

The WTO Trade Facilitation Agreement (TFA) and CAREC

24th TPCC Meeting

Tbilisi, Georgia

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Background on the TFA

- TFA entered into force on 22 Feb 2017
- TFA objectives:
 - expedite the movement, release, and clearance of goods including those in transit (i.e. Customs)
 - improve cooperation between Customs and other authorities
- As a multilateral trade agreement concluded under the WTO, TFA does the following:
 - binds commitments from trading partners
 - is enforced through dispute settlement
 - applies to all border agencies

Background on the TFA

TFA consists of 3 Sections:

- ▶ Section I are technical measures (Articles 1 to 12)
- ▶ Section II are rules for special and differential treatment for developing countries, allowing them to self-determine their time and means of implementing Art 1 to 12 according to:
 - ▶ Category A: measures it will implement upon entry into force
 - ▶ Category B: measures that need additional time
 - ▶ Category C: measures that need additional time and technical and/or financial assistance or capacity building
- ▶ Section III are the institutional arrangements
 - ▶ WTO Committee
 - ▶ National Committee on Trade Facilitation

Tools for TFA Implementation

World Customs Organization developed tools, instruments, and guidelines that **preceded** TFA provisions:

- Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures (RKC)
- Coordinated Border Management
- Single Window
- WCO Data Model
- Time Release Study
- SAFE Framework of Standards to Secure and Facilitate Global Trade

Revised Kyoto Convention (RKC)

- Kyoto Convention entered into force in 1974, and became the RKC in 2006 as the blueprint for modern and efficient Customs procedures, promoting trade facilitation and effective control. The same principles underlie both the RKC and TFA:
 - Transparency and predictability
 - Standardization and simplification
 - Authorized persons, risk management and audit-based control
 - Coordinated interventions with other border agencies
 - Use of modern technology
 - Partnerships with trade
- Under the RKC, it is obligatory to accept all provisions in the General Annex, which contains core customs procedures and practices
- Legal requirements
 - be a member of WCO/UN/other body
 - deposit an instrument of accession
 - signify intention to be bound by the General Annex
 - notify any reservation

TFA and RKC in CAREC

- ▶ 8 CAREC countries are WTO members. All have deposited their instrument of acceptance of the TFA:
 - Afghanistan
 - PRC
 - Georgia
 - Kazakhstan
 - Kyrgyz Republic
 - Mongolia
 - Pakistan
 - Tajikistan
- ▶ Of these, 7 countries notified WTO on their Category A commitments
- ▶ All 11 CAREC countries are WCO members. 5 have acceded to the RKC
 - Azerbaijan
 - PRC
 - Kazakhstan
 - Mongolia
 - Pakistan

TFA Provisions with corresponding RKC Chapters

TFA Provision in Section I	RKC Chapter
1 Publication and Availability of Information	GA Chap 9 (Standards 9.1, 9.2, 9.3, 9.4, 9.5, 9.8, 9.9); GA Chap 3; GA Chap 4 (Standard 4.4); GA Chap 7 (and ITC guidelines)
2 Opportunity to Comment, Information Before Entry into Force and Consultations	GA Chap 1 (Standard 1.3); GA Chap 7; GA Chap 9 (Standard 9.2)
3 Advance rulings	GA Chap 9; Standard 9.9 and its RKC Guidelines
4 Procedures for appeal or review	GA Chap 10 and all its Standards
5 Other Measures to Enhance Impartiality, Non-Discrimination and Transparency	GA Chap 3 (Standard 3.38); GA Chap 6; SA-H Chap 1
6 Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation	GA Chap 3; GA Chap 9; SA-A Chap 1; SA-H Chap 1

TFA Provisions with corresponding RKC Chapters

TFA Provision in Section I	RKC Chapter
7 Release and Clearance of Goods (pre-arrival processing, electronic payment, separation of release from final determination of duties taxes and fees, risk management, post-clearance audit, publication of average release time, measures for authorized operators, expedited shipments, perishable goods)	GA Chap 3 (Standards 3.21, 3.25, 3.32, 3.34, 3.41, 3.42, 3.43); GA Chap 5; GA Chap 6 (Standards 6.3, 6.6); GA Chap 7; Immediate release guidelines
8 Border Agency Cooperation	GA Chap 3; Standard 3.35
9 Movement of Goods Intended for Import under Customs Control	GA Chap 6; SA-E Chap 1, 2
10 Formalities Connected with Importation, Exportation and Transit (formalities and documents, acceptance of copies, use of international standards, single window, pre-shipment inspection, use of customs brokers, common border procedures and documentation, rejected goods, temporary admission of goods)	GA Chap 3 (Standards 3.6, 3.7, 3.11, 3.12, 3.13, 3.15, 3.16, 3.17, 3.19, 3.20, 3.26, 3.35); GA Chap 7; GA Chap 8; SA-C Chap 1, SA-F Chap 1 and 2, SA-G Chap 1
11 Freedom of Transit	SA-E Chap 1, 2 (on transshipment); also guidelines
12 Customs cooperation	GA Standard 6.7; GA Chap 1 and 3; SA-H Chap 1 – for measures promoting compliance and cooperation; GA Chap 6, & - for exchange of information

CAREC initiatives supporting RKC and TFA implementation

- RKC workshops to inform countries of the benefits of accession, improve their understanding of RKC provisions, and build their capacity to use the self-assessment tools
- establishment of National Joint Transport and Trade Facilitation Committees (NJC)
- use of information and communication technology (ICT)
- information common exchange (ICE)
- Corridor Performance Measurement and Monitoring (CPMM) and Time Release Study (TRS)
- CAREC Advanced Transit System (CATS)
- authorized economic operator (AEO) programs
- Single Window, Coordinated Border Management
- Joint Customs Control
- Regional Improvement of Border Services (RIBS)

Key requirements of TFA

Requirements for developing countries:

- ▶ Have an NCTF in place
- ▶ Countries that have not done so will notify WTO of Category A designations
- ▶ Implement Category A designations
- ▶ Notify WTO of Category B & C designations and indicative dates for implementation; Category C will include information on technical assistance and capacity building (TACB) required to implement
- ▶ Countries declaring themselves in a position to assist other countries will submit information on the disbursed and committed TACB support

Requirements for least developed countries:

- ▶ Have an NCTF in place
- ▶ Start countdown for notification of Categories A, B, C designations

How CAREC Program can help accelerate implementation of TFA and improve overall TF

- Top Priority: Establish or strengthen NCTFs, which is a mandatory requirement upon the TFA's entry into force
- Other possible areas of priority:
 - Articles designated as Category A by the most number of countries
 - Areas identified for technical assistance during CAREC Workshop on TFA Implementation and Meeting on NCTF
 - Articles that the most number of countries have not yet aligned with

Top Priority: Establish and strengthen NCTFs

NCTF		Status
Afghanistan		AFPRO defunct since 2009
People's Republic of China	Trade Facilitation Work Interministerial Joint Conference Mechanism	Est. 2016; Vice-Premier (Chair); GACC head (1 of 4 Vice-Chairs)
Georgia	Current mechanisms: Working Group of GRS, Consultation Council, Investors Council, Advisory Council	Will establish NCTF in 2017
Kazakhstan	NCTF	Ministry of National Economy (Chair); Ministry of Finance (Customs' mother agency) is member
Kyrgyz Republic	Trade Facilitation Council	Government Resolution drafted; Ministry of Economy (Chair), Customs is member
Mongolia	NCTF	Est. 2017; Ministry of Foreign Affairs (Chair); Customs is member
Pakistan	NTTFC	Est. 1998; active since 2001; Board of Directors has 4 government agencies including Customs
Tajikistan	NCTF	Est. 2016; Ministry of Economic Devt and Trade (Chair); Customs (Dep Chair)
Non-WTO Members:		
Azerbaijan	AZERPRO	
Turkmenistan	none	
Uzbekistan	Working Group at agency level	

Possible Priority: Areas designated as Category A by at least 6 countries

- Article 4 – Procedures for appeal or review
- Articles 5.2 – Detention
- Article 10.2 – Formalities: acceptance of copies
- Article 10.5 – Formalities: pre-shipment inspection
- Article 10.7 – Formalities: common border procedures and uniform documentation
- Articles 11 Freedom of transit (all **except for** 11.5 separate physical infrastructure, 11.13 comprehensive guarantee, 11.16 coordination)

TFA Commitments: Articles 1 to 6

ARTICLE	PRC	GEO	KAZ	KGZ	MON	PAK	TAJ
1 Publication and Availability of Information							
1.1 Publication	A	A				A (except j)	A
1.2 Information available through internet	A	A				A (except 2.1 and 2.3)	A
1.3 Enquiry points	A	A				A (except 3.1 and 3.4)	
1.4 Notification	A	A			A	A	
2 Opportunity to Comment, Information Before Entry into Force and Consultations							
2.1 Opportunity to comment and information before entry into force	A	A	A				
2.2 Consultations	A	A			A		
3 Advance rulings	A	A					

TFA Commitments: Articles 1 to 6

ARTICLE	PRC	GEO	KAZ	KGZ	MON	PAK	TAJ
4 Procedures for appeal or review	A	A	A	A	A		A
5 Other Measures to Enhance Impartiality, Non-Discrimination and Transparency							
5.1 Notification for enhanced controls or inspections	A	A	A				
5.2 Detention	A	A	A	A	A	A	A
5.3 Test procedures	A	A	A			A	A
6 Disciplines on Fees and Charges Imposed On or In Connection with Importation and Exportation							
6.1 General disciplines on fees and charges imposed in connection with importation and exportation	A	A	A		A		A
6.2 Specific disciplines on fees and charges for customs processing imposed in connection with importation and exportation	A	B (Jan 2017)	A		A	A	A
6.3 Penalty disciplines	A	A	A			A (except 3.6)	A

TFA Commitments: Articles 7 to 9

ARTICLE	PRC	GEO	KAZ	KGZ	MON	PAK	TAJ
7 Release and Clearance of Goods							
7.1 Pre-arrival processing	A	A	A			A	A
7.2 Electronic payment	A	A					
7.3 Separation of release from final determination of customs duties, taxes, fees and charges	A	A	A			A (except 3.4 and 3.5)	A
7.4 Risk management	A	A	A				A
7.5 Post-clearance audit	A	A	A				A
7.6 Establishment and publication of average release times		A					A
7.7 Trade facilitation measures for authorized operators	A	C (Dec 2018)					
7.8 Expedited shipments	A	A					A
7.9 Perishable goods	A	A	A				A
8 Border Agency Cooperation	A	A	A				A for first paragraph
9 Movement of Goods Intended for Import under Customs Control	A	A	A	A			A

TFA Commitments: Article 10

ARTICLE	PRC	GEO	KAZ	KGZ	MON	PAK	TAJ
10 Formalities Connected with Importation, Exportation and Transit							
10.1 Formalities and documentation requirements	A	A	A		A		A
10.2 Acceptance of copies	A	A	A		A	A (except 2.1 and 2.2)	A
10.3 Use of international standards	A	A					A
10.4 Single Window		A					
10.5 Pre-shipment inspection	A	A	A	A		A	A
10.6 Use of customs brokers	A	A	A			A	A
10.7 Common border procedures and uniform documentation	A	A	A		A	A (except 7.1)	A
10.8 Rejected goods	A	A	A		A		A
10.9 Temporary admission of goods and inward and outward processing		A	A				A

TFA Commitments: Articles 11 and 12

ARTICLE	PRC	GEO	KAZ	KGZ	MON	PAK	TAJ
11 Freedom of Transit							
11.1 Freedom of transit - regulations not restrictive	A	A	A	A	A		A
11.2 Freedom of transit – not conditioned on fees	A	A	A	A	A	A	A
11.3 Freedom of transit – no voluntary restraint	A	A	A	A	A	A	A
11.4 Freedom of transit – non-discrimination	A	A	A	A	A	A	A
11.5 Freedom of transit – separate physical infrastructure	A	A			A	A	A
11.6 Freedom of transit – formalities not burdensome	A	A	A		A	A	A
11.7 Freedom of transit – no unnecessary fees or delays	A	A	A		A	A	A
11.8 Freedom of transit - no technical regulations	A	A	A		A	A	A
11.9 Freedom of transit – advance filing and processing	A	C (Dec 2018)	A		A	A	A
11.10 Freedom of transit – termination of transit operation	A	A	A		A	A	A
11.11 Freedom of transit – guarantees	A	A	A		A	A	A
11.12 Freedom of transit – discharge of guarantee	A	A	A		A	A	A
11.13 Freedom of transit - comprehensive guarantee	A	A			A	A	A
11.14 Freedom of transit - publication of information	A	A	A		A	A	A
11.15 Freedom of transit – escorts	A	A	A		A	A	A
11.16 Freedom of transit – cooperation and coordination	A	A	A		A		A
11.17 Freedom of transit – national transit coordinator	A	A			A		A
12 Customs cooperation		A					

Possible Priority: Areas identified for technical assistance

ARTICLE	Kind of TA	Focus
1.1 Publication	Expert, Financing	Draft and publish Customs manuals (PAK)
1.2 Information available through internet	Expert, Financing	Publish Customs manuals online (PAK)
1.3 Enquiry points	Experts, Workshop	Business process (TAJ)
2.2 Consultations	Experts, Workshop, Training	Amend law on agency functions (TAJ)
3 Advance rulings	Seminar	Internal assignment procedures (MON)
	Expert, Workshop, Financing	Legislation, Advance Ruling Center physical setup and maintenance, automation (PAK)
	Workshop, Training	Capacity building (TAJ)
6.2 Specific disciplines on fees and charges	Workshop, Study Visit	Experience sharing (GEO)

Possible Priority: Areas identified for technical assistance

ARTICLE	Kind of TA	Focus
7.3 Separation of release from final determination of customs duties, taxes, fees and charges	Expert	International experience (KGZ)
	Expert, Workshop	Legislation; automation; audit and authorization procedures; monitoring system (MON)
7.6 Establishment and publication of average release times	Expert, Seminar, Field Visit, Workshop	Coordination and cooperation with OGAs (PRC)
	Expert	International experience; monitoring system (KGZ)
7.7 Trade facilitation measures for authorized operators	Expert, Workshop, Study Visit	Legislation (GEO)
	Expert	Legislation; operation of scheme (PAK)
	Expert, Workshop	Pilot legal provisions (TAJ)
8 Border agency cooperation	Expert, Training, Resources	Amend law to delegate authority; IT hardware and software (TAJ)

Possible Priority: Areas identified for technical assistance

ARTICLE	Kind of TA	Focus
10.2 Acceptance of copies	Expert, Workshop, System	Legislation; Training of OGA staff; install system (KGZ)
10.4 Single window	Expert, Workshop, Seminar, Field Visit	Coordination with OGAs
	Expert, Workshop	Business process reengineering; Negotiation skills with OGAs; Develop, install, operate e-system (MON)
	Expert	Planning; IT and other technical advice; Advocacy; Change management; Procurement; Monitoring; Pilot test; Capacity building (PAK)
	Expert	Business process reengineering; Establish and operate e-system (TAJ)
11.9 Freedom of transit – advance filing and processing	Expert, Workshop	Legislation/CTC/NCTS application; Reengineering; Install e-system (GEO)

Possible Priority: Areas which most countries have not yet aligned with

- Article 1.3 – Enquiry points
- Article 3 – Advance rulings (on non-preferential rules of origin, valuation)
- Article 5.3 – Test procedures
- Articles 6.1, 6.3 – General disciplines on fees and charges; Penalty disciplines (law allowing voluntary disclosure)
- Articles 7.1, 7.6, 7.7, 7.8 – Pre-arrival processing (electronic submission); Establishment and publication of average release times; Trade facilitation measures for authorized operators; Expedited shipments
- Article 8 – Border agency cooperation (coordination with neighbor's border agencies)
- Articles 10.3, 10.4, 10.5 – Formalities: use of international standards; single window; pre-shipment inspection
- Article 12 – Customs cooperation: law protecting information shared by foreign customs

Self-assessment of alignment with TFA provisions (45 items)

CAREC Member	% Yes	% Partial	% No	% blank
People' Republic of China	73		2	24
Georgia	91		9	0
Kazakhstan	49	31	2	18
Kyrgyz Republic	13		87	0
Mongolia	69		31	0
Pakistan	76		20	4
Tajikistan	62		16	22
Turkmenistan	78		15	7
Uzbekistan	69		11	20

Number of countries with aligned provisions, per TFA article (based on self-assessment)

PROVISION	Yes	No	Partial	blank
1 Publication and Availability of Information				
1.1 Publication	6	2	1	
1.2 Information available through internet	7	1	1	
1.3 Enquiry points	5	3	1	
2 Opportunity to Comment, Information Before Entry into Force and Consultations				
2.1 Opportunity to comment and information before entry into force	7	2		
2.2 Consultations	7	1	1	
3 Advance rulings				
Classification	6	2	1	
Non-preferential Rules of Origin	3	4		2
Valuation	3	4		2
4 Procedures for appeal or review	8	1		
5 Other Measures to Enhance Impartiality, Non-Discrimination and Transparency				
5.1 Notification for enhanced controls or inspections	6	1	2	
5.2 Detention	7		2	
5.3 Test procedures	5	1	3	

Number of countries with aligned provisions, per TFA article (based on self-assessment)

	Yes	No	Partial	blank
6 Disciplines on Fees and Charges Imposed On or In Connection with Importation and Exportation				
6.1 General disciplines on fees and charges imposed in connection with importation and exportation	4	3	1	1
6.2 Specific disciplines on fees and charges for customs processing imposed in connection with importation and exportation	6	2	1	
6.3 Penalty disciplines: authority to impose penalties	8	1		
Law allows voluntary disclosure	5	2		2
7 Release and Clearance of Goods				
7.1 Pre-arrival processing	7	2		
Electronic pre-arrival submission	5	1		3
7.2 Electronic payment	7	2		
7.3 Separation of release from final determination of customs duties, taxes, fees and charges: allow release before assessment	6	3		
Require payment or guarantee	6	2		1
7.4 Risk management	8	1		
7.5 Post-clearance audit	7	1	1	
7.6 Establishment and publication of average release times	1	4	1	3
7.7 Trade facilitation measures for authorized operators	2	3	1	3
7.8 Expedited shipments	5	3		1
7.9 Perishable goods	8	1		

Number of aligned countries, per TFA article (based on self-assessment)

	Yes	No	Partial	blank
8 Border Agency Cooperation: regular meetings	7	2		
Coordinate with neighbor's border agencies	5	2		2
9 Movement of Goods Intended for Import under Customs Control	9			
10 Formalities Connected with Importation, Exportation and Transit				
10.1 Formalities and documentation requirements	7	2		
10.2 Acceptance of copies	6	3		
10.3 Use of international standards	3	2	1	3
10.4 Single Window	3	4	1	1
10.5 Pre-shipment inspection	5	4		
10.6 Use of customs brokers	6	1		2
10.7 Common border procedures and uniform documentation	8	1		
10.8 Rejected goods	8	1		
10.9 Temporary admission of goods	8	1		
Inward and outward processing	7	1		1

Number of aligned countries, per TFA article (based on self-assessment)

	Yes	No	Partial	blank
11 Freedom of Transit	7	1	1	
12 Customs cooperation: law allows sharing of information with other customs	6	1	1	1
Law protects information shared by foreign customs	5	1		3
23.2 National Committee on Trade Facilitation or similar mechanism	3	5		1
If none, are there plans to set up one?	2	2		5

How these feed into Trade Agenda under CAREC 2030

- ▶ Full implementation of the TFA implies that procedures will be transparent, predictable, and aligned with best practice
- ▶ CAREC initiatives have anticipated and thus directly reinforce the TFA. They must continue and their coverage must be expanded:
 - ▶ CPMM and Time Release Study – Article 7.6
 - ▶ CATS – Article 11
 - ▶ ICE – Article 7.1
 - ▶ Single Window development – Article 10.4
 - ▶ Use of ICT – Article 10.2
 - ▶ Risk management and AEO programs – Article 7.4 and 7.7
 - ▶ Coordinated border management – Article 8
 - ▶ Consultations with private sector – Article 2.2
- ▶ Most importantly, the establishment of solid NCTFs to steer the work can also provide representatives to constitute a Regional Trade Committee

Thank you

