

Trade Facilitation in the BBIN Sub-region

Challenges and Opportunities in Implementing the BBIN MVA



Trade Facilitation in the BBIN Sub-region

*Challenges and Opportunities
in Implementing the BBIN MVA*

Trade Facilitation in the BBIN Sub-region

Challenges and Opportunities in Implementing the BBIN MVA

Published By



D-217, Bhaskar Marg, Bani Park, Jaipur 302016, India
Tel: +91.141.2282821, Fax: +91.141.2282485
Email: cuts@cuts.org, Web site: www.cuts-international.org

With the support of



In partnership with



© CUTS International, 2019

Citation: CUTS (2019), Trade Facilitation in the BBIN Sub-region:
Challenges and Opportunities in Implementing the BBIN MVA

This Discussion Paper has been published under the project entitled
'Bangladesh-Bhutan-India-Nepal Motor Vehicles Agreement: *Facilitating implementation and stakeholder buy-in in the BBIN sub-region*'.

This publication is made possible with the support of the US Department of State.
The views and opinions expressed in this publication are that of CUTS International
and partners and not those of the US Department of State.

#1911

Contents

<i>Abbreviations</i>	5
<i>Abstract</i>	6
<i>Introduction</i>	7
1. State of Trade Facilitation in the BBIN Sub-region	10
Global Competitiveness Index	10
OECD's Trade Facilitation Indicators	11
World Bank's Trading across Borders	12
2. Soft and Hard Infrastructure Impediments	14
Export-import Procedures	14
Cargo Trans-shipment	15
Customs Clearance	15
Transport Regulations	15
Road Infrastructure	15
Coordination among Agencies	16
Asymmetries in Rules and Regulations.....	16
3. Legal and Non-legal Instruments to Support the BBIN MVA	17
Centralised Implementation.....	19
Decentralised Implementation	20
Shared Implementation.....	20
4. Role of India	22
5. Conclusion and Recommendations	25
Export-import Procedures	25
Customs-related Reforms	25
Harmonisation of Technical and Regulatory Standards	26
Legal and Non-legal Instruments.....	26
Develop a Regional Framework	26
Technical Assistance and Capacity Building	27
References	28
Annexure 1: WTO TFA Commitments of the BBIN Countries	29

List of Figures and Tables

Figures

Figure 1:	A Snapshot of WTO Trade Facilitation Agreement.....	8
Figure 2:	Performances of the BBIN Countries on Selected Categories of the WTO TFA.....	12
Figure 3:	Legal and Non-legal Instruments in the BBIN MVA	18
Figure 4:	ITC's Framework for Implementing Trade Facilitation Measures.....	19

Tables

Table 1:	Select Indicators of Trade Facilitation in the BBIN Sub-Region.....	10
Table 2:	Performance of the BBIN Countries on Trading across Border, 2018.....	12
Table 3:	India Line of Credit to Bangladesh and Nepal for Trade Infrastructure Development, 2019	23
Table 4:	Examples of the WTO TFA Provisions on which India can extend TACB	24

Abbreviations

AEO:	Authorised Economic Operators
AQ:	Animal Quarantine
BBIN:	Bangladesh, Bhutan, India, Nepal
EDI:	Electronic Data Inter-change
GCI:	Global Competitiveness Index
ICP:	Integrated Check Post
IDEAS:	Indian Development and Economic Assistance Scheme
IDI:	Indian Development Initiative
ITC:	International Trade Centre
ITEC:	Indian Technical and Economic Cooperation
LCS:	Land Customs Stations
LDC:	Least Developed Country
LoC:	Line of Credit
MRAs:	Mutual Recognition Arrangements
MVA:	Motor Vehicles Agreement
NLTFC:	National Land Transport Facilitation Committee
NTBs:	Non-Tariff Barriers
OECD:	Organisation for Economic Cooperation and Development
PQ:	Plant Quarantine
S&DT:	Special & Differential Treatment
SASEC:	South Asia Sub-regional Economic Cooperation
SI:	Shared Implementation
TACB:	Technical Assistance and Capacity Building
TFA:	Trade Facilitation Agreement
TFIs:	Trade Facilitation Indicators
WEF:	World Economic Forum
WTO:	World Trade Organisation

Abstract

Trade facilitation has emerged as one of most important issues in the regional integration agenda of Bangladesh Bhutan, India, Nepal (BBIN) sub-region of South Asia. Cross-border trade through land routes encounters challenges in respect to soft and hard infrastructure. In order to address these challenges, the BBIN countries signed a Motor Vehicles Agreement (MVA) to facilitate seamless movements of cargo and passenger vehicles. At the same time, Bangladesh, India and Nepal have also ratified the Trade Facilitation Agreement (TFA) of the World Trade Organisation (WTO) to enhance their integration with the global economy through simplification, modernisation and harmonisation of export-import procedures. This paper analyses the challenges in the implementation of the BBIN MVA and TFA commitments of the BBIN countries and put forward recommendations to address them.

Introduction

Over the past decade, trade facilitation is receiving immense attention at various levels - bilateral, regional and multilateral. The importance of trade facilitation and its role in improving trade competitiveness of the South Asian countries is widely discussed in several studies (CUTS, 2015; De, 2011; Taneja, 2013). Broadly, trade facilitation encompasses key functions of trade supply chains that bring a good from production to consumption centre. This involves institutional, administrative, regulatory, operational and infrastructural measures.¹

Trade facilitation helps reduction of trade transaction costs, thereby improving the productivity and cost competitiveness of an economy. The benefits of trade facilitation are reaped by all stakeholders (businesses, consumers and government) involved in trade supply chains (CUTS, 2015). Effectively implemented trade facilitation reforms can provide a reliable, transparent and predictable environment for the movement of cargoes across border.

The importance of trade facilitation reforms and their contribution to the growth of global trade is well-recognised at the multilateral level when the WTO members adopted Trade Facilitation Agreement at the Bali Ministerial Conference in December, 2013. Following the global financial crisis of 2008, it was a milestone in reviving the multilateral trading system. The WTO TFA provided a legally binding framework for WTO member countries to follow in undertaking trade facilitation reforms and underscores the importance of reducing trade costs through “simplification and harmonisation of international trade procedures”.

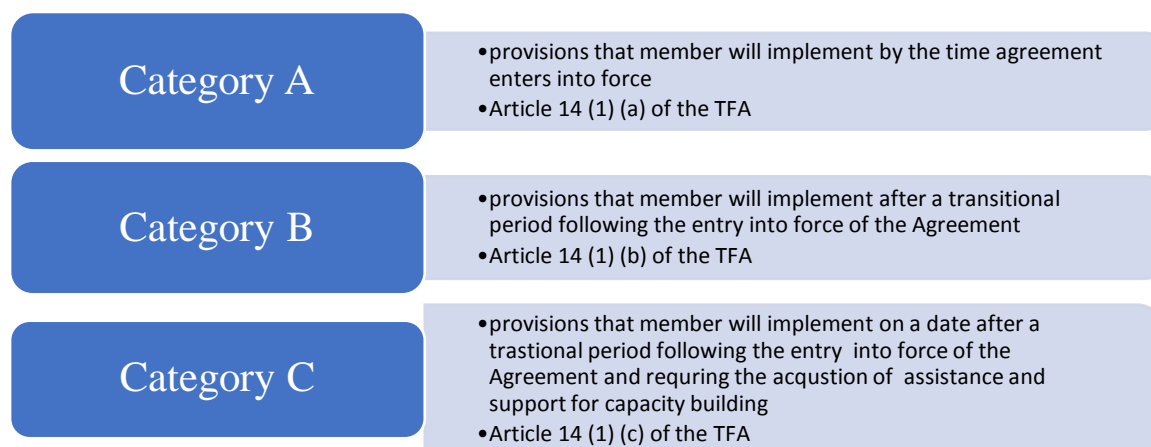
The WTO TFA consists of three sections and contains 24 Articles.² Section I defines obligations of substantive and mandatory nature, which relate to the facilitation of customs and other procedures pertaining to border transactions. Section II provides information on special and differential treatment (S&DT) for developing and least developed countries and their flexibilities. Section III sets rules for the setting-up of institutions to look after the overall implementation of the TFA (Singh, S, U. Mishra and H Sandha, 2018).

In order to leverage the benefits of S&DT, a member country has to place its commitments regarding a relevant provision of the TFA and notify the WTO Secretariat as per stipulated timelines given in the TFA. Implementation of the agreement will be exercised through commitments made by member countries in three categories as shown below.

¹ CUTS International (2015), Trade Consignment Mapping in South Asia: A Study of Three SAARC Corridors, http://www.cuts-citee.org/TCMSA/pdf/Report-Trade_Consignment_Mapping_in_South_Asia-A_Study_of_Three_SAARC_Corridors.pdf

² Protocol Amending the Marrakesh Agreement Establishing, The World Trade Organization, 2014 https://www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm

Figure 1: A Snapshot of WTO Trade Facilitation Agreement



Source: WTO TFA, 2017

Moreover, positive spill-over effects of multilateral trade facilitation initiative are also recognised at regional levels and propelled countries to undertake start unilateral, bilateral and regional trade facilitation initiatives in order to integrate with regional and global markets. In light of this development, the BBIN group of countries entered into a landmark Motor Vehicles Agreement signed in June, 2015, with the objective of facilitating smooth transit and transport in this sub-region.

With the hope that Bhutan will be joining this agreement at a later stage, it is expected that the BBIN MVA will be ‘game changer’ for fostering sub-regional connectivity and will reduce trade transaction costs perceptibly, thereby creating new trade and investment opportunities in this sub-region. It is also expected to contribute to greater trade and economic activity, people-to-people contact and efficient movement of cargo and passenger vehicles across these four countries (CUTS, 2017).

The need for an MVA in this sub-region is recognised in the context of larger connectivity initiatives in Asia in general and South Asia in particular. Policymakers in the BBIN countries understand that strong economic and trade linkages through improved sub-regional connectivity is an imperative to secure their economic and strategic goals. The signing of the BBIN MVA is a first step in this direction but its effective implementation remains a challenge for the BBIN countries given their different development trajectories.

Hence, the implementation of the BBIN MVA hinges on the capability of each of the member countries to undertake domestic reforms that hold importance in regional context. In addition, many of MVA provisions complement TFA commitments of the BBIN countries. Thus, a careful review of trade facilitation indicators helps understanding the state of trade facilitation in this sub-region.

Therefore, this paper maps trade facilitation challenges faced by the BBIN countries in the context of the BBIN MVA and the WTO TFA. The paper is divided into five sections. Section 1 provides a brief overview of various trade facilitation indicators of the BBIN countries. Section 2 analyses soft and hard infrastructure impediments faced by these countries. Section 3 underlines the importance of legal and non-legal instruments that support the implementation of this framework under centralised, decentralised and shared implementation plan. Section 4 focuses on India's technical assistance to Bangladesh and Nepal for the implementation of the BBIN MVA and how it can help them to graduate their WTO TFA commitments from Category C to B and A. The last section provides recommendations for the BBIN countries to implement the BBIN MVA and their WTO TFA obligations.

As Bhutan is yet to join the BBIN MVA, this paper primarily covers issues pertaining to trade facilitation in Bangladesh, India and Nepal. However, many of them, particularly those related to India's technical assistance and capacity building support equally apply to Bhutan.

1

State of Trade Facilitation in the BBIN Sub-region

Global Competitiveness Index

The World Economic Forum (WEF) has developed a Global Competitiveness Index (GCI) to measure trade competitiveness of a country. It is based on various trade facilitation indicators such as quality of border infrastructure, quality of roads, quality of port infrastructure. Among the BBIN countries, India is the top performer on the overall quality of infrastructure and placed at 46th position out of 140 countries in 2018. Bhutan is placed at 54th position followed by Bangladesh and Nepal. The score value for India is calculated as 4.6 on a scale of 1 to 7, which is slightly higher than the score value of 4.3 of Bhutan (Table 1). The score values of Bangladesh and Nepal (2.9 in both cases) are rather low when compared to those of India and Bhutan.

The disaggregated data of GCI shows that India performs much better than other BBIN countries in terms of its performance on quality of roads, quality of rail infrastructure, quality of port infrastructure (not for Bhutan and Nepal) and quality of air transport infrastructure. The performance of Bangladesh, Bhutan and Nepal is yet to reach satisfactory levels. Furthermore, the performance of the BBIN countries in respect to soft infrastructure is wanting on account of the prevalence of non-tariff barriers (NTBs), tariff barriers, burdensome custom procedures and lack of transparency in policy-making.

Table 1: Select Indicators of Trade Facilitation in the BBIN Sub-Region
(Score on a scale from lowest to highest, from 1 to 7)

Indicators		Bangladesh	Bhutan	India	Nepal
Quality of overall infrastructure	Score	2.9	4.6	4.6	2.9
Quality of roads	Score	3.1	4.3	4.3	2.8
Quality of railroad infrastructure	Score	2.9	4.4	4.4	na
Quality of port infrastructure	Score	3.6	4.6	4.6	1.6
Quality of air transport infrastructure	Score	3.2	4.6	4.6	2.5

Indicators		Bangladesh	Bhutan	India	Nepal
Prevalence of non-tariff barriers	Score	4.8	4.5	4.5	4.4
Trade tariff (% duty)*	Percentage	13.15	12.91	12.91	16.72
Transparency of government policy-making	Score	3.7	4.4	4.4	3.6

Source: The Global Competitiveness Report, 2018, World Economic Forum

Note: Indicators not derived from the Survey are identified by an asterisk ()*

The cumulative effects of soft and hard infrastructure impediments can create significant challenges to the implementation of the BBIN MVA as well as the fulfilment of their TFA obligations. The analysis broadly infers that existing asymmetries in trade infrastructure undermine the functioning of efficient supply chains, which is vital to shared production networks across borders.

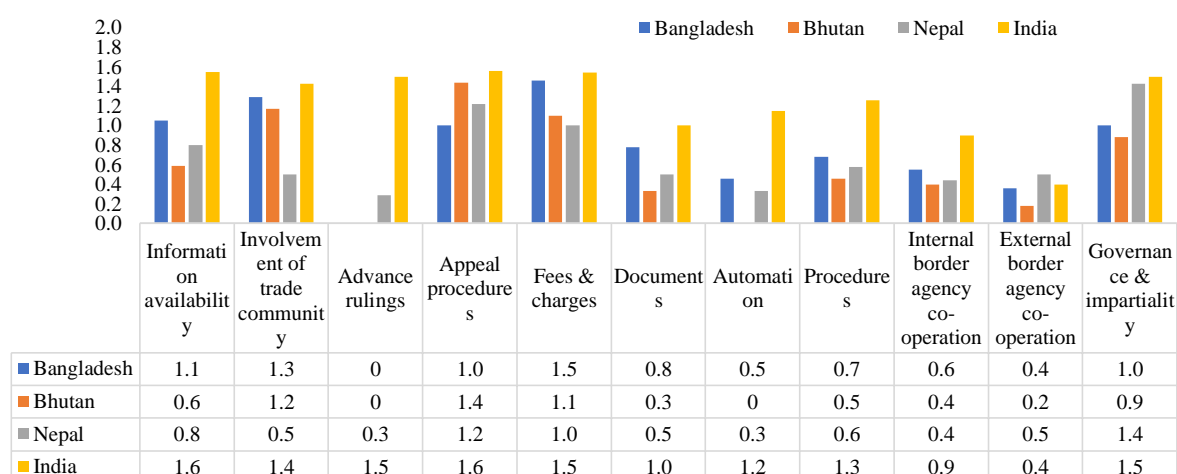
OECD's Trade Facilitation Indicators

The Organisation for Economic Cooperation and Development (OECD) has prepared a comprehensive database of Trade Facilitation Indicators (TFIs). It has 11 indicators and “identify areas for action and enable the potential impact of reforms”. These include information availability, involvement of trading community, advance rulings, appeal procedures, fee and charges, documents, automation, procedures, internal border agency co-operation, external border agency co-operation, governance and impartiality. It is important to mention that these indicators represent many articles and provisions of the WTO TFA and help understanding the performance of a country with respect to its commitments to the WTO TFA.

Figure 2 analyses the performance of the BBIN countries on TFIs. It is important to note that the performance of India on different categories is better than other countries. In 2017, the average score of India was 1.25, while the average score of Bangladesh was 0.70, followed by Nepal (0.69) and Bhutan (0.59). Annexure 1 (of this paper) maps various provisions in the BBIN countries with respect to their commitments in Category A, B and C of the WTO TFA.

India has notified 70.6 per cent of its commitments under Category A and 29.4 per cent under Category B. Bangladesh has notified 34.5 per cent of its commitments under Category A, 38.2 per cent under Category B and 27.3 per cent under Category C. Nepal has notified its 2.1 per cent of its commitments under Category A, 12.2 per cent under Category B and 85.7 per cent under Category C. Variations in commitments across Bangladesh, India and Nepal serve as a testimony to existing gaps in soft and hard infrastructure, and underscores the importance of providing technical assistance and capacity building support to Bangladesh and Nepal.

Figure 2: Performances of the BBIN Countries on Selected Categories of the WTO TFA
(Score on a scale from lowest to highest, from 0 to 2)



Source: OECD Trade Facilitation Indicators, 2017

World Bank's Trading across Borders

The World Bank has developed a set of 'Trading across Borders' indicators to measure the cost (excluding tariffs) and time related to export and import of a standardised cargo. This index includes various parameters such as documents required for export and import, average time for export and import, average cost of export and import per container. Table 2 shows the performance of the BBIN countries on these indicators. Bhutan and India are ranked at 28th and 80th positions out of 190 countries, followed by Nepal (82) and Bangladesh (176).

While looking at time and cost of export and import of the BBIN countries, it is pertinent to note that they vary significantly across them. This is because of a large number of regulatory, trade and infrastructural impediments at land and sea ports of the BBIN countries. The quality of trade infrastructure at land ports is sub-optimal to say the least. Many studies (CUTS, 2016; CUTS, 2017; De, 2011) have argued that cumbersome trade and regulatory procedures, inefficient customs clearance, trans-shipment of cargo, lack of testing facilities, frequent failure of internet, absence of electronic data interchange facilities, shortage of warehousing facilities contribute to high cost and time of doing trade across borders in this sub-region.

Table 2: Performance of the BBIN Countries on Trading across Border, 2018

Indicators	Bangladesh	Bhutan	India	Nepal
Rank out of 190 countries	176	28	80	82
Time to export: Border compliance (days)	7	0.5	3	2.5
Cost to export: Border compliance (US\$)	408.2	59	251.6	288
Time to export: Documentary compliance (days)	6	1	0.5	2
Cost to export: Documentary compliance (US\$)	225	50	77.7	110

Indicators	Bangladesh	Bhutan	India	Nepal
Time to import: Border compliance (days)	9	0.5	4	3
Cost to import: Border compliance (US\$)	900	110	331	190
Time to import: Documentary compliance (days)	6	0.5	1.23	2
Cost to import: Documentary compliance (US\$)	370	50	100	80

Source: World Bank, 2018

2

Soft and Hard Infrastructure Impediments

The sub-optimal state of trade facilitation in the BBIN sub-region remains one of the key factors behind the slow growth of intra-regional trade. This adversely impacts the agenda of regional economic integration. Ineffective trade and transport facilitation have undermined the existing trade and investment potential of the BBIN sub-region. Trade facilitation barriers include a wide range of soft and hard infrastructure impediments such as excessive use of documentation, cumbersome export-import procedures, lack of regulatory and institutional reforms, inefficient customs clearance, shortage of warehouses and lack of testing agencies.

In addition, there is also a dearth of flyovers, bridges and absence of an integrated regional transit system. In order to understand these issues, in 2019, CUTS International has carried out an extensive survey³ in select corridors of the BBIN countries and mapped key soft and hard infrastructure issues at-the-border, to-the-border and behind-the-border. Some specific obstacles are as follows.

Export-import Procedures

It was found that export and import documents are not standardised and harmonised across the BBIN countries. As per the Foreign Trade Policy of India, 2015-2020, there are only three documents required for export clearance and four documents for import clearance. This is not observed in practice. A number of other documents such as certificate of origin are required for export and import of goods (CUTS, 2016; CUTS, 2018).

Bangladesh and Nepal require eight and nine documents for export and import, respectively. The format of documents used across the BBIN countries also differ and the procedures for submission are not standardised. In addition, frequent failure of internet particularly in operating electronic data inter-change system creates challenges in submitting documents at various land customs stations. The problem is further compounded when manual submission is not permitted without the consent of competent customs authorities (CUTS, 2018).

³ CUTS International, “Bridging the East Trade and Transport Connectivity in the Bay of Bengal Region”, http://www.cuts-international.org/bbinmva/pdf/Project_Report_on_Bridging_the_EastTrade_and_Transport_Connectivity_in_the_Bay_of_Bengal_Region.pdf

Cargo Trans-shipment

Trans-shipment of cargoes at border points escalates the time and cost of doing cross-border trade. Goods exported from India (through Petrapole) to Bangladesh (arriving at Benapole on the other side of this border) are unloaded at land customs stations (now an Integrated Check Post on the Indian side) for customs clearance and then loaded on Bangladeshi trucks to deliver them at their respective destinations. Similarly, on goods coming from Bangladesh to India! The whole procedure is not only time-consuming but also increases the cost of trade. The issue of trans-shipment is particularly acute in case of land-locked Bhutan and Nepal as they rely on India and Bangladesh for transit.

Customs Clearance

Rules and regulations pertaining to customs clearance in the BBIN countries are not streamlined and involve a number of steps. This includes bill of entry, commercial invoice, certificate of origin, insurance certificate, bill of export and other related documents. Traders have to complete customs clearance formalities at each border point.

For example, goods exported from Nepal to Bangladesh via India through the Kathmandu-Kakarvitta/Panitanki-Phulbari/Banglabandha-Dhaka-Mongla/Chittagong corridor have to cross four border points (in Kakarvitta in Nepal and Panitanki in India, and Phulbari in India and Banglabandha in Bangladesh) and customs clearance formalities have to be completed at each point.

Goods are subjected to be cross-checked at each of these border points and then cargoes are cleared to proceed. The examination of goods at each customs station results in unnecessary delay and also encourages rent-seeking (CUTS, 2016; CUTS, 2018).

Transport Regulations

There are significant asymmetries in transport regulations of Bangladesh, India and Nepal. This can be a major problem in the implementation of the BBIN MVA. Logistics and transport companies argue that the movement of trucks is not feasible until Bangladesh, India and Nepal agree to harmonise their transit and transport regulations. Each country has its own set of rules and regulations for internal movement of trucks, which prescribe different axle load capacities, driving rules, traffic rules and speed limits.

Road Infrastructure

The road infrastructure in different corridors of the BBIN sub-region is sub-optimal. For example, the two-lane highway connecting Kathmandu to Kakarvitta is accident-prone because there are several big potholes across this stretch. Similarly, the approach road to Panitanki border point on the Indian side (from Kakarvitta in Nepal) is dilapidated. The approach road to Phulbari land customs station in India is not wide enough to be connected to a four-lane highway. In Bangladesh, the 505 kilometre road stretch from Banglabandha to Dhaka via Panchgarh, Rangpur, Bagra is poorly maintained and the two-lane highway deters fast movement of trucks.

Infrastructure in the Kolkata-Raxaul/Birganj-Kathmandu corridor is also weak. The approach road to Raxaul is in a deplorable condition and the problem is further exacerbated by a railway crossing near the border, which remains closed for more or less 18 hours a day. In addition, an Indian Oil depot near this railway crossing adds to the congestion because more than 200 trucks are moving towards Birgunj every day to supply oil in different parts of Nepal. Trucks are found to take an entire day to cover a distance of one kilometre at this border point.

Coordination among Agencies

A number of agencies operate at customs stations, which include plant quarantine (PQ), animal quarantine (AQ), border security forces, central warehousing corporation, customs, food safety and standards authorities. Lack of information technology enabled interface among different operating agencies is recognised as a major problem. Some of the key agencies do not have an office at many land customs stations. For example, the Food Safety and Standards Authority of India does not have an office at the Petrapole ICP or at other land customs stations bordering India and Bangladesh. In such cases, imported food products are sent to Kolkata for examination, resulting in delays and additional costs.

Asymmetries in Rules and Regulations

It has been noted that India provides detailed specifications on the usage of tyres and their loading capacity, while Nepal considers only mould weight of the tyres and Bangladesh does not have any specification in this regard. Similarly, vehicle classifications, axle and gross vehicle weights vary across the BBIN countries. Such variations and gaps in rules and regulations pose significant challenges to the implementation of the BBIN MVA.

3

Legal and Non-legal Instruments to Support the BBIN MVA

The success of regional trade facilitation initiatives hinges on the abilities of countries to undertake specific reforms. This underscores the importance of legal and non-legal instruments and their role in creating a framework that enables countries to implement their trade facilitation reforms. Legal instruments include three major tools:

- unification tools (regulations and decisions);
- harmonisation tools (directives); and
- mutual recognition tools (mutual recognition agreements).

Non-legal instruments include:

- non-binding decisions (recommendation, explanatory tools);
- cooperation tools (regional consultation, information and experience sharing, capacity building); and
- public activities (financial instrument by member countries to implement their respective country-specific policies).

Figure 3 highlights the role of different types of legal and non-legal instruments in the context of the BBIN MVA and possible areas of reform. The BBIN MVA is a framework agreement and lays down broad provisions for its implementation. Implementation of the MVA should focus on legal unification of laws. This includes a number of issues pertaining to motor liability insurance, unified customs clearance, transport policies, transit protocols, insurance policies and motor pollution regulations.

Legal harmonisation tools relates to standards and practices. A number of protocols need to be harmonised, which include permit related issues (Article III), fee and charges (Article IV), cross border coordination (X), cross border movement of passengers and crew (XII) and terms for establishment of authorised branch offices (XIV).

Legal instruments also underline the importance of mutual recognition arrangements (MRAs) to promote trade in goods, despite differences in technical and standard related regulations. MRAs are critical in the absence of a harmonised regulatory framework as they eliminate trade barriers and help achieve regulatory objectives. The implementation of the BBIN MVA requires MRAs in a number of areas. This includes specification of vehicles (Article VIII), and temporary admission of vehicles and other customs issues.

Figure 3: Legal and Non-legal Instruments in the BBIN MVA



Source: Authors Construction

Non-legal instruments provide operational flexibilities to countries to coordinate their efforts. It has been recognised that soft laws hold immense importance when countries have diverse political cultures and they are easy to implement as opposed to legally binding rules. A number of protocols of the BBIN MVA are related to non-legal instruments and they require minimum effort in implementation.

For example, Article XVII relating to cooperation on investigation and repression of violations, demand greater cooperation from members to resolve bilateral disputes amicably through discussions. In the same manner, Article XVI, dealing with institutional arrangements, advocates for the setting-up of a National Land Transport Facilitation Committee (NLTF) to review and monitor the implementation of the agreement. These protocols can be implemented through non-legal instruments.

Given the complementarities in the BBIN MVA and the WTO TFA, the role of a regional body in strengthening trade, transit and transport connectivity is an imperative. This also requires understanding about the resources and expertise to implement trade facilitation measures. In this context, a study by the International Trade Centre (ITC) provides a comprehensive framework for the implementation of trade facilitation measures. It includes centralised, decentralized and shared implementation for regional trade facilitation under the WTO TFA.⁴

⁴ *Charting a roadmap to regional integration with the WTO Trade Facilitation Agreement*, International Trade Centre, 2017

Figure 4: ITC's Framework for Implementing Trade Facilitation Measures

Regional bodies have the exclusive responsibility of implementing TF reforms identified with regional TF roadmap and BBIN MVA	Members states have the exclusive responsibility of implementing trade facilitation measures within regional TF roadmap and BBIN MVA	Regional Bodies and member states jointly contribute to the implementation of TF reforms with regional TF roadmap and BBIN MVA
<ul style="list-style-type: none"> Regional body for alert system of food and feed One-stop border post 	<ul style="list-style-type: none"> Authorised economic operators programme Information exchange system 	<ul style="list-style-type: none"> Implementation of one-stop border post Creation of regional trade repository
Centralised Implementation	Decentralised Implementation	Shared Implementation

Source: International Trade Centre, 2017

Centralised Implementation

There are a number of trade facilitation measures under the BBIN MVA and the WTO TFA, which are centralised in nature and require efforts at the regional level. A number of provisions of the BBIN MVA and the WTO TFA can be implemented by creating a regional framework for trade facilitation. Under a centralised implementation plan, the BBIN countries need to set up a regional body and it should take lead in implementing the following provisions:

- Provisions made under Article 1 of the WTO TFA should be implemented through a centralised framework. A regional body can play a vital role in creating a data repository, providing information about trade procedures and formalities of member countries. This one-point data repository will help traders to collect information from one place. This regional body can further set up a regional enquiry point, which should be a platform for exporters and importers to gather relevant information regarding rules, fees and charges, regulations and procedures of doing cross border trade. It is important to mention that Article IV of the BBIN MVA relates to the fees and charges that need to be levied by contracting parties in the agreement. In this sense, the creation of a regional body under a centralised implementation plan will also facilitate the implementation of the BBIN MVA.
- Another example relates to the provisions made under Article VII of the WTO TFA. A regional body can make laws and regulations as per consensus of member countries for harmonising working days and hours of border management agencies, align the procedures and formalities across the countries. Such a regional body can also create the necessary infrastructure for one-stop border post, which would enable seamless movement of cargo vehicles across borders and facilitates the implementation of the BBIN MVA.

- Article 11 of the WTO TFA deals with freedom of transit and holds an immense importance in a regional context. It states that transit rules should be implemented in a manner that they do not disguise restrictions on traffic in transit. This Article (international transit through the territory of the contracting parties) directly relates to the BBIN MVA as it is one of the key features of the agreement and emphasises freedom of transit within the sub-region.

Decentralised Implementation

A number of trade facilitation measures cannot be implemented under a centralised implementation framework due to inadequate economies of scale even if necessary investments for infrastructure development are made. At the same time, substantial human resources and good domestic infrastructure are required for such reforms. Trade facilitation measures that can be fulfilled through a decentralised plan are as follows:

- Establishment of a single window system in a country and its enforcement does not require the consent of others. Some of the BBIN countries have already set up single window system for speedy clearance of cargoes at their ports. Moreover, each country is taking steps to connect with relevant trade bodies in order to develop a single platform for conducting international trade. Keeping this framework in mind, the BBIN countries can also create a similar platform for exchange of automated information without a regional body.
- A similar approach can be applied to provisions made under ‘Trade Facilitation Measures for Authorised Economic Operators’ (AEO). Except provision 7.7.5 of the WTO TFA, where cross-country cooperation requires mutual recognition of Authorised Economic Operators, all other provisions can be implemented exclusively by a member country. The BBIN countries can consider developing guidelines to “ensure common understanding and uniform application of the customs legislation”. However, it is an exclusive responsibility of each BBIN country to apply for operating the AEO mechanism.

Shared Implementation

Another set of trade facilitation measures needs to be implemented at a regional level. This option can be exercised when there is significant scope for shared use of resources (for example, training materials and teams). This can also give a national initiative a regional impact.

- Article VIII and its subsections (Border Agency Cooperation) of the WTO TFA states that: “each of its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation, and transit of goods, must cooperate with one another and coordinate their activities in order to facilitate trade”. Articles X and XV of the BBIN MVA emphasise cross-border cooperation and importance of national laws and regulations with regard to export and import of goods. The role of a regional body on border agency cooperation will be critical in this regard.

- Provisions 1, 2 and 4 under Article VII of the WTO TFA deal with “Release and Clearance of Goods” and can be implemented jointly by a member country and a regional body. A technical team under a regional body can develop software for lodging documents and making payments electronically. For the enforcement of these trade facilitation measures, a regional body can provide capacity building training to customs and other border management officials on how to operate software systems, etc. Similarly, for “Risk Management”, the technical team of a regional body can invent a uniform risk management system for all countries. Each member country then adopts this system for customs control. For its proper functioning and enforcement, the technical team can conduct training programmes to capacitate customs officials.

4

Role of India

Given that India enjoys a distinct position in the BBIN sub-region due to the size of its economy, geographical area and financial resources, the successful implementation of the BBIN MVA will largely depend on how it can contribute to the overall development of soft and hard infrastructure in the BBIN sub-region. This underscores the importance of India's technical assistance and capacity building (TACB) programme in its neighbourhood. In this regard, the Government of India is actively involved in implementing various projects.

It has developed the Indian Development Initiative (IDI), now known as the Indian Development and Economic Assistance Scheme (IDEAS) with the objective of sharing India's development experience through: a) capacity building and skill transfer, b) trade, and c) infrastructure development.⁵

The objective of the IDEAS scheme is to support socio-economic development of partner countries so as to assist in the implementation of their development projects. Table 3 shows India's line of credit (LoC) to Bangladesh and Nepal in the development of their trade and related infrastructure. It is important to note that India's LoC is mainly confined to the development of hard infrastructure in both Bangladesh and Nepal.

For example, in Bangladesh, India is currently establishing a Special Economic Zone in Mongla and an Inland Container Depot cum River Port in Khulna. Similarly, India's LoC in Nepal is focussed on upgrading of road infrastructure in the Terai region, development of cross-border rail links between Jogbani-Biratnagar, Jaynagar-Bardibas, Nepalgunj Road-Nepalgunj, Nautanwa-Bhairhawa, New Jalpaigudi-Kakarbhitta and establishing Integrated Check Posts at Raxaul-Birgunj border point.

Given that a majority of India's commitments under the WTO TFA falls under Category A, it is in a position to provide technical assistance and capacity building support to Bangladesh and Nepal in graduating their commitments from Category C to Categories B and A. This is particularly relevant for Bangladesh, which is graduating from a least developed country (LDC) to a developing one. Nepal is also expected to graduate out of its LDC status.

⁵ <https://www.eximbankindia.in/lines-of-credit#>

**Table 3: India Line of Credit to Bangladesh and Nepal
for Trade Infrastructure Development, 2019**

<i>Bangladesh</i>	US\$mn
Establishment of Indian Economic Zones in Mongla, Bagerhat	88
Establishment of Dhaka IT Special Economic Zone (SEZ) in Keranigonj and Mirsarai in Chittagong	90
Establishment of Inland Container River Port at Ashuganj	51.31
<i>Nepal</i>	US\$mn
Upgradation/Improvement of 12 roads in Nepal	49.42
Upgradation/Improvement of 17 Road contracts	72.34
Upgradation/ Improvement of road Projects	313.85

Source: Export-Import Bank of India, 2019

There could be a number of areas where it can help Bangladesh and Nepal to graduate from Category C and B commitments to Category A. Table 4 maps some select provisions of the WTO TFA on which India's commitments are in Category A but that of Bangladesh and Nepal are in Category C. On these specific areas, India can provide technical assistance and capacity building support to Bangladesh and Nepal so that they can move their commitments from Category C to Category B and gradually to Category A.

The identification of specific areas of such support through consultation with respective bodies in Bangladesh and Nepal is an imperative to design state-of-the-art programmes. The existing technical and capacity building programmes of India for assisting least developed country, including Indian Technical and Economic Cooperation (ITEC) programme of the Ministry of External Affairs, Government of India, have limited coverage regarding trade facilitation measures.

It is, therefore, important for India to expand its existing portfolio of development assistance in the area of trade facilitation to support neighbouring countries that hold economic and strategic interests. Other than this, the Asian Development Bank has the South Asia Sub-regional Economic Cooperation (SASEC) Trade Facilitation Programme, which focuses on the improvement of intra-regional trade by overhauling time-consuming and costly customs procedures. In addition, it also has a SASEC Operational Plan for 10 years with a particular focus on the development of economic corridors and multi-modal cross border transport networks.⁶

⁶ <https://www.adb.org/countries/subregional-programs/sasec>

Table 4: Examples of the WTO TFA Provisions on which India can extend TACB

Commitments	India	Bangladesh	Nepal
Article 7.7: Trade Facilitation Measures for Authorized Operators	Category A	Category C	Category C
Article 7.8: Expedited Shipments	Category A	Category C	Category C
Article 10.1: Formalities and Documentation Requirements	Category A	Category C	Category C

Source: Authors' Construction

5

Conclusion and Recommendations

The overall message of this paper is that sub-optimal nature of trade facilitation remains a major barrier to inter- and intra-regional connectivity between and among the BBIN countries. It inhibits the integration of markets and development of shared production networks. The BBIN countries need to make co-ordinated efforts towards addressing soft and hard infrastructure hurdles, undertake comprehensive legal and non-legal reforms, and define state and regional responsibilities.

It further highlights the role of India in implementation of the BBIN MVA given the size of its economy and financial and technical resources that it can provide for assisting neighbouring countries to deal with its implementation challenges. India can also extend its technical and capacity building support to Bangladesh and Nepal for implementing their commitments under the WTO TFA and that will complement its efforts towards an effective implementation of the BBIN MVA.

In this regard, some recommendations are outlined below.

Export-import Procedures

- For the implementation of the BBIN MVA, it is important for the BBIN countries to make co-ordinated efforts to streamline different export-import procedures. They ought to consider consolidating/mapping all regulatory and commercial requirements to identify unnecessary duplications and, hence, reform existing practices. Countries may explore internationally agreed tools such as those developed by the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) and World Customs Organisation, the TIR Convention (Transports Internationaux Routiers of the International Road Transport Union).
- Single window clearance systems with minimal, predictable and reliable procedures and processes are to be promoted for border control functions. Ideally, a single or principal contact point/authority on both sides of the border can ensure better management of border trade.

Customs-related Reforms

- Customs clearance procedures are not streamlined as goods are examined at multiple customs stations within this sub-region. This causes delay in clearance of cargoes and adversely affects their seamless movement. It is important for the BBIN countries to

evolve a mechanism whereby goods are examined only once when moving through the territory of a third country. The TIR Convention provides a framework in which goods can be easily transported in sealed containers from a country of departure to a country of destination including transiting through a third country without any cross-examination.

- Frequent failure of electronic data inter-change (EDI) system due to inadequate internet connectivity and power supply contributes to substantial delay in cargo clearance at land customs stations. In such situations, exporters and importers have to submit documents manually, which entails additional work for preparing hard copies. Moreover, traders have to take the consent of competent authorities for manual submission. Customs departments of respective countries should ease procedures for submission of manual documents. At the same time, they should take steps to ensure that they do not encounter frequent failure of the EDI system.

Harmonisation of Technical and Regulatory Standards

- Harmonisation of technical standards and Conformity Assessment Procedures need to be promoted in the BBIN sub-region. This should be ensured in key areas such as regulations relating to technical standards, food standards, and those related to transportation and travel. Consensus among national certification institutions may be a positive step in this direction and will pave the way for mutual recognition agreements. Efforts should also be directed towards harmonisation in services, which are particularly related to transportation of goods.

Legal and Non-legal Instruments

The BBIN countries should explore possible legal instruments that can aid the implementation of the BBIN MVA. A careful review of relevant provisions with regard to domestic laws is vital to adopt them. Mutual Recognition Arrangements (MRAs) under legal instruments seems to be one of the easiest options for the BBIN countries as it is a globally tested approach and well-aligned to global trading systems. India-Bangladesh and India-Nepal have initiated negotiations to sign such MRAs and they have to be expedited to facilitate the implementation of the BBIN MVA.

Develop a Regional Framework

- The BBIN countries need to establish a regional body for smooth and effective implementation of the BBIN MVA and the WTO TFA. This regional body should be represented by experts from each country. The main function of this body will be to share knowledge, make a cohesive legal framework and deliver non-legal instruments for effective implementation of various provisions of these agreements. In addition, it should undertake regular *ex-ante* evaluation to assess implementation challenges. Other important tasks of this regional body would be to assume the responsibility for implementing shared instruments and monitor technical assistance and capacity building programmes for trade facilitation reforms.

Technical Assistance and Capacity Building

- Bangladesh and Nepal may experience challenges regarding technical expertise and regulatory capacity building to implement various provisions of the BBIN MVA as well as their commitments to the WTO TFA. Most of their WTO TFA commitments are in Category C while India has its commitments in Category A. Therefore, India should consider extending technical assistance and capacity building support in specific areas of trade facilitation, particularly those related to the implementation of the BBIN MVA and the WTO TFA, to boost sub-regional connectivity. This can be initiated under its IDEAS scheme.

References

- CUTS International (2015). Trade Consignment Mapping in South Asia: A Study of Three SAARC Corridors. CUTS International, Jaipur, India. Available at: [www.cuts-citee.org/TCMSA/pdf/Report-Trade Consignment Mapping in South Asia-A Study of Three SAARC Corridors.pdf](http://www.cuts-citee.org/TCMSA/pdf/Report-Trade%20Consignment%20Mapping%20in%20South%20Asia-A%20Study%20of%20Three%20SAARC%20Corridors.pdf)
- CUTS International (2016). Benefits of the TIR Convention for the Implementation of the BBIN Motor Vehicles Agreement. CUTS International, Jaipur, India. Available at: [www.cuts-citee.org/pdf/Benefits of the TIR Convention for the implementation of the BBIN Motor Vehicles Agreement.pdf](http://www.cuts-citee.org/pdf/Benefits%20of%20the%20TIR%20Convention%20for%20the%20implementation%20of%20the%20BBIN%20Motor%20Vehicles%20Agreement.pdf)
- CUTS International (2019). Bridging the East: Trade and Transport Connectivity in the Bay of Bengal Region. CUTS International, Jaipur, India. Available at: [www.cuts-international.org/bbinmva/pdf/Project Report on Bridging the EastTrade and Transport Connectivity in the Bay of Bengal Region.pdf](http://www.cuts-international.org/bbinmva/pdf/Project%20Report%20on%20Bridging%20the%20EastTrade%20and%20Transport%20Connectivity%20in%20the%20Bay%20of%20Bengal%20Region.pdf)
- De (2011). Trade Facilitation in India: An Analysis of Trade Processes and Procedures. No 9511, Working Papers from Asia-Pacific Research and Training Network on Trade (ARTNeT), an initiative of UNESCAP and IDRC, Canada. Available at: www.unescap.org/resources/trade-facilitation-india-analysis-trade-processes-and-procedures-awp-no-95
- De, P. and Iyengar, K. (2014). Developing Economic Corridors in South Asia. Asian Development Bank. Available at: www.adb.org/sites/default/files/publication/162073/developing-economic-corridors.pdf
- De, Prabir, Abdur Khan and Sachin Chaturvedi (2008). Transit and Trade Barriers in Eastern South Asia: A Review of the Transit Regime and Performance of Strategic Border-Crossings. Asia-Pacific Research and Training Network on Trade Working Paper Series, No. 56. Available at: [www.researchgate.net/publication/5017479 Transit and Trade Barriers in Eastern South Asia A Review of the Transit Regime and Performance of Strategic Border-Crossings](http://www.researchgate.net/publication/5017479_Transit_and_Trade_Barriers_in_Eastern_South_Asia_A_Review_of_the_Transit_Regime_and_Performance_of_Strategic_Border-Crossings)
- Singh, S, Utkarsh Kumar Mishra and Harleen Singh Sandha (2018). The Trade Facilitation Agenda of the WTO and India's Commitments Where does India stand? Commonwealth Trade Policy Discussion Papers. Available at: www.thecommonwealth-ilibrary.org/commonwealth/governance/the-trade-facilitation-agenda-of-the-wto-and-india-s-commitments_498cba5e-en
- Taneja N, Shravani Prakash and Pallavi Kalita (2013). India's Role in Facilitating Trade under SAFTA. Working Paper 263, ICREIR. Available at: https://icrier.org/pdf/working_paper_263.pdf
- World Trade Organisation (2014). Protocol Amending the Marrakesh Agreement Establishing. Available at: www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm

Annexure 1: WTO TFA Commitments of the BBIN Countries

TFA Articles	Summary	Bangladesh	Bhutan	Nepal	India
Information availability	Enquiry points; publication of trade information, including on Internet	Category B:1.1.1(c), 1.1.1(h), 1.2.1(c), 1.4 Category C: 1.3	NA	Category B: 1.1, 1.4 Category C: 1.2, 1.3	Category B: 1.1.1 (b), 1.2.1 (c), 1.3, 1.4 Category C: None
Involvement of the trade community	Structures for consultations; established guidelines for consultations; publications of drafts; existence of notice-and-comment frameworks	Category B:2.1, 2.2 Category C: None	NA	Category B: 2.2 Category C: 2.1	Category B: 2.1.1, 2.1.2 Category C: None
Advance rulings:	Prior statements by the administration to requesting traders concerning the classification, origin, valuation method, etc., applied to specific goods at the time of importation; the rules and process applied to such statements	Category B: None Category C: None	NA	Category B: None Category C: 3.1 to 3.9.	Category B: 3.1, 3.6, 3.7, 3.9 (b) (iii) & 3.9 (b) (iv), 3.9 (c), 3.9(d) Category C: None
Appeal procedures:	The possibility and modalities to appeal administrative decisions by border agencies	Category B: 4.6 Category C: None	NA	Category B: None Category C: 4.1 to 4.6.	Category B: 4.2, 4.4 Category C: None
Fees & charges	Disciplines on the fees and charges imposed on imports and exports; disciplines on penalties	Category B:6.1, 6.2,6.3, Category C: None	NA	Category B: 6.1 Category C: 6.2, 6.3	Category B: 6.3.6 Category C: None
Formalities (Documents):	Acceptance of copies, simplification of trade documents; harmonisation in accordance with international standards	Category B: 10.1.1 (a), 10.2.2, 10.2.3 Category C:	NA	Category B: 10.2, Category C: 10.1, 10.3, 10.7	Category B: 10.2.2 Category C: None
Formalities (Automation):	Electronic exchange of data; use of automated risk management; automated border procedures; electronic payments	Category B: 7.2 Category C: 7.4	NA	Category B: None Category C: 7.2, 7.4	Category B: 7.4 Category C: None

TFA Articles	Summary	Bangladesh	Bhutan	Nepal	India
Formalities (Procedures):	Streamlining of border controls; single submission points for all required documentation (single windows); pre-arrival processing; release of goods separated from final determination and payment of Customs duties; treatment of perishable goods; post-clearance audits; authorised operators	Category B: Category C: 7.1, 7.5, 7.7, 7.9, 10.4	NA	Category B: 7.9, 10.4 Category C: 7.1, 7.3, 7.5, 7.7	Category B: 7.1.2, 7.3, 7.5.4, 7.9.4, 10.4 Category C: None
Internal border agency co-operation:	Control delegation to Customs authorities; institutionalised mechanism supporting co-operation between various border agencies of the country; coordination/harmonisation of data requirements and documentary controls; coordination of inspections; coordinated/shared infrastructure and equipment use	Category B: None Category C: 8.1	NA	Category B: None Category C: 8.1	Category B: None Category C: None
External border agency co-operation:	co-operation with neighbouring and third countries; alignment of procedures and formalities; coordination/harmonisation of data requirements and documentary controls; risk management co-operation; joint controls	Category B: None Category C: 8.2	NA	Category B: None Category C: 8.2	Category B: 8.2 Category C: None
Governance & impartiality:	Customs structures and functions; accountability; ethics policy	Category B: Article 12 Category C: None	NA	Category B: None Category C; Article 12	Category B: None Category C: None

Source: WTO Notification of Category Commitments under the Agreement on Trade Facilitation: Communication from India. G/TFA/N/IND/1. March 14, 2018

WTO Notification of Category Commitments under the Agreement on Trade Facilitation: Communication from Bangladesh. G/TFA/N/BGD/1/Add.1. February 14, 2019

WTO Notification of Category Commitments under the Agreement on Trade Facilitation: Communication from Nepal. G/TFA/N/NPL/1. February 16, 2018



D-217, Bhaskar Marg, Bani Park, Jaipur 302 016, India

Ph: 91.141.228 2821, Fax: 91.141.228 2485

Email: cuts@cuts.org, Website: www.cuts-international.org

Also at Delhi, Kolkata and Chittorgarh (India); Lusaka (Zambia); Nairobi (Kenya); Accra (Ghana); Hanoi (Vietnam); Geneva (Switzerland) and Washington DC (USA).