to facilitate TF. But in fact, reaching an agreement on TF policies has brought great benefits that, according to the WTO, will cover the initial costs. In addition, these initial costs will be transferred to the participants by the government through related service charges (ADB & ESCAP, 2013).

Some of the basic types of fees for the process of establishing and facilitating trade include (i) organizational costs, including those necessary to change an organization's point, sometimes accompanied by the reintegration of current organizational structure or making new policies; (ii) legislative expenses for the modification and administration of existing legal systems or the issuance of new legislation; (iii) infrastructure and training costs, including the costs of building electronic communication systems and internal computer networks, along with the costs of training human resources to master and manage systematic.

### 3.3. Trade facilitation indicators

To help governments improve their border procedures, reduce trade costs, boost trade flows and reap greater benefits from international trade, the Organisation for Economic Co-operation and Development (OECD) has developed a set of Trade Facilitation Indicators (TFIs) that identify areas for action and enable the potential impact of reforms to be assessed. Estimates based on the indicators provide a basis for governments to prioritise trade facilitation actions and mobilise technical assistance and capacity-building efforts for developing countries in a more targeted way.

The OECD TFIs also allow countries to identify their strengths and weaknesses in trade facilitation. They measure the actual extent to which countries have introduced and implemented trade facilitation measures in absolute terms, but also their performance relative to others, using a series of quantitative measures on key areas of the border process.

### 3.4. Overview of Trade Facilitation Agreement

**Process of Trade Facilitation Agreement’s negotiation in WTO**

The Trade Facilitation Agreement (TFA) is the result of a decade-long process that started in 1996. In many ways, the WTO’s engagement in trade facilitation began at the Singapore Ministerial Conference in December 1996, when WTO members directed the Council for Trade in Goods “to undertake exploratory and analytical work… on the simplification of trade procedures so as to assess the scope for WTO rules in this area”.

After several years of exploratory work, WTO members formally agreed to launch negotiations on trade facilitation in July 2004, on the basis of modalities contained in Annex D of the so-called “July package”. Members agreed that the negotiations “shall aim to clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including goods in transit”. Negotiations were also aimed at “enhancing technical assistance and support for capacity building in this area” and at developing “provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues”. Members further agreed on extensive special and differential treatment for developing countries (DCs) and least-developed countries (LDCs).

On 12 October 2004, the Trade Negotiations Committee established the Negotiating Group on Trade Facilitation. Hundreds of proposals made by WTO members, individually or through groups or alliances, were submitted for consideration by the Negotiating Group.

The proposals continued to be refined until ministers concluded the negotiations on trade facilitation at the Bali Ministerial Conference in December 2013. In line with the Agreement, a Preparatory Committee on Trade Facilitation was established under the General Council, open to all WTO members, to ensure the expeditious entry into force of the Agreement and to prepare for the efficient operation of the Agreement upon its entry into force. The Committee was also tasked to conduct a legal review of the TFA, receive notifications from
members on the commitments they can undertake immediately (Category A commitments), and draw up a Protocol of Amendment to insert the Agreement into Annex 1A of the WTO Agreement.

The legal review was completed by members in July 2014 and delegations began to submit their Category A notifications.

On November 27, 2014, the WTO members agreed to adopt a revised Protocol to bring into the system of mandatory agreements of the WTO a new agreement - the Trade Facilitation Agreement (TFA). It stipulated that the TFA would enter into force once two thirds of all WTO members completed their domestic ratification procedures and deposited a valid acceptance instrument. This threshold was reached on 22 February 2017 when the WTO received the 110th deposit, allowing the Agreement to take effect.

Structure and content of Trade facilitation agreement

The purpose of the TFA is to expedite the movement, release, and clearance of goods, including goods in transit. Moreover, the TFA sets out clear, uniform and comprehensive trade facilitation standards according to international standards. Therefore, when practicing it will create favorable conditions for implementing commitments related to other trade benefits in Free Trade Agreement (FTA) that Vietnam is participated in, such as: ASEAN Free Trade Area (AFTA), Trans-Pacific Partnership Agreement (CPTPP), Vietnam - Eurasian Economic Union Free Trade Agreement (VN-EAEU FTA) and other Regional Comprehensive Partnership Agreements…

In addition, the WTO TFA regulations provide measures for effective cooperation between Customs and other authorities on trade facilitation and customs compliance issues. The agreement also covers technical assistance and capacity building in this area. It consists of a Preamble and 24 Articles (“Article” would be mentioned as “Art” in the texts below) and is structured into three parts:

Section I: From Art. 1 to Art. 12 - including 12 Technical Trade Facilitation Measure Provisions of the WTO TFA; which contains the technical trade facilitation measures that make up the bulk of the implementation obligations.

Section II: From Art. 13 to Art. 22 - including 10 Special and Differential Treatment Provisions of the WTO TFA, which contains an elaborate regime for Special and Differential Treatment (SDT), defining the roles and responsibilities of developing (DCs), least developed (LDCs), and developed countries (Donor members) related to implementation transitions and support for capacity building.

Section III: including Art. 23 and Art. 24 – which contains 02 institutional arrangements and final provisions, including some important provisions on the relationship between the TFA and rights and obligations under other WTO agreements

Each Section will be explained in details in below parts.

Section I: Technical Trade Facilitation Measures

The technical trade facilitation measures contained in Section I impose obligations that are meant to increase transparency, improve governance and decision-making, streamline and modernize border procedures and controls, and enhance the movement of goods in transit. The twelve provisions that make up Section I contain roughly 36 trade facilitation measures, which for the purposes of the TFA’s novel implementation regime, discussed below, can be further broken down into roughly 240 notification obligations.

The trade facilitation measures contained in first eleven provisions are explicitly meant to “clarify and improve” relevant aspects of Articles X, VIII, and V of the General Agreement on Tariffs and Trade 1994 (GATT 1994). Specifically, Articles 1-5 deal with issues covered by GATT Article X on publication and administration of trade regulations, Articles 6-10 deal with issues covered by GATT Article VIII related to fees and formalities connected with trade, and Article 11 deals with issues covered by GATT Article V related to freedom of transit.
Article 12 is a new obligation that covers custom cooperation, encouraging greater border cooperation, and exchange of information.

The legal nature of the trade facilitation measures contained in the TFA is relevant for the provision-by-provision evaluation of implementation obligations and capacity building needs. In this regard, two additional observations are in order.

First, the extent to which the measures are binding can be distinguished by whether they are: 1) “best endeavour” provisions containing only “encouragements;”

2) mandatory provisions subject to qualifiers such as “where practicable,” “to the extent possible,” “where appropriate,” and “subject to its laws and regulations;” and,

3) unqualified mandatory provisions containing “shall.” Although all three types are legal obligations that could be subject to review in dispute settlement proceedings, the expectations related to compliance will differ. For “best endeavours” provisions, there is at a minimum and expectation not to act in a manner contrary to the obligation; for mandatory provisions with qualifiers, there may be some liability to demonstrate that the condition of the qualifier has been met; whereas unqualified mandatory provisions will be subject to full review.

Second, WTO obligations can also be distinguished by whether they are: 1) prohibitions or restrictions (i.e. disciplines) on what a member can do; 2) minimum standards (i.e. affirmative requirements) of what a member must do; and, 3) exceptions to either of the first two types of obligations. While the most common form of obligation in WTO agreements related to trade in goods is of the prohibition and restriction type, the TFA contains almost an equal mix of the prohibitions and minimum requirements, plus a few exceptions. The disproportionate reliance on minimum requirements in the TFA will be relevant to the evaluation of implementation and capacity-building needs.

Section II: Special and Differential Treatment Provisions

A second major element of the Agreement is the special and differential treatment (SDT) provisions of Section II from Article 13 to Article 22. Of which, Art.13 to Art. 20 define the roles and responsibilities of developing (DCs) and least developed countries (LDCs) in related to the support of transitional period of time, and support for capacity building for them in the implementation of the provisions from Section I of the TFA. While Art 21 and Art. 22 stipulate the assistance and support for capacity building from agreed Donor Members.

The SDT provisions of Section II recognise the potential difficulties that DCs and LDCs may face in implementing the trade facilitation measures in Section I. The novel and unprecedented, at least in the WTO, regime for SDT that emerges provides DCs and LDCs with largely self-determined and variable transition periods for implementation, either according to specified time periods or conditional upon obtaining the assistance and support for building the capacity necessary to do so. At the same time, it creates an infrastructure for the provision of technical assistance, capacity building, and financial support to developing countries and LDCs for implementation of the trade facilitation measures.

The article 13 of the TFA firmly establishes the general principle of SDT, providing that the “extent and timing of implementation” by DCs and LDCs is “related to implementation capacities” and where a DC or LDC lacks the capacity to implement, “it shall not be required to do so until implementation capacity has been achieved.” Articles 14-19 then establish the implementation conditions, the key feature of which is that DCs and LDCs self-designate the 12 provisions of Section I in one of three Categories, signaling their ability to implement according to the implementation schedule and conditions associated with that Category. The Category designations only affect the timing of implementation and do not alter the nature of the obligation being notified. Once fully implemented, the obligations are the same for all members. The three Categories are:

• Category A: provisions from Section I that the member will implement by the time the Agreement enters into force (or in the case of an LDC within 01 year after entry into force)
• Category B: provisions from Section I that the member will implement after a transitional period following the entry into force of the Agreement

• Category C: provisions from Section I that the member will implement on a date after a transitional period following the entry into force of the Agreement and requiring the acquisition of assistance and support for capacity building.

Regarding developing countries (DCs) group: The TFA requires DCs, at the time of entry-into-force, to have notified and implemented Category A designations, notified all Category B and C designations, notified indicative implementation dates for Category B and C, and provided a summary of their support needs for provisions designated as Category C. Updated notifications containing definitive implementation dates and support needs and activities are required one year after entry into-force and again two-and-a-half years after entry-into-force.

Regarding least-developed countries (LDCs) group: At the time of entry-into-force, LDCs have no notification, designation, or implementation requirements, but instead these are staggered over several years: one year after entry into-force, Category A implementation, Category B and C designations, and indicative implementation dates for Category B are due; two years after entry-into-force, Category C support needs are due; three years after entry into-force, confirmation of Category B and C designations and Category B implementation dates are due; four years after entry-into-force, Category C support arrangements entered into are due; and five-and-a-half years after entry-into-force, definitive Category C implementation dates and updates on the progress made in supporting Category C provisions are all due.

In addition to this flexible self-determined implementation schedule, the TFA provides additional safety valves in the event a DC or LDC finds itself unable to notify commitments or implement provisions by the prescribed deadlines. First, DCs and LDCs that are experiencing difficulties in complying with notification deadlines may receive assistance or an extension of the notification deadlines (Article 16.3). Second, if they are experiencing difficulties in implementing a provision, they may receive extensions to those implementation deadlines (Article 17). Third, even in cases where an extension has not been granted and they are still having difficulties, an Expert Group may be appointed to evaluate and make recommendations to address the difficulties (Article 18). Finally, DCs and LDCs may switch Category designations, thereby changing the nature of their notification and implementation obligations (Article 19).

While the TFA is in general subject to formal dispute settlement, in still further recognition of the challenges and special circumstances of DCs and LDCs, several provisions exempt measures from dispute settlement in certain circumstances. First, in the specific case where an Expert Group has been composed under Article 18, the member requesting the review is not subject to dispute settlement for the obligations subject to review for specified periods of time, which differ between DCs and LDCs. More generally, Article 20 provides grace periods during which implementation of any TFA measure is not subject to dispute settlement: for provisions designated under Category A, two years after entry-into-force for DCs and six years after entry-into-force for LDCs; for LDCs alone, provisions designated under Categories B and C are not subject to dispute settlement for eight years after their implementation.

Articles 21 and 22 of the TFA cover the provision of assistance and support for capacity building of Donor Members to assist DCs and LDCs in implementing the trade facilitation measures in Section I. Donor members, usually developed countries but not exclusively developing countries, can provide support bilaterally or through international organizations. The provision of this support should follow principles that take account of existing development activities, promote regional and sub-regional integration, engage local private sectors, promote coordination between members and relevant economic institutions, and support ongoing reform and technical assistance programs within a country. These provisions also provide for regular discussion of implementation and capacity building issues in the WTO Committee on TF and establish a mechanism for information exchange and notifications by donor members to the Committee of their assistance and support activities.
Section III: Institutional Arrangements and Final Provisions

The institutional arrangements and final provisions are set out in Section III. Article 23 establishes the WTO Committee on TF to discuss the operation of the TFA and the fulfilment of its objectives, and requires members to establish national committees on trade facilitation. Article 24 contains the standard Final Provisions of the treaty including—importantly given that this is the first formal treaty agreed in the WTO since its founding—those related to the relationship between this agreement and other WTO agreements, which is discussed in more detail in the remaining sections.

Benefits of Trade facilitation agreement
The report of research and analysis in 2015 of WTO economists pointed out the benefits of implementing the TFA including:

- Removing "bottlenecks" in the issue of high trade costs isolating developing countries, widening economic gap between countries and uneven negative impact on small and medium enterprises (SMEs);
- To simplify and reduce costs in customs and trade procedures which lead to reduce trade costs;
- Increasing world exports by 2.7%/year and world GDP by more than 0.5%/year;
- Developing countries benefit of an increase of nearly US $1.9 trillion in exports, an additional 0.9% of economic growth each year;
- Diversifying export products with more new markets and more product segments;
- Number of newly exported products increased by 20% in developing countries and by 36% in least developed countries;
- Reducing the burden of administrative procedures for SMEs;
- Attracting more foreign investment capital (FDI);

With technical provisions, the TFA proposes various measures to improve the transparency and predictability of cross-border trade and create the least discriminatory business environment, including advice and complaint regulations. The TFA provisions improve the availability and disclosure of information on cross-border procedures; improve traders' rights; reduce fees and procedures related to import and export of goods; customs clearance procedures is automated and digitized; improve conditions of free transit goods.

The TFA has opened up new opportunities for both DCs and LDCs in the way it is implemented. This is the first WTO agreement that allows WTO members to determine their implementation roadmap, and the progress of this implementation depends closely on each country's technical and financial capacity. The WTO, its members and a number of intergovernmental organizations, including the WB, the WCO, and the United Nations Conference on Trade and Development (UNCTAD) coordinate to provide the technical assistsances and supports of capacity building. In parallel with the TFA, the total process of implementation of the TFA was promulgated in July 2014 to ensure that DCs and LDCs will be assisted to implement the TFA well upon request.

In general, the main benefits of the TFA Agreement in WTO countries could be summarized as follows:

- Directly support from the Trade Facilitation Agreement Facility (TFAF): In July 2014, the WTO announced the launch of the TFAF, which will assist DCs and LDCs in implementing the WTO’s TFA.
- Benefit of reducing trade costs and time: Estimates show that the full implementation of the TFA could reduce trade costs by an average of 14.3% and boost global trade by up to $1 trillion per year, with the biggest gains in the poorest countries (WTO, 2015). For the first time in WTO history, the requirement to implement the Agreement is directly linked to the capacity of the country to do so.
- Benefit of Technical assistance for trade facilitation: Technical assistance for trade facilitation is provided by the WTO, WTO members and other intergovernmental organizations, including WB, WCO and UNCTAD to DCs and LDCs so as to implement the TFA in their countries. The help of donors is vital for bringing more members over the line of full TFA implementation.
- Other benefit: trade facilitation plays an important role in helping reduce border delays for disaster relief.

4. Implementation of Trade Facilitation Agreement in WTO countries
At a meeting of the Committee on Trade Facilitation on 15-16 October 2019, WTO members marked a milestone of receiving more than 80 notifications since the previous meeting in June, indicating definitive implementation dates for the TFA. Members now have a clearer picture of when TFA obligations will be met.

So far, 88% of DCs and LDCs have notified the WTO according to a Secretariat report presented at the Committee meeting. Moreover, among the 60 developing countries that have designated their Category C commitments, 92% have already notified their definitive dates of implementation for this last set of commitments as of the 22 August deadline for submission (WTO, 2019).

In addition, to date, as of 15 April 2020, 149 WTO members or almost 90% of all members have deposited their ratification of the TFA. The most recent ratifications were from Burundi (12 December 2019) and Cabo Verde (06 February 2020).

As a result, members at the October meeting now have more clarity on which areas need further support to achieve full TFA implementation and what technical assistance is required to meet these obligations. Based on the notifications received, technical assistance is most commonly requested for training, establishing legislative and regulatory frameworks, and providing information and communication technologies. Members added that continued work is needed to make progress on outstanding notifications and ratifications.

5. The ratification process of the Trade Facilitation Agreement in Viet Nam

The ratification processes

In November 2015, Vietnam became the 60th country to ratify the TFA. On 22nd February 2017, the TFA officially entered into force after Rwanda, Oman, Chad and Jordan submitted instruments of acceptance of the TFA to the WTO, bringing the total number of acceptances to 112 while only 110 ratifications are needed for the TFA to entry into force.

As a developing country, Vietnam is entitled to special and different treatment (SDT). According to which, Vietnam can determine when it will implement specific provisions of the TFA. To benefit from SDT, Vietnam must categorize each provision of the TFA and notify other WTO Members of these categorizations at the time the TFA comes into effect: Category A - TFA provisions that Vietnam will implement by the time the TFA enters into force; Category B - TFA provisions that Vietnam will implement after a transitional period following the entry into force of the TFA; and Category C - TFA provisions that Vietnam will implement on a date after a transitional period following the entry into force of the TFA and requiring the acquisition of assistance and support for capacity building.

The TFA is expected to boost national and business competitiveness as a result of Vietnam’s implementation of its commitments under the agreement.

On October 13, 2016, the Prime Minister of Vietnam issued Decision No. 1969/QD-TTg approving the plan for preparation and implementation of the Agreement on trade facilitation of the WTO (Decision 1969). The decision includes the goals, requirements, and a list of tasks assigned to a number of ministries. According to Decision No. 1969/QD-TTg, the relevant functional agencies are mainly responsible for:

- Widely publicizing and disseminating the content of TFA;
- Develop manuals and detailed guidance documents for other government agencies on the terms, conditions and provisions of TFA;
- Develop the schedule for implementation of TFA and ensure consistency in the application and implementation of those commitments;
- Classifying commitments in category A, B and C;
- Supporting enterprises to take full advantage of TFA as well as seeking technical assistance and capacity of international organizations such as WTO, World Bank (WB), WCO, United Nations Conference on Trade and Development (UNCTAD), Asian Development Bank (ADB)... or developed countries such as the US, the UK, Japan, and Australia; and

- Report on implementation progress to WTO;

Decision 1969 also indicated that the Ministry of Finance (MOF) is the focal point responsible for implementing the TFA. In particular, the MOF is responsible for:

• Implementing national outreach plans to provide information on the TFA;

• Operating the single-window system;

• Classifying provisions into Categories A, B, and C;

• Seeking technical support and assistance for capacity building;

• Formulating roadmap for implementation of Categories B and C provisions;

• Reviewing relevant legal framework for further amendments.

Other ministries are tasked with coordinating with the MOF in the implementation of the TFA: The Ministry of Transport (MOT), the Ministry of Health (MOH), the Ministry of Science and Technology (MOST), the Ministry of Agriculture and Rural Development (MOARD), etc.

The Prime Minister of Vietnam also issued Decision No. 1899/QĐ-TTg dated 04 October 2016, amended at Decision No. 684/QĐ-TTg dated 04 June 2019 on the establishment of the National Steering Committee on ASEAN Single Window, National Single Window and Trade Facilitation (hereinafter referred to as National Steering Committee or NSC). Follow this decision, the standing body of the NSC is General Department of Vietnam Customs (GDVC, under MOF). GDVC would assist NSC in advising, urging and coordinating the implementation of programs, plans, projects and schemes approved by NSC.

After the TFA official came into force, Vietnam has conducted steps to implement its commitments, as follows:

- In 2017, Vietnam notified its Category A provisions to the WTO;
- Within the first quarter of 2017, the GDVC in coordination with other competent authorities and the business communities will identify (i) Category A provisions which have not been fully implemented, (ii) Category B provisions; and (iii) Category C provisions;
- In line with the direction of NSC and Prime Minister, GDVC established an e-commerce portal called VTIP on 12 July 2017, with the assistance of WB, to declare customs regulations and procedures. In addition, there have been many seminars and workshops related to this topic. At the APEC 2017-SOM conference on 16 August 2017, GDVC held a seminar called "Enhancing the participation of relevant parties in the implementation of the WTO TFA" to discuss and promote cooperation between Vietnam Customs and regional Customs authorities in ASEAN.
- Domestic legislation has amended to fully implement Category A provisions;
- On 28 May 2018, Vietnam notified the WTO of its official plan to implement Categories B (14 units) and C provisions (9 units).
- For capability building, Vietnam has been seeking support from WB, ADB, UNCTAD, WTO, etc. and from developed countries such as the U.S., United Kingdom, Australia, and Japan.

6. Conclusion
As Vietnam is a developing country, according to the TFA, besides articles in Category A which Vietnam has to implement after TFA comes into force, Vietnam has articles in Category B which it implements after a period of time or after a period of time plus technical assistance (Category C). Based on the database of WTO (2019), 26.5 percent is the rate of implementation commitments of Vietnam to date across categories (Category A), 48.7 percent is the rate of implementation commitments from December 2020 to December 2023 without capacity building support (Category B), 24.8% is the rate of implementation commitments from December 2021 to December 2024 upon receipt of capacity building support (Category C) (WTO Database, 2019).

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