



WTO AGREEMENT ON TRADE FACILITATION

**Subregional Workshop on Application of Customs Related Provisions of
World Trade Organization Trade Facilitation Agreement**

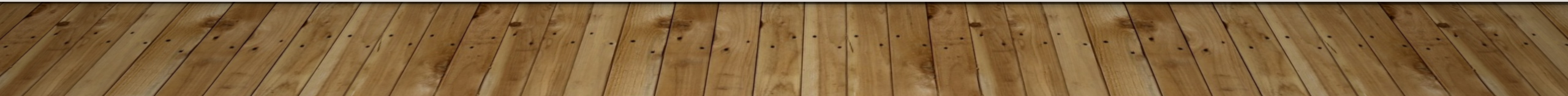
15-16 January 2019

Baku, Azerbaijan

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Consultant ADB*

Need for WTO Rules for Facilitating Trade

- ❖ Clarify and improve three articles of the General Agreement on Tariffs and Trade (GATT) concerning:
 - ✓ the transit of goods (Article V)
 - ✓ fees and formalities (documentation and procedures) (Article VIII)
 - ✓ the transparency of laws and regulations (Article X)
- ❖ **The three GATT Articles** broadly cover
 - requirements relating to transparency and set minimum procedural standards for transit, publication, fees and Customs formalities
 - do not contain specifics of how to achieve these requirements
- ❖ WTO Agreement on Trade Facilitation (ATF) expands on formalities for simplification, harmonization, automation specifically for procedures related to importation and exportation of goods to expedite their clearance, sets out the regime for fees and expands on the transit arrangements for goods and Custom Cooperation matters

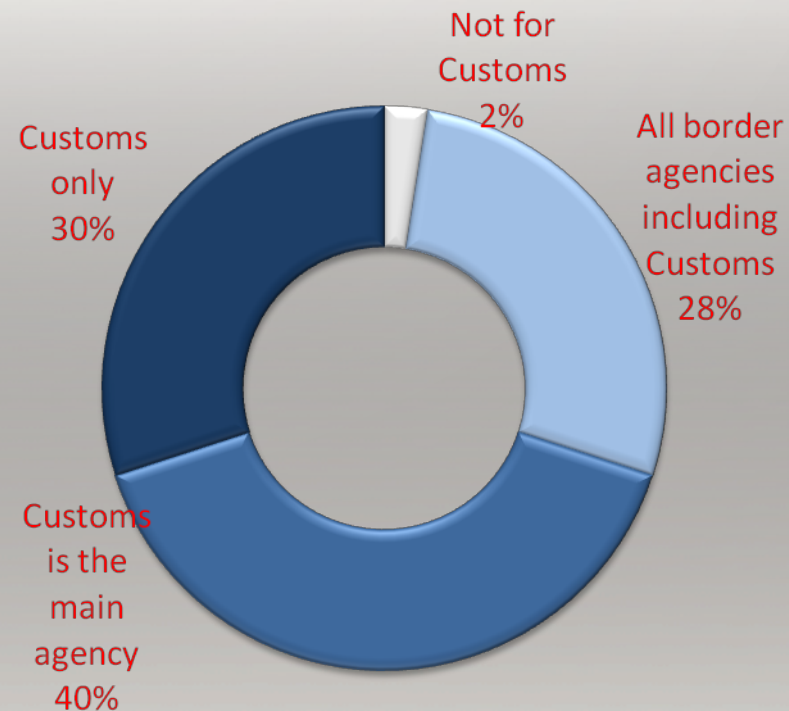


KEY OBJECTIVES

- ✓ To speed up Customs procedures
- ✓ To make trade easier, faster and cheaper
- ✓ To provide clarity, efficiency and transparency
- ✓ To reduce bureaucracy and corruption
- ✓ To make of technological advances

CUSTOMS' PROMINENT ROLE

- The nature of the TFA puts Customs in the center of national implementation efforts.
- 98% of the contents of Section I of the TFA are Customs-related.



STRUCTURE OF THE TFA



Section I

12 Articles with approximately 40 “technical measures” (Articles 1 - 12)



Section II

Special provisions for developing and least-developed country Members (Articles 13 – 22)

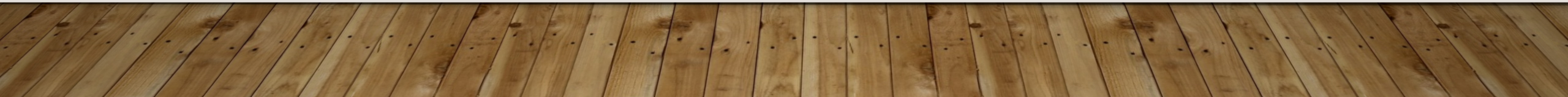


Section III

Final provisions and institutional arrangements (Articles 23 – 24).

TFA & GATT ARTICLES

GATT	TFA
Art. X Transparency	Art. 1 Publication and availability of information
	Art. 2 Opportunity to comment, information before entry into force, and consultations
	Art. 3 Advance rulings
	Art. 4 Procedures for appeal or review
	Art. 5 Other measures to enhance impartiality, non discrimination and transparency
Art. VIII Fees and formalities	Art. 6 Disciplines on fees and charges imposed on or in connection with import and export and penalties
	Art. 7 Release and clearance of goods
	Art. 8 Border agency cooperation
	Art. 9 Movement of goods intended for import under Customs control
Art. V: Freedom of transit	Art. 10 Formalities connected with importation, exportation and transit
	Art. 11 Freedom of transit
	Art. 12 Customs cooperation



SECTION I

THE TRADE FACILITATION AGREEMENT CONTAINS 12 ARTICLES & 40 TECHNICAL MEASURES



Article 1
Publication & Availability of
Information



Article 5
Measures to Enhance
Impartiality, Non-
Discrimination &
Transparency



Article 9
Movement under Customs
Control



Article 2
Comment
and Consultations



Article 6 Disciplines on
Fees and Charges



Article 10 Import, Export
& Transit Formalities



Article 3
Advance Rulings



Article 7
Release and Clearance of
Goods



Article 11
Freedom of transit



Article 4
Procedures for Appeal
or Review

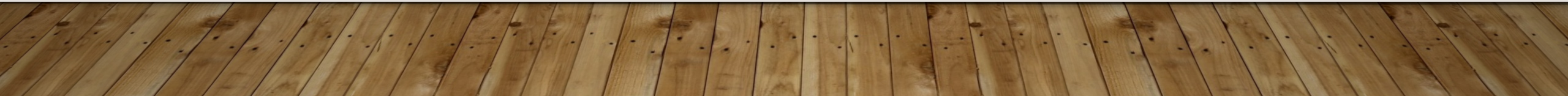


Article 8
Border Agency Cooperation



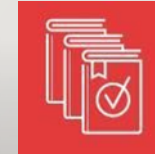
Article 12
Customs Cooperation

TFA PROVISIONS RELEVANT TO CUSTOMS



ARTICLE 1: PUBLICATION & AVAILABILITY OF INFORMATION

- ✓ Publication
- ✓ Information available through Internet
- ✓ Enquiry Points
- ✓ Notification



All government agencies including Customs

ARTICLE 2: OPPORTUNITY TO COMMENT, INFORMATION BEFORE ENTRY INTO FORCE AND CONSULTATIONS

- ✓ Prior Consultation and Opportunity to Comment on New and Amended Rules
- ✓ Interval between Publication and Entry into Force
- ✓ Regular Consultation



All government agencies including Customs

ARTICLE 3: ADVANCE RULINGS

Advance Ruling

- ✓ A written decision provided by a Member to an applicant prior to the importation/ exportation of goods at the request of the applicant
- ✓ Mandatory for tariff classification and origin (Art.3.9) & encouraged for customs value
- ✓ To be delivered in a reasonable, time bound manner
- ✓ Binding on that Member in respect of the applicant that sought the ruling

Customs



ARTICLE 4: PROCEDURES FOR APPEAL OR REVIEW

✓ Right of appeal when Customs issues an administrative decision

- an administrative appeal to or review by an administrative authority higher than or independent of the official or office that issued the decision;

and/or

- a judicial appeal or review of the decision

✓ The legislation may require that an administrative appeal or review be initiated prior to a judicial appeal or review.

✓ Ensure that its procedures for appeal or review are carried out in a non-discriminatory manner and without undue delay

Customs



ARTICLE 6: DISCIPLINES ON FEES AND CHARGES IMPOSED ON OR IN CONNECTION WITH IMPORTATION AND EXPORTATION AND PENALTIES



- ✓ **1 General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation**
- ✓ **2 Specific disciplines on Fees and Charges for Customs Processing Imposed on or in Connection with Importation and Exportation**
- ✓ **3 Penalty Disciplines**

All government agencies including Customs

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS



✓ **1 Pre-arrival Processing**

✓ **2 Electronic Payment**

✓ **3 Separation of Release from Final Determination of Customs Duties, Taxes, Fees and Charges**

✓ **4 Risk Management**

✓ **5 Post-clearance Audit**

✓ **6 Establishment and Publication of Average Release Times**

✓ **7 Trade Facilitation Measures for Authorized Operators**

✓ **8 Expedited Shipments**

✓ **9 Perishable Goods**



Customs

ARTICLE 8: BORDER AGENCY COOPERATION

Encourage all border authorities & agencies to cooperate:



- ✓ Alignment of: working days and hours, procedures, and formalities
- ✓ Development and sharing of common facilities
- ✓ Joint controls
- ✓ Establishment of one stop border post control

Customs

ARTICLE 9: MOVEMENT OF GOODS UNDER CUSTOMS CONTROL INTENDED FOR IMPORT



Allow goods intended for import to be moved within its territory under customs control from a customs office of entry to another customs office in its territory from where the goods would be released or cleared.

To the extent possible cooperate on mutually agreed terms with other Members with whom it shares a common border with a view to coordinating procedures at border crossings to facilitate cross-border trade

- (a) alignment of working days and hours;
- (b) alignment of procedures and formalities;
- (c) development and sharing of common facilities;
- (d) joint controls;
- (e) establishment of one stop border post control.



Customs

ARTICLE 10: FORMALITIES, PROCEDURES AND DOCUMENTATION

Provisions relating to

- ✓ Formalities and documentation Requirements
- ✓ Acceptance of Copies
- ✓ Use of International Standards
- ✓ Single Window
- ✓ Pre-shipment Inspection
- ✓ Use of Customs Brokers
- ✓ Common Border Procedures and Uniform
- ✓ Documentation Requirements
- ✓ Rejected Goods
- ✓ Temporary Admission of Goods/Inward and Outward Processing

Customs



ARTICLE 11: FREEDOM OF TRANSIT

- ✓ Regulations/formalities eliminated or reduced if no longer required or a less trade restrictive solution possible
- ✓ Charges on transit only for administrative procedures, and limited to cost of service rendered
- ✓ Members shall not seek, impose or maintain voluntary restraints or similar measures on traffic in transit.



Customs

ARTICLE 12: CUSTOMS COOPERATION

Provisions relating to

- ✓ **Measures Promoting Compliance and Cooperation**
- ✓ **Exchange of Information**
- ✓ **Verification**
- ✓ **Request**
- ✓ **Protection and Confidentiality**
- ✓ **Provision of Information**
- ✓ **Postponement or Refusal of a Request**
- ✓ **Reciprocity**
- ✓ **Administrative Burden**
- ✓ **Limitations**
- ✓ **Unauthorized Use or Disclosure**
- ✓ **Bilateral and Regional Agreements**



Customs

SPECIAL AND DIFFERENTIAL TREATMENT

Category A: implemented by time Agreement enters into force

Category B: Entry into force + (X) time
(indicative dates of implementation)

Category C: need extra time & TACB

(category **notifications due** at Entry Into Force **one year later for LDCs**)

Implementing the Customs related Articles of TFA by National Administrations

Possible Steps

- ✓ Gap analysis – use WCO Analysis – Section I
- ✓ Accession to Revised Kyoto Convention – General Annex – Contains majority of provisions of the Customs related Articles of TFA
- ✓ Apply other WCO instruments e.g., Time Release Study
- ✓ Seek Technical Assistance

WCO Mercator Programme – Key Objectives



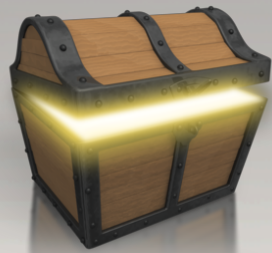
Tailor-made technical assistance and capacity building



Harmonized implementation based on WCO's global standards



Effective coordination among all stakeholders



Beneficial for developing and least developed countries, all government agencies, donor institutions and private sector

Analysis of Section I

The Analysis of Section I complements the Implementation Guidance and provides more detailed information about the links between the TFA Section I provisions and the WCO instruments and tools and other WTO agreements (SPS and TBT), as well as IT implications.

WTO AGREEMENT ON TRADE FACILITATION
 - Analysis of Section I (and Article 23) based on the WTO TF Toolkit and potential implications on WCO -
 Rev. 2, November 2014

Article in the WTO Trade Facilitation Agreement (WT/L/931)	WCO Instruments, Tools, Guidelines (not exhaustive)	Remarks: <ul style="list-style-type: none"> • Overview • Links with other WTO agreements on SPS and Valuation, where applicable • Links with WCO instruments and tools • ICT considerations, where applicable 	Possible implications	WCO Body concerned	Authorities concerned
ARTICLE 1: PUBLICATION AND AVAILABILITY OF INFORMATION					
1. Publication 1.1 Each Member shall promptly publish the following information in a non-discriminatory and easily accessible manner in order to enable governments, traders, and other interested parties to become acquainted with them: (a) procedures for importation, exportation, and transit	<ul style="list-style-type: none"> • Revised Kyoto Convention¹ (RKC), General Annex (GA) Chapter (§) 4 (4.4), § 9 (9.1, 9.2, 9.3); • Recommendation (1999) on the Use of World Wide Web sites by Customs administrations; • Revised Arusha Declaration; • Recommendation (2001) on the application of HS Committee Decisions; • Customs Valuation 	<p>Article 1.1 addresses publication of trade-related information (listed under Paragraph 1.1) which should be published promptly and in a non-discriminatory and easily accessible manner that will allow other governments, traders and interested persons to become acquainted with them.</p> <p>Article 1.1 is cross-cutting with Article 1.2, 1.3 and 1.4. Furthermore, Articles 6.1, 10.6, 11.14 and 11.15 foresee publication of certain types of</p>	- Consider developing comprehensive WCO guidelines for transparency and predictability. This was discussed at the 2 nd Meeting of the TFAWG (September 2014) and at	<ul style="list-style-type: none"> • TFAWG • PTC² • RKC/MC³ • SAFE WG⁴ • HSC⁵ • TCCV⁶ • IMSC 	It is necessary to have an arrangement in place to identify the agencies responsible for publication of trade information, to define the scope of their responsibilities and the mechanism to

¹ Wherever a reference is made to the Revised Kyoto Convention (RKC), this refers to both the Standards in the General Annex or a Specific Annex, as well as to the accompanying RKC Guidelines.
² Permanent Technical Committee
³ Revised Kyoto Convention Management Committee
⁴ SAFE Working Group
⁵ Harmonized System Committee
⁶ Technical Committee on Customs Valuation

WCO tools to support TFA

Implementation Guidance

The WCO has launched on its website the WCO Implementation Guidance for the TFA to support WCO Members in their efforts to implement the TFA

TRADE
FACILITATION

WCO IMPLEMENTING
WTO TFA



Available in:

English

French

Spanish

- RECENTLY UPDATED
- COMPREHENSIVE INTRODUCTION ADDED

<http://www.wcoomd.org/en/topics/wco-implementing-the-wto-atf/atf.aspx>

Harmonized Implementation – Guidance

The WCO has launched on its website the WCO Implementation Guidance for the TFA to support WCO Members in their efforts to implement the TFA

[http://
www.wcoomd.org/
en/topics/wco-
implementing-the-
wto-atf/atf.aspx](http://www.wcoomd.org/en/topics/wco-implementing-the-wto-atf/atf.aspx)

The screenshot shows the 'Implementation Guidance' page. At the top, there is a header with the title 'Implementation Guidance' and a brief introduction: 'The World Customs Organization (WCO), an intergovernmental organization specially mentioned in the Bali Ministerial Declarations, is highlighting its role in the implementation and administration of the WTO Agreement on Trade Facilitation (ATF). The WCO, the centre of excellence on Customs matters world wide, is committed to the efficient implementation of the ATF.' Below this is a search bar and a grid of 12 article tiles. Each tile contains an article number, a title, a short description, and an icon. The articles are: Article 1 (Publication and availability of information), Article 2 (Opportunity to comment, information before entry into force and consultation), Article 3 (Advance rulings), Article 4 (Appeal or review procedures), Article 5 (Other measures to enhance impartiality, non discrimination and transparency), Article 6 (Disciplines on fees and charges imposed on or in connection with importation and exportation), Article 7 (Release and clearance of goods), Article 8 (Border agency cooperation), Article 9 (Movement of goods under customs control intended for import), Article 10 (Formalities connected with importation and exportation and transit), Article 11 (Freedom of transit), and Article 12 (Customs cooperation).

Implementation Guidance

The World Customs Organization (WCO), an intergovernmental organization specially mentioned in the Bali Ministerial Declarations, is highlighting its role in the implementation and administration of the WTO Agreement on Trade Facilitation (ATF). The WCO, the centre of excellence on Customs matters world wide, is committed to the efficient implementation of the ATF.

Select an article below to view more information

TRADE FACILITATION

WCO IMPLEMENTING WTO ATF

Search articles:

Article 1 Publication and availability of information	Article 2 Opportunity to comment, information before entry into force and consultation	Article 3 Advance rulings
Article 4 Appeal or review procedures	Article 5 Other measures to enhance impartiality, non discrimination and transparency	Article 6 Disciplines on fees and charges imposed on or in connection with importation and exportation
Article 7 Release and clearance of goods	Article 8 Border agency cooperation	Article 9 Movement of goods under customs control intended for import
Article 10 Formalities connected with importation and exportation and transit	Article 11 Freedom of transit	Article 12 Customs cooperation

Harmonized Implementation

The Guidance presents the relevance of WCO instruments and tools such as the Revised Kyoto Convention for TFA implementation.

WCO tools for Article 7.7 (Authorized Operators)

Browse Articles ▾

Release and clearance of goods

Search articles

- 1 Pre-arrival Processing
- 2 Electronic Payment
- 3 Separation of Release from Final Determination of Customs Duties, Taxes, Fees and Charges
- 4 Risk Management
- 5 Post-clearance Audit
- 6 Establishment and Publication of Average Release Times
- 7 Trade Facilitation Measures for Authorized Operators
- 8 Expedited Shipments
- 9 Perishable Goods

OVERVIEW +

WTO ATF +

REVISED KYOTO CONVENTION +

OTHER WCO TOOLS -

SAFE Framework of Standards ([download](#))

The SAFE Framework principally incorporated into its text detailed provisions on the conditions and requirements for Customs and Authorized Economic Operators (AEO), initially developed in a separate document. This addition was driven by the perception that both Customs and its business partners would benefit from having all SAFE and AEO provisions readily available in a single comprehensive instrument.

SAFE Package

The Package includes various tools relating to AEO including AEO Implementation Guidance, the AEO Compendium and Model AEO Appeal Procedures.

- AEO Implementation Guidance ([download](#))
- AEO Compendium ([download](#))
- Model AEO Appeal Procedures ([download](#))
- AEO Benefits: Contribution from the WCO Private Sector Consultative Group([download](#))
- The Authorized Economic Operator and the Small and Medium Enterprise (FAQ) ([download](#))
- Mutual Recognition Arrangement/Agreement Guidelines ([download](#))
- AEO Template ([download](#))

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MEMBERS PRACTICES +

PERFORMANCE INDICATORS +

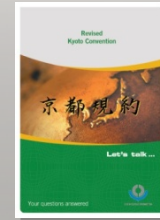
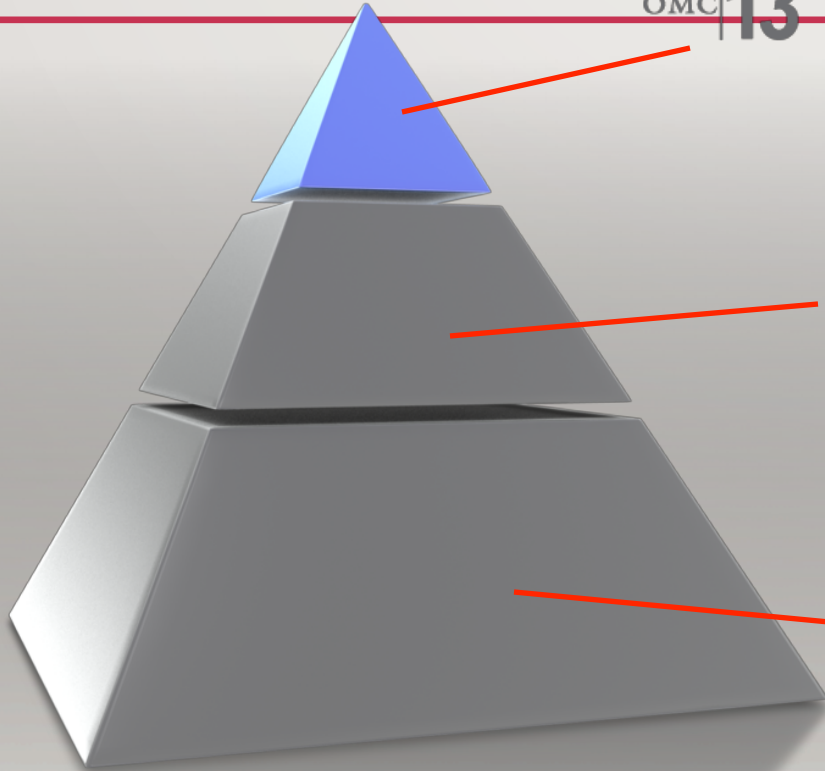
- Revised Kyoto Convention
- SAFE Framework of Standards
- AEO Implementation Guidance
- AEO Compendium
- Model AEO Appeal Procedures
- AEO Benefits: Contribution from the WCO Private Sector Consultative Group
- The Authorized Economic Operator and the Small and Medium sized Enterprise (FAQ)
- Mutual Recognition Arrangement/ Agreement Guidelines
- AEO Template

Example – Authorised Operator

27



The TFA (Article 7.7) obliges Members, to provide additional trade facilitation measures to operators who meet specified criteria

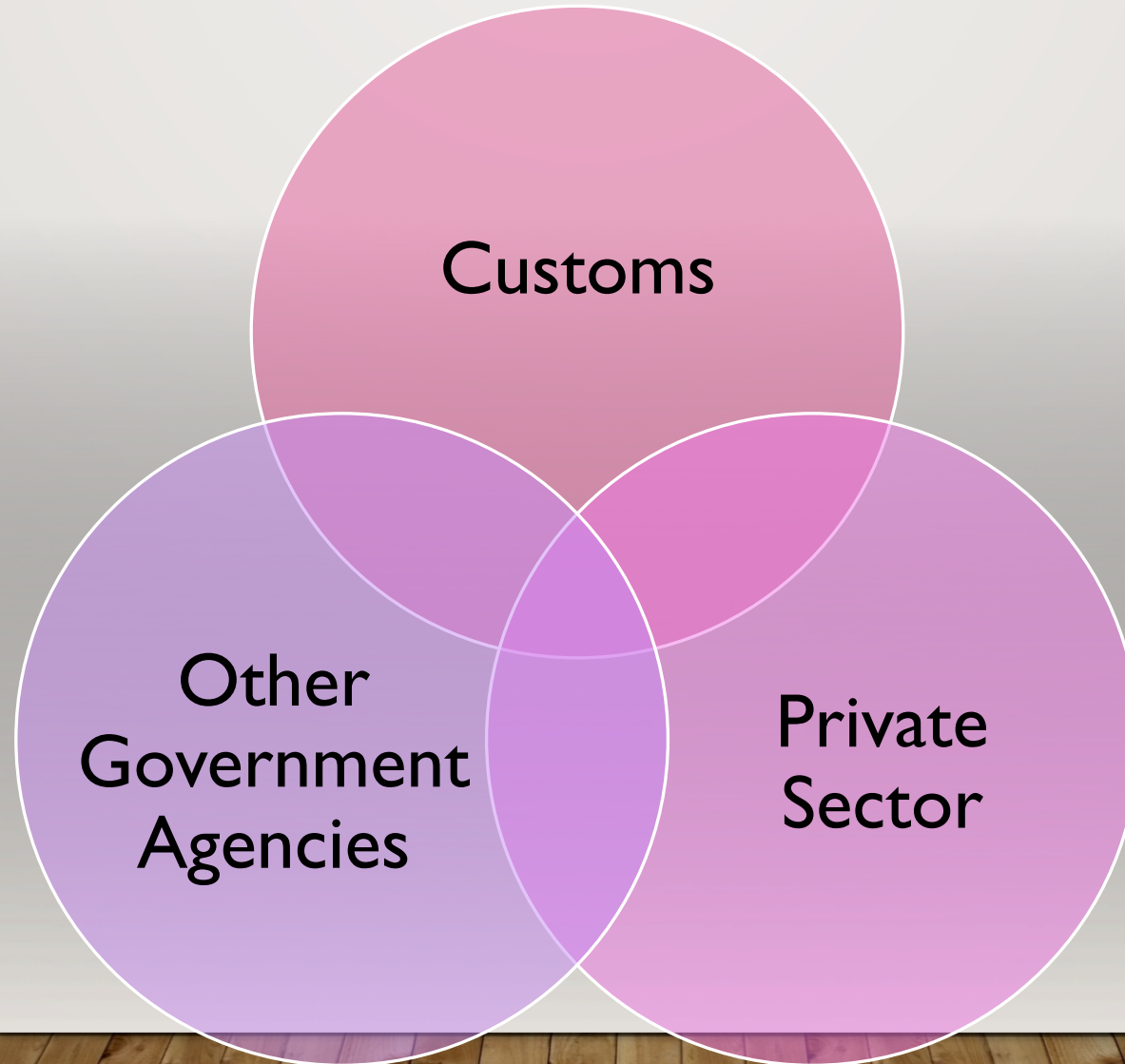


The RKC sets out principles of Customs-Business Partnership and Authorized Person who meet criteria specified by Customs to get additional benefits



The SAFE Framework of Standards and other tools in SAFE Package provide a detailed technical information and guidance to support Members to implement an AEO programme.

Partnerships in TFA Implementation



National Committee on Trade Facilitation (NCTF)

- Article 23.2 of the WTO TFA

A WCO Guidance on NCTF



Article 23.2
of the WTO Trade Facilitation Agreement

A WCO Guidance
September 2015

“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.”

Thank You

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