

## Implementation of the WTO Trade Facilitation Agreement in Asia and the Pacific: 2 years on

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### Highlights

The WTO Trade Facilitation Agreement (TFA) entered into force in 2017. The analysis of official notifications submitted to the WTO by ESCAP members and associate members reveals that significant progress has been made by Asia-Pacific developing economies in implementing the agreement. Highlights of the analysis include the following:

- 37 Asia-Pacific economies included in this analysis have, on average, notified 65% of the substantive provisions in the WTO TFA in category A. In other words, **65% of the WTO TFA has already been implemented** in the region, a 6-percentage point increase from 2017.
- Measures **most notified in category B**, i.e. indicating more time is needed for their implementation, are measures related to Sub-article 1.4 “**Notifications**”, Sub-article 2.2 “**Consultations**” and Sub-article 6.1 “**General Disciplines on Fees and Charges**”.
- 5 measures **most notified under category C**, i.e. requiring technical assistance and capacity building, are: Article 10.4 “**Single Window**”, Article 7.7 “**Trade Facilitation measures for Authorized Operators**”, Article 7.4 “**Risk Management**”, Article 10.3 “**Use of International Standards**” and Article 8 “**Border Agency Cooperation**”.
- **Asia-Pacific LDCs’** average rate of implementation is 27%, according to their category A notification. They **require capacity building and technical assistance for 50% of the WTO TFA provisions**.
- **Transparency notifications**, where countries are supposed to provide information on actual implementation of several TFA measures, are very useful but **are not fully complied with**.
- **Some developing countries are at risk of losing access to implementation flexibilities and technical assistance**, as they have yet to notify definitive dates of implementation of some provisions (deadline: 22 August 2019).
- Given the best-endeavour nature of many WTO TFA provisions, as well as incentives for developing countries to notify under other categories, **category A notifications provide an imperfect picture of implementation of trade facilitation measures**.

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## Introduction

The WTO Trade Facilitation Agreement (TFA) entered into force on 22 February 2017. The full implementation of the agreement would reduce trade costs by 14.3% and increase global trade by \$1 trillion per year (WTO, 2015). So far, 34 Asian - Pacific economies, members or associate members of ESCAP and members of the WTO, have ratified the agreement. On 2 July 2019, Tajikistan presented its instrument of ratification. This leaves only 4 WTO members in the region also members of ESCAP to ratify: Maldives, Solomon Islands, Vanuatu and Tonga.<sup>1</sup>

WTO TFA implementation can help both developed and developing countries improve supply chain efficiency by reducing internal red tape. The agreement includes provisions to increase the transparency of the trading process, expedite goods clearance, facilitate transit, and increase cooperation among customs authorities. The TFA provides extensive implementation flexibility to developing countries, including least developed countries (LDCs), enabling them to request capacity building and technical assistance before a provision is implemented.

To benefit from this “Special and Differential Treatment” as allowed by the Section II of the TFA, they have to notify each and every measure into different categories, as described below:

**Category A:** “implementation upon entry into force of the Agreement, or within one year after for LDCs.” As of today, all measures notified in category A are supposed to have been implemented as of 22 August 2018.

**Category B:** “implementation after a transitional period following the entry into force.” Developing members should have already notified their definitive date of implementation of measures in this category, while LDCs can still notify implementation date until 22 February 2020 (or request an extension).

**Category C:** “implementation on a date after a transitional period following the entry into force and requiring the acquisition of assistance and support for capacity building.” Developing members have to notify their definitive date of implementation before 22 August 2019<sup>2</sup> – LDCs have until 2022 to do so.

This brief reviews Category A, B and C notifications received by the WTO from ESCAP member and associate members. Capacity building needs are identified based on a regional analysis of category C notifications, followed by a discussion of transparency notifications already submitted. Category A notifications are then compared with WTO TFA implementation data from the 2019 UN Global Digital and Sustainable Trade Facilitation Survey. The brief concludes by highlighting the need for developing countries to comply with notification requirements, as well as for the development community to provide much needed technical assistance needed for the TFA to be implemented by all WTO members in a timely manner.

## Overview of WTO TFA notifications in Asia-Pacific

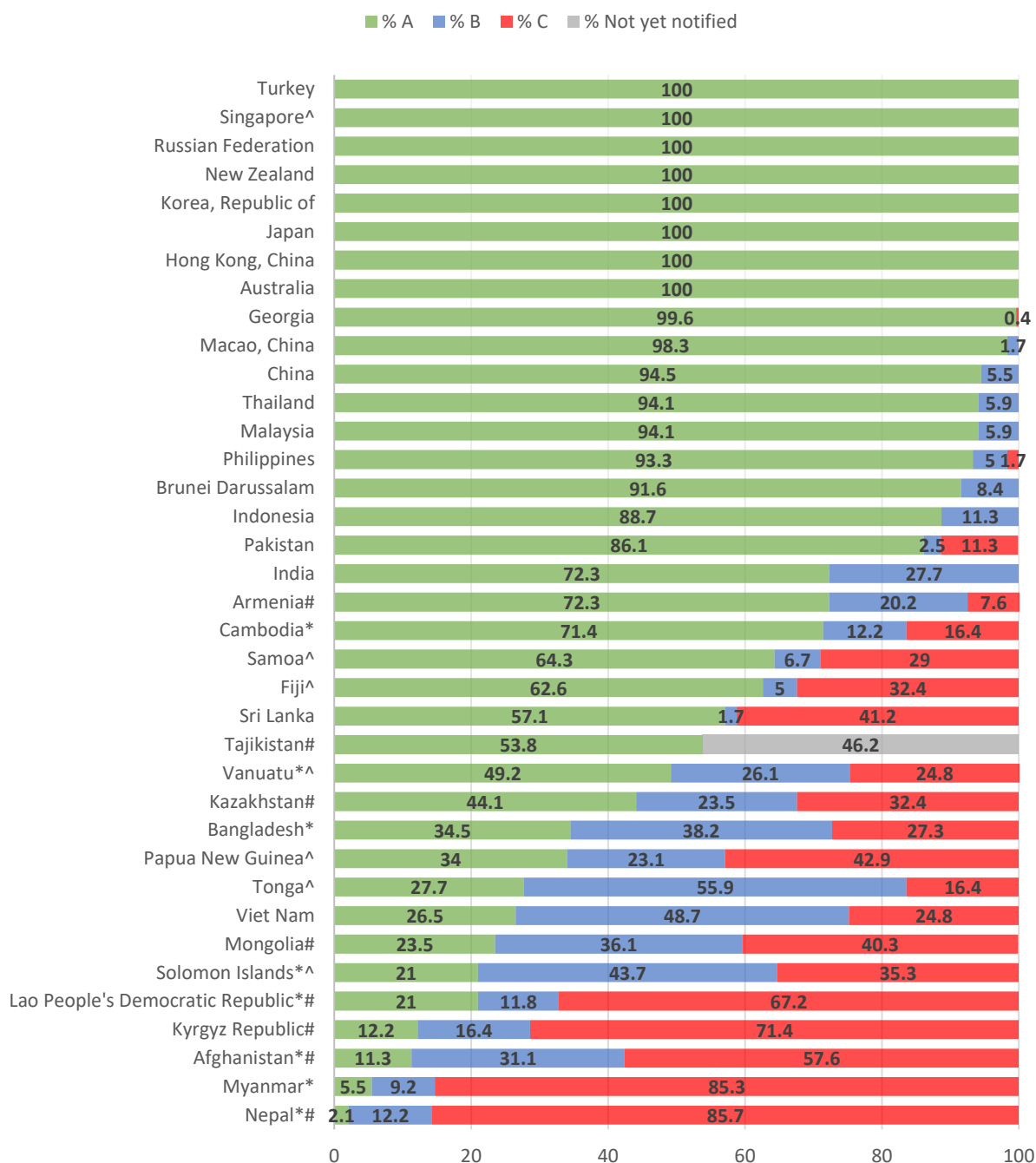
Two years after the entry into force of the agreement, all 37 economies from the region that have already submitted TFA notifications to the WTO have submitted at least one article or sub-article in category A, as shown in figure 1. The figure also reveals that provisions notified in category B and C still represent a large part of notifications. At the date of writing, the percentage of measures implemented for the 37 economies is 65%. The percentage of notifications in category B and C is 13.4% and 20.3%, respectively. Only Tajikistan has yet to submit its category B and C.

<sup>1</sup> The later three Pacific Island economies have however, already submitted TFA notifications to the WTO.

<sup>2</sup> The deadlines for notifications were kindly provided by Sheri Rosenow, Counsellor, WTO, based on the text of the WTO TFA and its entry into force. Also see TFA Notifications Guide available at:

<https://drive.google.com/file/d/1Zzx1gUCTOCLYzlaGCb04sErouVW01GKQ/view>

**Figure 1: WTO TFA Notifications by Asia-Pacific Economies**



Source: WTO TFA Database. Out of 36 main sub-articles.

Notes: \* LDCs, # Landlocked economies, ^ Small Island Developing States (SIDS). When the indicative date of implementation has already passed, the measure is considered implemented. Developed economies were not required to submit notifications as they were all bound to have implemented all WTO TFA provisions (i.e., 100% of the WTO TFA provisions are assumed to be in Category A).

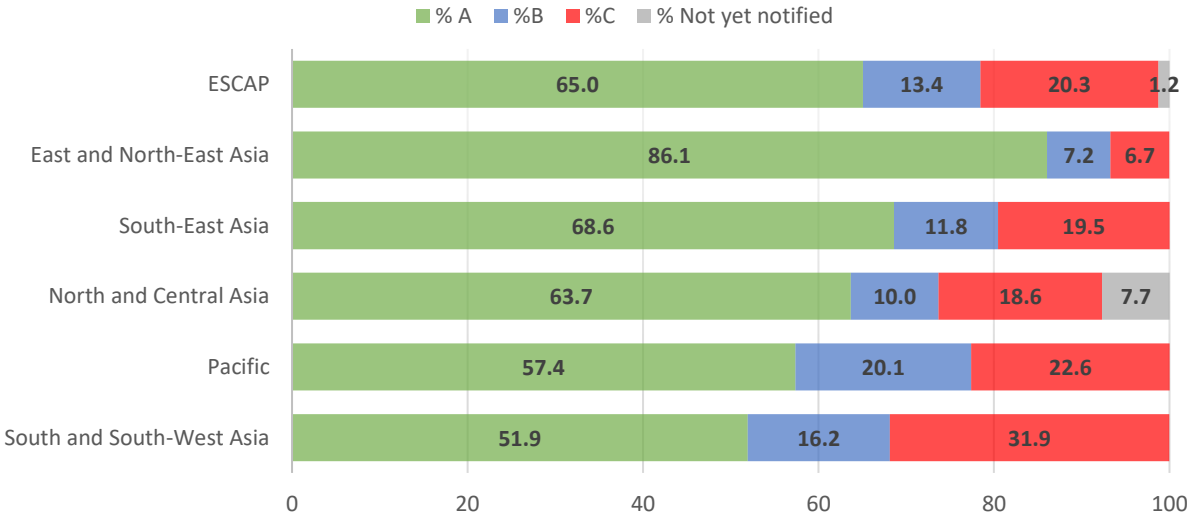
Several developing countries, including Singapore and Republic of Korea, have already notified 100% of TFA provisions under category A. Several others, including China, Malaysia and Thailand have notified over 94% of measures under category A and are expected to achieve full implementation before 2021.

LDCs show a very low rate of implementation as 5 out of 8 LDCs of the region (that are also members of the WTO) have implemented less than one quarter of the measures contained in the agreement, namely: Afghanistan, Lao PDR, Myanmar, Nepal and Solomon Islands. The average rate of implementation for LDCs reaches only 27%, when the ESCAP average is 65%.

Some countries show a high rate of category B notifications (e.g., Tonga and Viet Nam), indicating that many provisions will be implemented without further need of capacity building. Among these countries we can find similarities in terms of category B notifications, for instance Article 4 “Procedures for appeal and review”, Article 7.6 “Establishment and Publication of Average Release Times” or Article 1.3 “Enquiry points”. Based on the date of implementation provided by countries under category B, an additional 11.14% of measures should be implemented by 22 February 2024, which should bring the regional TFA implementation average above 76% by then.<sup>3</sup>

However, more than one-fifth of the TFA measures are notified in category C, on average. Implementation of the TFA may therefore not be implemented without significant technical assistance and capacity building, especially in Afghanistan, Kyrgyz Republic, Lao PDR, Myanmar and Nepal, as per their current notifications. Papua New Guinea, Mongolia and Sri Lanka also have indicated need for capacity building and technical assistance for more than 40% of TFA measures.

**Figure 2: WTO TFA notifications by Asia-Pacific sub-regions**



Source: WTO TFA Database

Notes: Average share of category A, B and C notifications for the sub-region. East and North-East Asia includes China, Hong Kong Special Administrative region of China, Japan, Macao Special Administrative region of China, Mongolia, the Republic of Korea (6). South-East Asia includes Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam (10). North and Central Asia includes Armenia, Georgia, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan (6). Pacific includes Australia, Fiji, New Zealand, Papua New Guinea, Samoa, Solomon Islands, Tonga, Vanuatu (8). South and South-West Asia includes Afghanistan, Bangladesh, India, Nepal, Pakistan, Sri Lanka, Turkey (7).

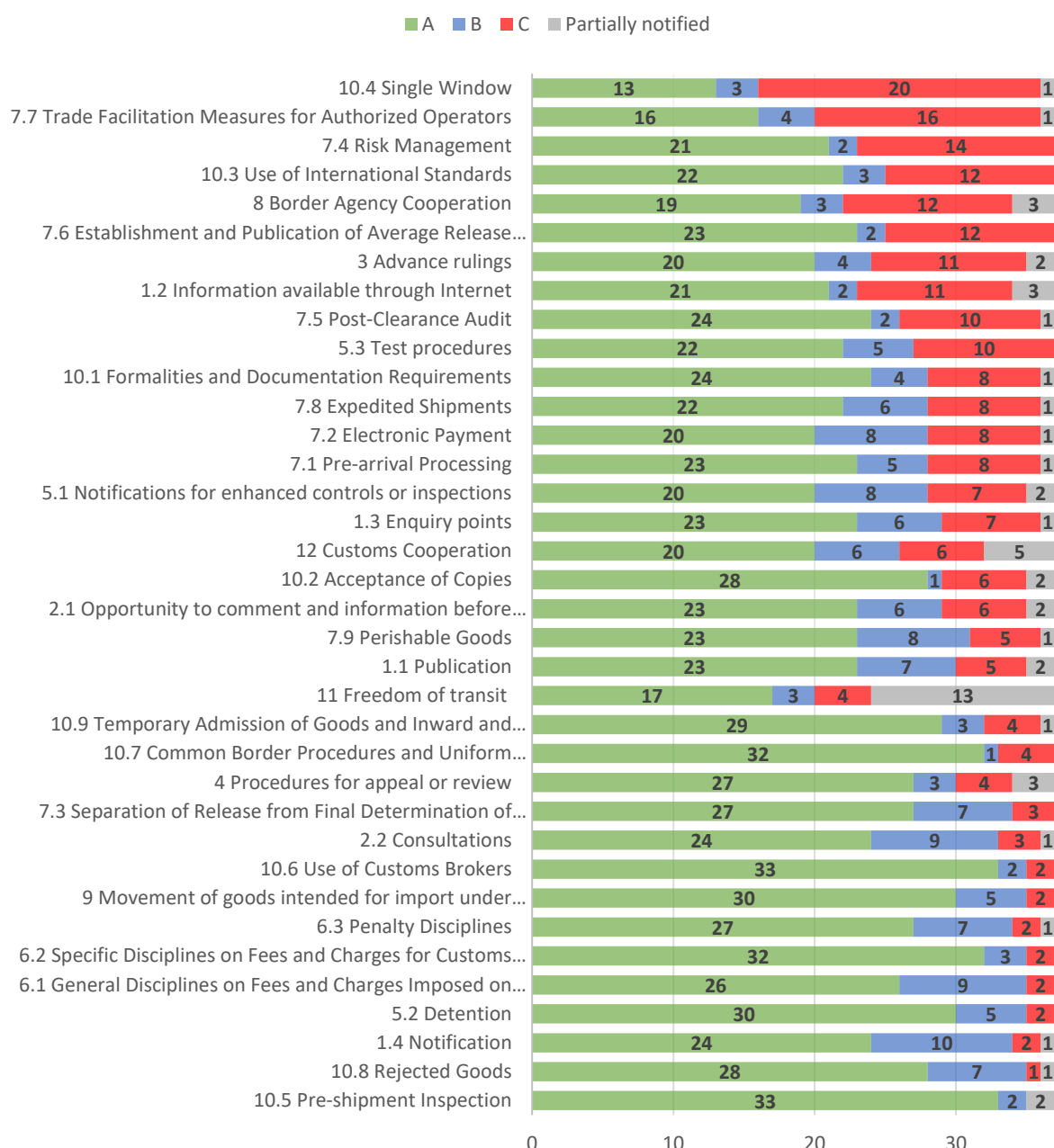
Implementation rates in the Asia-Pacific show a lot of disparity across sub-regions. Figure 2 indicates that the South and South-West Asia sub-region, the Pacific sub-region and the North and Central Asia sub-region are well below the ESCAP rate of implementation. These three sub-regions gather 6 Small Islands Developing States (SIDS) and 5 landlocked developing countries (LLDCs), which partly explains their low average rate of implementation. Indeed, nine of the 15 SIDS and LLDCs have notified more than 50% of the provisions in either category B or C, with Nepal specifying that it will need more time and capacity building to implement nearly 97.9% of the substantive articles in the WTO TFA.

<sup>3</sup> Some measures notified in category B do not have any determined date of implementation. Indicative dates have been used when no definitive dates were available.

### Notifications by article and sub-article: identifying capacity building needs

Figure 3 identifies sub-articles by category of notification and rank measures by the most notified in category C.<sup>4</sup> Sub-article 10.4 relating to the implementation of the Single Window (SW), a system that allows traders to submit all required documents for trade in a single-entry point, Sub-article 7.7 “Trade Facilitation measures for Authorized Operators” and Sub-article 7.4, “Risk management”, are the 3 articles most notified in C, indicating that they might be the most complicated if not the most costly measures to implement (ADB-ESCAP, 2013). So far, only 13 countries have fully implemented the SW provision and 16 have special trade facilitation measures in place for Authorized Operators.

**Figure 3: WTO TFA Notifications by main articles and sub-articles**



Source: WTO TFA Database

Notes: Based on notifications from 37 Asia-Pacific economies. “Partially notified” means that some measures included within the designated sub-article have been notified in different categories, either A, B or C.

Article 11 “Transit” shows most significant divergence in notifications across countries, with many countries choosing to only partially notify it, i.e., notifying parts of the Article in difference categories.

<sup>4</sup> We use the article and sub-article notification data from the WTO TFA database, as of 5 July 2019. It is available at [tfafacility.org](http://tfafacility.org) and maintained by the WTO Secretariat. Main WTO TFA articles often relate to multiple trade facilitation measures, while sub-articles or even paragraphs refer to one specific measure.

Sub-article 11.5 and Sub-article 11.9 are more notified in category C compared to other components of that Article. They refer to the need of better infrastructures for traffic in transit (11.5) and the allowance for advance filing and processing of transit documentation and data prior to the arrival of goods (11.9), respectively. Capacity building and technical assistance for these two specific measures may be prioritized, given the importance of Article 11 for landlocked countries in particular.

Taking a closer look at notifications by LDCs, we find that none of them have implemented Sub-article 7.2 “Electronic payment” or Sub-article 10.4 “Single Window”. All of them have notified SW under category C. This is not surprising since these particular provisions need substantive investment and financial support in procuring ICT, such as the set-up and installation of equipment to put in place an electronic payment system. The capacity building needs of LDCs however extend beyond these measures. and, as can be seen inferred from Figure 4, category C notifications can be helpful in understanding needs of a specific country. For example, Lao PDR is the only country in the region that notified Sub-article 10.8 in Category C, a measure aiming to regulate the re-export of imported goods in case of non-compliance with national regulations.

Based on the category C notifications already submitted by LDCs and developing Asia-Pacific economies, the most requested type of technical assistance regards the “legislative and regulatory framework” (33%), followed by “human resources and training” (32%) and “information and communication technology” (27%).

### **Beyond category A, B, C notifications: Transparency notifications<sup>5</sup>**

Under the agreement, countries have to notify the Committee on Trade Facilitation, established by Sub-article 23.1.1 of the TFA, of how and where they are publishing and providing information to governments and traders in relation to the following TFA articles:<sup>6</sup>

- (i) Sub-article 1.4: information regarding import/export and transit procedures, including duty rates, procedures for appeal and review, rules for the classification or valuation of products for customs purposes and other trade-related regulations. (All of this information is meant to be communicated to the Committee, indicating the official places where it can be found, along with the associated URL of websites and contact information of the enquiry points).
- (ii) Sub-article 10.4.3: information on the operation of the single window.
- (iii) Sub-article 10.6.2: information on the use of customs brokers.
- (iv) Sub-article 12.2.2: the details of members’ contact point for the exchange of information between customs agencies, for the purpose of verifying an import or export declaration.

These sub-articles seek to enhance transparency, communication and information dissemination on these particular measures and to keep members accountable for their initiatives towards trade facilitation. Economies that have implemented them (i.e., put them under category A) are expected to keep the Commission informed on progress made through appropriate notifications.

Around half of the countries studied in this brief have lodged transparency notifications providing information required under these sub-articles. 18 members have so far provided information relative to Sub-article 1.4 (import/export and transit procedures) and Sub-article 10.6.2 (the use of customs brokers). 15 economies have provided information on their operation of the single window (Sub-article 10.4.3). However, only 14 Asia-Pacific economies have notified the Committee of the details of its contact point for the exchange of information between customs agencies (Sub-article 12.2.2).

Some countries such as Brunei Darussalam, Indonesia and Malaysia have notified these sub-articles in category A. Yet, they have communicated no information or details to the Committee.

Transparency notifications have the potential to be very useful and their review provide interesting insights. For example, some of the notifications by developed economies reveal that, while they provide information online, it is often scattered across many different websites. For instance, Australia is giving all information required by these 4 sub-articles but within different websites and portals. In contrast, some

<sup>5</sup> Another type of notifications not discussed here are donor notifications under Article 22. Australia, New-Zealand and Japan all submitted these notifications, providing details on the technical assistance they are providing.

<sup>6</sup> This includes Uniform resource locators of website(s) in Article 1.2.1 and the contact of information of the enquiry points.

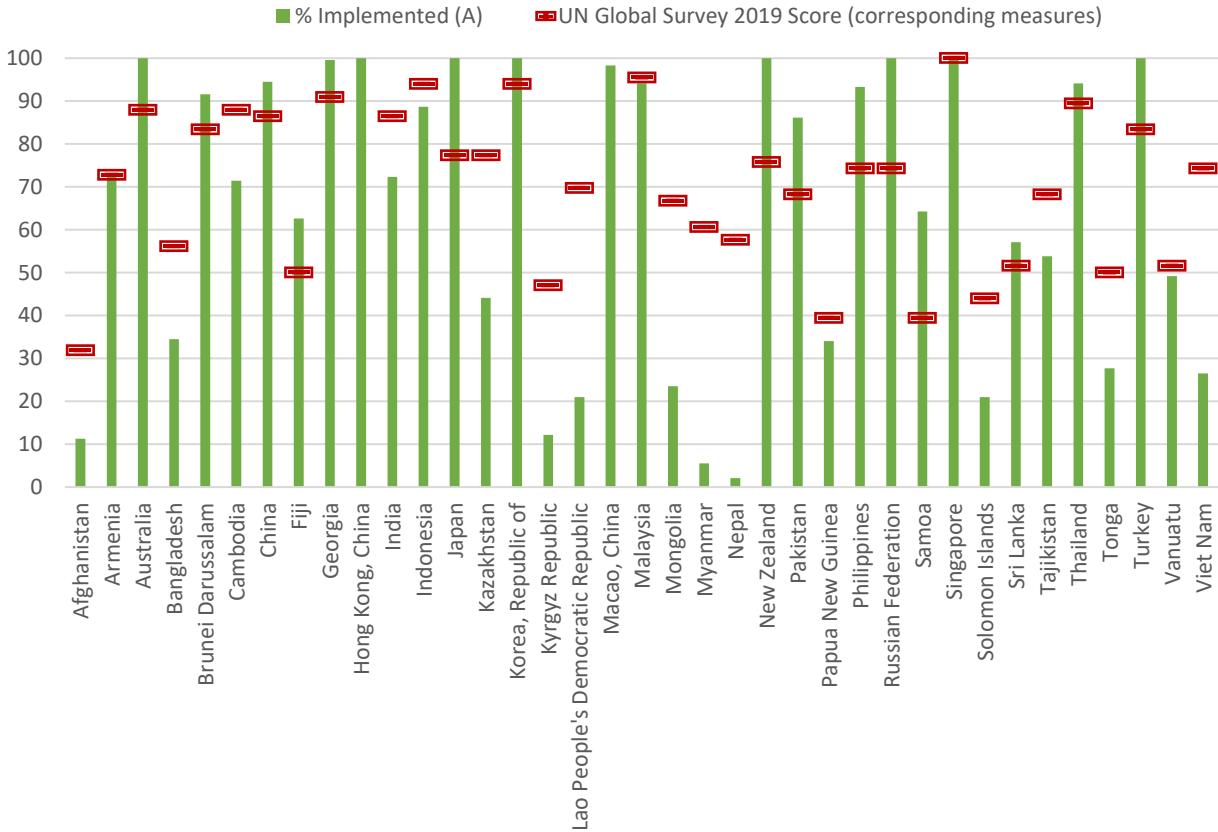


developing countries (e.g., most ASEAN countries) have integrated national trade portals in place enabling access to almost all information required under WTO TFA transparency provisions at one single online location. For example, Lao PDR national trade portal gathers most of the information at the very same location.<sup>7</sup> Thanks in large part to technical assistance received, as well as the absence of legacy systems, some developing countries appear to have more fully implemented some of the TFA transparency measures than even developed economies.

**WTO TFA notifications and implementation of underlying measures: Reality check**

It is important to recognize that notification of a TFA provision under category A does not necessarily mean the underlying measure(s) featured in the provision has been fully implemented.<sup>8</sup> Indeed, many TFA provisions are best endeavor measures (e.g., Article 10.4 requires a country “to endeavor to establish or maintain a single window”, not to have one in place or that it covers all relevant regulatory agencies) and legal compliance may only require providing evidence of efforts to implement the underlying measure (e.g., by operating a single window implementation working group). In addition, some economies may decide that it is best to understate their compliance with TFA provisions, notifying more measures under category B or C to limit possible disputes and/or increase their access to capacity building and technical assistance.

**Figure 4: WTO TFA Category A notifications vs. UN Global Survey on Digital and Sustainable Trade Facilitation 2019**



Source: WTO TFA Database and own calculations using preliminary results from the UN Global Survey on Digital and Sustainable Trade Facilitation 2019 (forthcoming at untfsurvey.org).

Notes: UN Global Survey scores have been calculated using 22 measures in the Survey that can be linked to articles or sub-articles of the WTO TFA. The establishment of the National Trade Facilitation Committee is excluded from this group of measures since the corresponding sub-article 23.2 of the TFA cannot be notified. Data for Hong Kong, China and Macao, China are unavailable.

<sup>7</sup> Lao improves Trade Facilitation Framework, (February 2019). Available at: <http://kpl.gov.la/En/Detail.aspx?id=43523>

<sup>8</sup> This was also recently highlighted by Arántzazu Sánchez in UNCTAD Transport and Trade Facilitation Newsletter N°82 (June 2019), available at: <https://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=2123>

In an attempt to illustrate this issue, figure 4 compares countries’ percentage of TFA measures notified under category A with the implementation score of TFA measures included in the UN Global Survey on Digital and Sustainable Trade Facilitation (UN DSTF).<sup>9</sup> The two indicators are very similar for countries with high level of category A notifications. However, some economies with lower rates of category A notifications have comparatively high UN DSTF scores – partly explained by the fact that the UN DSTF indicator gives a country’s credit for pilot stage or partial implementation of a measure, while the TFA notification mechanism only allows for a measure to be either implemented or not implemented.

### Conclusion and way forward

This brief reviewed the WTO TFA notifications already submitted by ESCAP member states in an attempt to take stock of progress in implementation of the agreement. At the date of entry into force of the TFA in 2017, 37 economies had implemented on average 59.3% of the provisions in the Agreement. Two years on, the implementation rate based on category A notifications has now risen to **65.6%**.<sup>10</sup> The implementation rate is expected to increase by another ten percentage points by 2024. However, the full completion of the TFA is far from being achieved, and the development community will need to provide the required technical assistance and capacity building, in particular to LDCs, many of which have requested assistance for 70% or more of the agreement. Based on the rate of progress so far, as well as the partial information available from existing notifications, it is unlikely that all countries of the region, particularly countries with special needs, will be able to achieve implementation of the TFA before 2030.

2020 is the implementation year most commonly specified by countries of the region under category B notifications. Table 1 indicates which sub-articles have been most notified by countries for implementation between 2019 and 2024. An important finding, however, is that many developing countries have yet to specify dates of implementation of provisions, in particular under category C. 28% of the measures notified by countries of the region under category B or C have implementation dates “to be determined”.

**Table 1: Sub-articles most notified under category B in coming years**

2019	2020	2021	2022	2023	2024
- Sub-article 2.2 <b>Consultations</b>	- Sub-article 12.2 <b>Customs Cooperation, Exchange of Information</b>	- Sub-article 1.1.1 <b>Publications</b>	- Sub-article 3.1, 3.6.a, 3.6.b, 3.6.c, 3.7, 3.9.b.iii, 3.9.b.iv, 3.9.c, 3.9.d <b>Advance Rulings</b>	- Sub-article 7.7 <b>Trade Facilitation Measures for Authorized Operators</b>	- Sub-article 5.3 <b>Test Procedures</b>
- Sub-article 1.3 <b>Enquiry Points</b>	- Sub article 12.6.1 <b>Customs Cooperation, Provision of Information</b>	- Sub-article 7.6 <b>Establishment of Average Release Times</b>			
		- Sub-article 10.3.1 and 10.3.2 <b>Use of International Standards</b>			

Source: WTO TFA Database, accessed 10 July 2019.

Measures for which many countries have yet to specify dates of implementation under category B or C are, **Sub-article 10.4** “Single Window”, **Sub-article 7.7** “Trade Facilitation Measures for Authorized Operators” and **Sub-article 7.4** “Risk Management”. For example, only 3 economies provided a date for implementation of **Sub-article 7.7**, Mongolia by 2021 and Vietnam and Kazakhstan by 2023. This highlights the difficulty of implementing these 3 particular measures and that only a few countries are able to give credible dates for their implementation. The Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific can be a useful tool for developing countries to build up the human resource capacity they will need to digitally implement these measures.<sup>11</sup>

<sup>9</sup> The comparison of these indicators is illustrative only, as the UN DSTF does not include measures related to all TFA articles and sub-articles. 2019 Data from the UN DSTF is forthcoming at <https://untfsurvey.org/>.

<sup>10</sup> Assuming countries have implemented the measures at the date indicated to the WTO TFA Committee.

<sup>11</sup> See <https://www.unescap.org/resources/framework-agreement-facilitation-cross-border-paperless-trade-asia-and-pacific>



The deadline for developing economies to provide definitive date of implementation for category C notifications is set for the 22 August 2019 – LDCs have an additional year to do so. Article 16.4 of the TFA stipulates that if a developing member does not provide its definitive dates for Category C provisions by 22 August 2019, then it shall implement the provisions within one year after the deadline, which is by 22 August 2020. 9 economies in the Asia-Pacific region might be affected since they have not yet provided definitive dates of implementation for at least some measures. Kyrgyz Republic, for example, has notified 71.4% of TFA provisions in category C but did not provide definitive dates as of end of July 2019. To avoid missing the opportunity to benefit from technical assistance and capacity building, developing economies should indicate when they are committing to implement the provisions, regardless how long this will take. LDCs are granted more flexibility but should nonetheless indicate their definitive date of implementation as soon as possible to also benefit from the flexibility and assistance provided for under the agreement.<sup>12</sup>

Overall, WTO TFA notifications provide a useful albeit imperfect picture of the progress and efforts made by WTO members in Asia and the Pacific in implementing the agreement and related trade facilitation measures. Complementary implementation monitoring mechanisms, such as the UN Global Survey on Digital and Sustainable Trade Facilitation, and/or strengthened reporting (transparency notification) requirements to the WTO Trade Facilitation Committee are needed to get a clearer picture of the extent to which trade facilitation measures are being implemented on the ground.

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## Online Databases

World Trade Organisation (WTO) Trade Facilitation Agreement (TFA) Database. Available at <https://www.tfadatabase.org>

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<sup>12</sup> Measures in category C will only have to be implemented at the designated date upon receipts of capacity building support, which need to be negotiated with donor members.

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