***Measures defined by Ukraine on August 1, 2014 as Category A, which the TFA Readiness Report found as not ready as of the end of 2015.***

***For each item discussed below Ukraine needs to clarify the following points:***

**Agency(ies)**Several Ukrainian government ministries and agencies have specific roles executing different TFA provisions. Each responsible office (in some cases multiple offices under a provision) should be identified so that their implementation activities cab be better planned and coordinated.

**Gap Analysis** Identify specific gaps that must be addressed by relevant agencies and the National Trade Facilitation Committee to comply with specific TFA obligations.

**Actions planned to eliminate gaps** (to be included in the Action Plan)

*Provision executed?*

*What is already done to execute the provision?*

*What agency is responsible?*

*Contact persons?*

**What is to be done in terms of:**

**Legislation** Identify specific legislative needs to eliminate identified gaps (*what laws and regulations should be drafted or amended?*)

**Procedures** *What procedural reforms, new procedures, etc. are planned to execute a specific provision?*

**Policy guidance**  *Identify specific political issues to be addressed with regard to identified gaps.*

**Training** *Clarify specific professional training required to eliminate identified gaps.*

**IТ** *Clarify specific hardware and software needs required to eliminate identified gaps.*

*Article 1.1:* Publication *Category А*

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| **Heading/description** | **Facts** |
| “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 (including port, airport, and other entry-point procedures), and required forms and documents;  (b) applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;  (c) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;  (d) rules for the classification or valuation of products for customs purposes;  (e) laws, regulations, and administrative rulings of general application relating to rules of origin;  (f) import, export or transit restrictions or prohibitions;  (g) penalty provisions for breaches of import, export, or transit formalities;  (h) procedures for appeal or review;  (i) agreements or parts thereof with any country or countries relating to importation, exportation, or transit; and  (j) procedures relating to the administration of tariff quotas." | All agencies shall bring the publication of information in line with the present provision.  Agencies report that the information is published, while users claim it is **not easily accessible!**  There were proposals to create a single portal (based on the agreement between the Ministry of Economic Development and the State Fiscal Service) to have all the information published. The Customs Service assures that all legal framework is in place. The business community insists that their opinion should be taken into account, and they believe that the information, even though has been published, **is not easy to access!** |

***What is to be done (for action plans)***

**Gap analysis:** Information, even though published, **is not easy to access!**

*Is all information easily accessible already?*

*What has been already done for this purpose after 2015?*

*What agencies are responsible? Contact persons?*

**Agencies** *Several Ukrainian government ministries and agencies have specific roles publishing information. Did all of them publish easily accessible information?*

Customs:

Ministry of Economic Development and Trade:

Ministry of Infrastructure:

Veterinary Inspection:

Phytosanitary Inspection:

Ministry of Ecology and Natural Resources:

Chamber of Commerce:

Other

**What actions to eliminate information publication gaps are planned** (to be included in the action plan of the National TFA Committee and other agencies)?

**Legislation** What laws and regulations should be additionally drafted or amended?)

**Procedures** what procedural reforms, new procedures are planned to execute a specific provision?

**Issues** Are there organizational or political issues to address?

**Training** Is professional training required to eliminate identified gaps?

**IT** Is hardware or software required to eliminate identified publication gaps(e.g. a web-portal)?

*Article 1.2* Information available through Internet *Category А*

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| **Heading/description** | **Facts** |
| “ Each Member shall make available, and update to the extent possible and as appropriate, the following through the internet:   1. a description[[1]](#footnote-1) of its procedures for importation, exportation, and transit, including procedures for appeal or review, that informs governments, traders, and other interested parties of the practical steps needed for importation, exportation, and transit; 2. the forms and documents required for importation into, exportation from, or transit through the territory of that Member; 3. contact information on its enquiry point(s).   2.2 Whenever practicable, the description referred to in subparagraph 2.1(a) shall also be made available in one of the official languages of the WTO.  2.3 Members are encouraged to make available further trade-related information through the internet, including relevant trade-related legislation and other items referred to in paragraph 1.1.” | All agencies shall bring the publication of information in line with the present provision.  Definitely not „А“.  Even if the Customs Service might have posted this information, many other agencies have not.  Some companies have gathered all this information (Ukrexpertyza, Derzhzovnishinform, etc.), but make it available on a paid basis only. |

***What is to be done? (for action plans)***

**Gap analysis:** Even if the Customs Service might have posted this information, many other agencies have not.

*Did all agencies publish the information of Art.1.2 in the Internet?*

*Is the said information translated to one of the official languages of the WTO?*

*What has been already done for this purpose after 2015?*

*What agencies are responsible? Contact persons?*

**Agencies** *Several Ukrainian government ministries and agencies have specific roles publishing information in the Internet. Did all of them publish the information in the Internet? Did they translate the information to any of the official languages of the WTO?*

Customs:

Ministry of Economic Development and Trade:

Ministry of Infrastructure:

Veterinary Inspection:

Phytosanitary Inspection:

Ministry of Ecology and Natural Resources:

Chamber of Commerce:

Other

**Planning actions to eliminate gaps** (to be included in the action plan of the National TFA Committee and other agencies)

**Legislation** Identify specific legislative needs for the Internet publication (what laws and regulations should be drafted or amended?)

**Procedures** what procedural reforms and/or new procedures are planned for publication of Art. 1.2 information in the Internet?

**Issues** Are there organizational or political issues to address?

**Training** Is professional training required to publish the Art 1.2 information in the Internet?

**IT** Is hardware or software required to publish the Art 1.2 information in the Internet (e.g. web-portal)?

*Article 7.1*: Pre-arrival Processing *Category А*

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| **Heading/description** | **Facts** |
| “1.1 Each Member shall adopt or maintain procedures allowing for the submission of import documentation and other required information, including manifests, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival.  1.2 Each Member shall, as appropriate, provide for advance lodging of documents in electronic format for pre-arrival processing of such documents.” | What is meant here is that not only the Customs, but also other agencies that require information, shall bring their practice (pre-arrival processing) in line with the present provision.  Are there procedures in place for submission of information upon arrival?  Are there documents in electronic format in place to be lodged for pre-arrival processing? |

***What is to be done? (for action plans)***

**Gap analysis: ?**

*Did all agencies introduce procedures for submission of information for pre-arrival processing?*

*Are there documents in electronic format in place for submission to all agencies for pre-arrival processing?*

*What has been already done for this purpose after 2015?*

*What agencies are responsible? Contact persons?*

**Agencies** *Several Ukrainian government ministries and agencies have specific roles* adopting and maintaining procedures allowing for submission of importation or any other necessary information, incl. declarations, for pre-arrival processing*. Are these procedures adopted?* Are there documents in electronic format in place for pre-arrival submission?

Customs:

Ministry of Economic Development and Trade:

Ministry of Infrastructure:

Veterinary Inspection:

Phytosanitary Inspection:

Ministry of Ecology and Natural Resources:

Chamber of Commerce:

Other

**Planning actions to eliminate gaps** (to be include in the action plan of the National TFA Committee and other agencies)

**Legislation** Identify specific legislative needs for pre-arrival processing. What laws and regulations should be drafted or amended?

**Procedures** What procedural reforms and/or new procedures are planned for adoption of procedures allowing for pre-arrival submission of importation or other necessary information? For submission of documents in the electronic format?

**Issues** Are there organizational or political issues to address?

**Training** Is professional training necessary?

**IT** Is hardware or software needed?

*Article 7.1*: Trade facilitation measures for authorized operators *Category А*

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| **Heading/description** | **Facts** |
| “7.1 Each Member shall provide additional trade facilitation measures related to import, export, or transit formalities and procedures, pursuant to paragraph 7.3, to operators who meet specified criteria, hereinafter called authorized operators. Alternatively, a Member may offer such trade facilitation measures through customs procedures generally available to all operators and is not required to establish a separate scheme.  7.2 The specified criteria to qualify as an authorized operator shall be related to compliance, or the risk of non-compliance, with requirements specified in a Member's laws, regulations or procedures.  а) Such criteria, which shall be published, may include:  (i) an appropriate record of compliance with customs and other related laws and regulations;  (ii) a system of managing records to allow for necessary internal controls;  (iii) financial solvency, including, where appropriate, provision of a sufficient security or guarantee; and  (iv) supply chain security.  b) Such criteria shall not:  (i) be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail; and  (ii) to the extent possible, restrict the participation of small and medium-sized enterprises.  7.3 The trade facilitation measures provided pursuant to paragraph 7.1 shall include at least three of the following measures:[[2]](#footnote-2)7  a) low documentary and data requirements, as appropriate;  (b) low rate of physical inspections and examinations, as appropriate;  (c) rapid release time, as appropriate;  (d) deferred payment of duties, taxes, fees, and charges;  (e) use of comprehensive guarantees or reduced guarantees;  (f) a single customs declaration for all imports or exports in a given period; and  (g) clearance of goods at the premises of the authorized operator or another place authorized by customs.  7.4 Members are encouraged to develop authorized operator schemes on the basis of international standards, where such standards exist, except when such standards would be an inappropriate or ineffective means for the fulfilment of the legitimate objectives pursued.  7.5 In order to enhance the trade facilitation measures provided to operators, Members shall afford to other Members the possibility of negotiating mutual recognition of authorized operator schemes.  7.6 Members shall exchange relevant information within the Committee about authorized operator schemes in force.” | Here the Customs are meant and only if there is a consistency between the legislation and other agencies' procedures.  There is a difference between provisions in the legislation and the actual exercising. It seems it should be „С“.  For this measure it is not enough just to have a text in the Customs Code.  It is necessary to define and fix **the appointment procedure** of authorized economic operators. Does one really exist?  It is necessary to identify and fix **the criteria** of appointment of AEO's? |

***What is to be done? (for action plans)***

**Gap analysis:** There is a difference between provisions in the legislation and the actual exercising. It seems the category should be С, rather than А, but it is too late.

For this measure it is not enough to just have a text in the Customs Code.

It is necessary to define and fix **the appointment procedure** of authorized economic operators. Does one really exist?

It is necessary to identify and fix **the criteria** of appointment of AEO's. Do they really exist?

How many appointed AEO's are already there?

*What has been done in terms of legislation and the procedure of appointment of authorized economic operators after 2015?*

*Has the law on authorized economic operators been drafted yet?*

*Has the procedure for the concept of authorized economic operators been developed?*

*Is there a system of criteria in place for the appointment of authorized economic operators?*

*Is there a monitoring system of authorized economic operators?(revocation of the AEO license)*

*Who is responsible?*

**Agencies**Customs:

**Planning actions to eliminate gaps** (to be include in the action plan of the National TFA Committee and other agencies)

**Legislation** What are specific legislative needs for implementation of the AEO system (according to the customs code, laws and/or regulations?

**Procedures** What reforms are planned to adopt the procedures making it possible to implement the AEO system, the system of criteria to identify AEO and the system monitoring?

**Issues** Are there organizational or political issues to address?

**Training** Is professional training necessary?

**IT** Is hardware or software needed?

*Article 7.9: Perishable goods***[[3]](#footnote-3)10** *Category А*

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| **Heading/description** | **Facts** |
| “9.1 With a view to preventing avoidable loss or deterioration of perishable goods, and provided that all regulatory requirements have been met, each Member shall provide for the release of perishable goods:  (a) under normal circumstances within the shortest possible time; and  (b) in exceptional circumstances where it would be appropriate to do so, outside the business hours of customs and other relevant authorities.  9.2 Each Member shall give appropriate priority to perishable goods when scheduling any examinations that may be required.  9.3 Each Member shall either arrange or allow an importer to arrange for the proper storage of perishable goods pending their release. The Member may require that any storage facilities arranged by the importer have been approved or designated by its relevant authorities. The movement of the goods to those storage facilities, including authorizations for the operator moving the goods, may be subject to the approval, where required, of the relevant authorities. The Member shall, where practicable and consistent with domestic legislation, upon the request of the importer, provide for any procedures necessary for release to take place at those storage facilities.  9.4 In cases of significant delay in the release of perishable goods, and upon written request, the importing Member shall, to the extent practicable, provide a communication on the reasons for the delay.“ | There is a difference between the legal provisions and the real practice.  Both the Customs, and other relevant bodies are meant, first of all those responsible for checkpoints. |

***What is to be done? (for action plans)***

**Gap analysis:** There are doubts that there is a difference between the legal provisions and the actual practice.

*What has been done in terms of legislation and procedure after 2015?*

*Is the procedure in line with Art.9.1 in place?*

*What are the responsible agencies and individuals?*

**Agencies**

**Planning actions to eliminate gaps** (to be include in the action plan of the National TFA Committee and other agencies)

**Legislation** What are specific legislative needs for implementation of this measure?

**Procedures** What reforms are planned to adopt the procedure?

**Issues** Are there organizational or political issues to address?

**Training** Is professional training necessary?

**IT** Is hardware or software needed?

*Article 8: Border agency cooperation Category А*

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| **Heading/description** | **Facts** |
| “1. Each Member shall ensure that its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation, and transit of goods cooperate with one another and coordinate their activities in order to facilitate trade.  2. Each Member shall, to the extent possible and practicable, 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. Such cooperation and coordination may include:  (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.“ | OECD takes into account both mediocre internal cooperation efforts (1.0 to 2.0), and maximum possible performance in external (international) border agency cooperation. See <http://www.oecd.org/tad/facilitation/Ukraine_OECD-Trade-Facilitation-Indicators.pdf> |

***What is to be done? (for action plans)***

**Gap analysis:**

*What has been done in terms of improvement of border agency cooperation after 2015?*

*What are the responsible agencies and individuals?*

*Is there coordination of border agencies' activities (border management coordination)?*

**Agencies** *Several Ukrainian government ministries and agencies have specific roles controlling border procedures pertinent to importation, exportation and transit of goods. What are these agencies? How do they cooperate?*

Customs:

Veterinary Inspection:

Phytosanitary Inspection:

Ministry of Ecology and Natural Resources:

Ministry of Infrastructure:

Other?

**Planning actions to eliminate gaps** (to be include in the action plan of the National TFA Committee and other agencies)

**Legislation** What are specific legal needs to implement this measure?

**Procedures** What procedural reforms and/or new procedures are planned to improve cooperation?

**Issues** Are there organizational or political issues to address?

**Training** Is professional training necessary?

**IT** Is hardware or software needed?

1. Each Member is free to set legal restrictions in respect of such description on such web-sites. [↑](#footnote-ref-1)
2. 7 The measure specified in clause 7.3(a)-(g) shall be deemed available to authorized operators, where it is generally accessible to all operators. [↑](#footnote-ref-2)
3. 10 For the purposes of the present provision, perishable goods are understood to be those subject to quick spoilage by reason of their natural properties, specifically, in absence of proper storage conditions. [↑](#footnote-ref-3)