

The Trade Facilitation Agreement Through an MSME Lens

Appreciating the challenges and making
trade facilitation benefit smaller businesses.



THE TRADE FACILITATION AGREEMENT THROUGH AN MSME LENS

Note

This tool has been drafted to support an MSME-sensitive implementation of the TFA. It summarises which MSME specific trade facilitation challenges are tackled through TFA implementation and suggests actions that governments and development practitioners can take to ensure TFA implementation benefits MSMEs. The tool draws from a review of best practices in MSME-sensitive trade facilitation reform and in particular benefited from inputs by ITC and UNESCAP. For a full list of resources, please see the references.

Glossary

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| AEO | Authorised Economic Operator |
| ICT | Information Communications Technology |
| NTFC | National Trade Facilitation Committee |
| MSME | Micro-, Small-, and Medium-Sized Enterprises |
| SW | Single Window |
| TIP | Trade Information Portal |

| TFA ARTICLE | SUB-ARTICLE | ARTICLE/SUB-ARTICLE EXPLAINED | RELEVANT MSME-SPECIFIC CHALLENGES | MSME SENSITIVE ACTIONS/BEST PRACTICES |
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| ARTICLE 1 PUBLICATION AND AVAILABILITY OF INFORMATION | 1.1 PUBLICATION | Members shall publish the general trade-related information listed “promptly” and in a “non-discriminatory and easily accessible manner” that will allow other governments, traders and interested persons to become acquainted with them | <ul style="list-style-type: none"> • Access to information • Unpredictable and opaque rules and procedures | <ul style="list-style-type: none"> • Information (and TIPs) is accessible in an MSME-friendly way i.e., mobile-enabled • New trade information is widely circulated, including to MSME associations • Communication plans are developed that explain the policies and programs and are targeted to reach MSMEs • Information on TIPs is drafted using clear and plain language, and is available in local languages • Information on TIPs is complete, granular and provided in a timely manner; it is accessible across jurisdictions • An alert mechanism is built into the solution to notify users of updates and new rules • There is a clear contact point for businesses to pose questions • Establish physical trade information centres where MSMEs can access physical copies, computers or other assistance |
| | 1.2 INFORMATION AVAILABLE THROUGH INTERNET | Members shall prepare practical guides to their import, export, and transit procedures including appeal procedures Members shall publish on the internet: (i) the practical guides, (ii) the forms and documents required for import, export or transit, (iii) relevant trade laws (where possible), and (iv) the enquiry point contact information. | <ul style="list-style-type: none"> • Access to information • Unpredictable and opaque rules and procedures | <ul style="list-style-type: none"> • Information on TIPs is accessible in an MSME-friendly way (i.e. mobile-enabled) and easy to search and navigate • Information is drafted using clear and plain language, and is available in local languages • Provide capacity building training for MSMEs to explain trading basics and how to navigate information platforms; make training materials available locally • Consider local partners that can be leveraged to provide trainings or services to MSMEs on locating information on an ongoing basis (i.e. local telecom company) • Information on TIPs is complete, granular and provided in a timely manner; it is accessible across jurisdictions • An alert mechanism is built into the solution to notify users of updates and new rules • There is a clear contact point for businesses to pose questions • Web information supports client learning through e-learning, demos, visuals, user manuals, etc. • Establish physical trade information centres where MSMEs can access physical copies, computers or other assistance |
| | 1.3 ENQUIRY POINTS | Members shall establish one or more enquiry points; these can be at the regional level, shouldn't require a fee and should provide information in a reasonable time period | <ul style="list-style-type: none"> • Access to information • Unpredictable and opaque rules and procedures | <ul style="list-style-type: none"> • Ensure a strong level of customer service to better service MSMEs, including timely and comprehensive provision of information. (Consult the WCO model MSMEs checklist page 8 for best practices in servicing MSMEs) • Ensure that client service and assistance have been adapted to meet the needs of different types and sizes of businesses, including various service delivery channels • Host designated MSME contact points/ MSME centres or embed trade facilitation expertise in existing MSME centres • Support the marketing of information on enquiry points to MSMEs so that they will be aware of and able to utilise them • Ensure that enquiry points are available through various communication channels that are convenient for traders, and that the location and operating hours are convenient |

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| ARTICLE 2 OPPORTUNITY TO COMMENT, INFORMATION BEFORE ENTRY INTO FORCE, AND CONSULTATIONS | 2.1 OPPORTUNITY TO COMMENT AND INFORMATION BEFORE ENTRY INTO FORCE | Members shall provide the opportunity and appropriate time period for traders and interested parties to comment on proposed laws/regulations, thus that they are published with enough advance time (excl. tariffs) | <ul style="list-style-type: none"> Unpredictable and opaque rules and procedures Costly/complex customs processes Rules designed without MSME input / lack of infrastructure for MSME consultation | <ul style="list-style-type: none"> Adequate time has been given to comment Communication plans are developed that provide updated information targeted to reach MSMEs in a timely manner Consultation with MSMEs and consideration of their needs is considered as part of the standard development process for new regulations MSMEs have been consulted on the costs involved with meeting the obligations and information requirements in any new reforms Consultations occur at times and in places/over platforms that are convenient for MSMEs |
| | 2.2 CONSULTATIONS | Border agencies must hold regular consultations with traders and stakeholders | <ul style="list-style-type: none"> Unpredictable and opaque rules and procedures Costly/complex customs and trade processes Rules designed without MSME input / lack of infrastructure for MSME consultation | <ul style="list-style-type: none"> MSME representatives are involved in consultations MSME associations are supported to be part of NTFCs Consultations occur at times and in places/over platforms that are convenient for MSMEs Consultation mechanisms are clear and easily accessible to MSMEs Where MSMEs are difficult to engage, leverage industry associations with MSME membership; also consider providing support to strengthen MSME associations Consider virtual consultations which make it easier and more cost effective for MSMEs to be engaged Communication plans are developed to raise awareness of consultation mechanisms among MSMEs |
| ARTICLE 3 ADVANCE RULINGS | | Advanced rulings should be issued in a reasonable, time-bound manner and shall be valid for a reasonable period of time. Member shall provide written notice if revoked. Publishing the requirements for advanced ruling and any non-sensitive information on advanced rulings | <ul style="list-style-type: none"> Access to information Unpredictable and opaque rules and procedures Costly/complex customs and trade processes | <ul style="list-style-type: none"> Procedures to file advanced rulings are not costly and cumbersome Information on advanced rulings are published in a location and format that is easily accessible to MSMEs; it is available without need for request Information on advanced rulings are published in clear and plain language, and available in local languages TIPs or other trade portals provide information on previous rulings, are well organised and easily searchable Communications plans are developed that explain the new procedures to MSMEs Provide training to MSMEs on advanced rulings processes, and design mechanisms that can sustainably provide help or regular trainings for MSMEs (such as training of trainers or MSME centres) |
| ARTICLE 4 PROCEDURES FOR APPEAL OR REVIEW | | Members shall provide traders with the right to appeal decisions made by Customs in an administrative and/or judicial proceeding | <ul style="list-style-type: none"> Access to information (on appeal procedures) | <ul style="list-style-type: none"> Inform MSMEs and MSME associations of their right to appeal through capacity building programs Support mechanisms that provide legal advice to MSMEs Ensure administrative review procedures are objective, efficient, fair and transparent Ensure appeal or review procedures have fixed time limits Create a mechanism for prevention and redressal in case of delays |

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| ARTICLE 5 OTHER MEASURES TO ENHANCE IMPARTIALITY, NON-DISCRIMINATION AND TRANSPARENCY | 5.1 NOTIFICATIONS FOR ENHANCED CONTROLS OR INSPECTIONS | Members can enhance the level of control for food, beverages or feedstuffs to protect human, animal or plant life or health. Sets out parameters for issuance, termination or suspension of these disciplines | <ul style="list-style-type: none"> Unpredictable and opaque rules and procedures that may result in imposing of discriminatory fees or processes Cumbersome procedures for testing and inspection Costly/complex customs and trade processes Non-conformity to international standards (including quality, packaging, etc.) | <ul style="list-style-type: none"> Provide capacity building training to explain control/inspection/testing procedures and processes to MSMEs, and design mechanisms that can sustainably provide help or regular trainings for MSMEs on trading processes (such as training of trainers or MSME centres) Support marketing and awareness raising activities of new measures among MSMEs so they are confident in their rights Update TIPs with MSMEs in mind; ensure that the information on what is lawful is available, transparent and easy to comprehend Allow for exemptions, derogations and transition periods for new reporting requirements or processes. |
| | 5.2 DETENTION | If Customs or other border authority detains imported goods for inspection, it shall inform promptly the carrier, the importer or its agent | | |
| | 5.3 TEST PROCEDURES | Members can request a second test if the first test shows an adverse finding. Labs where tests can take place shall be published. Second result tests may be accepted | | |
| ARTICLE 6 DISCIPLINES ON FEES AND CHARGES IMPOSED ON OR IN CONNECTION WITH IMPORTATION AND EXPORTATION AND PENALTIES | 6.1 GENERAL DISCIPLINES ON FEES AND CHARGES IMPOSED ON OR IN CONNECTION WITH IMPORTATION AND EXPORTATION | Applies to fees and charges other than duties/tariffs. These must be published with the reason for them and how/when to make payment. There must be adequate time between announcing new fees and their entry into force. And members should periodically review fees to try and reduce the number and diversity | <ul style="list-style-type: none"> Access to information Unpredictable and opaque rules and procedures Complex/costly trade processes (in 6.1.4 - reducing the number and diversity of fees would directly benefit MSMEs who experience time poverty and/or high fixed costs to trade) Difficulty processing payments | <ul style="list-style-type: none"> Lessen or waive superfluous fees for MSMEs trading in small volumes and ensure fees and charges are related to the actual cost of services rendered Only require inspection procedures and paperwork for minimum shipment value or volume Reorganise payment terms for fees and charges so that the payment period is longer and payments can be made in lump sum (i.e. once per month as opposed to 5 payments for 5 shipments) Publish information in locations (TIPs) and formats accessible to MSMEs, and in a manner that is clear, transparent and complete Provide capacity building training for the organisations responsible for communicating this information, and advise them to provide advanced notice to business of any changes Provide capacity building training for MSMEs to explain trading basics and how to navigate available information, and design mechanisms that can sustainably provide help or regular trainings for MSMEs on trading processes (such as training of trainers or MSME centres) |
| | 6.2 SPECIFIC DISCIPLINES ON FEES AND CHARGES FOR CUSTOMS PROCESSING IMPOSED ON OR IN CONNECTION WITH IMPORTATION AND EXPORTATION | Fees shall be limited to the services rendered in connection with import/export | | |
| | 6.3 PENALTY DISCIPLINES | Penalties can be imposed for breach of members customs laws, regulations, and the parameters around that | | |

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| ARTICLE 7 RELEASE AND CLEARANCE OF GOODS | 7.1 PRE-ARRIVAL PROCESSING | Traders shall be permitted to submit the import documentation and other information required for release of imported goods, in electronic format where appropriate, prior to arrival of the goods in order to expedite release | <ul style="list-style-type: none"> Complex/costly customs and trade processes Unpredictable and opaque rules and procedures | <ul style="list-style-type: none"> Provide capacity building training for MSMEs on new trading procedures and online systems, and design mechanisms that can sustainably provide help or regular trainings for MSMEs on trading processes (such as training of trainers or MSME centres) Consult with MSMEs to understand the most beneficial and accessible format and platform for trading information to be available to them Communication plans are developed to raise awareness of new procedures among MSMEs Focus on sectors where MSMEs are more prevalent in trade |
| | 7.2 ELECTRONIC PAYMENT | To the extent practicable, members should allow electronic payment of duties, taxes, fees and charges | <ul style="list-style-type: none"> Costly/complex customs and trade processes Difficulty receiving or processing payments | <ul style="list-style-type: none"> With pre-arrival processing, ensure that documents are actually reviewed ahead of goods arrival when submitted in advance, and when using risk management, give more weight to compliance rather than size or value of shipments (which can discriminate against MSMEs) Monitor performance of pre-arrival processing systems and processes and disaggregate usage by enterprise size Offer a range of digital service channels for payments, including mobile money and device interoperability Consider linking payment services with MSME financing services (via single window) Ensure end user interfaces (i.e. TIPs) use easily understandable language and are available in local languages Allow for exemptions, derogations and transition periods for new reporting requirements or processes |
| | 7.3 SEPARATION OF RELEASE FROM FINAL DETERMINATION OF CUSTOMS DUTIES, TAXES, FEES AND CHARGES | Members shall allow importers to obtain release of their goods, under a guarantee, if required, prior to the final determination and payment of customs duties, taxes, fees and charges where the final determination is not done prior to, upon arrival or as rapidly as possible after arrival | <ul style="list-style-type: none"> Costly/complex customs and trade processes Difficulty receiving or processing payments (where making payments is resource intensive, making several payments before goods release is challenging for MSMEs) Access to finance (potentially lowers the need for trade finance) | <ul style="list-style-type: none"> Consider the level of securities that are demanded of MSMEs versus large firms to make decisions based on risk and minimise costs to MSMEs Develop clearance procedures alongside comprehensive client profiles Clearance criteria is public, transparent and easily understandable Provide capacity building training for MSMEs on new trading procedures and online systems (TIPs) Ensure end user interfaces use easily understandable language and are available in local languages Consult with MSMEs to understand the most beneficial and accessible format and platform for information to be available to them Communication plans are developed to raise awareness of new procedures among MSMEs Focus on sectors where MSMEs are more prevalent in trade Reorganise payment terms for fees and charges so that the payment period is longer and payments can be made in lumpsum (i.e. once per month as opposed to 5 payments for 5 shipments) Guarantees are limited to the duties and taxes payable, and are discharged by Customs as soon as the transaction is finalized |
| | 7.4 RISK MANAGEMENT | Members shall apply risk management to customs control in connection with import, export and transit of goods | <ul style="list-style-type: none"> Complex/costly customs and trade processes Unpredictable and opaque rules and procedures Cumbersome procedures for testing and inspections | <ul style="list-style-type: none"> Risk management system is built to prioritise past compliance rather than trading frequency and value/volume so that it doesn't unnecessarily discriminate against MSMEs Provide capacity building training for MSMEs on new trading procedures and online systems Provide training programs to improve records management among MSMEs, and design mechanisms that can sustainably provide help for MSMEs (such as training of trainers or MSME centres) |
| | 7.5 POST-CLEARANCE AUDIT | Members must use post-clearance audit "with a view to expediting the release of goods" and, wherever practicable, to inform risk management | <ul style="list-style-type: none"> Complex/costly customs and trade processes Unpredictable and opaque rules and procedures | <ul style="list-style-type: none"> Consult with MSMEs to understand the most beneficial and accessible format and platform for information to be available to them Communication plans are developed to raise awareness of new procedures among MSMEs Focus on sectors where MSMEs are more prevalent in trade Ensure a permanent feedback loop for enterprises of all sizes Develop non-GAAP requirements for MSMEs which they are trained on Build a robust national (and where possibly cross-border) Enterprise Identification system that provides agencies with knowledge of traders including their size |

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| ARTICLE 7 RELEASE AND CLEARANCE OF GOODS | 7.6 ESTABLISHMENT AND PUBLICATION OF AVERAGE RELEASE TIMES | Members are encouraged to publish average release time information and share experiences with the Committee | <ul style="list-style-type: none"> • Access to information • Unpredictable and opaque rules and procedures • Complex/costly customs and trade processes | <ul style="list-style-type: none"> • Measure and publish average release times disaggregated by size of enterprise • Publish information in locations and formats accessible to MSMEs (i.e. TIPs) • Publicise the availability of such information among MSMEs • Consider how MSMEs and large firms may interact differently with border clearance systems and MSMEs may require specialised information or training to meet reporting requirements |
| | 7.7 TRADE FACILITATION MEASURES FOR AUTHORISED OPERATORS | Members shall provide certain additional trade facilitation benefits to "authorised operators" | <ul style="list-style-type: none"> • Access to information and access to finance may prevent MSMEs from becoming AEOs as the costs required are proportionally larger for MSMEs | <ul style="list-style-type: none"> • Build MSME specific criteria into AEO frameworks, and ensure there are benefits for MSMEs • Harmonise AEO frameworks regionally and globally, following WCO guidelines • Consider MSME specific needs when building AEO criteria (including low cost security options i.e. security cameras versus guards) • Provide benefits to AEO-certified companies that actively promote AEO certification among MSMEs (i.e. within Associations) • Build AEO outreach programs that spread awareness of benefits, especially among MSMEs • Work with MSMEs before and during the application process to help them succeed; allow companies to pause as needed and make appropriate changes while in the application process • Provide training programs to bring MSMEs up to AEO standards (especially proper records and bookkeeping), and design mechanisms that can sustainably provide help or regular trainings for MSMEs (such as training of trainers or MSME centres) • Make the AEO certification process straightforward and electronic to the extent possible • Provide clear information on the process and benefits to being an AEO online • Ensure that border agencies practice fairness in risk management processes and focus on history of compliance rather than size |
| | 7.8 EXPEDITED SHIPMENTS | Sets forth the conditions that members must publish so that persons can apply for expedited release of goods through air cargo | <ul style="list-style-type: none"> • Access to information • Unpredictable and opaque rules and procedures • Complex/costly customs and trade processes | <ul style="list-style-type: none"> • Provide capacity building training for MSMEs on new trading procedures focused on meeting criteria to qualify for expedited shipments • Publicise information on the expedited shipment processes, especially rules relevant to MSMEs i.e. de minimis shipment value for which customs duties or taxes will not be collected • Publish information in locations and formats accessible to MSMEs • Communication plans are developed to raise awareness of conditions for expedited release of goods among MSMEs • Strengthen the capacity of postal services to meet e-commerce service needs of MSMEs • Create de minimis rules around duties and tax |
| | 7.9 PERISHABLE GOODS | Members shall adopt procedures to release perishable goods in the shortest time possible, and arrange proper storage of perishable goods pending their release | <ul style="list-style-type: none"> • MSMEs trading perishable goods are relatively less able to absorb unnecessary losses of perishable goods resulting from administrative delays | <ul style="list-style-type: none"> • Ensure special lanes and considerations for perishable goods shipments are also available to firms trading in smaller shipments/volumes • Consider terms and conditions specifically for MSMEs for simplified or provisional release of perishable goods by Customs and SPS authorities • Publish information in TIPs on particular requirements, including any fees for clearance processing outside official business hours of the Customs and SPS authorities • Communication plans are developed to raise awareness of the above requirements among MSMEs • Consider MSME-specific requirements when arranging facilities for storage of goods |

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| ARTICLE 8 BORDER AGENCY COOPERATION | | Cooperation across national border agencies, and with other Member agencies that share a common border | <ul style="list-style-type: none"> Harmonisation and communication between agencies involved in trade facilitation Complex/costly customs and trade processes | <ul style="list-style-type: none"> Consult with MSMEs to understand the inefficiencies and coordination challenges they face with government agencies when trading Include monitoring and complaints mechanisms to ensure implementation and hold implementing agents accountable Align hours of operation, procedures and formalities across national agencies and share facilities where possible to allow one-stop service |
| ARTICLE 10 FORMALITIES CONNECTED WITH IMPORTATION, EXPORTATION AND TRANSIT | 10.1 FORMALITIES AND DOCUMENTATION REQUIREMENTS | Members must periodically review formalities and documentation requirements in line with specified criteria | <ul style="list-style-type: none"> Lack of standardised documentation requirements Complex/costly customs and trade processes | <ul style="list-style-type: none"> Include MSMEs in reviews of simplified and harmonised trade processes by the business community, i.e. through NTFCs Focus on sectors that are most likely to impact MSMEs: determine such sectors through desk research, data requests from local partners, consultations Communication plans are developed to raise awareness of the simplified trade processes among MSMEs Explore training opportunities for MSMEs on new processes, and design mechanisms that can sustainably provide help or regular trainings for MSMEs on trading processes (such as training of trainers or MSME centres) Train staff and change culture to avoid routine document demands, empower staff to evaluate risk, and do so based on compliance history rather than size Develop systems of trader profiles including ICT to house history and documentation Allow for exemptions, derogations and transition periods for new reporting requirements or processes |
| | 10.2 ACCEPTANCE OF COPIES | Border agencies shall endeavour to accept copies of supporting documents that may be required for import, export or transit formalities | | |
| | 10.3 USE OF INTERNATIONAL STANDARDS | Members are encouraged to use relevant international standards, take part in reviewing international standards, share best practices | <ul style="list-style-type: none"> Lack of standardised documentation requirements Nonconformity to international standards (including quality, packaging, etc.) | |
| | 10.4 SINGLE WINDOW | Suggestion for use of single window and use parameters | <ul style="list-style-type: none"> Access to information Complex/costly customs and trade processes | |
| | 10.5 PRESHIPMENT INSPECTION | Members shall end requirement for preshipment inspection for tariff classification and customs valuation | <ul style="list-style-type: none"> Complex/costly customs and trade processes | |
| | 10.6 USE OF CUSTOMS BROKERS | Members shall not introduce the requirement for the mandatory use of customs brokers, and shall have a transparent licensing framework | <ul style="list-style-type: none"> Unpredictable and opaque rules and procedures Access to trustworthy and regulated service providers | |

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| ARTICLE 10 FORMALITIES CONNECTED WITH IMPORTATION, EXPORTATION AND TRANSIT | 10.7 COMMON BORDER PROCEDURES AND UNIFORM DOCUMENTATION REQUIREMENTS | Customs shall apply uniform documentation requirements and uniform release and clearance procedures | <ul style="list-style-type: none"> Lack of standardised documentation requirements Complex/costly customs and trade processes Unpredictable and opaque rules and procedures | <ul style="list-style-type: none"> Publicise the implementation of Article 10.7 among MSMEs to raise awareness Include monitoring and complaints mechanisms to ensure implementation and hold implementing agents accountable Allow for exemptions, derogations and transition periods for new reporting requirements or processes |
| | 10.8 REJECTED GOODS | The importer shall have the right to return to the exporter, or any other person, imported goods that have been rejected by competent authorities due to failure to comply with prescribed sanitary and phytosanitary regulations or technical regulations | <ul style="list-style-type: none"> Complex/costly customs and trade processes; MSMEs are particularly vulnerable for losses in case of rejected goods that are not returned to them due to their limited size, resources and trade volumes | <ul style="list-style-type: none"> Consider the constraints of MSMEs when making criteria or decisions around destruction of goods Publish information on country's rules/restrictions on return of goods rejected in locations (TIPs) and formats accessible to MSMEs, and in a manner that is clear, transparent and complete Publish this information in trading partner countries to raise awareness among MSMEs Organise information on relevant rules/restrictions for return of rejected goods by importing country (on TIPs) |
| | 10.9 TEMPORARY ADMISSION OF GOODS AND INWARD AND OUTWARD PROCESSING | Members shall adopt customs procedures for the temporary admission, inward processing and outward processing of goods meant for reexportation | <ul style="list-style-type: none"> Complex/costly customs and trade processes | <ul style="list-style-type: none"> Focus on sectors and global value chains that are most likely to impact MSMEs: determine such sectors through desk research, data requests from local partners, consultations |
| ARTICLE 11 FREEDOM OF TRANSIT | | Goods in transit through a territory should not be charged extra fees beyond those entailed, should get treatment no less favourable than other goods, should not have burdensome documentation requirements, should have advanced filing and processing. Members should also cooperate with each other on certain elements (charges, etc.) and appoint a national transit coordinator | <ul style="list-style-type: none"> High transport costs (for MSMEs in neighbouring and especially landlocked territories) | <ul style="list-style-type: none"> Minimise costs and procedures of transit by implementing transit arrangements at the regional level (e.g. international guarantees, data exchange, fast track border processing) Ensure efficient customs transit procedures are not hampered by other regulations, such as the rules governing international road transport Publicise implementation of Article 11 in neighboring territories or trading partners to raise awareness among MSMEs, enabling traders to procure the most efficient services from their logistics providers. |
| ARTICLE 23 INSTITUTIONAL ARRANGEMENTS | 23.2 NATIONAL COMMITTEE ON TRADE FACILITATION | Establish and/or maintain an NTFC or use an existing mechanism to coordinate the implementation of the TFA | <ul style="list-style-type: none"> Unpredictable and opaque rules and procedures Costly/complex customs processes Rules designed without MSME input | <ul style="list-style-type: none"> MSME representatives are invited and involved in NTFC meetings Consultation mechanisms are clear and easily accessible to MSMEs Where MSMEs are difficult to engage, leverage industry associations with MSME membership; consider providing support to strengthen MSME associations Consider virtual consultations and platforms which make it easier and more cost effective for MSMEs to be engaged Communication plans are developed to raise awareness of consultation mechanisms among MSMEs |

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