

# **World Trade Organization TRADE FACILITATION AGREEMENT:**

## **Kenya's Implementation Initiatives**

Presentation During the **Mombasa Port Community Think Tank Forum  
and Port Community Charter Annual Review**

**By: Dr. Chris Kiptoo, CBS  
Principal Secretary, State Department for Trade**

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# Presentation Outline

- Highlights of the WTO Trade Facilitation Agreement
- State of play in TFA implementation
- Kenya's initiatives aimed at compliance
- Expected benefits of the TFA

# Highlights: What is Trade Facilitation?

**Trade facilitation** is the “simplification and harmonization of international trade procedures aimed at minimizing obstacles to the movement of goods across borders.”

*WTO Dictionary of Trade Policy Terms, 5<sup>th</sup> Edition*

It is also defined as the “**systematic rationalization of the procedures and documentation** for the international trade” where **trade procedures** refer to ‘activities, practices, and formalities involved in collecting, presenting, communicating and processing required for the movement of goods in international trade”.

*UN Economic Commission for Europe*



# The Agreement

Negotiations on the Trade Facilitation Agreement were concluded in 2013, during the 9<sup>th</sup> WTO Ministerial Conference in Bali, Indonesia.

On 27th November, 2014, WTO members adopted a Protocol of Amendment to insert the new Agreement into Annex 1A of the WTO Agreement in line with the decision adopted in Bali. This was after having undertaken a legal review of the agreement's text.

# Aim of the Agreement

The Trade Facilitation Agreement aims to:

- **expedite** the movement, release and clearance of goods, including goods in transit.
- Enhance **effective cooperation** between customs and other appropriate authorities on trade facilitation, and customs compliance issues.
- Integrate Developing and least Developing Country Businesses into international trade through provisions of **technical assistance and capacity building** in the area of trade facilitation to reduce the costs of doing business.

# Structure of the Agreement

The Agreement has **three** sections:

## **Section I:** Articles 1 - 12

- contains provisions for expediting the movement, release and clearance of goods, including goods in transit.
- clarifies and improves the relevant articles (V, VIII and X) of the General Agreement on Tariffs and Trade (GATT) 1994.
- sets out provisions for customs cooperation.

# Structure of the Agreement cont'd

## **Section II:** Articles 13 - 22

- Contains Special and Differential Treatment (S&DT) provisions
- The S&DT provisions allow developing and least-developed countries (LDCs) to:
  - i. determine when they will implement individual provisions of the Agreement, and
  - ii. identify particular provisions that they will only be able to implement upon the receipt of technical assistance and support for capacity building.

# Structure of the Agreement cont'd

## Section II

Each member **must self-designate**, on an individual basis, the provisions of the TF Agreement under each of the Categories A, B and C, where:

**Category A:** provisions that the member will **implement by the time** the **Agreement enters into force** (or in the case of a least-developed country member within one year after entry into force);

**Category B:** provisions that the member will implement after **a transitional period following the entry into force** of the Agreement; and

**Category C:** provisions that the member will **implement** on a **date after a transitional period** following the **entry into force** of the Agreement and requiring the acquisition of **assistance and support for capacity building**.

All members are required to notify to the WTO, the categorization of their measures, and more importantly the developing country and LDC Member, in order to benefit from the Special and Differential Treatment.



# Structure of the Agreement cont'd

## **Section III:** Articles 23 – 24 (Institutional Framework)

- Contains provisions that establish a Permanent Committee on Trade Facilitation at the WTO,
- Requires members to have a National Committee to facilitate domestic coordination and implementation of the provisions of the Agreement, i.e. the National Trade Facilitation Committee (NTFC)
- It sets out the final provisions.

# State of Play in the Implementation

## Entry into Force of the agreement:

- ✓ The Agreement will enter into force when **two-thirds** of Members ratify the Agreement in accordance with their national laws and deposit the instruments of acceptance with the WTO Secretariat.
- ✓ 110 out of 164 Members were required for the two-thirds threshold to be met.
- ✓ On **22nd February, 2017** this threshold of Membership ratification was attained and the Agreement came into force.
- ✓ **Kenya ratified** the Agreement on **10th December, 2015**.
- ✓ **131 Members** have ratified the Agreement as at 28<sup>th</sup> Feb 2018.
- ✓ 109 countries have notified the category A, 52 countries have notified the category B, 42 countries have notified the category C as we speak now.

# State of Play cont'd

- ✓ The WTO established the Permanent Committee on Trade Facilitation (PCTF), on **16 May 2017**. PCTF - the body responsible for overseeing implementation of the WTO's Trade Facilitation Agreement (TFA) at the WTO.

## Inaugural meeting of the Committee on Trade Facilitation,



# Kenya's Initiatives for Compliance with Trade Facilitation Agreement

- ✓ Kenya is a developing Country and enjoys flexibility in the implementation of the Agreement in accordance with the Special and Differential Treatment principle.
- ✓ In September, 2014, Kenya completed its Trade Facilitation needs assessment and categorized the trade facilitation measures into Categories A, B and C.
- ✓ The measures have been undergoing reviews and as 2017, categorization was as follows:

No.	CATEGORY	NO. OF MEASURES
1.	A	6
2	B	9
3	C	24
	<b>TOTAL</b>	<b>39</b>

# Kenya's Compliance Initiatives cont'd

- ✓ In April, 2015, Kenya notified its Category A measures to the WTO,
- ✓ The National Trade Facilitation Committee (NTFC) has been established, and was gazetted on 16th September, 2016 by the Cabinet Secretary in the Ministry of Industry, Trade and Cooperatives. Officially launched in July, 2017. Membership is all inclusive – 59 Agencies , Public, Private & Civil Society
- ✓ The Principal Secretary in the Ministry responsible for Trade will chair the Committee. The Commissioner of Customs and Border Controls will be the Deputy Chair. The Kenya Private Sector Alliance (KEPSA) or its relevant affiliate association will be the Co-Chair.
- ✓ The State Department responsible for International Trade provides the Secretariat for the NTFC.

# National Trade Facilitation Committee (NTFC)

- ✓ There are 4 groups working under the NTFC, comprising of experts from relevant Ministries, Departments, Agencies and other institutions. They will be handling specific areas on trade facilitation measures, projects or recommendations.
- ✓ The 4 thematic working groups are;-
  - i. a) Customs Procedures – Chaired by KRA
  - ii. b) Information and Transparency – Chaired by Kentrade
  - iii. c) Rules and Regulations – Chaired by State Department for Trade
  - iv. d) Mombasa Port Community Charter and Transit Trade – Chaired by Shippers Council of East Africa.



# NTFC Work plan and Budget

- The NTFC has drawn up a three – year budget for Secretariat and implementation plan of the Trade Facilitation Agreement for the years 2017/18 to 2019/20.
- The budget is aligned to the Medium Term Expenditure Framework (MTEF), the circle that the Government of Kenya follows in the implementation of its programmes.
- The work plan constitutes phase one (2017/18-2019/20) of implementation of TFA Articles that the country has designated under Category C

# NTFC Work plan & Budget cont'd

- The NTFC has identified some of the category C measures and drafted funding proposals for consideration by Development Partners.
- The proposals will be presented to a Development Partners Round Table that is under preparation.
- The project proposals cover the following measures:
  - i. Article 2.2 on Consultations
  - ii. Article 5.3 on Test procedures
  - iii. Article 8.0 on Border agency cooperation
  - iv. Article 10.4 on Single window
  - v. Article 10.8 on Rejected Goods



# Compliance with Article 1.1 and 1.2

- ✓ Kenya has made tremendous progress in complying with Article 1 on the requirement to publish trade information.
- ✓ Article 1 requires Governments to publish their trade procedures online, displaying them step-by-step, with contact information on enquiry points, access to forms and other required documents and all relevant trade and customs laws.

# Compliance with Article 1.1 and 1.2 Cont'd

- The **State Department for Trade** and **KenTrade**, together with other partners developed and launched **the Kenya E-Trade** and **Info Trade Kenya Portal** in October and November 2017 respectively.
- **Kenya is the 1st country** in the East Africa Community (EAC) and Sub Saharan Africa(SSA) **to comply with Art. 1 of WTO TFA**
- Objective: To provide traders (current and potential) with **transparent information on tariffs, rules and procedures** pertaining to import and export formalities.
- **How?** *through detailed, practical and up-to-date descriptions of steps to go through, as seen from the user's point of view to assist in decision-making.*

# TFA Implementation at the EAC Regional Level

- **Regional framework** for the implementation of the TFA has been agreed at the EAC level. **Measures that are regional in nature** will be undertaken **jointly to derive synergy**.
- In the EAC region, **2 countries have ratified** the Trade Facilitation Agreement: **Kenya and Rwanda**. The 5 EAC countries have notified their category A measures.
- In March 2017, Consultations at the EAC Level on **harmonization of the trade facilitation measures** were concluded, a **regional action plan developed and agreed upon**.
- **Note:** The EAC Secretariat is coordinating the implementation of the TFA **without prejudice** to any of the **partner state's programmes**



# Expected Benefits of Trade Facilitation Agreement in Kenya and the Region

It is expected that implementation of the TFA will greatly:

- ✓ Enhance the smooth and faster movement of goods across borders
- ✓ Simplify trade procedures, rules and regulations
- ✓ Ease accessibility of information on trade procedures , regulations and fees charged through Publication including through the internet (E- Trade Portals in Kenya).
- ✓ Enhance the Customs cooperation among Members which will result to increase in government (customs) revenue
- ✓ Improve global trade governance and hence competitiveness



# Expected Benefits Cont'd

- ✓ Reducing time and cost of trade;
- ✓ Increased shipments and volume of trade;
- ✓ Promoting job creation through diversified exports and imports;
- ✓ Expanding trade opportunities for Micro Small and Medium-sized Enterprises (MSMEs) by integrating them into global value chains;
- ✓ Would help in marketing Kenya and the region as trade and development corridors;
- ✓ Inducing investment in trade-related infrastructure and ICT among others

# Going Forward

In February 2018, the **State Department for Trade (SDT)**, **UNCTAD** and **Trademark East Africa (TMEA)** jointly organized a **National Training Workshop** for the National Committee on Trade Facilitation in Nairobi to review implementation of Category B and C Measures and develop additional project proposals. The NTFC **agreed on the following way forward:**

- Official **Notification to the WTO** for categories B and C will soon be done on completion of internal Consultations.
- A **review of the composition of the working groups** under the NTFC to minimize the problem of overlap membership.
- Members agreed to undertake **Project Proposals** by Technical working groups and finalize by end of March, 2018.

# Going Forward

- Members of the Various Technical Working Groups Explore the possibility of **holding monthly meetings** for the purposes of **expediting the implementation** of TFA.
- **Development Partners Round Table** to be convened with advice from the State Department for Trade upon adoption of some selected project proposals by the NTFC.
- Formulation of the **Kenya's TF Implementation Plan (Roadmap)** to be completed by September 2018 on expiry of current work plan.
- Next NFTC meeting planned to be held in May 2018.



# Thank you

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State Department for Trade, Kenya.