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# Trade Facilitation Measures in South Asian FTAs: An Overview of Initiatives and Policy Approaches

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# Trade Facilitation Measures in South Asian FTAs: An Overview of Initiatives and Policy Approaches

By

Sachin Chaturvedi*

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# *Executive Summary*

Several South Asian countries have joined the current wave of bilateral and sub-regional free trade agreements (FTA) in the region. The dynamics of regional cooperation is supported by the rapid economic expansion which is creating complementarities for trade expansion. The economic expansion in South Asia has shown divergence in performance. The number of FTAs has gone to as high as 23 in the region of which one is a sub-regional trade grouping (BIMST-EC) and one regional trade agreement (SAFTA) while there are 21 bilateral trade agreements in the region. One of the other interesting feature in the South Asian trade has been the presence of informal channels (or unofficial) nature of trade transactions which is estimated to be somewhere around US $ 3 billion. The informal trade takes place through different countries like Singapore, Sri Lanka and Dubai. Though the intra-regional trade has expanded over the years but is far below its potential as not enough attention is being paid on the launching of trade facilitation (TF) measures.

In this paper we have made an effort to take a stock of various FTAs in South Asia from the point of view of incorporation of TF measures in the text of FTAs. We also look into the individual initiatives being made by the South Asian countries for advancement of trade facilitation especially in context of Articles V, VIII and X. In the context of intra-regional trade in South Asia infrastructural constraints at the land custom stations, under the Article V, is the major challenge to be addressed. The current text of FTAs are not very assuring in this regard. As the paper shows not enough is being attempted to overcome TF related constraints. Except in Indo-Singapore FTA, which later graduated to comprehensive economic partnership agreement (CEPA) not many FTAs have detailed provisions for capacity building and for measures related to infrastructure development. Regional cooperation may help some of these objectives as is being attempted through SAARC but the pace of those initiatives would have to be enhanced.

# *I. Introduction*

In the recent past, there has been a sudden spurt of Free Trade Agreements (FTAs) among developing countries. This process has provided a new dynamics to the global trade flows and has assumed additional significance in light of the suspension of the Doha Round. According to Lamy (2006), more than 50 per cent of global trade is conducted through free trade agreements. However, not all the FTAs can be placed in the same group, as they tend to be very different in terms of contents, focus and coverage. This is especially true of the South-South FTAs, i.e., FTAs among developing countries. Unlike North-South or North-North FTAs the South – South FTAs, as evident from FTAs in South Asia, focus on a very limited set of issues, with few exceptions.

The South Asian region has attempted to intensify regional economic integration over the past decade through regional, sub-regional and bilateral arrangements. At this point, there are 23 proposed FTAs in the region of which one is a sub-regional trade grouping (BIMST-EC) and one regional trade agreement (SAFTA) while 21 bilateral trade agreements in the region.[1] The South Asian Economic Association for Regional Cooperation (SAARC) came into being in 1985 and includes the following countries: Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. The regional cooperation in South Asia has just completed twenty years of its existence. During this period, the region has not only implemented three rounds of SAPTA[2] but also signed the SAFTA Agreement which was launched on July 1st 2006. Unlike many Regional Arrangements in different parts of the world, the regional arrangement in South Asia could make little headway in expanding trade within the region. The region has been maintaining high growth rate in its external sector performance during the last decade, but the growth in the intra-regional trade is a rather recent phenomenon. There are various reasons behind the slow growth in regional trade in South Asia including positive list based approach on exchange of tariff preferences, small product coverage, narrow margins of preferences and inability to address non-tariff barriers, among many other problems.[3] In this context, it is very important that adequate attention is paid at the issues like the trade facilitation in the South Asian FTAs as lack of infrastructure and access to advanced technology have emerged as the key barriers for the expansion of intra-regional trade (Robertson 2005).

After providing an overview of intra-regional trade (Section II) and the status of trade facilitation in the context of the WTO negotiations in South Asia (Section III), this paper makes an effort to look into the TF related provisions in the South Asian FTAs. Conclusion and policy recommendations are drawn in the last section.

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[1] See ESCAP Asia-Pacific Trade and Investment Agreeements Databased (APTIAD)
[2] Fourth Round is adopted by the Heads of the regional countries but not implemented so far.
[3] Kumar, 2005

## *II.Intra-Regional Trade in South Asia*

The intra-regional trade in South Asia as percentage share of its world trade has expanded from 3.3 per cent in 1980-84 to 4.4 per cent in 2000-04 (Table 1). In this period, exports to the region as share of world exports has expanded from 4.4 per cent to 5 per cent and imports have expanded from 2.1 per cent to 3.9 per cent. The Total exports in absolute terms have gone up from US$ 556 in the period 1980-84 to US$3, 872 in 2000-04. The growth rate of exports in the period increased from 1.6 per cent to 21.7 per cent. As is clear, the growth has increased in the period 2000 to 2004 indicating a growing integration of regional economies. The imports in the same period have also expanded from US$ 523 to US$ 3864 with the growth rate reaching at 18 per cent from 5.5 per cent.

**Table 1: Intra-Regional Trade in South Asia: 1980-2004**

| Intra-Regional Trade | 1980-84 | 1985-89 | 1990-94 | 1995-99 | 2000-04 |
|---|---|---|---|---|---|
| Exports (Mill US$) | 556 | 684 | 1148 | 2198 | 3872 |
| Imports (Mill US$) | 523 | 555 | 1134 | 2648 | 3864 |
| Growth of Exports (%) | 1.6 | 7.7 | 11.2 | 10.1 | 21.7 |
| Growth of Imports (%) | 5.5 | 0.1 | 23.4 | 14.4 | 18.1 |
| Share of region in Region's Exports to World (%) | 4.4 | 3.8 | 3.6 | 4.3 | 5.0 |
| Share of region in Region's Imports from World (%) | 2.1 | 1.9 | 2.9 | 4.0 | 3.9 |
| IRT as % of Region's World Trade (%) | 3.3 | 2.9 | 3.2 | 4.2 | 4.4 |

**Source:** Mohanty (2006).

At the individual country level the trend becomes much clearer. Trade transaction between the two major economies viz. India and Pakistan have expanded enormously. In the period 2003-05, exports of Pakistan to India has expanded by 58 per cent while that of India to Pakistan by 47 per cent (Table 2). Similarly, imports by Pakistan from India in the years 2004 and 2005 have expanded by 65 per cent while the imports by India from Pakistan in the same period expanded by 40 per cent (Table 3). The growth rate in exports from Bangladesh to regional members has also been very impressive to Bhutan (19 per cent), India (57 per cent), Pakistan (10 per cent) and Sri Lanka (26 per cent). Pakistan exports to Sri Lanka have also expanded by 42 per cent. In light of comprehensive economic cooperation agreement between India and Sri Lanka, the exports of Sri Lanka to India have expanded by 41 per cent and that of India to Sri Lanka by 13 per cent. In case of Maldives the imports from Nepal have expanded almost by 60 per cent and that from Pakistan by 58 per cent.

**Table 2: Growth in Intra-Regional Flow of Exports (2003-05) in per cent**

| | **Bangladesh** | **Bhutan** | **India** | **Maldives** | **Nepal** | **Pakistan** | **Sri Lanka** |
|---|---|---|---|---|---|---|---|
| Bangladesh | | 19.4 | 57.4 | | 8.4 | 10.9 | 25.9 |
| Bhutan | | | | | | | |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| India | 5.4 | 13.5 | | 11.2 | 19.2 | 46.6 | 13.0 |
| Maldives | | | 25.1 | | | | 6.3 |
| Nepal | -19.7 | | 15.5 | 59.8 | | 58.5 | |
| Pakistan | -10.7 | -15.2 | 57.9 | -6.6 | -13.9 | | 41.8 |
| Sri Lanka | -9.1 | | 41.3 | 13.3 | -40.2 | 11.4 | |
| **Source:** Direction of Trade 2006, IMF. | | | | | | | |

The dynamics of regional cooperation is supported by the rapid economic expansion which is creating complementarities for trade expansion. The economic expansion in South Asia has shown divergence in performance. The aggregate GDP expanded by 6.4 per cent in 2004 while in 2003 it was 7.8 per cent (Asian Development Outlook, ADO, 2005). In the following year India and Pakistan had high economic growth which boosted South Asia's GDP growth back to 7.8 per cent in 2005 (ADO, 2006). India accounts for nearly 80 per cent of the sub-region's output. India has been able to maintain its high growth momentum with an 8.1 per cent expansion of GDP in 2005. The Pakistan economy also registered an impressive economic growth of 8.4 per cent in the same year (ADO, 2006).

**Table 3: Growth in Intra-Regional Flow of Imports (2004-05) in per cent**

| | **Bangladesh** | **Bhutan** | **India** | **Maldives** | **Nepal** | **Pakistan** | **Sri Lanka** |
|---|---|---|---|---|---|---|---|
| Bangladesh | | 86.1 | 15.3 | -50.0 | -19.7 | 25.3 | 4.3 |
| Bhutan | | | | | | | |
| India | 38.7 | 11.2 | | 32.8 | 15.5 | 40.1 | 59.0 |
| Maldives | -50.0 | | 28.8 | | 59.8 | 22.5 | 10.4 |
| Nepal | 8.4 | | 19.2 | | | -13.9 | -40.2 |
| Pakistan | 16.6 | -19.6 | 64.9 | -33.5 | 58.5 | | 10.8 |
| Sri Lanka | 35.9 | | 26.4 | 0.0 | | 36.9 | |
| **Source:** Direction of Trade 2006, IMF. | | | | | | | |

Another way of looking at trade expansion is by counting of trucks. This is particularly relevant in South Asia, since there has been a concern about lack of containerized trade in that region. The number of trucks from Bangladesh to Nepal via India has gone up from 160 in 2003 to 290 in 2004. Similarly, the number of trucks from Nepal to Bangladesh via India reached at a number of 251 in 2003-04 (see Table 4). The number of trucks from Bhutan to Bangladesh via, India was 7240 in 2004-05 and from Bangladesh to Bhutan were 378 in the same period. The number of containers being imported/exported to/from Nepal to/from third countries being routed via Haldia itself has gone up ten fold, which is 70 per cent of exports and 50 per cent of imports (ESCAP, 2003). In this situation, several measures are to be taken to ensure compliance with various provisions of GATT Article V. Indeed, the scope and issues covered under Article V on "Freedom of Transit" have become extremely important as regional trade in South Asia has expanded.

| Table 4: Number of Trucks Movement | | | |
|---|---|---|---|
| | **2003-04** | **2004-05** | **2005-06** |
| Bangladesh-India-Bhutan (via Changrabandha & Jaigaon/Chamurchi LCS) | 161 | 378 | 518 |
| Bhutan-India-Bangladesh | 6948 | 7240 | 5410 |
| Nepal-India-Bangladesh (via. Panitanki-Phulbari LCS) | 251 | 174 | 65 |
| Bangladesh-India-Nepal | 160 | 290 | 11 |
| **Source:** Chaturvedi (2006) | | | |

One of the other interesting feature in South Asian trade is its informal (or unofficial) nature which in the latest available writings is estimated to be somewhere around US $ 3 billion[4]. As is clear from Table 5 the informal trade of US$ 2,770 is considerably higher than the formal trade of US$ 2246. The most interesting number comes from Pakistan, according to which formal trade is just 10 per cent of estimated informal trade.[5] The informal trade takes place through different countries like Singapore, Sri Lanka and Dubai. In brief, intra-regional trade is rapidly picking up in the new millennium, and the large untapped trade potential of the region can be harnessed effectively depending upon the success of the SAFTA process.

**Table 5: India's Formal and Informal Trade with South Asia (Million US $)**

(in million US $)

| | **Export** | | **Import** | | **Total Trade** |
|---|---|---|---|---|---|
| | **Official** | **Unofficial** | **Official** | **Unofficial** | **Unofficial** |
| **Bangladesh** | 1063 | 299 | 54 | 14 | 313 |
| **Bhutan** | 9 | 31.35 | 11 | 1.23 | 32.58 |
| **Nepal** | 342 | n.a. | 156 | n.a. | 2160 |
| **Sri Lanka** | 564 | 142.8 | 47 | 121 | 263.8 |
| **Total SAARC** | 1978 | 473.15 | 268 | 136.23 | 2769.38 |

**Note:** Unofficial trade figures pertain to different years of the 1990s for different countries. Official figures are of 1999.
**Source:** RIS (2002)

## *III. Status of WTO-related TF Measures in South Asia*

Trade facilitation has emerged as the brightest part of Post-Cancun trade negotiations. The Negotiating Group for Trade Facilitation (NGTF) has focused on identifying special and differential treatment for developing and least-developed countries apart from exploring areas for technical assistance and support for capacity building for the developing and the least-developed country members. The current mandate of the NGTF is to clarify and improve Articles V, VIII and X of the GATT 1994. In context of intra-regional trade in South Asia, infrastructural constraints are the major issues hence Article V assumes greater significance. Most of the Land Customs Stations (LCSs) require better infrastructure. The current TF programme may have to go

[4] Taneja, 2004
[5] Taneja (2004)

beyond current mandate and take into account specific WTO commitments which may emerge during the ongoing negotiations as per the GATT Articles V, VIII and X. In context of South Asian countries, we pooled together the various evidences regarding the status of trade facilitation measures introduced vis-à-vis the features identified in the proposed TF Agreement at the WTO. The same is being summarized in this section.

**Bangladesh**

In Bangladesh, Ministry of Finance has Internal Resources Division (IRD) under which the National Board of Revenue (NBR) works. The NBR is the key agency for formulation of policies and appraisal of tax administration in Bangladesh which also is responsible for international negotiations and inter-ministerial deliberations.[6] With the expansion of trade, Bangladesh has taken several measures for ensuring trade facilitation. The specific measures as per the WTO/WCO checklist is summarized in Annex 1 which is being discussed here.

*Article V*

In case of Bangladesh, Article V has a limited relevance as it is not situated next to any landlocked country. Though, Nepal and Bhutan, which are landlocked countries in South Asia have shown keenness to use two sea ports of Bangladesh viz. Chittagong and Mongla, however, it is not clear what all specific measures have been taken by Bangladesh as part of the proposed Article V for instance, related to documentation, securities and guarantees, seals and identifications and charges on transit goods (Bhattacharya and Hussain 2006). The role of private sector in supplementing efforts for implementing Article V is also not clear. However, Bangladesh has established extensive network of institutions for border agency coordination.

*Article VIII*

Fee and charges connected with importation and exportation are clearly defined and placed on internet. The trading community has to pay to access the information. The charges are in form of flat rates. The payments are through the automated system for which World Bank has provided monetary assistance. Bangladesh uses ASYCUDA++ which ensures enhanced risk management for selectivity, profiling and intelligence (Mollis, 2001). It is not clear whether Bangladesh has opted for consularization 9 Bhattacharya et. al, 2006). As part of customs administration modernization project is launched which is led by National Board of Revenue Reforms (Mollis 2004). The EDI system has also been introduced in Bangladesh as per the customs modernization plan.

*Article X*

In Bangladesh, a flat rate is charged for supplying information related to trade by the customs authority which does not reflect the cost of services rendered.[7] However, the

[6] www.nbr-bd.org
[7] i*bid.*

government makes all efforts to make the information available to different stakeholders. The information is provided on rules, regulations and sometimes changes in them. Many a times, this is only available in Bangla. The amount of duty is published on the internet along with details of procedures, entity accessing the duty and time taken. The Chittagong port authority has initiated one step service to reduce time taken in documentation and clearance of goods. Advance ruling and lodgment of data is still to be introduced. Bangladesh has made extensive efforts to establish appeal measures at the level of Commissioner's (Appeals) and Customs Tribunal.

**India**

India has initiated several measures as part of the Trade Facilitation (TF) programme (Chaturvedi, 2006 and Subramaniam, 2005). While most of the measures have already been put in place in the context of Articles VIII and X, the ones left involve significant costs and require careful planning for implementation. In case of Article V, there are certainly major gaps. In India, Central Board of Excise and Customs (CBEC), under the Ministry of Finance, is the key agency for implementing various TF related measures.

*Article V*

The Indian Customs require declaration of all the transit goods as per the standard declaration form available on site and also at the relevant offices. Customs is making an effort to enhance the level of coordination among various border agencies. As different degrees of security concerns are present at different points in the country there is a limited use of simplified transit declaration. Customs has also launched work on simplifying procedures established for the authorized consignors involved in the transit procedures. No duty or tax is charged by India on the transit goods. There are no cash deposits required for goods in transit and securities and guarantees are discharged as soon as the necessary requirements are met.

Transit of goods through India from or to countries adjacent to India is regulated in accordance with the bilateral trade and transit treaties and are subject to such restrictions as may be specified by the Directorate General of Foreign Trade (DGFT) in accordance with international conventions. In order to tackle abuse of the custom transit corridors, the Government of India issues a list of sensitive commodities at periodic intervals, keeping domestic market requirements, up as criteria. At present, there are nine such commodities identified as sensitive commodities. In the recent past, the Directorate of Revenue Intelligence (DRI) has caught several consignments worth millions of rupees which were being directed for domestic consumption in India. This has become a major issue especially with Nepal.

India has signed a formal treaty with Nepal for trade and transit while with Bhutan, the treaty signed in 1995 is only a trade treaty which has just been revised to

accommodate transit concerns. Efforts are also being made to sign a similar treaty with Afghanistan.[8]

*Article VIII*

The rates of customs duties that may be levied on imported goods (and export items in certain cases) are either specific or on *ad valorem* basis or at times specific cum *ad valorem*. Regarding formalities connected with importation and exportation, over the years the number of documents required and the number of copies needed has been reduced. Several initiatives have been made in the last one year itself to avoid duplicate collection of information by the Customs Department. India does not follow consularization. Extensive institutional network has been established to ensure border agency coordination. Since November 2005, India has introduced system of publishing release and clearance data for different quarters in a particular year. As of now, four times in a year data is being released. The Ministry of Commerce and Industry has made efforts for harmonisation of HS codes for facilitating trade.

*Article X*

CBEC has launched a website which contains all the information published by the government related to the rules and regulations about customs. However, in some cases time lag is observed between publication on site and its implementation. The CBEC has introduced institutional mechanisms to ensure consultation at various customs points. Authority for advance ruling is established in 2004 along with Customs, Excise and Services Tax Appellate Tribunal (CESTAT). The risk management system has been introduced in all the customs points.

**Nepal**

Nepal has introduced major reforms process in 1985 leading to wider liberalisation of trade and investment regime. This also led to the introduction of Automated System for Customs Data (ASYCUDA) in selected customs offices as part of a three year programme (2003-06) (Rajkarnikar et.al 2006). Nepal is also making efforts to establish Inland Clearance Depot (ICD) at various points.

*Article V*

Many features of this article are not applicable to Nepal being a land locked country. However, Nepal has launched several measures to facilitate transit trade destination for Nepal. It has signed trade transit treaty with India for easy access to the *Haldia* and other ports. A standardized customs transit declaration document is also introduced, which is in operation with India. With bilateral and multilateral help, efforts are on to improve infrastructure and automation of LCSs.

[8] HT (2005).

*Article VIII*

In Nepal no charges are levied on the traders for seeking any information. All the fee related information is widely published by Nepal. This is also made available on the official site of the customs department. However, information related to the changes in the regulations is not published on the site. The court judgments are not there on this site but are published by law journals.

*Article X*

The Department of Customs has launched a website containing details of laws, regulations, documentary requirement, standing operating practices and tariff classification. The details regarding valuation, duty and tax rates and fee and charges are also available. These information however, are not available at embassies, consulates and trade missions and not all information is available in English. However, information regarding management plans and rulings are not available (Annex 1). The Supreme Court decisions are published in Nepal Law Journal (NLJ). The customs department does not publish proposed changes and information available regarding them. Extensive measures have been taken by Nepal to help customers with client help desk, call centres and trade counters. System for rulings and appeal is in place alongwith system for monitoring and evaluation of practices.

**Pakistan**

In Pakistan, Ministry of Commerce (MoC) and the Central Board of Revenue (CBR) have launched a National Trade and Transport Facilitation Project (NTTFC) in 2001 (Qureshi 2006). The idea is to improve Pakistan's commercial and industrial efficiency and competitiveness with trade facilitation. The Central Board of Revenue oversees the reforms process in the Pakistan Customs, as part of a project, Customs Administrative Reforms (CARE). The project was initiated in February 2002. Since its inception CARE has carried out research and development work to enhance the efficiency of the department through Pakistan Customs Computerized System (PACCS) while the software applications for the system has been developed by a consortium of three software companies, namely, Microsoft, PWC Logistics and AOS.[9] The key achievements and the proposed strategies for the relevant GATT Articles are being summarized (Qureshi 2006).

*Article V*

As per the NTTFC, private sector is being engaged in improving the quicker clearance of goods in transit without any discrimination. A World Bank supported project is being explored for introducing risk assessment and post-clearance audit. The existing system outside PACCS requires owners of cargo destined for an upcountry Customs port to file a declaration to Customs at the port of entry. This declaration, called a TP request, is processed by Customs and the cargo is then allowed to move up country.

[9] WTO (2006).

*Article VIII*

The goods declaration form as a single administrative document for both export and import is introduced by the Collectorates of Customs under the guidance from CBR. Similarly, standard documents for port clearance of ships are being attempted through the FAL Convention of International Maritime Organization (IMO).[10] In this regard, training of manpower is also being attempted. Increasing attention is being paid for automation under the framework of UN Layout Key. Customs procedures are being improved for faster clearance of goods. In 2002, the CBR introduced customs administrative reforms setting the stage for launching of Pakistan Customs Computerised System (PACCS). PACCS is completely automated.[11] All declarations are processed by highly advanced and automated processing and Risk Management Systems. All information regarding receipt of request, clearance of cargo etc. is delivered online to the trading community. In case any clarifications regarding on declaration are deemed necessary in that case information assistance centres are established. PACCS treats the Goods Declaration (Shipping Bill) as a request for rebate. Forms are not required to be presented to Customs; instead Form-E number is to be entered as part of GD. For sanction of rebate claims, Bank Credit Advices (BCA) is not a pre-requisite.

*Article X*

Increasingly all the rules and regulations are being kept on internet for wider access. Tracking of system through the electronic seal and electronic application numbers is also being implemented. PACCS would ensure paper less trade transactions with round the clock operations and would envisage achieving single window clearance. PACCS also proposes to implement risk management system.

**Sri Lanka**

There are several measures launched by the Department of Commerce of Sri Lanka, which comes under the purview of the Ministry of Trade, Commerce, Consumer Affairs and Marketing Development, to address trade facilitation related requirements. The prevailing Sri Lankan position on GATT Articles V, VIII and X is being summarized herewith.[12]

*Article V*

In Sri Lanka, the government has decided to support rapid clearance of goods in transit. In this context, a policy of non-discrimination for transit goods is in place which also ensures simplified clearance procedures. Provisions have also been made for acceptance of guarantees against the clearance of goods in transit. On a selective basis, risk assessment is launched while pre-arrival clearance is extended only to courier cargo

[10] *ibid*.
[11] http://www.paccs.gov.pk
[12] Based on Government of Sri Lanka (2006).

with additional measures for quicker clearance of perishable goods. The scheme of post-clearance audit has also been introduced.

*Article VIII*

There is an effort to bring in greater transparency and non-discrimination in fee and charges with provisions for online payments. Efforts have been made to reduce duty bias prevalent between imports and exports. With the partial operation of single window clearance the documentation and declaration have been made simple. In case of declaration UN layout key is being followed and it is fully automated. The role of CHAs and customs brokers is being streamlined. Now, it is possible to collect baggage without the help of brokers. Apart from this, several other provisions like pre-shipment inspection, consular transactions are being done away with along with licensing which now is required only for few items.

*Article X*

The mammoth task of publication of trade regulations is being achieved with the help of several stakeholders. Large amount of this is being done through internet. Apart from rules and regulations, penalty provisions as published in government gazette, customs appeal, judgments, etc. are also being made available. There is a move to eventually arrive at establishment of single window enquiry point. However, at this stage different agencies are maintaining their own enquiry points.

## *IV. Trade Facilitation in South Asian FTAs*

In addition to their active participation in the multilateral trading system, South Asian countries have increasingly been engaged in preferential trade initiatives at the bilateral or/and regional level (see table 6). This section provides a brief profile of BIMSTEC and SAFTA, two key FTAs in this region, and a comparative analysis of their trade facilitation provisions in the context of the WTO negotiations. Three key bilateral trade agreements, namely India-Sri Lanka, Sri Lanka-Pakistan and India-Singapore are also included in the comparative analysis below (see tables 7-9).

**Table 6: Preferential Trade Arrangements in South Asia**

| **Agreements** | **Signed/ Entered into Force** | **Notes** |
|---|---|---|
| BIMSTEC | 2004 | FTA-regional |
| SAFTA | 2006 | FTA-regional |
| SAPTA | 1995 | PTA Regional |
| ASEAN-India | 2004 | Framework Agreement |
| Bhutan-India | 1995 | FTA-bilateral |
| Bangladesh-India | 2006 | Framework Agreement-bilateral |
| Bangladesh-Sri Lanka | Proposed | FTA-bilateral |
| China-Pakistan | 2005 | FTA-bilateral |

| | | |
|---|---|---|
| India-Chile | Under negotiation since 2005 | PTA-Cross Continental Bilateral |
| India-Gulf Cooperation Council (GCC) Framework Agreement | 2004 | |
| India-Nepal | 1991 | FTA-bilateral |
| India-south African Customs Union (SACU) Trade Agreement | Proposed | PTA |
| India-Singapore Comprehensive Economic Cooperation Agreement | 2005 | FTA-bilateral |
| India-Sri Lanka | 2001 | FTA-bilateral |
| India-Afghanistan | 2003 | PTA-bilateral |
| India-Korea Comprehensive Economic Partnership Agreement | Proposed | Framework agreement-bilateral |
| India-MERCOSUR | 2005 | PTA |
| India-Thailand | 2003 | Framework Agreement-bilateral |
| India-Pakistan | Proposed | FTA-bilateral |
| Pakistan-Malaysia | 2005 | FTA-bilateral |
| Pakistan-Singapore | Proposed | FTA-bilateral |
| Pakistan-Sri Lanka | 2005 | FTA-bilateral |
| Pakistan-USA Trade and Investment Framework Agreement | Proposed | Framework Agreement-bilateral |
| Sri Lanka-Singapore Comprehensive Economic Partnership Agreement | Proposed | Framework Agreement-bilateral |
| **Source:** ADB (2006) | | |

## III.1 SAFTA

In the context of rapid economic growth in South Asia, launching of SAFTA assumes additional importance. South Asia's GDP growth is estimated to have reach 7.8 per cent in 2005 which is much higher than the sub-regions actual growth of 7.2 per cent in 2004 (ADB, 2006). Empirical studies have shown that despite faster economic growth in the member countries, the potential for regional growth has not been tapped fully (Mohanty, 2005).

The South Asia Free Trade Agreement (SAFTA) basically replaces the earlier agreement of SAPTA which was over with the completion of three rounds[13]. Actually, in the time period of 1995-2003 four SAPTA rounds were launched but only three were successful. The current members are Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. SAFTA came into effect on 1 January 2006, with the aim of reducing tariffs for intraregional trade among the seven SAARC members. Pakistan and India are to complete implementation by 2012, Sri Lanka by 2013 and Bangladesh, Bhutan, Maldives and Nepal by 2015.

As summarized in Table 7, SAFTA has some important provision for ensuring trade facilitation in the region but at the same time misses out on many vital provisions. It

[13] http://www.saarc-sec.org/data/summit12/saftaagreement.pdf

calls for prompt publication of rules and regulations and identification of enquiry points for exchange of information on mandatory requirements. There are also provisions related to consultation on rules of origin with emphasis on simplification of formalities connected with exportation and importation. The SAFTA agreement also suggests paperless trading, electronic means of reporting and identification of low risk, high risk goods. There are also provisions related to harmonization of standards, technical assistance for LDCs and customs cooperation at the SAARC level. SAARC already has a Group on Customs Cooperation which was set up in 1996. This is entrusted with the mandate to harmonize customs rules and regulations and to simplify documentation, procedural requirements and improve infrastructure facilities and provide training for human resource development. Four meetings of the Group have been held. A Customs Action Plan has been agreed upon. The Fourth Meeting of the Group on Customs Cooperation (Faridabad – India, 12-13 August 2004) considered the Report of the Customs consultant engaged to study and make recommendations on measures to be taken for simplification of procedures and standardization of customs documents and declarations.[14]

## III.2 BIMSTEC

The idea of this regional co-operation was first mooted by Bangladesh, India, Sri Lanka and Thailand at a meeting in Bangkok in June 1997. The Bangkok Declaration of 6th June 1997 on the establishment of the Bangladesh- India-Sri Lanka-Thailand Economic Co-operation (BIST-EC) was adopted. Later, in 2004 Nepal and Bhutan also joined and the grouping was renamed as Bay of Bengal Initiative for Multisectoral Techno-Economic Cooperation (BIMSTEC).[15] This is a sub-regional grouping combining some geographically contiguous South Asian and ASEAN countries in the Bay of Bengal.

The Sixth BIMSTEC Ministerial Meeting held in Phuket, Thailand in February 2004 has provided a major impetus to the grouping with the signing of a Framework Agreement for BIMSTEC FTA and entry of Bhutan and Nepal as Members. The First Summit of the BIMSTEC, held in Bangkok in July, was another landmark in the evolution of the Grouping. The combined size of BIMSTEC member economies is US $ 750 billion with 1.3 billion population. The members are at different levels of economic and industrial development and having different natural resource endowments. The potential of intra-regional trade remains untapped because of tariff and non-tariff barriers, poor communication and transport links, lack of information about the supply capabilities, among other barriers.

Though BIMSTEC identified many specific areas for cooperation, the FTA agreement does not contain specific provisions on trade facilitation.[16] It suggests facilitating trade without any explicit elaboration of instruments except with the suggestion to establish mechanisms for rules of origin and for simplification of

[14] www.saarc-sec.org
[15] RIS (2004).
[16] http://bimstec.org

formalities connected with importation and exportation. There are some suggestions for harmonisation of standards; introduction of e-commerce, improving customs cooperation and technical assistance for LDCs in the group.

| Table 7: Provisions for Trade Facilitation Measures in South Asian FTAs | | | | | |
|---|---|---|---|---|---|
| **Name of organization / agreement** | **SAFTA (South Asian Free Trade Area)** | **BIMSTEC** | **Indo-Sri Lanka** | **Pakistan-Sri Lanka** | **Indo-Singapore** |
| **Members** | Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka | Bangladesh, Bhutan, India, Myanmar, Nepal, Sri Lanka, Thailand | India, Sri Lanka | Pakistan and Sri Lanka | India and Singapore |
| **Year of signing, entry into force** | 2004, (1 January) 2006. Before this four rounds of South Asian Preferential Trade Area (SAPTA) were completed since 1995. | 8th Feb. 2004 while Bangladesh joined in June 2004. | 28 December 1998 and entered into force on March 1, 2000. | 2002, June 12, 2005 | 29th June 2005 |
| **Type of agreement** | Free Trade Agreement | Free Trade Agreement | Free Trade Agreement | Free Trade Agreement | CECA |
| **Integration** | Currently tariff reductions, long-term goal: free trade area by 2016. Early harvest programme: non-least developed countries (India, Pakistan, Sri Lanka) phase out tariffs for least developed states by 2009 while the least developed states will have time until 2016 to remove the impediments | To strengthen and enhance economic, trade and investment cooperation among the parties; progressively liberalize and promote trade in goods and services, create a transparent, liberal and facilitative investment regime; explore new areas and develop appropriate measures for closer cooperation among the Parties, and facilitate the more effective economic integration of the least developed countries in the region, and bridge the development gap among the Parties. | Provides duty free concession to wide range of products under the agreement, also grants margin of preferences (MOP) on the applied rate of general (MFN) tariffs for a select number of product lines. | Aims at expanding the scope of the current Free Trade Agreement and moving towards a Comprehensive Economic partnership Agreement, covering trade in services and investment cooperation | Liberalise trade in goods as per Article XXIV of the GATT and in services as per the Article V. Establish a transparent, predictable and facilitative investment regime; Build upon their commitments at the WTO and for Indo ASEAN linkages |

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|---|---|---|---|---|---|
| **Legal base for economical integration & TF measures** | SAFTA agreement, SMC agreements | As per Article 24, GATT 1994. | Relevant Provisions of the General Agreement on Tariff and Trade, 1994. | As per Article 24, GATT 1994. | As per Article 24, GATT 1994. |
| **Structure** | SAFTA Ministerial Council (SMC) consisting of the Ministers of Commerce/Trade; Committee of Experts (COE) on the level of senior economic officials; SAARC Secretariat as secretarial support to SMC and COE | BIMSTEC Trade Negotiating Committee (TNC) shall established the programme of negotiations. | Government of the Republic of India and the Government of the Democratic Socialist Republic of Sri Lanka | Pakistan –SL Framework Agreement. | Republic of India and Republic of Singapore |
| **Enforcement** | Amicable dispute settlement by bilateral consultations, COE acts as Dispute Settlement Body, appeal against the COE recommendations to the SMC (SMC recommendation enforceable by [limited] withdrawal of concessions) | Appropriate formal dispute settlement procedures to be established by the parties. | Mutually agreed institutional arrangements for effective and smooth implementation of the agreement. | The Department of Commerce of the Ministry of Trade, Commerce and Consumer Affairs is the Authority responsible for all matters relating to the implementation of the Agreement, including the issuance of Certificates of Origin for the products exported under the Agreement. | Proposes to develop adequate mechanisms to address enforcement related issues. |

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| **Tariff reduction by** | Tariff schedules, use of "Sensitive Lists" (exemption from tariff schedules) | Fast track and normal track are identified for developing countries and LDC members for reduction of tariffs. | Tariff reduction is discussed in 8 Annexes to the Agreement (Annex A, B, C, D -1 , D-2, E, F-1 and F-2. | The Negative list of Pakistan consists of 540 HS tariff lines (products) at six digit level. Being on the Negative List, these products will not be entitled to enjoy any tariff concessions, when imported from Sri Lanka<br><br>The Immediate Concession List contains a total of 206 HS tariff lines (products) at six digit level and Sri Lanka will receive 100% duty free access for these products in the Pakistan market.<br><br>The Negative list of Sri Lanka contains a total of 697 HS tariff lines (products) at six digit level and these products will not be entitled to enjoy any tariff concessions, when exported to Sri Lanka.<br><br>Sri Lanka has listed a total of 102 HS tariff lines at six-digit level, on which Pakistan will receive 100% duty free access. | As per the Indian lists identified in CECA, there is a list of products under the early harvest programme, which is in place since 1st August 2005. Then are the lists of products for which phased elimination in duties is planned by 1st April 2009 and few other goods on concessional duties with the margin of preference offered by India is given in the list. Apart from this is another list of products which would work on applied MFN duties thereby attracts no concession in duty. In case of Singapore, there would be complete withdrawal of all tariffs since the CECA is enforced. |
| **Tariff levels** | Maximum tariffs by 2008: non-least developed states (India, Pakistan, Sri Lanka): 20%, least developed states: 30% | The products except those included in the negative list shall be subject to tariff reduction or elimination as per | Establish a Free Trade Area for the purpose of free movement of goods between their | The products listed in the Attachment IV are entitled to receive a preferential duty margin | Convergence to be achieved as per the schedules given in different annexures. |

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| | | fast track and normal track. In the fast track party on its own accord shall have their respective applied MFN tariffs rates gradually reduced while in the normal track the party shall reduce the tariff rates in accordance with mutually agreed rates. | countries through elimination of tariffs on the movement of goods | of 20% on the applied MFN duty rate with no quantitative restrictions.<br><br>Sri Lanka has granted Pakistan Tariff Rate Quota for 6,000 m/t of Basmati Rice and 1,000 m/t of Potatoes per each calendar year (January - December) on duty-free basis. However, import of potatoes is permitted only during Sri Lanka 's off season. (2/3 to be imported during June – July and 1/3 during October –November each year). | |

## III.3 Bilateral FTAs

In recent past, bilateral agreements have expanded manifolds in the sub-region. By 2005, nearly eleven bilateral FTAs have been signed, out of which only two are notified to WTO viz. SAPTA[17] (notified on 25th April 1997) and India-Sri Lanka (notified on 27th June 2002). Both of these are not WTO plus in nature[18]. Among the non-notified WTO agreements are several agreements which are listed in Table 6. As mentioned earlier, none of these agreements are WTO Plus and in fact may also not be considered as "full blown" FTAs. These agreements range from minimum understanding on tariff schedules, to tariff preferences and concessions. There is hardly any mention of issues related to trade facilitation.

In this section, we are taking up three bilateral trade agreements viz. India-Sri Lanka, Sri Lanka-Pakistan and India-Singapore for detailed study as summarized in Table 7, Table 8 and Table 9. Though the trade facilitation related provisions are limited in the Indo-Sri Lanka and Pakistan-Sri Lanka FTAs, provisions related to consultation regarding rules of origin are included. They also propose institutional mechanisms for appeal procedures. In the case of the Indo-Sri Lanka FTA, the two parties established an Arbitration Tribunal for binding decisions on origin. In the Pakistan-Sri Lanka FTA, it is proposed to establish a joint commission.

The most comprehensive bilateral FTA in the region is India-Singapore CECA which has several provisions enumerating the details of measures to be launched for ensuring trade facilitation[19]. It suggests prompt publication of laws and regulations, transfer of trade related information in electronic format and eventually head for paperless trading. There is also suggestion to introduce risk analysis and mutual verification and certification (Article 16.7). There is also a provision for advance ruling and sharing of best practices related to impartiality, non-discriminatory practices and transparency. The CECA has specific provisions for technical assistance; mutual cooperation for streamlining customs procedures and electronic transfer of data.

[17] http://www.saarc-sec/org/main.php?t=2.1.5

[18] The term 'WTO Plus provisions' refers to the condition when agreements incorporate commitments beyond what has already being agreed to at the WTO.

[19] http://app.fta.gov.sg/data//fta/file/India-Singapore%20Comprehensive%20Economic%20Cooperation%20Agreement.pdf

**Table 8: Publication and Availability of Information in South Asian FTAs**

| Main Areas covered | TF Measures or Groups of TF Measures | SAFTA | BIMSTEC | Indo-Sri Lanka | Pakistan-Sri Lanka | Indo-Singapore |
|---|---|---|---|---|---|---|
| Publication & availability of information | Publication of trade regulation | - Incorporation of GATT Art. X<br>- Prompt publication of laws & regulation | Proposes to take measures for facilitating trade but no explicit mention of measures. | N.A. | N.A. | Prompt publication of laws & regulation |
| | Internet publication | - N.A. | - N.A. | N.A. | N.A. | Transfer of trade related information in electronic format only. Proposes paper less trading. |
| | Notification of trade regulation | - Notification of any changes to mandatory requirements | - N.A. | N.A. | N.A. | N.A. |
| | Establishment of enquiry points/ Single National Focal Points (SNFP) | - Contact points to exchange information on mandatory requirements | - N.A. | N.A. | N.A. | No provision |
| | Other measures to enhance availability & exchange of information | - Request for consultation | - N.A. | N.A. | N.A. | Specifically suggests that CECA do not require any party to publish law enforcement procedures and internal operational guidelines including those related to conducting risk analysis and targeting methodologies. |
| Time between publication & implementation | Interval between publication and entry into force | - Publication before or by entry into force of measures with affect to trade in services | - N.A. | N.A. | N.A. | No mention of this. |

| Main Areas covered | TF Measures or Groups of TF Measures | SAFTA | BIMSTEC | Indo-Sri Lanka | Pakistan-Sri Lanka | Indo-Singapore |
|---|---|---|---|---|---|---|
| Consultation | Prior consultation and commenting on new and amended rules | - Consultation regarding rules of origin | -Proposes to develop mechanisms for Rules of Origin | - Consultation regarding rules of origin.<br>- Consultation on protecting mutual trade interest. (Article VIII) | - Consultation regarding rules of origin.<br>Consultation on protecting mutual trade interest. (Article VIII) | Mutual verification of certificate of origin (Article 16.7) |
| Advance rulings | Provision of advance rulings | N.A.\ | - N.A. | N.A. | N.A. | Issuance of written advance rulings prior to the importation of goods with due exit clause. |
| Appeal procedures | Right of appeal | - Right of appeal for matters relating to eligibility for preferential tariff treatment | - N.A. | Two parties to establish Arbitral Tribunal for binding decision. | Joint Committee to be established | No mention of this. |
| | Release of goods in event of appeal | N.A. | - N.A. | N.A. | N.A. | No mention of this. |
| | Appeal mechanism | N.A. | - N.A. | N.A. | N.A. | No mention of this. |
| Other measures to enhance impartiality, non-discrimination & transparency | Uniform administration of trade regulations | N.A. | - N.A. | N.A. | N.A. | N.A. |
| | Maintenance/ reinforcement of integrity and ethical conduct among officials | N.A. | - N.A. | N.A. | N.A. | Sharing of best practices for enhancing each other capacities. |

| Table 9: Provisions related to Importation and Exportation in South Asian FTAs | | | | | | |
|---|---|---|---|---|---|---|
| **Main Areas covered** | **TF Measures or Groups of TF Measures** | **SAFTA** | **BIMSTEC** | **Indo-Sri Lanka** | **Pakistan-Sri Lanka** | **Indo-Singapore** |
| Fees & charges connected with importation & exportation | General discipline on fees & charges | - Limitation to approximate cost of services rendered | - N.A. | N.A. | N.A. | Should be covering approximate cost of services rendered. |
| | Reduction of number & diversity of fees & charges | - N.A. | - N.A. | N.A. | N.A. | No mention but suggests countervailing and anti-dumping duties to be consistent with WTO. |
| | Publication/notification of fees & charges | - Publication of all trade related rules | - N.A. | N.A. | N.A. | Publication of all provisions. |
| | Prohibition of collection of unpublished fees & charges | N.A. | - N.A. | N.A. | N.A. | N.A. |
| | Periodic review of fees & charges | - Periodic review of customs procedures | - N.A. | N.A. | N.A. | N.A. |
| | Other measures | - No indirect protection by or fiscal purposes of fees & charges<br>- Abolition of export duties for specific goods | - N.A. | N.A. | N.A. | Electronic transmission and digital products to be exempted. |
| Formalities connected with importation & exportation | Discipline on formalities/procedures & data/documentation requirements | - Principle of simplification, no explicit measures | - Principle of simplification, no explicit measures | N.A. | N.A. | Explicit provisions specifically related to certificate of origin and manpower movement. |
| | Reduction of formalities & documentation requirements | - Principle of simplification, no explicit measures | - Principle of simplification, no explicit measures | N.A. | N.A. | Proposes electronic transactions. |
| | Use of international/ regional standards | - WCO practices and standards including Revised Kyoto Convention | - Emphasises on harmonization. | N.A. | N.A. | N.A. |
| | Acceptance of copies & commercially available information | N.A. | - N.A. | N.A. | N.A. | N.A. |

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| | Automation | - Use of paperless trading taking into account methodologies agreed in APEC and WCO<br>- Electronic means for all reporting requirements | - Proposes faster automation. | N.A. | N.A. | Fully electronic trade transactions. |
| | Single Window (one-time submission) | N.A. | N.A. | N.A. | N.A. | No (Singapore has Single Window facilities) |
| | Other measures | N.A. | N.A. | N.A. | N.A. | N.A. |
| Consularization | Prohibition of consular transaction requirements | N.A. | N.A. | N.A. | N.A. | N.A. |
| Border agency cooperation | Coordination of border activities | N.A. | N.A. | N.A. | N.A. | N.A. |
| Release & clearance of goods | Pre-arrival clearance | N.A. | N.A. | N.A. | N.A. | No provision but reflects on its need in the first para itself. |
| | Expedited procedures for express shipments | N.A. | N.A. | N.A. | N.A. | N.A. |
| | Application of risk management techniques | - Low-risk/ high-risk goods<br>- Develop further risk management techniques<br>- Sharing of best practices | N.A. | N.A. | N.A. | Identification of low risk/ high risk goods. Customs compliance at the time of entry shall not exceed 5 per cent of total customs transactions |
| | Post-clearance audit (PCA) | N.A. | N.A. | N.A. | N.A. | N.A. |
| | Separating release from clearance procedures | N.A. | N.A. | N.A. | N.A. | N.A. |
| | Publication of average release & clearance times | N.A. | N.A. | N.A. | N.A. | Provisions for exchange of information. |
| | Other measures | N.A. | N.A. | N.A. | N.A. | Develop risk management techniques. |

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| Tariffs & tariff classification | Schedules | - Elimination of tariffs/ customs duties | | N.A. | N.A. | |
| | Objective criteria for tariff classification | - Application of HS Convention | | N.A. | N.A. | HS conventions. |
| | Other measures | - No export duties on certain goods | | N.A. | N.A. | |
| Matters related to goods in transit | Non-discrimination | N.A. | | N.A. | N.A. | Transit goods would not be discriminated. |
| | Discipline on fees & charges | N.A. | | N.A. | N.A. | No additional fees charged. |
| | Discipline on transit formalities & documentation requirements | N.A. | | N.A. | N.A. | No additional documentation required. (Article 3.14) |
| | Coordination & cooperation | - Provisions regarding consignment | | N.A. | N.A. | Mechanism in place. |
| Exchange & handling of information | Mechanism for the exchange & handling of information | - Exchange of information between customs administrations to assist investigation and prevention of infringements of customs law | | N.A. | N.A. | - Electronic exchange of information<br>- Confidentiality of information if it adversely affects business interest. |
| Customs Valuation | Use of international standards | - Customs Value determined according to GATT Art. VII and WTO Customs Valuation Agreement | Broad statement to improve cooperation in this area. | N.A. | N.A. | Article VII of GATT to be the basis. |
| Harmonisation/ Standardisation | Harmonisation of technical standards | - Harmonisation of mandatory require-ments taking into account international standards and guidelines<br>- Harmonised requirements for certificates of origin | - Harmonised requirements for certificates of origin. | N.A. | N.A. | Word towards harmonization of respective mandatory requirements. (Article 5.3) |

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| | Mutual recognition of test facilities/ certifications | - Mutual recognition of electronic signatures & digital certificates<br>- Accept equivalence of mandatory requirements, conformity assessments & approval procedures in certain sectors | - Proposes harmonization with N.A. | N.A. | N.A. | Explicit provisions mentioned (Article 5.5) |
| | Other measures | - Adoption of UNCITRAL Model Law on Electronic Commerce | - Refers to promotion of E- Commerce. | N.A. | N.A. | WTO Information Technology Agreement to be the basis. |
| Cooperation/ assistance | Training and HR development | N.A. | N.A. | N.A. | N.A. | Specific provisions for capacity development. |
| | Technical Assistance | - Cooperative activities, TA & CB to address sanitary & phytosanitary matters | - Proposes measures especially for LDCs in the group. | N.A. | N.A. | Mutual support. |
| | Capacity Building | - Cooperative activities, TA & CB to address sanitary & phytosanitary matters | - Proposes measures especially for LDCs in the group. | N.A. | N.A. | Specific provisions for capacity development. |
| | Cooperation | - Cooperative activities, TA & CB to address sanitary & phytosanitary matters<br>- Consultation & cooperation regarding rules of origin | - Cooperative activities, TA & CB to address standard related issues<br>- Consultation & cooperation regarding rules of origin | N.A. | N.A. | Consultation and cooperation for Rules of Origin. |
| Relationship government- | Customs/business partnership | Not explicitly | Improve Customs Cooperation | N.A. | N.A. | Explicit provisions. |

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| business | Improve business mobility | - Short-term business visitor visa ("single immigration formality")<br>- Long-term visa for intra-corporate transferees | - Improve Business visa granting process. | N.A. | N.A. | Mobility of business at sectoral level is defined. |

# *IV Conclusions and Policy Recommendations*

The high growth in South Asia, driven by strong performance of major economies is acting as catalyst for enhanced intra-regional trade. However, this expansion in intra-regional trade may not be sustainable merely on the basis of individual growth in economies. As is clear, from the earlier discussion, most of the FTAs in the South Asian region do not contain any specific measures to ensure mechanism for trade facilitation.

In this context, the delay in the launching of WTO trade facilitation agreement should not delay *suo moto* introduction of these measures in FTAs. The region should urgently address incorporation of TF measures for ensuring adequate growth in the regional trade. As has emerged from the previous analysis, most of the member countries in the sub-region have already proposed to bring in requirements of WTO/WCO checklist on TF measures as per the Articles V, VIII and X. The major gaps in these Articles should be addressed especially in context of Article V related issues which may have potential to become major trade irritant in the region.

**Movement of Transit Goods**

The implementation of Article V itself requires a couple of additional measures like recognition of motor vehicle act between India and Bangladesh; promotion of containerization of truck movement between Bangladesh and Nepal via. India and transfer of transit good via. Haldia port in Calcutta to Panitanki in Nepal. The 35 kilometers area between Phulbari in Bangladesh to Panitanki in Nepal is one of the most difficult territories which even require army support for protection purposes.[20] The FTAs in the South Asian region may not have desired impact unless some of these measures are urgently introduced. The containerization of regional trade would also help address some of the security concerns which have been holding back trade promotion efforts.[21]

The additional measures required under Articles VIII and X which are being discussed at WTO should also be considered for inclusion in the text of various FTAs for instance, documentation and authorized trade and securities and guarantees which would be discussed here in details. However, the examination of transit goods based on the application of risk management system is not in place as this feature has not been introduced in the bilateral treaties. Similarly, no simplified procedures are being established for authorized consigners involved in transit procedures as this has also not been included in the bilateral treaties. In the case of Bhutan and Nepal, the Indian government is working closely to gradually evolve such a list.

The major transit points identified between India and Bhutan are corridors which require high cost and time for moving cargo along these corridors. For instance, an example of inefficient cross-border operation is the Kolkata-Petrapole / Benapole-Dhaka

[20] Chaturvedi, Sachin (2006).
[21] *Ibid*

corridor, which provide a major connection between the eastern part of India and Bangladesh. This 300 kilometer corridor takes 3-6 days for any Kolkata-originating cargoes to reach Dhaka, which otherwise would take 2 days in river routes.

**FTAs to emphasize on Border Agency Coordination**

In the Indo-Singapore FTA, there is a provision for establishing coordination between various border agencies for facilitating quicker clearance of documentary requirements. Such provisions are possible when infrastructure at the land customs stations (LCSs) is improved. Though, after several consultations at the regional level facilitated by the SAARC, a common document was developed but has yet to be accepted and implemented by the various agencies involved. Apart from lack of infrastructure, a key challenge here comes from the security concerns which tend to defeat the implementation of some trade facilitation measures (e.g., time limits on document processing). At the LCS, infrastructural challenges include the absence of warehousing facility, absence of weighing gadgets, lack of proper parking facilities and also that of quarantine facilities.

**Capacity Building**

There is no effective mechanism with neighbouring countries for better control of border ports. Therefore, effective mechanisms are needed by those countries which have huge port facilities for improving the control and responsibilities at the border ports. There are no gadgets installed at most of the LCS, so containers can not be scanned. This is a major challenge for RMS and is also a potential quarantine threat. Since the LCS also lack automation it becomes a major crippling factor. In this context, FTAs could incorporate comprehensive measures related to capacity building with the trading partners.

**Broadening the Focus of FTAs**

As observed earlier, there is an urgent need to rope in TF measures in the FTAs being signed in South Asia. This may help in addressing the fundamental challenges related to infrastructure, documentation requirement and border agency coordination. We have also discussed the need of paying attention at related agreements for trade facilitation. For example, commercial motor vehicle agreement between India and Bangladesh as is the case with Nepal. Consequently, trucks carrying various consignments have to be de-loaded at Bangladesh border and then taken to the containers from the Nepal as Nepalese trucks can easily enter in Indian border. Though, Nepal officially allows Indian trucks but unofficially goods are to be carried by Nepalese trucks as the local agents do not allow Indian trucks to enter.[22]

[22] Personal Communication with CHAs.

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## Annex 1: Status of WTO Trade Facilitation Measures in South Asia

| | | India | | Bangladesh | | Nepal | | Sri Lanka | |
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| **S. N.** | **Question** | **Response** | **Comments** | **Response** | **Comments** | **Response** | **Comments** | **Response** | **Comments** |
| | | [Yes=1; No=0] | | [Yes=1; No=0] | | [Yes=1; No=0] | | [Yes=1; No=0] | |
| **Questions/Issues related mainly to Article X (publication and administration of trade regulations)** | | | | | | | | | |
| | **PUBLICATION/AVAILABILITY OF INFORMATION** | | | | | | | | |
| 1 | Is any of the following published? | | | | | | | | |
| | laws | 1 | | 1 | | 1 | | 1 | |
| | regulations | 1 | | 1 | | 1 | | 1 | |
| | documentary requirements | 1 | | 1 | Changes | 1 | | 1 | |
| | standard operating practices | 1 | | 1 | Sectoral | 1 | | 1 | |
| | standard processing times | 0 | No decision to publish it so far. | 1 | 3 days for PSI | 1 | | 0 | |
| | specific customs procedures | 1 | | 1 | | 1 | | 1 | |
| | tariff classification | 1 | | 1 | | 1 | | 1 | |
| | valuation | 0 | Provided by local customs office | 1 | GATT valuation | 1 | | 0 | |
| | exemptions, prohibitions, restrictions | 1 | | 1 | Statutory Regulatory Orders (SROs) | 1 | | 1 | |
| | duty & tax rates | 1 | | 1 | Tariff classification /tax schedule | 1 | | 1 | |
| | fees and charges | 1 | | 1 | | 1 | | 1 | |
| | administrative arrangements & requirements | 1 | | 1 | | 1 | | 1 | |

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| | management plans | 1 | | 1 | Strategic development plan | 0 | | 1 | |
| | rulings | 1 | | 1 | | 0 | | 1 | By the stakeholders |
| | judicial decisions | 0 | published by private publishers | 1 | | 1 | Supreme court decisions are published in Nepal Law Journal. But decisions of lower level court are not published | 1 | This is done by the private operators |
| | agreements with other countries | 1 | | 1 | | 1 | | | |
| 2 | Is relevant Customs and trade related information made available via the internet? | 1 | | 1 | | 1 | | 1 | |
| 3 | Is relevant Customs and trade related information made available in: | | | | | | | 1 | |
| | Customs offices | 1 | | 1 | | 1 | | 1 | |
| | embassies | 1 | through website | 1 | Occasionally sent to them | 0 | | Limited | |
| | consulates | 1 | through website | 1 | do | 0 | | Limited | |
| | trade missions/offices | 1 | through website | 1 | do | 0 | | 1 | |
| | government buildings/offices | 1 | | 1 | do | 0 | | 1 | |
| | public buildings/offices | 1 | | 1 | do | 0 | | 1 | |

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| | other? | | Private publishing houses bring out various customs manuals | | | 0 | | Largely on Internet | |
| 4 | Is relevant information made available in English, French or Spanish? | 1 | only in English | 0 | only in Bangla | 0 | | Only in English | |
| 5 | Does Customs charge for information provided? | 0 | | 1 | Tk. 20 for particular information | 0 | | 0 | |
| 6 | When charges are made, are costs limited to only the service provided? | 0 | Since no changes are imposed hence not applicable | 1 | | | | 0 | |
| 7 | Is information relevant to any proposed changes or new requirements made available sufficiently in advance for interested parties to take account of them? | 1 | Certain legal provisions are not out for comments | 0 | | 0 | | 1 | |
| 8 | Does Customs publish all proposed changes or new requirements in advance of the entry into force? | 1 | | 0 | However, the customs authority invites proposals for changes from interst groups during Dec-Jan period; this offer close in February. | 0 | | 0 | |

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| 9 | Do stakeholders have the opportunity to contribute/develop/influence/question all proposed changes of new requirements in advance of the entry into force? | 1 | Not in all cases | 1 | However, the decision is upto the government whether or not to take any proposal into account. | 1 | | 1 | |
| 10 | Does Customs invite comments from the public and trade on all proposed changes or new requirements in advance of the entry into force? | 1 | Not in all cases | 0 | Not as such, but seeks new proposals from the stakeholder groups. The final decision is upto the government. All changes are informed during the Budget declaration. | 1 | | 0 | |
| 11 | Has Customs established information services such as: | | | | | | | | |
| | client/help desk | 1 | | 0 | | 1 | | 0 | |
| | enquiry point | 1 | | 0 | | 1 | | 1 | Stakesholders have their own enquiry points |
| | customer/trader contacts | 1 | | 0 | | 1 | | 1 | |
| | call centre | 1 | | 0 | | 1 | | 1 | |

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| | other? | | Help Centres have been established. Watch Dog Committees | 0 | | | | 0 | |
| | **Rulings** | | | | | | | | |
| 12 | Does a system of national legislation exist establishing appropriate provisions for binding rulings by Customs? | 1 | Tribunal (CEST) is in place | 1 | | 1 | | 1 | |
| 13 | Does national legislation provide for Customs to furnish rulings within a specified period? | 0 | There are several cases pending for long | 1 | | 0 | | 0 | |
| 14 | Are filing processes established with specific time limits? | 1 | | 1 | | 1 | Only for certain activities and only in DoC, not in customs offices. | 0 | |
| 15 | Do ruling procedures provide the opportunity for appeal with review and/or judicial process | 1 | | 1 | The Commissioner (Appeal), and the Customs Tribunal are in place. | 1 | | 1 | |
| 16 | Does the administration provide binding rulings for: | | | | | | | | |
| | valuation | 1 | | 1 | | 1 | | 1 | |
| | classification | 1 | | 1 | | 1 | | 1 | |
| | origin | 1 | | 1 | | 1 | | 1 | |
| | other Customs purposes? | 1 | | 1 | | 1 | | 1 | |

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| | **Appeals and Review** | | | | | | | | |
| 17 | Are internal appeal and review mechanisms established? | 1 | | 1 | | 1 | | 1 | |
| 18 | Are internal appeal and review mechanisms independent? | 1 | | 1 | | 1 | | 1 | |
| 19 | Are provisions established for an initial appeal to Customs? | 1 | | 1 | | 1 | | 1 | |
| 20 | Are provisions established for a further appeal to an authority independent of Customs? | 1 | | 1 | | 1 | | 1 | |
| 21 | Are provisions established for a final right of appeal to a judicial authority? | 1 | There is a quasi judicial authority in place | 1 | May go to the Supreme Court | 1 | | 1 | |
| 22 | Do appeal processes have specific time limits? | 0 | | 1 | Three months to 1 year | 1 | | 1 | |
| 23 | Are goods released pending the outcome of an appeal? | 0 | It is being considered to release goods atleast in case of accredited traders. | 1 | | 1 | If liablities are discharged as per ruling | 1 | |
| 24 | Is a security or other form of guarantee required? | 1 | | 1 | Bank guarantee of commercial undertaking. | 1 | The dutiable amount has to be deposited as security before appeal. | 1 | |
| | **Management** | | | | | | | | |

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| 25 | Are systems in place to monitor and evaluate the performance of Customs against established standards and/or indicators? | 1 | | 1 | | 1 | | 1 | |
| 26 | Are training programmes established for Customs clearance procedures | 1 | | 1 | The Customs Trainng Academy provides such courses along with refresher courses. | 1 | Not adequately | 1 | |
| 27 | Are all Customs staff given training on integrity matters? | 1 | | 0 | | 1 | But nore specifically on integrity | 1 | |
| 28 | Has a Code of Conduct/Code of Ethics been developed and implemented by Customs? | 1 | There is a Citizen's Charter in place. However, India is not in favour of including it in WTO. | 0 | Nothing formal; only the Service Rule for the Civil Servants in Bangladesh in followed | 1 | | 1 | |
| | **Systems and Procedures** | | | | | | | | |
| 29 | Is the customs process automated? | 1 | | 1 | As part of the ASYCUDA+ + | 1 | But not fully | 1 | ASYCUDA++ AND NOW EDI |
| 30 | Is electronic filing of entry documents provided for? | 1 | | 1 | The Direct Trader Input (DTI) system | 0 | | 1 | 5000 PER MONTH |
| 31 | Do customs and other agencies share information electronically? | 1 | It is happening only partially | 1 | In CD format | 0 | | Partially | |

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| 32 | Are pre-arrival release procedures used? | 1 | | 1 | Pre-arrival assessment is done; not clearance | 0 | | 1 | Partially implemented |
| 33 | Does the administration grant immediate release/clearance procedures to any category of goods? | 1 | | 1 | Petroleum, and perishable goods such as rice, sugar, wheat, etc. | | | 1 | Risk management being considered |
| 34 | Does the administration specify a minimum value/minimum amount of duties and taxes below which no duties and taxes will be collected? | 0 | | 1 | Specific Rate of Duty | 0 | | 0 | |
| 35 | Do you have separate expedited procedures for express consignment shipments? | 0 | | 1 | Petroleum, and perishable goods such as rice, sugar, wheat, etc. | 0 | | 0 | |
| 36 | Can data be submitted prior to arrival of the goods? | 1 | | 1 | | 1 | | 1 | |
| 37 | Can goods be released prior to completion of all clearance formalities? | 0 | | 1 | Partly | 0 | | 0 | |
| 38 | Do you have weight or value restrictions for express consignment shipments? | 1 | Weight restrictions | 1 | Tariff value for Petroleum | 0 | | 1 | |
| 39 | Does the administration use risk analysis to determine which goods should be examined? | 0 | It is under implementait on phase | 1 | Parametres are there; but partly implemented | 1 | Just initiated or tiral basis in selected customs. | 1 | Partially being done |

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| 40 | Do Customs control systems include audit based controls? | 1 | It is under implementait on phase | 1 | Partly done | 1 | Just initiated or tiral basis in selected customs. | 1 | |
| 41 | Does the Customs administration authorize persons with an appropriate compliance record for simplified and special procedures | 1 | It is under implementait on phase | 0 | | 0 | | 0 | |
| 42 | For authorized persons | 0 | | | | | | 1 | |
| | * can goods be released on the provision of minimum information with full clearance being finalized subsequently-can goods be cleared at the declarant's premises | | | | | | | | |
| | * other | | | | | 0 | | | |
| **Questions/Issues related mainly to Article VIII (Fee and formalities connected with Importation/exportation)** | | | | | | | | | |
| 43 | Does the administration charge for the provision of information to the trade? | 0 | It is freely available | 1 | BD Tk. 20 per information | 0 | | 0 | |
| 44 | Do fees for customs processing reflect the cost of services rendered? | 0 | Does not arise | 0 | | | No fees are charged other than duties and taxes | 0 | |
| 45 | Are fees published? | 1 | | 1 | | 1 | Refers fees charged by different agencies to issue GSP certificate, certificate | 1 | |
| | the amount? | 1 | | 1 | | | | 1 | |
| | time due? | 1 | | 1 | | | | 1 | |

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| | entity assessing the fee? | 1 | | 1 | | | | 1 | |
| | how payment can be made? | 1 | | 1 | | | | 1 | |
| 46 | Are fee amounts published on the internet? | 0 | | 1 | | 0 | | 1 | |
| **Questions/Issues related mainly to Article V (Freedom of Transit) General** | | | | | | | | | |
| 47 | Have international transit systems been implemented? | 1 | | 0 | | 0 | | 1 | |
| 48 | Have regional transit systems been implemented? | 0 | | 0 | | 0 | | 1 | |
| 49 | Is the Customs territory a landlocked country? | 0 | | | | 1 | | 0 | |
| 50 | Are transit corridors established within the Customs territory? | 1 | | | | 0 | | 0 | |
| 51 | Are transit routes prescribed? | 1 | | | | 1 | India Nepal transit treaty has prescribed transit route for Nepal. | 0 | |
| 52 | Are transit routes agreed in consultation with trade operators? | 0 | The consultations are at the bilateral government level only | | | 0 | | 0 | |
| 53 | Is abuse of the Customs transit system a concern in the Customs territory? | 1 | | | | 0 | | 0 | |
| 54 | Is a strict route stipulated for all high risk goods? | 0 | | | | 0 | | 0 | |
| 55 | Is Customs escort required for all high risk goods? | 0 | | | | 0 | | 0 | |

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| 56 | Are time limits imposed for transit goods? | 0 | As there are no roads so connectivity is poor | | | 0 | | 0 | |
| 57 | Are current border posts and Customs offices suitably located for effective transit operations within the Customs territory? | 1 | | | | 0 | | 0 | |
| 58 | Are operating hours coordinated with other Customs administrations? | 1 | | | | | | 0 | |
| 59 | Are controls and responsibilities at border posts coordinated with other border agencies? | 1 | It is largely at level of army and BSF | | | | | 1 | |
| 60 | Are controls and responsibilities at border posts coordinated with other country's Customs administrations? | 0 | However, with automation this may improve the ground situation | | | | | 0 | |
| | **Documentation** | | | | | | | | |
| 61 | Is a goods declaration required for all goods in transit? | 1 | | | | | Not applicable as Nepa is not a transit country | 1 | |
| 62 | Is a standardized Customs transit declaration/document in use? | 1 | | | | 1 | This document is used for goods moving via India to an from and Nepal | 1 | |

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| 63 | Have documentary requirements for transit coordinated with other border agencies? | 0 | | | | | NA as Nepal is not a transit country | 0 | |
| 64 | Are documentary requirements for transit coordinated with other border agencies? | 0 | | | | | NA as Nepal is not a transit country | 0 | |
| 65 | Are simplified transit declarations in use? | 1 | So far, it is only with Bhutan | | | | NA as Nepal is not a transit country | 0 | |
| | **Securities and Guarantees** | | | | | | | | |
| 66 | Are goods in transit relieved of the payment of duties and taxes? | 0 | In some cases traders face octroi, imposed by local authorities at state level | | | | NA as Nepal is not a transit country | 0 | |
| 67 | Are any fees and charges levied in connection with Customs transit? | 0 | On holidays overtime is charged | | | | NA as Nepal is not a transit country | 0 | |
| 68 | Has an international guarantee system been implemented? | 0 | Mutual guarantees are provided by national governments | | | | NA as Nepal is not a transit country | 0 | |

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| 69 | Are securities and/or guarantees required for all goods in transit? | 1 | Only in case of sensitive commodities as declared by Government of India. As of now there are 8 such commodities | | | | NA as Nepal is not a transit country | 1 | |
| 70 | Are cash deposits required for goods in transit? | 0 | | | | | NA as Nepal is not a transit country | 0 | |
| 71 | Are securities and/or guarantees discharged as soon as the obligations have been fulfilled? | 1 | | | | | NA as Nepal is not a transit country | 1 | |
| | **Examination** | | | | | | | | |
| 72 | Are examinations for goods in transit based on the application of risk assessment? | 0 | Currently, there is no scope for it in the bilateral treaties | | | | NA as Nepal is not a transit country | 1 | Selectively |
| | **Authorized Trades** | | | | | | | | |

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| 73 | Are simplified procedures established for authorized consignors involved in the transit procedure? | 0 | It is same for all. However, government is working to implement it. | | | | NA as Nepal is not a transit country | 1 | Being experimented |
| | **Seals and Fastening** | | | | | | | | |
| 74 | Are seals and identification marks affixed by foreign Customs accepted for Customs transit operations? | 1 | | | | | NA as Nepal is not a transit country | 1 | |

**Source:** Based on ARTNeT Studies, Bangladesh (Bhattacharya and Hossain, 2006), India (Chaturvedi 2006) and Nepal (Rajkarnikar, Maskay and Adhikari, 2006)