

Towards Seamless Trade Facilitation in ASEAN:

Results from the ASEAN Seamless Trade Facilitation Indicators (ASTFI) Baseline Study

Economic Research Institute for ASEAN and East Asia



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Foreword

The growing importance of trade facilitation in international trade is manifested by the various initiatives and agreements undertaken all over the world. One of these significant milestones was the entry into force of the World Trade Organization – Trade Facilitation Agreement (WTO–TFA) in February 2017, which contains commitments from WTO Members in expediting the movement, release and clearance of goods, transit, including measures for effective cooperation between customs administration and relevant authorities on trade facilitation and customs compliance issues, including technical assistance provisions. Likewise, trade facilitation has been the focus of ASEAN towards the creation of Southeast and East Asia regional economic integration. It has been a continuous agenda in all ASEAN Economic Community (AEC) Blueprints including the one up to 2025 with an objective *towards convergence in trade facilitation regimes amongst ASEAN Member States (AMS) and to move closer to the global best practice.*

The ASEAN Economic Community 2025 Trade Facilitation Strategic Action Plan (SAP) outlines measurable targets to increase trade flows by facilitating the efficient movement of goods across borders. Translating the agenda into practical and measurable manner, the AMS agreed to achieve a short-term target of a 10 percent reduction in trade transactions cost by 2020 set by the ASEAN Economic Ministers in 2017. In achieving the target, the Philippines as the ASEAN Chair in 2017, proposed to measure trade facilitation in ASEAN using an ASEAN-specific set of indicators, which is designed to measure the extent to which trade is being facilitated in the region. The ASTFI aims to assist AMS in their efforts to design and implement trade facilitation policies, regulations, and procedures.

As a result, the ASEAN Trade Facilitation Joint Consultative Committee (ATF–JCC) invited the Economic Research Institute for ASEAN and East Asia (ERIA) to develop a set of the ASEAN-specific indicators, known as the ‘ASEAN Seamless Trade Facilitation Indicators (ASTFI)’, to conduct a baseline study using ASTFI, and to analyze indicators and the extent of trade transaction cost (TTC) in order to gain insights into necessary reforms to achieve the ten percent reduction targeted by the ministers.

This publication presents the first round of the ASTFI survey results that reflects the state of trade facilitation in all AMS in 2018 and provides the basis for the evaluation of the reduction of trade transaction cost by 2020. The second round ASTFI and the calculation of the TTC is currently being implemented and will be reported to the ASEAN and the public in the next few years.

This publication, *Towards Seamless Trade Facilitation in ASEAN: Results of the ASEAN Seamless Trade Facilitation Indicators (ASTFI) Baseline Study*, is the result of partnership and collaboration between ERIA, ATF–JCC, the ASEAN Secretariat and the trade-related government agencies in each of AMS. This project benefitted from the able leadership of the late Dr. Ponciano Intal Jr., Distinguished Senior Economist and Senior Policy Fellow of ERIA, who initiated this project. While it is yet to be completed as in providing a full picture of efforts of the AMS in achieving the objective of AEC Blueprint, we are confident that the indicators, along with narrative on key achievements and the remaining gaps, are useful for conversation amongst policymakers and other stakeholders to continuously

move towards the best global practice. The publication is also useful for sharing knowledge between the member states considering some ASEAN-uniqueness of trade, facilitation and the reforms of it, can only be learned from within.

ERIA looks forward to extending this fruitful partnership with ASEAN in a regional-wide collective effort to strengthen Southeast and East Asia economic integration.

A handwritten signature in black ink, appearing to read "H. Nishimura".

Professor Hidetoshi Nishimura

President, Economic Research Institute for ASEAN and East Asia

Acknowledgement

The report was prepared by ERIA's ASEAN Seamless Trade Facilitation Indicators and Trade Transactions Cost (ASTFI-TTC) research team, external experts, and consultants. The ERIA team would like to thank the ASEAN Member States, the ASEAN Trade Facilitation Joint Consultative Committee (ATF-JCC), and the ASEAN Secretariat for their cooperation and support for the study. We would also like to thank ERIA's management for their financial and logistical support of the study.

This report has been prepared after consultation with ASEAN Member States through the ATF-JCC and the ASEAN Secretariat. But the views expressed are those of the authors and the study team and do not represent the official views of any ASEAN bodies, ASEAN Member States, or ERIA.

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Executive Summary

ASEAN has made a strong commitment to improving trade facilitation, which is reflected in all ASEAN Economic Community (AEC) Blueprints including the current one (2025). The measures included in the AEC Blueprint 2025 aim to achieve a convergence in trade facilitation regimes amongst the member states and move the region as a whole closer to global best practices. To make this objective concrete, the ASEAN Economic Ministers (AEM) in 2017 set a target to reduce trade transaction cost (TTC) by 10% by 2020. This should encourage the region to focus more on the implementation of trade facilitation measures, addressing operational and cooperation issues moving forward.

To assist the effort towards achieving this target, especially to allow a discussion amongst the member states on the areas of reform, the ASEAN Trade Facilitation Joint Consultative Committee (ATF–JCC) requested ERIA to come up with a methodology to measure the extent of progress on trade facilitation and to identify the gaps in its implementation. In response to the request, ERIA developed the ASEAN Seamless Trade Facilitation Indicators (ASTFI). The ASTFI consists of measures on transparency and engagement with the private sector; the core trade facilitation measures of clearance and release formalities; export and import formalities and coordination; and measures for transit, transport, and e-commerce facilitation. Partnering with ATF–JCC and the ASEAN Secretariat, ERIA conducted a baseline survey for the ASTFI during the first half of 2018.

This public version of the report presents the results of the survey and the analysis of the study, highlighting trade facilitation efforts and best practices in ASEAN, as well as in each member state as of 2018. A number of key results were revealed by the survey. ASEAN Member States (AMS) had performed well in terms of the transparency of regulation and private sector engagement. The information of regulation is available on each country's trade regulating agency website, although a need for improvement was identified in some countries where information in the English language was not yet available. Most AMS already had national trade facilitation committees or equivalents led by government officials, with the private sector consulted either regularly or as the need arises. Many regulatory agencies had implemented close engagement with the private sector, for example by requesting comments on proposed regulations from the public and concerned stakeholders.

Performance of the AMS in terms of release and clearance formalities had been modest, primarily due to issues with dwell-time publication, Time Release Study (TRS) publication, and self-certification as a regional initiative. The slow progress on ASEAN-related initiatives in this area, such as the ASEAN Single Window (ASW), self-certification, transit variables, and mutual recognition agreements on authorised economic operators (AEOs) also contributed to the underperformance of some of the agencies at the time (some of these initiatives have since been implemented). Moreover, many of the AMS still did not have an integrated automated risk management system with a national risk management framework and the implementation of national single windows was in the early stages.

On transit facilitation and transport facilitation, the AMS were somewhere in between weak to moderate performance. Performance was weak for the simplified procedures for Authorised Transit Traders (ATTs), and to a lesser extent the transit guarantee mechanism and computerised system for transit. The failure to secure full implementation of some major transport and transit agreements (e.g. ASEAN Framework Agreement on Facilitation of Goods in Transit (AFAFGIT), ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST), and ASEAN Framework Agreement on Multimodal Transport (AFAMT)) reflected the low policy prioritisation of these ASEAN initiatives by most AMS, which seems to be due to low commercial traffic.

AMS performed between weak to moderate on e-commerce facilitation, although some other AMS were already leading in the development of the domestic regulatory regime for e-commerce. This is probably not surprising as many AMS were still adjusting to the new phenomenon, with ASEAN still developing a regional framework on e-commerce spearheaded by the ASEAN Coordinating Committee on Electronic Commerce.

The baseline ASTFI survey revealed that the gap between the newer AMS and older AMS narrowed substantially over the period 2008–2018 (as shown by external indicators), providing a robust foundation for deeper integration in the region. Nevertheless, it also pinpointed areas of improvement in most AMS to progress in trade facilitation. The following were the major and ‘common’, or ‘shared’, recommendations towards seamless trade facilitation in ASEAN:

- All the NSW and ASW initiatives should be fully operational and be truly single windows. AMS should also adopt more extensive use of digital copies towards a truly paperless process.
- The National Trade Repositories (NTRs) and ASEAN Trade Repository (ATR) are the most important trade transparency initiatives of ASEAN. AMS need to ensure that the NTRs and the ATR provide the most up-to-date information in a widely accessible format that is easily understood even by small firms and traders.
- Ratification and implementation of the ASEAN transport facilitation agreements and protocols would be a good signal that the AMS are serious about regional integration, even if the individual benefits are not significant. Such agreements should be up and running by 2020.
- Regional efforts on e-commerce were given a significant boost in 2018 due to the importance ASEAN has given to them. The AEM adopted the ASEAN Digital Integration Framework which agreed to implement key action points in some areas, including digital payments, data protection, digital trade and innovation, fostering entrepreneurship, and broadening the talent base in ASEAN. Another issue essential to this is the expedited customs (and other border agencies) clearance for e-commerce transactions within ASEAN.
- The implementation of regional trade facilitation initiatives, such as self-certification, should be accelerated. More bilateral MRAs on issues such as AEOs or ATTs between AMS would strengthen the regional trade facilitation regime in ASEAN.

- AMS are included in the proposed Regional Comprehensive Economic Partnership (RCEP) Agreement. There is a need to look more closely at how trade facilitation in the wider RCEP region could be enhanced, and in the process facilitate the deepening of production networks in East Asia.
- The country reports give examples of loose ends that could be tied up to improve the ASTFI scores and, thus, the quality of services provided by the border agencies. Updating Non-Tariff Measures (NTMs) and publishing them on the NTRs would be an important step forward, but this is a continuing challenge for most AMS. Another meaning of tying up loose ends would be ensuring a smooth ‘end-to-end’ clearance process. Finally, loose ends could also be identified by implementing the TRS and making the results public.

A number of cases of good practice in leading AMS offered useful examples worth emulating by other AMS, which was heavily discussed during regular briefings to the ATF–JCC by ERIA. Such good practices were considered to be the basis of joint learning amongst the AMS. Notwithstanding the long road ahead, AMS have already been heading in the right direction. A subsequent ASTFI overview in 2020 and 2021 will evaluate the progress and the move towards a seamless trade facilitation environment in ASEAN from the baseline in 2018.

Chapter 1

Towards Seamless Trade Facilitation in ASEAN Results of the ASTFI Baseline Study Summary Report¹

Economic Research Institute for ASEAN and East Asia (ERIA)

1. Introduction

As one of the most trade-reliant regions in the world, it is not surprising that trade facilitation is a key focus of the Association of Southeast Asian Nations (ASEAN), as embodied in the ASEAN Economic Community (AEC) Blueprint 2015 (ASEAN, 2008a) and the AEC Blueprint 2025 (ASEAN, 2015). Trade facilitation is a major pathway towards the attainment of the AEC's main goal: the creation of a '...deeply integrated and highly cohesive ASEAN economy that would support sustained high economic growth and resilience even in the face of global economic shocks and volatilities' (ASEAN, 2015: 2).

Implementation of trade facilitation measures aims '...towards convergence in trade facilitation regimes amongst ASEAN Member States and to move closer to the global best practice...' (ASEAN, 2015: 3). In short, the key strategies towards seamless trade facilitation in ASEAN are to:

- Significantly reduce the divergence and gap in the trade facilitation regimes amongst ASEAN Member States (AMS); and
- Significantly reduce the gap or distance to the global best practice, or better still, be at the global best practice, for each AMS.

Narrowing the divergence in trade facilitation regimes implies that the AMS lagging in trade facilitation need to work harder, improve faster, and perform better than the front-running AMS in moving towards best practice trade facilitation.

At present, ASEAN has two short- to medium-term targets and one short-term target with respect to trade facilitation. The AEC 2025 Trade Facilitation Strategic Action Plan (ATF-SAP) (ASEAN, n.d.) lists one impact target and one outcome target, both short- to medium-term, arising from the key strategies towards seamless trade facilitation in ASEAN. The impact target is the doubling of intra-ASEAN trade from 2017 to 2025, while the outcome target is the improvement in performance (i.e. rise) of AMS in global rankings and surveys. A corollary target is the narrowing of the gap amongst AMS in global rankings and surveys as a reflection of the reduction in the divergence in trade facilitation regimes in ASEAN. The short-term target is a 10% reduction in trade transaction costs by 2020, set by the ASEAN Economic Ministers in 2017.

¹ This report is based on the 2018 data of the ASTFI baseline study survey.

The setting of specific quantitative targets for trade facilitation in ASEAN is noteworthy because it follows the successful approach used towards the virtual elimination of intra-ASEAN tariffs and the substantial (if still incomplete) liberalisation of services under the ASEAN Framework Agreement on Services. Such specific targets force the region to have a greater focus on the implementation of trade facilitation measures and on operational and cooperation issues moving forward. The ASEAN Seamless Trade Facilitation Indicators (ASTFI) support this shift in focus as the ASTFI is meant to be an effective monitoring tool for AMS and ASEAN trade facilitation regimes.

2. The ASTFI and Baseline Study Results

The results of a survey by the Economic Institute for ASEAN and East Asia (ERIA) in 2011 of firms in each of the 10 AMS point to two trade facilitation measures as the top two concerns of the ASEAN private sector for implementation by 2015: (i) improve import and customs administration efficiency and integrity; and (ii) streamline and expedite import and customs procedures, documents, etc. (Intal, Narjoko, and Simorangkir, 2011: 45–46).

At its core, trade facilitation is the simplification and standardisation of the procedures and associated information flows required to move goods internationally, with a focus on efficient and predictable processes, thereby reducing the cost, time, and uncertainty of international trade. Associated with this is the transparency and predictability of trade rules, the effective implementation of trade-related rules and regulations, effective and efficient risk management that reduces risk and balances trade control and trade facilitation, and the efficient movement of goods and associated services and information across borders (ADB and UNESCAP, 2009: 5).

There are two international indicators of the trade facilitation regime: (i) the Organisation for Economic Co-operation and Development Trade Facilitation Indicators (OECD TFI); and (ii) the United Nations Trade Facilitation and Paperless Trade Implementation (UN TFPT) surveys. The OECD TFI measure the implementation of the World Trade Organization Trade Facilitation Agreement (WTO TFA), while the UN survey focuses on the paperless trade and trade facilitation measures for small and medium-sized enterprises, agriculture, and women, in addition to general trade facilitation and transit facilitation. Drawing on Sudjana (2018), the two indicators offer contradictory findings for AMS: while the UN TFPT survey finds an improvement in results, the OECD TFI find a deterioration. The conflicting results likely stem from the differences in scope and focus as well as the methodology used.

Neither the OECD TFI nor the UN TFPT survey are sufficient or suitably tailored to address the concerns and interests of ASEAN in measuring and monitoring the trade facilitation regime in the region. Partly in response to this, the ASEAN Trade Facilitation Joint Consultative Committee (ATF–JCC) decided to develop, together with ERIA, ASEAN-shaped trade facilitation indicators called the ASTFI.

2.1. The ASTFI

The ASEAN Economic Ministers (AEM), during the 23rd AEM Retreat in March 2017, set a target to reduce trade transaction costs by 10% by 2020. To achieve this target, the Philippines, as the 2017 ASEAN Chair, proposed measuring trade facilitation in ASEAN using an ASEAN-specific set of indicators. These indicators, designed to measure the extent to which trade is being facilitated in the region, are primarily built to assist AMS in their efforts to design and implement policy, regulations, and procedures that render the import and export of goods more seamless. Towards this end, ERIA, together with the ATF–JCC, developed the ASTFI. The ASTFI were adopted by the 49th AEM Meeting/31st ASEAN Free Trade Area Council in September 2017.

The indicators are constructed to take into consideration the customs chapter of the ASEAN Trade in Goods Agreement (ATIGA), the ASEAN Trade Facilitation Framework, Protocol 7 of the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT), the Strategic Plan of Customs Development, relevant sections of the AEC 2025 Consolidated Strategic Action Plan, the ATF–SAP, and aspects of the WTO TFA that are not covered by the ATIGA.

Thus, the ASTFI are very much geared towards ASEAN, based in part on ASEAN agreements and plans as well as global best practices. Nonetheless, many of the indicators echo those of the globally oriented indicators carried by organisations such as the OECD, albeit with a different approach to scoring. The analysis of the ASTFI results will be supplemented with the results of other globally used indicators and other sources to obtain a more robust analysis of the trade facilitation regimes in ASEAN.

The ASTFI consist of measures on transparency and engagement with the private sector; the core trade facilitation measures of clearance and release formalities; export and import formalities and coordination; and measures for transit, transport, and e-commerce facilitation. Appendix II provides the list of variables in the ASTFI.

2.2. Baseline Study Results

ERIA conducted a baseline survey for the ASTFI, with the strong support of the ATF–JCC, the AMS, and the ASEAN Secretariat during the first half of 2018. The following are the key results:

Transparency and private sector engagement

Timely, comprehensive, and accessible (e.g. via internet) publication and dissemination of trade rules and regulations is one of the top priorities of the private sector on trade facilitation. For foreign-based traders, lack of timely and transparent information becomes a non-tariff barrier, imposing additional costs. Lack of such information also imposes unnecessary costs on small and medium-sized enterprises, even in-country, thereby hurting their competitiveness (see ADB and UNESCAP (2009: 28–29)). The ATF–SAP includes the full operationalisation of the ASEAN Trade Repository (ATR), and implicitly the National Trade Repositories (NTRs) upon which the ATR rests and with which it needs to be interlinked.

Similarly, given that the private sector is the main partner and client in trade facilitation, private sector engagement in the formulation, monitoring, and evaluation of trade-related rules and regulations, as well as trade-related policies and strategies, is important.

On average, ASEAN governments perform well in terms of the transparency of regulation and private sector engagement. AMS performed best in these two components amongst all the components. Note that AMS have high commitment rates in the WTO TFA in these areas. The high performance of AMS on transparency in the context of trade facilitation is also evident from the high scores the region obtained from the United Nations Trade Facilitation (UNTF) report from 2015 to 2019 (United Nations, 2019). During this period, AMS managed to increase their already excellent score of 94.4% in 2015 to 97.8% in 2019.

While it seems that AMS have performed well in terms of transparency, a possible area of improvement in terms of transparency of regulation and private sector engagement is to provide all available information in English and to increase the scope of information available on each country's trade regulating agency website. As it stands, not all information is in English; and it does not fulfil the requirements of the ATIGA and/or is missing or is difficult to access, especially with respect to non-tariff measures (NTMs). Most AMS performed well in private sector engagement, indicating that AMS have been assiduous in communicating and facilitating active engagement with the private sector.

Good private sector engagement practices can be found in the region. Malaysia's Special Task Force to Facilitate Business (PEMUDAH) is a good example of government–private sector engagement and partnership. Three factors contribute to the effectiveness of PEMUDAH: (i) active engagement of the private sector at both the working and policy levels (PEMUDAH is co-chaired by the government's chief bureaucrat and a private sector leader); (ii) the method of consensus building amongst government agencies and the private sector; and (iii) the role of the Malaysian Productivity Corporation (MPC), as the Secretariat of PEMUDAH, in facilitating the consensus process.

Most AMS tend to have national trade facilitation committees or equivalents led by government officials, with the private sector consulted either regularly or as the need arises. It would be ideal if the private sector were to participate in national trade facilitation committees because they can provide significant dynamism to the reform process, preferably with a technically competent and credible (to both government and the private sector) institution similar to the MPC that can help provide options, analyses, and facilitation in the consensus process.

Another good regulatory practice that contributes significantly to the quality and effectiveness of engagement with the private sector is for ministries and regulatory agencies to request comments on proposed new regulations or changes to existing regulations from the public and concerned stakeholders. In Singapore, this is established practice in the bureaucracy, even without a law mandating it. In Malaysia, a government circular on the National Policy on the Development and Implementation of Regulations, 2013 mandates it. In Viet Nam, a law mandates it, while it is written into Thailand's Constitution. Whether set in a circular, law, or even a constitution, what matters

ultimately is that consideration is given to public comments and that this becomes an established practice in the bureaucracy, since the implementation of laws and administrative rules can be inconsistent if this practice is not institutionalised within the bureaucracy.

Release, clearance, and import–export formalities and coordination

Release, clearance, and import–export formalities and coordination are at the core of the export/import and customs clearance process, and therefore at the heart of a country's trade facilitation regime. The WTO TFA and the Revised Kyoto Convention put considerable emphasis on them. The drive towards paperless trade and single windows is very much the centrepiece of global and regional trade facilitation initiatives. Strategic objectives 1 and 2 of the ATF–SAP are strongly related to release, clearance, and import–export formalities and coordination. As such, they deserve higher weight than the rest of the ASTFI components if an aggregate ASTFI score were to be made for each AMS.

Based on the UNTF report (UNESCAP, 2017), AMS formalities have performed well since 2015, with a steady improvement in the score from 88.9% in 2015 to 91.0% in 2017. In contrast, according to the ASTFI, the performance of AMS on release and clearance formalities may seem surprisingly modest, especially for the trade facilitation front runners of Singapore, Malaysia, and Thailand, taking note of the results of the secondary indicators discussed in section IV. A primary reason for the modest performance on the ASTFI stems from the inclusion of variables in the ASTFI that are not usually included in other trade facilitation indicators (e.g. the UNTF report), notably dwell time publication, Time Release Study (TRS) publication, and self-certification as a regional initiative.

In addition, the best practice performance of release, clearance, and import–export formalities and coordination includes an intra-ASEAN dimension – i.e. mutual recognition arrangements (MRAs) with other AMS on trade facilitation measures for Trusted Traders or Authorised Economic Operators (AEOs), and pre-arrival processing at land borders. In both cases, most AMS perform poorly. ASEAN related variables (e.g. the ASEAN Single Window (ASW), self-certification, transit variables, and MRAs on AEOs) performed underwhelmingly in 2018 partly because the ASEAN initiatives are still mostly in the pilot stage (self-certification) or because there appears to be little urgency or compelling need to undertake them at this time (transit variables). The low scores on ASEAN related variables, including those on transport facilitation, are a constant refrain in the discussion of the ASTFI results.

One of the most critical elements in the release and clearance formalities is risk management or the use of risk-based rules and procedures. Indeed, as the Singapore chapter emphasises, '*risk management...* is central to Singapore Customs' balancing of *trade control and trade facilitation* without compromising either'. The words highlighted in the previous sentence are critical because they show that risk management must be rigorous, with a constant review of the controls and an assessment of emerging threats, entailing adjustments to existing controls or new controls that need to be implemented without hampering trade. They also refer to tight coordination amongst agencies,

especially with respect to data and information exchange, so that risks are properly assessed, thereby informing selectivity and tactical decisions made. For a global supply chain hub, effective yet not trade-inhibiting risk management is integral to why Singapore is a global leader in trade facilitation without hurting its reputation as a trusted and secure global hub.

Amongst the AMS, Singapore, Malaysia, and Thailand perform best in risk management. Many of the other AMS still do not have an integrated automated risk management system with a national risk management framework in which each agency has risk management criteria and decision rules and risk profiles, and all the criteria and rules are integrated or interconnected to allow seamless risk management of shipments and shippers. Given the importance of effective risk management, which allows the balancing of trade control and trade facilitation, it is worth considering having a regional cooperation initiative in ASEAN on sharing good practices on risk management for efficient and effective trade facilitation.

The export/import formalities and coordination component of the ASTFI has the widest range of scoring amongst the AMS. This is because this component focuses on the drive towards paperless formalities and the establishment and operationalisation of the National Single Window (NSW) and the ASW. With respect to NSWs, AMS range from one of the world's NSW pioneers to AMS where NSWs and their link to the ASW are still under development. The extent of implementation towards paperless trading also varies tremendously amongst AMS, from one AMS that is virtually paperless to other AMS where original copies are still required.

The NSWs and the ASW have been the flagship measure on trade facilitation in ASEAN since the mid-2000s. The Roadmap for an ASEAN Community, 2009–2015 (ASEAN, 2008b) targeted the NSWs of the 10 AMS being operational by 2012. However, NSWs are still under development in three AMS and another AMS is reconfiguring its NSW project. This reflects the complexity of developing an operational NSW, let alone a well-performing one.

Singapore's pre-eminence in its NSW is the result of decades of continuous development, upgrades, and improvement since the turn of the 1990s. At the other end of the spectrum, Viet Nam and Brunei Darussalam began developing their NSWs in 2014 and 2013, respectively. The achievement of these two countries in developing their NSWs is remarkable, given the short period of time it took to operationalise them. However, as the ASTFI country reports for Brunei Darussalam and Viet Nam highlight, the drive to complete and perfect the system is not yet finished, e.g. completing the NSW for exports for Brunei Darussalam and embedding more procedures in the system for Viet Nam.

In the meantime, ASEAN's forerunners in trade facilitation (Singapore, Thailand, and Malaysia) have been upgrading their systems to a higher level of efficiency and service, which in the case of Singapore is meant to integrate trade, logistics, and trade finance – the three areas where the country is globally competitive. Thus, Singapore is transitioning

to its Networked Trade Platform, Thailand to its Customs 4.0, and Malaysia is testing its uCustoms.²

Innovations in the new level of trade facilitation in the three countries are worth noting. These include the adoption of a client relationship manager approach in Singapore and Thailand, wherein an eligible client or member is given a dedicated customs account officer to coordinate and help address problems that the client or member may have in the customs clearance process.

Another innovation, most prominent in Singapore's Trade FIRST, is the differential categorisation of clients with varying risk profiles in terms of trade facilitation 'privileges', where the best clients are given the most leeway and support in trade facilitation. This provides an incentive structure that encourages traders and economic agents to move towards lower risk profiles. (To some extent, this is a refinement of the common practice of privileging super green lane or priority (main partner of customs (MITA)) firms in some AMS.)

Indonesian Customs has been an active player in trade facilitation reforms and NSW development, despite the twin challenges of being a large archipelagic nation with many ports (compared with the countries of continental ASEAN) and a country that has yet to embrace fully economic openness in contrast to countries like Malaysia, Singapore, Thailand, and Viet Nam. Indonesia's NSW allows for live tracking of the flow of shipments (from their arrival to the port exit to the trader's warehouse) at a number of major ports in the country, including the flow of permits. Thus, the NSW can provide information on the dwell time of shipments, which has been given policy prominence by President Joko Widodo.

Indonesia's NSW does not, however, have information on the timing and flow of permit processing, from application to approval. In this sense, it is still not a single sign-on or a real single window. Considering Indonesia's size and expansive bureaucracy (with the attendant bureaucratic politics), establishing a centralised single sign-on for permits is not easy, hence the current approach undertaken by Indonesia.

Given the importance of the NSW to trade facilitation, it is clear that greater focus and investment in the operationalisation and/or perfecting of NSWs deserves top policy priority from AMS. In addition, the ASW regional initiative relies on the NSWs as its foundation. After the successful pilot-testing of the exchange of ATIGA Form D, the live implementation of the electronic exchange of more documents and the involvement of more AMS would be the next phase of making the ASW a common reality in the region.

Transit, transport, and e-commerce facilitation

An integrated AEC presupposes efficient connectivity that includes transit and transport facilitation. These are of particular importance to the Lao People's Democratic Republic (Lao PDR), as it is the sole landlocked country in ASEAN. Nonetheless, transit and transport

² 'u' stands for 'ubiquitous' because the service is at one's fingertips anywhere, anytime, on any device.

facilitation can also be important in other land routes of continental ASEAN, e.g. Bangkok–Kuala Lumpur–Singapore and Bangkok–Vientiane–Hanoi.

ASEAN has negotiated important agreements for transit and transport facilitation, including the AFAFGIT, whose Protocol 7 is specifically for transit facilitation; the ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST); the ASEAN Framework Agreement on Multimodal Transport (AFAMT); and the ASEAN Framework Agreement on the Facilitation of Cross-Border Transport of Passengers by Road Vehicles. The ATF–SAP includes the full operationalisation of the ASEAN Customs Transit System (ACTS), while Section II C1-iv of the 2025 AEC Blueprint specifies the operationalisation of the AFAFGIT, AFAFIST, AFAMT, and ASEAN Framework Agreement on the Facilitation of Cross-Border Transport of Passengers by Road Vehicles.

The performance of AMS in transit facilitation is low to moderate, with the marked exception of Indonesia. AMS performance was relatively weak for the simplified procedures for Authorised Transit Traders (ATTs) variable, and to a lesser extent the transit guarantee mechanism and computerised system for transit, which for ASEAN is the ACTS. Nonetheless, the future is positive given that the ACTS has been pilot-tested for Malaysia, Singapore, and Thailand; and phase 2 of the ACTS project will extend it to the Greater Mekong Subregion (GMS) East–West Corridor involving Thailand as well as Cambodia, the Lao PDR, Myanmar, and Viet Nam (CLMV).

Similar to the AMS performance in transit facilitation, the performance in the transport facilitation components of the ASTFI in most of the AMS is low. This may seem surprising since three of the four variables on transport facilitation are related to ASEAN agreements that have been negotiated over nearly two decades, starting with the signing of the AFAFGIT in 1998. The failure to secure full implementation of the four major transport and transit agreements reflects the low policy prioritisation of these ASEAN initiatives by most AMS.

A possible major reason for this apparent lack of policy emphasis on the implementation of the ASEAN agreements is that they may be superfluous. The transport agreements are mainly geared at continental ASEAN (although Borneo island also has borders), which already has the GMS Cross-Border Transport Facilitation Agreement (CBTA), signed in 1999 – covering Cambodia, the Lao PDR, Myanmar, Thailand, and Viet Nam, plus China. Bilateral and trilateral road transport agreements have also been signed amongst these states as a pragmatic approach to the implementation of the GMS CBTA, which has now been implemented on at least three major GMS borders (Feng, 2014). Given the implementation of the CBTA, albeit still partial, implementing the ASEAN transport agreements does not seem to be urgent. In addition, the implementation approach of the GMS CBTA – relying on a series of bilateral and trilateral transport agreements – seems to suggest that the implementation of the transport agreements, together with the various protocols, is very challenging.

The other possible major reason is that commercial traffic appears to be limited. This also seems to be a main reason for the low scores in transit facilitation, with the marked exception of Indonesia. The results of the Japan External Trade Organization (JETRO) survey on the ASEAN Logistics Map for 2008 (JETRO, 2009) indicate that road transport is costlier but faster than sea transport in ASEAN. In addition, up until 2008, most of the land routes had limited and/or very unbalanced commercial trade, with the sole exception of the Bangkok–Kuala Lumpur–Singapore route. Even for this route, much of the volume of trade was between Thailand and Malaysia and between Malaysia and Singapore, with little through traffic between Thailand and Singapore. This means that much of the trade volume amongst the three countries is by sea. For the Lao PDR, transit issues have been addressed in bilateral agreements with Thailand and Viet Nam. Indonesia has borders with Timor-Leste and eastern Malaysia, and the border arrangements are likely primarily to facilitate local cross-border trade.

The experience of the GMS countries provides some good practices in transit and transport facilitation. For example, the GMS–CBTA Single Stop Inspection mechanism allows border control authorities from two countries to conduct joint one-stop inspections at inbound checkpoints. For example, at the Lao Bao–Dansavanh border crossing between Viet Nam and the Lao PDR, Vietnamese trucks are checked only at the Dansavanh border crossing and Lao PDR trucks are checked only at the Lao Bao border crossing. The result has been a drastic drop in the average clearance time for trucks from 90 minutes to 29 minutes. The GMS CBTA also has a ‘single window inspection’ wherein different inspections and controls of goods (e.g. customs, phytosanitary/plant protection, and veterinary) are carried out jointly and simultaneously by the respective competent authorities involved. Indeed, as agreed by the Lao PDR and Viet Nam, the initial one-stop inspection conducted by customs will be expanded to all the customs, immigration, and quarantine border agencies, resulting in an even faster clearance time (see ADB and Australian Aid (2013)).

The ACTS is very good practice when fully implemented – it could lead to seamless transit facilitation in continental ASEAN at least. Its key features are a single electronic goods declaration from departure to destination; duties and taxes at risk covered by a single guarantee that is reduced or waived for ATTs; simplified procedure privileges for ATTs; the application of common risk management techniques; a waiver of the need to transfer goods to a different truck in each country; and a digital customs system linking all customs offices in transit routes and linking all traders to customs offices of departure (see ARISE (2014)).

AMS performance in e-commerce facilitation ranges from weak to moderate, with Malaysia and Thailand taking the lead in the development of the domestic regulatory regime for e-commerce. This is probably not surprising as many AMS are still adjusting to the new phenomenon, with ASEAN still developing a regional framework on e-commerce spearheaded by the ASEAN Coordinating Committee on Electronic Commerce. In preparing AMS to face this new economic climate, the ASEAN Coordinating Committee on

Electronic Commerce consolidated the ASEAN Work Programme on Electronic Commerce, 2017–2025, which includes a review of the regional legal framework on e-commerce.

The policy issues captured by the three variables of e-commerce facilitation are all challenging: (i) a legal framework for an interoperable cross-border e-commerce trading system, (ii) a legal framework for domestic and cross-border e-commerce dispute settlement, and (iii) a revenue collection framework for cross-border e-commerce trade. The variables in the e-commerce section of the ASTFI do not include the issues of data localisation and privacy, which are currently contentious globally.

Amongst the AMS, Malaysia and Thailand are the leading countries in the e-commerce indicators. For the three indicators mentioned above, regulations are being implemented on a wider scale in Malaysia and Thailand.

Viet Nam, the Philippines, and Singapore are the second group of countries leading the AMS in facilitating e-commerce. Viet Nam and the Philippines have applied regulations that support the implementation of (i) a legal framework for an interoperable cross-border e-commerce trading system, and (ii) a legal framework for domestic and cross-border e-commerce dispute settlement. Viet Nam and the Philippines also have a revenue collection framework for cross-border e-commerce trade at a developmental stage.

Singapore has implemented (i) a legal framework for an interoperable cross-border e-commerce trading system, and (ii) a revenue collection framework for cross-border e-commerce trade, but has not implemented anything to provide a legal framework for domestic and cross-border e-commerce dispute settlement. The rest of the AMS still lag behind in facilitating e-commerce trade, as they do not have a widely applied facilitative policy for e-commerce trade.

3. Insights on/from the ASTFI Country Reports

The ASTFI results are snapshots of the efforts of the AMS over the years to improve their trade facilitation regime – some AMS over two decades or more and others more recently, with varying levels of resources available in each country.

3.1. Brunei Darussalam

The case for efficient trade facilitation in Brunei Darussalam lies in the imperative for the country to diversify beyond oil and gas. One of the most promising avenues for economic diversification in Brunei Darussalam is high-value processing trade. This involves a quick turnaround of imports for exports with Brunei Darussalam's value added – presumably primarily via air because of the extremely low liner connectivity³ of the country – and the wage and skill composition of the population.

³ Based on the ASTFI country report, the low liner connectivity performance is manifested through a low score for logistics infrastructure on the 2016 Logistics Performance Index (LPI) and a low connectivity score on the United Nations Conference on Trade and Development (UNCTAD) Liner Shipping Connectivity Index (LSCI). The LSCI assesses maritime connectivity for container shipping, providing comparisons between countries and over time.

Brunei Darussalam has been working on improving trade facilitation. Two key ways forward have been the introduction of the electronic customs system (e-Customs) in 2010 and the implementation of the Brunei Darussalam NSW since 2013. Since Brunei Darussalam is aiming at significant transformation and diversification of the economy, trade facilitation is only one of the important cogs of reform. Hence, Brunei Darussalam has undertaken a number of major initiatives to improve the business climate. The need for much better trade facilitation service is because high value processing trade is likely to be time-sensitive, requiring a very short turnaround time.

3.2. Cambodia

Cambodia is a success story of trade and foreign direct investment (FDI) driven economic growth and transformation, with one of the highest average growth rates in the developing world for more than a decade, resulting in a sharp drop in poverty incidence. The trade to gross domestic product (GDP) ratio has been consistently greater than 100 since 2000 and has been rising secularly from 100 in 2000 to 125 in 2018. As the Cambodia ASTFI report highlights, trade facilitation is of high policy priority for the country to maintain its international competitiveness and to prepare it for the eventuality of losing its preferential access to Western markets as its per capita income rises further.

Cambodia's focused efforts on trade facilitation a little over a decade ago were remarkable, as described in the ASTFI country report. Cambodia climbed 22 places in the 2012 Logistics Performance Index (LPI). However, its LPI rating has decreased dramatically in recent years, with its ranking declining sharply from 77 in 2016 to 109 in 2018. Logistics professionals and executives express significant dissatisfaction regarding Cambodia's trade facilitation. This means that the successes at the start of the trade facilitation reform were not sustained. More importantly, the sharp deterioration in recent years seems to indicate that the country, without an operational NSW, has been increasingly constrained in the face of the much larger volume and wider range of imports and exports of a fast-growing trade and FDI driven economy.

3.3. Indonesia

The increase in rating and the sharp rise in the ranking of Indonesia in the LPI from 63 in 2016 to 46 in 2018 reflect the significant strides that Indonesia has taken in trade facilitation, especially from 2014 to 2018. Indonesia ranks third amongst the top-performing lower middle-income countries, after Viet Nam and India. The LPI rating and ranking are based on the perceptions of out-of-country logistics professionals dealing with Indonesia. At the same time, however, the 2018 LPI report indicates a deterioration in the perception of in-country logistics professionals on the efficiency of the clearance and delivery of imports and exports on schedule (see section IV and Figures 1.1 and 1.2).

The apparent disconnect seems to indicate the importance of tightening 'loose ends', as the Indonesia ASTFI report brings out. Perhaps equally important is the 'end-to-end' perspective in trade facilitation, which in the case of Indonesia would possibly include the

efficiency of moving goods in and out of the Bonded Logistics Centre,⁴ as this seems to be a source of dissatisfaction for the in-country logistics professionals in Indonesia.

3.4. Lao PDR

The Lao PDR experienced the sharpest improvement in rating and ranking in the customs LPI amongst AMS, from 2016 (ranked 155) to 2018 (ranked 74). The country belongs to the top 10 performing lower middle-income countries in 2018, together with Viet Nam, Indonesia, and the Philippines amongst the AMS. What makes the Lao PDR performance worth highlighting is that the country started trade reform in earnest only in the mid-2000s.

However, despite the remarkable improvement in trade facilitation, the scores of the ASTFI and the still very high documentary compliance time, especially for exports (as measured by the high average documentary compliance time on the World Bank's Ease of Doing Business), indicate that much remains to be done to improve the country's trade facilitation regime. In 2016, the Lao PDR's average documentary compliance time was 216 hours, significantly above other AMS with a similar level of development (132 hours in Cambodia and 96 hours in Myanmar) (World Bank, 2018). A top priority is the operationalisation of the NSW and the component foundations, such as the use of digital copies and electronic payments (e-payments).

3.5. Myanmar

Myanmar has achieved significant improvements in economic performance, but there is still ample room to strengthen its reforms (UNESCAP, 2017).

Myanmar ministries are cooperating closely to implement a series of reforms to enhance the country's competitiveness and competence in trade facilitation. Since its inclusion in the World Bank's Ease of Doing Business ranking in 2013, the Customs Department has carried out many reforms, including the Myanmar Automated Cargo Clearance System that was introduced in November 2016 and is intended to improve trade facilitation. Customs has also made advances such as the adoption of the ASEAN Harmonised Tariff Nomenclature in 2017, the WTO TFA, post-clearance audit, and the Advance Ruling on Classification and Valuation. On a more strategic level, Myanmar has implemented reforms of laws and regulations related to trade, such as the Sea Customs Act, 1878; the Land Customs Act, 1924; and the Tariff Law, 1992 (all amended and modified in 2018).

Despite achieving quite robust growth and development, Myanmar's rating and ranking in the customs LPI amongst the AMS during 2016–2018 is still low due to lack of personnel and information technology (IT) infrastructure.

Myanmar experienced the sharpest deterioration in rating and ranking of customs LPI amongst the AMS during 2016–2018, slipping from 96 in 2016 to a rank of 131 in 2018 – the lowest in ASEAN. Such a sharp deterioration in the perception of the efficiency of the

⁴ The Bonded Logistics Centre is a multifunctional warehouse used by traders to store and handle the documentary needs of goods for import and export.

clearance process by customs and other border agencies seems at odds with the many reforms to improve trade facilitation in the country.

One possible reason is that, as the Myanmar ASTFI report implies, Myanmar's customs agency is significantly under-resourced, primarily in terms of its IT capability and human capital (despite the personnel expansion and training programmes), while the agency is undergoing significant organisational changes.

The other possible reason for the rather perplexing result is that there are 'loose ends' or 'unfinished ends' to the reforms. One key way forward is to complete the reforms while continuing the institutional strengthening of critical agencies, especially customs, in terms of both the needed infrastructure and personnel.

3.6. Philippines

The 2018 LPI reveals an improvement in the Philippines' overall rank from 71 in 2016 to 60 in 2018. However, the improvement is not reflected in the customs LPI component, where the Philippines' rank deteriorated to 85 in 2018 compared with 78 in 2016 and 47 in 2014.

The reduction in the international customs LPI rank follows the trend of the domestic LPI score. In 2016, 25% of freight forwarders, as LPI respondents, perceived the clearance and delivery of the Philippines' imports and exports to be inefficient. In addition, no respondent (0%) indicated that customs clearance and border agencies were often or always transparent. Even though the score for both transparency and clearance is low, the score for solicitation of informal payments improved from 2016 to 2018 – 0% of respondents indicated that they had experienced solicitation of informal payments in 2018 compared with 60% in 2016.

In light of the high energy and minimum wage costs in the Philippines relative to most AMS, it is imperative for the country to have much more seamless trade facilitation – partly to offset such high energy and wage costs and be competitive in manufacturing for export. Unfortunately, the ASTFI baseline study results and the secondary indicators of trade facilitation (see Figures 1.1 – 1.4) are not comforting: the record is highly mixed.

Nonetheless, the Philippines ASTFI report shows that a number of major recent reforms provide a strong foundation for a better performing trade facilitation regime. These include the redesign of the country's NSW, as the old NSW has largely fallen out of use, with the new NSW based in the Department of Finance. Ultimately, the Philippines will have to accord the drive towards seamless trade facilitation much more focus, implementation priority, and energy.

3.7. Viet Nam

Viet Nam has arguably been the most assiduous of the AMS in its drive to have a well-performing trade facilitation regime, consistent with its trade and FDI driven economy. The Viet Nam ASTFI report details many of the reforms and initiatives undertaken. The improvement in Viet Nam's ranking in the LPI and the World Bank's Ease of Doing Business Trading across Borders indicator reflects the success of the country's efforts to improve

its trade facilitation regime. Viet Nam overtook Malaysia in the customs LPI ranking in 2018 and was the top-performing lower middle-income country in the 2018 LPI. Such a marked improvement in trade facilitation occurred alongside very robust FDI inflow and a sharp rise in exports and imports.

However, as the discussion in section IV indicates, there is still significant room for improvement for Viet Nam in terms of the efficiency and competence of customs and other border agencies, as well as the issue of informal payments. The Viet Nam ASTFI study highlights the country's drive to improve, refine, and make the NSW fully operational – involving more agencies and more improved features – so that the perception of private sector stakeholders can improve significantly in the future.

3.8. Malaysia, Singapore, and Thailand

These three countries are the front runners in trade facilitation in ASEAN, topped by Singapore, which has been perennially amongst the top seven (and at times, the global number one) in logistics performance indicators. Thailand and Malaysia were amid the top five performers amongst upper middle-income countries in logistics performance in 2018.

As the front runners in trade facilitation in ASEAN, Singapore, Thailand, and Malaysia have been moving their customs and border management to the next level towards greater trade facilitation while ensuring trade control and security. Thus, Singapore has Trade FIRST and is transitioning to its Networked Trade Platform, Thailand has Customs 4.0, and Malaysia is testing uCustoms. To some extent, this is not surprising because the three countries (and increasingly, Viet Nam) are the AMS most involved in global and regional production networks and value chains, where the demands on trade facilitation are pressing. Moreover, as they are deeply embedded in production networks that are heavily influenced by technological developments, the three countries need to meet the evolving needs of industries and businesses.

Despite being front runners, many areas for improvement remain. The ASTFI scores of the three countries show the areas needing improvement. The country ASTFI reports for Malaysia, Singapore, and Thailand provide country-specific recommendations for improvement. It is useful to highlight where greater commitment from the three countries may be needed, for example, for the three to provide signalling leadership, in words and deeds, to push forward the implementation of the ASEAN agreements as well as bilateral MRAs that deepen trade facilitation in the region, for example, MRAs on AEOs.

4. Context of the ASTFI Baseline Study Results: The Challenge and Promise of Trade Facilitation in ASEAN

A trade facilitation regime pertains to the regulations and processes and the associated institutional arrangements that govern the cross-border movement of goods. Arguably, there is a positive relationship between the quality of the trade facilitation regime (as provided by the government and related concerned institutions) and the quality of the

trade facilitation services (as felt and perceived by the clients, primarily the private business sector and industries).

The challenge of trade facilitation in ASEAN can be gleaned from the views of key private sector stakeholders, e.g. logistics professionals and executives. Indeed, most of the popularly used trade facilitation indicators rely on the perceptions of key private sector stakeholders: the LPI, the World Bank's Ease of Doing Business Trading Across Borders indicator, and the Global Enabling Trade Index Pillar 3 on the efficiency and transparency of border administration. There is also a burden of customs procedures variable in the World Economic Forum Global Competitiveness Report (GCR). The LPI relies significantly on the perception of logistics professionals (e.g. freight forwarders) while many variables in the Enabling Trade Index and the customs variable in the GCR rely on the perceptions of executives.

It is useful to look at a few indicators from the above-mentioned indices to have some indication of the state of trade facilitation services in ASEAN – in terms of the efficiency, transparency, certainty, and integrity of the export, import, and customs processes. Figures 1.1 and 1.2, from the LPI, present an evaluation of the efficiency of the border process (customs, other agencies) by logistics professionals based outside the country of interest (Figure 1.1) and inside the country of interest, i.e. in-country logistics professionals (Figure 1.2). Figure 1.3 and 1.4 show indicators of the perceptions or evaluations of executives on the burden of customs procedures (Figure 1.3) and the incidence of solicitation of informal payments in exports and imports (Figure 1.4) in the country.

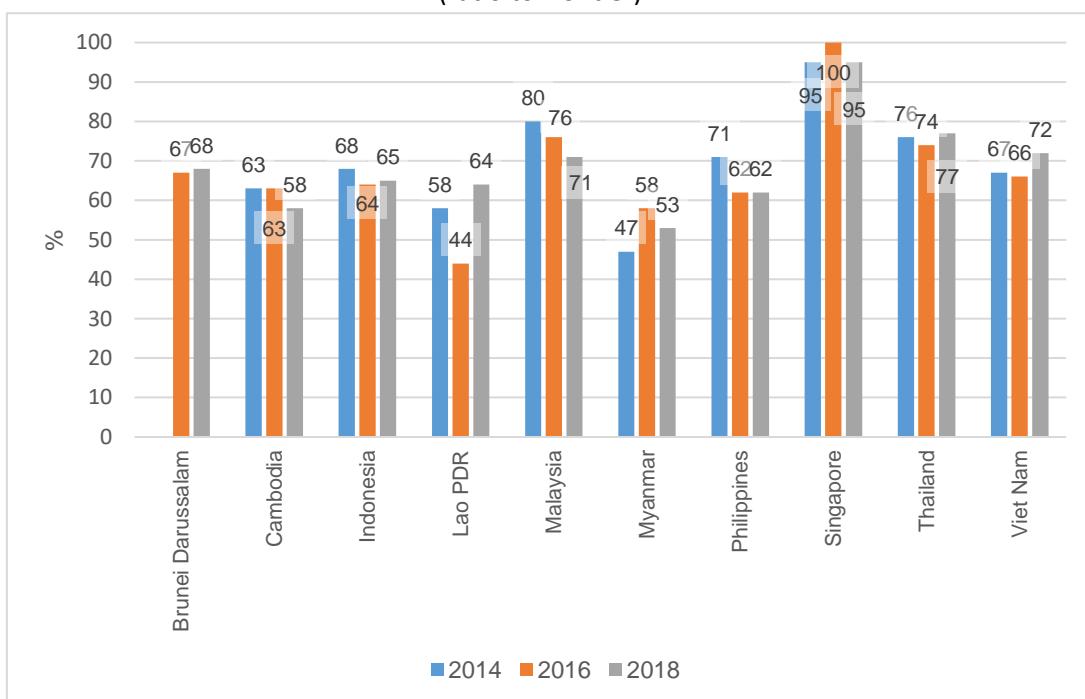
The state of trade facilitation services in ASEAN – in terms of the efficiency, transparency, certainty, and integrity of the export, import, and customs processes – and as viewed by key private sector stakeholders (e.g. logistics professionals and executives), shows considerable achievements and significant challenges for AMS and the region. Below are some of the private sector stakeholders' perceptions of the state of trade facilitation in ASEAN, based on the LPI and GCR (see Figures 1.1 – 1.4):

- In-country logistics professionals consider the clearance and delivery of imports and exports to be often or almost always efficient and on schedule in Thailand, Singapore, and most recently the Lao PDR and Brunei Darussalam. There have been significant slippages in Cambodia, Indonesia, and Malaysia, while perceptions have improved on the Philippines, Viet Nam, and Myanmar.
- In-country logistics professionals view that there is almost always transparency in trade clearance and on regulatory changes in Malaysia, Thailand (to a lesser extent), Singapore, and most recently Brunei Darussalam and the Lao PDR. There is a far less favourable view of transparency in the other AMS, with the Philippines and Indonesia registering some slippage.
- Foreign-based logistics professionals consider Singapore a global pacesetter in the efficiency (speed, simplicity, and predictability of the clearance process) of customs and other border agencies. Malaysia, Thailand, and increasingly Viet Nam follow,

but at significantly lower ratings, and with perceptions on Malaysia deteriorating secularly and perceptions on Viet Nam improving secularly.

Interestingly, the Lao PDR has the lowest rating, which contrasts markedly with the perception of in-country logistics professionals, who have a far more favourable view. The LPI report does not provide any explanations for this significant divergence of perceptions. One possible explanation, though, is that in-country logistics professionals know more, and are more updated on, the regulatory, institutional, and managerial landscape of the Lao PDR and could thereby adjust much more smoothly than foreign-based logistics professionals, especially because the Lao PDR does not yet have an operational NSW.

Figure 1.1: LPI – Customs in ASEAN, 2014–2018
(ratio to frontier)

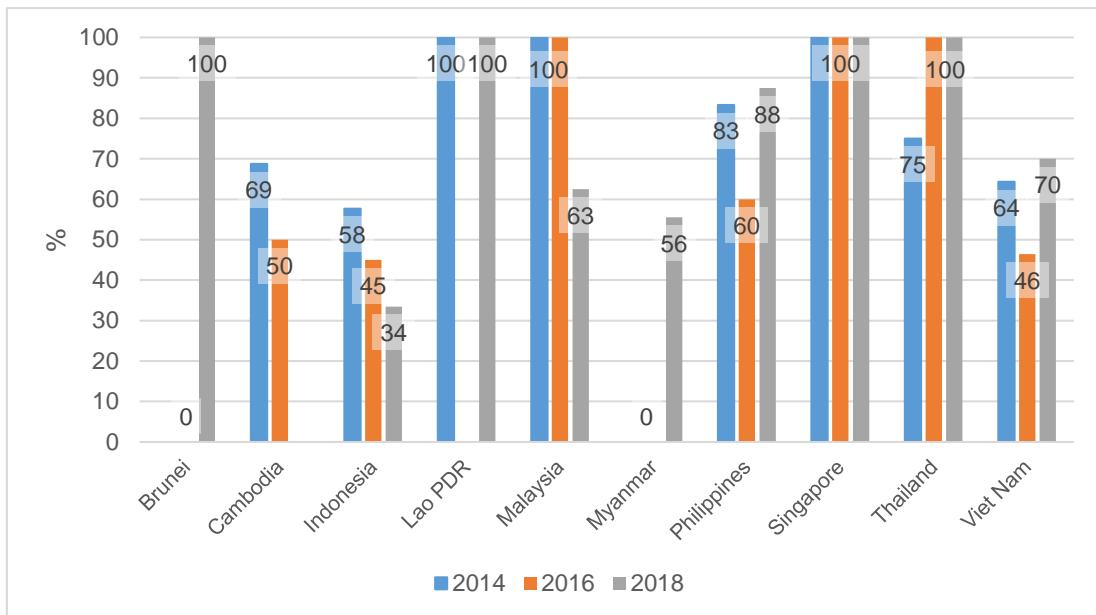


ASEAN = Association of Southeast Asian Nations, Lao PDR = Lao People's Democratic Republic, LPI = Logistics Performance Index.

Source: Authors' calculation based on data from World Bank (n.d.), International LPI from 2007 to 2018.

https://lpi.worldbank.org/sites/default/files/International_LPI_from_2007_to_2018.xlsx (accessed 15 June 2018).

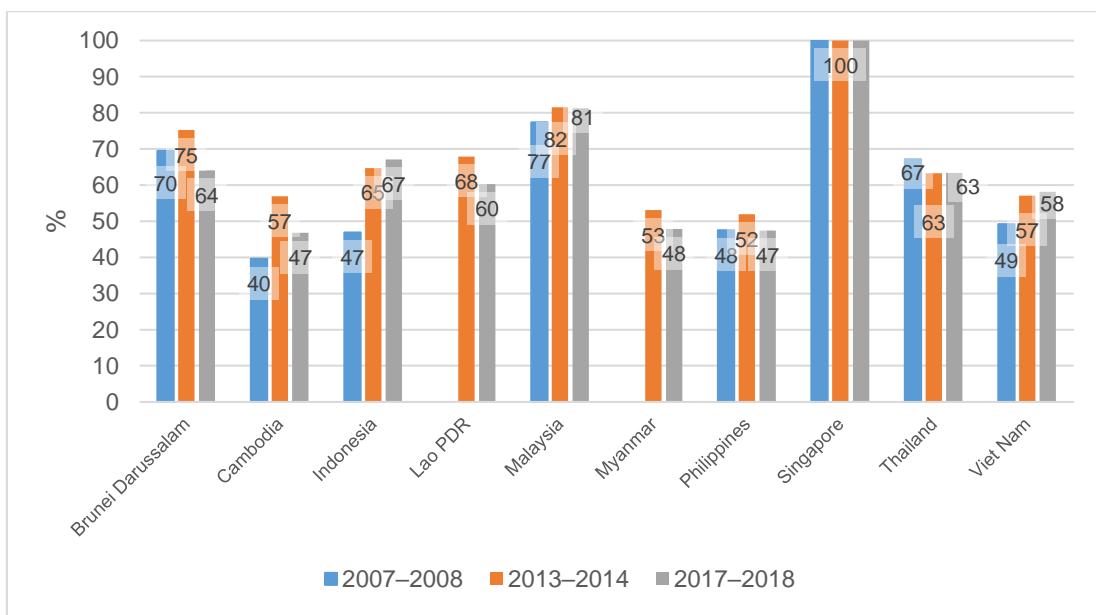
Figure 1.2: Efficiency of Clearance and Delivery in ASEAN, 2014–2018



ASEAN = Association of Southeast Asian Nations, Lao PDR = Lao People's Democratic Republic.

Source: World Bank (n.d.), Domestic LPI, Performance. <https://lpi.worldbank.org/domestic/performance> (accessed 15 June 2018).

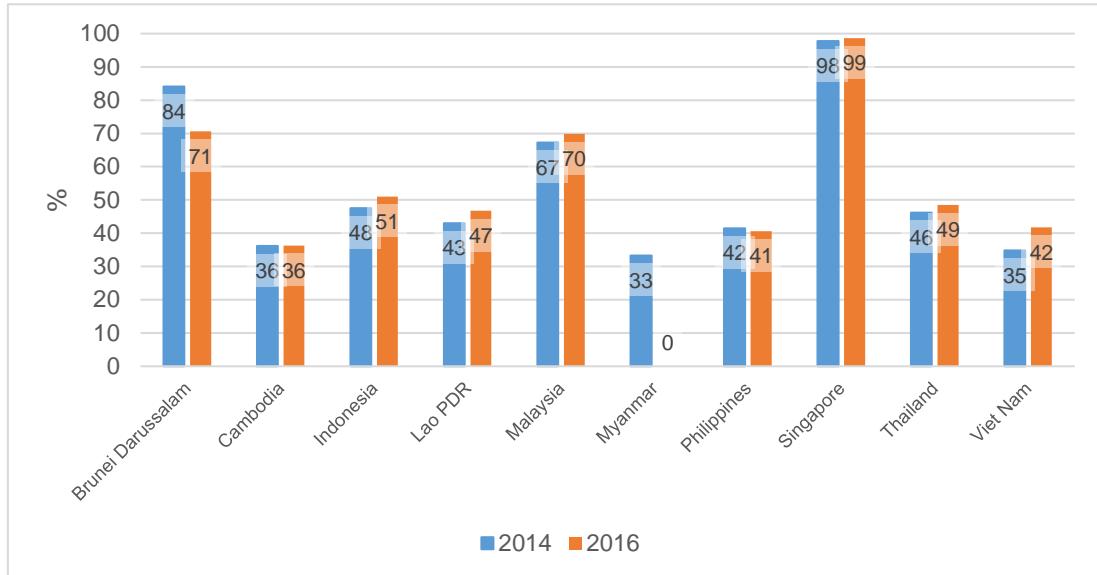
Figure 1.3: Burden of Customs Procedures in ASEAN, 2007–2018
(ratio to frontier)



ASEAN = Association of Southeast Asian Nations, Lao PDR = Lao People's Democratic Republic.

Sources: Authors' calculation based on data from World Economic Forum (n.d.) Global Competitiveness Index Historical Dataset, 2007–2017. http://www3.weforum.org/docs/GCR2017-2018/GCI_Dataset_2007-2017.xlsx (accessed 15 June 2018).

Figure 1.4: Irregular Payments in Exports and Imports in ASEAN, 2014–2016
 (ratio to frontier)



ASEAN = Association of Southeast Asian Nations, Lao PDR = Lao People's Democratic Republic.

Sources: Authors' calculation based on data from World Economic Forum (n.d.) Global Enabling Trade Index. Historical Dataset, 2007–2017. http://www3.weforum.org/docs/GCR2017-2018/GCI_Dataset_2007-2017.xlsx (accessed 15 June 2018).

- Executives find customs and other border procedures in Singapore to be highly predictable and not burdensome. Malaysia ranks second amongst AMS for this component. Other AMS where some favourable views were expressed on the burden of border procedures are Brunei Darussalam, Indonesia, the Lao PDR, and Thailand.
- Executives consider that irregular payments in exports and imports virtually never occur in Singapore, followed to a large extent by Brunei Darussalam and Malaysia. The executives are more equivocal for the rest of the AMS.

While these are essentially perceptions, and therefore prone to bias, the results nonetheless suggest that there is significant room for improvement in trade facilitation for many AMS. This is consistent with the findings of the ASTFI discussed earlier in the report.

At the same time, despite the concerns of the business sector – including the foreign business sector – on the trade facilitation regimes in the AMS, virtually all the major foreign investing communities in ASEAN are bullish on the ASEAN region:

- In the 2017 European Union (EU)–ASEAN business sentiment survey, about three-quarters of the respondent EU firms in ASEAN felt that ASEAN has become more important for the firms' global revenues during 2015–2016 and that ASEAN offers the best economic opportunities for 2017–2022 (EU–ASEAN Business Council, 2017).

- In the JETRO survey of business conditions of Japanese companies in Asia and Oceania, a greater percentage of Japanese-affiliated companies in ASEAN have been responding to business challenges with expansion of their operations than the Japanese affiliates in China from 2012 to 2017 (the latest survey year) (JETRO, 2017).
- In the ASEAN Business Outlook Survey 2018 of AmCham Singapore, four-fifths of the surveyed executives of United States (US) firms in ASEAN expect their companies' level of trade and investment in ASEAN to increase in 2018–2023. Robust economic growth, the rise of the middle and consuming class, and regional integration are the top three reasons why ASEAN markets will be more important for the worldwide operations of the US firms (AmCham Singapore, 2018: 15).
- Perhaps the Australian Business in ASEAN Survey 2018 puts it most forcefully and plainly, as it states that ASEAN, as Asia's new factory – with strong demand growth, rising standards of living, and a large infrastructure deficit – offers huge opportunities for Australian investors, or for that matter, other foreign and domestic investors. In addition, nearly nine-tenths of all the Australian firms surveyed plan to increase their levels of trade and investment in 2018–2023 (Australia–ASEAN Chamber of Commerce, 2018).

Thus, not improving the region's trade facilitation regime and services is an untapped opportunity for the region.

5. Conclusions and Recommendations: Towards Seamless Trade Facilitation in ASEAN: Elements for Moving Forward into 2020 and Beyond

The ASTFI results and the discussions above show the remarkable achievements of a number of AMS in trade facilitation during 2008–2018. What is particularly noteworthy are the significant strides of the newer AMS, especially Viet Nam but also the Lao PDR and even Cambodia. Clearly, the gap between these three and the other AMS has decreased substantially in recent years, providing a robust foundation for deeper integration in the region.

The case of Myanmar is particular in that the country is in the middle of wide-ranging reforms and institutional changes as it transitions from a relatively closed and 'planned' (or perhaps better, 'directed' or 'controlled') economy to a more open and market-oriented one. The reforms and institutional changes have not quite borne fruit yet, based on the perceptions of logistics professionals, in part because the policy and institutional changes have combined with under-resourced agencies facing the growing demands and rising expectations of a fast-growing and changing economy. Nonetheless, there is no doubt of the strong commitment to improve trade facilitation. Hopefully, as the 'dots' become better connected, 'loose ends' are tied up, technical infrastructure is developed, and institutions are strengthened, Myanmar may experience the same large jumps in performance that the Lao PDR did. In the process, the huge gap in trade facilitation

performance within ASEAN would drastically decline, and a more efficient and seamless trade facilitation regime in the region would be established.

The ASTFI results and the discussion above also point out, however, that there is still much to be done in many of the AMS to move towards a seamless trade facilitation environment in the countries individually and in the ASEAN region as a whole. The ASTFI country reports provide country-specific recommendations. What are highlighted below are the major and ‘common’ or ‘shared’ recommendations towards seamless trade facilitation in ASEAN:

5.1. NSW, ASW, and Export–Import Formalities

- The most important and impactful measure for the way forward is to operationalise the NSW (Cambodia, the Lao PDR, and Myanmar); operationalise a reworked and improved version of it (the Philippines); make it fully operational in terms of the procedures and the number of agencies embedded in it (e.g. Viet Nam) and for exports (Brunei Darussalam); make it closer to a truly single window (e.g. Indonesia and Viet Nam); and finish the upgrading to a higher-performing, integrated, ubiquitous, and client-focused system, even facilitative of trade logistics integration (Malaysia’s uCustoms, Singapore’s Networked Trade Platform, and Thailand’s Customs 4.0). By 2020, all the NSW initiatives should be fully operational and truly single window, and the upgraded systems of the front runners should be operational.
- The full operationalisation of the NSWs in all 10 AMS by 2020 is imperative to make the ASW fully operational by 2020, with the inclusion of additional documents in the ASW.
- Attendant to the full operationalisation of the NSWs in each AMS, and to make them perform well, is the more extensive use of digital copies towards a truly paperless process. While technical constraints can arise from legacy IT systems, the ATF–JCC should set a target for the percentage of processes that are paperless by 2020.

5.2. NTRs, ATR, and NTMs

- The NTRs and ATR are the most important trade transparency initiatives of ASEAN. The country reports show major progress in the NTRs of many AMS. The most important weakness is the information base on NTMs. ASEAN is addressing this with the help of the EU–ARISE project and ERIA. Ideally, the NTRs and ATR should be complete by 2020. Apart from populating the ATR with the appropriate information linked with the NTRs, the challenge is for AMS to ensure that the NTRs and the ATR provide the most updated information in a widely accessible format that is easily understood even by small firms and traders.

5.3. ASEAN agreements, ACTS, and stronger cross-border coordination

- Ratification and implementation of the ASEAN transport facilitation agreements and protocols would provide a good signal that the AMS are serious about regional integration, even if the individual benefits are not significant. Such agreements should be up and running by 2020.
- Land borders between AMS tend to be in the less developed parts of the countries, except the Johor–Singapore border, and to some extent the Lao PDR as a landlocked country. Thus, less policy priority is accorded to making their operations as seamless as possible. Nonetheless, the ACTS has the potential for seamless transit facilitation – at least in continental ASEAN. The ACTS should be fully operational and rolled out to Cambodia, the Lao PDR, Myanmar, and Viet Nam by 2020 to show the potential for deeper cross-border trade and economic relationships between and amongst AMS. In addition, more bilateral and institutionalized cross-border coordination should take place by 2020.
- Regional efforts on e-commerce were given a significant boost in 2018 in light of the importance ASEAN is placing on it. The AEM adopted the ASEAN Digital Integration Framework at the 50th AEM Meeting on 29 August 2018. As indicated by the Joint Media Statement of the meeting (ASEAN, 2018), implementing key action points in the six priority areas would facilitate seamless trade and digital payments and protect data, while supporting digital trade and innovation, fostering entrepreneurship, and broadening the talent base in ASEAN. Related to this is the issue of expedited customs (and other border agencies) clearance for e-commerce transactions within ASEAN.
- The implementation of regional trade facilitation initiatives, such as self-certification, should be accelerated. On certificates of origin, there may be merit in the proposal of the EU–ASEAN Business Council (2017) to set up a working group that includes the private sector to examine the pros and cons, risk management mechanisms, and documentary requirements if the threshold value for a waiver of the certificate of origin were increased.
- More bilateral MRAs on issues such as AEOs (e.g. the Singapore–Thailand MRA on AEOs) or ATTs between AMS would strengthen the regional trade facilitation regime in ASEAN.
- AMS are included in the proposed Regional Comprehensive Economic Partnership (RCEP) Agreement. As the RCEP is fundamentally about building deeper economic linkages between ASEAN and its six Dialogue Partners, it is clear that trade facilitation will eventually be an important consideration. Thus, there is a need to look more closely at how trade facilitation in the wider RCEP region could be enhanced, and in the process facilitate the deepening of production networks in East Asia. One possibility is to develop an ‘ASEAN Plus Six Seamless Trade Facilitation Indicators (A6STFI)’, which could be a modification and/or expansion of the current ASTFI.

5.4. Tie up ‘loose ends’

- The country reports give examples of loose ends that could be tied up to improve the ASTFI scores and, thus, the quality of service of the border agencies. For example, Malaysia could add transit rules and procedures to its customs website so that both foreign and domestic interested parties would have access to them. The Philippines could make the quality of the information on the relevant websites more business-friendly, work with the Philippine Ports Authority to institutionalise the regular publication of dwell times, and/or expedite its accession to the Istanbul Convention (adoption of the Admission Temporaire/Temporary Admission (ATA) Carnet). There are many more examples of loose ends in virtually all the country reports. Updating NTMs and publishing them on the NTRs would be an important step forward, but this is a continuing challenge for most AMS.
- Another meaning of tying up loose ends would be ensuring a smooth ‘end-to-end’ clearance process. For Indonesia, this could mean more than just customs and port clearance, and could include the efficiency of the in- and out-flow of goods in the new Bonded Logistics Centre. A significant improvement in customs clearance and a faster dwell time at the port could be negated by inefficiencies in the Bonded Logistics Centre, so the private sector may not feel the improvements in the customs and port clearance.
- Finally, loose ends could also be identified by implementing the TRS and making the results public. The most important benefit of the TRS is in determining and prioritising the sources of inefficiency in the export/import and customs clearance process. This allows for determining ways of tying up loose ends and addressing bottlenecks. Thus, it was recommended that all the TRSs be conducted in 2018 to assist the AMS in drawing up action plans to meet the targeted reduction in trade transaction costs of 10% by 2020.

5.5. Joint learning and regional cooperation

- A number of cases of good practice in leading AMS offer useful examples worth emulating by other AMS. Such good practice could be the basis of joint learning amongst the AMS, perhaps facilitated by the ATF-JCC or the Coordinating Committee on Customs. Examples of such good practice are:
 - transparency in rule-making in Malaysia (government circular), Singapore (ingrained practice), and Thailand (Constitution);
 - public consultations undertaken on new regulations;
 - Malaysia’s PEMUDAH public–private working groups, with technical support from the MPC, not just at the high policy level;
 - Thailand’s Customs Alliance under Customs 4.0, which aims to introduce a customs account officer approach, similar to banks’ relationship manager approach to clients and Singapore’s Trade FIRST;
 - a customs academy (e.g. Malaysia) for continuous training and professionalisation of the customs bureaucracy; and

- international and regional benchmarking to propel accelerated and clear-cut programmes for improvement, e.g. Viet Nam and Malaysia.
- Integrated and automated risk management for permits and customs clearance of all key trade-related agencies, with all risk parameters and decision rules in one interconnected platform (e.g. Singapore).
- At the individual AMS level, countries could learn from each other regarding their attempts to improve the implementation of the various trade facilitation measures. For example, the Philippine ASTFI country report recommends that the country apply risk management principles, taking into consideration the nature of the agencies and products being regulated; study and work with other AMS on how to integrate the NSW with the NTR; and study and adopt best practices for AEOs and Trusted Traders to allow the early release of goods, even based on provisional documentation.

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Appendix I

Integrative Report:

1. ERIA

Country Report Team Members

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Appendix II

ASEAN Seamless Trade Facilitation Indicators (ASTFI)

Sub-Indicators and Components

Transparency and Information on Laws, Regulations, and Procedures

- VA01 Customs website/trade portal and information
 - VA02 Information on export and import formalities of regulatory agencies
 - VA03 National Trade Repository and Association of Southeast Asian Nations (ASEAN) Trade Repository
 - VA04 Implementation of interactive information channels/customs contact centre
-

Communication with and Active Engagement of the Private Sector

- VB01 National Trade Facilitation Committee, and equivalent title and mechanisms
 - VB02 Stakeholders, including micro, small, and medium-sized enterprises
-

Release and Clearance Formalities

- VC01 Advance Rulings for classification and valuation
 - VC02 Pre-arrival processing
 - VC03 Best practice risk management
 - VC04 Separation of release from final determination and payment of customs duties
 - VC05 Electronic payment
 - VC06 Appeal and review mechanism
 - VC07 Post-clearance audit
 - VC08 Dwell time publication
 - VC09 Time release study publication
 - VC10 Trade facilitation measures for Trusted Traders or Authorised Economic Operators
 - VC11 Self-certification
 - VC12 Simplified or expedited clearance
 - VC13 Temporary admission
-

Import/Export Formalities and Coordination

- VD01 Documentation requirements
- VD02 Acceptance of copies
- VD03 National Single Window

VD04 ASEAN Single Window

VD05 Border agency (customs, immigration, and quarantine) coordination (domestic)

Cross-Border Coordination and Transit Facilitation

VE01 Border agency institutional coordination (with bordering countries)

VE02 Border-crossing operational coordination with the neighbouring countries

VE03 Computerised system for transit

VE04 Transit guarantee mechanism

VE05 Simplified procedures for Authorised Transit Traders

Transport Facilitation

VF01 Procedures for issuance of ASEAN Goods Vehicle Cross-Border Permits

VF02 Electronic data interchange and port community

VF03 Land transport facilitation: Operationalisation of Protocols 1, 2, and 4

VF04 Land transport facilitation: Operationalisation of the ASEAN Framework Agreement on Facilitation of Inter-State Transport and the ASEAN Framework Agreement on Multimodal Transport

E-commerce

VG01 Legal framework and operationalisation of e-identification and authorisation

VG02 Revenue collection framework for cross-border e-commerce trade

VG03 Legal framework for domestic and cross-border e-commerce dispute settlement

Chapter 2

Trade Facilitation in Brunei Darussalam and the Results of the ASTFI Baseline Study¹

Dionisius Narjoko and Wee Chian Koh

1. Overall Trade Facilitation Environment

Brunei Darussalam's economy is primarily driven by oil and gas, which account for more than half of its gross domestic product (GDP) and over 90% of exports and government revenue. This high dependence on non-renewable resources makes Brunei Darussalam vulnerable to volatile oil and gas prices. Since the oil price collapse in mid-2014, Brunei Darussalam has been experiencing fiscal pressures and has undergone fiscal consolidation. The economy contracted for four consecutive years before achieving modest 1.30% growth in 2017, aided by a recovery in oil prices.

Brunei Darussalam's merchandise exports decreased from \$10,566 million in 2013 to \$6,551 million in 2018. The exports are mainly crude petroleum and liquefied natural gas, which represent 41% and 49% of total merchandise exports in 2018, respectively. The largest export partners are the Association of Southeast Asian Nations (ASEAN), Japan, the Republic of Korea, and Australia. Brunei Darussalam's merchandise imports increased from \$3,338 million in 2013 to \$4,152 million in 2018. Manufactures dominate Brunei Darussalam's imports, with machinery and transport equipment making up the top largest imports, representing 40% of total merchandise imports in 2018, respectively. The main import partners are China, ASEAN, the United States, and the European Union.

The country's trade performance suggests that trade facilitation will also play a role in the future to facilitate more non-oil and gas exports.

While Brunei Darussalam is a net exporter of merchandise goods, it is a net importer of services. The deficit decreased from \$2,185 million in 2013 to \$1,004 million in 2018 due to a decline in services imports. In 2016, Brunei Darussalam's services trade exports were mainly in transport and travel, while imports consisted of transport, travel, construction, maintenance and repair, telecommunications, computer and information services, and other business services.

1.1. Policy and Institutional Setting

Trade Facilitation Environment

Under Brunei Darussalam's Constitution, His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam is the head of state and has absolute executive and legislative powers. His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam is also the head of government and is served by the Council of Cabinet Ministers, in which His Majesty the

¹ This report is based on the 2018 data of the ASTFI baseline study survey.

Sultan and Yang Di-Pertuan of Brunei Darussalam is the Prime Minister, Minister of Defence, Minister of Finance, and Minister of Foreign Affairs and Trade. The Legislative Council advises and debates on policies under consultation or implementation, and considers and approves annual government budgets. All the cabinet ministers and legislative members are appointed by His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam. Brunei Darussalam's legal system is based on common law and Sharia law.

Brunei Darussalam's initiatives towards diversifying its economy are guided by its Long-Term Development Plan, National Vision 2035. In recent years, Brunei Darussalam has undergone significant institutional changes and policy reforms to improve the business environment, facilitate trade, and attract foreign direct investment (FDI). The Ease of Doing Business Steering Committee, an inter-ministerial and multi-agency institutional setup, has successfully coordinated and implemented various reforms, which have seen Brunei Darussalam climbing up the ranks of the World Bank's Doing Business rankings. In 2018, Brunei Darussalam improved from 72nd to 56th position. For the third consecutive year, Brunei Darussalam is the most improved economy in the world.

The Ministry of Foreign Affairs and Trade, in cooperation with other ministries and agencies, leads the formulation and implementation of Brunei Darussalam's trade policy. Brunei Darussalam remains committed to free and open trade, and is of the view that active engagement in free trade agreements (FTAs) with key strategic partners will help increase market access and investment inflows to help its diversification efforts. Under the ASEAN framework, Brunei Darussalam has FTAs with Australia and New Zealand, China, India, Japan, and the Republic of Korea. Brunei Darussalam also has a bilateral agreement with Japan (Brunei Darussalam–Japan Economic Partnership Agreement) and is involved in negotiations for the Regional Comprehensive Economic Partnership and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership.

Brunei Darussalam has very low tariffs. The simple average applied most favoured nation rate has decreased from 3.3% in 2006 to 0.2% in 2018. Meanwhile, the total number of tariff lines has increased from 10,689 (HS 2012) to 11,206 (HS 2017). However, there remains a significant difference between the applied most favoured nation tariff and the bound rate average (25.5% in 2018). While tariff rates in Brunei Darussalam are low, non-tariff measures (NTMs) are relatively high, dominated by technical barriers to trade and sanitary and phytosanitary requirements, contributing to 55.8% and 31.2% of the total of 516 NTMs, respectively. Most of the NTM regulations are for public health safety considerations on product quality.

The Royal Customs and Excise Department (RCED), under the purview of the Ministry of Finance, is tasked with facilitating customs procedures. Led by the RCED, Brunei Darussalam has implemented a National Single Window (NSW) to simplify trade-related processes and procedures through an integrated electronic platform, including an e-customs system. This has resulted in an improvement in key indicators of 'Trading across Borders' in the World Bank's Doing Business report. Likewise, the time taken to import

has reduced from 19 days to 7.5 days. While this improvement is remarkable, trade transaction costs are still much higher than in ASEAN neighbours.

Several regulatory agencies are involved in the trade facilitation process, particularly in granting licences or permits for controlled imported goods. The major agencies covered in this report are the Department of Agriculture and Agrifood (DAA) in the Ministry of Primary Resources and Tourism, the Halal Food Control Division (HFCD) in the Ministry of Religious Affairs, the Food Safety and Quality Control Division (FSQCD) and the Department of Pharmaceutical Services (DPS) in the Ministry of Health, and the Authority for Building Control and Construction Industry (ABCi) at the Ministry of Development (MOD).

The DAA is tasked with issuing imports permits and transit approvals for agricultural commodities such as live animals, Halal meat products, vegetables, fruits, eggs, plants, crops, and soil. It also performs desk audit and import risk analysis prior to importation approval, manages agricultural quarantine stations, and conducts physical risk-based inspection at ports of entry.

The HFCD is in charge of granting approvals for the importation of Halal meat products. It maintains stringent standards for Halal meat imports, such as requiring approved Halal supervisors and physical inspection of the abattoirs in the exporter's country, for which the full costs are borne by the importer. The final decision on issuing import permits is made by the Brunei Islamic Religious Council (MUIB). In addition to the HFCD and the DAA, importers of Halal meat products also require endorsement from the FSQCD and the RCED. For non-Halal meat products and processed food products, import permit approval is only sought from the FSQCD.

The DPS regulates the importation of pharmaceutical products, including medicines, health supplements, herbal, and cosmetic products. It also conducts risk-based inspections. The ABCi is tasked with issuing import permits for cement, red clay bricks, coarse aggregates, fine aggregates, and sand, while risk-based inspection and surveillance audit are conducted by the Public Works Department in the MOD. In January 2017, the cement import quota was abolished to foster healthy competition and allow cement prices to be market-determined.

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

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

Brunei Darussalam's logistics infrastructure is relatively underdeveloped, ranking 70th in the World Bank Logistics Performance Index in 2016. Likewise, Brunei Darussalam has one of the lowest shipping connectivity scores, as measured by the United Nations Conference on Trade and Development (UNCTAD) Liner Shipping Connectivity Index. This could be attributed primarily to the size and structure of the Brunei Darussalam economy.

Customs Procedures

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

Implementation of the e-customs system is the first step towards establishing the Brunei Darussalam NSW. The Brunei Darussalam NSW was implemented in 2013 and allows for electronic submission of customs declarations and permit applications for approval from 20 government agencies and online payment of customs duties. Essentially, this eases the flow of information as well as enhancing transparency and efficiency.

Other Trade-Related Reforms

Over the past several years, a series of reforms has been implemented to improve the business environment. Various investment and tax incentives have been introduced, e.g. encouraging the establishment of industrial and economic enterprises under the Investment Incentives Order of 2001 and changes to the Income Tax Act (Chapter 35) enacted in 1949 to gradually reduce the corporate tax rate from 27.5% in 2008 to 18.5% in 2018. In 2016, Darussalam Enterprise (DARe), the national small and medium-sized enterprises (SMEs) body, was set up to support local businesses ranging from start-ups to growth enterprises by providing capacity building programmes, industrial space, international market access opportunities, and financing. All their programmes and services can be found online (DARe, n.d.). Other institutional setups include the Brunei Economic Development Board as the national investment promotion agency, and the FDI Action and Support Centre to facilitate incoming investment in a fast-track approval process.

Brunei Darussalam has made amendments to its intellectual property rights regime by passing various legislation on copyright, patents, trademarks, industrial design, and plant variety protection, as well as establishing the Brunei Intellectual Property Office in 2013. Brunei Darussalam has also acceded to and participated in various intellectual property rights agreements and treaties to comply with international standards.

The Department of Economic Planning and Development in the Prime Minister's Office is tasked with administering three important pieces of legislation: competition, consumer protection, and price control. The Competition Order, 2015 was passed to enhance economic efficiency and consumer welfare by prohibiting anti-competitive agreements, abuse of dominant power, and anti-competitive mergers. Consumer protection came into

force in 2012 under the Consumer Protection (Fair Trading) Order, 2011 to protect consumers against unfair business practices. The Price Control Act (Chapter 142) enacted in 1974 regulates the prices of selected essential goods specified in the law, sale activities, and display of prices.

To support fair trade and competitiveness and to address safety and consumer protection, the National Standards Centre is tasked with regulating standards and conformance in accordance with national, regional, and international requirements. As a centralised body, the National Standards Centre also provides guidance and information on standards, conformity assessment, product certification, and accreditation administered by other government agencies – e.g. food testing by laboratories in the Ministry of Health, telecommunications equipment licence approval from the Authority for Info-communications Technology Industry, and Halal permits and certificates from the Ministry of Religious Affairs.

The Government of Brunei Darussalam takes an active stance on corporatisation, with a view to improving accountability and governance, thereby enhancing efficiency and productivity. One of the tasks of Darussalam Assets is to improve the corporate governance structure of government-linked companies across various industries such as aviation, telecommunications, power utilities, logistics, agribusiness, food and beverages, leisure and tourism, medical, education, hospitality, and real estate. In an effort towards a balanced budget, the government is also engaging the private sector and FDI to work with the public sector, especially in infrastructure development, through public–private partnership to address Brunei Darussalam’s infrastructure gap and to realise the objective of several economic and social policies – including the stimulation of private sector growth, investment opportunities, and streamlining the public sector workforce.

2. Results of the ASTFI Survey

A questionnaire survey was conducted during the first half of 2018 with government agencies on four components: (i) transparency and information on laws, regulations, and procedures; (ii) communication with and active engagement of the private sector; (iii) release and clearance formalities; and (iv) import/export formalities and coordination. The results of the survey are summarised below.

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

Brunei Darussalam performs relatively well under this component, despite some variations amongst the indicators. The information for export and import formalities is available for the public to access from a single website called ‘Trading Across Borders’ (RCED, n.d.). It is important to note, however, that the information available on this website may not necessarily be available in each of the major agencies, making the ‘Trading Across Borders’ platform a very unique practice this is not commonly available in other countries.

Brunei Darussalam has established a National Trade Repository, which can be accessed through its portal (BDNTR, n.d.). The repository includes trade-related information such as Brunei Darussalam's preferential tariff rates as well as the rules of origin under the various ASEAN FTAs amongst others.

2.2. Communication with and Active Engagement of the Private Sector

Brunei Darussalam performs relatively well under this component. Although it does not have any official mechanism such as a national trade facilitation committee (NTFC), there exists coordination, on an ad-hoc basis, between ministries for issues pertaining to international trade. As for the development of micro, small, and medium-sized enterprises, it is facilitated by the national SME body (DARe). DARe provides a Business Support Centre for businesses to obtain business advice and information on business-related processes; learn about and apply for SME programmes and incentives; and register business-related issues, feedback, and inquiries. The DARe Business Support Centre also houses a Business Helpdesk to facilitate business-related issues and enquiries. This internal coordination mechanism is equivalent to an NTFC.

2.3. Release and Clearance Formalities

Brunei Darussalam performs moderately well under this component, but with high variations amongst its indicators. For example, Advance Rulings are restricted to applicants and are not made publicly available. While the exclusivity of the Advance Ruling decision is arguably sensible – as export-import transactions can be unique (transaction-specific) – this is not yet in accordance with best practices where Advance Ruling decisions are open to the public. Pre-arrival document processing is available in the two major ports of Brunei Darussalam (i.e. Muara Port and Brunei International Airport).

The RCED and the DPS adopt risk management commonly applied by customs in other countries, i.e. assessing import goods by applying inspection randomly or based on some risk factors, and there is no target rate of inspection. The HFCD also applies a risk management system, but it is only to fulfil the requirements of Halal food products. As noted earlier, risk management applied by the HFCD involves physical inspection by HFCD officials at the premises of the producers of the imported products in the exporting countries. This applies once for processed food and every time for raw food (e.g. meat such as chicken or beef). The special characteristic of Halal food inspection is arguably a system that applies risk management principles. For the DAA, physical inspection is conducted due to strict requirements applied by the department on imports of raw food or vegetables. For example, consignments containing imported raw beef meat from India are inspected for every consignment, but consignments containing imported raw beef meat from Australia are inspected only once over a period of time (e.g. once every 3 months). The RCED and all major agencies therefore apply risk management systems, but the systems are not yet fully integrated.

Consistent with the application of the risk-based approach for the arrival of imports, the RCED implements post-clearance audit. The HFCD does not implement post-clearance audits, but this is not necessary because – as explained above – the risk management system for Halal food involves careful inspection before the importing is done. The DAA also does not implement post-clearance audits due to strict physical inspection of consignments from high-risk importers. As noted earlier, for cement imports, the Public Works Department conducts post-clearance audits on behalf of the MOD. The DPS conducts inspections under Post-Market Surveillance Activities.

The RCED allows the release of imported goods without payment. However, for the moment, it applies only for Authorised Economic Operators (AEOs) under the Sutera Lane Merchant Scheme. Non-AEOs must still clear all payments before the RCED releases their goods.

The RCED allows all necessary payments for importation and exportation to be made electronically. Payment at the DPS is still done manually. Electronic payments are only applied to import permits for documents issued by the DAA, but payments for export permits issued by the DAA are still done manually. As of now, electronic payments are accepted only by customs but not by other major agencies.

In terms of a review and appeal mechanism, there is an initial appeal review mechanism to customs (e.g. customs tribunal), but judicial appeal is not yet available.

The RCED publishes dwell time information on a monthly basis for pre-clearance, customs clearance, and post-clearance for imports at Muara Port. The RCED only conducts Time Release Studies (TRSs) on an ad hoc basis and does not publish them; to date, TRSs have only been used for internal purposes. The last TRS was done for 2015.

The RCED has established Trusted Traders and AEO programmes, but mutual recognition agreements (MRAs) have not yet been established. The compliance of Brunei Darussalam's AEO programme with the World Customs Organization standard is currently being assessed.

Brunei Darussalam has pilot projects for self-certification with Malaysia, Singapore, and Thailand. The RCED allows expedited clearance for air, sea, and land cargo. Simplified declarations for expedited shipments and packages of a value under de minimis are allowed. Targeted traders are (i) express couriers (de minimis), (ii) perishable items, (iii) government consignments, (iv) emergency aid, and (v) AEOs. A temporary admission regime is implemented in Brunei Darussalam, but it is not yet in full compliance with the Istanbul and/or the Admission Temporaire/Temporary Admission (ATA) Convention.

2.4. Import/Export Formalities and Coordination

Brunei Darussalam performs relatively well under this component, but with significant room for improvement. The RCED and most of the major agencies accept digital copies for trade permits or other requirements. Original copies, however, are still required by the DAA, except import permits.

Brunei Darussalam has implemented the NSW since 2013. It now covers all major agencies (20 agencies) related to trade facilitation and is operating truly as a ‘single window’ for importation (i.e. permits are all submitted and issued through the NSW system, not separately by each agency and then sent to the NSW system). Processing for exportation is not yet implemented through this truly single window system and is therefore an area for improvement in terms of NSW implementation in the country. The link between the NSW and the ASEAN Single Window is at a pilot stage.

2.5. Issues and Challenges

The survey results suggest that there are gaps in the trade facilitation process as in best practices. While the structure follows common practice in principle, some key elements are not yet maximised to deliver a robust trade facilitation system.

The survey identified the following gaps:

First, more information could be provided to the public, such as the tariff rates of FTAs and the publication of the granted Advance Ruling applications on the ‘Trading Across Borders’ website.

Second, communication and consultation with the private sector is done on an ad hoc basis; a formal structure has not yet been established within the decision-making process in trade facilitation.

Third, while the RCED and the major agencies apply a risk management system, these systems are not yet integrated/consolidated. A few major agencies have also not implemented a post-clearance audit system.

Fourth, a mechanism to allow the separation of customs clearance and release of goods currently applies only to AEOs under the Sutera Lane Merchant Scheme.

Fifth, some major agencies have not mainstreamed electronic payment systems; only the RCED applies it fully, while the DAA applies it partially (only for import permits).

Sixth, TRSs are done only for internal purposes.

Seventh, the NSW is fully implemented only for importation; it is partially implemented for exportation as it has only engaged two agencies for export permits at the time of writing.

3. Recommendations

The discussion on the issues and challenges presented earlier suggests the following key directions to move forward.

First, to continue trade facilitation reforms to close the gap with best practice. This includes all elements presented earlier in the discussion (i.e. providing more information to the public, including the publication of TRSs; a consultative process with the private sector; a risk management system; a customs clearance process; and the NSW).

Second, to increase the ‘digitalisation’ of document processing and payments. It seems that this is not yet mainstreamed amongst major agencies. This is important to increase efficiency and reduce the processing time. Related to this, it is important to ensure sufficient investment in technology for trade facilitation, such as installing an electronic data interchange system. This is also important considering that Brunei Darussalam is engaging in FTA negotiations with developed countries, including the Regional Comprehensive Economic Partnership.

Third, to move forward with expansion of the NSW to cover the exportation process. As reported, the NSW covers only importation and only two agencies for exportation. Considering the ability of the country to implement full NSW implementation (an NSW with a single submission system), it should be simple for customs to expand it to exportation.

Fourth, to expedite the movement of goods across borders by encouraging the use of an approved simplified process such as pre-clearance or expedited clearance and self-certification programmes.

Fifth, to increase the effort for more intensive socialisation and consultation with the private sector and/or businesses. One clear effort that could be made is to create an official platform for the NTFC.

Sixth, it is important for Brunei Darussalam to strengthen and conduct further reforms in other policy areas, such as foreign investment, and possible fiscal policy to promote exports.

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Chapter 3

Trade Facilitation in Cambodia and the Results of the ASTFI Baseline Study¹

Dionisius Narjoko and Wee Chian Koh

1. Introduction

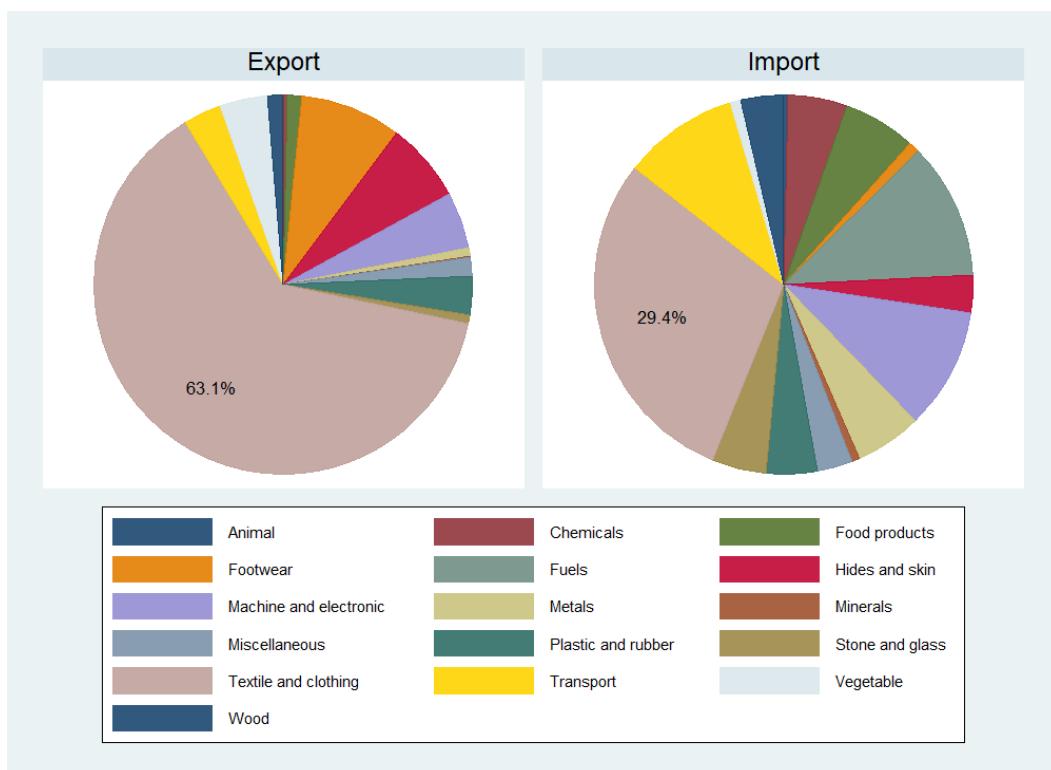
Cambodia has a shorter history in international economic integration than other Association of Southeast Asian Nations (ASEAN) Member States, having joined ASEAN in 1999 and the World Trade Organization (WTO) in 2004. At the same time, it has been a pioneer amongst least developed countries, being one of the first of its peers at the time to join the WTO. It has maintained an impressive record of rapid economic growth of 7% per year over the past two decades – one of the world’s fastest growing economies – and graduated to lower middle-income status (World Bank classification) in 2016. Gross national income per capita reached \$1,380 in 2018, up by almost 50% since 2010. Concurrently, poverty reduction has been swift – from 48% in 2007 to less than 14% in 2014.

This high and sustained growth can be largely attributed to trade and foreign direct investment (FDI). The share of total trade (imports + exports) in its gross domestic product (GDP) increased from 111% in 2000 to 125% in 2018 (World Bank, n.d.). During this period, merchandise trade as a share of GDP increased from 90% to 126%. As an economy with a low-skilled labour force, it has specialised in labour-intensive manufacturing of garments. Exports are dominated by textiles, clothing, and footwear products, comprising about 70% of total export in 2018 (Figure 3.1). Exports to Europe accounted for about 39% of total exports in 2018, while exports to North America and East Asia accounted for 30% and 28%, respectively. The International Labour Organization (2016) estimated that the garment industry had created jobs for over 630,000 workers, mostly young women migrating to Phnom Penh from the countryside.

Likewise, the country has seen a massive surge in FDI over the last two decades, increasing from \$118 million to \$3,213 million, with average growth of more than 100% per year. The establishment of Special Economic Zones which offer exemption from import duties and taxes, zero value-added tax on imports, and special customs procedures (a one-stop service where the staff of related government agencies are present to process relevant paperwork in one place) – in addition to other incentives such as profit tax holidays and special depreciation provision – continue to attract investors.

¹ This report is based on the 2018 data of the ASTFI baseline study survey.

Figure 3.1: Cambodia's Export and Import Share by Product Type in 2018



Given the structure of Cambodia's trade, trade facilitation is a policy priority to maintain competitiveness in the manufacturing sector. The main commodity import from China includes intermediate goods (such as fabrics) to be used for garment manufacturing, machinery, and electrical appliances. Expanding exports is crucial as Cambodia's domestic market is relatively small (the population is just over 16.25 million), but it enjoys a central location in a large growth region. It must also prepare for the time when it will lose preferential access to Western markets. The growth of exports to Europe since 2009 can be attributed to the preferential market access of Cambodia's garment products to the European Union in 2011. Moreover, competition from Viet Nam and Myanmar in this sector is going to be fierce.

Trade facilitation has remained high on the Government of Cambodia's agenda since accession to the WTO. With financial and technical support from donors, Cambodia has taken several steps to reduce its trade cost, including strategic and coordinated trade strategy formulation, changes in laws and regulations to allow best practice provisions, improvement in physical infrastructure in transportation and logistics, and reforms in border processes such as the implementation of risk management. Sixty-two percent of the WTO Trade Facilitation Agreement provisions fall under category A (already implemented) for Cambodia. The progress is reflected in the steady improvement in international standing across multiple indicators.

International trade will play a central role in achieving Cambodia's aspirations, therefore meaningful trade facilitation will be indispensable. The economic outlook for Cambodia is robust, with the high growth rate expected to continue in the next few years. If this economic performance continues, the country can graduate from lower middle-income status within a decade. Cambodia envisions transforming itself into a digital economy by 2023 by expanding digital infrastructure (Manet, 2018) and deepening regional connectivity in cooperation with regional partners. While the country continues to invest in upgrading its human capital, expanding international trade by reducing trade costs, especially the transaction costs of compliance with regulation and procedures, will be crucial for the country to generate jobs with decent wages. Improving the access of small and medium-sized enterprises to international markets will be an important policy tool to continue Cambodia's social development.

2. Secondary indicators of trading environment

An important contributory factor in Cambodia's economic performance is the government's ongoing effort to foster a business-friendly economic environment. Over the past decade, Cambodia has been able to solve many of the basic problems. Its progress is reflected in improvements in international rankings such as the World Bank's Ease of Doing Business and Logistics Performance Index indicators.

In the 2018 World Bank's Ease of Doing Business trading across borders indicator, Cambodia's distance to the frontier score was 67.28, implying that Cambodia was 32 percentage points behind international best practices. This is an increase from 49.8 in 2006, although the score has not changed since 2015. Its rank of 108 on this measure is actually better than its overall rank of 135 across all Ease of Doing Business components. One of the key reforms highlighted by the Doing Business report on Cambodia is the elimination of pre-shipment inspections in 2011, reducing the time and monetary costs of the import and export of goods.

Nonetheless, export and import costs are still high. In 2018, the total time to export was 180 hours for exports and 140 hours for imports (World Bank, 2018b). The high time-cost of trade was mostly due to documentary compliance, which reportedly took 132 hours for both imports and exports. However, the border compliance time was much higher for exports (48 hours) than imports (8 hours). These numbers are based on an analysis of the procedures involved in the export of apparel and clothing accessories, knitted or crocheted (HS code 61) to the United States via Sihanoukville port; and the import of parts and accessories of motor vehicles (HS 8708) from Thailand via Poipet border crossing.

On the international Logistics Performance Index, Cambodia achieved its highest rank of 98 in 2018, compared with 129 in 2010, showing steady improvement over time. The perception of customs has also improved, although it saw a slight decline from a peak in 2014. The largest improvements in this period were recorded in the perception of customs processes (rank 95 to 77), international shipments (rank 146 to 52), and timeliness (rank 132 to 73).

The World Bank's Enterprise Survey also reveals some issues in the trading environment. Customs clearance was reported to be quicker than average in the East Asia and Pacific region, with 5 days for exports and 2 days for imports, but the broader business environment was still problematic. Firms reported that it takes on average 16 days to obtain an import licence, which is slightly better than the East Asia and Pacific average of 22 days. On the other hand, obtaining operating licences took 33 days, much higher than the East Asia and Pacific average. Another major issue was informal payments, with 65% of firms experiencing at least one request. This is much higher than the East Asia and Pacific average of 16%. According to the 2016 survey, the majority of firms' opinions is that 'practices of the informal sector' ranked as the top problem in the business environment (World Bank, 2017a). A large percentage of firms in Cambodia report experiencing unfair competition from unregistered or informal firms.

While the Enterprise Survey reveals problems, it also highlights impressive improvement. Just a few years ago, the majority of businesses mentioned 'access to electricity' and 'macroeconomic uncertainty' as major constraints (World Bank, 2014). This means that Cambodia has been able to solve most of its basic infrastructural problems and needs to focus on other issues. These issues are more abstract and therefore difficult to solve. They will require stronger resolve from the policymakers.

Table 3.1: Summary of Secondary Indicators of the Trade Environment

Indicator	2006	2010	2014	2018
World Bank				
Ease of Doing Business – Trading Across Borders				
Distance to frontier	49.8	61.2	65.9	67.3
Time to export (days)	43	22	22	8
Time to import (days)	54	29	24	6
Logistics Performance Index (Overall)				
Customs perception score	2.2	2.3	2.7	2.4
Clearance time without physical inspection (days)		1	1	2 [2016]
Clearance time with physical inspection (days)		1	1	2 [2016]
Physical inspection (%)	12 [2007]	10.7	16.8	21.1 [2016]
Enterprise Survey				
No. of days to clear customs (import)			2.9 [2013]	2.2 [2016]
No. of days to clear customs (export)			2.0 [2013]	4.9 [2016]
No. of days to receive import Licence			4.6 [2013]	15.9 [2016]

Sources: World Bank Ease of Doing Business, Logistic Performance Index and Enterprise Survey (various years).

3. Trade environment and procedures

The trading process is clearly explained in the National Trade Repository. A trader wishing to import or export must register with the Department of Business Registration (Ministry of Commerce), obtain a tax identification number from the General Department of Taxation (Ministry of Economy and Finance), and submit the required documents to the General Department of Customs and Excise (GDCE). For some restricted or controlled commodities, special permits from the relevant ministries are needed.

The import and export of goods subject to sanitary and phytosanitary measures are covered separately by special regulations. Traders may be required to obtain licences and permits from the relevant ministries/institutions. Such licences and permits are issued by the General Directorate of Animal Health and Production and the General Directorate of Agriculture, while the licence or certificate on the quality and safety of agriculture is issued by the Department of Agro-Industry (Ministry of Agriculture, Forestry and Fisheries). Certificates of origin are issued by the Export–Import Department, Ministry of Commerce.

Some 1,537 tariff lines are restricted or prohibited. The list of restricted or prohibited goods can be found on the customs website.² The import and export of restricted goods requires traders to register at the relevant ministry, and obtain licences (specifying the volume/quantity and time frame) or permits (per consignment). Eleven ministries are involved in the regulation of exports and imports.

Most of Cambodia's exports pass through the major deep seaport (Sihanoukville), whose handling capacity has been continuously improved over time. In 2011, it could handle only 238,000 twenty-foot equivalent units (TEUs), but in 2017 the capacity doubled to 460,000 TEUs (Chan, 2018b). With support from the Japan International Cooperation Agency, a new container terminal is under construction and is expected to be completed by 2023 to bring the handling capacity to 1,000,000 TEUs. Phnom Penh Autonomous Port, which is a river port, has greatly increased its capacity, with the construction of the new container terminal in 2013, located in Kean Svay District along National Road No. 1, about 30 kilometres from Phnom Penh. The handling capacity of container throughput at Phnom Penh Autonomous Port is around 170,000 TEUs, where most of the containers go through the new terminal. In addition, there are two major international borders for international trade: (i) Poipet–Aranyaprathet on the border with Thailand, and (ii) Bavet–Moc Bai on the border with Viet Nam.

Border processes have seen a major improvement since the introduction of the Automated System for Customs Data (ASYCUDA), which covers all declarations and trade volume.³ The border processes are also clearly laid out in the National Trade Repository.⁴

² Government of Cambodia Anukret No. 209 on the Enforcement of the List of Prohibited and Restricted Goods.

³ GDCE (n.d.), ASYCUDA Project. <http://www.customs.gov.kh/trade-facilitation/customs-automation/> (accessed 30 July 2018).

⁴ GDCE (n.d.), Customs Declaration. <http://www.customs.gov.kh/customs-declaration/> (accessed 30 July 2018).

Upon arrival, traders lodge the Single Administrative Document (SAD). The system checks the entered declaration against documents already in the system, and then registers them in the system. The registered declaration becomes a legal document. The customs broker/declarant then has to submit two printed and signed copies of the SAD, with all the required documents attached, to the customs officer. The status can be checked online by providing the declaration code, date, and reference number.⁵

The customs officer verifies the declaration and checks the documents, then makes an assessment using the system to assign processing lanes. Four processing lanes are available: red, yellow, green, and blue. Red and yellow lanes involve the checking of documents. Physical inspection is done in the red lane. The green and blue lanes require no document or physical inspection, but routing to the blue lane is only for particular cases. Both green and blue lane declarations are subject to post-clearance audit. Container scanning is conducted in the scanning office. The ASYCUDA automatically assesses taxes and duties based on the declaration. After the payment of applicable duties and taxes, the customs officer provides a release order. Then, the trader can proceed to removal of the goods.

4. Trade facilitation history

Cambodia liberalised its economy and trade in the 1990s, joining ASEAN in 1999 and the WTO in 2004. Accession to the WTO came relatively quickly, and many of the accession criteria are still to be met. Growth in exports in the early 2000s came largely from garment exports to the United States, but the economy was yet to diversify its output. The World Bank (2017b) described Cambodia's trading environment in the 2000s as one characterised by lack of government capacity, inefficiency in management, a regulatory burden, and numerous fees.

With the goal of 'promoting economic growth by reducing transaction costs associated with trade and investment, introducing transparency in investment processes, and facilitating access of enterprises to export markets', the World Bank worked with the GDCE to automate customs procedures at the border (World Bank, 2018a: 15). As a result, from 2004 to 2012, the number of documents required to clear customs reduced from 44 to 10, and the probability of inspections reduced from 100% to 0.82% after introducing a risk management system. Although the initial project objective was ambitious – a National Single Window (NSW) – institutional capacity constraints made it difficult to achieve this. The only successful implementation was the installation of the ASYCUDA under the GDCE. The launch of the system in May 2008 in Sihanoukville was presided over by the Prime Minister. The project also introduced risk management to the customs procedure, distinguishing between high- and low-risk traders and consignments. The benefits of the reforms were highly visible, with Cambodia climbing 22 places in the 2012 Logistics

⁵ GDCE (n.d.), Check SAD Status. <http://www.customs.gov.kh/publication-and-resources/sad-status-checker-en/> (accessed 30 July 2018).

Performance Index ranking. To date, the ASYCUDA has been rolled out to all 81 border points.⁶

5. Results from the ASTFI survey

The information gathered from the responses to the ASEAN Seamless Trade Facilitation Indicators (ASTFI) survey, consultation and validation meetings, and secondary research indicate that Cambodia is making good progress in many aspects of trade facilitation. Multiple agencies responded to the survey, a socialisation workshop was conducted in March 2018, and validation and consultation meetings were held in June 2018.

5.1. Transparency of information

Trade-related information is adequately published on the customs website,⁷ the National Trade Repository (NTR) (<https://cambodiantr.gov.kh/>)⁸ and some agency websites. The customs website and the NTR are the primary web-based platforms for all agencies to share trade-related information with the public. The customs website provides rich information for traders, and includes important information not only on customs but also on other regulatory agencies. For example, it contains detailed information on procedures for obtaining certificates of origin issued by the Ministry of Commerce;⁹ and sanitary and phytosanitary certificates issued by Ministry of Agriculture, Forestry and Fisheries.¹⁰ Traders can also access important trade-related information via a smartphone application.

Cambodia has a well-developed NTR, hosted by the Ministry of Economy and Finance on behalf of all line ministries and institutions involved in import/export processes in Cambodia. The content is managed by the NTR Secretariat located at the Department of Economic Integration and ASEAN of the ministry. The NTR is linked with the ASEAN Trade Repository (ATR). Cambodia's webpage in the ATR provides links to relevant pages on the NTR and GDCE websites. The NTR also offers a membership service under which traders can receive alerts on changes to relevant policies and procedures. However, there is some lag in updating the NTR with new laws and regulations, especially for English translations.

Unofficial English translations of some trade-related laws and regulations are available on the Council for the Development of Cambodia website.¹¹ Customs also maintains an inquiry point that caters to both local and foreign traders. One of the tasks of the

⁶ GDCE (n.d.), ASYCUDA Project. <http://www.customs.gov.kh/trade-facilitation/customs-automation/> (accessed 30 July 2018).

⁷ GDCE (n.d.), www.customs.gov.kh (accessed 30 July 2018).

⁸ Cambodia NTR (n.d.), <https://cambodiantr.gov.kh/> (accessed 30 July 2018).

⁹ GDCE (n.d.), Certificate of Origin. <http://www.customs.gov.kh/procedures-of-other-relevant-ministries/certificate-of-origin/> (accessed 30 July 2018).

¹⁰ GDCE (n.d.), Sanitary and Phytosanitary Certificate SPS. <http://www.customs.gov.kh/procedures-of-other-relevant-ministries/sanitary-and-phytosanitary-certificate-sps/> (accessed 30 July 2018).

¹¹ Council for the Development of Cambodia (n.d.), <http://www.cambodiainvestment.gov.kh> (accessed 30 July 2018).

Department of Legal Affairs, Audit and Public Relation within GDCE is to ‘examine and assess... the complaints from private sector in order to balance between efficiency of implementation of laws and regulations in force and facilitation of international trade.’¹² Traders can also communicate interactively with customs via a smartphone messaging application.

Although tariff information is available online and through the smartphone application, they are not regarded as official. The customs website encourages traders to refer to the Customs Tariff Book: ‘Duty and tax rate display in this website is only information for the public and is subject to change and update in accordance with duty and tax policy... Please kindly refer to the official Customs Tariff Book.’¹³ This may indicate that web resources are only for reference. This was also one of the issues highlighted with the NTR, as major agencies’ changes in regulations are not reported promptly to the Ministry of Economy and Finance, which maintains the NTR. Since the NTR is the main source of information for traders abroad about the country’s trade environment, regular updating of the NTR would enhance trade facilitation.

5.2. Communication and active engagement of the private sector

Cambodia has a long history of communication and engagement with the private sector. The Government–Private Sector Forum (GPSF) was established in 1999 and comprises 10 sectoral working groups that meet regularly (Cambodian Federation of Employers and Business Associations, n.d.). The Council for the Development of Cambodia coordinates the GPSF. The process takes place in several steps. First, consultation meetings are held every month at the private sector-only working groups amongst representatives of the private sector to discuss internally and agree on issues with the government. These working groups are clustered by sector as follows: (i) agriculture and agroindustry; (ii) tourism; (iii) manufacturing and small and medium-sized enterprises and services; (iv) law, tax, and governance; (v) banking and financial services; (vi) transport and infrastructure; (vii) export processing and trade facilitation; (viii) industrial relations; (ix) unhusked rice and rice; and (x) power and mining resources. Second, once the issues to be discussed are identified, joint government–private sector working group meetings are organised, mainly on an ad hoc basis, to discuss problems and find solutions. The sectoral working groups involve relevant government agencies and the private sector, and hence provide a forum for private sector consultation with government agencies. If certain issues cannot be solved at the above-mentioned working group level, they are forwarded to the GPSF which is chaired by the Prime Minister.

One of the major customs stakeholder consultation mechanisms is the Customs–Private Sector Partnership Mechanism (CPPM), established by Prakas No. 906.¹⁴ The goal is to

¹² GDCE (n.d.), Role and Responsibility. <http://www.customs.gov.kh/about-us/role-and-responsibility/> (accessed 30 July 2018).

¹³ GDCE (n.d.), Customs Tariff of Cambodia 2017. <http://www.customs.gov.kh/publication-and-resources/customs-tariff-of-cambodia-2017/> (accessed 30 July 2018).

¹⁴ Ministry of Economy and Finance Prakas No. 906 dated 9 October 2009 on the Creation and Implementation of the Private Sector Partnership Scheme with the Customs Administration.

improve the compliance of the private sector with customs laws and regulations. Starting in 2015, the president of the Cambodia Chamber of Commerce became a co-chair of the CPPM along with the director general of the GDCE. The CPPM comprises three sectoral working groups: the customs export-oriented garment industry working group, the customs export-oriented non-garment industry working group, and the customs domestic market-oriented business working group. The CPPM is a platform for resolving key issues related to customs laws and regulations. Consultations take place at least once a year. However, the last meeting of the CPPM was held in September 2016.¹⁵ The three working groups have been meeting more regularly, and many of the issues are solved in working group meetings.

5.3. Release and clearance formalities

The procedures for requesting advance rulings are clearly laid out on the customs website. The application for advanced rulings must be made in writing, before the shipment has arrived. The decision on advanced rulings for HS code classification is published on the customs website.¹⁶ As of June 2016 (the most recent figures available), 71 advanced rulings were listed, with the last decision made in June 2016.¹⁷ The ‘publication of rulings’ section of the customs website states that: ‘In order to ensure predictability, advance rulings may be published in some manners (e.g., on the Internet: http://customs.gov.kh/advance_ruling_decisions) with certain information that would not directly identify the applicant and the parties of the import transaction in question. The applicant must advise the GDCE of any confidential information contained in a request for an advance ruling or in a request for the review of an advance ruling to ensure that this information is not published’.¹⁸

Customs practices risk management and conducts inspections based on risk indicators. The risk indicators are based on risk profiles established by customs, which are fed into the ASYCUDA system. The risk indicators also include the sensitivity of the product or country of origin. Some 12%–15% of the shipments are directed towards the red channel, although some consignments in this channel may not be physically inspected.

Under normal circumstances, traders obtain customs clearance after paying the required duties and taxes. In some cases, there may be ‘pending issues’ such as disagreement over the HS classification or pending approval from other agencies. In that case, the customs release may be processed manually after guarantee. However, the system does not allow the release to be processed without the customs receipt. Therefore, the process has to be handled manually.

<http://www.cambodiainvestment.gov.kh/wp-content/uploads/2011/09/Chapter3.pdf> (accessed 30 July 2018).

¹⁵ GDCE (n.d.), Customs–Private Sector Partnership Mechanism (CPPM). <http://www.customs.gov.kh/trade-facilitation/customs-private-sector-partnership-mechanism-cppm/> (accessed 30 July 2018).

¹⁶ GDCE (n.d.), Advance Ruling. <http://www.customs.gov.kh/advance-ruling/> (accessed 30 July 2018).

¹⁷ GDCE (n.d.), ‘Advance Ruling on Tariff Classification’. <http://www.customs.gov.kh/wp-content/uploads/2017/10/Decision-of-advance-ruling.pdf> (accessed 30 July 2018).

¹⁸ GDCE (n.d.), Advanced Ruling. <http://www.customs.gov.kh/pre-clearance-procedures/advanced-ruling/> (accessed 30 July 2018).

Cambodia has a Trusted Trader programme called the ‘Best Trader’ programme. Details of the programme, relevant laws and regulations, and selection criteria are available on the website.¹⁹ The qualifying criteria include ranking 1 in the Trade Credibility Management System; registered capital of KR1,000 million or more; no criminal background; lack of any debt with customs; and a system in place to manage documents, accounting books, records, and other information related to the import/export in accordance with existing regulations. Furthermore, the trader has to be a member of the Authorized Business Community and must be certified by the chair of the Authorized Business Community as to the financial situation and the compliance of the trader. In addition, the trader should have annual trade volume not less than \$2 million, and is obliged to report in any form determined by the Best Trader Management Unit of the GDCE. Currently, the Best Trader programme has 25 traders enrolled, and there are plans to extend the programme further and introduce an Authorised Economic Operator programme.

Simplified or expedited clearance is operational for air cargo but in planning for land cargo. Simplified customs clearance procedures are available for express air consignment, goods under *de minimus*, and goods in and out of Special Economic Zones.²⁰ Likewise, small-scale border traders have a simplified clearance process.

5.4. Import and export formalities

To enhance trade facilitation, customs allows electronic copies of declarations to be sent directly to border agencies to complete the customs procedure. Instructions have been sent to all border agents to accept digital copies. Prior to this provision, traders spent several hours carrying physical copies from the GDCE office in Phnom Penh to Sihanoukville. However, traders are still required to produce original copies. Therefore, the process is not fully paperless. Declaration is done by filling out the SAD, printing it, and attaching copies of required documents.

The NSW is under development, and when fully implemented, will improve the trade facilitation environment in Cambodia immensely. A website has been developed, but only has basic information on the status of Cambodia’s NSW.²¹ The GDCE will lead and manage the project and be the operator of the system once implemented. As of 2018, Cambodia has developed the national NSW Blueprint, incorporating technical and functional specifications for the system, a governance and operational model, a procurement strategy, and a project implementation plan.

¹⁹ GDCE (n.d.), Best Traders. <http://www.customs.gov.kh/business-traders-3/best-traders/> (accessed 30 July 2018).

²⁰ Ministry of Economy and Finance Prakas No. 734 dated 11 September 2008 on Special Customs Procedures to Be Implemented in Special Economic Zones.

²¹ NSW (n.d.), <http://www.nsw.gov.kh/en/> (accessed 30 July 2018).

5.5. Cross-border coordination with neighbouring countries

No border crossing coordination is operational at present. The GDCE has signed memoranda of understanding on customs cooperation with neighbouring countries such as Thailand and Viet Nam, but they are not yet operational on any border. The GDCE is holding regular meetings with other countries to sign memoranda of understanding. There are no other aspects of cross-border coordination (computerised system of transit, transit guarantee mechanism, or simplified procedures for Authorized Transit Traders) with neighbouring countries in place by 2018. Nonetheless, the procedures that authorized transit operators need to follow are laid out in the Instructions on Customs Transit Procedures.²² These procedures require the same documents and forms as the regular customs declaration.²³

5.6. Transport facilitation

Transport facilitation is an area which requires major improvement. No procedures for the issuance of ASEAN goods vehicle permits are in place. Protocols 1 (designation of transit transport routes facilities), 2 (designation of frontier post) and 4 (technical requirement of vehicles) of the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT) have been ratified, but no laws or regulations have been passed. The status of both the ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST) and the ASEAN Framework Agreement on Multimodal Transport (AFAMT) is similar to the AFAFGIT – they have been ratified but no laws or regulations have been passed.

5.7. E-commerce

The National Assembly approved the e-commerce law (the Law on Electronic Commerce) in November 2019. It has 12 chapters and 67 articles, covering a wide range of issues. For digital signatures, Cambodia adopted Sub-decree No. 246, implemented by the Ministry of Post and Telecommunications (Chan, 2018a). This provision facilitates electronic trade, as it gives electronic documents with digital signatures equivalent validity to paper-based documents. Digital signatures from foreign institutions require ministerial approval, and will be an important area for international agreements.

²² Customs and Excise Department Instruction No. 790 dated 28 August 2008 on Customs Transit Procedures.

²³ Cambodia NTR (n.d.), Guide to Import–Export. <https://cambodiantr.gov.kh/index.php?r=site/display&id=3> (accessed 30 July 2018).

6. Summary and conclusion

Cambodia's trade facilitation regime has improved significantly in the 2010s. Trade volumes have increased rapidly, as has the capacity of the GDCE. With the introduction of the ASYCUDA system, customs procedures have smoothed the process. This is reflected in the short border compliance times recorded by secondary indicators. Nonetheless, there is still room for further improvement.

Information is disseminated comprehensively through the customs and NTR websites. Some issues remain, with the slow updating of new information and the lack of English translations of new regulations and procedures. One way to improve the dissemination of information for international traders would be to update the websites frequently, especially the NTR, in both local and English languages; and for all government agencies to include trade-related information on their websites or provide links to the repository.

Although the structures for consultation between government bodies and with the private sector are well established, regular meetings have not been taking place at the highest level. Utilising and improving upon current structures would be crucial to make further improvements in the trade environment.

The GDCE, together with related agencies, should regularly conduct Time Release Studies. Since beyond-the-border compliance times are reportedly high, understanding the processes of major permit-granting agencies would help reduce trade costs significantly. The design of the upcoming Time Release Studies should have a goal of uncovering issues faced by small traders to make the process more inclusive.

The documentary compliance time remains a crucial bottleneck in the trade process. To improve this, the government should promote the acceptance of digital copies by all regulatory agencies as it would dramatically reduce the burden on traders. This is tied to the development of the NSW and the promulgation of a comprehensive e-commerce law. It is important that other major government agencies join the NSW, which would lead to greater proliferation of digital government services and contribute towards Cambodia's goal of a digital economy.

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Chapter 4

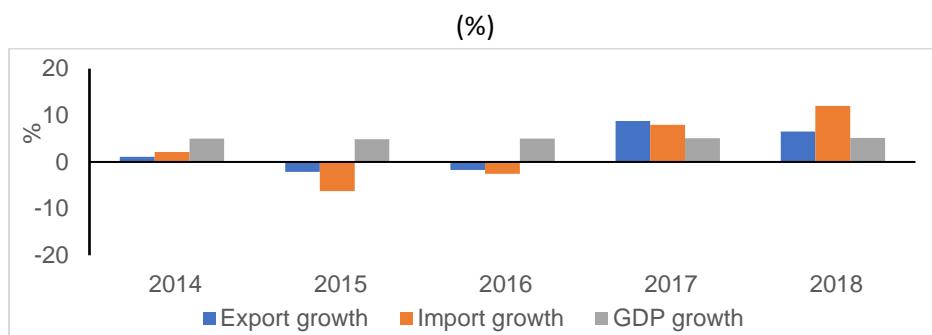
Trade Facilitation in Indonesia and the Results of the ASTFI Baseline Study¹

Dionisius Narjoko and Firman Bunjamin

1. Overall Trade Facilitation Environment

Indonesia's trade performance has not been particularly encouraging in the past several years (2014–2018), as export and import growth rates have fluctuated quite substantially (Figure 4.1). International trade has played an important role in growth performance, at around 40% of gross domestic product (GDP), but with a declining trend (Figure 4.2). All this suggests the importance of trade facilitation as a measure to improve the country's trade performance in the future.

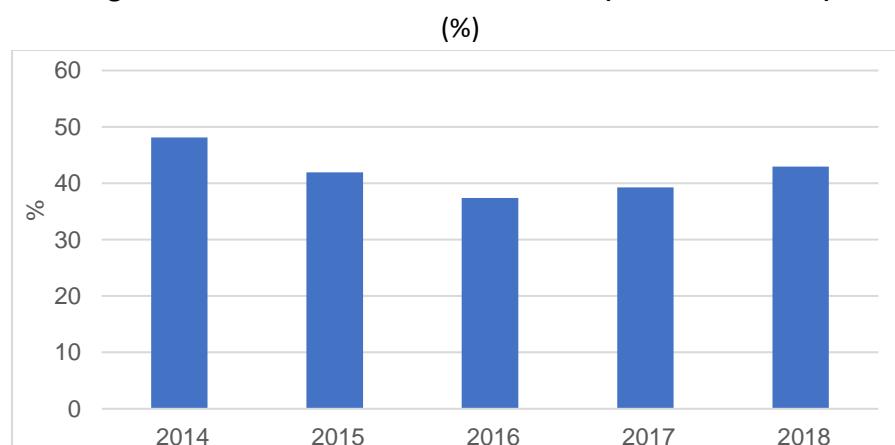
Figure 4.1: Indonesia's GDP and Export/Import Growth



GDP = gross domestic product.

Source: Economist Intelligence Unit (2020), http://data.eiu.com/?pubtype_id=913181276 (accessed 18 April 2021).

Figure 4.2: Amount of International Trade (as a share of GDP)



GDP = gross domestic product.

¹ This report is based on the 2018 data of the ASTFI baseline study survey.

Source: Economist Intelligence Unit (2020), http://data.eiu.com/?pubtype_id=913181276 (accessed 18 April 2021).

Indonesia trades mostly with Asian countries, including the Association of Southeast Asian Nations (ASEAN) Member States (AMS), in addition to China, Japan, the Republic of Korea, and the United States. In 2018, although 23% (\$41 billion) of Indonesia's total world exports were to AMS (Figure 4.3), it imported 24% (\$46 billion) from other AMS (Figure 4.4). From those numbers, AMS are still amongst the key markets for Indonesia to both sell its products and source its imports.

Figure 4.3: Indonesia's Top Export Destination, 2018

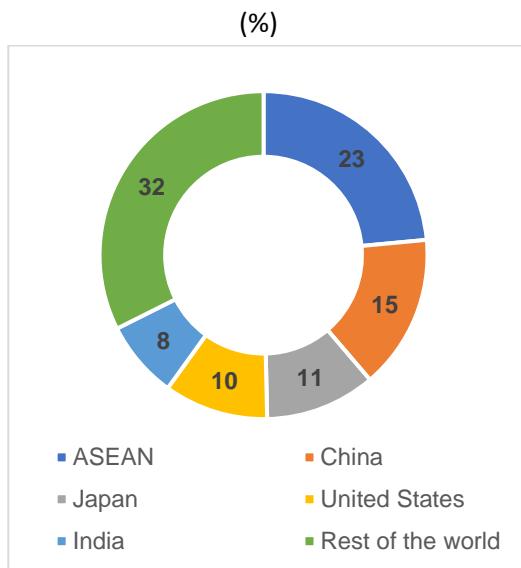
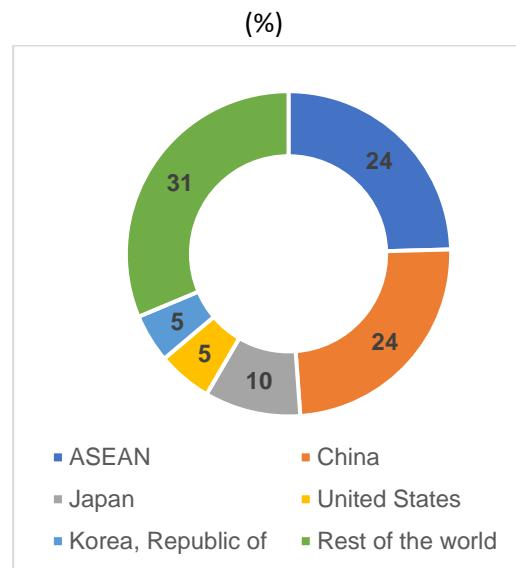


Figure 4.4: Indonesia's Top Import Origin, 2018



ASEAN = Association of Southeast Asian Nations.

Source: International Trade Centre (2018), Trade Map.

[https://www.trademap.org/\(X\(1\)S\(n0hafb55tady5cu4oekxev3v\)\)/Index.aspx](https://www.trademap.org/(X(1)S(n0hafb55tady5cu4oekxev3v))/Index.aspx) (accessed 18 April 2018).

Based on product classification, \$62 billion (34.6%) of products exported from Indonesia belong to mineral fuels, mineral oils, and animal or vegetable fats and oils (HS codes 27 and 15). Meanwhile, Indonesia imported \$48 billion (26%) worth of electrical products, electrical equipment, and machinery (HS codes 84 and 85). In total, Indonesia exported goods worth \$180 billion while it imported goods worth \$188 billion in 2018.

Considering the importance and potential of trade to its economy, the Government of Indonesia has embarked on various trade facilitation reforms since the early 2000s to support its economic growth sustainability.

Certain indicators improved from 2015 to 2018, based on World Bank data using a methodology adopted in 2015. As reported in the table below, the improvement can be seen in three main indicators:

- (i) The time to fulfil the documentary compliance to export was reduced by 15% from 72 hours to 61 hours.
- (ii) The time to fulfil the documentary compliance to import was reduced by 17% from 144 hours to 119 hours.
- (iii) The cost to fulfil the documentary compliance to export was reduced by 18% from \$170 to \$139.

These improvements are a positive signal for Indonesia, as they instil confidence in the government to undertake further reforms to facilitate trade.

Table 4.1. Indonesia's Trading Across Borders Achievement, 2015–2018

Indicators	Indonesia	
	2018	2015
Rank – Trading across borders	112	
DTF – Trading across borders	67	64
Time to export: Documentary compliance (hours)	61	72
Time to import: Documentary compliance (hours)	119	144
Time to export: Border compliance (hours)	53	53
Time to import: Border compliance (hours)	99	99
Cost to export: Documentary compliance (\$)	139	170
Cost to import: Documentary compliance (\$)	164	164
Cost to export: Border compliance (\$)	254	254
Cost to import: Border compliance (\$)	383	383

DTF = distance to frontier.

Notes:

1. The distance to frontier score captures the gap between an economy's performance and a measure of best practice across the entire sample of all indicators for 10 Doing Business topics. World Bank (2016), Distance to Frontier and Ease of Doing Business Ranking. <https://www.doingbusiness.org/content/dam/doingsBusiness/media/Annual-Reports/English/DB17-Chapters/DB17-DTF-and-DBRankings.pdf> (accessed 1 July 2018).
2. The DTF of trading across borders reflects a combination of the costs and time required for exports and imports.

Source: World Bank (2018).

While the World Bank indicators show some improvement, the Logistics Performance Index (LPI) scores reflect mixed results. Based on the respondents' answers, it now costs less to trade via seaports, airports, and railways. However, the proportion of respondents reporting an increase in the charges for the logistical element of road transport, warehousing, and agents increased in the 2016 LPI.

The logistics environment improved significantly in 2016, compared with previous years, across the indicators:² (i) customs clearance procedures, (ii) other official clearance procedures, (iii) trade and transport infrastructure, (iv) telecommunications and information technology infrastructure, (v) private logistics services, and (vi) regulation related to logistics.

2. Trade Facilitation Environment (Customs and Major Agencies)

Comprehensive implementation of customs reform and modernisation began in 2007. The Indonesia Customs Office took new approaches to accelerate the transformation process that can be measured independently by external parties as an effort to increase transparency.

2.1. Catching up with trade growth by establishing Primary Customs Offices (KPU)

KPU offices have different characteristics from other customs offices, as these modern offices serve a broader range of import and export activities. For example, KPU Tanjung Priok, located strategically in North Jakarta, handles around 70% of national imports and exports. The process of customs audit and objection/review can also be exclusively conducted at the KPU offices. The development of KPU Tanjung Priok, KPU Batam, and KPU Soekarno-Hatta stimulated an equal improvement in both customs service and control. The KPUs are available to stakeholders for service 24 hours a day, 7 days a week. Importers may file appeals directly at KPUs instead of undertaking multiple procedures for objections at customs headquarters.

2.2. Avoiding unnecessary trade issues by expanding customs facilitation

Along with the customs reform and modernisation, there has been a significant increase in customs facilitation to support industry and other sectors:

- (i) relief of customs duties for machinery and raw material imports;
- (ii) customs facilitation for mining sectors; and
- (iii) warehousing and export facilitation.

The import duty exemption and/or relief facility aims to support the development of the domestic manufacturing industry, with a focus on power generation projects, the shipping industry, environmental maintenance projects, the automobile parts industry, machinery, electronics, and transportation. In addition, simple and transparent licensing procedures have attracted the private sector to apply for warehouse licenses. In 2008, the warehouse licenses were distributed as follows:

- (i) 539 bonded warehouse licences;
- (ii) 1,418 bonded area licences;

² The improvement can be inferred from the significant increase in the percentage of respondents answering 'improved' or 'much improved' to the changes in these indicators.

- (iii) 33 customs duty free shop licences; and
- (iv) 15 exhibition permits.

The comprehensive reform in 2007 increased the organisational performance of integrity development, and is reflected in the rise in Indonesia's Corruption Perceptions Index rating – from 143 in 2007 to 126 in 2008. This improvement is explained as follows: 'Bold reform in the tax and customs administration and the ability of Corruption Eradication Commission to bring forward high profile cases have recently bolstered the perception that corruption is being addressed more aggressively...' (Transparency International, 2008:20).

In 2010, customs modernisation was facilitated by establishing 28 modern customs offices across Indonesia. These offices conduct regular evaluations to identify sectors that need improvement. The enhancement of customs performance is not limited to reshaping physical infrastructure, but includes improving personnel capacity using key performance indicators and a balanced scorecard.

Following the change in the organisational structure,³ documentation fees collected by customs were officially terminated. This was a significant measure in reducing the trade costs of importers and exporters.

The Centralized Service and Supervision System supports the customs reform process. It has made the entire customs system monitorable and available in real time 24 hours a day, 7 days a week, to support an integrated national service. Furthermore, the use of risk management at bonded zones⁴ has accelerated the customs service at warehouses.

2.3. 2014–2018

In 2014, Indonesia's customs were restructured to strengthen the customs administration in delivering its services. Several initiatives were established to support the reform, such as Authorised Economic Operators (AEOs), priority importers (MITA), Bonded Logistic Centers (PLBs), stakeholder engagement, online payments, a joint customs–tax programme, e-commerce facilities for bonded warehouses, infrastructure modernisation, and drawback facilities for small and medium-sized enterprises (SMEs).

The number of AEOs increased significantly – from 40 companies in 2016 to 110 companies in 2018. In the same period, the number of MITAs also rose from 113 to 405. These AEO and MITA companies are considered very low-risk entities and receive special treatment from customs for their trade activities. AEO status allows these companies to submit their documents in a paperless manner, without physical examination by customs authorities, suggesting that the trade facilitation environment has improved and that this has been noticed by the private sector. In the future, the customs administration could

³ Government Regulation No. 1/2013 dated 2 January 2013 on Tariff and Classification for Non-Tax Revenue.

⁴ Director General of Customs and Excise (DGCE) Decree No. PER-20/BC/2013 dated 24 May 2013 on The Use of Risk Profiles in the Bonded Zones. A bonded zone is a place to store imported goods and/or domestic goods to be processed or combined before being exported or imported. Imported goods stored in the bonded zone are subject to duty suspension.

encourage more companies to participate in the AEO and MITA programmes to achieve faster customs clearance.

Another programme to promote trade facilitation is the establishment of Pusat Logistik Berikat Generasi 1 (PLB G1),⁵ launched by the President of Indonesia in March 2016, which was followed by the Pusat Logistik Berikat Generasi 2 (PLB G2) in March 2018. The PLB improves cost-efficiency through reductions in storage fees, freight costs, and lead time. The programme has also attracted investors to relocate their warehouses to Indonesia at a lower operating cost.

Based on 2017 performance achievement indicator data,⁶ the performance of customs was very satisfactory. Dwell time, as an indicator of clearance performance, showed good results – customs surpassed the target of 1.00 day to 0.87 day. Another indicator that showed the good achievement of customs is its trade facilitation, which reached 2.72 (on a scale of 4.00), higher than the target of 2.00.

In terms of law enforcement, customs also showed remarkable results in 2018. A total of 1,834 operations were targeted for fraud in trade of excise goods (e.g. tobacco) and 2,221 operations were executed, leading to 4,838 cases of illegal excise in 2018. In other words, the enforcement and control of illegal excise goods exceeded the target of 121% in 2018 (DJBC, 2018). This reflects the role of customs in generating growth in domestic industry, creating healthy competition, supporting the growth of SMEs, and optimising government revenue.

State revenue, which was in line with the increase in importers' compliance with regulations, showed good results. Customs collected 102% of the targeted revenue in 2017. Furthermore, based on a stakeholder satisfaction survey, the index score of 4.38 (on a scale of 5.00) exceeded the target of 4.06% in the same year. Stakeholder compliance also showed a significant improvement, at 95.24%, which was higher than the target of 80.00%. These are the results of significant efforts such as integrity declarations with other agencies, joint task forces, simplifying permits and restrictions, shifting from border permits to post border permits based on risk management, collaboration with the Directorate General of Tax for joint analysis, and joint audits.

The results of the customs reform programme can be seen through indicators issued by international independent bodies such as the World Bank. By 2018, Indonesia was ranked 72 on the World Bank's Ease of Doing Business index (World Bank, 2018), an improvement of 19 places from the previous rank of 91 in 2017. One contribution to the improved rank was the improvement in customs performance, especially after the application of a single billing system which facilitates trading transactions across borders. A future focus for customs is ongoing efforts to lower trade costs by decreasing the dwell time and simplifying procedures.

⁵ The PLB G1 and PLB G2 are companies with the status of a Bonded Logistic Centre.

⁶ DGCE Decree No. KEP-198/BC/2020 dated 28 August 2020 on the Strategic Plan of the Directorate General of Customs and Excise, 2020–2024.

3. Results from the ASFTI Survey

A questionnaire survey was conducted with government agencies during the first half of 2018 on five components: (i) transparency and information on laws, regulations, and procedures; (ii) communication with and active engagement of the private sector; (iii) release and clearance formalities; (iv) import/export formalities and coordination; and (v) transport facilitation. The results of the survey are summarised below.

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

Indonesia's performance under this component is impressive. Access to information on customs-related matters is generally high in Indonesia. However, some information is available only in Bahasa. Information relevant for trade (e.g. HS codes and free trade agreement (FTA) tariffs) and all export-import regulations may be accessed via the customs website as well as the Indonesia National Single Window (INSW). HS codes are available not only for the current system (i.e. HS 2017) but also for the previous system (i.e. HS 2012) and older iterations (i.e. those that applied before HS 2012) – making it easier for traders to classify their traded goods. Tariffs are available for the most favoured nation/World Trade Organization rates and FTAs that Indonesia has signed (e.g. ASEAN Free Trade Area, ASEAN–Australia–New Zealand Free Trade Area, ASEAN–China Free Trade Area, ASEAN–India Free Trade Area, ASEAN–Japan Comprehensive Economic Partnership, ASEAN–Korea Free Trade Area, and Indonesia–Pakistan Preferential Trade Agreement). Services for enquiries from the public are also rated very high for customs, through a single-point contact centre called 'Bravo Customs' and a number of social media contact points. The call which can be accessed through the INSW portal (INSW, n.d.). The NTR includes information on all tariff and non-tariff measures by all nine elements⁷ required/agreed at the ASEAN level. Information at the micro level could be improved by aligning the non-tariff measures according to the latest classification of the United Nations Conference on Trade and Development (UNCTAD, n.d.). The public has increasingly used the NTR to acquire information from all agencies involved in international trade. All the information is centralised for public information in the NTR. However, more detailed explanations or English translations are not yet available in the repository system. This is another area of improvement for the future.

3.2. Communication with and Active Engagement of the Private Sector

No official mechanism is in place for communication with the private sector for the consultation process and information dissemination, as in the usual practice in other countries (i.e. a national trade facilitation committee). Consultations are done on ad hoc basis – upon request or on a needs basis – and tend to be less structured and less organised, although customs conducts such meetings up to eight times a year. A committee is being developed, and should be headed by the Coordinating Ministry for

⁷ The nine elements are (i) tariff nomenclature; (ii) most favoured nation and preferential tariffs; (iii) rules of origin; (iv) non-tariff measures; (v) national trade and customs laws; (vi) rules, procedures, and documentary requirements; (vii) administrative rulings; (viii) best practices in trade facilitation; (ix) a list of authorised AMS traders.

Economic Affairs. In its absence, the consultation process is carried out through the ad hoc meetings, which cover not only the major or large traders but also SMEs.

3.3. Release and Clearance Formalities

Indonesia performs quite well under this component, despite some variations amongst its indicators. Decisions on advance rulings are restricted to applicants and are not published. The exclusivity of advance ruling decisions – while arguably sensible because the export-import transaction can be unique (transaction-specific) – is not yet in accordance with best practice, where advance ruling decisions are made public, as in the WCO guidelines on advance rulings (WCO, 2018).

Pre-arrival (import) and pre-departure (export) formalities are moderately high for Indonesia. Pre-arrival document processing for imports is available;⁸ and Trusted Traders (i.e. MITAs) and AEOs have a facility to expedite processing. However, it covers only the major ports (i.e. Tanjung Priok Port, Belawan Port, Tanjung Perak Port, Tanjung Emas Port, and Soekarno-Hatta Airport) and is restricted to air and sea cargo.

Customs uses risk management practices applied by customs administrations in other countries, i.e. assessing import goods by applying random inspections or based on risk factors.⁹ In line with the processing of pre-arrival documents, MITAs and AEOs receive preferential treatment – allowing inspections to be done at traders' warehouses rather than the customs facility.

Consistent with the application of a risk-based approach for the arrival of imports – instead of a transaction-based approach – customs implements a post-clearance audit system. This consists of the audit of financial records and the audit of the trade documentation.

For the separation the release of goods from customs and the clearance of importation documents, the mechanism of releasing goods early (without payment of duties or taxes, with minimum documentation) has been established, allowing the seamless movement of goods, especially if the goods are intermediate inputs for production use.¹⁰ Further improvement could be made by removing the guarantee that allows the early release, although the impact of this should be minimal.

All importation and exportation payments may be made electronically (e-payments). This follows the global practice of putting all payments into a single bill issued by customs.¹¹ Indonesia also follows the global practice of a customs review and a judicial appeal to the

⁸ This is reflected in Article 6 of the DGCE Decree No. 16/2016 dated 29th April 2016 on Release of Import for Home Use.

⁹ The following regulations govern risk management: Article 3 of Customs Act No. 17/2006 dated 15th November 2006, Article 24 of the DGCE Decree No. 16/2016, and DGCE Decree No. 16/2016 (for physical inspection).

¹⁰ The mechanism is reflected in the Minister of Finance Decree No. 167/2015 dated 3rd September 2015 on The suspension of Customs Duties for Home Use.

¹¹ This is governed by the Minister of Finance Decree No. 40/2016 dated 22nd March 2016 on The Electronic Payment for Customs Duties; c.q. DGCE Decree No. 33/2016 dated 1st August 2016 on The Electronic Payment for Customs Duties.

courts (i.e. Tax Court for Indonesia).¹² Traders may submit objections regarding the valuation of the tariff duty and other non-tariff payments, imposition of fines, and imposition of export duty.

Customs has implemented two globally used indicators – dwell time and the Time Release Study (TRS) – to measure its performance in releasing goods. Customs conducts these measurements regularly and, more importantly, makes them publicly available, providing a self-discipline mechanism to improve clearance procedures. Dwell time is recorded on a monthly basis for all major ports (i.e. Belawan Port, Tanjung Priok Port, Tanjung Perak, and Tanjung Emas). The TRS is conducted biennially or annually, but only for the main ports at present (i.e. Bitung Port, Entikong Port, Tanjung Emas Port, Dwikora Port, and Soekarno-Hatta Port). Customs plans to expand the implementation of the TRS to other major ports, supplementing the dwell time statistics already available for these ports.

Customs has established the Trusted Traders (MITA) and AEO programmes, and signed a mutual recognition agreement for the Trusted Traders and AEOs with Korea.¹³ Currently, Indonesia is exploring the possibility of future mutual recognition agreements with Hong Kong, the United Arab Emirates, China, Japan, and Malaysia.

Self-certification is available, but only to certified manufacturers or certified exporters (not both), while the simplified procedure currently applies only to sea and air cargo. Improvement could be achieved by extending the self-certification mechanism to cover both certified manufacturers and exporters, and extending the simplified procedure to land cargo.

3.4. Import/Export Formalities and Coordination

Indonesia performs quite well under this component. The system for international trade in Indonesia accepts digital copies for all document requirements. Paper documentation is also accepted, providing some flexibility for traders. Currently, Indonesia has also implemented electronic certificate of origin data exchange for Form D of the ASEAN Trade in Goods Agreement, Form AK of the ASEAN–Korea Free Trade Area (bilateral scheme with Korea), and Form E of the ASEAN–China Free Trade Area (bilateral scheme with China). An improvement could be made in the future by allowing the certificate of origin rather than Form D, Form AK, and Form E to be exchanged in its electronic form.

The INSW is fully implemented. It was initiated at the end of 2007, and by 2018 covered customs and 15 major agencies. The INSW covers more than 90% of Indonesia's international trade, and the government aims to increase the coverage to 100% by September 2018 by mandating the implementation of trade through the INSW in 92 customs and excise service offices (at the beginning of 2018, the INSW was implemented

¹² The mechanism is established by the following regulations, including the procedure to submit the objection: Chapter XII of Customs Act No. 17/2006, the Minister of Finance Decree No. 51/2017 dated 11th April 2017 on Customs Objection, and Law No. 14/2002 dated 12th April 2002 on Tax Court.

¹³ The Minister of Finance Decree No. 211/2016 dated 29th December 2016 on the Trusted Traders (MITA), while the Minister of Finance Decree No. 227/2014 dated 17th December 2017 on the Authorized Economic Operators (AEOs).

in 22 customs and excise service offices and is expected to expand to another 70 customs and excise service offices). The INSW covers exports and imports (not transit and transhipment); and allows the major documents needed to clear trade (i.e. export permits, import permits, certificates of origin (Form D), licences, import declarations, and other documents (e.g. quota reduction)). The submission of manifest is not yet included in the system. Traders still have to apply for permits through each ministry/agency system, and they submit all the permits to the INSW for the goods clearance process.

3.5. Trade Facilitation

Indonesia performs well under this component. Cross-border coordination (i.e. the institutional and operation arrangement) is another important aspect of trade facilitation. Customs has agreements with neighbouring countries (i.e. Malaysia, Timor Leste, and Papua New Guinea) for cross-border coordination and collaborates officially with other relevant agencies in the country (i.e. Ministry of Home Affairs, Ministry of Trade, and Directorate General of Immigration) for the implementation of these agreements. In terms of operations, it covers the alignment of working hours and joint controls between the customs administrations of Indonesia and the neighbouring countries. However, for the issuance of cross-border permits for vehicles transporting goods, it is still in the pilot stage.

As for the implementation of the ASEAN Framework Agreement on the Facilitation of Goods in Transit, two out of three protocols under the agreement have been operationalised while the other two agreements (the ASEAN Agreement on Facilitation of Inter-State Transport and the ASEAN Framework Agreement on Multimodal Transport) have yet to be operationalised by Indonesia.

3.6. E-Commerce

Indonesia's performance under this component is moderate and needs improvement. At the time of the study, a legal framework governs some aspects of e-commerce transactions but not all of them. For the revenue framework indicator for e-commerce international transactions, Indonesia still follows the *de minimis* rule, which is not part of an e-commerce legal framework.

4. Recommendations

The discussion in this chapter suggests the following way forward.

First, continue or further reform elements of trade facilitation to close the gap with best practice. This includes making decisions on advance rulings public, providing more detail regarding the regulation on the NTR, simplifying documents and ensuring their digitalisation, and expanding the TRS to cover the major ports. These actions would complete the reforms conducted earlier and make trade facilitation more robust.

The deepening or extension of institutional reforms is included here. Agencies' organisational business processes should be transformed to optimise customs audits and

intelligence/risk management and to create a special unit on rules of origin for increasing patterns of FTA utilisation. All this needs to be supported by an improvement in the human capital of officials in the agencies.

It is important to note here that the special unit on rules of origin could be developed to decentralise the issuance of certificates of origin, which is likely to increase the efficiency of trade facilitation significantly considering the archipelagic nature of Indonesia.

Second, improve and ensure smooth coordination between agencies. This is important to strengthen the implementation of the INSW toward the ideal situation, i.e. the INSW runs as a portal for traders to obtain permits and licences from agencies. Political willingness is clearly needed to ensure smooth coordination, not only because strong commitment is needed but also because of the complexity of the bureaucracy and the geographically challenging nature of the country.

Related to this is improving the quality of regulations, which could be done by synchronising the policy approach (at agency level) between agencies. An example is the variation in the categorisation of a firm's risk status amongst agencies; without adjustment (synchronisation), a firm could be defined as a low-risk firm in one agency but a high-risk firm in another agency.

Third, review and improve administrative procedures in some initiatives to improve efficiency – both in these initiatives and for overall trade facilitation performance. Potential inefficiencies in PLBs is one initiative to be reviewed and reformed.

The study also recommends agencies to simplify the procedures applied in PLBs, bonded zones, and free trade zones. The simplification would attract more participation from SMEs in international trade, which could be done by simplifying information technology inventory requirements, relaxing regulations on the restricted goods list, reducing verification costs by surveyors, and simplifying the registration process.

Fourth, increase efforts for more intensive socialisation and consultation with the private sector/businesses. An official platform could be created for a national trade facilitation committee. Consultation increases firms' awareness of the importance of aligning regulations governing PLBs, bonded zones, and free trade zones with their business models.

Fifth, continue investing in technology to reach global standards used in developed countries. This is important as Indonesia is expanding its FTA agreements with developed countries, and in the context of the Regional Comprehensive Economic Partnership.

Information technology could be developed to support a paperless environment, using electronic processing and data sharing/information exchange amongst AMS or other countries to speed up the facilitation process and to manage it, without disrupting the clearance process. Indonesia could approach its trading partners to sign mutual recognition agreements or memoranda of understanding for information sharing.

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Chapter 5

Trade Facilitation in the Lao PDR and the Results of the ASTFI Baseline Study¹

Rashesh Shrestha and Phouphet Kyophilavong

1. Introduction

The Lao People's Democratic Republic (Lao PDR) joined the World Trade Organization (WTO) in 2012 and is moving ahead strongly with reforms. Owing to an impressive average growth rate of 7.5% from 2010 to 2018, income per capita was \$2,542 in 2018, more than double its 2010 value.² Poverty in 2018 was at 13%, falling from over 23% in 2010. This enviable recent performance has given rise to optimism amongst both businesses and policymakers. The 8th Five-Year National Socio-Economic Development Plan, 2016–2020 aimed to graduate the Lao PDR from least developed country status by 2020 and achieve upper middle-income country status by 2030 (Ministry of Planning and Investment, 2016).

Like many small developing countries, the Lao PDR relies on trade and foreign direct investment (FDI) to achieve a rapid rate of economic growth. Exports have been performing well but rely heavily on exhaustible natural resources. In 2018, the total values of exports and imports were \$5,295 million and \$6,164 million, respectively, increasing more than fivefold since 2005.³ Manufactured goods accounted for only 26% of merchandise trade, while ores and metal comprised 28% and fuels 20% of the value of total exports. Figure 5.1 breaks down exports and imports by broad product categories. Hydroelectricity has seen a major influx of investment, attracting the highest value of FDI from 2005 to 2015 (Onphanhdala and Philavong, 2018). Altogether, there was a fourfold increase in the value of FDI from 2010 to 2018.

Most of the Lao PDR's trade is with its neighbours, with Thailand accounting for 60% of merchandise trade. Major import partners of the Lao PDR are Thailand (53%), Viet Nam (10%), and China (22%). Major export destinations are Thailand (48%), Viet Nam (15%), China (26%), and India (2%).

Trade facilitation is making swift progress in the Lao PDR. Recent indicators demonstrate the impact of the improvements that have been taking place since the early 2000s. With respect to the implementation of best practices, early development of a comprehensive trade portal (the Lao Trade Portal (LTP)) and frequent use of the Time Release Study (TRS) stand out. Other reforms have begun in earnest, with necessary changes in laws to adhere to international trade agreements. Having added the provisions in the Customs Law, 2011,

¹ This report is based on the 2018 data of the ASTFI baseline study survey.

² World Bank (n.d.), Country Profile: Lao PDR.

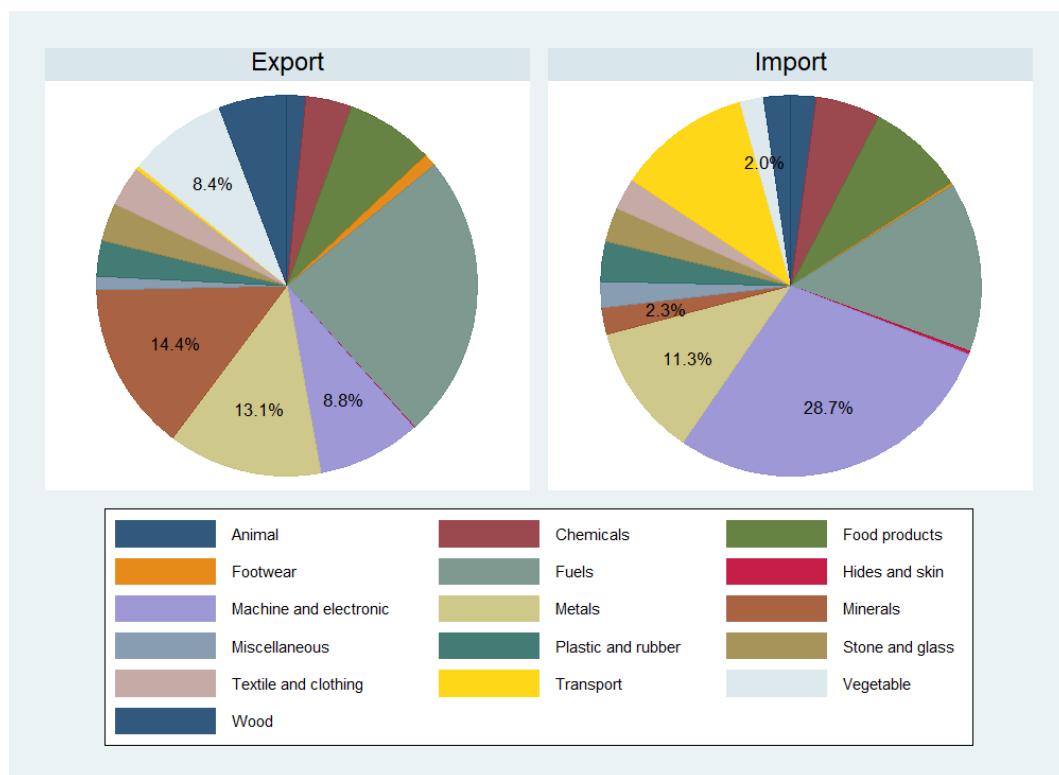
http://databank.worldbank.org/data/views/reports/reportwidget.aspx?Report_Name=CountryProfile&Id=b450fd57&tbar=y&dd=y&inf=n&zm=n&country=LAO (accessed 1 July 2018).

³ UNCTADstat (n.d.), Maritime Profile: Lao People's Dem. Rep.

<http://unctadstat.unctad.org/CountryProfile/MaritimeProfile/en-GB/418/index.html> (accessed 1 July 2018).

the Lao PDR is pilot testing features such as Advance Rulings, pre-arrival processing, and Authorised Economic Operators (AEOs). These are new provisions from the Lao PDR's perspective. As such, authorities are gathering the necessary information from these pilot projects as well as learning from other countries in the region.

Figure 5.1: Lao PDR Trade Share by Product Type, 2018



Lao PDR = Lao People's Democratic Republic.

Source: Authors' calculation with data from the World Integrated Trade Solution (WITS) database (n.d.), <https://wits.worldbank.org/> (accessed 13 July 2018).

5. Secondary Indicators of Trading Environment

The Lao PDR's trading environment shows a general improvement, reflecting the reforms that have been conducted since the early 2000s in close partnership with donors and international organisations such as the World Bank and the Asian Development Bank. Table 5.1 summarises trends in some relevant indicators since 2006. A popular indicator is the World Bank's Ease of Doing Business 'trading across borders'.⁴ The Lao PDR's Ease of Doing Business ranking in 2018 was 124 out of 190 countries, with a distance to frontier of 63%, meaning that the country's trading environment was 37 percentage points away from best practice as determined by the World Bank. The major issue seems to be the time for documentary compliance, which took 216 hours in 2018; border compliance took

⁴ The World Bank's Ease of Doing Business ranks countries on various aspects of their business environment, one of which is 'trading across borders'. World Bank (n.d.), Ease of Doing Business Scores. <https://www.doingbusiness.org/en/data/doing-business-score> (accessed 1 July 2018).

12 hours. After a remarkable improvement since the mid-2000s, the country's distance to frontier has remained constant since 2015. This indicator is one of the key performance indicators in the Trade Facilitation Road Map, 2017–2022.⁵

Another well-known indicator of trade facilitation is the Logistics Performance Index (LPI), which assesses a country across six dimensions based on a web-based survey of about 1,000 international freight forwarders. The 2018 international LPI ranked the Lao PDR at 82, up from 131 in 2014.⁶ Perceptions of the efficiency of border processes have been rising continuously, with the border clearance efficiency ranking reaching a historical high of 77 in 2018. Likewise, in the domestic LPI, the quality of air transport and customs brokers were highly rated, with 100% of respondents saying that customs processes had improved since 2015.

The domestic LPI for 2018 also revealed improved infrastructure and performance. The percentage of physical inspections was 18%. It was also reported that 100% of declarations were submitted electronically. The average clearance time without physical inspection was reported to be 2 days. A caveat is that scores for landlocked countries such as the Lao PDR may be less accurate because the scores are affected by transit issues outside the country's border (Arvis et al., 2016). Furthermore, the latest scores for the Lao PDR may have been helped by the growing importance of the electronics trade.

Table 5.1: Lao PDR's Ranking in Various Trade Environment Indicators

Indicator	2006	2010	2014	2018
World Bank				
Ease of Doing Business – Trading Across Borders				
Distance to frontier	18.43	41.65	52.04	62.98
Time to export (days)	55	38	23	10 (228 hours)
Time to import (days)	65	37	26	10 (230 hours)
Logistic Performance Index				
Overall rank	117 [2007]	118	131	82
Efficiency of clearance process	2.08	2.16	2.45	2.61
Clearance time without physical inspection (days)		3 [2012]	1	3
Physical inspection (%)		75 [2012]	75	18

Source: World Bank Ease of Doing Business (<https://www.doingbusiness.org/en/data/doing-business-score>) (accessed 1 July 2018), Logistic Performance Index (<https://lpi.worldbank.org/>) (accessed 1 July 2018).

⁵ LTP (n.d.), Trade Facilitation Road Map of Lao PDR for 2017–2022.

<http://www.laotradeportal.gov.la/index.php?r=site/display&id=1309> (accessed 1 July 2018).

⁶ World Bank (n.d.), LPI Country Score Card: Lao PDR 2018.

<https://lpi.worldbank.org/international/scorecard/column/254/C/LAO/2018#chartarea> (accessed 1 July 2018).

6. Trade Regime

The Lao PDR is a landlocked country sharing borders with Cambodia, China, Myanmar, Thailand, and Viet Nam. It has 26 international border crossings and other domestic border posts.

Based on the enforcement of measures and requirements, important trade-related government agencies include the Ministry of Agriculture and Forestry (Department of Agriculture); Ministry of Finance (Customs Department); Ministry of Health (Food and Drug Department); Ministry of Industry and Commerce (Department of Import and Export (DIMEX)); Ministry of Information, Culture, and Tourism; and Ministry of Science and Technology (Department of Standard and Measure). The Ministry of Energy and Mines (Department of Mines) is also important due to the share of mining products in the Lao PDR's exports. Other relevant agencies include the Department of Plant and Animal Quarantine (for inspections) and the Department of Transport (for transport facilitation and implementation of Greater Mekong Subregion (GMS) Cross-Border Transport Agreement agreements). The trade-related roles of these agencies include providing licences and permits, setting import/export fees and product standards, and enforcing measures and product standards.

Import and export licences are issued by DIMEX under the Ministry of Industry and Commerce (MOIC). Traders can apply directly at DIMEX or the nearest provincial office of MOIC. Some licences are issued automatically, subject to meeting statutory requirements. For others, DIMEX makes a determination regarding issuance. Documentary requirements for the issuance of licences vary by products.⁷ A certificate of origin is also issued by DIMEX or other competent issuing authorities.

The Lao PDR has restrictions on a number of goods, which are published in the list of prohibited and regulated goods (DIXEM, 2012). The goods prohibited for import and export are listed in Notification No. 0973, Annex 1.⁸ The regulated goods require import or export licences to be obtained from different agencies. Depending on the product, the licence can be either automatic or non-automatic. The rules on licensing are governed by Notification No. 0076,⁹ and the list of products requiring licensing as well as the list of required supporting documents are in the annexes of the notification. If a product is not subject to licensing or specific sanitary/phytosanitary or technical measures, traders can import the product by submitting a declaration directly to customs. Export duty is levied on 40 products (8-digit HS code).¹⁰ The duties range from 5% to 40%. Besides normal imports, goods can be imported under the warehouse regime or as temporary imports. Certain exemptions are also available. Transit imports are also allowed.

⁷ Lao PDR Trade Portal (LTP) (n.d.), <https://www.laotradeportal.gov.la/index.php?r=searchProcedure/index> (accessed 1 June 2018).

⁸ Ministry of Industry and Commerce Notification No. 0973 dated 25 May 2011 on Prohibited Goods on Import or Export.

⁹ Ministry of Industry and Commerce Notification No. 0076 dated 13 January 2012 on Goods Subject to Automatic and Non-Automatic Import or Export Licensing.

¹⁰ Edict of the President No. 002/OP dated 27 April 2012 on the List of Goods and Export Duty Rates.

For the customs clearance process, traders file a declaration at the border electronically, using the Automated Systems for Customs Data (ASYCUDA). Based on the information provided, the system channels the consignment to red, yellow, green, or blue. Physical inspection is required for red channel goods and document inspection is required for yellow channel goods. The green and blue channel goods can proceed without any physical or document inspection, but blue channel goods may be subject to further customs control at a later stage. Duties are assessed by the system, and upon payment, the goods can be released from customs control.

7. Trade Facilitation History

Trade reform in the Lao PDR began in earnest in the mid-2000s. In 2004, the Government of the Lao PDR began the Integrated Framework process, a WTO programme designed to help least developed countries integrate into the world trading system.¹¹ The 2005 Investment Climate Assessment and Diagnostic Trade Integration Study (DTIS), conducted by the World Bank and completed in 2006, emphasised the need for increasing competitiveness and improving regional integration. Improving coordination across government agencies on trade-related matters was one of the early reforms implemented. One of the key recommendations of the DTIS included the formation of a permanent national body to coordinate policies across government agencies. The National Trade Facilitation Secretariat (NTFS), an inter-agency body, was established with a clear mandate. The leadership of the NTFS was divided between the Ministry of Industry and Commerce and the Customs Department.

Important steps have been taken towards operationalising trade facilitation. The Single Administrative Document was adopted in June 2010 to ensure harmonisation and consistency in customs declarations and clearance for all checkpoints by following the ASEAN Customs Declaration Document. By 2014, the ASYCUDA World system was implemented in all major ports, covering 95% of trade. National laws were also amended to bring them in line with international standards. Revision to the Customs Law in 2011 added new elements related to trade facilitation, such as provisions for Advance Rulings, pre-clearance procedures, risk management, and temporary importation.

The establishment of the online LTP, launched in mid-2012, was a landmark achievement in improving transparency in the trade process. The formation of the portal itself was a massive effort in coordination across agencies as it forced agencies to share information on their regulations in a systematic way. This highlighted the contradictions in regulations that needed to be reconciled. It also demonstrated gaps in procedures and legislation that needed to be filled. According to the TRS by the Lao PDR Customs Department, the average time to clear goods at the border from truck arrival to customs release was reduced by 36% from 17.9 hours in 2009 to about 11.4 hours in 2012 (Fradelizi, 2016).

¹¹ World Trade Organization (n.d.), Integrated Framework Fact Sheet.

https://www.wto.org/english/tratop_e/devel_e/teccop_e/if_factsheet_e.htm (accessed 1 July 2018).

The Trade Facilitation Road Map, 2017–2022 envisions facilitating and minimising procedures for trade and taxation, improving services, and enhancing capacity in trade competition. The strategy and implementing methodology include increasing the effectiveness of the coordination between relevant departments and agencies, integrating with domestic and international regions and cooperating with neighbouring countries, and establishing a National Single Window (NSW) system. Key performance indicators include a shorter time duration and cheaper import and export costs.

8. Results from the ASTFI Survey

The ASEAN Seamless Trade Facilitation Indicators (ASTFI) survey results are based on responses to the ASTFI questionnaire, validation meetings held at MOIC and Lao Customs in June 2018, and information available via various web-based sources. We only obtained a consolidated response to the major agency questionnaire, so we were unable to determine differences in practices across agencies. The results of the survey are discussed below.

8.1. Transparency of information

The Lao PDR is generally performing well in the transparency of trade-related information. The LTP provides information both in English and the local language on applied rates of tariffs, measures, and procedures, all of which are searchable by HS code or product description.

Information on the import and export formalities of major agencies is available online through the LTP, which was launched on 22 June 2012. One feature of the system is that traders can sign up for an e-alerts, which they can customise to receive information on commodities.¹² English translations of laws and regulations are also available through the LTP, making it much more convenient for foreign investors.

Private Sector Consultation

In terms of private sector consultation, the Lao PDR established the NTFS to act as a national trade facilitation committee (Khounchantha, 2015). Its responsibilities include (i) reviewing and advising the government on matters of trade facilitation; (ii) implementing measures of the WTO Trade Facilitation Agreement; (iii) collecting and disseminating information on trade facilitation; and (iv) coordinating with government authorities, the private sector, and international organisations in the areas of trade facilitation. This coordination body has been meeting regularly. However, there are some issues with coordination at the provincial level, which were highlighted in the Trade Facilitation Road Map. The NTFS has been working to expand capacity at the local level regarding trade facilitation, through workshops.¹³

¹² LTP (n.d.), Member Services. <http://www.laotradeportal.gov.la/index.php?r=site/display&id=79> (accessed 1 June 2018).

¹³ LTP (n.d.), Strengthening on Trade Facilitation in the Northern Part of Lao PDR. <https://www.laotradeportal.gov.la/index.php?r=site/display&id=1363> (accessed 1 June 2018).

Engagement with stakeholders takes place through the Lao Business Forum.¹⁴ The objectives of the forum are to (i) facilitate public and private sector dialogue, including participation by the broadest range of private sector companies, from domestic small and medium-sized enterprises to foreign investors; (ii) ensure consistent enforcement and transparent interpretation of laws and regulations; (iii) remove the bureaucratic impediments that businesses encounter in entry and exit processes and provide feedback on business-related policies, laws, and regulations that impact the private sector; and (iv) provide feedback on draft government laws and regulations that could potentially impact the business community and assist the government in private sector-related policy development.

The Lao Business Forum follows a multi-tiered consultation process. An annual forum, chaired by the Prime Minister or Deputy Prime Minister, is held every year. Steering committee meetings are held to prioritise the reform agenda to be presented at the annual forum, chaired by the Minister of Industry and Commerce. Public–private consultation is conducted each year between government agencies and members of private sector working groups. Finally, sector-specific private sector working groups meet frequently to discuss areas of reform. The Department of Planning and Cooperation of the Ministry of Industry and Commerce acts as the main coordinating body for the public sector to ensure effective public–private dialogue at the Public–Private Consultation Meeting. A recently concluded meeting highlighted cumbersome import/export procedures as a key area of reform.¹⁵

Release and Clearance Formalities

The Lao PDR has adopted release and clearance formalities, following a number of best practices in customs procedures. Pre-arrival processing, allowing goods to be cleared with guarantee, and regular use of the TRS to assess border processes, are some examples of good practices. Other provisions are being studied or pilot tested, such as Advance Rulings and AEOs. Publishing the dwell time of major ports on the website would be relatively simple for ports with the ASYCUDA system. Enhancing risk management and post-clearance audits will require coordination with major agencies to develop a comprehensive risk profile.

Pre-arrival processing is available in the main and major ports for trade via air and land transport. Importers can submit a pre-arrival customs declaration within 7 working days prior to the date of arrival of the goods following the same procedures as a normal declaration.¹⁶ Currently, pre-arrival processing is only allowed for selected traders and allows them to declare goods before arrival. Under pre-arrival processing, duties are paid

¹⁴ Lao Business Forum (n.d.), Overview of the Lao Business Forum. <https://lncci.la/about-lbf/> (accessed 1 June 2018).

¹⁵ http://www.laoccicom/images/stories/2017/press%20release%20for%20the%2010th%20lbf_eng.pdf (accessed 1 July 2018).

¹⁶ Ministry of Finance (Customs Department) Instruction No. 00097/CD dated 6 January 2017 on Electronic Customs Declaration.

at the time of arrival of the goods (DIXEM, 2012). However, a pilot test is under way with two traders to pay their duties during pre-arrival processing.

Best practice risk management is progressing but has room for improvement. Currently, it is conducted at border checkpoints where the ASYCUDA system is installed. Customs does not conduct 100% inspection of all shipments, although they have a 5% target rate for inspections. Customs uses risk factors to select consignments for inspection. These factors include the type of goods, duty rate, and company profile. Considering the goods' origin as a risk factor is currently being planned. Other agencies also conduct some risk management, but not in a systematic way. Therefore, risk management is not fully integrated across major trade-related agencies. This score may be affected by the unavailability of individual responses from major agencies.

In terms of separation of release from the final destination, release without payment is possible on the basis of a provisional manifest or declaration submissions with a guarantee. This is governed by Article 27 of the Customs Law, which allows the release of goods without a customs declaration if the trader deposits security in the form of cash or a guarantee from a financial institution. In practice, traders are normally required to post a guarantee of 120% of the applicable duties and tax, but traders need to be pre-authorised to use this facility.

Customs allows payment by electronic means through the Smart Tax system, with separate billing for all the consignment fees and charges. For the 11 international border posts, payment of duties can be done at the bank office or in cash.¹⁷ At other border posts, only cash is accepted and duties can be paid at the customs cashier. The Major Agency response was that electronic payment is possible, but they also accept cash and checks and over-the-counter payments. For export and import licences obtained from DIMEX, payment is also made in cash at the cashier's office.¹⁸

In terms of the appeal and review mechanism, both reviews and judicial appeals are allowed. The procedures and rules governing appeals and settlement are described in the Customs Law, Part X, Chapter 2. This information is available from the LTP.¹⁹ Within 30 days of the relevant customs decision, the declarant can submit an appeal to the appeal settlement committees, appointed by the minister of finance. The first appeal goes to the Regional and Central Appeal Settlement Committee. The regional committee is chaired by the director of the regional customs department, with representatives from the regional branch of the department of finance, and sectoral and customs experts. If the trader is not satisfied, the appeal can be lodged with the Central Appeal Settlement Committee, which comprises the director of customs as chair with representatives from

¹⁷ LTP (n.d.), Customs Clearance for Imports (ASYCUDA).

<http://www.laotradeportal.gov.la/index.php?r=searchProcedure/view1&id=5> (accessed 1 July 2018).

¹⁸ DIMEX (2012) [http://www.laotradeportal.gov.la/kcfinder/upload/files/Import-Export%20Guide%20\(EN\)%20v1.0.pdf](http://www.laotradeportal.gov.la/kcfinder/upload/files/Import-Export%20Guide%20(EN)%20v1.0.pdf) (accessed 1 June 2018).

¹⁹ LTP (n.d.), Customs Law.

[http://www.laotradeportal.gov.la/kcfinder/upload/files/Customs%20Law%20\(2012-final\).pdf](http://www.laotradeportal.gov.la/kcfinder/upload/files/Customs%20Law%20(2012-final).pdf) (accessed 1 July 2018).

the Department of Finance, other relevant ministries, and experts. If this decision is not satisfactory, the trader has right to submit an appeal to the People's court.

A post-clearance audit (PCA) is conducted for traders selected randomly or via a risk management framework. Major Agencies also conduct PCA, but their response does not include details about the procedures. Article 8 of the Decree on the Implementation of the Customs Law stipulates that the Customs Authority can conduct PCA of customs declaration.²⁰ Regarding the involvement of other agencies, the law stipulates that relevant sectors shall cooperate to provide information on business operators at the request of the customs authorities.

Dwell time information is not publicly available from the ports where the ASYCUDA system is installed. The Trade Facilitation Road Map includes plans to receive quarterly clearance time reports from ASYCUDA. A provision could be put in place to make these data available to the public on a regular basis. In practice, TRSs have been conducted for the main port only every 2 or 3 years and the results are published online. To date, TRSs have been conducted in 2009, 2012, 2016, and 2017 (Amphaengphai, n.d.).

Regarding trade facilitation measures for Trusted Traders, the Lao PDR is still implementing an AEO or Authorised Trader scheme.²¹ The major facilities available to AEO firms include simplified reporting requirements, consolidated declarations, and associated duty deferment arrangements (World Bank, 2016). The project is still in the pilot phase, with customs trying to learn about the assessment criteria for AEOs. Mutual recognition agreements for AEOs with other countries are in progress.

Self-certification is operational but limited. It applies for both certified manufacturers and certified exporters. Issuance of the certificate of origin is within the purview of DIMEX. Documents related to the application for the certificate of origin are available from the LTP.²²

Expedited shipment/clearance procedures are at the planning stage. According to the Instruction on Electronic Customs Declaration dated January 2017,²³ certain goods (e.g. livestock, perishable goods, and frozen goods) are given priority in clearance. Traders wishing to obtain expedited release can request it from customs officers at the checkpoint at the time of arrival or before the arrival of goods. They will have to pay the declared value as guarantee. The *de minimis* rule is applied.

Temporary admission is allowed but not under the Istanbul or Admission Temporaire/Temporary Admission (ATA) conventions. Temporary importation is governed by Article 42 of the Customs Law, which was added in 2011.

²⁰ Decree No. 362/PMO dated 19 October 2007 on the Implementation of the Customs Law.

²¹ LTP (n.d.), National Trade Repository. <http://www.laotradeportal.gov.la/index.php?r=site/display&id=698> (accessed 1 July 2018).

²² LTP (n.d.), Forms for Certificate of Origin (CO).

<http://www.laotradeportal.gov.la/index.php?r=site/display&id=641> (accessed 1 July 2018).

²³ Lao Customs Instruction No. 00097/CD dated 6 January 2017 on Electronic Customs Declaration.

8.2. Import/export formalities and coordination

The Lao PDR lags other ASEAN Member States on documentary requirements, acceptance of copies, the NSW, and the ASEAN Single Window.

The Lao PDR has not yet implemented fully paperless documentation. Customs declarations are done electronically on the ASYCUDA system and some approved traders may even file declarations from their own offices. During the declaration, traders have to attach scanned copies of required documents. However, upon registration, they have to print and sign the declaration and are required to bring original copies of supporting documents for release.

Customs only accepts originals of the required documents. Major agencies also accept originals only. Nonetheless, there is some movement towards an electronic system. For instance, the application for certificates of origin can be made online (DIXEM e-CO, n.d.).

The NSW is regarded as being ‘under development’. Currently, two agencies participate – DIMEX (e-applications for the certificate of origin) and the Department of Transportation. Lao Customs is the lead agency for the NSW implementation. The NSW covers import, export, transit, and trans-shipment. Export permits, import permits, certificates of origin, licences, and import declarations and manifests can be submitted through the NSW. The Lao NSW website is implemented as a joint venture between the Ministry of Finance and the private sector. The law provisioning the formation of the NSW has already been promulgated (Lao National Single Window, 2015). According to the implementation plan laid out in the Trade Facilitation Road Map, the Lao PDR plans to set up an NSW with five key departments by 2019, increasing to 10 departments by 2020, and then to all line departments by 2022. While a fully functioning NSW is being developed, electronic documentary processes could be set up in each major agency. This would not only help prepare for a full NSW, but also socialise the agencies in electronic document processing.

Cross-Border Coordination

Cross-border coordination and transport facilitation are limited. The Lao PDR indicated that cross-border coordination with Viet Nam is operational, with the involvement of customs, immigration, and quarantine agencies, and includes joint control with neighbouring country authorities. Bilateral agreements with other bordering countries are also in place.²⁴ Viet Nam and the Lao PDR share eight international border gates, seven key border gates, and 18 small border gates. Nine border gate economic zones have been established, facilitating trade and service development between the two nations’ border localities. According to the Trade Facilitation Road Map, the Department of Transport is working on a single-stop inspection at the two major border crossings in cooperation with customs, immigration, and the Department of Plant and Animal Quarantine. The facility at the Dansavanh–Lao Bao crossing point on the Viet Nam border is already operational.

²⁴ LTP (n.d), Lao PDR Trade Portal. <https://www.laotradeportal.gov.la/index.php?r=site/display&id=778> [in Lao] (accessed 1 June 2018).

The Lao PDR joined the cross-border transport agreement of the Greater Mekong Subregion (GMS) in 1999 with Thailand and Viet Nam (LTP, n.d.). This agreement included a provision for coordinating border crossing formalities with single-window inspection, single-stop inspection, coordination of hours of operation, and advance exchange of information.²⁵ Both the GMS Road Transport Permit, which is a subregional traffic rights system, and the GMS Customs Transit and Temporary Admission System, which is a subregional customs guarantee system, have been pilot tested in the East–West Economic Corridor.²⁶ Bilateral land transport agreements are in place with China, Thailand, Viet Nam, and Cambodia, but not Myanmar, according to Onphanhdala and Philavong (2018). Working closely with neighbouring countries to operationalise these agreements will be crucial to lower logistics costs for traders.

8.3. Transport facilitation

There are no provisions for issuing cross-border permits for vehicles carrying ASEAN goods. At the legislative level, goods in transit procedures are laid out in the Notification on Transit Goods.²⁷ In terms of electronic data interchange, they are available on either the main or the major ports. Protocols 1 (designation of transit transport routes facilities) and 4 (technical requirement of vehicles) of the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT) have been ratified, but no laws or regulations are in place. The ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST) and ASEAN Framework Agreement on Multimodal Transport (AFAMT) have been ratified, but no laws are in place.

8.4. E-commerce

There is no legal framework for e-identification and authorisation. A revenue framework catering to e-commerce trade is under study.

9. Summary and Recommendations

- The Lao PDR has made tremendous progress in trade facilitation and has committed to improve the business-friendliness of its economic environment. The Trade Facilitation Road Map lays out ambitious targets and strategies. The most important one is likely better coordination between national and local governments in implementing decisions.
- The mechanisms for sharing information and coordinating with the private sector are well developed at the national level. Regular meetings of government and the private sector are held at the Lao Business Forum. However, coordination at the subnational level is less successful and needs to be improved. The newly proposed

²⁵ LTP (n.d.), ‘GMS Cross-Border Transport Facilitation Agreement (Lao PDR, Thailand, and Viet Nam’.

http://www.laotradeportal.gov.la/kcfinder/upload/files/Agreement_CBTA_Eng.pdf (accessed 1 June 2018).

²⁶ GMS (n.d.), Greater Mekong Subregion Cross-Border Transport Agreement – GMS CBTA. <http://www.gms-cbta.org/cross-border-transport-agreement> (accessed 1 June 2018).

²⁷ Ministry of Finance Notification No. 0749/CD dated 24 February 2007 on Transit Goods.

monitoring structure of the National Committee for Trade and Private Sector Development (headed by the Prime Minister) in the Trade Facilitation Road Map, if properly implemented, may be able to achieve better coordination across agencies at both the national and provincial levels.

- The Lao PDR has adopted a number of best practices in customs procedures. Other provisions are being studied or pilot tested. Publishing the dwell time of major ports on the website would be relatively simple. The Trade Facilitation Road Map includes plans to receive quarterly clearance time reports from ASYCUDA. A provision could be in place to make these data publicly available to traders. Enhancing risk management and PCA will also be important, but will require coordination with major agencies to develop a comprehensive risk profile.
- Import/export formalities are a major area of improvement. The use of electronic means to process documents is limited, including the development of the NSW. All major trade-related agencies require original copies of documents with a ‘red stamp’ and ‘wet ink’. The adoption of paperless documentation and acceptance of copies will ease the import–export procedures for traders. Some progress has been made on this front. According to the implementation plan laid out in the Trade Facilitation Road Map, the Lao PDR plans to set up an NSW with five key departments by 2019, increasing to 10 departments by 2020, then to all line departments by 2022. While a fully functioning NSW is being developed, electronic documentary processes could be set up in each major agency in the short term. This will not only help prepare for a full NSW, but also socialise the agencies in electronic document processing.
- Cross-border coordination and transport facilitation are also limited. These are priority areas for reform. Improving border processes in conjunction with neighbours – bilaterally or multilaterally under the Cross-Border Transport Agreement framework – will be necessary to reduce the logistics cost.

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Chapter 6

Trade Facilitation in Malaysia and the Results of the ASTFI Baseline Study¹

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1. Introduction: The Importance of Trade Facilitation in Malaysia's Growth and Transformation Strategy

With a trade to gross domestic product (GDP) ratio that has been well above 100% since 1979² (reaching more than 200% during the early 2000s), seamless trade facilitation is a major anchor of Malaysia's drive towards becoming an advanced nation. Enhancing Malaysia's presence in the regional supply chains of major multinational corporations (e.g. Western Digital, Dell, Schlumberger, and Siemens) entails efficient logistics services and trade facilitation. Thus, of the five strategic shifts that comprise the key strategies of the country's Logistics and Trade Facilitation Masterplan, 2015–2020, strategic shift 2 on 'enhancing trade facilitation mechanisms' is to: 'Increase the efficiency of trade facilitation mechanisms particularly improvements in cargo clearance system, paperless trading and security of trade documents. This will boost trading activities and reduce the cost of doing business' (Ministry of Transport, 2015: 10).

Similarly, unlocking the potential of significant productivity growth as the driver of Malaysia's goal of advanced nation status includes having a good trade facilitation regime alongside a robust regulatory ecosystem. One of the strategic thrusts of the Malaysia Productivity Blueprint (MPB) – forging a robust ecosystem – includes key activity 13 to 'improve efficiency of the logistics sector', which is broadly considered to include trade facilitation processes (Economic Planning Unit, 2017: E-7). The MPB also 'recommends the restructuring of non-tariff measures, including customs regulations, to ensure streamlined processes and regulations for export and import permits and regulations' (Economic Planning Unit, 2017: p.3-20).

The statements above show that the drive towards seamless trade facilitation – to which the ASEAN Seamless Trade Facilitation Indicators (ASTFI) ascribes – is very much in the spirit of Malaysia's strategies and plans towards the achievement of the national goal of becoming an advanced nation.

This report presents secondary indicators on the trade facilitation regime in Malaysia and the results of the ASTFI baseline study. Overall, there have been remarkable achievements, but significant challenges remain in achieving a truly seamless trade facilitation regime in the country, being at the forefront of global best practices in trade

¹ This report is based on the 2018 data of the ASTFI baseline study survey.

² World Bank (n.d.), DataBank, Trade (% of GDP) – Malaysia.

<https://data.worldbank.org/indicator/NE.TRD.GNFS.ZS?locations=MY> (accessed 15 June 2018).

facilitation, and becoming a strong pillar of a seamless trade facilitation regime in the Association of Southeast Asian Nations (ASEAN). Following this introduction, section II of this chapter looks at the trade facilitation regime in Malaysia based on published secondary indicators, and section III presents and discusses the results of the ASTFI baseline study. The final section makes recommendations for moving forward and provides brief concluding remarks.

2. Trade Facilitation in Malaysia: Substantial Achievements but Significant Concerns Remain

Several secondary indicators show considerable achievements in trade facilitation in Malaysia, but worrying secular trends suggest that significant concerns remain.

The most popularly used secondary indicators of trade facilitation are the Logistics Performance Index (LPI) indicators and the Ease of Doing Business trading across borders indicator, spearheaded and maintained by the World Bank. Virtually all of the indicators, with the exception of the Ease of Doing Business trading across borders, rely largely on the perception and evaluation of logistics professionals (i.e. global freight forwarders and express carriers) and executives, key stakeholders, and major users of trade facilitation facilities and services. It is worth noting that perceptions have inherent biases and different people may have different expectations and reference points; hence, there is an element of lack of rigour and comparability, especially across countries. Nonetheless, as major users and likely knowledgeable at that, their views are of great interest and provide some broad indication of the satisfactoriness of trade facilitation services in any country.

Table 6.1 provides the international LPI ratings from 2007 to 2018. The LPI uses the ratings of logistics professionals based outside Malaysia who provide logistics-related services in trade with Malaysia. The overall LPI rating improved during 2007–2014 but declined in 2014–2018. The indicator of most importance for the report is the customs indicator, which covers customs and other border agencies and processes. The LPI customs ratings declined during 2007–2014 and then recovered to virtually the same level by 2014, but declined secularly during 2014–2018. Note that the rate of secular decline for Malaysia during 2014–2018 was much faster than the secular decline of the global best practice value during the same period. The secular decline in Malaysia meant that the country, which was second to Singapore amongst ASEAN Member States (AMS) in terms of the perception of the efficiency of customs and other border processes in 2014, slid to fourth by 2018, following Singapore, Thailand, and Viet Nam. Table 6.1 shows that the decline in the ratings of LPI customs is not unique for Malaysia – all the international LPI components registered secular deterioration across the board. This seems to suggest that there has been a secular deterioration in the logistics performance of Malaysia over 2007–2018.

Table 6.1: International Logistics Performance Index – Malaysia, 2007–2018

Indicators	2018	2016	2014	2012	2010	2007
Overall LPI score	3.22	3.43	3.59	3.49	3.44	3.48
Customs	2.90	3.17	3.37	3.28	3.11	3.36
Infrastructure	3.15	3.45	3.56	3.43	3.50	3.33
International shipments	3.35	3.48	3.64	3.40	3.50	3.36
Logistics quality and competence	3.30	3.34	3.47	3.45	3.34	3.40
Tracking and tracing	3.15	3.46	3.58	3.54	3.32	3.51
Timeliness	3.46	3.65	3.92	3.86	3.86	3.95

LPI = Logistics Performance Index.

Source: World Bank (2018), International Logistic Performance Index. Data from https://lpi.worldbank.org/sites/default/files/International_LPI_from_2007_to_2018.xlsx (accessed 15 June 2018).

The picture of trade facilitation in the country, from the views and perceptions of logistics professionals (global freight forwarders and express carriers) based in Malaysia, is much more mixed and less downbeat than the results of the international LPI on customs. However, it nonetheless indicates some deterioration over 2016–2018 in perceptions of the efficiency of the border clearance process and of the quality of services provided. Table 2 shows the survey results for a number of selected indicators:

- As compared to the lower percentages during 2010–2014, all respondents (in-country logistic professionals) in 2016 and 2018 answered ‘often or nearly always’ on the transparency of customs clearance, provision of adequate and timely information on regulatory changes, expedited customs clearance for traders with high compliance levels, etc. Hence, there is virtual unanimity amongst the respondents that Malaysian customs clearance and other relevant border agencies have been transparent.
- All the Malaysia-based logistics professionals considered that the clearance and delivery of imports and exports were often or nearly always efficient during 2014 and 2016. However, by 2018, only 50% (for imports) and 75% (for exports) of them considered it so.
- There is also a large drop-off from 2016 to 2018 in the percentage of respondents who considered the competence and quality of customs agencies, standards and inspection agencies, and health/sanitary and phytosanitary agencies to be high or very high. A similar decline was seen in the perception of the competence and quality of the services of customs brokers, trade and transport associations, shippers, freight forwarders, warehousing/transloading and distribution, as well as all the forms of transport in the country.

Table 6.2: Domestic Logistics Performance Index, Environment and Institutions – Malaysia, 2010–2018

(%)

		2018	2016	2014	2012	2010
	Indicator	Percentage of respondents answering low/very low				
Quality of infrastructure Evaluate the quality of trade and transport related infrastructure (e.g. ports, roads, airports, information technology) in your country of work	Ports	25	0	33	22	0
	Airports	25	0	0	0	0
	Roads	25	0	0	11	0
	Rail	25	0	0	22	0
	Warehousing/ transloading facilities	25	100	0	25	0
	Telecommunications and IT	25	100	0	11	0
		Percentage of respondents answering high/very high				
	Road	25	100	33	50	33
	Rail	0	100	0	0	0
Competence and quality of services Evaluate the competence and quality of service delivered by the following in your country of work	Air transport	50	100	67	50	71
	Maritime transport	50	100	100	63	67
	Warehousing/ transloading and distribution	50	100	67	50	50
	Freight forwarders	50	100	100	63	83
	Customs agencies	50	100	67	38	0
	Quality/standards inspection agencies	50	100	33	38	0
	Health/SPS agencies	50	100	0	25	0
	Customs brokers	50	100	67	50	33
	Trade and transport associations	50	100	0	50	0
	Consignees or shippers	50	100	33	50	33
Efficiency of processes	Percentage of respondents answering often or nearly always					
	Clearance and delivery of imports	50	100	100	75	86

Evaluate the efficiency of the following processes in your country of work	Clearance and delivery of exports	75	100	100	100	100
	Transparency of customs clearance	100	100	33	50	20
	Transparency of other border agencies	100	100	67	38	
	Provision of adequate and timely information on regulatory changes	100	100	33	50	29
	Expedited customs clearance for traders with high compliance levels	75	100	67	50	20

IT = information technology, SPS = sanitary and phytosanitary.

Source: World Bank (2018), Domestic Logistics Performance Index, Environment and Institutions. Data from https://lpi.worldbank.org/domestic/environment_institutions (accessed 15 June 2018).

- A significant percentage of the in-country respondent logistics professionals considered the quality of the country's trade-related infrastructure (e.g. roads, ports, airports) to be low or very low in 2018, while virtually none said so in 2014 (except for ports).
- Compared with 2014, all respondents in 2016 and 2018 noted improvement/much improvement on the issue of solicitation of informal payments, with nobody considering it a source of major delay (while 33% said so in 2014).
- The World Bank's Ease of Doing Business trading across borders indicator showed a slight reduction in the border compliance times for both imports and exports for the 2018 report compared with the 2015–2017 reports, which suggests some improvement.

The evaluation of Malaysian customs and border agencies – and therefore the country's trade facilitation regime – by global institutions and associations is echoed domestically by the government. For example, the MPB highlights the 'lack of consistency in export and import licensing, permit and approval processes' and 'high levels of manual input in customs processes' (Economic Planning Unit, 2017: p.3–20). In addition, it asserts that the delay in the implementation of uCustoms (for ubiquitous customs) is due to a 'lack of alignment on regulations and processes across ministries and initial IT specifications not meeting the requirements' (Economic Planning Unit, 2017: p.3–20).

3. Results of the ASTFI Baseline Study

Thirteen government agencies responded to the ASTFI questionnaires on the seven components, including the Royal Malaysian Customs Department (RMCD) and major agencies identified by Malaysia. The results of the baseline survey are summarised below.

3.1. Transparency and information on laws, regulations, and procedures

The availability of information from major agencies is almost complete, except for the information on transit and trans-shipment procedures. Based on the responses received from the questionnaire and consultation validation meeting with the RMCD, the information related to transit and trans-shipment is available in Section 52 of the Customs Act, 1967.

The RCMD has a variety of information channels such as Facebook, Twitter, Instagram, and the RMCD website. The RMCD website has a platform for the public to address complaints and a customs call centre for general enquiries. If information related to transit and trans-shipment is needed, the public can find information/seek advice from/via the RMCD website and customs call centre. Malaysia's National Trade Repository also provides comprehensive information, while the ASEAN Trade Repository provides links to relevant pages of Malaysia's National Trade Repository.

The information on export and import formalities is complete, as appropriate, for Malaysia's other government agencies which regulate commodities. These include the Ministry of International Trade and Industry (MITI), the Malaysian Quarantine and Inspection Services (MAQIS), the Plant Biosecurity Division of the Department of Agriculture (DOA), the Department of Fisheries, the Department of Veterinary Services, the Ministry of Health (MOH), and the Ministry of Finance.

3.2. Communication with and active engagement of the private sector

Malaysia has seen excellent performance under this component. It has a well-functioning mechanism for the National Trade Facilitation Committee, as well as structures for stakeholder consultations that also cater to micro, small, and medium-sized enterprises. The Trade Facilitation Cluster Working Group (TFCWG) was established to assume the role of the National Trade Facilitation Committee, as required by the World Trade Organization Trade Facilitation Agreement.

The MITI is the national coordinator for the TFCWG. To enhance its implementation, this committee is driven by the National Logistics and Trade Facilitation Masterplan, 2015–2020 under the supervision of the Ministry of Transport. The master plan was developed to provide strategic direction to improve the productivity and competitiveness of the logistics industry as well as trade facilitation, in line with Malaysia's aspiration to be 'The Preferred Logistics Gateway to Asia' (Ministry of Transport, 2015: 10). It outlines five strategic shifts and 21 action items for implementation.

The TFCWG is co-chaired by the MITI and customs, and comprises members from both the government and the private sector. The TFCWG provides a platform for closer cooperation between the government and the private sector, and has been a very successful avenue for the government to receive feedback from industry. The TFCWG undertakes various efforts to strengthen Malaysia's position as a preferred regional logistics hub, in line with the emergence of digital trade and recent developments in the maritime ports sector. To ensure certainty of implementation, initiatives proposed under the master plan have also been incorporated in the Eleventh Malaysia Plan, 2016–2020.

The major regulatory agencies have mechanisms (mainly meetings) for stakeholder consultations on regulatory issues. For the RMCD, consultations relating to customs matters include formal consultation at national and state level (known as the Customs–Private Sector Consultative Panel) held twice a year. Frequent informal discussions are also held regularly to discuss new issues and policies, as well as joint development area (relating to oil and gas) meetings. For micro, small, and medium-sized enterprises, the RMCD has organised roundtable discussions on an ad hoc basis; and participated in formal consultations held by other agencies such as the Malaysian Investment Development Authority and the State Economic Development Corporation. The RMCD also undertakes consultation sessions relating to sales and services taxes, which include regular technical consultation meetings between RMCD officers and private sector/accounting firms to ensure continued support and guidance.

Consistent with the consultation mechanism, General Circular No. 1/2013 provides a legal mandate for public consultations on new regulations.³ A Special Task Force to Facilitate Business (PEMUDAH) was established in 2007. PEMUDAH consists of public and private sector membership, co-chaired by the Chief Secretary to the Government of Malaysia and a captain of industry; and collaborates on policy, process, and regulatory improvement in Malaysia. The responsibilities of PEMUDAH include

- identifying improvements to existing government processes and regulations based on public feedback and global benchmarking reports (the World Bank's Ease of Doing Business, the World Economic Forum's Global Competitiveness Report, the Institute for Management Development's World Competitiveness Yearbook, etc.);
- overseeing implementation;
- recommending business-related policy changes to the cabinet, based on public feedback; and
- addressing bureaucracy through active private sector participation.

Many working groups on trade facilitation initiatives have focused on enhancing the efficiency and effectiveness of work procedures, especially to enhance supply chain activities by collaborating as smart partnerships with the private sector. These include the

³ MPC (2013), The National Policy on the Development and Implementation of Regulations http://www.mpc.gov.my/wp-content/uploads/2016/04/Surat-Pekeliling-Am-Bil_1-Tahun-2013.pdf (accessed 20 June 2018).

Technical Working Group on Trading Across Borders, smart partnerships between the RMCD and Malaysia Productivity Corporation (MPC), and Invest KL, which have addressed the following issues, amongst others:

- faster clearance for the import and export of oil and gas equipment (Schlumberger);
- faster advance rulings;
- faster Licensed Manufacturing Warehouse waste approval;

PEMUDAH, with its technical working groups, demonstrates good practice for public-private partnership in regulatory reform that can be emulated by other AMS. What makes it worth emulating is the co-equal partnership, active and continuing engagement of the private sector, regular and frequent meetings of the task force and its technical working groups, and the technical and secretariat support provided by the MPC. The MPC has been mandated to review both current and proposed business-related regulations, and is providing technical support to good regulatory practice initiatives in the country. The MPC has high credibility in both the private sector and the government sector.

3.3. Release and clearance formalities

Malaysia receives a generally high evaluation on release and clearance formalities, although it varies in terms of the subcomponents. Amongst the highest evaluations, risk management, Post-Clearance Audits (PCAs), electronic payments (e-payments), appeal and review mechanisms, and advanced rulings stood out and are summarised below.

- The RMCD and most major agencies perform risk management, with less than 100% inspection according to risk assessment such as critical goods and high-risk companies. Two agencies conduct 100% inspection: (i) veterinary services on animal products, animal feeds, and live animals; and (ii) the Plant Biosecurity Division of the DOA on plants, plant products, and regulated articles (for export).
- MAQIS also performs inspections based on international standards established by the International Plant Protection Convention for plants, i.e. the International Standards for Phytosanitary Measures 23, 31, and 32 are applicable for the inspection of plants, and random inspection based on physical/clinical symptoms carried out on live animals and fishes. MAQIS considers the risk of pest interception in imported commodities during inspections to establish a profile for low-risk commodities. Malaysia uses the current customs operating system (Sistem Maklumat Kastam (SMK)) for its risk management system, which also provides integrated risk management but with less advanced technology than uCustoms.
- The RMCD and MAQIS conduct PCAs. The RMCD conducts PCAs for selected traders/declaring agents via both risk management frameworks and random selection. MAQIS conducts post-border audits on selected importers in its three jurisdictions (entry points, quarantine stations, and quarantine premises). Planting materials, live animals, and fish which require quarantine are placed in quarantine

stations or premises for further observation, and testing is carried out to determine pest and disease-free status.

- The RMCD and all other relevant agencies use e-payments. Virtually all agencies accept online payments, except for the import and export authorisation of dangerous drugs and psychotropic substances, which need to be applied for and paid manually. The MITI does not appear to charge any fees for its services, so e-payments are not required.
- An appeal and review mechanism is available for judicial review as well as customs administrative review. Temporary admission is implemented using the Admission Temporaire/Temporary Admission (ATA) Carnet under the ATA Convention.
- The RMCD indicated that advance ruling on classification and valuation has been implemented since 2007. The procedures and decisions for advance rulings are published on the customs website. The standard operating procedures and guides for advance rulings on origin have been completed, and the necessary domestic legal requirements are being undertaken for their implementation.
- Malaysia allows self-certification for the ASEAN Trade in Goods Agreement and self-declaration under the Malaysia–New Zealand Free Trade Agreement and the Malaysia–Australia Free Trade Agreement.

The RMCD has implemented pre-arrival processing (PAP) nationwide, but it does not offer nor require PAP for land borders. There is no specific provision that allows the submission of declaration prior to importation and exportation by road. There seems to be not much need for a PAP for land borders in much of ASEAN because the congestion at the border almost always means that the border arrangements can be done while waiting in the queue. When the volume of trade amongst AMS over land becomes more commercially valuable, and the road and rail networks through the borders become wider and better, the PAP may be more relevant for the member states and the private sector.

The RMCD conducts the Time Release Study (TRS) according to the World Customs Organization method regularly (every 2 years) at the main port. The TRS result was published in a journal in 2011, along with two exit conferences where the dwell time result is published. The consultation validation meeting with the RMCD indicated that the dwell time was published at two exit conferences which were held in 2014 and 2015 with the Asian Development Bank and the World Customs Organization's Regional Office for Capacity Building, where the documents (including the publication of dwell time results) were distributed at seminars.

The RMCD maintains an Authorised Economic Operator (AEO) programme in Malaysia, but a mutual recognition agreement (MRA) on AEOs is not yet in place with other AMS. However, Malaysia has an interest in negotiating MRAs with other AMS.

The publication of dwell time and TRS methodology are included in the ASTFI. The World Bank's Ease of Doing Business for trading across borders has similar indicators. They are included in these indicators because they provide good measuring tools of the efficiency of the import/export and customs process, and allow for in-depth analysis of specific processes in the various ports for possible improvement and for the reduction of bottlenecks.

3.4. Import/Export formalities and coordination

Malaysia was an early adopter of the National Single Window (NSW) in ASEAN. The process started with the linking of the home-grown Dagang Net with the RMCD's system (SMK) – automating customs procedures for shippers, carriers, and third-party logistics companies. The resulting SMK*Dagang Net handled all matters pertaining to export-import declarations and clearances. The nationwide roll-out of the SMK*Dagang Net was completed in 2004. In 2009, all permit-issuing agencies were linked to the SMK*Dagang Net, which became the NSW, with the RMCD (Ministry of Finance) as the NSW lead agency and the MITI as the ASEAN Single Window (ASW) lead agency for Malaysia. The SMK*Dagang Net has delivered well for Malaysia since its inception, indicating the benefits of the automation and integration of system and information flows. Based on a study in 1996, documentation error rates fell from 40% to 5% after the activation of the SMK*Dagang Net, while cargo turnaround times dropped from 4 days to 2 days and by 2004, to only 1 day (Chan, n.d.).

Dagang Net connects 30 permit-issuing agencies, 50 authorities, 160 customs stations, and 10 banks. The DOA (plant biosecurity) and the MOH (dangerous drugs and psychotropic substances) use a separate system for import permits. Dagang Net is a single sign-on facility with online status tracking and re-usability of data, covering eDeclare, ePermit, ePayment, eManifest, ePCO (for certificates of origin), and eSTA (permits for controlled goods). Its architecture includes NSW–ASW integration.

The RMCD is upgrading the SMK*Dagang Net to uCustoms (Chan, n.d.), to the tagline 'Fingertips, anytime, anywhere, any device'. uCustoms will eventually replace the SMK*Dagang Net as the NSW. The upgrade to uCustoms will include a centralised risk management centre called the National Targeting Center for the profiling and targeting of vessels, cargo, and passengers.

The National Clearance Center will handle the central submission of manifests and all types of declarations made via uCustoms. It will have an upgraded call centre. At the very least, it will allow customs to accept digital copies (which the SMK cannot do). Along with other upgrades, uCustoms will eventually allow paperless processing via a single window, with multiple channels, integrated application (including risk management) systems, and end-to-end solutions, using secured identification over a secured integrated government network. As in the case of Singapore's TradeNet (operated by CrimsonLogic), the processing of declarations could be expected to be dramatically reduced to a few minutes for most cargo, with much greater security and greater connectivity with the private sector.

Border agency customs, immigration, and quarantine coordination is operating and functional, but not in all border areas or agencies in Malaysia. The RMCD's current SMK was not designed to accept uploaded documents, therefore the system does not allow for digital copies. However, under Section 100 of the Customs Act, 1967, supporting documents can be submitted physically or via email as requested by customs. Most of the agencies require original copies or certified true copies. The MITI (strategic goods) accepts a combination of copies with the eSTA (strategic goods) application as well as plain copies for ePermits (vehicles, etc.). Paper documents (originals only) need to be produced on demand by customs. However, the RCMD is now embarking on uCustoms, which will allow the RMCD to accept digital attachments.

3.5. Cross-border coordination and transit facilitation

Similar to many AMS, Malaysia needs to improve its performance under this component, although the results are varied and it is performing well in some indicators.

There is border agency institutional coordination, as the RMCD is one of the implementing agencies under the cross-border transport agreement between Malaysia and Thailand of 2018. Border-crossing operational coordination is also in place, as the RMCD conducts cross-border coordination with neighbouring countries and aligns working hours with neighbouring country authorities. In addition, MAQIS and the MOH carry out extensive operational cross-border coordination (joint controls).

A computerised transit system is being pilot tested under the ASEAN Customs Transit System (ACTS). A computerised transit guarantee mechanism is also in place, with cross-border exchange of data. Malaysia provides simplified procedures for authorised transit traders on the Bukit Kayu Hitam border with Thailand and at Johor (Bangunan Sultan Iskandar and Kompleks Sultan Abdul Bakar) with Singapore. The simplified procedures are as determined by the contracting parties (Malaysia and its two neighbours).

Transit operations are of relatively low policy priority, perhaps because the demand from the private sector is not strong. In addition, ACTS is still effectively in the pilot stage. When it becomes fully operational, there will be a marked increase in the scores for transit-related variables, including cross-border operational coordination. To date, Malaysia has given much more focus to cross-border institutional coordination.

3.6. Transport facilitation

Malaysia has ample opportunities for improvement under this component. It is currently involved in the implementation of ACTS for Malaysia, Singapore, and Thailand. The issuance of ASEAN Goods Vehicle Cross-Border Permits will be implemented in the ACTS pilot phase by the three pilot countries.

Malaysia has signed the ASEAN Framework Agreement on Multimodal Transport (AFAMT) and is undertaking further deliberations on domestic legal requirements for the implementation of the AFAMT with relevant stakeholders. The AFAMT will be ratified when the domestic law provision is passed. On the ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST), the Ministry of Transport is still

undertaking the domestic process to ratify the AFAFIST. Moreover, the procedures for the issuance of ASEAN Goods Vehicle Cross-Border Permits are in the pilot phase in Malaysia.

An electronic data interchange and port community have been established and put in place at the federal ports. Port Klang and Johor Port have also developed their respective internal systems to increase efficiency at the ports.

3.7. E-commerce

Malaysia is well ahead of many AMS on this front. The legal framework for e-identification and authorisation has been established and is operational at the national level. The legal framework for a domestic and cross-border e-commerce dispute settlement mechanism has been operationalised, including an online dispute resolution system to facilitate the resolution of claims over e-commerce transactions.

On revenue collection for cross-border e-commerce, Malaysia has undertaken a study on an appropriate revenue collection model for e-transactions (i.e. vendor collection model or account-based revenue collection model). However, harmonisation at the ASEAN region level is still being considered.

4. Key Recommendations

An important recommendation is the full and accelerated implementation of uCustoms, as mentioned under strategic shift 2 of Malaysia's Logistics and Trade Facilitation Plan, 2015–2020.

The ASW and the ASEAN Trade Repository should be made fully operational and in sync with the NSW and the National Trade Repository to contribute to seamless trade facilitation in the region. Signing and implementing bilateral MRAs on AEOs with other AMS would further the seamlessness of trade facilitation in the region. Finally, the implementation of self-certification could be expanded to reduce the transaction cost of obtaining certificates of origin, thereby encouraging greater intra-ASEAN trade.

Some issues are pending, including the publication of the rules and procedures for transit trade on the customs website, implementation of advance rulings for origin, implementation of paperless trade (with uCustoms), and more regular publication of the dwell time and TRS.

As an important leader of ASEAN, Malaysia should accelerate the implementation of the ASEAN transport facilitation agreements (i.e. the AFAFIST, the ASEAN Framework Agreement on the Facilitation of Goods in Transit Protocols 1 and 2, the AFAMT, and the ASEAN Framework Agreement on the Facilitation of Cross-Border Transport of Passengers by Road Vehicles).

Full operationalisation of ACTS would not only improve the scoring but, more importantly, the environment for Malaysia's transit and cross-border trade with its neighbours. Malaysia should strengthen its cross-border coordination with bordering countries. It should also study and undertake bilateral agreements with bordering AMS for simplified

or expedited clearance on land border crossings, similar to the Malaysia–Thailand agreement on perishables. Moreover, it should study and implement early release based on provisional documentation or incomplete manifests for AEOs and possibly Trusted Traders.

Malaysia should also strongly support the ASEAN Work Programme on Electronic Commerce, 2017–2025, for a revenue collection framework, online dispute settlement, etc., to help prepare the country and the region for the challenges and opportunities of e-commerce and the overall digital revolution that is occurring in the world.

The implementation of the above-mentioned recommendations would need to be in tandem with enhanced national initiatives to strengthen logistics and infrastructure connectivity, as well as related regulatory reforms, in order to have a significant benefit on the country, e.g. the Logistics and Trade Facilitation Masterplan to improve last mile connectivity to Port Klang, etc.

It is also important to examine the TRS results, dwell time data (data to be culled from the Northport and Westport of Port Klang), and time to permit approval (data to be culled from Dagang Net) for Malaysia, given the availability of data, in order to study the relationship with the ASTFI indicators and other trade facilitation indicators, as a preliminary test for the 2020/2021 assessment.

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Chapter 7

Trade Facilitation in Myanmar and the Results of the ASTFI Baseline Study¹

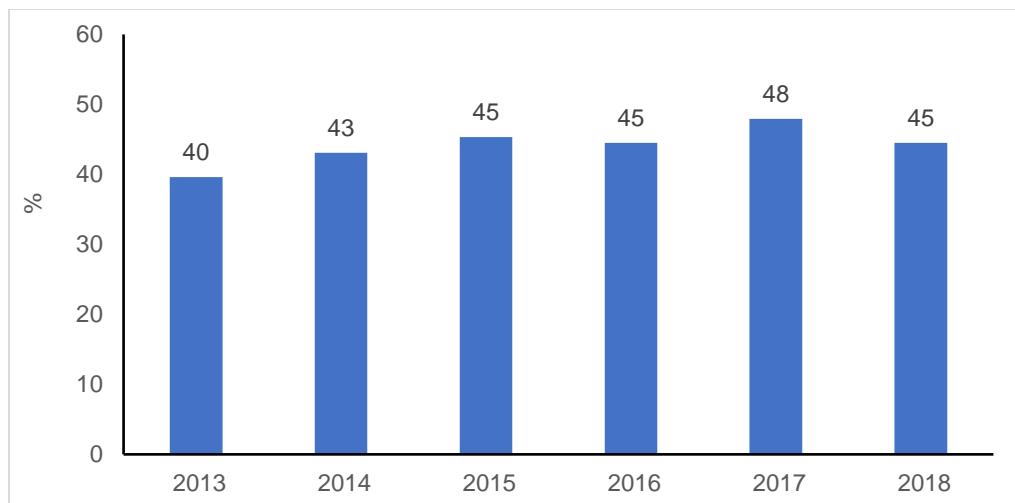
Doan Thi Thanh Ha and Pa Pa

1. Overview of the Trade Facilitation Environment

Since 2011, Myanmar has conducted comprehensive reforms of macroeconomic policies and the trade-related regulatory system in line with international commitments. The country has established cooperation with international organisations such as the World Trade Organization (WTO), the Association of Southeast Asian Nations (ASEAN), and the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation. These reforms aim to enhance both domestic economic development and economic integration.

As a result, Myanmar has achieved a significant improvement in economic performance. Average gross domestic product (GDP) growth for 2013–2018 reached 7%, making the country one of the fastest growing economies in Southeast Asia. Trade openness, measured as the total export and import value over GDP, has shown a steady rise. The ratio of trade to GDP increased by about 12% from 2013 to 45% in 2018 (Figure 7.1).

Figure 7.1: Total Trade as a Proportion of GDP (%)



GDP = gross domestic product.

Source: Economist Intelligence Unit (2018).

¹ This report is based on the 2018 data of the ASTFI baseline study survey.

ASEAN and China are Myanmar's largest trading partners. In 2018, Myanmar's exports to ASEAN ranked second after exports to China, contributing as much as 33% of total exports. ASEAN is also a major import source for Myanmar, accounting for 45% of total imports (Figures 7.2 and 7.3).

Figure 7.2: Myanmar's Top Export Destinations, 2018 (%)

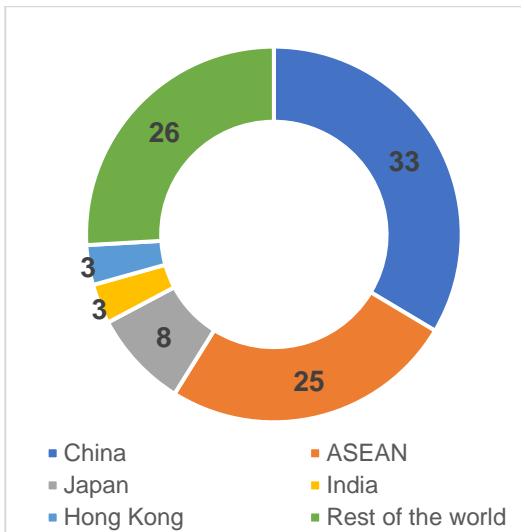
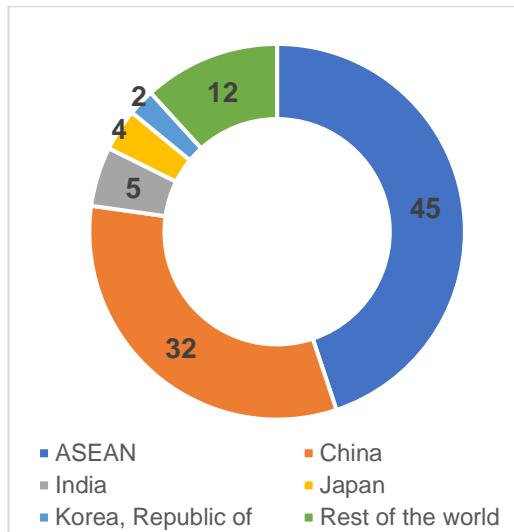


Figure 7.3: Myanmar's Top Import Origins, 2018 (%)



ASEAN = Association of Southeast Asian Nations.

Source: International Trade Center (2018), Figure 7.2:

[https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c104%7c%7c%7cTOTAL%7c%7c%7c2%7c1%7c1%7c2%7c1%7c2%7c1%7c1%7c1%7c1](https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c104%7c%7c%7cTOTAL%7c%7c%7c2%7c1%7c1%7c2%7c2%7c1%7c2%7c1%7c1%7c1%7c1) (accessed 15 June 2018);

Figure 7.3:

https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c104%7c%7c%7cTOTAL%7c%7c%7c2%7c1%7c1%7c2%7c1%7c2%7c1%7c1%7c1%7c1 (accessed 15 June 2018).

The importance of improving the trade environment is well recognised in Myanmar. The Government of Myanmar has cooperated closely with concerned line ministries to implement a series of reforms to enhance Myanmar's competitiveness and competence in trade facilitation. For example, the country's first WTO Trade Policy Review, conducted in 2014, was an excellent opportunity for other WTO members to improve their understanding of Myanmar's trade and investment policies. The government ratified the WTO Trade Facilitation Agreement in December 2015 and established the National Trade Facilitation Committee to implement the agreement. The Private Sector Development Committee, led and chaired by the Vice President, was established in 2014 to encourage private sector engagement in trade-related matters. Formal consultation meetings with stakeholders – led by the Vice President, the chair of the Myanmar Investment Commission, and concerned persons, including micro, small, and medium-sized enterprises – have been organised on a monthly basis. Moreover, the National Trade Repository (NTR) was established to improve transparency and the trade facilitation environment in Myanmar.

Myanmar's efforts to enhance the business environment have been recognised internationally. Since 2013, Myanmar has been included in the World Bank's Doing Business report. The country climbed steadily in the rankings, from 182 in 2013 to 171 in 2018. According to the survey on Trade Facilitation and Paperless Trade Implementation in ASEAN (UNESCAP, 2017), Myanmar made the most rapid progress in advancing implementation. The implementation rate increased by 15 percentage points (from 26% in 2015 to 41% in 2017). Myanmar's overall ranking in the World Bank's Logistics Performance Index also increased from 147 in 2007 to 113 in 2017. The customs' rank increased from 124 to 96 during the same period.

Despite significant improvement, there is still ample room for Myanmar to strengthen its reforms. According to UNESCAP (2017), Myanmar's implementation rate of trade facilitation measures stands at about 40% – the lowest performance level amongst ASEAN Member States (AMS). The country has made limited progress in reducing compliance costs, as reflected in the World Bank's Ease of Doing Business trading across borders indicator. Similarly, Myanmar's rank in the World Bank's Logistics Performance Index reports slipped from 113 in 2016 to 131 in 2018.

Table 7.1: World Bank's Ease of Doing Business Indicators

Indicators	2018	2017	2016	2015
Time to export: Documentary compliance (hours)	144	144	144	144
Time to import: Documentary compliance (hours)	48	48	48	48
Time to export: Border compliance (hours)	142	144	144	144
Time to import: Border compliance (hours)	230	232	120	120
Cost to export: Documentary compliance (\$)	140	140	140	140
Cost to import: Documentary compliance (\$)	210	210	115	115
Cost to export: Border compliance (\$)	432	432	432	432
Cost to import: Border compliance (\$)	457	457	367	367

Source: World Bank (2018), Ease of Doing Business.

<https://www.doingbusiness.org/content/dam/doingsBusiness/excel/db2020/Historical-data--COMPLETE-dataset-with-scores.xlsx> (accessed 1 July 2018).

2. Results from the ASTFI Survey

A questionnaire survey was conducted during the first half of 2018 with government agencies on six components: (i) transparency and information on laws, regulations, and procedures; (ii) communication with and active engagement of the private sector; (iii) release and clearance formalities; (iv) import/export formalities and coordination; (v) transport facilitation; and (vi) e-commerce. The results of the survey are summarised below.

2.1. Transparency and information on laws, regulations, and procedures

Myanmar performs relatively well under this component. Although Myanmar Customs Department maintains its website, it cannot share all customs-related information. The information provided, except the law, is available only in the local language. The National Trade Portal and the NTR contain customs and trade-related information in both English and the Myanmar language, but some laws, rules, and regulations are only available in the Myanmar language.

Similarly, over 50% of the major agencies (9 out of 13) publish their trade-related information, while the trade-related information on imports and exports of the other four agencies is available on the National Trade Portal in both English and Myanmar. They also share information through each ministry's noticeboard and related associations under the Republic of the Union of Myanmar Federation of Chambers of Commerce and Industry.

Myanmar's NTR contains information on six out of nine prescribed categories mandated in Article 13 of the *ASEAN Trade in Goods Agreement*. The missing categories are administrative rulings, best practices in trade facilitation, and the list of authorised traders. Although Myanmar has uploaded non-tariff measures to the ASEAN Trade Repository, currently they cannot be linked to those in the NTR due to technical problems. In addition, the trade-related information of some major agencies has not yet been published in the NTR's 'measures and procedures'.

The customs contact centre is restricted to office hours, while 24-hour service is available for the Myanmar Automated Cargo Clearance System (MACCS). However, the service is only available in the local language. All agencies have implemented ASEAN commitments related to transparency and information on laws, regulations, and procedures. However, the extent of implementation is not uniform across agencies. Only a few agencies have applied internationally accepted best practices for transparency and information on laws, regulations, and procedures.

Thus, major trade-related agencies and Myanmar Customs Department need to enhance the availability and accessibility of information on trade-related laws, regulations, and procedures. Bilingual websites with information on export and import formalities should be established, and an interactive information channel should be implemented at the Customs Department. In addition, Myanmar should aim to (i) provide a 24-hour customs contact centre for local and foreign enquiries; (ii) share more trade-related information on non-tariff measures; and (iii) update the NTR to cover all nine prescribed categories with a non-tariff measures database, at a product-specific level, for all the free trade agreements.

2.2. Communication with and active engagement of the private sector

Myanmar's performance is quite impressive under this component. During December 2016, the National Trade Facilitation Committee was established with both public and private sector membership, and regular institutionalised consultations are undertaken with the private sector.

2.3. Release and clearance formalities

Despite some progress, there are areas for Myanmar to improve under this component. The Myanmar Customs Intelligence System and MACCS were established in 2016. Full implementation of the MACCS and the Myanmar Customs Intelligence System is essential for the smooth operation of the National Single Window (NSW) and for linking the NSW to the ASEAN Single Window. In the first phase, these systems are being installed at 14 locations, including the Customs Head Office in Yangon, Yangon Airport Warehouse, Yangon Airport One Stop Service, Thilawa Special Economic Zone, and all seaports. Myanmar Customs Department introduced a risk management system in early 2017. The system is still under development with technical assistance from the Asian Development Bank.

Pre-arrival processing, publication of dwell time studies, and Trusted Traders or Authorised Economic Operators are not yet available in Myanmar. While advance rulings are available for classification and valuation, they are not published online, and traders cannot request or receive advance rulings online. E-payments are not in place for export or import duties and taxes; Myanmar Customs Department uses a deposit system. The Department of Trade allows e-payments for export/import licence fees under a fully online licencing system.

Time Release Studies have been conducted sporadically, and the results of such studies have been published on an ad hoc basis. To improve the trade facilitation environment, the Customs Department needs to distribute annual publications of Time Release Studies for the main ports/airports. The Customs Department needs to improve the application of self-certification. A pilot self-certification scheme is being implemented.

Customs and major agencies have performed risk management operations according to best practice, but the procedure is still not consolidated/integrated. Customs permits the early release of goods without payment on the basis of both a completed manifest and declaration submissions with guarantee. Customs implements post-clearance audits in compliance with best practice.

Simplified or expedited clearance is available for air and sea cargo, but not yet for land cargo. Temporary admission is only allowed for certain goods, with total conditional relief from duties and taxes granted. It is not in full compliance with the Istanbul and/or Admission Temporaire–Temporary Admission (ATA) conventions. Appeals and review mechanisms are in place within the judicial authority.

2.4. Import/Export formalities and coordination

Myanmar lags behind other AMS under this component. In principle, customs and regulatory agencies in Myanmar still request original copies to process any application. It would help improve trade facilitation if customs and other regulatory agencies were to accept photocopies or electronic copies for all documentary requirements. The NSW has not been implemented and therefore is not yet linked to the ASEAN Single Window.

Coordination amongst border agencies (e.g. customs, immigration, and quarantine) has been set up but only at major ports on an ad hoc basis.

2.5. Cross-border coordination and transit facilitation

Myanmar's performance is rather low under this component. Institutional coordination by border agencies with neighbouring countries exists, but not all border and regulatory agencies are involved. Only the departments responsible for quarantine practise border agency institutional coordination with neighbouring countries. The Department of Agriculture (DOA) has been practising border agency institutional coordination with Thailand for the issuance of sanitary and phytosanitary certificates. The Livestock Breeding and Veterinary Department (LBVD) has also set up a trans-border institutional arrangement for border agency coordination with border countries. Other major agencies such as customs and immigration have not yet implemented border agency coordination.

In terms of operational coordination, border agencies (both the DOA and the LBVD under the Ministry of Agriculture, Livestock and Irrigation) practise one of three border-crossing coordination components: (i) sharing common facilities, (ii) joint controls with neighbouring country authorities, and (iii) alignment of working hours between neighbouring country authorities.²

2.6. Transport facilitation

Myanmar's transport facilitation lags behind other AMS remarkably. It has ratified Protocol 4 on the technical requirements of vehicles under the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT), as well as the ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST) and the ASEAN Framework Agreement on Multimodal Transport (AFAMT). However, national laws and regulations have only been developed for the AFAMT. Moreover, no implementation structures or systems for AFAFIST and AFAFMT are in place.

Myanmar has signed Protocol 6 on railway border and interchange stations under the AFAFGIT to facilitate the cross-border movement of goods trains within the region (WTO, 2014: 23). An integrated transport master plan has also been formulated in the country (Swe, 2018). Myanmar will also commence the 'Early Harvest' Cross-Border Transport Agreement (CBTA) implementation through initial implementation of a CBTA with Thailand in August 2018 and with the other Greater Mekong Subregion (GMS) neighbours during a grace period until 1 June 2020. Accordingly, the actual movement of vehicles and mutual recognition of road transport permits and temporary admission documents shall commence on the effective launch date for CBTA transport operations. According to the GMS CBTA, single stop inspection will be implemented at the Myawaddy Border Trade Zone. For this purpose, border control facility single stop inspection will be constructed at the beginning of 2019.

² The DOA has implemented (iii) while the LBVD has practised (ii).

Although Myanmar has already ratified the AFAFIST and the AFAMT, national laws and regulations are only in place for the AFAMT. Moreover, no implementation structures and system are in place for either framework.

2.7. E-commerce

Myanmar's performance is rather low under this component, despite some progress. The legal framework for e-identification and authorisation is in operation. The Electronic Transaction Law, 2004 has come into effect in Myanmar. The country is also implementing a cyber legal and policy framework project which will cover laws and policies related to e-government, e-commerce, and cybersecurity to strengthen the legal framework related to cross-cutting areas of e-commerce, including electronic authentication, electronic signatures, electronic settlement, paperless trading, custom duties, and computing facilities. According to the project scope, it will analyse the existing legal and regulatory framework and reports, and reflect international best practices in the draft cyber legal and policy framework. The cyber law and policies related to e-government, e-commerce, and cybersecurity are planned to be implemented by 2021. This project is being undertaken by a committee comprising experts from concerned ministries, local entrepreneurs, information technology (IT) experts, and international IT and legal experts, with funding assistance from the World Bank.

2.8. Main challenges in Myanmar's trade facilitation environment

All the government agencies face several common challenges. Firstly, there is a lack of well-trained personnel with expertise in their respective fields. For example, for e-commerce, the development of a legal framework that could support the evolution of e-commerce in Myanmar is crucial to create a better trade facilitation environment. As the new e-commerce law is being drafted by a committee with experts from related ministries, the availability of local and international IT and legal experts and the active cooperation of civil society are major challenges.

Secondly, insufficient infrastructure limits the capacity for seamless trade facilitation. In particular, the development of IT infrastructure is a significant challenge faced by major agencies. Without such infrastructure, the sharing of trade-related information, implementation of a paperless permit/licence application process, execution of a computerised system for transit, development of the NSW and NTR, and e-commerce cannot be strengthened.

In addition, development of the hard infrastructure that supports trade transactions (e.g. ports, roads, cold storage, and warehouses) is needed. Developing such infrastructure requires both financial resources and technology. Thus, financing constraints and technical assistance are also great challenges.

Strengthening cooperation and coordination between trade-related government agencies is a significant challenge for improving trade facilitation, as the domestic border agency (customs, immigration, quarantine) coordination at the operational level is undertaken on ad hoc basis only. Above all, however, peace and stability along the border

areas are important to develop the facilitation of overland trade, which has the potential to develop in the long run.

3. Conclusion and Recommendations

Myanmar has been undertaking a series of reforms in line with international best practices to improve trade facilitation in accordance with the WTO Trade Facilitation Agreement and the ASEAN Economic Community Blueprint. The progress of Myanmar's implementation has been recognised. Myanmar is regarded as a country which has achieved rapid progress in advancing the implementation of trade facilitation measures amongst the AMS.

To improve trade facilitation and encourage private sector development, the Department of Trade is cooperating with development partners on trade development and is preparing a Diagnostic Trade Integration Study under the Enhanced Integrated Framework of the WTO trade development programme. In addition, the Medium Term Programme report of the Myanmar Trade Development Programme was launched in 2017 and has entered the implementation stage.

Based on the results of the findings in this study, below are the recommendations for further improvement:

- The performance of major agencies in implementing the ASEAN agreements and plans to enhance trade facilitation is still weak. This suggests that there is ample room for further improvement of the trade facilitation environment in Myanmar.
- High border compliance times for exports and imports, and high documentary compliance for exports, are reflected in the survey results. The trade-related information of some major agencies is not accessible via the internet. Most of the websites are only available in the local language. Thus, updating trade-related information on the respective websites in both English and Myanmar would help to improve the trade facilitation environment in Myanmar.
- The NSW should be made operational as soon as possible, as it would help to improve the efficiency of the cargo clearance process, thereby improving trade facilitation.
- The legal framework for implementing e-commerce needs to be improved, as it is critical for doing business and enhancing trade. Investment in human capital through the provision of professional training would contribute significantly to the design and implementation of policies.
- Human resources management, customs procedures, environmental protection, adequate credit and banking facilities, infrastructure (including transportation), electricity, and information and communication technology are vital. A more facilitative environment would increase connectivity and create better opportunities for Myanmar to extend its participation in regional value chains.

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Chapter 8

Trade Facilitation in Philippines and Results of the ASTFI Baseline Study¹

Salvador Buban and Josephine Nagallo

1. Trade Overview

From 2014 to 2018, the Philippines' total trade grew at an average rate of 8%, from \$129 billion in 2014 to \$182 billion in 2018.² Amongst its top 15 trading partners were Japan; the United States; China; Germany; and five Association of Southeast Asian Nations (ASEAN) Member States (AMS) – Indonesia, Malaysia, Singapore, Thailand, and Viet Nam, whose trade value totalled \$160 billion (footnote 1).

In 2018, 16% (\$10.7 billion) of the Philippines' total exports were to AMS, while 25% (\$28.6 billion) of its imports were sourced from other AMS (footnote 1). The data show that AMS are still amongst the Philippines' key partners both for selling products and for sourcing imports. Some 63% of the products exported and 36% of those imported by the Philippines belong to the same product category, i.e. electrical products, electrical equipment, and machinery (HS Code 84 and 85).³

2. Key Trade Facilitation Reforms

Recognising the importance of trade in the country's economy and the extent to which an improved trade facilitation environment could contribute to an increase in trade, the Philippines embarked on various trade facilitation reforms, including the enactment of the Customs Modernization and Tariff Act, 2016 (CMTA); the implementation of the Philippine National Single Window (PNSW); and the launch of the new single window platform (TradeNet). The Philippines also proposed the inclusion of the enactment of the Ease of Doing Business and Efficient Government Service Delivery Act, 2018 (Republic Act No. 11032), under which the National Effort for the Harmonization of Efficiency Measures

¹ This report is based on the 2018 data of the ASTFI baseline study survey.

² International Trade Centre (n.d), Trade Map, Export Data (List of Importing Markets for a Product Exported by the Philippines).

[https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c608%7c%7c%7c%7cTOTAL%7c%7c2%7c1%7c1%7c1%7c2%7c2%7c1%7c2%7c1%7c1%7c1](https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c608%7c%7c%7c%7cTOTAL%7c%7c2%7c1%7c1%7c2%7c2%7c1%7c2%7c1%7c1%7c1) (accessed 15 April 2018);

International Trade Centre (n.d.), Trade Map, Philippines, Import Data (List of Supplying Markets for a Product Imported by the Philippines).

[https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c608%7c%7c%7c%7cTOTAL%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c1%7c2%7c1%7c1%7c1](https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c608%7c%7c%7c%7cTOTAL%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c2%7c1%7c1%7c1) (accessed 15 April 2018).

³ International Trade Centre (n.d), Trade Map, Export data (List of Products Exported by the Philippines).

https://www.trademap.org/Product_SelCountry_TS.aspx?nvpm=1%7c608%7c%7c%7cTOTAL%7c%7c2%7c1%7c1%7c2%7c2%7c1%7c1%7c4%7c1%7c1 (accessed 15 April 2018);

International Trade Centre (n.d.), Trade Map, Import Data (List of Products Imported by the Philippines).

https://www.trademap.org/Product_SelCountry_TS.aspx?nvpm=1%7c608%7c%7c%7cTOTAL%7c%7c2%7c1%7c1%7c2%7c1%7c1%7c4%7c1%7c1 (accessed 15 April 2018)

of Inter-Related Agencies or Program NEHEMIA was developed to improve the operation of other trade-related government agencies.

2.1. Customs Modernization and Tariff Act

The enactment of the CMTA on 30 May 2016 was a milestone reform in Philippine trade facilitation. As landmark legislation anchored on trade facilitation initiatives and measures, the CMTA aimed to simplify, modernise, and align Philippine customs procedures with international standards and best practices. It set down basic trade facilitation standards – including opening access to relevant customs information, regulatory issuances, and rulings – thereby increasing transparency and predictability in import and export transactions. The CMTA also envisaged full electronic processing of shipment documents, streamlining of export and import procedures, the application of efficient border controls based on international best practices, steeper penalties for the violation of customs laws, and enhanced transparency in addressing the needs of private stakeholders and the business community.

Some of the main trade facilitation features of the CMTA are advance rulings, Authorised Economic Operators (AEOs), advance lodgement and clearance, temporary admission of goods, expedited shipments, and the single window. Following the enactment of the CMTA, the Department of Finance (DOF) and the Bureau of Customs (BOC) established a project management office to oversee its implementation. A 3-year CMTA implementation plan was prepared, which included the establishment of drafting teams and a review team that drafted the implementing rules and regulations of the CMTA. These implementing rules and regulations, called customs administrative orders (CAOs) and customs memorandum orders (CMOs), are the enabling regulations for the CMTA implementation. Part of the process of drafting the CAOs or CMOs is consultation with various stakeholders, to provide an opportunity – especially for the private sector – to share its views, inputs, and comments before the implementation of the regulations.

2.2. National Single Window

In 2004, the national single window concept was introduced to major agencies in the Philippines. The PNSW, an electronic platform for the issuance of licences and permits fully funded by the Government of the Philippines, was implemented in 2009. A number of government agencies (e.g. the Bureau of Internal Revenue, the Food and Drug Administration, the Bureau of Fisheries and Aquatic Resources, the National Meat Inspection Service, the Optical Media Board, the Philippine National Police, the Bureau of Import Services, the Bureau of Animal Industry, and the Bureau of Plant Industry) were part of the PNSW. Traders apply for licences, permits, and clearances through the PNSW, and these are then reviewed and subsequently approved by the government agencies. For other agencies under the Department of Agriculture, the value added service provider (VASP) system was used as their front-end system and transport layer connection to the PNSW. While the VASP system used by agencies under the Department of Agriculture provided more features than the PNSW, i.e. electronic payments (e-payments), simultaneous transmission of permits to personnel in the field (as gleaned from

information shared by representatives from Department of Agriculture agencies during the validation-cum-consultation), the VASP was still considered a separate system from the PNSW.

However, the implementation of the PNSW was slow, and the usage of the PNSW by agencies in the issuance of licences and permits has declined. Some government agencies even reverted to manual issuance of permits. The BOC, which managed the PNSW, exerted efforts to revitalize PNSW operations by integrating the PNSW with the integrated enhanced customs processing system, a ₱650 million (\$13 million) computerised system project that will integrate single window operations with the customs procedures and cargo clearance process. However, the project was embroiled in legal issues which led to its cancellation. This situation contributed to the decline in the use of the PNSW. The Philippines' participation in ASEAN Single Window (ASW) activities was also affected, such as the inability to participate in the live implementation of the ASW pilot project on the electronically submitted Form D under the ASEAN Trade in Goods Agreements (e-ATIGA Form D), despite being actively involved in earlier ASW activities.

2.3. TradeNet

The DOF launched the TradeNet platform in December 2017. TradeNet operates as the new PNSW, with the aim of connecting more than 60 regulatory government agencies. It will be operated and maintained by the Department of Information and Communications Technology, a government agency responsible for the planning, development, and promotion of information and communication technology (ICT) in the country. Although TradeNet is not yet fully operational, it has started issuing licences and permits.

The TradeNet platform is being developed as a project of the Interagency Business Process Interoperability, under the auspices of the DOF's Anti-Red Tape Act team which aims to streamline the complicated import and export documentation process in revenue collection to facilitate the clearance of goods, and will help contribute to the ease of doing business for the private sector in the country and facilitate trade.

TradeNet is an 'automated licensing, permit, clearance, and certification system integrated into one platform for regulatory agencies', where users can submit applications for permits and licences to comply with import and export requirements. As this is an integrated and cloud-based system, inter-agency routing of documents will be easier, while real-time reports and data can easily be generated to assist in risk assessment and management as well as in conducting the necessary checks and verification against government business registries.⁴

⁴ The Inter-Agency Business Process Interoperability Program team briefed the Economic Research Institute for ASEAN and East Asia (ERIA) on the NSW and ASW on 14 March 2018.

2.4. Trade facilitation indicators from secondary sources

The World Bank's Trading Across Borders indicator noted improvements in the Philippines' trade facilitation environment from 2006 to 2015, where it showed a 30% reduction in the cost to export and a 20% reduction in the cost to import. The improvement in the cost reductions was complemented by a decrease in the time to export, from 17 days to 15 days, while the time to import was shortened from 18 days to 15 days (Table 8.1).

Table 8.1: Philippines Trading Across Borders Achievement, 2006–2015

Economy	2015	2006
DTF – Trading across borders	77.23	72.61
Documents to export (number)	6	6
Documents to import (number)	7	8
Cost to export (\$ per container deflated)	755	1,077
Cost to import (\$ per container deflated)	915	1,141
Time to export (days)	15	17
Time to import (days)	15	18

DTF = distance to frontier.

Note: The distance to frontier score captures the gap between an economy's performance and a measure of best practice across the entire sample of all indicators for 10 Doing Business topics.⁵ The DTF of trading across borders reflects a combination of the costs and time required for exports and imports.

Source: World Bank (2018), Ease of Doing Business

<https://www.doingbusiness.org/content/dam/doingsBusiness/excel/db2020/Historical-data--COMPLETE-dataset-with-scores.xlsx> (accessed 1 July 2018).

In the 4 years from 2015 to 2018, however, some of the indicators have not changed or progressed, based on World Bank data using a methodology adopted in 2015 (Table 8.2). This condition may call for the Philippines to undertake more efforts and strategies to create better trade facilitative conditions.

⁵ World Bank. (2016). Distance to Frontier and Ease of Doing Business Ranking.

<https://www.doingbusiness.org/content/dam/doingsBusiness/media/Annual-Reports/English/DB17-Chapters/DB17-DTF-and-DBRankings.pdf> (accessed 1 July 2018).

Table 8.2: Philippines Trading Across Borders Achievement, 2015–2018

Economy	2018	2015
Rank – Trading across borders (DB18)	99	
DTF – Trading across borders	69.39	69.39
Time to export: Documentary compliance (hours)	72	72
Time to import: Documentary compliance (hours)	96	96
Time to export: Border compliance (hours)	42	42
Time to import: Border compliance (hours)	72	72
Cost to export: Documentary compliance (\$)	53	53
Cost to import: Documentary compliance (\$)	50	50
Cost to export: Border compliance (\$)	456	456
Cost to import: Border compliance (\$)	580	580

DB = Doing Business, DTF = distance to frontier.

The distance to frontier score captures the gap between an economy's performance and a measure of best practice across the entire sample of all indicators for 10 Doing Business topics⁶ The DTF of trading across borders reflects a combination of the costs and time required for exports and imports.

Source: World Bank (2018), Ease of Doing Business.

<https://www.doingbusiness.org/content/dam/doingsBusiness/excel/db2020/Historical-data---COMPLETE-dataset-with-scores.xlsx> (accessed 1 July 2018).

The trade facilitation and logistics environment has shown signs of improvement from 2015 to 2018, but significant concerns remain, as measured by the Domestic Logistics Performance Index (LPI) – Environment and Institutions.

Despite some improvements in customs clearance procedures and other official clearance procedures in the Philippines, further improvement needs to be made in the area of competence and quality services delivered by logistics services providers (road, rail, maritime, and freight forwarders), sanitary and phytosanitary agencies, and quality or standards inspection agencies. The high fees and charges for ports are also a challenge for the Philippines to improve its logistics performance.

The LPI revealed an improvement in the Philippines' overall rank, from 71 in 2016 to 60 in 2018. Although the ranking improved considerably, the overall score only increased slightly, from 2.86 in 2016 to 2.90 in 2018. The increase in ranking did not extend to the customs LPI ranking, which deteriorated to 85 in 2018 from 78 in 2016 and 47 in 2014. This may also be due to improvements in other countries, which lowered the rank of the Philippines.

⁶ World Bank. (2016). Distance to Frontier and Ease of Doing Business Ranking.

<https://www.doingbusiness.org/content/dam/doingsBusiness/media/Annual-Reports/English/DB17-Chapters/DB17-DTF-and-DBRankings.pdf> (accessed 1 July 2018).

The reduction in the international customs LPI ranking is similar to the domestic LPI score. More than 75% of freight forwarders, as the LPI respondents, perceived the clearance and delivery of Philippine imports and exports to be efficient. In addition, the respondents indicated that the transparency of customs clearance and border agencies was very low.

Table 8.3: LPI Performance, 2018

Indicator	2014	2016	2018
International LPI			
Overall rank	57	71	60
Customs LPI rank	47	78	85
Domestic LPI			
Clearance and delivery of imports (%)	67	40	75
Clearance and delivery of exports (%)	100	80	100
Transparency of customs clearance (%)	67	40	0
Transparency of other border agencies (%)	50	40	0
Solicitation of informal payments (%)	33	60	0

LPI = Logistics Performance Index.

Source: World Bank (2018), International Logistic Performance Index Global.

https://lpi.worldbank.org/sites/default/files/International_LPI_from_2007_to_2018.xlsx (accessed 1 June 2018); World Bank (2018), Domestic Logistics Performance Index, Environment and Institutions.

https://lpi.worldbank.org/domestic/environment_institutions (accessed 1 June 2018).

3. Highlights and Key Findings of the ASTFI Survey

A questionnaire survey was conducted during the first half of 2018 with 22 government agencies on five components: (i) transparency and information on laws, regulations, and procedures; (ii) communication with and active engagement of the private sector; (iii) release and clearance formalities; (iv) import/export formalities and coordination; and (v) transport facilitation. The results of the survey are summarised below.

3.1. Transparency and information on laws, regulations, and procedures

The Philippines received a commendable score for transparency of information on laws, regulations, and procedures. Information on legislation, procedures, and documentary requirements for import and export is available on the BOC and agency websites.⁷ It is also available in the Philippine National Trade Repository (PNTR), including the mandatory information required in Article 13 of the ATIGA.⁸

The PNTR improved over the past 2 years (2016–2018), when it started populating information in 2017. One notable feature about the non-tariff measure (NTM) section of the PNTR allows users to key in specific HS codes or product descriptions to identify the corresponding NTMs regulating the product. Although this feature is not mandatory in

⁷ BOC (n.d.), <http://customs.gov.ph/> (accessed 15 April 2018).

⁸ PNTR (n.d.), <http://pntr.gov.ph/> (accessed 15 April 2018).

the national trade repository and the ASEAN Trade Repository (ATR), some AMS have included this interface to make it user-friendly for business people who are more familiar with the HS code or product description than the NTM regulating that product. Further work is needed to populate and update the NTM section of the PNTR, but the foundation is already in place.

The information on the BOC website and users' access to the website had been challenging, but they have improved significantly since 2018. Interactive information channels are available on the customs website, with an operational help desk to respond to stakeholders' needs. The BOC customer assistance and response service has email, Facebook, and Twitter accounts to send updates and news on the developments at the BOC, as well as receive feedback from stakeholders.

3.2. Communication with and active engagement of the private sector

The Philippines received a significantly high score for this component. The National Trade Facilitation Committee (NTFC) is the Inter-Agency Committee on the ASEAN Economic Community (CAEC).⁹ It is composed of departments and agencies concerned with ASEAN economic and financial cooperation. The CAEC, which is led by the Department of Trade and Industry (DTI), was established to facilitate inter-agency consultations in the development and implementation of policies and programmes related to the Philippines' trade and economic agreements under ASEAN (DTI, 2017). In line with its mandate, the CAEC undertakes outreach and advocacy initiatives that promote widening the awareness and understanding of the benefits and challenges of the ASEAN Economic Community (AEC), engaging and mobilising stakeholders to participate in the AEC building process, and encouraging stakeholders' inputs to shape AEC initiatives that could result in a meaningful outcome for the Philippines.

Consistent with enhancing government–private sector collaboration, the CAEC facilitated sustained engagement with the ASEAN Business Advisory Council, which has both national and regional level mechanisms. Through the CAEC, the DTI's Board of Investments conducted AEC Game Plan Industry Roadmap Localisation Forums in all regions of the country, which encouraged stakeholders to apply these initiatives and activities locally. Through coordination with CAEC agencies, the DTI has convened hundreds of forums on Doing Business in Free Trade Areas (FTAs) to help small businesses understand and take advantage of the benefits of preferential market access provided under FTAs, especially in the AEC. The forums also encouraged other private sector organisations, such as the Philippine Chamber of Commerce and Industry, the Makati Business Club, and the Management Association of the Philippines, to follow suit in undertaking similar initiatives.

⁹ Administrative Order No. 20 dated 6 September 2011 on Reorganizing and Renaming the Philippine Council on ASEAN and APEC Cooperation into the Philippine Council for Regional Cooperation.

While the Philippines has identified the CAEC as the NTFC equivalent for the Philippines, the National Competitiveness Council – a public–private sector body that aims to promote and develop national competitiveness – could be a good candidate for an NTFC equivalent, as it is a major body or forum for government–private sector engagement in areas related to trade, competitiveness, regulatory matters, and trade facilitation. Its structure allows for more in-depth participation of the private sector at the working group level. It also develops a long-term strategy for a more competitive Philippines, through public–private sector collaboration, as a vehicle to reduce poverty and achieve inclusive growth.

The National Competitiveness Council has various working groups that address issues related to trade facilitation, streamlining of business permits and licences, smuggling and corruption, transport, trade, and logistics. It also has projects on issues such as the ease of doing business, where government agencies and the private sector formulate, implement, and track projects and policies to facilitate the ease of doing business in the country. Another project which was launched in 2016 is Project Repeal, a government-wide regulatory reform initiative to repeal outdated rules to reduce the cost of doing business. The objective is to review outdated, irrelevant, and burdensome laws and issuances which affect the global competitiveness ranking and investment climate, with a view to eventually repealing them.

Improving on this component requires having an NTFC, rather than just an equivalent mechanism. Therefore, the BOC (as the lead agency designated to establish the NTFC) has assured that the Philippines will work with other government agencies for the establishment of the NTFC. Initial suggestions from some government agencies in the Philippines include the establishment of a working group that would assess and help streamline NTMs, as well as pursue areas related to addressing burdensome requirements for complying with import and export requirements.

For the NTFC to be more effective, however, it should be able to provide guidance/direction for the implementation of policies on trade facilitation across FTAs and other relevant agreements with trade facilitation commitments. Private sector membership in the NTFC should be an inherent element to facilitate private sector participation in the future.

3.3. Release and clearance formalities

The Philippines needs to work on the indicators related to release and clearance formalities. Dwell time data are not available to the public in the Philippines. However, International Container Terminal Services Inc., a global port management company which operates the Manila International Container Terminal (MICT), gathers dwell time data on containers (measured in days) and submits these on a monthly basis to the Philippine Ports Authority and the MICT. The data, however, are only available to the Philippine Ports Authority and MICT for internal use, not to the public.

There is no regular Time Release Study (TRS) publication, the last of which was in 2015. With technical assistance from the Asian Development Bank, the BOC conducted the second TRS in October 2019 at three main collection districts – the Port of Manila, Manila International Container Port, and Ninoy Aquino International Airport (Pablo, 2018). The BOC is confident that the TRS will help identify delays in the cargo clearance process and will be vital in providing data as the basis for corrective measures.

The BOC has an operational Trusted Traders programme called the Super Green Lane. The programme has a clear mechanism and criteria for accreditation, including the obligations, privileges, and benefits accorded to these trusted operators. The BOC has also issued an administrative order¹⁰ which provides for the establishment of an AEO programme in line with the provisions of the CMTA. The programme intends to cover all stakeholders of the BOC such as importers/exporters, warehouse operators, brokers, and freight forwarders.

The implementation of self-certification for the Philippines is in a pilot stage, as in other AMS. To improve in this area, the Philippines would require all AMS to implement the self-certification scheme.

The implementing rules and regulations on advance rulings for valuation, rules of origin, and classification provide that advance rulings which are issued should be fully published and available to all traders and stakeholders. Two agencies implement advance rulings in the Philippines: (i) the Tariff Commission on tariff classification, and (ii) the BOC on customs valuation and rules of origin. The Tariff Commission has issued and published 310 tariff classification rulings, based on 438 applications received for rulings from October 2017 to May 2018. The BOC has not published any of the advance rulings issued, either for valuation or rules of origin.

Pre-arrival processing, appeal and review mechanisms, post-clearance audits, and simplified expedited clearance are available and applied by the BOC and some other agencies. Even before the CMTA, the BOC had incorporated these in the cargo clearance process.

Risk management is applied by customs and some government agencies. However, the BOC removed the green lane from the cargo selectivity system on 30 August 2017 (Pablo, 2017), so goods or shipments are categorised either red lane or yellow lane. The shipments selected in the red lane require x-ray machine scanning or are subject to physical inspection, while documentary checks are undertaken for those selected in the yellow lane. However, the Super Green Lane, a trusted trader programme which is mainly being used by multinational companies that have maintained good transaction records with the BOC, is still available (Torres-Tupas, 2017).

¹⁰ Customs Administrative Order No. 5 (2017) on the Establishment of Authorized Economic Operator (AEO) Program.

The BOC and some agencies accept e-payments. A final determination and payment of customs duties is made before goods are released from customs. Although the BOC uses e-payments for its transactions, e-payments are not available at the airport for dutiable goods brought by passengers. Some agencies, such as the Bureau of Animal Industry and the Food and Drugs Administration, use e-payments. Some agencies indicated that the establishment of an e-payment system has been difficult as they have to comply with requirements from other agencies such as the Bangko Sentral (Central Bank) and they still need to work on it.

3.4. Import/Export formalities and coordination

Under this component, the Philippines could improve on its performance, particularly on the documentation requirements and the ASW. The BOC does not allow digital copies to be attached to entry declaration filings. The CMTA does not prohibit the acceptance of digital copies, but the electronic to mobile (E2M) customs system has technical limitations for accepting digital copies in entry declarations. For major agencies, traders can attach digital copies to the application for permits and licenses. Other government agencies, such as the Dangerous Drugs Board, the Food and Drug Administration, the Bureau of Plant Industry, the Bureau of Fisheries and Aquatic Resources, and the Bureau of Animal Industry, either accept digital copies or fully automated systems in their applications and for the issuance of permits and licences.

Unlike the other major agencies indicated earlier, the Bureau of Philippine Standards accepts digital copies and has a fully automated system for the application and issuance of licences and permits through its Product Certification Information Management System. The system started in October 2018 and was fully implemented in January 2019. The Department of Information and Communications Technology has been working with other agencies to provide digital signatures and certificates to facilitate and secure electronic transactions. It has issued more than 2,300 digital signatures and certificates to date.

The BOC accepts plain copies in applications for permits or entry filings, while some major agencies accept either plain copies or a combination of originals and plain or digital copies.

Some agencies are still connected to the old PNSW – mainly agencies under the Department of Agriculture (through the VASP system). As mentioned above, the new TradeNet platform is being developed to replace the old PNSW. Although not yet fully operational, TradeNet is being used to pilot test the exchange of the e-ATIGA Form D for the ASW. It will eventually be able to provide an e-payment facility through PhPay, a government online payment system that enables citizens and businesses to remit payments electronically to government agencies.

It should be noted that the effectiveness of a national single window calls for a whole-of-government approach, which was not present during the previous PNSW managed by the BOC. The focus at that time was to link existing individual agencies' systems to facilitate the issuance of permits and licences, keeping their individual processes and requirements

intact. There was not much effort to streamline processes and documentation requirements for effective and ‘real’ single window operations.

TradeNet, under the auspices of the DOF, may be able to perform better in terms of managing a whole-of-government approach – not only to bring agencies into the fold, but also to participate seriously in an effort to streamline processes and documentation requirements. TradeNet should not allow agencies just to ‘cut and paste’ processes and documentation requirements in their own system and transport them to the new TradeNet.

3.5. Transport Facilitation

The Philippines needs to make significant efforts to improve transport facilitation indicators. Although it has ratified the ASEAN Framework Agreement on the Facilitation of Inter-State Transport and the ASEAN Framework Agreement on Multimodal Transport, the national laws and regulations to implement these protocols, including their respective implementation structures, have not yet been established. The Department of Transportation noted, however, that the Philippines has already organised an Inter-Agency Technical Working Group for the operationalisation of the ASEAN Framework Agreement on Multimodal Transport and is formulating an executive order that will provide for the creation of a competent national body. The competent national body will be responsible for regulating, registering, or recognising multimodal transport operators in the country.

The Philippines has also completed the ratification of Protocol 1 (Designation of Transit Transport Routes and Facilities) and Protocol 4 (Technical Requirements of Vehicles) of the ASEAN Framework Agreement of the Facilitation of Goods in Transit. Protocol 2 (Designation of Frontier Posts), which is under the purview of the DOF, has yet to be completed. The Philippines and the other AMS signed Protocol 2 on 4 May 2018. Although the ratification of these protocols is a commitment for the Philippines, the implementation of some of them is not relevant or applicable to the Philippines. The Department of Transportation has indicated that the National Transit Transport Coordinating Committee will be reactivated to develop and implement the necessary domestic procedures for the operationalisation of the ASEAN Framework Agreement of the Facilitation of Goods in Transit and the ASEAN Framework Agreement on the Facilitation of Inter-State Transport.

3.6. E-commerce

The Philippines, like some of its ASEAN neighbours, needs to improve in this sector. The legal framework for e-identification and authorisation has been established and is operational at the national level. However, harmonisation at the ASEAN region level is still being considered.

On revenue collection for cross-border e-commerce, the Philippines maintains threshold values for customs at a minimum, in line with the provisions of the World Trade Organization Trade Facilitation Agreement. Various legal frameworks, both in procedural

and substantive aspects for business to individual consumers' engagement (B2C), are already in place (e.g. the Consumer Act of the Philippines, 1992 and the Electronic Commerce Act, 2000).¹¹ The E-Commerce Act, particularly Section 50, contemplates the applicability of the provisions of the Consumer Act, including reliefs and sanctions even for consumer transactions done electronically.

The Philippines is still working on a mechanism for e-commerce dispute settlement, including an online dispute resolution system, to facilitate the resolution of claims over e-commerce transactions. It has issued an administrative order on the Rules and Regulations for Consumer Protection¹² in a transaction covered by the Consumer Act through electronic means under the E-Commerce Act. This administrative order – issued by the DTI, the Department of Health, and the Department of Agriculture (in particular Section 3) – specifies the requirements for adopting fair and reasonable business practices for retailers, sellers, distributors, suppliers, or manufacturers engaged in e-commerce.¹³

4. Conclusion and Key Recommendations

The Philippines, over the past couple of years (2016–2018), has laid a good foundation for reform of its trade facilitation environment. The relatively high number of provisions in category A of the World Trade Organization Trade Facilitation Agreement; the enactment of the CMTA, which is landmark legislation to improve the cargo clearance process; the strengthened anti-red tape legislation on the ease of doing business; and the upcoming relaunch of an NSW through the TradeNet platform, all indicate the strong commitment of the government to facilitate trade.

Data from the questionnaire results showed that the Philippines performed well on transparency and information, as indicated by the availability of relevant information on the websites of the BOC and other major government agencies. The enhanced PNTR also contains the required information under the ATIGA, including private sector-friendly features (e.g. the tariff finder, rules of origin finder, and NTM finder) using HS codes or product descriptions. While these features are not mandatory for a national trade repository, they provide good value addition in the overall effort towards transparency. Also notable is the relatively strong engagement and communication with the private sector that is spurred and sustained through the setting up of a mechanism that provides more opportunities for private sector participation.

¹¹ Republic Act No. 7394 (1992) or The Consumer Act of The Philippines; and Republic Act No. 8792 (2000) or An Act Providing for the Recognition and Use of Electronic Commercial and Non-Commercial Transactions and Documents, Penalties for Unlawful Use thereof, and for Other Purposes.

¹² Administrative Order No. 01 (Series of 2008) on Rules and Regulations for consumer protection in a transaction covered by the Consumer Act of the Philippines (Republic Act No. 7394) through electronic means under the E-Commerce Act (Republic Act No. 8792).

¹³ Submission from the DTI's Consumer Protection and Advocacy Bureau.

The importance of investing more effort in streamlining release and clearance, as well as import and export formalities, was noted. Also highlighted was the need for the publication of dwell times and TRSs; advance rulings; and operationalisation of the AEO programme, including the establishment of mutual recognition agreements (MRAs) for the AEOs. The proposed TradeNet system to replace the PNSW is very promising but must be managed carefully to avoid repeating the failures and difficulties of the PNSW. Strengthening of the institution that manages the PNSW is key to rally other agencies to support it. Assigning TradeNet to the DOF would ensure strong and important institutional support.

The suspension of the green lane selectivity system, which puts into question the application of risk management by the BOC on the shipments entering the country, was also raised as a serious concern. With the suspension of the green lane, shipments are now classified as yellow and red, which may also lead to delays in the release of shipments and, worse, to port congestion. In addition to the suspension of the green lane selectivity system, the increasing issuance of ‘alert orders’ – where alerted shipments are subject to 100% physical inspection – has also alarmed the private sector. Although the revised CMO indicated that the ‘alerted’ shipments would be released within 48 hours, the reality of constrained inspection areas at the ports could likely delay further inspection and release of goods from 2 weeks to 1 month.

E-commerce is an important area, but much work still needs to be done – both at the national and regional levels.

To improve the trade facilitation environment, the following are specific recommendations covering the five components.

Transparency and information on laws, regulations, and procedures

- Strengthen cooperation amongst agencies through committed information sharing, i.e. any new information must be published in a timely manner and provided to the BOC (the primary agency implementing regulations at the border).
- Ensure that links to other agencies’ websites, including the PNTR, are updated and working properly.
- Improve the breadth and quality of information continuously, making it more business-friendly (user-friendly), e.g. providing a process flow and a checklist of required documents to guide the users.
- Streamline the regulations, including documentary requirements, especially for products being regulated by multiple agencies.

Communication with and active engagement of the private sector

- Improve active engagement and communication with the private sector, particularly ensuring formal private sector membership in the NTFC – more than just as a mechanism for undertaking consultation with them.
- Study and consult with other agencies to establish a mechanism whereby the NTFC can provide direction for the consistent application of trade facilitation policies

across agreements/FTAs. Review best practices or institutions established by other countries on the NTFC.

- Operationalise the consultation mechanism of the entire government, strictly taking into account the agency's Citizen's Charters.

Release and clearance formalities

- Study and adopt best practices, especially those implemented by AEOs and Trusted Traders, which allow early release of goods based on provisional documentation or incomplete manifests.
- Encourage traders to apply for advance rulings, as this would ensure transparency and predictability in making decisions with regard to tariff classification, origin, and valuation, thereby improving the cargo clearance process. Clear and simple procedures, including online application, could encourage usage of this facility. Engage private sector associations and chambers so that their members can avail of the advance rulings facility.
- On risk management, apply inspections based on risk factors and do not inspect 100% of shipments. Consider rationalising the implementation of the 'alert order', as this mechanism causes delays in the cargo clearance process. Implement the green lane selectivity system as part of the risk management tool to facilitate trade.
- Study how to improve the application of risk management principles, taking into account the nature of the agencies and the products being regulated. Risk management of the BOC and other major agencies could be different.
- Work closely with the Philippine Ports Authority and private terminal operators on how to institutionalise regular publication of the average dwell time data.
- Work with the Asian Development Bank and other development partners such as the World Bank, as well as other AMS like Indonesia, to undertake TRSs. Indonesia has been undertaking regular TRSs and it has experts recognised by the World Customs Organization.
- Expedite the process for accession to the Istanbul Convention (adoption of the Admission Temporaire/Temporary Admission (ATA) Carnet). Utilise the work undertaken by the United States Agency for International Development Trade-Related Assistance for Development (TRADE) Project on the ATA Carnet.

Import/Export formalities

- Intensify the implementation of the CMTA to improve and facilitate the cargo clearance process. Complete the drafting of and implement the relevant CAOs and CMOs.
- Work on the full implementation of the NSW, including clarifying and streamlining business processes of agencies and 'integrating' other single windows system (Department of Agriculture system) into one system.

- Study and cooperate with other AMS which have successfully integrated their NSWs with their national trade repositories.
- Automate the cargo clearance process. Consider joint ventures for the establishment of the ICT system (consider adopting systems of India or the Republic of Korea). Joint ventures would allow the adoption of new applications at a reduced cost.

E-commerce

- E-commerce focal points and related agencies should coordinate/consult with the BOC and undertake a study on appropriate mechanisms or alternate models for collecting duties and taxes for goods covered in e-commerce trade. Work with e-commerce bodies in ASEAN to expedite work for the establishment of a legal framework and its operationalisation for e-identification and authorisation. Coordinate with the ASW steering committee and related working groups (technical working group and legal working group), which may work in similar or related areas.

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Chapter 9

Trade Facilitation in Singapore and Results of the ASTFI Baseline Study¹

Ponciano Intal Jr., Jonathan Koh, and Edo Setyadi

1. Introduction

Singapore is an acknowledged global leader in trade facilitation. Its clearance process by border agencies, including customs, was ranked first globally on the World Bank's 2016 Logistics Performance Index (LPI), while its overall LPI ranking was fifth. Singapore's ranking slipped somewhat in the 2018 report to sixth for the customs LPI and seventh on the overall LPI. However, given the inherent imprecision of the ratings, it could be argued that there is virtually no significant difference amongst the front-running countries, which include Singapore.

Singapore was ranked first on the World Economic Forum's 2016 overall Enabling Trade Index and on Pillar 3: efficiency and transparency of border administration. On the Organisation for Economic Co-operation and Development (OECD) Trade Facilitation Indicators in 2017, Singapore scored the highest value in the majority of the variables. In the World Economic Forum's 2017 Executive Opinion Survey, it was ranked first on efficiency in the clearance process. Table 9.1 summarises the result of the Domestic Logistics Performance Index, based on an online survey of logistics professionals (global freight forwarders and express carriers) based in Singapore. The survey results show stand-out evaluations of the efficiency of the customs clearance process (and other border processes) as well as the quality of infrastructure during 2016–2018. Nonetheless, the responses indicate the need for improvement in some areas during the same period, especially on the competence and quality of services. It should be noted that perceptions-based data such as the LPI have inherent biases. Hence, small changes in percentages may not mean much. Yet, a substantial gap from the best possible outcome, especially if persistent, can be indicative of the need for improvement.

Singapore developed the world's first electronic National Single Window (NSW) in the 1980s. The country's excellent achievements in trade facilitation result from its prioritisation of the issue and a forward-looking, whole-of-government approach.

In view of the global prominence of Singapore in trade facilitation, this chapter focuses on the historical and institutional developments that have made the country a global stand-out in this area. It reviews the development of Singapore's NSW, and discusses innovations in Singapore's customs which may be a model for many of the Association of Southeast Asian Nations (ASEAN) Member States (AMS). It then examines the ASEAN

¹ This report is based on the 2018 data of the ASTFI baseline study survey.

Seamless Trade Facilitation Indicators (ASTFI) results and concludes with remarks on the way forward.

Table 9.1: Domestic Logistics Performance Index – Singapore, 2010–2018

	Indicator	2018	2016	2014	2012	2010
		Percentage of respondents answering low/very low (%)				
Quality of infrastructure	Ports	0	0	0	0	0
	Airports	0	0	0	0	0
Evaluate the quality of trade and transport related infrastructure (e.g. ports, roads, airports, information technology) in your country of work	Roads	0	0	0	0	0
	Warehousing/transloading facilities	0	0	0	0	0
	Telecommunications and IT	0	0	0	0	0
		Percentage of respondents answering high/very high (%)				
Competence and quality of services	Road	50	64	43	75	100
	Air transport	88	91	57	100	100
Evaluate the competence and quality of service delivered by the following in your country of work	Maritime transport	75	91	71	100	100
	Warehousing/transloading and distribution	63	82	71	100	90
	Freight forwarders	75	82	71	100	100
	Customs agencies	88	100	83	100	100
	Quality/standards inspection agencies	63	91	67	100	100
	Health/SPS agencies	71	91	67	100	100
	Customs brokers	75	100	86	100	100
	Trade and transport associations	50	90	67	100	90
	Consignees or shippers	63	82	67	100	80
		Percentage of respondents answering often or nearly always (%)				

Efficiency of processes	Clearance and delivery of imports	100	100	100	100	100
Evaluate the efficiency of the following processes in your country of work	Clearance and delivery of exports	100	100	100	100	100
	Transparency of customs clearance	88	100	100	100	90
	Transparency of other border agencies	86	91	100	100	
	Provision of adequate and timely information on regulatory changes	75	100	86	100	90
	Expedited customs clearance for traders with high compliance levels	100	91	86	100	90

IT = information technology, SPS = sanitary and phytosanitary.

Source: World Bank (2018), Domestic Logistics Performance Index.

<https://pi.worldbank.org/domestic/performance> (accessed 1 June 2018).

2. Development and Characteristics of Singapore's National Single Window

Many traders use Singapore as a hub for the trans-shipment of goods via vessels and aircraft. The country provides an ample free trade zone to attract international traders. Hundreds of multinational corporations and shipping companies do business in Singapore. Since trade is a significant component of Singapore's economy, the government supports trade facilitation by providing the most efficient services to the international trading community, at competitive prices. Singapore's experience in establishing its single window initiative is a testimony to this.

In 1985, Singapore was hit by a recession. A high-level economic committee convened at the time identified the improvement of external trade as a major goal, highlighting that the use of information technology (IT) could make a significant contribution to Singapore's long-term competitive position. The committee's report was an important mobilising factor in the realisation of Singapore's single window, implemented in 1989 under the name of TradeNet. This was the world's first nationwide electronic single window. After more than 20 years and many upgrades, TradeNet remains the key pillar of Singapore's trade facilitation efforts and an enabler of its external trade, which totals nearly four times the gross domestic product.

Singapore's TradeNet has had a tremendous impact on the country's trade facilitation environment. Before TradeNet, the processing time for permits was up to 2 days and involved 4–35 documents (UNECE, 2010). After TradeNet, 99% of all permit applications were processed within 10 minutes electronically. The sharp reduction in the time taken to process permit applications resulted in about 9.1 million permits being issued per year from fiscal year (FY) 2013 to FY2017. In addition, the fees charged are one-sixth to one-

third of the amount charged before TradeNet. Furthermore, TradeNet integrates the requirements of 35 controlling units. The tremendous success of Singapore's TradeNet lies in its overall 'single platform and single submission' approach, which has resulted in streamlined and integrated processing. The extremely fast permit processing of over 9 million trade declarations for more than 12,000 users, involving 32 controlling units, is due primarily to the integration of all the requirements of the 32 controlling units.

In 2016, a new generation trade information ecosystem was announced. The National Trade Platform (NTP) seeks to facilitate both business-to-business (B2B) and business-to-government (B2G) transactions. It puts Singapore's trade facilitation platform on a new and higher level. Other than migrating existing B2G services, the NTP is designed to be an innovative platform for new and improved services to enhance traders' efficiency and competitiveness. The NTP has partnered with banks in Singapore to set up a trade-centric multi-bank trade finance application portal as well as a trade finance compliance service to help enhance traders' financing application processes. Other services that enhance traders' experiences are (i) the Permit Return service, which provides traders with a copy of their permits; and (ii) the digital Hand-Carried Exports Scheme, which allows exporters to retrieve proof of clearance digitally. On international connectivity, the NTP allows for the electronic submission and exchange of a Preferential Certificate of Origin between Singapore and China, as well as online applications for and transmission of an electronic Certificate of Non-Manipulation to China. The NTP brings certainty through the authenticity of the Preferential Certificate of Origin and Certificate of Non-Manipulation, and reduces the business costs associated with handling and transportation of paper documentation.

Underpinning the innovations in the NTP is the aim to make Singapore the world's leading trade, supply chain, and trade financing hub. Indeed, as Singapore is facing stiffer competition from other ports in the region, it is precisely an integrated trade, supply chain, and trade finance ecosystem that gives Singapore a continued edge over other ports in the region as a global and regional trans-shipment hub.

3. Customs, Trade Facilitation, Risk Management, and the Whole-of-Government Approach

'Unlike most customs authorities in the world, [Singapore Customs'] primary mission is in trade facilitation' (Singapore Customs, 2010: 4).

Trade is the lifeblood of Singapore, and as such, the mindset of Singapore Customs is to 'regulate trade [in order to] enable trade to flow quickly and smoothly in, out and through Singapore' (Singapore Customs, 2010: 12). To some extent, this makes Singapore an unrealistic reference point for a number of AMS with much larger populations, domestic markets, and industries than Singapore. Nonetheless, the Singapore experience provides some insights for regulating trade so that it flows as quickly and smoothly as possible and can become a strong pillar for development in any AMS. The three major insights are the following: (i) balancing trade control and trade facilitation with effective risk

management; (ii) a whole-of-government approach to both trade control and trade facilitation, and (iii) customs as forward-looking and a driver of partnerships.

3.1. Merging Trade Control and Facilitation with Risk Management²

Rather than seeing them as opposites, Singapore Customs regards trade regulation and trade facilitation as two sides of the same coin – contrasting roles that are essential for each other. To achieve both objectives without compromising either one is a challenge, given Singapore's large trade volume. For Singapore Customs, this is where risk management is key.

Singapore Customs plays the role of the trade highway police. As the regulator of trade, its main purpose is not to slow down trade flows, or even to penalise errant traders, but to facilitate smooth-flowing trade traffic and peaceful journeys for law-abiding traders. As such, facilitation and control are vital to each other.

But even the most vigilant highway police cannot keep an eye on every vehicle on the road – Singapore alone handles one-fifth of the world's total container trans-shipment throughput. Hence, to facilitate trade and protect revenue while securing Singapore's status as a trusted global trade hub, risk-based rules and procedures are used to govern its trade highway.

Under Singapore Customs' risk assessment system, traders' compliance records and willingness to cooperate are taken into consideration. Those showing a poor history of compliance are subject to more frequent interventions while the rest are not inconvenienced unnecessarily.

Risk management is a rigorous process whereby the control measures are constantly reviewed. Emerging risks that are detected in the operating environment are assessed, then appropriate adjustments are made or new control measures are incorporated to reduce risk exposures without hampering the flow of legitimate trade. Control measures are also in place to detect and deal with offences early so that the impact on trade is minimised.

The application of risk management to achieve both facilitation and control can be observed at various stages of the trade permit approval and goods clearance process. For every import consignment, a trade declaration must be submitted and approved electronically by Singapore Customs before it is allowed to clear the customs checkpoint.

3.2. Trade Facilitation and Integrated Risk-Based System³

Launched on 26 January 2011, the Trade Facilitation and Integrated Risk-Based System (TradeFIRST) is Singapore Customs' initiative for improving trade facilitation through better partnership with businesses. A single holistic framework that integrates facilitation, compliance, and risk management, TradeFIRST promises to make trade easier, fairer, and more secure. Finding a flexible and responsive approach that serves business needs has

¹ This section draws substantially from Singapore Customs (2011a).

² This section draws heavily from Singapore Customs (2011a).

been key for Singapore Customs to balance its twin roles of facilitating trade and ensuring the integrity of the trading system.

Recognising the increasing challenges faced by businesses and traders, such as the growing complexities and interdependencies of supply chains, Singapore Customs sought to strengthen and enhance the relationship between customs and the trading community even further. Reviewing existing transactions and relationships with businesses and traders, Singapore Customs found that despite the many facilitation schemes available in the existing system, companies were not always aware of them. A new approach was proposed – one that would transform the way customs facilitates and regulates trade.

TradeFIRST is a comprehensive assessment framework that integrates elements of facilitation, compliance, and risk management. A one-stop service, TradeFIRST enables Singapore Customs to engage with traders more proactively and facilitate business operations in a way that is systematic, risk-based, and consistent – thus supporting Singapore Customs' motto of making trade easy, fair, and secure.

Whole-of-Government Approach⁴

Singapore's early experience in developing its NSW – TradeNet – provided it with the insight that coordinated border management is fundamental to developing and sustaining an effectual trade facilitation environment.

Both the NSW and the coordinated border management mindset are complementary elements of Singapore's whole-of-government approach to providing efficient trade facilitation to the trading community. Using TradeNet, the trading community is able to submit permit applications electronically for processing, via a single point of entry to government agencies. All major agencies (known as Competent Authorities in Singapore) involved in regulating trade flows are part of TradeNet. The major realignments needed to support Singapore's NSW implementation were achieved through extensive discussions and consensus building with government agencies, companies, organisations, and industry associations. This focus on achieving a win–win outcome enabled all parties involved to overcome the initial difficulties, as they saw the potential savings and benefits from reducing the burden associated with handling trade documentation.

The journey to achieving a whole-of-government approach for trade regulatory issues did not start overnight. The business process re-engineering undertaken as part of Singapore's TradeNet implementation in 1989 provided a strong foundation for the then Customs and Excise Department, and partner government agencies involved in trade regulatory issues. This foundation was followed by further consolidation, continual improvements, and increased coordination over the years.

One of the most noteworthy developments took place in 2003, when the government recognised the need for greater synergy, and for a reorganisation of the trade and border

³ This section draws from Singapore Customs and the Immigration & Checkpoints Authority of Singapore (2015).

authorities in Singapore. This resulted in the formation of the Immigration & Checkpoints Authority (ICA) of Singapore as the single agency for checkpoints and border control functions, while Singapore Customs was established as the single contact point for all customs, revenue, and trade matters. Whereas the former Customs and Excise Department was mainly focused on revenue matters, the new Singapore Customs is vested with responsibility for both revenue and trade facilitation matters. This working arrangement allows the ICA and Singapore Customs to share the responsibility of securing Singapore's borders, and yet be effective in facilitating legitimate trade.

Improved Detection through Collaboration

Data are essential in the modern border regulatory environment. Effective risk management is heavily dependent on the availability of data, as well as the ability to integrate the available data so as to inform selectivity and tactical decision-making.

Through TradeNet, all agencies with border regulatory functions are able to process their respective regulatory requirements through an integrated single window interface. In this way, regulatory agencies can focus on their respective control areas, while the system provides the functionalities to route declarations to the relevant agencies and provide approval responses to trade.

However, the challenges of the modern trading environment require a higher level of sophistication. Agencies must not only focus on their respective control areas, but also recognise cross-cutting risks, and ensure coordination between different government stakeholders. The security and integrity of the trading system is not merely the job of one agency but affects the entire country.

With this in mind, Singapore Customs works closely with the ICA, using a risk-based approach, to identify shipments posing security risks and take steps to mitigate such risks through actions on the ground. The two agencies cooperate on joint risk profiling and targeting efforts, rendering operational assistance to each other when suspicious shipments are detected. Singapore Customs and the ICA consult with each other on decisions to inspect or interdict shipments when necessary.

Singapore's small physical size and labour constraints means that no single agency is able to discharge all of its regulatory responsibilities in a self-contained way. Agencies, by virtue of their specialisations, will best know the risks that affect the commodities under their control. Even though Singapore Customs and the ICA may have broad powers under the law to act on behalf of partner government agencies, both Singapore Customs and the ICA recognise that such authority needs to be exercised in collaboration with those partner agencies so that their specific knowledge of their domain can be brought to bear, for maximum success rates in detection and enforcement.

In this way, larger agencies, such as Singapore Customs and the ICA, which have stronger enforcement competencies and experience of cross-border regulatory offences, can provide support to other agencies for undertaking seizures and carrying out enforcement on suspicious shipments detected. Consequently, all agencies work together to achieve

the synergies necessary to meet their respective regulatory mandates, and contribute to the prosperity and security of the country.

Forward-Looking and Driver of Partnerships

Given that Singapore is highly dependent on trade and is a global trade hub, Singapore Customs has to be able to meet the challenges of the fast-evolving global business environment, especially the growing complexity of global supply chains, the growth of e-commerce, and the rising threat of terrorism, as well as concerns regarding the safety of international cargoes and the prevention of shipping as a tool for terrorism and crime. Towards this end, Singapore Customs has been forward-looking and a key driver of partnerships with a whole-of-government mindset.

Singapore Customs was a key player in the development and enhancement of TradeNet even though the Trade Development Board was the lead agency until April 2003 when Singapore Customs took over. Singapore Customs made TradeNet completely web-based in 2007 with version 4.0, established TradeXchange in 2007 to connect traders to the commercial systems of other countries, and started operationalising the NTP by 2017. Guided by its view that trade facilitation, compliance, and security are complementary, in 2007 Singapore Customs launched the Secure Trade Partnership, which is Singapore's national Authorised Economic Operator (AEO) programme as well as the national supply chain security programme. Singapore Customs has been engaged in discussions with other countries on the mutual recognition of supply chain security programmes. Singapore chaired the World Customs Organization working group to develop trade recovery guidelines to bring back trade to normalcy after disruptions to international trade flows after the 2007 Global Financial Crisis (see, for example, Singapore Customs (2010)). To ensure Singapore's continuing role as a global trade and logistics hub, Singapore has to anticipate evolving business and technological trends and as such needs to be forward-looking.

Singapore Customs also had to be a driver of partnerships, not only with the private sector (as its main clients) but also with other domestic and international agencies and governments, both in the region and globally. The discussion earlier in the report brings out the whole-of-government perspective to trade facilitation, control, and security. As supply chains are global and increasingly more complex, Singapore is strengthening partnerships beyond its borders towards more efficient end-to-end supply chain facilitation and security of international trade.

4. The ASTFI Baseline Results

4.1. Highlights and Key Findings of the ASTFI Scores

The questionnaire surveys on the ASTFI were conducted with 16 government agencies, including Singapore Customs and major agencies identified by the Singapore government. They consisted of seven components: (i) transparency and information on laws, regulations, and procedures; (ii) communication with and active engagement of the

private sector; (iii) release and clearance formalities; (iv) import/export formalities; (v) cross-border coordination and transit facilitation; (vi) transport facilitation; and (vii) e-commerce. The results of the survey are summarised below.

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

Singapore has a high level of transparency with regards to customs-related information. Singapore's customs and major controlling agencies have websites with all the necessary information pertaining to each agency. Customs has a call centre. Information on Singapore's non-tariff measures (NTM) is available in the ASEAN Trade Repository (ATR) but is not commodity-specific.

4.3. Communication with and Active Engagement of the Private Sector

Singapore has a good record of government agencies, including customs, applying a client-centric philosophy. Government agencies consult with the private sector on new regulations and publish the draft regulations on both the agency websites and a centralised website for all new regulations in order to obtain feedback from concerned stakeholders and other interested parties. For example, private sector stakeholders were heavily consulted for major initiatives such as Singapore Customs' TradeFIRST. Moreover, the agencies provide public information on the likely impact of the proposed regulation(s) on the government, the private sector, and international commitments, amongst others. Thus, there is significant private sector involvement in new regulations as a matter of government practice. However, there is no institutionalised (not ad hoc) private sector membership of the National Trade Facilitation Committee.

4.4. Release and Clearance Formalities

Pre-arrival processing, an appeal and review mechanism, separation of release from final determination, and payment of customs duties and temporary admission are available and applied by Singapore Customs. Pre-arrival processing is available at the main port and other sea terminals; airports (Changi Airport and Airport Logistics Park); and on land (land borders with Malaysia). Singapore Customs also has various schemes available to suspend the payment of duties and goods and services taxes without guarantee (as well as with guarantee). Temporary admission is being implemented using the Admission Temporaire/Temporary Admission (ATA) Convention.

However, Singapore does not publish reports on dwell time and Time Release Studies. In terms of self-certification, since it is an ASEAN regional initiative, it is still in the pilot stage. Advance Rulings by customs are not fully published, as they are subject to the consent of the trader who/which asked for the ruling.

For best practice risk management, Singapore implemented an integrated risk management system under TradeFIRST. Launched in January 2011, TradeFIRST is a single holistic framework that integrates facilitation, compliance, and risk management to make trade easier, fairer, and more secure, in the context of the growing complexities and interdependence of supply chains.

Singapore Customs maintains an AEO programme as well as mutual recognition arrangements (MRAs) with a number of non-AMS administrations such as Australia, Canada, China, Hong Kong, Japan, the Republic of Korea, Taiwan, and the United States. Singapore also signed an AEO MRA with Thailand on 4 July 2018 – the first AEO MRA between two AMS.

4.5. Import/Export Formalities and Coordination

Singapore is excellent in customs and import/export processes, i.e. under the release and clearance formalities and import/export formalities. There is more work to be done on regional initiatives such as the ASEAN Single Window.

The discussion in the previous sections on the evolution of Singapore's NSW suggests that the essence of the more recent innovations in TradeFIRST and the NTP could be models for other AMS, albeit with some adaptation because of the unique circumstances of Singapore and the specificities of each AMS.

4.6. Cross-Border Coordination and Transit Facilitation

Institutional coordination with bordering and neighbouring countries appears to be limited. This is probably because both Singapore and Malaysia have relatively efficient processes on both sides of the land border such that there is no strong demand from stakeholders for institutional coordination arrangements (e.g. Singapore has pre-arrival processing on its land border with Malaysia). Nonetheless, there are a number of coordination platforms for cross-border transport issues with Malaysia, such as the Transportation Links Working Group.

The Immigration & Checkpoints Authority indicated that there is no coordination mechanism at the institutional or operational level with Malaysia, Singapore's only bordering country by land. However, the ASEAN Customs Transit System (ACTS), which has been pilot tested amongst Singapore, Malaysia, and Thailand, involves significant operational cooperation amongst the three countries for both goods and transport. The computerised transit system that Singapore Customs pilot tested in 2016 and 2017 has no transit guarantee mechanism in place. There are simplified procedures for Authorised Transit Traders, as determined by the contracting powers.

4.7. Transport Facilitation

Procedures for the issuance of ASEAN Goods Vehicle Cross-Border Permits are under development. The permits will be subject to technical requirements for the vehicles. The port community system is operational in the main port, but not yet linked to other AMS.

Singapore has ratified Protocols 1 (designation of transit transport routes facilities) and 4 (technical requirement of vehicles) of the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT), and national laws and regulations are in place, but there is no implementation structure or system as yet. As of 2018, Protocol 2 had not yet been ratified, which means it is not yet operational. This also applies to the ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST) and ASEAN Framework Agreement on Multimodal Transport (AFAMT) – there is no ratification for

either of these ASEAN framework agreements by Singapore until 2018, but the Singapore Logistics Association has a registry of multimodal transport operators.

4.8. E-commerce

A legal framework for e-identification and authorisation has been established and is operational at the national level. However, harmonisation at the ASEAN level is still being considered. Singapore has a de minimis value, in line with the World Trade Organization Trade Facilitation Agreement, and is conducting a study on revenue collection frameworks on e-commerce trade. It is still working on a mechanism for e-commerce dispute settlement and a revenue collection framework for cross-border e-commerce trade, while collaborating with ASEAN on regional framework agreements.

5. Concluding Remarks and the Way Forward

Singapore is a global pioneer and an acknowledged stand-out in trade facilitation, with a customs administration whose primary focus is trade facilitation – unlike most customs authorities in the world. With the major exception of the information on NTMs, most of the slow progress areas are related to ASEAN initiatives or cross-border ASEAN facilitation.

Moving forward, apart from improving the country's NTM database accessibility, the key recommendation is related to Singapore's role as a catalyst and learning leader in ASEAN on trade facilitation, in light of the innovations and trade facilitation experience of Singapore Customs. Singapore's chairing of the ASEAN Customs Procedures and Trade Facilitation Working Group, ASEAN Single Window Steering Committee, Sub-Working Group on ASEAN AEO-MRA, and ASEAN Customs Transit System provides a platform to accelerate trade facilitation initiatives in ASEAN moving forward.

In addition, Singapore can support further ASEAN initiatives by ratifying and implementing ASEAN transport facilitation protocols and agreements as needed. After all, a well-performing ASEAN trade facilitation regime will benefit the country given its importance in value chains, logistics, and trade finance in the region and indeed the world.

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Chapter 10

Trade Facilitation in Thailand and Results of the ASTFI Baseline Study¹

Salvador Buban, Pattaraporn Chamankij, and Jayriya Jangswang

1. Trade Overview

Thailand is one of the most open economies in the Association of Southeast Asian Nations (ASEAN). The total volume of trade to gross domestic product (GDP) was 121% in 2018, down from its peak of 140% in 2008 (World Bank, n.d.). Thailand's 10 most important trading partners are China, Japan, the United States, Malaysia, Viet Nam, Indonesia, Singapore, Australia, Hong Kong, and the Republic of Korea (henceforth, Korea) – comprising 61% of the total trade value. Amongst them, China is the biggest trading partner with 16% in trade value, followed by Japan and the United States, at 12% and 9%, respectively. Amongst the ASEAN countries, Indonesia, Malaysia, Singapore, and Viet Nam are the biggest trading partners, with a combined trade value of 16% of Thailand's total trade value (Ministry of Commerce, n.d.).

Table 10.1 summarises the main export and import products from and to Thailand. In terms of exports, motor vehicles, accessories, and components are the main exporting products, comprising 11% of total exports in 2018, reflecting the important and steady growth of the industrial sector. The 10 most important import products of Thailand shared 62% of the import value. Crude oil still ranked first for a long time, followed by machinery and electric machinery. Consequently, considerable evidence shows that Thailand needs to import machinery and significant materials from other countries.

Table 10.1: Thailand's Important Export and Import Products – Worldwide

No.	Main Export Products	Main Import Products
1	Motor cars, parts, and accessories	Crude oil
2	Automatic data processing machines and parts thereof	Machinery and parts
3	Precious stones and jewellery	Electrical machinery and parts
4	Rubber products	Chemicals
5	Polymers of ethylene, propylene, etc. in primary forms	Jewellery, including silver bars and gold
6	Refined fuels	Iron, steel, and products
7	Chemical products	Parts and accessories of vehicles
8	Electronic integrated circuits	Electronic integrated circuits

¹ This report is based on the 2018 data of the ASTFI baseline study survey.

9	Machinery and parts thereof	Other metal ores, metal waste scrap, and products
10	Iron and steel and their products	Computers, parts, and accessories

Source: Ministry of Commerce, Thailand (n.d.), Foreign Trade Statistics of Thailand.

<http://tradereport.moc.go.th/DashBoard/DashBoardChartEng.aspx> (accessed 1 July 2018).

2. Secondary Indicators of the Trading Environment

From 2006 to 2015, there were significant improvements in the trade facilitation environment in Thailand, as shown by a 47% reduction in the cost to export and a 45% reduction in the cost to import. The improvement in cost was complemented by a shorter time to export, from 24 days to 14 days, while the time to import was shortened from 22 days to 13 days (Table 10.2).

Table 10.2: Trading Across Borders Achievement, 2006–2015

Economy	2015	2006
DTF – trading across borders	83.57	57.44
Documents to export (number)	5	9
Documents to import (number)	5	12
Cost to export (\$ per container deflated)	595	1,138
Cost to import (\$ per container deflated)	760	1,398
Time to export (days)	14	24
Time to import (days)	13	22

DTF = distance to frontier.

Note: The distance to frontier score captures the gap between an economy's performance and a measure of best practice across the entire sample of all indicators for 10 Doing Business topics (World Bank (2016), Distance to Frontier and Ease of Doing Business Ranking.

<https://www.doingbusiness.org/content/dam/doingsBusiness/media/Annual-Reports/English/DB17-Chapters/DB17-DTF-and-DBRankings.pdf> (accessed 1 July 2018).

The DTF of trading across borders reflects a combination of the costs and time required for exports and imports.

Source: World Bank (2018), Ease of Doing Business.

<https://www.doingbusiness.org/content/dam/doingsBusiness/excel/db2020/Historical-data---COMPLETE-dataset-with-scores.xlsx> (accessed 1 July 2018).

Thailand has maintained a good trade facilitation environment, as measured by the Domestic Logistics Performance Index (LPI) indicators (Table 10.3). Based on a survey,² 100% of respondents in 2016 answered that every aspect of Thailand's logistics environment had improved since 2013 (customs clearance procedures, other official clearance procedures, trade and transport infrastructure, telecommunication and

² In the 2016 edition, the survey was open in two phases, in October–December 2015 and in March–April 2016. It followed a uniform sampling randomised approach to gain the most possible responses from under-represented countries. The survey covered six dimension of logistics: customs, infrastructure, international shipments, logistics quality and competence, tracking and tracing, and timeliness.

information technology infrastructure, private logistics services, regulations related to logistics, and solicitation of informal payments).

The domestic LPI survey also indicates that none (0%) of the respondents perceived the trade and transport related infrastructure (ports, airports, roads, warehousing, telecommunications, and information technology) to be low quality. Improvement is needed, however, in the area of competence and quality services delivered by logistics service providers in road and rail because 0% of respondents perceived them to be of high quality.

Table 10.3: Logistics Performance Index Achievement, 2014–2018

Indicator	2014	2016	2018
International LPI			
Overall rank	35	45	32
Customs LPI rank	36	46	36
Domestic LPI			
Clearance and delivery of imports	100%	100%	100%
Clearance and delivery of exports	100%	100%	100%
Transparency of customs clearance	50%	100%	100%
Transparency of other border agencies	50%	100%	100%
Solicitation of informal payments	0%	0%	0%

LPI = Logistics Performance Index.

Sources: World Bank (2018), Logistics Performance Index, International LPI (<https://lpi.worldbank.org/international/scorecard/radar/254/C/THA/2016#chartarea>) (accessed 1 July 2018); and Domestic LPI (https://lpi.worldbank.org/domestic/environment_institutions/2018/C/THA#chartarea) (accessed 1 July 2018).

3. Customs Clearance Process

The following is a brief description of the customs clearance process in Thailand when importing or exporting goods, highlighting the use of e-import and e-export procedures.

When a shipment arrives in Thailand, importers are required to submit a goods declaration together with supporting documents for the imports, if needed, to a customs officer at the port of entry. In addition, some goods may require permits from the relevant permit issuing agencies, depending on the value and nature of the imports.

The necessary documents include (i) an import declaration; (ii) a bill of lading or air waybill; (iii) an invoice; (iv) a packing list; (v) an import licence (if applicable); (vi) certificates of origin (if applicable); and (vii) other relevant documents, e.g. catalogues and product ingredients.

3.1. Customs E-Import Procedure

Under the e-import system (Thai Customs, 2017b), relevant parties do not need to submit paper documents, as all data are transmitted electronically to the e-customs system. Generally, the declaration and clearance process undergoes four stages:

1. **Submission of declaration.** Shipping agents submit a ship or aircraft arrival report, along with manifest information, electronically to the e-customs system.
2. **Verification of the declaration.** The e-customs system verifies the data in the first stage and issues a declaration and payment numbers within a few seconds. At this stage, the goods declaration is classified into green or red lanes based on the risk management system.
3. **Payment of import duties and taxes.** The importer or customs broker makes the payment either at the Thai Customs Department, through banks, or via the e-payment system.
4. **Inspection and release of cargo.** Officials inspect and finally release the cargo from customs custody.

3.2. Customs E-Export Procedure

Goods intended to be exported from Thailand are subject to normal export procedures (Thai Customs, 2017a). For customs purposes, an export is the removal of goods by ship or aircraft from a place in Thailand to a place outside Thailand. All goods being exported from Thailand are subject to control by the Thai Customs Department (TCD) and must be reported to the TCD.

The TCD's role in the exportation of goods is to ensure that all goods being exported from Thailand are reported as required; and to administer controls on behalf of permit-issuing agencies on the export of restricted goods. In addition, customs gathers information regarding the nature and volume of exports to assist the government and industry in policy and decision-making.

Unless specifically exempt, goods may not be loaded on a ship or aircraft for export unless they have been entered for export in the customs system and customs has given approval to export. Most applications for an export declaration are submitted electronically via the e-export system.

The documents required to be submitted to customs for the clearance of exports comprise (i) an export declaration; (ii) an invoice; (iii) an export licence (if applicable); and (iv) other relevant documents, e.g. catalogues and product ingredients.

Once the export declaration data have been entered into the customs computer system, they undergo automatic processing (e.g. data validation, data matching, and release status) and the cargo is released. Similar to the e-import procedure, the e-export clearance processes generally include four stages:

- (i) **Submission of declaration.** The exporter/broker submits an export declaration in an ebXML message to the e-customs system.
- (ii) **Verification of declaration.** As soon as the e-customs system receives and validates the export declaration data, the goods declaration number and payment number are generated. Then, the response message is transmitted to the exporter/broker.
- (iii) **Payment of duties and taxes.** Payments are available either at the TCD, through banks, or via the e-payment system.
- (iv) **Inspection and release of cargo.** The freight forwarder loads cargo into containers and electronically sends a cargo control report to the e-customs system. The e-customs system validates the data and reports any errors for immediate online correction. If no error is found, the cargo control report number is automatically generated by the system and the response message is sent to the freight forwarder and the exporter/broker.

4. Results from the ASTFI Survey

Based on the information received from the ASEAN Seamless Trade Facilitation Indicators (ASTFI) survey, the validation-cum-consultation workshop and meetings held with select agencies, as well as secondary research, have shown that Thailand is one the most advanced in the area of trade facilitation amongst the ASEAN Member States (AMS). Various agencies responded to the survey in March 2018 and participated in the validation-cum-consultation workshop and meetings held in June 2018. Some 22 major government agencies identified by Thailand, including the TCD, responded to the ASTFI questionnaires on seven components: (i) transparency and information on laws, regulations, and procedures; (ii) communication with and active engagement of the private sector; (iii) release and clearance formalities; (iv) import/export formalities; (v) cross-border coordination and transit facilitation; (vi) transport facilitation; and (vii) e-commerce.

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

Thailand has implemented this component quite impressively. The TCD and the National Trade Repository (NTR) websites are generally well developed and user-friendly.³ They contain all the relevant information, but some of the information (e.g. transit procedures and customs procedures for trans-shipments) is only available in the local language. Those regulations that are still in the Thai language should be translated to English to better serve not only the Thai speaking stakeholders but all the stakeholders. An easy-to-follow process flow is available, and the required documents are identified. Interactive information channels are available on the customs website, with an operational help desk to respond to the needs of stakeholders.

³ TCD (n.d.), <http://www.customs.go.th/> (accessed 25 June 2018); NTR (n.d.), <http://www.thailandntr.com/en> (accessed 25 June 2018).

Consistent with its survey results, Thailand's efforts to improve transparency and engagement with the private sector have led them to explore alternative and innovative ways of engaging the private sector. As part of its projects and strategies under Customs 4.0,⁴ the Customs Alliances programme was introduced to provide additional collaboration between the TCD and the private sector through the Account Officer Center.

4.2. Communication with and Active Engagement of the Private Sector

For this component, Thailand has performed quite impressively. The National Trade Facilitation Committee (NTFC) under the Ministry of Commerce is functionally strong and active in its engagement with the private sector. The government's strong commitment to trade facilitation is again manifested by the leadership of the NTFC, which is chaired by the Deputy Prime Minister with the Minister of Commerce as vice-chair. The NTFC has a subcommittee which is chaired by the permanent secretary or deputy permanent secretary of the Ministry of Commerce, with the directors general of relevant agencies as members.

The NTFC has the authority to manage and supervise agencies in Thailand to fulfil the trade facilitation commitments of the World Trade Organization Trade Facilitation Agreement (WTO-TFA), the ASEAN Trade in Goods Agreement (ATIGA), and other trade facilitation related agreements in the future. Strong private sector participation in the NTFC is very important, as it should also be able to provide guidance/direction for the implementation of policies on trade facilitation across free trade agreements and other relevant agreements with trade facilitation commitments.

Formal structures for stakeholder consultations – including those catering to micro, small, and medium-sized enterprises – are available at the TCD as well as other major agencies. An important note to mention is the requirement in Article 77 of New Thailand's Constitution that requires government agencies to conduct a public consultation when they want to introduce new regulations.

4.3. Release and Clearance Formalities

Despite its impressive performance, there is plenty of room for improvement in this component. For example, the dwell time report is not published and the Time Release Study report is only published on an ad hoc basis and so far has been conducted only in one port. The non-implementation of the self-certification scheme on rules of origin in ASEAN has also placed Thailand in a pilot stage similar to the other AMS.

The TCD carries out risk management, where the inspection is based on risk factors. The application of risk management by the TCD is consistent with its rules and regulations to ensure compliance with international best practices in risk management. For alerted goods, the TCD usually conducts several processes before undertaking physical inspection

⁴ Customs 4.0 came from Thai national policy – Thailand 4.0, which is an economic model that aims to unlock the country from several economic challenges resulting from past economic development models which place emphasis on agriculture (Thailand 1.0), light industry (Thailand 2.0), and advanced industry (Thailand 3.0). These challenges include 'a middle income trap', 'an inequality trap', and 'an imbalanced trap'. For more information: <http://thaiembdc.org/thailand-4-0-2/>

(e.g. document checks) and non-intrusive inspections (e.g. x-ray). As part of the practice, and stipulated in the old regulation, the inspection is expected to be finished within the day (office hours). Although the new guidelines do not explicitly indicate the deadline for completing the inspection, they require officers to perform the inspections immediately after the letter for inspection is sent out.

Electronic payments are accepted by the TCD and some agencies, with others working to develop e-payment facilities. The use of electronic payments is important, especially at airports or border crossings, to facilitate payment and ensure that all relevant duties are collected.

The TCD allows the release of goods with a full declaration of entry and the submission of documents and manifest. At the moment, Thailand has pre-arrival processing only for air and sea, but not for land – even though it shares land borders with certain countries. There seems to be no urgent need for pre-arrival processing for land. Even if there is pre-arrival processing, vehicles still queue at the border due to the limited infrastructure facilities.

Advance Rulings for valuation and classification, the appeal and review mechanism, and post-clearance audit; and trade facilitation measures for Trusted Traders or Authorised Economic Operators (AEOs) are available and implemented by the TCD.

The TCD provides an advance ruling on tariff classification, customs valuation, and rules of origin. An advance ruling can be issued 30 working days after the receipt of the application, and an importer should submit the application prior to importation. An Advance Ruling request can be submitted online. Through a mobile app, an applicant can keep track of the results of the Advance Rulings application, including appeals, and the TCD informs the applicant of the application for the issuance of Advance Rulings.

An applicant can request an Advance Ruling at responsible bureaus or offices. For Advance Rulings on tariff classification and rules of origin, the responsible bureau is the Customs Tariff Bureau, while for Advance Rulings on customs valuation, the responsible bureau is the Customs Standard Procedure and Valuation Bureau. The results of Advance Rulings are valid for 2 years after the date of issuance. If the person who requests an Advance Ruling is not satisfied with the advice, he/she may request a review within 15 days after the issuance of such Advance Ruling. About 1,400 Advance Ruling requests are made annually for tariff ruling applications, while few requests or applications are received for Advance Rulings on valuation and rules of origin. Advance Rulings issued are published for transparency and to serve as reference for the public prior to requesting advance rulings on issues that have already been adjudicated.

To ensure security in the supply chain, Thailand has established the AEO programme, under which it provides incentives and benefits to trusted operators. The establishment of AEOs would be more effective if mutual recognition arrangements (MRAs) were put in place. Although AMS have established MRAs with other countries, currently only Thailand and Singapore have established MRAs with each other amongst the AMS. Like other AMS, Thailand has also established MRAs with Hong Kong and Korea.

It is also worth noting that Thailand has instituted a Voluntary Audit Programme that allows traders to submit themselves to audit voluntarily, which could reduce the cost of liability, if any.

Thailand is also one of the few countries in ASEAN that has acceded to the Istanbul Convention, which allows the temporary admission of goods without payment of duties or taxes. Temporary admission is an important aspect of the customs procedures and processes, as it impacts the area of trade facilitation and helps countries that are experiencing calamities. Heavy equipment used to build structures such as bridges can be allowed to enter the territory temporarily without the payment of duties or taxes, and the equipment can be pulled out later.

4.4. Import/Export Formalities and Coordination

The TCD indicated that traders/clients are not allowed to attach digital copies when filing entry declarations due to limitations in the customs system. In addition to the system limitation, a TCD notification⁵ prohibits the acceptance of digital copies. The TCD has, however, indicated that it will be developing a system that would allow the acceptance of digital copies.

Almost all Thai government agencies are linked to the National Single Window (NSW) either by using their own system or going through the NSW web portal.⁶ Thailand's NSW is one of the more advanced single window systems in ASEAN. An important aspect of Thailand's success in its NSW is the whole-of-government approach and having strong institutional support in the TCD. More than 30 government agencies are connected to the Thai NSW. Thailand is also one of five AMS that are part of the live implementation of the e-ATIGA Certificate of Origin Form D exchange under the ASEAN Single Window (ASW). At the moment, Thailand is looking at how the NSW will be integrated to its NTR.

4.5. Cross-Border Coordination and Transit Facilitation

Despite the fully functional computerised system for transit, the border-crossing operational coordination with neighbouring countries, transit guarantee mechanism, and simplified procedures for Authorised Transit Traders remain limited. A paper-based transit guarantee mechanism is in place, but the implementation of the ASEAN Customs Transit System would be particularly helpful in the establishment of this guarantee mechanism.

To improve the indicators of this component, region-wide implementation of ASEAN protocols such as the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT) would be beneficial. Thailand's new Customs Act, 2017 provides that transit goods shall operate under international agreement. Thailand is working to hasten the ratification process of the AFAFGIT, together with bilateral memoranda of understanding

⁵ Customs Department Notification No. 25/BE2557 (2014) on Registration as a Customs Clearance or Conduct of a Customs Procedure.

⁶ <http://www.thainsw.net/INSW/index.jsp>

with neighbouring countries, while using temporary internal measures to allow goods in transit operation.

4.6. Transport Facilitation

Thailand needs to improve its transport facilitation due to the lack of operationalisation of protocols under the AFAFGIT and the ASEAN Framework Agreement on Facilitation of Inter-State Transport (AFAFIST). Likewise, with respect to the operationalisation of the AFAFIST and the ASEAN Framework Agreement on Multimodal Transport (AFAMT), only the AFAMT has been operationalised. However, national laws and regulations, including the implementation structure and system, are in place.

Although there is an electronic data interchange in the main port, no port community system (PCS) is being operated. Laem Chabang could be considered a PCS, but available information could not confirm its status as a PCS.

4.7. E-commerce

Thailand's implementation of e-commerce is relatively high compared with most AMS. Thailand has an established legal framework for interoperable, mutually recognised, secure, reliable, and user-friendly e-identification and authorisation. It has implemented the national e-legal transaction acts, while legislation on authorisation and security is being developed. Amongst those enactments are the Electronic Transaction Act (2001), and its amended version in 2008, including secondary legislation to exemplify selected methods of e-transactions (2006), monitoring of e-transactions (2008), and the safety of e-transactions (2010).

Related bills that are in the process of development include the personal information act, whose draft has been approved in principle by the cabinet and is being reviewed by the Council of State before resubmission to the cabinet and subsequently to the National Assembly for final approval. Meanwhile, the bill on cybersecurity is being drafted.

Thailand's current regime waives both customs duties and value-added tax (VAT) for any goods valued within \$1,500 (*de minimis* value) that are delivered across borders to Thailand. For electronic transmissions, Thailand follows the World Trade Organization Moratorium on Customs Duties on Electronic Transmissions. However, a study is ongoing in the Ministry of Finance on ways to collect internal tax or VAT on goods delivered across borders to create a level playing field for e-commerce for both domestic and foreign business entities.

Thailand provides protection for consumers using e-commerce at a similar level of protection to that provided for consumers of other forms of commerce. Consumer protection-related legislation is already in place, e.g. Consumer Protection Act, B.E. 2522 (1979) and Product Liability Act, B.E. 2551 (2008).

On cross-border e-commerce dispute settlement, the Thailand Arbitration Center has conducted a study on developing an online dispute resolution mechanism. The pilot system, called TalkDD, has been developed and will soon be pilot tested. There is a

bilateral memorandum of understanding between Thailand and Korea on the legal framework for domestic and cross-border e-commerce dispute settlement.

5. Key Recommendations

Overall, Thailand has done quite well in improving its trade facilitation environment. Based on the survey results and the information from secondary sources such as the World Bank's Ease of Doing Business trading across borders indicators and the Logistics Performance Index, Thailand also did well. There are, however, some specific recommendations that would help address or improve the specific components.

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

Thailand has made most of the relevant information under this component available on the websites of customs, major agencies, and the NTR. But transparency requires allowing better access to information by all stakeholders. The translation of some of Thailand's customs laws and regulations to English, e.g. transit and trans-shipment information, would provide better access for other stakeholders. In case of difficulty in the English translation, an initial step could be a brief explanation in English and even a flow chart or business process in English on the procedures and requirements would help a lot.

Information on the goods being regulated should also be available, especially if certain goods/products are regulated by multiple agencies. Having the information available will also provide the opportunity and a good reference for the multiple agencies involved in regulating certain products to streamline procedures and documentary requirements. Continuous 'populating' and updating of the NTR – especially non-tariff measures, which are increasing in number – should be a priority. The Economic Research Institute for ASEAN and East Asia (ERIA)–United Nations Conference on Trade and Development (UNCTAD) NTM database⁷ would be a good resource for this process of updating the NTMs section of the NTR.

The interactive channels should be tested or checked constantly to ensure that they are available/accessible.

5.2. Communication with and Active Engagement of the Private Sector

Although Thailand has a functional NTFC, private sector membership of the committee, including its working group, should be ensured. Enhancing and developing the NTFC as a clearing house would ensure consistent application or implementation of trade facilitation reforms across agreements/international commitments, and perhaps set the policy direction on trade facilitation matters.

A regular consultation mechanism for micro, small, and medium-sized enterprises should be established/enhanced, leveraging existing groupings or associations.

⁷ TRAINS: The Global Database on Non-Tariff Measures (n.d.), <https://trains.unctad.org/Default.aspx> (accessed 10 June 2018).

5.3. Release and Clearance Formalities

The implementation of the Customs Intelligence Center would be very helpful for Thailand in building its risk management capacity. There may be a need to clarify what type of risk management is applicable for customs and major agencies, including its implementation, to ensure appropriate interventions. Risk management application depends on the goods covered, agencies involved, and parameters set. Subsequent ASTFI questionnaires should take this even deeper to capture and better understand the appropriateness of the application of risk management for customs and major agencies.

The challenges of establishing an e-payment mechanism/infrastructure should be assessed. The set-up may require coordination and consultation with other agencies, e.g. the Ministry of Finance and the Treasury Department, as well as private e-payment facilities. The government is losing revenue because of lack of e-payment facilities, e.g. credit cards at airports for dutiable goods.

Customs should work closely with port authorities and terminal operators on the publication of average dwell times. It should coordinate/work with the Asian Development Bank and other AMS (e.g. Indonesia) to undertake Time Release Studies. It should also share experiences and practices with other AMS, e.g. Indonesia and Malaysia.

Implementing expedited shipments for land cargo has been challenging. Long queues at land borders cannot be addressed by simplified procedures alone, but infrastructure requirements could be examined to address such queues.

Thailand should work with other AMS for the immediate implementation of the ASEAN-wide self-certification system on rules of origin, and eventually the use of e-self-certification through the ASW system.

5.4. Import/Export Formalities

Thailand is working to address the restriction of attaching supporting documents to entry declarations. An effective NSW/ASW could make this concern moot, as documents could be submitted through the NSW/ASW. If this is a system-related issue, it could easily be addressed, but if the implementation is related to government policy, this should be carefully discussed and eventually addressed to facilitate its eventual implementation.

Continuous streamlining of business processes, including documentary requirements, is necessary for an effective and efficient NSW. Integrating other systems is also essential.

The integration of the NSW with the NTR/ASEAN Trade Repository should be pursued as they are complementary in providing information and facilitating the clearance of goods. A fully integrated system – not only providing links, but actual integration of the systems – would allow the clearance of goods based on the information required and the regulations in place.

Government policy should be examined to find ways to align the working hours of border agencies in Thailand. This is especially important for Thailand because of the multiple borders it shares with other AMS.

5.5. Cross-Border Coordination and Transit Facilitation

Leveraging the existing ASEAN bodies as a forum to explore memoranda of understanding with other AMS for transborder institutional arrangements and cooperation should be considered.

5.6. Transport Facilitation

The various agreements should be implemented by expediting ratification, and developing enabling legislation and rules and regulations. Thailand should work with other AMS, as some harmonisation of procedures is done at the regional level, especially for protocols that require regional agreement.

5.7. E-Commerce

The conclusion of the ASEAN e-commerce framework brings momentum to the work and development of e-commerce in the region. Thailand, as an active user and proponent of e-commerce, could support and lead in areas such as the revenue collection framework and online dispute settlement, especially in areas that are still being considered and studies are being conducted and pursued.

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Chapter 11

Trade Facilitation in Viet Nam and Results of the ASTFI Baseline Study¹

Doan Thi Thanh Ha and Le Quang Lan

1. Overall Trade Facilitation Environment

Economic regulatory reform in Viet Nam started in the early 1990s and accelerated when the country shifted its focus to economic integration policy by acceding to the World Trade Organization (WTO) in 1995 and engaging in regional free trade agreements in the Association of Southeast Asian Nations (ASEAN). As the multilateral and regional trade negotiations of Viet Nam progressed, the trade facilitation agenda emerged as one of the key components of trade regulatory reform and liberalisation in the form of harmonisation of trade regimes, transparency enhancement, and the removal of tariffs and other business fees for enterprises.

In 2005, as a member of Asia-Pacific Economic Cooperation (APEC), Viet Nam committed to undertaking trade facilitation measures in response to the APEC leaders' call for a reduction in trade transaction costs of 5% by 2006 and a further reduction of 5% by 2010 at the APEC Economic Leaders' Meeting in Busan. Trade facilitation plays a crucial role in Viet Nam's Socio-Economic Development Strategy, 2011–2020, which aimed to improve the country's business environment with the objective of sustaining trade growth and doubling GDP per capita by 2020 compared with 2011. The strategy was translated into various legal instruments, including government decrees and ministerial decisions on improving the business environment and national competitiveness and on policy to support Viet Nam's enterprises. These legal documents are amongst the most influential legal frameworks guiding the trade facilitation process in Viet Nam until today.

The entry into force of the WTO Trade Facilitation Agreement (TFA) in 2016 brought new momentum to push Viet Nam's trade facilitation agenda forward in a more coherent and systematic manner. The Organisation for Economic Co-operation and Development (OECD) estimated that the implementation of the WTO TFA alone could reduce trade costs in Viet Nam by 18.3% (OECD, 2015). On 4 October 2016, the Prime Minister issued a decision to establish the National Steering Committee on the ASEAN Single Window, the National Single Window, and Trade Facilitation (NATF). The NATF functions as the National Trade Facilitation Committee of Viet Nam in accordance with the WTO TFA. Following this decision, the Ministry of Finance, represented by the General Department of Customs of Viet Nam or Vietnam Customs, was assigned as the coordinator for the implementation of the trade facilitation plans. The government agencies tasked with coordinating with the Ministry of Finance to implement the WTO TFA's commitments include the Ministry of

¹ This report is based on the 2018 data of the ASTFI baseline study survey.

Industry and Trade (MOIC); the Ministry of Transport; the Ministry of Science and Technology; the Ministry of Information and Communications; the Ministry of Health; the Ministry of Agriculture and Rural Development (MARD); the Ministry of Natural Resources and Environment; the Ministry of National Defence; the Ministry of Culture, Sports and Tourism; and Vietnam Chamber of Commerce and Industry (VCCI). On 13 October 2016, the Prime Minister of Viet Nam issued a decision approving a plan for the preparation and implementation of the WTO TFA, which set out a concrete mechanism to direct and monitor the trade facilitation process at all administrative levels – from central to local government agencies. Viet Nam formulated a schedule to implement trade facilitation measures, which are classified into categories A, B, and C in line with the WTO TFA provisions, and submitted the schedule in its notification to the WTO on 15 October 2014.

Viet Nam's economic growth is highly dependent on trade performance, with a high level of trade openness of about 200% of gross domestic product (GDP) (World Bank, 2017). Trade is considered the major driver of the country's economic growth. In other words, trade facilitation was the key behind Viet Nam's economic success in recent years, and the government has shown continued commitment to pursue an ambitious and comprehensive plan for trade facilitation. According to the OECD Report on Trade Facilitation Indicators in 2019, Viet Nam matched or even exceeded the average performance of high middle-income countries in all trade facilitation indicators. Trade facilitation performance improved remarkably from 2017 to 2019 in many areas, particularly in information availability, advance rulings, fees and charges, automation of customs procedure and documents, and streamlining of customs procedures.² The assessment was reaffirmed by the World Bank in its report on Doing Business in 2018, which shows that Viet Nam's overall rank in the Doing Business Index in 2018 moved up 14 places from 82 to 68 out of 190 economies (World Bank, 2018b: 2). According to the World Bank's Logistics Performance Index (LPI) conducted in 2018, Viet Nam's global ranking jumped 25 incremental places to 39th in 2018 from 64th in 2016, marking a crucial leap forward in simplifying customs procedures and enlarging investment in the logistics structure to enhance its connectivity (World Bank, 2018a: 1). Thanks to continuous efforts and consistent commitment by the government in implementing trade facilitation measures, the trade revenue increased 12% to nearly \$480 billion in 2018. Viet Nam is amongst the 30 largest trading partners in the world and it exports to more than 200 countries.

Despite the remarkable progress in trade facilitation, remaining challenges risk hampering the sustainability of such progress. Imported goods are subject to more than 300 legal documents which are issued and maintained by line ministries or government agencies. Significant resources and time are needed for traders to comply with the complex trade regulations. In 2017, about 57.5% of goods were designated to the green lane where

² The updated 2017 – 1029 OECD Trade Facilitation Indicators are now available. Data may be accessed at OECD (n.d.), Compare Your Country Trade Facilitation Indicators. <http://compareyourcountry.org/trade-facilitation> (accessed 27 February 2021). In-depth information is available at OECD (n.d.), Trade Facilitation Indicators Simulator. <https://sim.oecd.org/default.ashx?ds=TFI> (accessed 27 February 2021).

customs examination is largely exempted, 37.4% of imported goods went through the yellow lane for closer examination, and 5.1% of imported goods were subject to physical examination in the red lane. These numbers are higher than those of neighbouring countries of a similar level of economic development in ASEAN. According to a survey conducted by the VCCI on the measurement of Vietnamese businesses' satisfaction with customs procedures in 2017 (*Thoi bao tai chinh Vietnam Online*, 2017), 46% of traders indicated that they had difficulty complying with the customs procedures while 23% of traders were not satisfied with the coordination between customs and relevant agencies, which caused delays in customs clearance. Similarly, findings from the survey showed that only 20% of traders were fully satisfied with the quality and competency of customs agencies. Many traders expressed their disappointment over uncertain and non-transparent administrative formalities and procedures. Furthermore, limited infrastructure capacity and lack of efficient logistics and transport are negatively impeding the flow of goods. The government needs to carry out significant work to ensure that trade facilitation measures can benefit traders and the whole economy.

2. Trade Facilitation Environment – Customs Authority

Customs procedures form a larger part of relevant measures in trade facilitation and are set out under *the Customs Law No. 54/2014/QH13* dated 23 June 2014 and its numerous implementing decrees and guiding circulars. All imported and exported goods are subject to customs procedures, which effectively check the quality, specifications, quantity, and volume of goods. In addition, thousands of goods items are subject to sectoral inspections undertaken by line ministries or agencies. When goods are exported or imported, traders must submit a dossier of documents to customs authorities – typically including bills of lading, cargo release orders, commercial invoices, customs import declaration forms, inspection reports, packing lists, and technical standard/health certificates. Although sectoral inspection is essential to ensure the full compliance of exports and imports with mandatory standards, quality, quantity, and sanitary or phytosanitary regulations issued by line agencies or ministries, traders often spend most of their time and resources navigating complex procedures maintained by those line agencies or ministries rather than the procedures regulated by Vietnam Customs. Therefore, the simplification and modernisation of customs procedures require a great deal of coordination between customs authorities and line agencies or ministries.

Following the government's adoption of the Strategy for Customs Development 2020, Vietnam Customs aimed to build a modern customs infrastructure that supports the operation of a transparent and efficient data exchange platform for customs clearance, taking into account international best practices and standards. Since 2014, Viet Nam has deployed an automated customs clearance system which incorporates two components – the Vietnam Automated Cargo Clearance System (VNACCS) and the Vietnam Customs Intelligence Information System (VCIS). The VNACCS/VICS integrates all necessary customs processes in a single automation and electronic platform that caters for e-customs dossiers, e-manifests, e-payments, and e-licences in line with international

standards. The system enables enterprises or traders to register and submit their customs declarations electronically. It automatically calculates applicable taxes and duties to be paid, and alerts customs officers if the goods are declared incorrectly. The system can also generate a code for each shipment and designate the shipment to the respective red, green, or yellow channels based on their risk management methodology for customs control.

The VNACCS/VCIS underpins the operation of the National Single Window (NSW) and the ASEAN Single Window (ASW) to accommodate effective connection and data exchange between (i) regional data processing centres throughout the country; and (ii) Viet Nam's ASW gateway and the ASW gateways of other ASEAN Member States (AMS) in the production environment. According to the strategy for Customs Development 2020, all customs authorities at points of entry (e.g. seaports, airports, land border checkpoints, and economic zones) will apply the electronic customs clearance system to accommodate basic customs procedures. It was estimated that some 80% of traders, whose trade turnover consists of more than 90% of total turnover, would be ready to use the system by 2020 (Vietnam Customs, a). The plan also sets out the goal of reducing the customs processing time to a level which is comparable to that of advanced developing countries.

3. Results from the ASTFI Survey

A survey on the ASEAN Seamless Trade Facilitation Indicators (ASTFI) was conducted amongst major relevant agencies in Viet Nam – including customs, the MARD, the MOIC, the Ministry of Science and Technology, the Ministry of Health, and the Ministry of Transport. Contact persons in the respective agencies were requested to respond to questionnaires based on their knowledge and expertise. Experts and independent local consultants of the Economic Research Institute for ASEAN and East Asia (ERIA) verified the answers against the available information.

3.1. Transparency of information

Viet Nam performs quite well under this component. In terms of transparency and information on laws, regulations, and procedures, Vietnam Customs has put into operation a centralised system which regularly updates necessary information about the customs law and regulations, procedures, tariff books, export and import customs documents and updated guidance, and decisions from Vietnam Customs to local customs authorities. The website offers a broad range of online public services provided by customs authorities, including an online tariff rate finder; an e-payment system for taxes, duties, fees, and charges; online customs declarations; and tracking of the customs clearance process. Furthermore, the website is designed to render a high level of interaction between customs authorities and traders through friendly electronic interface tools to assist traders to address their concerns in a timely manner through online enquiry points or call centres. More remarkably, all information and communication in the system is available in both Vietnamese and English.

In supporting the efforts of Vietnam Customs, major line ministry agencies also provide information on their respective trade regulations, and import and export procedures and guidelines, on their respective websites. Traders can access this information without incurring any fees or charges. The NATF is the body responsible for monitoring the implementation of the publication and transparency obligations of relevant ministries and agencies.

On the National Trade Repository (NTR), while certain information is made available, the non-tariff measures (NTMs) database and best practices in trade facilitation have not yet been completed. Despite many efforts to consolidate the NTM database, with technical support from the European Union and ERIA, Viet Nam was not able to develop a reliable NTM database or provide best practices for traders. The NTR website, which is operated by MOIC (MOIC, n.d.), is primarily designed to be the NTR of Viet Nam, covering all nine elements of the ASEAN Trade in Goods Agreement (ATIGA). The NTR website, nevertheless, does not work properly and contains outdated and obsolete information. As a result, there is only minimal traffic on the website. On the contrary, the Vietnam Trade Portal (in Vietnamese: Cong Thong tin Thuong mai Viet Nam), operated by Vietnam Customs, provides sufficient and updated content to serve traders, though its interface is modelled differently (Vietnam Trade Portal, n.d.). It contains a wide range of practical and updated information, with several interactive tools that enable traders to search or sort information easily. The low usage of the NTR raises a question regarding how the NTR is still relevant to businesses or traders. Meanwhile, some alternative sources, such as the websites of line ministries (particularly the Ministry of Finance, Vietnam Customs, and the MOIC), could better serve traders' information demands.

3.2. Communication and active engagement of the private sector

Viet Nam's performance is outstanding in this aspect. The highest body that coordinates the implementation of trade facilitation is the NATF, which is chaired by a Deputy Prime Minister and coordinated by the Ministry of Finance (Vietnam Customs) (Cong Thong Tin Thuong Mai Viet Nam, 2016). The NATF covers three strategic initiatives, including (i) the ASW, (ii) the NSW, and (iii) the implementation of trade facilitation measures under the WTO TFA. The NATF functions as a government steering body which is responsible for monitoring the implementation of Viet Nam's obligations on trade facilitation under the WTO TFA, setting up consultations with traders and stakeholders, establishing a mechanism to fulfil the objectives of reducing trade transaction costs, and speeding up the movement of goods. The NATF does not specify whether the private sector could aspire to full membership under its institutional structure. However, an ad hoc consultation mechanism with the private sector could be initiated by the chair of the VCCI, a semi-government body which represents the interests of the business community in Viet Nam and is a full member of the NATF. Since its establishment in 2016, the NATF has addressed many bottlenecks to trade in the country. It also determines how to expedite specific mandates, as reflected in a work plan of coordination amongst the relevant ministries or agencies in implementing various trade facilitation measures.

On the mechanism to engage stakeholders, especially micro, small, and medium-sized enterprises, Viet Nam has implemented a relatively good mechanism with a view to empowering stakeholders to participate effectively in the drafting of laws and regulations. Public feedback and comments on draft regulations regarding trade-related measures (including NTMs) are strictly required by law. Any ministry or agency which is responsible for drafting a regulation must publish the draft on their website and organise consultations in appropriate formats to receive public comments and input. All stakeholder inputs and comments are taken into consideration. Drafting agencies are legally required to observe a strict timeline for seeking and responding to public comments. To foster this process, cross-ministerial verification of the content of the draft regulation must be undertaken before the responsible bodies can promulgate or issue the regulation. The Ministry of Justice and functional committees of the National Assembly are responsible for reviewing the draft laws and regulations to ensure that they adequately address all legitimate stakeholder concerns. Although no special facility is in place to accommodate direct consultations or dialogue with micro, small, and medium-sized enterprises, stakeholders may reflect their concerns or interest via the appropriate mechanisms. Furthermore, public feedback through the media, press, and social networks are contributing significantly to the drafting of laws and regulations in Viet Nam.

3.3. Release and clearance formalities

Vietnam Customs has successfully put in place an effective customs control system with formalities and methods based on risk management, in accordance with international best practice. The system allows local or regional customs agencies to create alerts at any point during the customs procedure in an integrated computerised system controlled by Vietnam Customs. Nevertheless, while Vietnam Customs is accelerating its efforts to harmonise risk management practices for customs clearance, relevant major agencies have not done enough to fulfil this objective. It is not clear when and how risk management approaches based on international best practice could be commonly applied by other major agencies. At this juncture, Vietnam Customs is prioritising its resources to harmonise and integrate customs procedures in an electronic production environment under the NSW. It is expected that risk management could be identified as the next step for harmonisation, in collaboration with other line ministries or agencies.

With respect to an e-payment system for public services, Vietnam Customs is amongst the pioneer agencies that have successfully deployed an advanced e-payment system for tax and duty collection.³ On 26 September 2017, the Vietnam Customs e-payment system was officially launched on a designated platform embedded in the customs website (Vietnam Customs, a). Any trader that completes the online registration for e-payment can access the service around the clock (24/7). Once the trader completes the submission of the digital customs declaration, the e-payment system automatically generates the necessary information and calculates the amount of taxes or fees payable by that trader.

³ Following Decision No. 241/QĐ-TTg dated 23 February 2018 on Approving a Plan to Encourage Electronic Payment Through Commercial Banks for Tariff Duties, Taxes, Electricity, School Fees, Hospital Fees, and Other Social Security Charges.

Some e-payment systems are also available on major agencies' websites (e.g. the MOIC and the MARD) to accommodate certain e-payments for administrative fees and charges. However, an integrated e-payment system that enables traders to pay the full amount of taxes, tariff duties, fees, and charges in relation to exports and imports has yet to be fully realised.

Dwell time publication is the indicator measuring the time that cargo spends within the port between unloading and pickup. It is considered one of the most accurate indicators to measure the efficiency of the logistics sector in a country. The World Customs Organization (WCO) uses dwell time to help customs authorities identify bottlenecks in the customs clearance process and optimise their operations to reduce trade transaction costs and promote the timely delivery of exported and imported goods. This indicator provides a key benchmark of trade facilitation and encourages concerned customs agencies to simplify and modernise customs and transport procedures to strengthen the logistics industry. However, Viet Nam has not fully conducted dwell time publication as it is prioritizing the Time Release Study (TRS) as an alternative. No plan is yet specified for Vietnam Customs to adopt dwell time at this juncture.

Viet Nam conducted its first TRS in 2013 and updates it annually. The TRS is implemented at 11 customs entry points in seven provinces and cities for three types of transport – sea, air, and land. A full TRS has not been published, but some of the key TRS results could be released by Vietnam Customs. A multiple stakeholder workshop is held by Vietnam Customs in collaboration with the VCCI each year, with the participation of representatives of the Asian Development Bank, WCO, government agencies, and business associations to share the outcome of the TRS and receive feedback.

With regard to trade facilitation measures for Trusted Traders or Authorised Economic Operators (AEOs), in 2015, Vietnam Customs introduced a trusted economic operators scheme for domestic enterprises or traders based on the WCO model for AEOs and the WTO authorised operator scheme. However, the actual progress of implementation is rather slow. Most AEOs are large national or international companies with well-structured records that demonstrate their full compliance with requirements. Meanwhile, most small and medium-sized enterprises may have difficulty meeting the AEO requirements. This potentially causes unreasonable and unfair treatment in customs procedures.

Regarding self-certification of rules of origin (ROO), the full operation of the ASEAN-wide Self-Certification (ASWC) scheme was a remarkable milestone in ASEAN trade facilitation, following two self-certification pilot projects in 2010 and 2014. The ASWC is a unified scheme that allows Trusted Traders who can demonstrate their capacity to comply with ROO requirements to self-declare the origin of their export under the ATIGA. This progress paves a good foundation for Viet Nam to continue its reforms and enhance its trade facilitation agenda. Efforts are under way to expand the pilot project to non-ASEAN trading partners under free trade agreements between ASEAN and its Dialogue Partners. Nevertheless, the progress of ASWC deployment is still slow due to the lack of capacity of local businesses.

Post-clearance audit (PCA) involves examination or review to be conducted by customs and other agencies authorities on imported or exported goods after goods have been released from customs control. In general, Vietnam Customs maintains the PCA system based on international best practice and standards, as recommended by the WCO. According to Articles 77 and 78 of the Customs Law No. 54/2014/QH13, customs and other major agencies can perform PCAs based on risk management. However, not all agencies have adopted risk management based on international best practice for PCA.

3.4. Import and export formalities

Viet Nam's performance is impressive under this component. The NSW is a powerful tool that simplifies import and export formalities. It enables traders to submit documents electronically necessary documents including customs declarations, commercial invoices, transport documents, licences, permits, certificates of origin, quality certificates, and other required documents to customs authorities for customs clearance. In a fully integrated system, with an NSW connecting all relevant ministries and agencies, the customs agencies which receive a complete set of the required documents seek collaboration from line ministries or agencies through appropriate platforms on the NSW to examine, access, and decide whether to release the goods.⁴ Since the process is fully automated, traders are able to track the progress of their application for import and export licensing, certificates of origin issuance, or customs clearance.

Thanks to the continuous endeavours of the Vietnamese government, the NSW has progressed at a remarkable pace. Since the establishment of a pilot NSW in 2011, the NSW has successfully accommodated paperless documentation amongst 13 line ministries, with more than 207 electronic documents exchanged on the NSW for customs procedures. Additional resources and time are required to streamline and harmonise processes and documentation to be exchanged electronically on the NSW as Vietnam Customs continues its unwavering commitment to fully maximise the use of NSW as a means to accelerate customs modernisation in the country.

The progress of the NSW underlies the active participation of Viet Nam in the ASW. The ASW is a decentralised system in which electronic documents are exchanged through the ASW platform that connects the NSWs. The success of the ASW mirrors the level of operational effectiveness of the respective NSWs. In 2018, Viet Nam and four other AMS (i.e. Indonesia, Malaysia, Singapore, and Thailand) were implementing the ASW by exchanging the electronic Form D in the production environment of the ASW.

3.5. Cross-border coordination with neighbouring countries

Viet Nam's performance is rather modest in this area. A coordination mechanism was established to harmonise procedures amongst different agencies domestically and with their counterparts in other countries (e.g. Cambodia, China, and the Lao People's Democratic Republic (Lao PDR)). Such procedures include the examination of goods,

⁴ Decision No. 448/QĐ-TTg of the Prime Minister dated 25 March 2011; and the Law on Customs No. 54/2014/QH13 dated 23 June 2014.

people, means of transport, and movement of goods for customs purposes such as duty, taxes and charges, import and export restrictive measures and quotas, quality regulations, and standards. The three operational components for the coordination mechanism include sharing common facilities, joint control, and alignment of working hours amongst relevant agencies, especially line agencies or ministries. Progress largely depends on tremendous coordination efforts by all relevant agencies, as well as the capacity and political will of neighbouring countries.

Progress in setting up facilities and legal instruments for a computerised transit and transit guarantee mechanism remains slow. The trade transit regime in the Greater Mekong Subregion (GMS) falls under the GMS Cross-Border Transport Agreement (GMS-CBTA), which is being supported by technical assistance from the Asian Development Bank. To date, the CBTA has been signed and ratified by all six GMS countries: Cambodia, China, the Lao PDR, Myanmar, Thailand, and Viet Nam. The provisions of the GMS customs transit system (GMS-CTS), i.e. the trade transit regime, are set out in Annex 6 of the CBTA and related technical attachments and protocols.

Viet Nam does not have specific regulations on transit guarantees. The purchase of guarantees for goods in transit has not been *de facto* considered a legally mandatory obligation because it is widely recognised that goods in transit are not subject to customs duties, fees, or charges imposed by any government agencies. New legislation on transit guarantees will likely be introduced as long as Viet Nam honours its commitments to facilitating the movement of goods in transit under the GMS and ASEAN. This process may take time and resources to set up necessary enabling infrastructure and familiarise customs officers and businesses.

Viet Nam has no specific regime for Authorised Transit Traders (ATTs). Nevertheless, it provides simplified procedures for trusted or priority traders who operate in the provision of services for goods in transit. Any qualified trader that meets Vietnam Customs' criteria or conditions is eligible for a priority or fast-track customs lane (i.e green lane) in which goods can be immediately released for import or export without closer customs examination. The scope of simplified procedures for ATTs could be expanded or even be strengthened in line with the implementation of the ASEAN Customs Transit System and the GMS-CTS.

3.6. Transport facilitation

Viet Nam's performance under this component is rather modest. Transport facilitation requires a great deal of collaboration between neighbouring countries in ASEAN. However, the issuance of ASEAN goods vehicle cross-border permits and the harmonisation of land transport facilitation procedures through the operationalisation of protocols 1, 2, and 4 have not progressed well. The implementation of those protocols faces extremely difficulty due to the lack of commitment by AMS, insufficient infrastructure investment, and possible conflicts between vested interests in the transport sector. The slow progress of the ratification of the ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST) and the ASEAN

Framework Agreement on Multimodal Transport (AFAMT) continues to be the major impediment to ASEAN cooperation in this area. Despite this challenge, Viet Nam has unilaterally implemented electronic data interchange at some ports to speed up the movement of cargo at key ports, giving some hope for improving trade facilitation in this area.

3.7. E-commerce

Viet Nam performs moderately under this component. Three activity variables under the ASTFI were used to capture e-commerce performance: (i) the implementation of a legal framework and the operationalisation of interoperable, mutually recognised, secure, and user-friendly e-identification and authorisation; (ii) a revenue collection framework for cross-border e-commerce trade; and (iii) a legal framework for domestic and cross-border e-commerce dispute settlement. Although the current ASTFI may not directly reflect the contribution of e-commerce to trade facilitation, the implementation of these three measures based on international best practice is essential to the success of e-commerce for the country and the progress of trade facilitation in the new digital age.

Viet Nam is doing rather well in promoting the country's e-commerce. According to the Vietnam E-commerce Association (VECOM) in 2017, 30% of Viet Nam's population could engage in online shopping by 2020, with per capita purchasing value reaching \$350 per year. VECOM also estimated that the annual growth rate of e-commerce in Viet Nam was about 22% in 2017 and could reach 30%–50% per year in the coming years (Nhan Dan, 2018). The growth of e-commerce gives rise to business-to-consumer (B2C) and business-to-business (B2B) transactions. It incentivises the use of cashless payments and paperless documentation (e.g. e-invoices and e-signatures) amongst traders and consumers. This poses an immense opportunity for Viet Nam to boost e-commerce and modernise logistics sector so that it can significantly reduce transaction costs.

4. Conclusions and Recommendations

The implementation of trade facilitation in Viet Nam has been progressing steadily in many areas, with the involvement of all government agencies – especially Vietnam Customs and major agencies including the MOIC, the MARD, and the Ministry of Health. The entry into force of the WTO TFA gave new momentum to the process. Under the coordination of the NATF, which is under the direct supervision of the government, the policy agenda for trade facilitation has been conducted more strategically and in a coherent manner. Significant resources and efforts, as well as strong political commitment, are necessary to keep the process moving forwards.

Despite good progress in trade facilitation, Viet Nam should not be complacent. A number of outstanding obstacles to trade need to be addressed expeditiously. Traders still find it difficult and time-consuming to deal with line agencies and ministries' excessive administrative procedures, especially in relation to customs clearance. The enhancement of transparency, simplification and harmonisation of procedures, and customs

modernisation – with a focus on the operation of the NSW – continue to be policy mandates consistently pursued by the Vietnamese government. In this connection, the application of information technology may offer effective and innovative solutions to many of those obstacles. However, it does not mean that the progress may be achieved without challenges. Instead, it requires stronger determination from the relevant agencies or ministries and greater resources and financial investment to enhance the appropriate infrastructure and human capacity.

In an attempt to achieve a robust region-wide trade facilitation agenda, ASEAN has been expediting a number of initiatives and measures under the AEC 2025 Trade Facilitation Strategic Action Plan (TFSAP), with the clearly identified objectives of reducing trade transaction costs in the AEC by 10% by 2020 and doubling intra-ASEAN trade from 2017 to 2025. The plan also aims to improve the performance in global rankings/surveys, e.g. the World Economic Forum's Global Competitiveness Report and the World Bank's Ease of Doing Business. The implementation of the TFSAP complements ongoing endeavours undertaken by each AMS. Biennial surveys on trade facilitation using the ASTFI, as specified in the TFSAP, are a meaningful policy tool to assist individual AMS to address bottlenecks or outstanding issues while advancing trade facilitation policy goals. The ASTFI provide a score for each trade facilitation measure undertaken by an AMS based on prescribed parameters. Although the ASTFI do not dictate when and how a concerned AMS implements the measures, they are a powerful instrument to demonstrate how an AMS has performed in promoting trade facilitation and to assist that AMS to decide how to prioritise trade facilitation measures given its specific circumstances and limited resources.

The current ASTFI scores proved that Viet Nam had made substantive progress in the areas of transparency and publication of laws, regulations, and procedures. An effective mechanism for communication with and active engagement of stakeholders, especially in the private sector, has been put in place. Progress is steady in customs release and clearance formalities – from advance rulings, fees and charges, documents, and automation, to streamlining of procedures. On the other hand, dwell time publication, e-payment self-certification, and trade facilitation measures for Trusted Traders or AEOs are the most contentious areas that need to be strengthened for effective use by traders.

Much work has been done regarding import and export formalities and coordination, especially in the realisation of the ASW/NSW. The operationalisation of ASW/NSW plays a pioneer role in the modernisation and simplification of the procedures of customs and other major line agencies and ministries. One of the biggest challenges remains in the attempt to harmonise those various procedures in a single digital platform for electronic exchange of information amongst relevant agencies. In this regard, the leading role of Vietnam Customs in the NSW should be fostered to coordinate inter-ministerial agencies. Once the NSW is fully operational, it could unleash new energy to the overall trade facilitation process in the country.

Outstanding challenges remains formidable in cross-border coordination, transit, and transport areas, where progress is conditional on the level of commitment of the concerned countries to realise some key ASEAN trade facilitation initiatives in transit (e.g. the ASEAN Customs Transit System) or other regional schemes (e.g. the GMS-CTS). However, some progress has been made in border agency institutional coordination and cross-border operational coordination with neighbouring countries to support the traditional movement of goods in transit.

E-commerce is not only the most dynamic factor for economic growth but also the major catalyst for trade facilitation. It substantively brings down the cost of doing business, while promoting productivity and consumption efficiency. The results of the ASTFI have pointed out a number of outstanding difficulties, particularly in establishing a new legal framework on e-commerce. In this connection, Viet Nam needs to prioritise its resources to formulate a comprehensive regulatory framework on e-commerce that strikes a balance between the promotion of trade and investment in industry and the creation of a trustworthy, secure legal environment for fair competition and consumer protection, including the protection of personal data.

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The Economic Research Institute for ASEAN and East Asia (ERIA), together with the ASEAN Trade Facilitation Joint Consultative Committee (ATFJCC), has developed an ASEAN-specific trade facilitation indicator called the ASEAN Seamless Trade Facilitation Indicators (ASTFI). The ASTFI is based on a survey of major trade-related government agencies of each ASEAN Member State. It includes measures on transparency and engagement with the private sector, the core trade facilitation measures of clearance and release formalities, as well as export and import formalities and coordination, and measures for transit, transport, and e-commerce facilitations. A report on the ASTFI Baseline Study was submitted to the ATFJCC in July 2018.

This public version of the report provides the status and progress of the trade facilitation environment in ASEAN and in ASEAN Member States, highlighting trade facilitation efforts and best practices in ASEAN, as well as in each ASEAN Member State as of 2018. The finding is that, by 2018, ASEAN Member States had done well in transparency and information on laws, regulations, and procedures, as well as in components related to communication with and active engagement with the private sector. Under these components, ASEAN Member States had established informative and user-friendly websites containing customs and trade-related laws and regulations. Best practices by leading ASEAN Member States in the region with respect to the engagement between the government and the private sector were also highlighted and these serve as benchmarks for other ASEAN Member States. Moderate progress was seen in the release and clearance formalities component, cross-border coordination, and transit facilitation, where ASEAN transport-related protocols had yet to be implemented.

Much remained to be done in many of the ASEAN Member States and in the region to move towards a seamless trade facilitation environment, but progress had been made. A follow-up ASTFI survey, being conducted in 2020 and 2021, will assess the progress in trade facilitation since the 2018 baseline and the attendant improvement in the trading environment in ASEAN.



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