

Implementation of the WTO Trade Facilitation Agreement by CAREC Countries



Inaugural Meeting of the
CAREC Regional Trade Group
Bangkok
25-26 June 2018

WTO Trade Facilitation Agreement

- Objectives:
 - Expedite movement, release and clearance of goods
 - Improve cooperation between customs and other authorities
- Entered into force in Feb 2017

- Significance
 - The first multilateral trade agreement after 21 years
 - Binds commitments from trading partners
 - Is enforced through dispute settlement
 - Applies to all border agencies

WTO Framework and the TFA

	TFA
GATT Art X - Transparency	Art. 1: Publication & Availability of Information
	Art 2: Opportunity to Comment, Information before Entry into Force & Consultation
	Art. 3: Advance Rulings
	Art. 4: Appeal or Review Procedures
	Art. 5: Other Measures to Enhance Impartiality, Non-Discrimination & Transparency
GATT Art VIII – Fees & Formalities	Art. 6: Disciplines on Fees & Charges Imposed On or in Connection with Import and Export
	Art. 7: Release & Clearance of Goods
	Art. 8: Border Agency Cooperation
	Art. 9: Movement of Goods under Customs Control Intended for Import
	Art. 10: Formalities Connected with Importation, Exportation & Transit
GATT Art V – Freedom of Transit	Art. 11: Freedom of Transit
new	Art. 12: Customs Cooperation

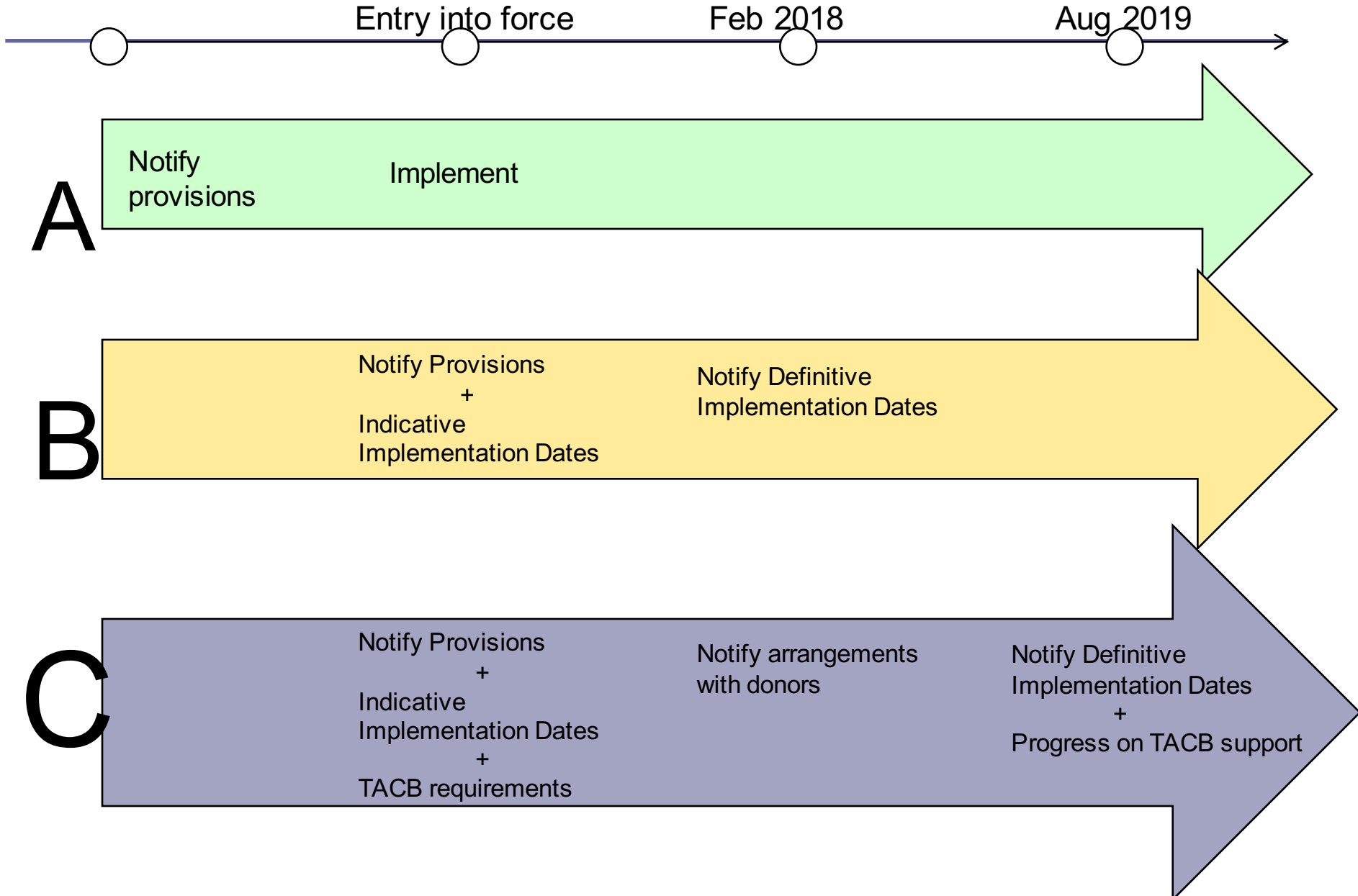
TFA Sections

- Section I: 12 articles of technical measures

- Section II: Special and Differential Treatment provisions for developing countries
 - Category A (implemented upon entry into force)
 - Category B (need additional time)
 - Category C (need additional time and assistance)

- Section III: Institutional Arrangements
 - Requires the establishment of a National Committee on Trade Facilitation (NCTF) or similar mechanism upon entry into force

TFA Timeframe for Developing Country



Notifications to WTO

	Category A	Category B	Category C
Afghanistan	Notified	Notified	Notified
People's Republic of China	Notified	Notified	none
Georgia	Notified	none	Notified
Kazakhstan	Notified		
Kyrgyz Republic	Notified		
Mongolia	Notified	Notified	Notified
Pakistan	Notified	Notified	Notified
Tajikistan	Notified		
3 countries are not WTO Members:			
Azerbaijan			
Turkmenistan			
Uzbekistan			

Source: WTO TFA Database

ADB Assessment Methodology

- Identify current laws, regulations, systems or procedures that are consistent with each TFA Article
 - Lead provision is defined by questions from the WCO “Performance Indicators for the Agreement on Trade Facilitation”. If lead is not fully satisfied, law/procedure is considered a “partial” reflection of TFA Article.
 - 8 countries covered: Afghanistan, Azerbaijan, Kazakhstan, Kyrgyz Republic, Mongolia, Pakistan, Tajikistan, Uzbekistan
 - At time of assessment, some countries were in the process of revising their Customs Codes.
- Incorporate information from the Joint ADB-KCS workshop and meeting of June 2017
 - 9 countries participated: People’s Republic of China, Georgia, Kazakhstan, Kyrgyz Republic, Mongolia, Pakistan, Tajikistan, Turkmenistan, Uzbekistan
- Use Notifications of Category designations from WTO TFA Database

Summary of Assessment Results (1)

- CAREC countries vary in their level of readiness to implement the TFA
- At least half of laws or practices of 6 countries are aligned with TFA provisions. In addition, 4 of these have between 15% to 40% of laws/practices that are “partially” aligned.
 - Another 2 countries also have 26% and 45% “partially” aligned laws/practices
- TFA provisions least reflected in countries’ laws/procedures:
 - Disciplines on fees and charges (Art 6.1 and 6.2)*
 - Establishment of average release time (Art 7.6)
 - Trade facilitation for authorized operators (Art 7.7)*
 - Single Window (Art 10.4)

Summary of Assessment Results (1)

- TFA provisions that are most often reflected in national laws/procedures (9 of 11 countries)
 - Advance ruling: classification (Article 3)
 - Procedures for appeal or review (Article 4)
 - Detention (Article 5.2)
 - Penalty disciplines (Article 6.3)
 - Perishable goods (Article 7.9)
 - Movement of goods intended for import under customs control (Article 9)
 - Use of customs brokers (Article 10.6)
 - Rejected goods (Article 10.8)

Summary of Assessment Results (2)

- Most countries established or are in the process of establishing NCTFs
 - A few have long-standing committees or mechanisms
 - Most have recently-formed committees
 - Committee chairs also vary
 - Participation of private sector and business representatives is notable in some

- Some form of inter-agency working group exists in non-WTO members

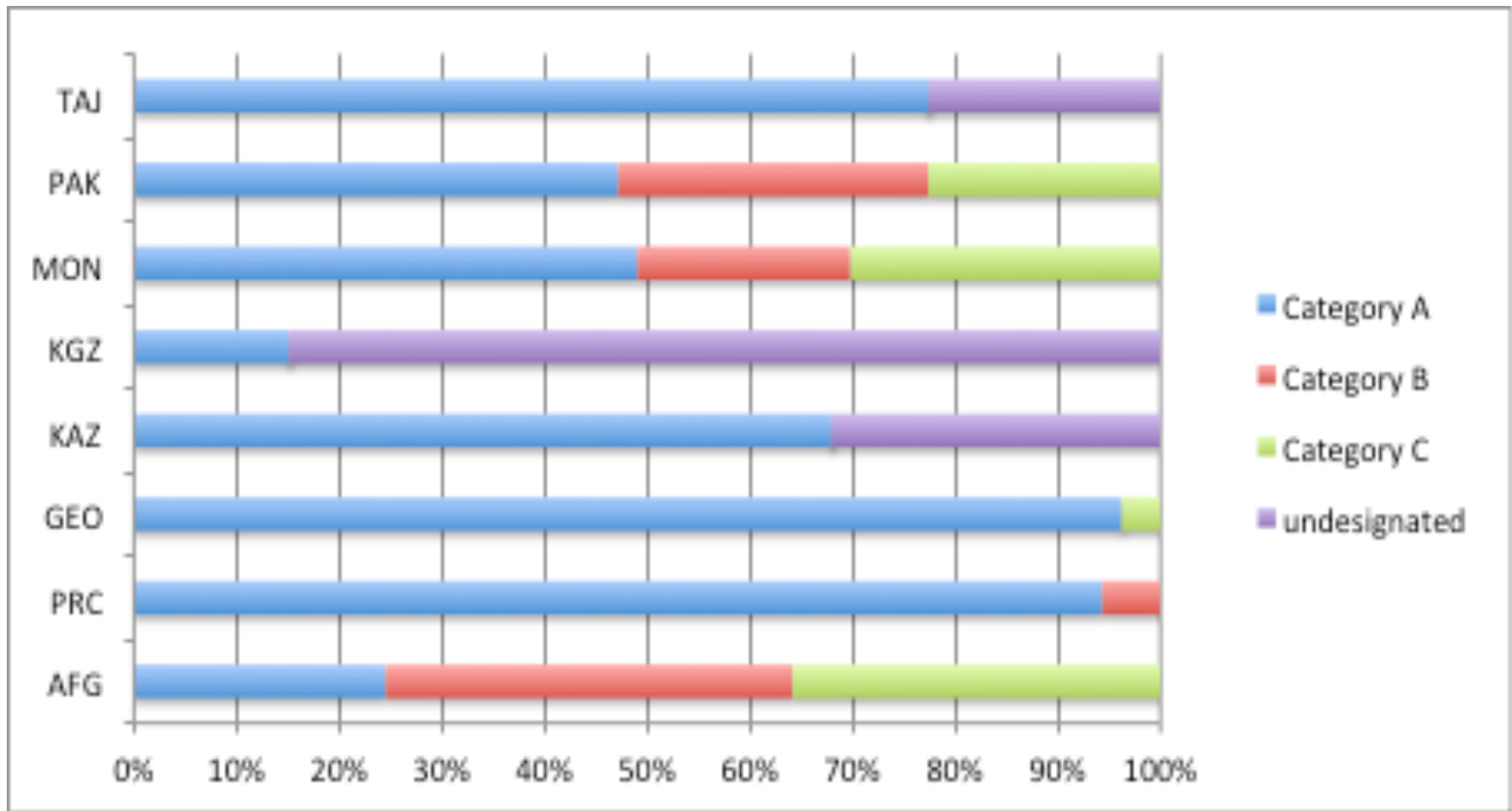
Status of NCTFs

	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
AZE	Coordinating Council on Transit Freight	Decree No. 655 of Oct 2015	8 state bodies	Minister of Economy
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, Gen. Admin. of China Customs, Gen. Admin. of Quality Supervision, Inspection and Quarantine, Dep. Sec-Gen of State Council)
GEO	To be established by Min. of Finance (MOF), Min. of Economy and Sustainable Development, Min. of Foreign Affairs; Current mechanisms are the Working Group of Georgia Revenue Service, 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	Min of Foreign Affairs Decree No. A/48 of Aug 2017	12 state bodies and 5 business sector representatives	Minister of Foreign Affairs
PAK	NCTF (reconstituted National Trade and Transport Facilitation Committee or NTTFC)	Nov 2017 (Government Resolution of Aug 2001 for the NTTFC)	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 and Trade; (Deputy Chair is head of Customs Service)

Summary of Assessment Results (3)

- About half of TFA Articles are designated as Category A by 6 CAREC countries
 - Two of the 6 have designated practically all provisions as Category A
- One country has not yet designated 85% of Articles, while 2 others have 22% and 32% left
- Category A mostly applies to provisions on appeal, other measures, disciplines on fees, formalities, and transit

Category A, B, C Notifications of WTO Members



Source: WTO TFA Database

Provisions most commonly designated as Category A

- Detention (Article 5.1)
- Pre-shipment inspection (Article 10.5)
- Freedom of transit
 - Not conditioned on fees (Article 11.2)
 - No voluntary restraint (Article 11.3)
 - Non-discrimination (Article 11.4)
 - No unnecessary fees or delays (Article 11.7)
 - No technical regulations (Article 11.8)
 - Termination of transit operation (Article 11.10)
 - Guarantees (Article 11.11)

Provisions most commonly designated as Category B or C

Category B

- ❑ Movement of goods intended for import under customs control (Article 9)
- ❑ Customs cooperation: sharing of information with other customs (Article 12.2)

Category C

- ❑ Trade facilitation measures for authorized operators (Article 7.7)
- ❑ Establishment of average release times (Article 7.6)
- ❑ Expedited shipments (Article 7.8)
- ❑ Single window (Article 10.5)
- ❑ Information available on the internet (Article 1.2)
- ❑ Advance rulings (Article 3)
- ❑ Border agency cooperation (Article 8)

Category designations and Alignment of national laws/procedures with TFA Provisions

	Country 1	Country 2	Country 3	Country 4	Country 5	Country 6	Country 7	Country 8
Category A	13	50	51	36	8	26	25	41
Yes	9	43	47	26	6	23	7	24
Partial	3	0	0	6	0	2	4	15
No	1	7	4	4	2	1	14	2
Category B	21	3	0	0	0	11	16	0
Yes	5	0	0	0	0	8	3	0
Partial	14	0	0	0	0	3	6	0
No	2	3	0	0	0	0	7	0
Category C	19	0	2	0	0	16	12	0
Undesignated	0	0	0	17	45	0	0	12
TOTAL: 53 provisions								

Mandatory Provisions

	Yes	Partial	No	Category A
1.1 Publication	7	4		4
1.2 Information available through internet	5	6		3
3 Advance rulings	5	6		2
4 Procedures for appeal or review	9	2		6
5.2 Detention	9		2	8
6.1 General disciplines on fees and charges imposed on or in connection with importation and exportation	2	3	6	5
6.2 Specific disciplines on fees and charges imposed on or in connection with importation and exportation	4	2	5	6
6.3 Penalty disciplines	10		1	5
7.1 Pre-arrival processing	8	1	2	5
7.3 Separation of release from final determination of customs duties, taxes, fees and charges	7	2	2	6
7.5 Post-clearance audit	7	3	1	4

Mandatory Provisions

	Yes	Partial	No	Category A
7.7 Trade facilitation measures for authorized operators	3	3	5	1
7.8 Expedited shipments	4	3	4	3
7.9 Perishable goods	9	2		4
8.1 National border cooperation	8	3		4
10.5 Pre-shipment inspection	6	1	4	7
10.6 Use of customs brokers	9	1	1	6
10.7 Common border procedures and uniform documentation	8	1	2	6
10.8 Rejected goods (subject to Member's laws)	10	1		5
10.9 Temporary admission of goods and inward and outward processing (subject to Member's laws)	8	2	1	5
11 Freedom of Transit (except 11.5, 11.16, 11.16, 11.17)	5	5	1	5 to 8

Technical Assistance and Capacity Building (TACB) requirements

	Investment projects including scoping studies	Policy dialogue and cooperation	Knowledge sharing products and services
Publication and information through internet	Use of IT for portal, information system based on business process analysis	NCTF review of information	Develop skills
Advance ruling	Establish procedures	Amend law, rules	Build capacity
Disciplines on fees and charges	Develop Single Window payment calculator, penalty mechanism	Review fees	Share experiences
Pre-arrival processing	Develop e-declaration	Amend law	Train staff
Separation of release from final determination of duties	Develop guarantee system, pilot with authorized operators		International practice
Post-clearance audit	Automate post-clearance audit	Amend law	Train officers, information campaign
Trade facilitation for authorized operators	Develop scheme that includes monitoring	Obtain legal basis	Build audit capacity, share best practice

Technical Assistance and Capacity Building (TACB) requirements

	Investment projects including scoping studies	Policy dialogue and cooperation	Knowledge sharing products and services
Expedited shipments	IT support for procedures	Legal framework	Build capacity
Perishable goods	Build border crossing facilities with enhanced procedures	Amend law	Study international experience, train
National border cooperation	Infrastructure including border processes	Mechanism for regular interaction, amend law	Train border staff on joint control
Use of customs brokers		Study rules on brokers	Train brokers
Common border procedures and uniform documentation	IT support for development of module		Train on standards
Transit	Develop e-guarantee based on reengineered procedures and documents	Study cost of transit services; Review law on guarantees	Build capacity for advance filing

Next Steps

- ADB Inter-Subregional Forum on Enhanced Implementation of the WTO TFA (co-organized with CAREC Institute and development partners in Q4 2018)
- Regional TA project to support RSAP 2018-2020 will include capacity building to meet TFA commitments
- Customs Cooperation work will continue in the 5 priority areas, noting that these have anticipated TFA provisions
 - Simplification of customs procedures
 - Risk management
 - Regional transit
 - ICT modernization
 - Joint customs control



THANK YOU