

Challenges and Expectations of the Trade Facilitation Agreement in Developing Countries in the Post COVID-19 World

Ivana Popović Petrović¹

Abstract

Having passed five years from the start of the Trade Facilitation Agreement` implementation, adopted in 2013 under the auspices of the World Trade Organization, numerous challenges have emerged faced by all countries in the world, especially Developing countries. The aim of this paper is to focus on these numerous challenges which need to be analyzed with the purpose of enabling these countries in taking economic benefits in international trade.

The implementation of these measures also overlapped in the time period with many trade restrictions provoked by the COVID-19 pandemic, but the need to provide basic foodstuffs and medical supplies, caused even faster implementation of certain TF measures, especially the digitalization of trade.

In addition to the challenges related to the institutionalization of National Trade Facilitation Committees, the lack of trade capacity is the main barrier for successful implementation of the TF measures. The trade capacity building, although known as important even during the negotiations before the adoption of the Agreement, was perceived as a great financial, but also organizational challenge.

Numerous experiences of Developing countries point individual measures that have already been implemented, the different manners and places where progress was taking place, as well as constraints in the implementation of numerous measures: Single window, Authorized economic operator, Border agency cooperation, Authorized operators, Risk management, Advanced ruling. Although the level of progress of their implementation was observed across all regions and all the income groups and regulatory frameworks were implemented, operational practices have been shown as more challenging issue, in the course of the last five years.

Keywords: developing countries, implementation, trade facilitation agreement, trade capacity building, COVID-19

1. Introduction

The long-awaited agreement to be reached under the auspices of the World Trade Organization (WTO) was adopted in 2013, during the WTO` Bali Ministerial Conference. It was the Trade Facilitation Agreement (TFA) which covers several different areas, all together leading to the facilitation of trade flows. The initial points of the Agreement were based on clarifying and improving the aspects of Articles V, VIII and X of the GATT 1994. It was the basement, but the uncertain and challenging work was planned to speed up the procedures connected with the clearance of goods, its movement and release. These targets actually led the creators of the Agreement to create a TF process to harmonize, simplify and unify procedures connected with crossing the border.

The necessity of the TFA measures implementation could be explained by the positive results which could be expected in the form of:

- reducing the time,
- reducing the costs
- reducing the uncertainty involved in importing and exporting.

After the adoption of one very substantial agreement which unified many different areas, until then, only partially regulated, came the period for its ratification in parliaments of the member

¹Assoc. Prof., Faculty of Economics and Business, University of Belgrade, Serbia, ivana.popovic@ekof.bg.ac.rs

states. This Agreement entered into the force on the February 2017. It happened after this process was finished, in two-thirds of all WTO member states. This process was monitored and evaluated by institutions like World Trade Organization and United Nations.

After the period of five years spent in the implementation of the Agreement, the point of view became regional aspect, instead of the multilateral, as it used to be during the negotiating process and just before and after the adoption of the Agreement. As the result of the monitoring process WTO and UN made some conclusions about the implementation success and further obstacles. In a meantime numerous challenges have emerged, especially for widespread group of Developing countries (DCs). The challenge to join the process of negotiating and adaption of the TFA was not the only challenge. Beside it, the lack of the trade capacity for the further implementation is very intensive obstacle for these economies. The main target of their institutions and international trade generally, certainly is enabling these economies to fully join and take all benefits of international trade.

Beside the lack of the trade capacity, these economies faced new trade restrictions provoked by the COVID crisis. During these specific circumstances, the trade capacity building as great financial and organizational problem, became a great challenge for Developing countries as potential recipients and Developed countries, as potential sources of funds and donors.

Beside its limiting effect, the Crisis had the result in confirming the importance and intensification of the digital TF measures implementation. Unexpectedly, it was a circumstance that, instead of jeopardizing the implementation of the measures, contributed to the acceleration of number of these measures` implementation. During the period of the Crisis, the level of TF measures implementation was increased.

2. Specific Treatment for Developing Countries Concerning their TFA Obligations

The structure of the TFA ensures specific treatment for the group of DCs, especially for the Least-developed countries (LDCs). Their obligations and rights are listed in the Section II of the Agreement — Special and differential treatment provisions for Developing country members and the Least-developed country members.

The second part of the Agreement specifically deals with the issue of Special and differential treatment of obligations undertaken by DC and LDCs (WTO, 2014). It means that the status of Developing countries has been noticed particularly. As their financial and developing potential is not on the same level as it is in Developed countries, these countries are expected to undertake all the obligations contained in the first part of the Agreement, but it is not expected that they can do it immediately. The main benefits for these countries are oriented towards extension of the deadlines in which they have to start implementing TF measures. It is of a great importance for DCs and especially for LDCs. The next benefit is the classification of obligations they should assume. These obligations are grouped into three categories:

Category A — the first group of measures equalizes the obligations of these countries with the obligations of Developed countries, meaning that they should implement TF measures immediately;

Category B — this category gives transitional period before the assuming of obligations becomes binding.

Category C — beside the transitional period, this category provides all necessary technical and financial assistance for their implementation.

The level and speed of implementation of these measures will depend on the capacity of each country, individually. At the start it was obvious that most of these countries did not have sufficient funds necessary for capacity building. Therefore, LDCs are enabled to assume only

the part of obligations which they can apply at the moment using their administrative and institutional capacities.

After the adoption of the TFA, the first next step was creating the institution in each country that would be in charge of monitoring the implementation and providing information and assistance in that process. It was determined in the last two articles of the TFA, or in the third part, by establishing the Committee on Trade Facilitation, opened for all WTO member states and National Committees on TF at the national and regional level. For DCs and LDCs it is approved to use the regional approach in order to assume the obligations of the TFA if they are signatories of some regional economic integration's agreement. The role of National Committees and WTO TF Committee is creation of the valuable platform for sharing their experiences in the implementation of the TFA. The main obstacle, especially for DCs is obtaining financial support for capacity building. This is trade institutional capacity building and bridging the infrastructure gap by technology capacity building.

The establishment of the National TF Committees was important step for all WTO members to share their experiences about the implementation of the TFA commitments, on the same platform. Beside sharing their experiences and information about each country's implementation progress, Developing countries have taken unique position pointing out that obtaining more financial support is necessary for enabling them to bridge the technological gap, necessary for the implementation of all TFA measures.

The importance of the TFA is based on the flexibility concerning Developing countries and especially LDCs, enabling them to make their own schedules for undertaking obligations for the implementation of the TFA provisions. During the 2019, about 65% of TFA commitments were integrated in the schedule created until 2019 (Atkinson, C., and B. Stevens, 2020). Beside this flexibility, giving the transitional period, there is one positive fact more, concerning the status of the Category C, which gives the possibility of providing technical assistance.

3. The Relation between Trade Facilitation and Cross-Border E-commerce

The group of the WTO member countries has started discussions about cross-border e-commerce and its impact on the TF implementation, under the *Joint Statement Initiative on Electronic Commerce* (Atkinson, C., and B. Stevens, 2020). Among these countries are some of Developing countries, as: Cameroon, Kenya, Malaysia, Nigeria, Brunei Darussalam. They concluded their discussion with the conclusion about the role of new technological solutions in future steps of the TF. The main steps of the TF in future, would be done in the field of:

- Paperless trading/electronic trade administration documents,
- Customs procedures,
- Single windows data exchange,
- Electronic availability of trade-related information,
- The use of technology for the release and clearance of goods; (Atkinson, C., and B. Stevens, 2020)

These main components would lead to a digital transformation and towards easier definition of the necessary investments for trade capacity building, especially in DCs.

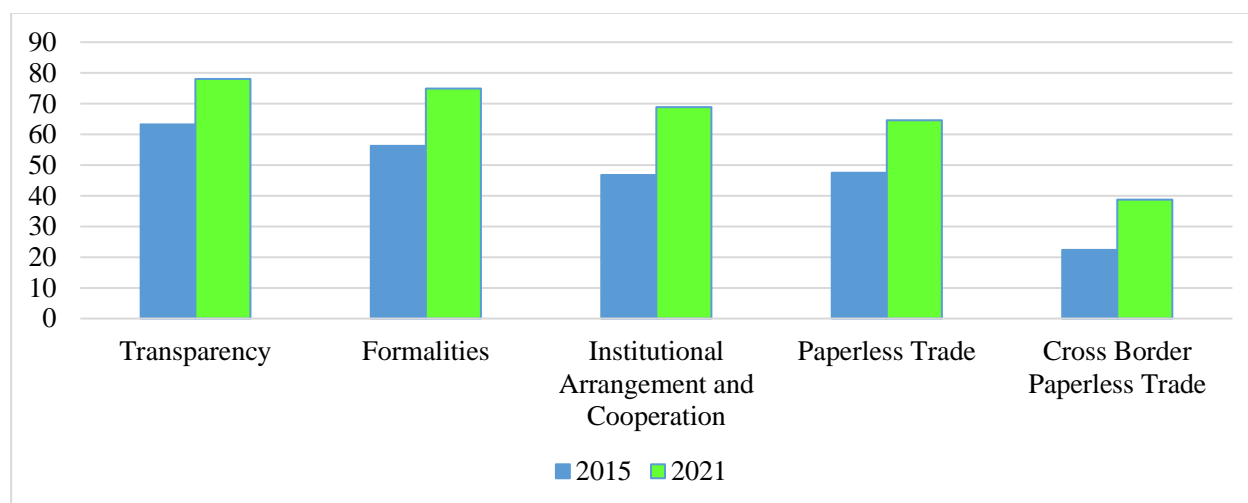
4. Implementation of the Trade Facilitation Agreement Measures

The whole process of implementation, lasting five years, despite improvements, showed the existence of deep gaps between regulatory frameworks which were based on the Agreement’s articles and their operational practices on the other hand. However, during last few years some improvements in the implementation of the TFA provisions were done. Evaluating these measures is a great challenge.

One UN Survey has been monitoring 144 economies during 2019-2021 period and provided results, quantified and measured by the level of the implementation of 58 TF measures in these countries. Overall implementation rate differed according to the level of development. As expected, the highest level was achieved by Developed countries with almost 82% of the implementation. On the other hand are Pacific Islands with the lowest level of implementation and the total score of about 40%. The improvements of the TFA implementation are evaluated from three aspects: Transparency, Formalities and Institutional Arrangements and Cooperation. The UN Survey has added two more components which are not required by the TFA, although their implementation contributed greatly to its success: Paperless trade and Cross-border paperless trade. (United Nations, 2021)

This overall analysis gives the more transparent view and an objective evaluation of the TF measures implementation’s success. Further analyses, based on same measures, but implemented during a longer period, gave one point of view more on the implementation and progress made during the period 2015-2021. Global average data, comparing results for 11 groups of economies, in 2015 and 2021, showed great improvements from these five groups of measures.

Figure 1: Progress of implementation of trade facilitation measures, 2015-2021



Source: UN Global Survey on Digital and Sustainable Trade Facilitation 2021, *Database*, Internet, <https://www.untfsurvey.org/world>, (20.11.2022.).

The first measure of Transparency has a long history. This is one of the main GATT principles, formed as the basement of the multilateral trading system. Hence the importance of the measures from this group is highlighted. This is a group of measures that has been the most intensively implemented comparing to other four groups of measures.

Beside 11 groups of economies, there are differences concerning results in achieving improvements for all groups of measures. The first of all are differences between Developed countries and all other countries, from the aspect of Transparency. These countries achieved 95.56% of implementation results in 2021, which is an improvement comparing with 2015, when this result was 87.37%. For Developed countries, this category of measures was the most

prominent for the TF measures`implementation in 2021, as well as in 2015. It was the highest result for Transparency comparing to other group of countries and comparing to global average of 78.01%. (Table 1)

The other group of measures is Formalities, showing improvements for Developed countries from 79.82% in 2015 to 88.61% in 2021. These measures` application also contributed to the increase of the total score of 81.86% in 2021, for the Developed countries. The same dynamics was shown in 2015.

Institutional Arrangement and Cooperation are the third group of measures. Developed countries have the highest score from this aspect, too, among all groups of countries. It is the level of implementation of 84.44% in 2021. This is the field with significant improvement, comparing with the level of only 67.25% in 2015.

Beside these typical Trade Facilitation measures, improvement of instruments for measuring progress of the TFA implementation provoked inclusion of two additional groups of measures: Paperless trade and Cross Border Paperless Trade. Not exactly required by name in the TFA, but, added to TFA provisions, these two measures are a part of the enhanced framework of the TFA implementation. Together with previous three groups of measures, they are called “TFA+” (TFA Plus). (United Nations, 2021)

Trade and customs are faced with the implementation of a new agenda, where possibilities of digital technology are emphasized. These two groups of measures are classified as two subgroups of the unique group called Digital Trade Facilitation. It means that information and communication technologies (ICT) are used to automate and simplify trade procedures. (United Nations, 2021)

Their implementation would contribute to the decrease of trade costs and time necessary for the realization of trading procedures.

Paperless trade is the subgroup which contributes to the decrease of the paper based trading system, by transferring it to electronic based. This approach enabled a higher efficiency of trade procedures, especially customs border procedures. This group of heterogeneous measures consists of nine measures, identified as a part of the TFA`s Articles 7 and 10 (*Release and Clearance of Goods and Formalities Connected with Importation, Exportation and Transit*).

Among them are: Automated Customs System, Electronic Single Window, E-payment of Customs Duties and Fees and Electronic submissions of Customs declaration and Submission and issuance of some transport and customs documents. These measures are not implemented equally. Some measures, like Automated Customs System and Internet connection available to customs and other trade control agencies, they are implemented with 97 and 100% in Developed countries (United Nations, 2021).

On the contrary, as in many other examples, Pacific Islands are behind all countries, by the level of their implementation. Cross Border Paperless Trade brings together six measures oriented towards exchanging and legal recognition of the data and trade documents, connected with the realization of trading procedures. Average implementation of these measures is positioned at the very low level. The best results are achieved by Developed countries, concerning Recognized certification authority and Laws and regulations for electronic transactions. (United Nations, 2021)

Table 1: Trade facilitation and paperless trade, 2015 and 2021 (in %)

| Group of Economies | Year | Transparency | Formalities | Institutional Arrangement & Cooperation | Paperless Trade | Cross Border Paperless Trade | Total Score |
|--|------|--------------|--------------|---|-----------------|------------------------------|--------------|
| Developed economies | 2015 | 87.37 | 79.82 | 67.25 | 66.86 | 45.32 | 69.38 |
| | 2021 | 95.56 | 88.61 | 84.44 | 83.58 | 57.59 | 81.86 |
| Latin America and Carribean | 2015 | 74.22 | 67.78 | 34.81 | 68.64 | 31.85 | 58.92 |
| | 2021 | 84.76 | 84.92 | 62.96 | 75.13 | 44.71 | 72.15 |
| Middle East and North Africa | 2015 | 56.67 | 50.42 | 50.00 | 39.63 | 11.11 | 40.65 |
| | 2021 | 71.11 | 63.89 | 64.81 | 57.41 | 33.33 | 57.35 |
| Pacific Islands | 2015 | 33.94 | 34.09 | 34.34 | 19.19 | 3.03 | 23.75 |
| | 2021 | 61.21 | 58.71 | 50.51 | 31.31 | 8.08 | 40.57 |
| South and East Europe, Caucasus and Central Asia | 2015 | 66.06 | 46.21 | 40.40 | 37.37 | 17.17 | 40.66 |
| | 2021 | 87.84 | 76.47 | 73.86 | 67.10 | 42.48 | 68.75 |
| South Asia | 2015 | 52.50 | 38.54 | 47.22 | 33.80 | 11.81 | 35.08 |
| | 2021 | 77.50 | 69.79 | 68.06 | 56.02 | 26.39 | 58.47 |
| South-East and East Asia | 2015 | 77.14 | 66.07 | 54.76 | 58.99 | 26.98 | 57.14 |
| | 2021 | 91.43 | 83.33 | 74.60 | 74.60 | 52.38 | 75.27 |
| Sub-Saharan Africa | 2015 | 43.16 | 45.61 | 38.60 | 35.28 | 12.87 | 35.20 |
| | 2021 | 53.75 | 61.46 | 59.38 | 49.19 | 23.44 | 49.09 |
| LDCs | 2015 | 42.82 | 35.58 | 37.18 | 25.93 | 10.04 | 29.16 |
| | 2021 | 60.22 | 59.58 | 60.37 | 43.70 | 24.44 | 48.35 |
| LLDCs | 2015 | 51.58 | 39.04 | 42.69 | 31.38 | 10.23 | 33.62 |
| | 2021 | 73.61 | 68.23 | 68.52 | 50.77 | 29.86 | 56.63 |
| SIDS | 2015 | 47.45 | 41.67 | 35.95 | 33.55 | 9.15 | 33.40 |
| | 2021 | 68.21 | 66.35 | 57.26 | 46.58 | 16.88 | 50.45 |
| Global Average | 2015 | 63.18 | 56.27 | 46.73 | 47.53 | 22.33 | 47.35 |
| | 2021 | 78.01 | 74.94 | 68.83 | 64.56 | 38.70 | 64.81 |

Source: UN Global Survey on Digital and Sustainable Trade Facilitation 2021, *Database*, Internet, <https://www.untfsurvey.org/world>, (20.11.2022.).

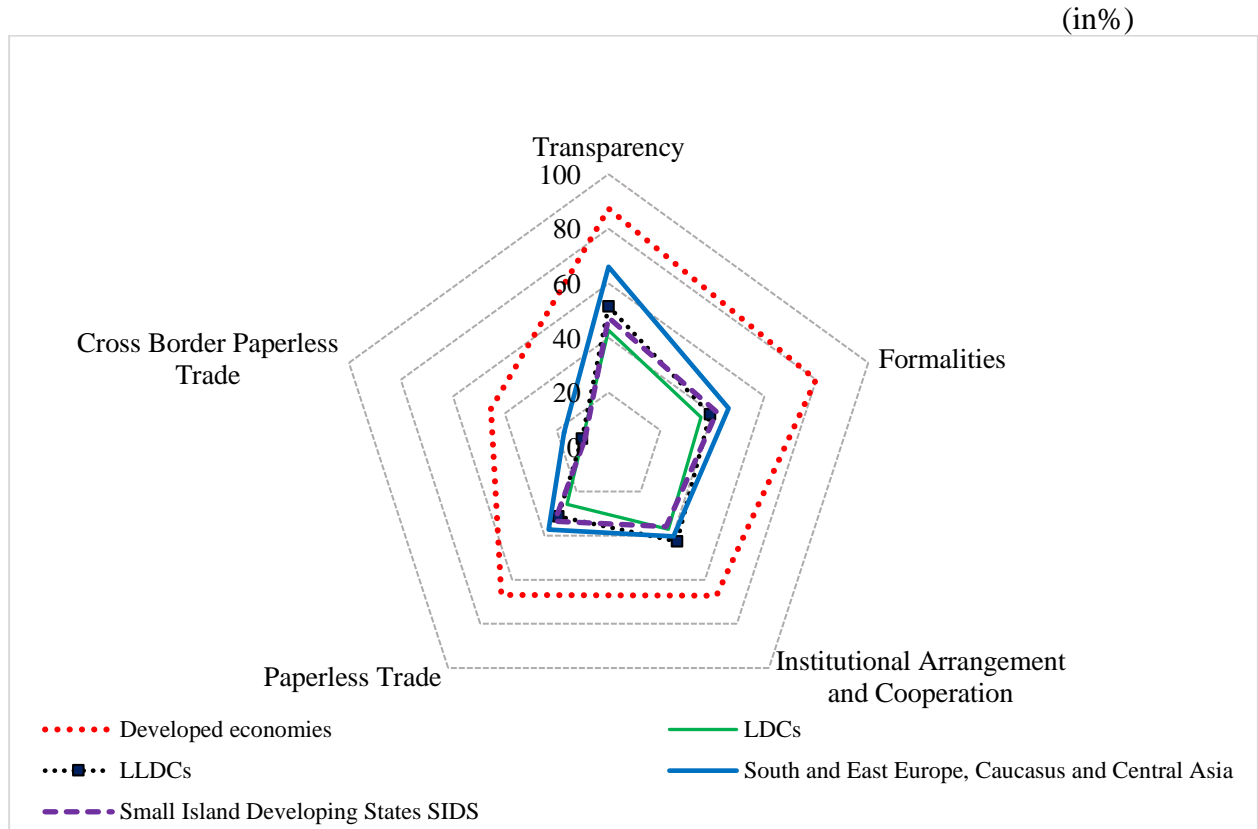
Improvements of the TF measures implementation are done during the 2015-2021 period, all around the world. Implementation still varies greatly around the world, between different groups of economies. However, higher levels of the implementation, beside Developed countries, are achieved only in the regions — Latin America and Carribean, with the total score of 72.15% and South-East and East Asia, with the total score of 75.27% in 2021.

The most vulnerable economies made some improvements, but their results were not even close. For example, the group of countries called Pacific Islands achieved total score of only 40.57% in 2021, which was a great step forward comparing to the result of 23.75% in 2015, although still low leveled.

A group of countries from the Sub-Saharan Africa, LDCs, LLDCs and Small Island Developing states (SIDS), found themselves in a similar position. Their total scores ranged from 48.35 to 56.63, in 2021. Their score for Transparency showed their best performance in 2015, as well as in 2021, comparing to the level of implementation of other TF measures.

The next two figures show the obvious progress, increased level of implementation of these measures for selected countries, during the 2015-2021 period. Categories SIDS, LLDCs and LDCs are selected as examples of a broad category of Developing countries. Among DCs are also many countries from the South and East Europe, Caucasus and Central Asia.

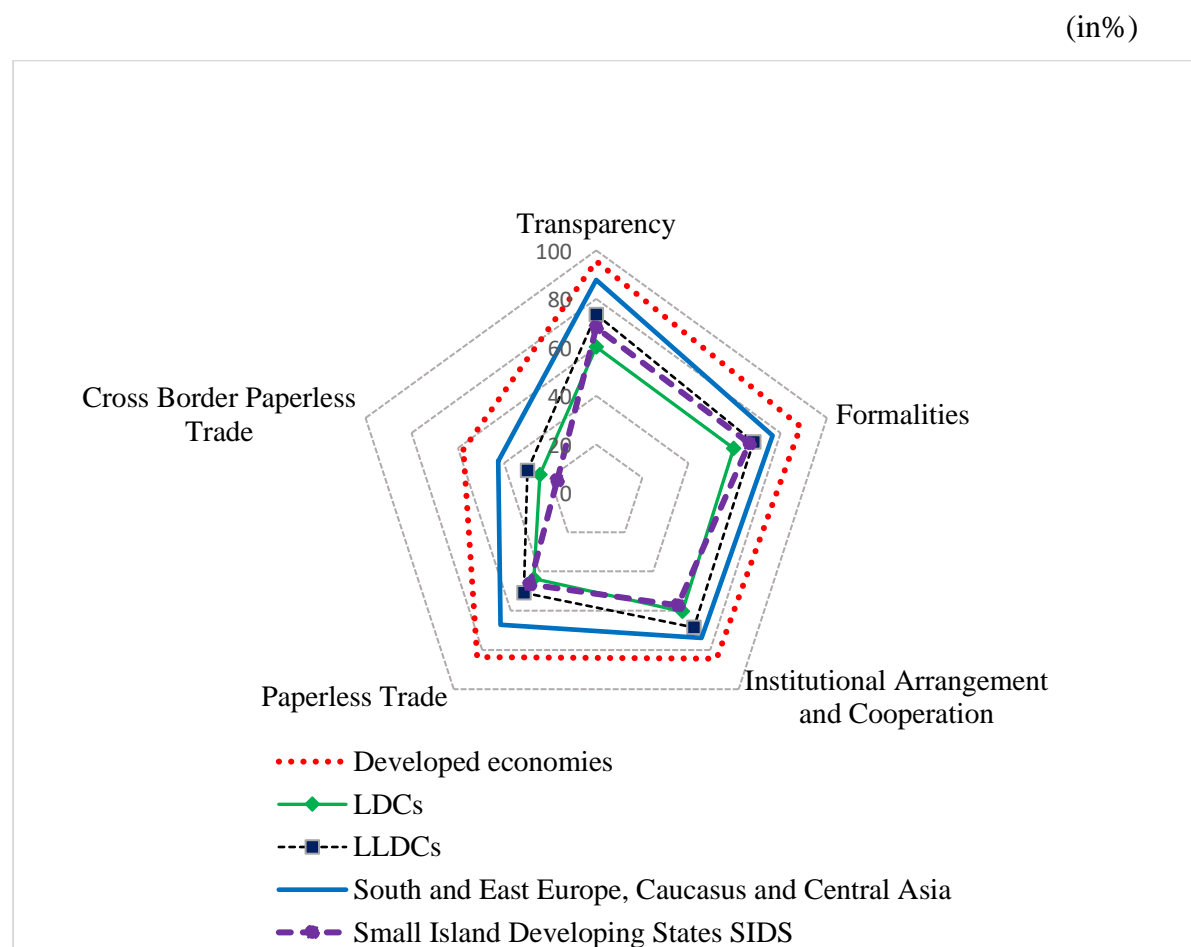
Figure 2: Trade facilitation measures, 2015



Source: UN Global Survey on Digital and Sustainable Trade Facilitation 2021, *Database*, Internet, <https://www.untfsurvey.org/world>, (20.11.2022.)

Data for 2015 showed that the level of TF measures implementation was very low for all selected countries, except for Developed countries. At the lowest level was the implementation of the Cross Border Paperless Trade, followed by the Paperless trade. According to the level of implementation, there are no major differences between these four categories of countries.

Figure 3: Trade facilitation measures, 2021



Source: UN Global Survey on Digital and Sustainable Trade Facilitation 2021, *Database*, Internet, <https://www.untfsurvey.org/world>, (20.11.2022.)

Data for 2021 showed significant increase of the implementation and some differences between them. They indicate an intense convergence of the South and East Europe, Caucasus and Central Asia region, with the Developed countries, as well as differences in the pointing some individually important group of measures, depending on the different needs of SIDS, LLDCs and LDCs. Faced with a particularly important and unfortunately threatened trade, because they are landlocked, having no ports, LLDCs have intensified the implementation of some of TF measures, compared to the other two groups of LDCs and SIDS. Lack of access to the sea is not only a handicap for LLDCs, but was also a motive for expediting the implementation of the TF.

5. The Interaction between Trade Facilitation and COVID Crisis

The governments of all countries in a world faced numerous challenges, at the very beginning of the COVID crisis. Among other possibilities, they immediately used some of the trade measures, in order to ensure adequate supplies of Essentials, their quality, safety and to avoid potential carriers of the disease into their countries.

During the Pandemic, trade was seen as the solution for problems, by some authors, or at least, as the part of the solution (Stellinger, A., et al., 2020). The role of the TFA was recognized immediately after the outbreak of the crisis, in reducing the impact of supply chains` disruption, along with the slowdown of the transport and logistics system in the whole world. During that phase, the use of the information and communications technology (ICT) was extremely

increased. It was provoked by the necessity of the face-to-face contact avoiding. The cross-border trade was endangered in the situation when physical contacts and interaction were limited, ports closed and border crossings worked with limiting capacity. In that situation, the use of the digital instruments and the automated processes gave the contribution for enabling traders to submit documents and payments electronically. It was one step more toward paperless trade. It helped in expediting the movement of the Essentials, a category of existentially important goods, as food and medical supplies.

There was a great risk of a slowing down the fresh implementation of TF measures. But, nonetheless, the implementation of the TF measures continued. The need to provide foodstuffs and medical supplies, called Essentials, has provoked even faster implementation of certain TF measures, especially the digitalization of trade.

Even during the Crisis time, some progress was made concerning the TFA requests. Comparing the results achieved in 2019 with 2021, it was observed that the main results have been achieved in:

- improving the availability of trade-related information,
- simplifying documentary requirements,
- automating and streamlining procedures; (Sorescu, S. and C. Bollig, 2022)

The TF regulatory framework provided conditions for more efficient border controls. The TFA was recognized as the potential source of solutions with its measures like Pre-arrival procedures for expediting the trade flows and movement of goods (WTO, 2021).

Unexpectedly, having in mind that crises negatively affect all aspects of development process, during the COVID crisis, 2019-2021, the implementation rate of the TF measures reached approximately more than 5 percentage points with the upward stable trend (United Nations, 2021).

At the very beginning of the COVID crisis, the trading community, institutions and governments, have noticed that the further keeping trade had the vital interest. Concerning that fact, they have been looking for the measures which could help and make faster trade flows and to use TF measures to keep goods moving the borders. Digitalization in trading across borders, as the part of the TF process, was supported by the crisis, not stopped, as it was expected at the start.

Measures on borders, implemented as the result of the increased need to facilitate trade flows, included a broad group of implemented measures: establishing specific COVID-19 information portals, recognition of the digital documents for trading instead of paper copies and the increase of pre-arrival processing (Sorescu, S. and C. Bollig, 2022).

In many countries, especially in European Union, “green corridors” came into the practice, “green lanes”, or ”corridors” to speed up border clearance procedures, although only for some selected products (OECD, 2020).

These measures, once opening the possibility of paperless trade, were expected to stay as new measures of the TF, even after the end of the pandemic. That is the main contribution of the COVID crisis for the TF in a long term. During this Post-COVID period, the main aim would be to continue the process of facilitating trade flows.

6. Conclusion

International trade is the basement for economic growth, development and poverty reduction. All these targets are basic targets for a broad category of Developing countries. Enabling normal

flows of goods and services, participating in global value chains, discouraging foreign direct investments, leads them to fully benefit their role and position in international trade.

However, all these elements would be further away for Developing countries without their taking an important role in the implementation of the Trade Facilitation measures. The success of that process in Developing countries is limited because of the financial support lack and because the low level of their trade institutional capacity.

Notification of needs for trade capacity building and the reduction of trade costs are important steps towards enabling Developing countries to use trade more as an engine for growth. Participating in global value chains, possible only with making trade more efficacy, certainly is their chance to take benefits of taking a part in the global economy.

One more obstacle for the successful TF measures implementation was the outbreak of the COVID crisis. The pandemic was the source of the great learning. First of all, it has shown the fragility of global supply chains. Apart from that, the crisis was the mirror for many weaknesses of the trading system. The panic provoked developing and implementation of many short-term crisis measures, instead of a long term. It is important because, many crisis which happened in a short period, showed vulnerable points, capable to happen again.

With its devastating role in the world economy, the COVID crisis has shown that there was a need to streamline trade procedures, to make the access, at least for the food and medical supplies. Although there was a justified fear that the COVID crisis would threaten the further implementation of TF measures, it actually accelerated this process. The crisis intensified the implementation of the Trade Facilitation Agreement, already adopted and ratified, as the legal basement for simplifying and digitalizing the trade.

As all are focused on possibilities for recovering after the COVID crisis, there is still a lot of measures to be implemented and a lot of job to be done in the field of trade capacity building, to make the trade easier for all stakeholders.

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