

The WTO Trade Facilitation Agreement and CAREC Countries



Joint Meeting of CCC and CFCFA
20 Sept 2017

About the TFA

- TFA entered into force on 22 Feb 2017
- TFA objectives:
 - expedite the movement, release, and clearance of goods including those in transit
 - 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

About 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 Committees

Requirements of TFA upon entry into force

Requirements for developing countries:

- ❑ Have a National Committee on Trade Facilitation (NCTF) in place
- ❑ Notify WTO of Category A designations (for countries that have not done so), or implement Category A designations (for countries that have notified)
- ❑ Notify WTO of Category B & C designations
 - with indicative dates for implementation
 - Category C will include information on technical assistance and capacity building required to implement

Requirements for least developed countries:

- ❑ Have a National Committee on Trade Facilitation (NCTF) in place
- ❑ Start countdown for notification of Categories A, B, C designations

TFA Implementation in CAREC

8 of 11 CAREC countries are WTO members:

Afghanistan

People's Republic of China

Georgia

Kazakhstan

Kyrgyz Republic

Mongolia

Pakistan

Tajikistan

CAREC countries vary in their alignment with the TFA. Most are already implementing a number of TFA provisions, whether or not they are party to the WTO or the Revised Kyoto Convention

Alignment with TFA provisions

PROVISION	Yes	No	Partia
1 Publication and Availability of Information			
1.1 Publication	10		1
1.2 Information available through internet	11		
1.3 Enquiry points	6	1	3
2 Opportunity to Comment, Information Before Entry into Force and Consultations			
2.1 Opportunity to comment and information before entry into force	8	1	2
2.2 Consultations	9	1	1
3 Advance rulings			
Classification	9	1	1
Non-preferential Rules of Origin	8	2	1
Valuation	7	2	1
4 Procedures for appeal or review	11		
5 Other Measures to Enhance Impartiality, Non-Discrimination and Transparency			
5.1 Notification for enhanced controls or inspections	3	4	2
5.2 Detention	8	1	1
5.3 Test procedures	5	2	3

Alignment with TFA provisions

	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	5	3	2	1
6.2 Specific disciplines on fees and charges for customs processing imposed in connection with importation and exportation	7	2	1	1
6.3 Penalty disciplines: authority to impose penalties	10		1	
7 Release and Clearance of Goods				
7.1 Pre-arrival processing	7	3	1	
7.2 Electronic payment	7	2	1	1
7.3 Separation of release from final determination of customs duties, taxes, fees and charges: allow release before assessment	7	2	1	1
7.4 Risk management	9	1	1	
7.5 Post-clearance audit	10	1		
7.6 Establishment and publication of average release times	3	6		2
7.7 Trade facilitation measures for authorized operators	4	4		3
7.8 Expedited shipments	6	1	3	1
7.9 Perishable goods	7	2	1	1
8 Border Agency Cooperation	8	1	1	1
9 Movement of Goods Intended for Import under Customs Control	9		2	

Alignment with TFA provisions

		Yes	No	Partial	blank
10 Formalities Connected with Importation, Exportation and Transit					
10.1	Formalities and documentation requirements	8	2		1
10.2	Acceptance of copies	9	2		
10.3	Use of international standards	4	3	1	3
10.4	Single Window	5	4		2
10.5	Pre-shipment inspection	3	6		2
10.6	Use of customs brokers	10			1
10.7	Common border procedures and uniform documentation	9	1	1	
10.8	Rejected goods	10			1
10.9	Temporary admission of goods and inward and outward processing	10			1
11 Freedom of Transit		6		5	
12 Customs cooperation: law allows sharing of information with other customs		6	1	2	2

TFA provision on the NCTF

Article 23: Institutional Arrangements

2. National Committee on Trade Facilitation

- Each Member shall establish and/or maintain a national committee on trade facilitation or designate an existing mechanism to facilitate both domestic coordination and implementation of the provisions of this Agreement.

Status of NCTFs

	NCTF	Legal Basis	Members	Chair
AFG	NCTF	Presidential Decree No. 2601, Nov 2016	20 ministries and state bodies; 2-tier (senior high level and technical level)	Ministry of Commerce and Industries is the lead
PRC:	Trade Facilitation Work Inter-Ministerial Joint Conference Mechanism	State Council decision of Mar 2016	16 ministries and commissions	Vice-Premier of State Council; (Vice-Chairs are heads of Min of Commerce, GACC, AQSIQ, Dep. Sec-Gen of State Council
GEO	To be established by MOF, MESD, MFA Current mechanisms are the Working Group of GRS, Consultation Council, Investors Council, Advisory Council			
KAZ	To be established; Working Group now		8 state bodies and 1 business chamber	Minister of National Economy
KGZ	Trade Facilitation Council	Government Decree of July 2017	11 state bodies and business sector	Ministry of Economy; (Co-Chair is business representative)
MON	NCTF	MFA Decree No. A/48 of Aug 2017	12 state bodies and 5 business sector representatives	State Secretary of Ministry of Foreign Affairs
PAK	National Trade and Transport Facilitation Committee; will be revamped	Government Resolution of Aug 2001	15 state bodies and 15 private sector groups	Ministry of Commerce
TAJ	Coordinating Committee on Trade Facilitation	Government Resolution No. 529 of Dec 2016	24 public sector and 12 private sector bodies	Minister of Economic Development; (Deputy Chair is head of Customs Service)

Status of Notification

	Category A	Category B, C
Afghanistan	Identified	Identified
People's Republic of China	Notified	Identified
Georgia	Notified	Notified
Kazakhstan	Notified	Identified
Kyrgyz Republic	Notified	Identified
Mongolia	Notified	Identified
Pakistan	Notified	Identified
Tajikistan	Notified	Identified
Non-WTO Members:		
Azerbaijan	Complies with several provisions	
Turkmenistan	Complies with several provisions	
Uzbekistan	Complies with several provisions	

TFA Commitments: Articles 1 to 3

PROVISION	AFG	PRC	GEO	KAZ	KGZ	MON	PAK	TAJ
1 Publication and Availability of Information								
1.1 Publication	B	A	A		C	C	A	A
1.2 Information available through internet	B	A	A		B	C	C	A
1.3 Enquiry points	B	A	A		C	B	A	C
1.4 Notification	B				A			
2 Opportunity to Comment, Information Before Entry into Force and Consultations							B	
2.1 Opportunity to comment and information before entry into force	A	A	A	A	B	B		C
2.2 Consultations	A	A	A	A	B	A		C
3 Advance rulings	A	A	A		B	C	C	C

TFA Commitments: Articles 4 to 6

PROVISION	AFG	PRC	GEO	KAZ	KGZ	MON	PAK	TAJ
4 Procedures for appeal or review	A	A	A	A	A	A	B	A
5 Other Measures to Enhance Impartiality, Non-Discrimination and Transparency								
5.1 Notification for enhanced controls or inspections	B	A	A	A	C	B	B	C
5.2 Detention	A	A	A	A	A	A	A	A
5.3 Test procedures	B	A	A	A	B	B	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	B	A	A	A	B	A	B	A
6.2 Specific disciplines on fees and charges	B	A	B	A	C	A	A	A
6.3 Penalty disciplines	B	A	A	A	A	B	A	A

TFA Commitments: Articles 7.1 to 7.5

PROVISION	AFG	PRC	GEO	KAZ	KGZ	MON	PAK	TAJ
7 Release and Clearance of Goods								
7.1 Pre-arrival processing	C	A	A	A	B	C	A	A
7.2 Electronic payment	C	A	A		C	B	C	C
7.3 Separation of release from final determination of customs duties, taxes, fees and charges	B	A	A	A	C	B	A	A
7.4 Risk management	B	A	A	A	C	C	C	A
7.5 Post-clearance audit	B	A	A	A	C	B	C	A

TFA Commitments: Articles 7.6 to 7.9, Articles 8 and 9

PROVISION	AFG	PRC	GEO	KAZ	KGZ	MON	PAK	TAJ
7.6 Establishment and publication of average release times	C		A		C	C		A
7.7 Trade facilitation measures for authorized operators	C	A	C		C	C		C
7.8 Expedited shipments	C	A	A		B	C	C	A
7.9 Perishable goods	B	A	A	A	B	C	B	A
8 Border Agency Cooperation	C	A	A	A	C	C	C	A
9 Movement of Goods Intended for Import under Customs Control	A	A	A	A	A	B	B	A

TFA Commitments: Article 10

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

TFA Commitments: Articles 11.1 to 11.9

PROVISION	AFG	PRC	GEO	KAZ	KGZ	MON	PAK	TAJ
11 Freedom of Transit								
11.1 Freedom of transit (regulations not restrictive)	B	A	A	A	C	A	B	A
11.2 Freedom of transit (not conditioned on fees)	B	A	A	A	C	A	A	A
11.3 Freedom of transit (no voluntary restraint)	A	A	A	A	C	A	A	A
11.4 Freedom of transit (non-discrimination)	A	A	A	A	C	A	A	A
11.5 Freedom of transit (separate physical infrastructure)	C	A	A	A	C	A	A	A
11.6 Freedom of transit (formalities not burdensome)	B	A	A	A	C	A	A	A
11.7 Freedom of transit (no unnecessary fees or delays)	A	A	A	A	C	A	A	A
11.8 Freedom of transit (no technical regulations)	A	A	A	A	C	A	A	A
11.9 Freedom of transit (advance filing and processing)	C	A	C	A	C	A	A	A

TFA Commitments: Articles 11.10 to 11.17 and Article 12

PROVISION	AFG	PRC	GEO	KAZ	KGZ	MON	PAK	TAJ
11.10 Freedom of transit (termination of transit operation)	A	A	A	A	C	A	A	A
11.11 Freedom of transit (guarantees)	A	A	A	A	C	A	A	A
11.12 Freedom of transit (discharge of guarantee)	B	A	A	A	C	A	A	A
11.13 Freedom of transit (comprehensive guarantee)	A	A	A	A	C	A	A	A
11.14 Freedom of transit (publication of information)		A	A	A	C	A	A	A
11.15 Freedom of transit (escorts)		A	A	A	C	A	A	A
11.16 Freedom of transit (cooperation and coordination)	B	A	A	A	C	A	B	A
11.17 Freedom of transit (national transit coordinator)	B	A	A	A	C	A	B	A
12 Customs cooperation	B,C		A		C	B	B	C

How CAREC Trade Facilitation Program can help with TFA implementation

- Top Priority: Establish or strengthen NCTFs, which is a mandatory requirement
- Category A commitments: articles designated A by the most number of countries
- Requests for TA: areas identified by countries

Areas identified for technical assistance

Article	Focus of TA
1.1 Publication	Streamline and publish information (MON)
1.2 Information available through internet	Map procedures and requirements, (MON) IT support and develop skills (PAK)
1.3 Enquiry points	Amend law, develop regulations, reference centers, websites, information centers (TAJ)
2.1 Opportunity to comment and information before entry into force	Amend law (TAJ)
3 Advance rulings	Develop procedures, build capacity (MON) IT support, build capacity (PAK) Amend law, rules and forms (TAJ)
5.1 Notification for enhanced controls or inspections	Improve rules for coordinated border management (TAJ)
6.2 Specific disciplines on fees and charges	Share experiences (GEO)

Areas identified for technical assistance

Article	Focus of TA
7.1 Pre-arrival processing	Clearance process in ASYCUDA, risk management, law (AFG) Build capacity, assist other agencies (MON)
7.2 Electronic payment	Amend law to roll-out web-based One Customs System (WeBOC), build software capacity (PAK) Draft procedures for specialized payment methods (TAJ)
7.4 Risk management	Build capacity (AFG) Build capacity, review law and streamline procedures, establish integrated risk management (MON) Build capacity e.g. data analysis, business intelligence tools, design, software development (PAK)
7.5 Post-clearance audit	Align with TFA (AFG) Build capacity, IT support (PAK)
7.6 Establishment and publication of average release times	Develop and test methodology (AFG) Coordinate and cooperate with other agencies (PRC) Publish and integrate Time Release Studies (MON) Build capacity, IT software support (PAK)

Areas identified for technical assistance

Article	Focus of TA
7.7 Trade facilitation measures for authorized operators	Build audit capacity, awareness (AFG) Legislation (GEO) Implement AEO measures, share best practice (MON) Develop and implement AEO scheme (PAK) Amend law to introduce AEO (TAJ)
7.8 Expedited shipments	Align with provision (AFG) Review law on urgent consignments, build capacity (MON) Build capacity, IT support (PAK)
7.9 Perishable goods	Prescribe inspection and border crossing facilities, train on best practice (MON)
8 Border agency cooperation	Amend law to allow cooperation; develop coordinated border mechanism, establish data exchange (MON)
8.1 National border cooperation	Align with provision (AFG) Set up coordination committees (PAK)
8.2 Cross-border cooperation	Align with provision (AFG) Expand integrated Transit Trade Management Service to 3 border crossing points i.e. Ghulam Khan, Sust/Khunjrab, Taftan, Khokhra Par (PAK) Develop scheme for interaction of cross-border agencies (TAJ)

Areas identified for technical assistance

Article	Focus of TA
10.1 Formalities and documentation requirements	Align with provision (AFG)
10.2 Acceptance of copies	Align with provision (AFG)
10.3 Use of international standards	Build capacity (AFG) Implement SPS standards, build capacity (MON)
10.4 Single Window	Business process analysis, streamline regulations, blueprint and implement SW, develop agency systems (MON) Training, technical, IT, legal assistance (PAK) Develop documents and information required (TAJ)
10.6 Use of customs brokers	Build capacity of brokers (MON)
10.7 Common border procedures and uniform documentation	Review documentation requirements, support rollout of WeBOC (PAK)

Areas identified for technical assistance

Article	Focus of TA
11.9 Freedom of transit (advance filing and processing)	Build capacity (AFG) Legislation/CTC/NCTS application; reengineering; install e-system (GEO)
11.16 Freedom of transit (cooperation and coordination)	Align with provision (AFG)
12 Customs Cooperation	Align with provision (AFG) Align with provision (TAJ)
23.2 National Committee on Trade Facilitation	Build capacity (AFG)

Role of Customs in TFA implementation

- ❑ TFA seeks mainly to “expedite the movement, release, and clearance of goods” – which is essentially Customs’ mandate. Thus the nature of TFA puts Customs at the center of implementation efforts.
- ❑ The technical provisions of TFA (i.e. Section 1) are substantially (98%) Customs-related:
 - Customs-only provisions: 30%
 - Customs as main agency: 40%
 - All border agencies with Customs: 28%
 - Non-Customs: 2% (i.e. Article 1.4 on Notification)
- ❑ Thus implementation requires major involvement of Customs from the start, and close cooperation between Customs and other border agencies.

Role of Customs in NCTF

- Customs also has a logically prominent role in the NCTF:
 - (a) its mandate of ensuring compliance with national trade legislation and policies, and international trade agreements
 - (b) its vast experience in interacting with multiple stakeholders
- Customs is also familiar with WCO instruments and tools on trade facilitation that preceded many provisions of the TFA, and underpin its high-level principles of predictability, transparency, partnerships, and the use of modern techniques
 - Revised Kyoto Convention
 - Coordinated Border Management
 - Single Window
 - WCO Data Model
 - Time Release Study
 - SAFE Framework of Standards to Secure and Facilitate Global Trade

Role of the private sector

- Ongoing trade facilitation reform activities of the private sector are to be factored into assistance activities (Article 21.3)
- TFA encourages government to engage the private sector including through the NCTF
 - enhance private sector awareness and engagement
 - leverage private sector expertise
- Business support to TFA implementation
 - identify local challenges and opportunities to enhance logistical links to global value chains
 - deliver technical expertise and resources to support targeted reform efforts
 - take part in deliberations of NCTF, facilitate consultations
 - participate in public-private dialogue and partnerships
 - promote best practice
 - disseminate information on trade procedures
 - provide special services for businesses to participate in AEO programs and access single windows

How these feed into the Trade Agenda under CAREC 2030

- 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, solid NCTFs must be established to steer the work

THANK YOU
