

Customs and Trade Facilitation

The objective of this module is to provide a comprehensive understanding of Customs and Trade Facilitation, emphasizing their importance in international trade and highlighting key considerations during negotiations. This module aims to equip you with a comprehensive understanding of trade facilitation, moving beyond the established norms to explore innovative solutions and resilience-building strategies. As we navigate the complexities of international trade, let's work together to pave the way for a more efficient, inclusive, and crisis-resilient global trade landscape.

By the end of this module, you will be able to Master the –

1. The principles of trade facilitation, which aim to minimize the costs incurred by traders
2. Customs Procedures
3. Documentation Requirements
4. Laws and Regulations
5. Tariff Classification and Customs Valuation
6. Duty Drawback, Deferral or Other Types of Relief Country of Origin Marking

Section 1

Customs and Trade Facilitation in Free Trade Agreement Negotiations - an overview



The principles of trade facilitation - The Fundamentals

- International Trade Facilitation in the dynamic landscape of the global economy! In our rapidly evolving world, trade facilitation plays a critical role in **enhancing the efficiency and inclusivity of international trade.**
- In the fast-paced and ever-changing global economy, the seamless flow of goods across borders is essential for economic growth, development, and increased opportunities for nations worldwide. The **WTO Trade Facilitation Agreement** serves as a fundamental framework, laying out **essential measures** that countries should adopt to **streamline trade processes.**

Understanding Customs and why are they important in international trade?

- Customs, as the official arm of government overseeing cross-border activities, holds a central role in international trade. Its primary functions encompass the collection of tariffs and duties, contributing to government revenue, and facilitating the seamless flow of goods across borders by enforcing compliance with various regulations.
- Customs agencies are instrumental in ensuring the security of nations by inspecting imports for illegal items and contributing to border control efforts.
- Customs administrations are crucial in the valuation of goods, trade data collection, and the administration of trade agreements and preferences between countries.
- It's not just about collecting tariff revenues; it's about ensuring compliance with health requirements, **preventing illegal trade**, and **safeguarding national security**

Customs as a revenue-generating mechanism for governments

Customs contribute to government revenue in several ways, these include:

1. Customs Duties
2. Import Taxes
3. Customs fees and other Charges
4. Penalties and Fines
5. Trade Facilitation Services
6. Licence and Permit Fees
7. Economic Development and Trade Promotion

What is the Trade Facilitation Mandate?

- The trade facilitation mandate serves as the guiding principle for customs agencies, emphasizing the imperative to **simplify processes and reduce transaction costs** without compromising effective government control. This ethos positions trade facilitation as the indispensable **'plumbing of international trade,'** orchestrating the complex system that enables seamless flows of goods while concurrently upholding regulatory integrity.
- It underscores the dynamic role of customs in fostering a conducive environment for international trade to thrive.

The Diverse Perspectives on Trade Facilitation

Different organizations have different perspectives. Is it just about customs procedures, or does it extend to the entire supply chain? In this context, the World Customs Organization (WCO) and Asia-Pacific Economic Cooperation (APEC) lean towards the former, focusing on **at-the-border measures**.

On the other hand, the UN/CEFACT and OECD take a broader approach, encompassing the entire supply chain. It's like looking at the same elephant from different angles – each definition revealing a unique facet.

Customs Procedures in FTAs

When it comes to FTAs, customs procedures play a pivotal role. These procedures are important in ensuring the smooth and efficient flow of trade while upholding compliance with the specified regulations. The customs administrations of each party play a crucial role in implementing these procedures, which involve various stages and requirements.

Documentation – The Strategic Imperative

The Key documents include-

1. The Commercial Invoice
2. Packing list
3. The Bills of Lading
4. The Certificate of Origin
5. The Customs Declaration

Challenges and bottlenecks that businesses face in international trade and during customs

- **Tariff Measures:** Tariff measures include taxes or duties imposed by governments on imported or exported goods, constituting a significant trade barrier.
- **Valuation of the goods:** The valuation process involves several factors, and international agreements, such as the World Trade Organization (WTO) Valuation Agreement, guide how customs authorities should determine this value.
- **Determination of Customs Tariff:** Customs duties and taxes are determined based on the value of the goods. Customs duties can be either specific or ad valorem, or sometimes a mix of both.
- Determining the **"origin"** of the product is another major issue. The Rules of Origin vary from product to product and are different in different Free Trade Agreements. The evaluation terms for Rules of Origin generally fall into two main categories: value-based and rule-based mechanisms.

Challenges and bottlenecks that businesses face in international trade and during customs

- **Non-tariff Measures:** NTMs refer to policy measures other than customs tariffs that can impact international trade. They include various regulations, standards, licensing requirements, quotas, and other trade-related measures imposed by governments. In the context of Free Trade Agreements (FTAs), NTMs are often used to regulate and facilitate trade in addition to, or instead of, traditional tariffs.
- **Lengthy and time-consuming customs clearance process.**
- **Heavy paperwork and delay in the process.**

Regulatory Landscape in FTA Negotiations and Tariff Classification and

Customs Valuation in FTAs

- **Navigating the FTA legal framework requires finesse.** It is like crafting a masterpiece, balancing national and international legal requirements. And do not forget about regulatory cooperation – achieving harmony in standards behind the border.
- **Aligning tariff classifications with FTA provisions is like speaking the language of trade.** And when it comes to valuation, it's not just about numbers; it's about ensuring fairness and consistency
- Remember that the devil is in the details, especially in the world of FTA negotiations. So, let's dig it out while we explore the world of Customs and Trade Facilitation in more detail!!

END of SECTION 1

Section 2

Customs Procedures

Decoding Custom Procedure in International Trade

- In international trade, **customs procedures** are the **gatekeepers** of the global supply chain.
- They are the set of regulations, documentation, and processes that govern the movement of goods across borders.
- They include the detailed submission of customs declarations elucidating the nature, origin, and value of goods to the critical determination of tariff classifications using systems such as the Harmonized System (HS), precision is paramount at every stage.



Core Elements of Customs Procedures

Customs Procedures comprise several core elements:

1. Declaration and Documentation:

Traders submit a customs declaration detailing the goods' nature, origin, and value.

For example: The **Single Administrative Document (SAD)** is commonly used in the European Union, Switzerland, Norway, Iceland, Turkey, the Republic of North Macedonia and Serbia.

2. Tariff Classification:

Determining the correct classification of goods using international systems like the Harmonised System (HS). It assigns a specific HS code to differentiate between products.

For example:

HS Code 6203.42.20: Men's or boy's suits of wool, not knitted or crocheted – this code specifies the classification for woollen suits, enabling customs to regulate the import or export of these specific apparel items.

Another example is **HS Code 8471.60.20**, which identifies Automatic data processing machines, portable, weighing not more than 10 kg, consisting of at least a central processing unit, a keyboard, and a display.

As the HS codes are updated every five years, the most recent update was done in 2022. So, HS 2022 is widely used by countries now, and it is noteworthy that if an FTA refers to an outdated (old) HS classification, the practitioners need to be careful that the proper and most updated classification is used.

Continued -

3. Valuation of goods:

The WTO Customs Valuation Agreement is the key regulation that provides a set of principles and methods to determine the customs value of imported goods, ensuring a fair and uniform approach across member countries. It lays down Six different ways in which products can be valued. These include -

- A. Transaction Value method, Transaction Value;
- B. Transaction Value of Identical Goods Method;
- C. Transaction Value of Similar Goods Method;
- D. Deductive Value method;
- E. Computable Value Method; and
- F. Residual Method (Fall-back Method).

4. Origin Determination:

Determining the origin of a product is pivotal for several reasons, with a primary focus on preferential trade agreements. The rules and regulations governing origin determination play a crucial role in ensuring that goods receive the benefits outlined in these agreements. One notable framework guiding this process is the **Rules of Origin**, which are often part of trade agreements.

For instance: Under the USMCA, automobiles must meet specific criteria to qualify for preferential treatment. This includes a requirement that a certain percentage of the vehicle's value originates from North America. Originating goods benefit from reduced or eliminated tariffs, emphasizing the economic significance of accurately determining the origin of products.

Key Strategies of Custom Procedures

1. Pre-Arrival Procedures:

- Documentation submission before goods arrive
- Example: Advance Customs Information systems for efficient pre-arrival processing.

2. Arrival and Unloading:

- Examination of Goods upon arrival.
- Example: Customs officer inspecting containers at the port of entry

3. Assessment and payment:

- Customs determine duties and taxes
- Example: Calculating and paying customs duties before goods are released.

4. Release and delivery:

- Once payments are made, goods are released for onward delivery
- Example: Authorized release of goods for distribution within the country.



Role of Customs in Free Trade Agreements

What are the FAT-Specific Customs Considerations?

1. Role of customs in FTA implementation:

- Customs ensure the implementation of FTA provisions.
- *Example:* CPTPP provisions related to tariff reduction and elimination for member countries.

2. Harmonizing Procedures Across Borders:

- Aligning customs procedures for seamless trade among FTA partners
- *Example:* The ASEAN Free Trade Area harmonises customs procedures among Southeast Asian nations.



Streamline Customs Process

1. Ensuring Efficiency and Predictability:

Emphasizing the need for a streamlined and predictable customs process.

Example: Japan-Australia Economic Partnership Agreement, under Chapter 4, streamlining customs procedures for certain goods.

2. Addressing Potential Bottlenecks in FTA Regions:

Identifying and mitigating challenges for smooth FTA implementation.

Example: Challenges and solutions in CPTPP Agreement.

In essence, the emphasis on streamlining customs processes transcends mere administrative efficiency; it is a strategic imperative for fostering robust trade relationships. These examples showcase the proactive measures taken by nations within the framework of trade agreements, underscoring the importance of adaptability and collaboration in navigating the ever-evolving landscape of international commerce.

End of Section 2

Section 3

Navigating the Documentation Landscape in Customs and Trade Facilitation



Meticulous Documentation is the Compass that Guides the border smooth movement of goods across borders

Key Documents Required for Customs and Trade Facilitation

- A. Commercial Invoice:** A commercial invoice provides a detailed account of the transaction, outlining the nature, quantity, and value of the goods being shipped. This document serves as the basis for assessing duties and taxes.
- B. Packing List:** The packing list details the contents of each package within a shipment, providing customs authorities with a comprehensive overview of the goods.
- C. Bill of Lading:** It serves as both a receipt of goods and a document of title, indicating ownership and facilitating the transfer of goods at the destination.
- D. Certificate of Origin:** The Certificate of Origin confirms the country in which the goods were produced, influencing their eligibility for preferential trade agreements.
- E. Customs Declaration:** Traders submit this document, narrating the details of the goods, their origin, and value, providing customs authorities with essential information for regulatory compliance.

Section 4

Laws and Regulations – Customs and Trade Facilitation



International Trade Agreements and Organizations

A. The World Trade Organization :

1. General Agreement on Tariffs and Trade
2. Agreement on Trade Facilitation
3. Agreement on Customs Valuation
4. Rules of Origin

B. Incoterms

C. National and Regional Regulations:

1. National Customs laws
2. Free Trade Agreements

Section 5

Duty Drawback, Deferral, and Other Types of Relief

Duty Drawback, Deferral, and Other Types of Relief are mechanisms designed to provide financial benefits or flexibility to businesses engaged in international trade.

- 1. Duty Drawbacks:** Is defined as a process that allows an exporter to reclaim duties or taxes paid on imported goods when those goods are subsequently exported.
- 2. Deferral:** It involves the postponement of payment of customs duties or taxes on imported goods until a later specified time, offering businesses a unique strategic advantage.
- 3. Other Types of Relief:** There exist **diverse relief mechanisms** designed to cater to specific needs and foster economic growth. These may include exemptions, preferential tariff treatments under Free Trade Agreements (FTAs), and specialized programs aimed at promoting specific industries or activities.

Considerations for Negotiators when negotiating Relief Provision

A. Understanding Artistry in Negotiating Favorable Relief Provisions in FTAs

1. **Recognition of Unique Needs:** A keen understanding of each participating party's unique needs and aspirations is paramount in negotiating favourable relief provisions.
2. **Beyond Immediate Business:** It is not just about addressing immediate business requirements but crafting provisions that align with the broader, long-term objectives outlined in the FTA.

B. Strategic Scenario: Economic Development and Industry Support

1. **Economic Development Goals:** Consider a scenario where a country aims to enhance specific industries crucial to its growth and economic development.
2. **Preferential Duty Drawback:** Adept policymakers may advocate for preferential duty drawback rates tailored to support these strategic industries.

C. Extended Impact: Beyond the Negotiation Table

1. **Strategic Finesse:** The skills extend beyond negotiations, requiring strategic finesse to integrate relief mechanisms seamlessly into overarching FTA strategies.
2. **Alignment with Trade Facilitation Objectives:** Relief provisions need to align with the overarching trade facilitation objectives of the agreement.

D. Contribution to Collective Triumph

- 1. Individual and Collective Success:** Relief provisions, whether duty drawback or deferral programs contribute to both individual business success and the collective triumph of FTA goals.
- 2. Fostering a Harmonious Trade Environment:** Strategic integration ensures a harmonious and mutually beneficial trade environment, elevating the effectiveness and sustainability of FTAs.

E. Visionary Role of Negotiators

- 1. Beyond Transactional:** Negotiators play a visionary role, shaping the landscape of international commerce through strategic and forward-thinking deliberations.
- 2. Pivotal Drivers for Economic Cooperation:** Successful negotiation and integration of relief provisions serve as key drivers for economic cooperation and the development of global trade. environment, elevating the effectiveness and sustainability of FTAs.

Section 6

Country of Origin Marking in FTA Negotiations

Introduction to Country of Origin Marking

Country of Origin Marking is a labelling requirement that indicates the specific country in which a product was manufactured, produced, or processed.

It serves as a critical aspect of international trade and holds particular significance within the framework of Free Trade Agreements (FTAs).

Importance in International Trade:

- Transparency for consumers, businesses, and regulatory authorities
- Influences consumer choices based on origin, impacting perceptions of quality, authenticity, and ethics.

Regulatory role in FTAs

- Becomes a regulatory requirement in FTAs.
- Pivotal for determining product eligibility for preferential treatment.

Nuance and Complexities in FTAs

- Negotiators must grapple with specific marking provisions
- Each FTA introduces unique guidelines, regulations, and expectations.

Addressing Regional Differences

- Comprehend individual requirements and regional disparities.
- Regional variations impact compliance strategies.

Strategic Navigation for Success and Influence on the Market

- Embrace intricacies as opportunities for strategic alignment.
- Adept navigation is crucial for regulatory compliance and success in cross-border trade.
- Compliance as a strategic lever shaping market dynamics
- Beyond procedural formalities, a competitive advantage enhancing marketability

Strategic Approaches

- Understanding FTA Requirements.
- Customized Marking Solutions.
- Collaboration and Communication.
- Utilizing Technology.
- Employee Training and Education.
- Centralized Documentation and Record-Keeping.
- Regular Audits and Assessments.
- Adaptability to Regulatory Changes.
- Holistic and proactive approach for adherence to FTA rules and efficiency.

Thank You for Your Attention!!!