

TRADE FACILITATION AGREEMENT WTO: IN INDONESIA PERSPECTIVE

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ABSTRACT

International trade in Indonesia has met its latest development stage through the rapidly developing trade liberalization process. This development can be seen since the beginning of Indonesia's joining the World Trade Organization (WTO) which has succeeded in bringing Indonesian trade to the global stage. In 2014, the WTO as an international trade organization issued a multilateral agreement, namely the Trade Facilitation Agreement, which was useful for expedite movement of trade and goods flows, especially in making a harmonization in the customs and excise system. This is also a continuation of several trade liberalization negotiations and processes, such as the paperless Trade Policy, the Single Window Policy that was raised by several organizations, such as APEC and UNNExT, and the previous Doha Round and Bali package in 2011- 2014. Indonesia has ratified this agreement through Law No. 17 of 2017 that constitutes TFA to its national policy. Indonesia has also started preparing for the implementation of the agreement by sending its first notification in 2019. This agreement requires the readiness of a country to prepare transparency of information, harmonization, human resources, and trade infrastructures, especially at Customs and Excise institutions as a trade facilitator. However, Indonesia's readiness in implementing the TFA agreement are facing numerous challenges such as there was 40 technical provision that needs to comply with, in the Implementation, Indonesia also form their national committee and conducting some gap analysis measure with Prapspera that is supported by the Australia government to make sure the implementation is compatible with the current legal system in Law No 17 the Year 2006 concerning Custom. TFA requires a comprehensive legal framework and its application procedure that is transparent, informative, and accountable therefore the needs of law suitability with the current situation are required. TFA will impact every country to re-evaluate the current trade facilitation legal framework to adjust the technical implementation of TFA in its capacity. As an emerging economic and developing country, Indonesia's implementation could be a reflection among other countries that are facing similar challenges, particularly in matters of legal harmonization and readiness of infrastructure and human resources

Key words: Trade Facilitation Agreement, Trade Liberalization, Trade Facilitation, Legal Harmonization.

INTRODUCTION

The terms of international trade cover buying and selling transactions with other countries. To establish a functioning, smooth, and mutually beneficial international trade, the international community has established international legal instruments in the areas of international trade. These efforts include the formation of the General Agreement on Tariffs and Trade in 1947 (GATT) as the forerunner to the formation of the World Trade Organization ["WTO"] which replaced GATT on January 1, 1995, as an international trade organization that includes broader discussion subject of international trade. (Huala Adolf, 2005).

The aspect of the problem of international trade is inseparable not only from a commodity transaction standpoint but also from related administrative aspects in information technology, trade facilities, and infrastructure conditions, and the proficiency of the human resources to overcome the increase of trade flows among countries. (World Customs Organization, 2018). The arising of the trade liberalization also made a significant improvement with the increasing dependency on many international transactions through their competitive advantage. (Ceglinski, 2016) International trade also has a significant role in many countries especially in developing countries that need legal certainty in such trade activities to ensure their economic interest and sovereignty.

In its development, international trade also faces many challenges to ensure trade liberalization such as Tariff Barriers that potentially due to the differences among regulations that could hinder trade cooperation by imposing high tariffs on goods from other countries, in addition, there are also similar challenges such as the Non-Tariff Barrier which is an administrative obstacle in the trade facilitation process that currently is one of the main focuses in the development of international trade specifically in the TFA Agreement. (World Trade Organization, 2015). To organize the Non-Tariff Barrier, in 2017 WTO issued its first multilateral agreement, the Trade Facilitation Agreement, ["TFA"].

The realization of the WTO and TFA is a form of effort in building the liberalization of trade, which is often underappreciated, especially by developing countries. (Michael GK Reiterer, 2009) According to Andrew Warner, developing countries participating in international trade increased their Gross Domestic Product (GDP) and grown by 4.55% p.a. in the 1970s and 1980s, while the countries that had a closed economic system only grew by 0.7% p.a. This also strengthens the argument on the implementation of trade liberalizations. However, it also must be balanced to accommodate the interests of the developing countries (Sach & Andrew, 1997).

The TFA is an embodiment of trade liberalization are based on previous negotiations held by the World Trade Organization. TFA itself is a further discussion of the Ministerial Conference of the WTO in 2013, commonly called the "Bali Package" (Ben Czapnik,

2015) which was an extensive discussion of the *Doha round of negotiations* in 2001. In it, there was a mandate with a comprehensive discussion on international trade. (Scott, James & Wilkinson, 2004).

WTO members adopted a protocol of the amendment to include WTO TFA discussions from Annex 1A on November 27, 2014, related to paragraph 1 Article X: 3 of the *Marrakesh Agreement Establishing the World Trade Organization* on April 15, 1994. (Scott, James & Wilkinson, 2004) Trade facilitation is defined as the simplification, harmonization, and the use of technology as well as other efforts related to procedures and administrations related to trade. Based on the Doha Development Agenda in July 2004 in *Annex D*, it was stated that there were differences in the implementation of trade facilitation by developing countries in accordance with the capacity of the country and the support of *Technical Assistance* and *Capacity Building* in accordance with the contents of the trade facilitation agreement. (*Overview | TFAF - Trade Facilitation Agreement Facility*, 2017).

TFA contains four main principles, namely, harmonization, simplification, standardization, and transparency which are listed on a regional and national scale. Transparency explains that the need for encouragement for openness and accountability of the government in providing information. Simplification is the process of removing unnecessary elements or overlapping rules that hinder and by-pass procedures in customs. Harmonization and standardization are the processes of developing and synchronizing regulations regarding trade facilitation, such as operations, documents, standards, and practices from one country to another. (Loukas A, 2011) TFA agreement as an international agreement will certainly bring legal development, especially in the trade sector. Legal development is a major aspect for safeguarding national sovereignty and at the same time reflecting the culture in the social values in Indonesia for community development in trading activities. (Rahardjo & Yasabri, 1980).

The TFA consists of three sections. The First Section contains provisions concerning the acceleration of movement, release, and licensing of goods. This provision perfected in Articles V, VIII, and X of the General Agreement on Tariffs and Trade 1994. Specifically, the First Section of the Agreement on Trade Facilitation is contained 12 article that stipulates: Publication and Availability of information (article 1); Opportunity to comment, information before entry into force, and consultation (article 2); Advance Ruling (article 3); Procedures for appeal or review (article 4); Other measures to enhance impartiality, Non-Discrimination, and Transparency (article 5); Disciplines on Fees and Charges Imposed on or in connection with Importation and Exportation and Penalties (article 6); Release and Clearance of Goods (article 7); Border Agency Cooperation (article 8); Movement of Goods Intended for Import Under Customs Control (article 9); Formalities Connected with Importation, Exportation, and Transit (article 10); Freedom of Transit (article 11); Custom Cooperation (article 12).

The articles of Section I of the TFA is clearly focusing on accelerating customs procedures; making trading easier, faster, and cheaper; providing clarity, efficiency, and transparency; reducing bureaucracy and corruption; and using technological advances. Section one also regulates the transit of goods, a major problem of interest of landlocked countries wishing to trade through the ports of neighboring countries.

Section II contains provisions on special and differential treatment for developing and underdeveloped countries. This Second Part is intended to help developing and underdeveloped countries to implement the First Section of the TFA. (Lanny, 2013) Section II of the TFA includes assistance for developing and underdeveloped countries to develop adequate infrastructure, exercise customs officials and authority, or other matters related to qualify the implementation of the agreement. Section III of the TFA consists of 2 articles containing provisions for the formation of a National Committee and *Final Provision*.

Generally, TFA is an effort to facilitate international trade processes, which are specific in terms of movement, release, and licensing of goods. The WTO only explains trade facilitation as a simplification and harmonization of international trade procedures, (Grainger, 2007) which includes "*the activities, practices, and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade*". The TFA is considered to be a major step forward in negotiating multilateral agreement negotiations in which the concept of *Special and Differential Treatment* (S&DT) facilities are for developing countries in Section II of TFA. (Czapnik, 2015).

TFA categorizes its members into three different categories, namely Developed Countries, Developing Countries, and Least Developing Countries (LDC) (*Overview | TFAF - Trade Facilitation Agreement Facility*, 2017). TFA aims to simplify customs procedures and can provide significant benefits to the global economy, with estimated profits calculated at around the US \$1 trillion per year, and to act as a guidance to settle disputes in all international trade negotiations and issues. (Loukas A, 2011) From the above explanation, TFA has three main objectives in its implementation, namely: Creating effective and harmonious trade cooperation; Reducing export and import trade barriers; Providing technical assistance and capacity building for developing countries and LDC (Least developed countries) (Tampubolon, 2020).

Indonesia as a developing country and rising economy are currently facing numerous issues such as legal harmonization, corruption, and human resource readiness aspect, those issues are common to be found among other developing country especially in ASEAN countries like Malaysia, Thailand, and Vietnam. (Pellan & Wong, 2011). The implementation of the TFA presents many challenges for many developing countries due to its high cost to deliver all of the 40 technical measures that the signatory nation is required to implement in order to reduce trade costs. (World Trade Organization, 2015).

In its application, TFA emphasizes the importance of harmonization of laws between WTO members to create fair international trade and accelerate the flow of bureaucracy by making it more integrated. Indonesia has also made efforts in its development to carry out harmonization of law in trade activities. WTO members are also encouraged to implement by enacting a single-window

facility system for the creation of electronic commerce in collecting documents and data related to export and import needs or transit from an authority or agent to cover the transparency and informative action that is mentioned in TFA.

There were several aspects of International trade that needed some developments. Those aspects include the need for certain legal frameworks in customs procedures and also in the use of information technology, trade facilities, and infrastructure readiness, as well as the preparation of Human Resources which is also one of the important factors in overcoming the increase in trade, flows between countries. (World Customs Organization, 2018)

This agreement will also help in limiting the practical barriers governing international trade, which are excessive. (World Trade Organization, 2015) It also includes the commitment of developed countries in this agreement to help reform the technical and financial processes of developing countries to increase efficiency. TFA is also expected to provide a harmonious standardization and development of new, efficient infrastructure and technological advances so that it can reduce bureaucracy around international trade which can minimize corruption by endorsing transparency in accordance with applicable obligations. (Grainger, 2014).

Furthermore, for developing countries, there still need to be many future developments issue that could be maximizing the use of technical assistance and capacity building to endorse integrated and simplify the administrative procedure to ensure the trade facilitation process needs to be harmonized and compact into one single transparent and accountable regulation. (Reich, 2005)

In this journal, the authors use descriptive-analytical methods to collect data from sources directly by interviewing the government representative and through various FGDs supported by the University of Padjajaran. Then the data is compiled, processed, and analyzed to provide an overview of the actual problem. (Soekanto & Mamudji, 2015) This research also could benefit the international community to the ongoing development of International Trade through the overview of Indonesia as many examples of an emerging developing country especially in the Asian region.

THE OVERVIEW OF TFA AGREEMENT AND IMPLEMENTATION IN INDONESIA

Indonesia acted as a member of the WTO, through the ratification of the Marrakesh Agreement through Law No. 7 of 1994 Concerning Ratification of Agreement Establishing the World Trade Organization. After the establishment of the WTO, the level of cross-border trade transactions has also increased significantly. The presence of the WTO has succeeded in realizing a trade liberalization that results in the increasing number of cross-border transactions that require an arrangement with a different legal system. (Grainger, 2014) WTO law provides regulations to traverse trade liberalization with other members with different social values and interests.

In 2014, Indonesia had ratified the agreement in accordance with the contents. After adjustments were made in 2014 through the ministry of trade consideration, Indonesia ratified and constituted Law No. 17 of 2017 concerning Ratification of the Protocol "Amending the Marrakesh Agreement Establishing The World Trade Organization ("TFA Law)". This agreement will sum up a lot of factors for enhancing Indonesia international trade such as: (Tampubolon, 2020)

1. Expedite trades goods and services in export-import activities
2. Time efficiency and trade costs
3. Increase in state income
4. Increased investment
5. Enhancing the role of MSMEs in international trade
6. Encouraging Economic growth

Based on the TFA Law, Indonesia regulates trade facilitation measures through The Republic of Indonesia Law No. 17 the Year 2006 Concerning Amendment of Customs Laws No. 10/1995 ("Custom Law") that are facing much withdrawal from globalization and international trade development. (Wulandari, 2018).

In 2018 Indonesia through the ministerial trade decree No. 284 Year 2018 the institutional arrangement was formed under the Ministry of Trade named *Komite Nasional Fasilitasi Perdagangan* ("KNFP"). Indonesia KNFP formed to function of the formation are to facilitating coordination of domestic Ministries and Institutions (K/L) related to foreign trade issues, supervisors of TFA implementation, and formulating national policies in Indonesia, the committee has also carried out notification of the fulfillment of transparency through G/TFA/NI/DN/2, on 18 February 2019. (Ministry of Trade Directorate of the Multilateral Agreements Republic of Indonesia, personal communication, October 3, 2019).

The Committee on the notification to the TFA committee notifies in Category A to 9 provisions from 12 (88%) and notifies in Category B Implementation to 3 Provisions from 12 (12%). Under article 16, TFA stipulated that any Developing Country that notifies in Category B shall notify and strive to change category B to A within 1 year. Indonesia in accordance with the notification is concerned with three major issues specifically in legal harmonization, lack of infrastructure, and human resources readiness.

THE OBSTACLES

On the Implementation progress, Indonesia is facing several issues concerning the overlapping regulation and human resource problem on the implementation process. There are 3 provisions in TFA that face major obstacle namely Article 3 of the regulation regarding the advance ruling, Article 5.1 regarding notification for enhanced control or inspection regarding the certainty of

customs in determining the route where it is related to physical Inspection accountability and, Article 7.4 concerning Risk Management (RM) as certainty and transparency in an agency that integrates Good Governance and the entire existing supervisory management system, in order to achieve agency goals with an emphasis on identifying and controlling risks, whether they arise from various related parties, both internal and external, by external factors such as natural disasters and changes in government policies, as well as failures in planning, implementation, or agency support systems.

These problems can be described in article 3 concerning *advance ruling* that is situated within the self-assessment system for declaring each item to trade, and article 5.1 *Notification for enhanced control or inspection* and *risk Management* article 7.4. (Trade Facilitation Agreement Facility, 2017) Indonesia is basically facing numerous issues such as regulation, harmonization, and human resource problems to implement the TFA into its legal system.

We can see an example of the implementation process stipulated under article 3 of the TFA that measures “advance ruling”. On the other hand, Indonesia’s custom laws have not regulated that kind of upcoming method in their legal system. Advance Ruling in Indonesia is only explained in Article 15 of the Customs Law which explains the method of calculating the excise cost of an item, Article 16 of the Customs Law also briefly discusses tariff set before submitting the Self-Assessment notification which has almost the same provisions as Advance Ruling.

The advanced Ruling legal basis and technicality are formed in 2019, through the Regulation of Indonesia Minister of Finance No.134/PMK.04/2019 that stipulates: “Valuation advice are instructions on the procedure for calculating the customs value of goods to be imported, containing the treatment of costs or values that must be added, subtracted, or not included in the transaction value, which does not include the amount of customs value, which is issued at the request of the Importer.”

Basically, Indonesia already covers the advance ruling provision in TFA through the Ministerial Regulation, but to ensure the legal standing and procedure, any regulation should be regulated in form of a Legal Act (*Undang-Undang*) to minimize the legal overlapping and disharmonious rules between institutions. We could see further examples in article 5 that explain notification for enhanced control for the inspection of imported goods. Indonesia Custom law stipulates under article 3, and article 53 – 92 determine the provision for enhanced control and a comprehensive-time limit for the inspection. However, in the inspection process, there are still several regulations and implementation errors, such as transparency and notification of determining customs routes and in-depth physical inspection, which is necessary for further regulation for legal certainty and international trade interests as well as the obligations of Article 5 of the TFA.

Article 7 of the TFA regulates the acceleration of the release and release of goods in the trade facilitation process, starting from electronic payments, post-release audits, to information regarding the average release time and implemented risk management and other special provisions. Indonesia in its notification categorizes article 7.4 of the TFA in category B, especially in Risk Management. Indonesia is facing some issues, especially on risk management systems that cannot be regulated precisely yet in the Indonesia Customs Law. Indonesia Custom Law mentions Risk Management on Article 3 regarding inspection and further regulation regarding the risk management and other provisions constituted in ministerial decree or regulation.

TFA emphasizes the harmonization and transparency of the trade facilitation implementation. That is why any provision that is described in TFA should be implemented in Indonesia Customs Act to make sure that the legal certainty and compliance are in accordance with the TFA.

The application of Advance Ruling in Indonesia as described above still has many deficiencies both in the basis of regulations on the scale of the Law and implementing regulations in Minister of Finance Regulation No.134/2019 and Minister of Finance Regulation No.11/2019. So, in the future based on the author’s analysis and a review of the research carried out by Customs, Indonesia should issue a clear regulation and discipline officers in order to carry out and accommodate the provisions and implementation of Advance Ruling in accordance with the obligations in the TFA.

GOVERNMENT AGENCY AND REGULATION COMPETENCE

Indonesia through the *KNFP* secretariat has also carried out the suitability of implementation in collaboration with PT Prospera is a part of the technical assistance from Australia (Simanjuntak, 2020) to make the gap into 3 (three) levels, including: (Tampubolon, 2020)

1. **Fully aligned:** The existing policy framework has been supported by good implementation, both in substance and in the regulations that govern it;
2. **Substantially aligned:** The existing policy framework has not been supported by the optimal implementation or still needs improvement with adjustments to regulations and institutions;
3. **Partially aligned:** The policy framework needs improvement; the implementation also does not run optimally/needs improvement.

Gap-Analysis is a study conducted by Indonesia and Australia in order to provide technical assistance from Australia and ensure that all notifications and the legal or policy framework can accommodate all the provisions in the TFA. Based on the Gap Analysis, it was explained that Indonesia still has a lot of discrepancies, especially in institutional and regulatory issues. Even so, Firman

Bunyamin acted as the Directorate General of Customs and Tariff (“*DJBC*”) in the FGD at Unpad in September 2020, who explained, “The implementation of WTO-TFA in essence already exists at every level of *DJBC* regulation.” However, in the author’s research, although *DJBC* has provided several newly issued policies, to the legal umbrella of *DJBC*, particularly Law No.16 of 2007 in essence, it has not been able to accommodate all the provisions in the TFA which are still mostly regulated in technical regulations, specifically in the form of Ministerial Regulations or Institutional Regulations. Indonesia still needs a new Customs Regulation to be able to accommodate all the provisions of the TFA perfectly. The following is an overview of the monitoring process for the implementation of the TFA-Gap Analysis:

Table 1: Indonesia, TFA Gap Analysis Implementation

	Fully Aligned Provision (36%)	Substantially Aligned Provision (44%)	Partially Aligned Provision (20%)
Article	6.1 Enhanced Control	1.1 Publication	1.3 Enquiry Point
	6.2 Definition	1.2 Information Online	3. Advance Ruling
	7.1 Pre-Arrival Processing	2.1 Comment	5.3 Test Procedures
	7.5 Post Clearance Audit	2.2 Consultations	7.6 Average Release Times
	7.8 Expedited Shipments	4. Appeal or Review	10.1 Formalities
	8. Border Cooperation	6.1 Trade Fees (General)	10.2 Acceptance of Copies
	10.3 International Standards	6.2 Trade Fees (Specifics)	12. Custom Cooperation
	10.6 Custom Brokers	6.3 Penalty Disciplines	
	10.7 Common Border	7.3 Separation of Release	
	10.8 Rejected Goods	7.4 Risk Management	
	10.9 Temporary Admission	7.7 Authorized Operators	
	11. Freedom of Transit	7.9 Perishable Goods	
		9. Movement of Imported Goods	
		10.4 Single Window	
		10.5 Pre-Shipment Inspection	
	23.2 National Committee on TF		

Source: Vivianto Tampubolon, Directorate of Multilateral Negotiations, “The Government’s Efforts to Implement the Trade Facilitation Agreement (TFA) in Indonesia”

Trough data explained above we can see clearly the difference between the notification of the Country and their readiness of the implementation, we can see that Indonesia is currently facing numerous on the 66% of the implementation gap in regard to legal disharmonization and lack of legal protection in Custom Law that provides a legal basis for trade facilitation measure. To ensure the implementation of the TFA and in order to fulfill all the provisions that have been ratified by Indonesia, it requires several policies and regulatory arrangements as well as institutional coordination as follows:

1. **Partially Aligned** in the implementation of the TFA, it is closely related to several ministerial regulations and institutional level regulations to conduct the implementation legal standing, the article that was stipulated under Partially aligned section is potentially to have an overlapping or legal disharmonize cause it hasn’t been yet fully regulated in the Custom Regulation nor law that relate to this particular issue. Therefore, the Indonesian government should enact a new regulation that could harmonize all of the TFA-related regulations.
2. **Substantially Aligned**, it is necessary to develop a harmonize and well regulate system under Indonesia INSW to integrate and connect for any relating institution as well as to ensure that the operation is in accordance with the establishment of the standard operating procedure, and the socialization process for the preparedness of human resources to maximize the coordination and Cooperation among Ministries and relating Institutions (K/L) so that the suitability of the implementation of the entire TFA-WTO article becomes fully aligned by 2022.

Thus, in Praspera’s study in the TFA Monitoring gap analysis, partially and substantially only have 1 year to prepare for the full fulfillment of Indonesia’s first notification. The readiness of infrastructure, human resources, and institutions must be coordinated immediately in the past 1 year before they can be accounted for, as if they were included in category A it will be valid and binding after 1 year from notification (18 February 2020). Meanwhile, those included in category B will be accounted for in February 2022. In the elaboration on the above implementation, it is very clear that there is a need for integration between institutions, regulatory adjustments, and improvements in human resources to fulfill all of the obligations under TFA Law that were majorly regulated in Law No.17 of 2006 concerning Customs.¹ By ratifying the TFA, Indonesia needs development not only in infrastructure and readiness but also needed in terms of human development and most importantly a definite and harmonious legal foundation with each other. (Armella, 2019).

¹ Integration between institutions aims to ensure legal certainty, fairness, transparency and accountability of public services, to support the improvement and development of the national economy related to global trade, to support the smooth flow of goods, and to increase the effectiveness of supervision of incoming or outgoing traffic of goods.

Legal harmonization is an answer in conducting trade and good trade facilitation services. Seeing that there are overlapping rules and authorities that create obstacles in trade and even have the potential to harm trade activities, which is evident in the coordination between institutions in Indonesia, of course, is still lacking. (Loukas A, 2011).

Indonesian law is required to be able to harmonize itself with the phenomena of international cooperation with the aim of mutual prosperity. Indonesian Trade law must also be able to anticipate new developments, such as the unification of the global economy, the thinning of boundaries between countries due to the development of globalization of information, and various other new orders which are now moving under changes. Legal institutions as well as behavior in the field of law must naturally be responsive to this ongoing revolution. (Santosa, 1997).

Custom Law as well as the legal umbrella for the Customs and Excise Directorate does indeed require several supporting regulations and implementing regulations in an effort to facilitate trade. Constraints that are found by Law no. 17 of 2006 is not yet able to provide a complete legal umbrella in the implementation of trade facilitation which can cause an obstacle in the implementation of the TFA which essentially requires an integrated arrangement and institution as in the Simplified and Harmonized principles, Standardization in the TFA itself. The principle of transparency also provides an obligation to provide all legal certainty in every action published in the notification of each member country. although Indonesia already issued some latest regulations such as Minister of Finance Regulation No. 134 / PMK. 04/2019 regarding Procedures for Submitting Applications and Providing Instructions on How to Calculate Customs Value in the form of Cost and/or Value Treatment of Goods to be Imported before Submitting the Customs Notification (Valuation Advice) and Indonesia Presidential Regulation No. 44 year 2018 regarding Indonesia Single Window to integrate and comply with TFA article, the needs of single integrated in form of a legal act (*Undang-Undang*) are strictly necessary to ensure compliance of all of the TFA principle by imposing the amendment Custom Law to be more actual to the current development of the international trade facilitation system. (Wulandari, 2018).

The form of legal responsiveness can be seen when efforts to harmonize laws are carried out simultaneously before trade liberalization is implemented. This effort is actually not only a competitive strategy at the international level but is also intended to protect national interests. (Rahardjo & Yasabri, 1980) One of the protections for international interests is the aspect of the international economy. As is known, there is legal harmonization in the field of TFA, for example. As implemented by Australia which integrated laws related to trade facilities after ratifying the TFA agreement through the 2015 Customs Regulation.

COMPARATIVE STUDY: THE IMPLEMENTATION IN AUSTRALIA

Indonesia's implementation processes are hindered in the regulatory framework and Human Resources issues. By means necessary, we can set out further examples in Australia that regulate the TFA implementation through its newly prescribed "Customs Regulation 2015" which was published after the ratification process. The regulation regulates several provisions which also include Entry and Clearance of Exported Goods, Export Entry Advice, Certification of Release, and many other things. Basically, Australia as a developed country has applied the principles of transparency and informativeness. However, in the Customs Regulation 2015, it further emphasizes the harmonization process that integrates all related regulations in the Customs Regulation 2015 (Affairs, 2015). Based on the notification of G/TFA/N/AUS/Rev.1 on May 20, 2019, it was stated that the customs system and procedures regarding trade administration and procedures in Australia were highly integrated into the Australian Border Force ("ABF") which integrated all trade activities in inspection, regulation, and immigration in one institution and collaborated with relevant agencies, such as the Australian Government Department of Agriculture, Water and the Environment for certain inspection activities and the Federal Register of Legislation in regulatory documentation which can be accessed on the ABF website (Australian Government, 2015). Australia can be used as a reference for Indonesia to implement an institutional and regulatory system as well as harmonization of regulations related to international trade which is integrated into one institution (NSW) which is harmonious with related institutions. Bypassing the newly subscribed law, Indonesia can manage and implement the TFA to the fullest of the implementation. To make sure compliance, Indonesia needs to amend its customs regulation to implement all the provisions in the TFA, especially on physical inspection measures and transparency and notification. By issuing the new regulation, it also hopes to enhance its human resources to facilitate and implement the TFA more effectively.

CONCLUSION

TFA as an international agreement regulates 12 Provisions and 40 technical provisions that need to comply with their members. Indonesia itself is facing some major challenges for implementing this international agreement such as their lack of regulation that could provide some legal certainty to implement the TFA agreement. Indonesia similar to other ASEAN country is facing numerous problems to implement this agreement, currently, the implementation process is ongoing and trying to comply by issuing further regulation that could comply with the TFA provision. TFA agreement substantially correlates with Indonesia Custom Law that provides the facility to manage international trade and cross border transactions. Unfortunately, the regulation itself could not yet give comprehensive protection and compliance in the TFA provision. TFA will make a huge impact on Indonesia's international trade respiratory especially Law No. 17 years 2006, there were three articles in TFA that notified by Indonesia in B category such as, advance ruling (article 3), notification for enhanced control (article 5), risk management (article7). By ratifying this agreement, Indonesia is obligated to the right and obligation to the following regulation, by then Indonesia needs to prepare the readiness and the compliance of every aspect of WTO TFA at the end of February 2022. through the Gap analysis we can see that Indonesia is still facing three major issues specifically in legal harmonization and legal framework for trade facilitation issues. We could learn how Australia did in the 2015 Customs Regulation to harmonize the regulations and provisions regarding trade facilitation policies as stipulated in the TFA, with legal certainty in all one Act and Institutions that are specialized in handling trade facilitation.

Therefore, Indonesia needs to amend the Custom Regulation to make sure TFA Implementation and enhancing their category B to A category before 2022.

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