

Today

1. Background
2. The Agreement
3. Special provisions for developing and least-developed countries
4. Current work & way forward
5. WTO/WCO opportunities for cooperation

BACKGROUND



WORLD TRADE ORGANIZATION
ORGANISATION MONDIALE DU COMMERCE
ORGANIZACIÓN MUNDIAL DEL COMERCIO

The International
Organization that
Governs the Rules
of Trade Between
Nations



A wide-angle photograph of a large, modern conference room. Numerous people are seated at long, dark wooden tables arranged in a semi-circular pattern. The room has large windows in the background, letting in natural light. The atmosphere appears professional and busy.

Why TF at the WTO?

- Binding commitments from trading partners (**160** Member countries)
- Enforcement through dispute settlement
- Apply to all border agencies

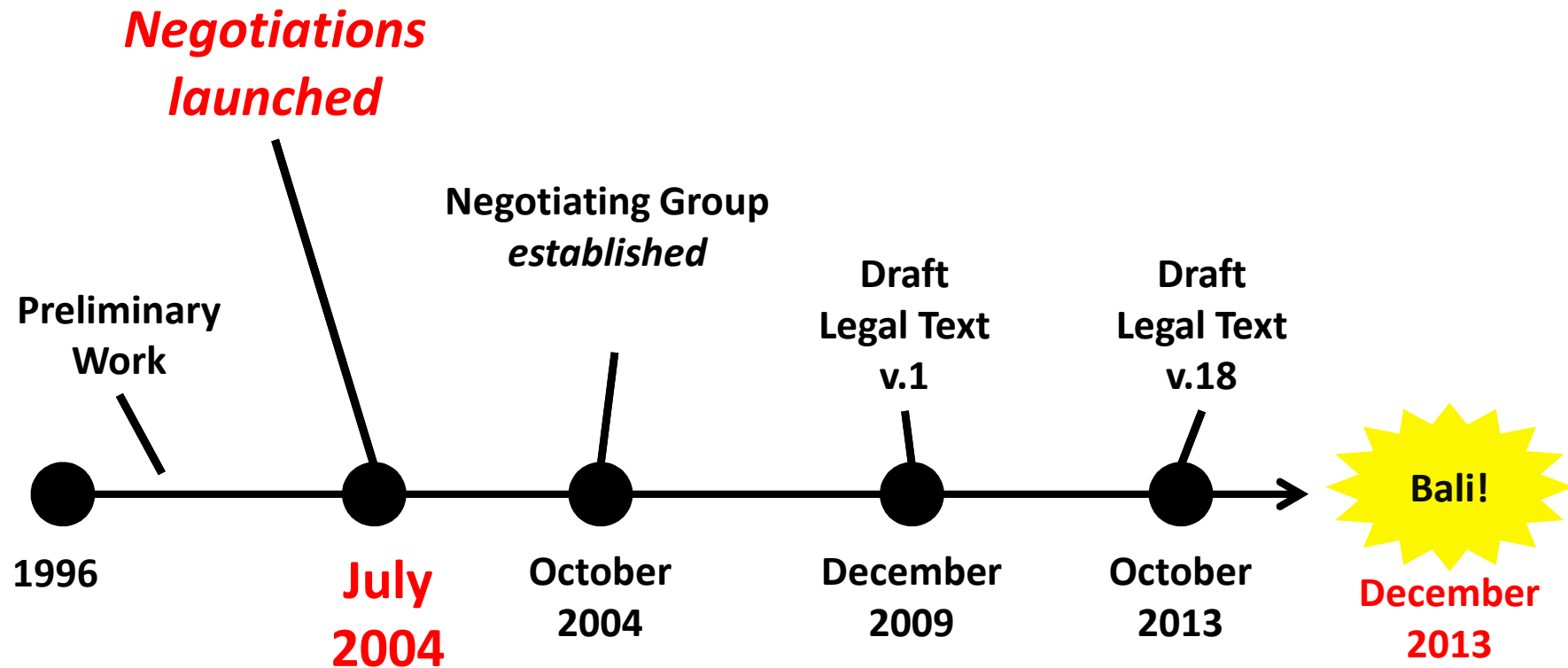
WTO Trade Facilitation



- 💡 TF negotiations began in 2004
- 💡 Mandate in Annex D of Doha Work Program
- 💡 Part of Doha Round single undertaking
- 💡 Negotiating Group on TF

WTO Trade Facilitation Negotiations

Why so long?



WTO Trade Facilitation Agreement

Objectives:



- Expedite movement, release & clearance of goods
- Improve cooperation between customs/other authorities
- Enhance technical assistance and build capacity



Existing WTO Legal Framework

GATT Article X – Transparency

- Publication
- Administration of laws
- Right to appeal

GATT Article VIII – Fees and Formalities

- Fees reflect cost of services rendered
- Reduce # and kind of fees
- Simplify formalities and documents
- Minor penalty for minor errors

GATT Article V – Freedom of Transit

- Most convenient route
- No discrimination
- No unnecessary delays or restrictions
- No duties



WTO Trade Facilitation Mandate

Objectives:

- Expedite movement, release & clearance of goods
- Improve cooperation between customs/other authorities
- Enhance technical assistance and build capacity

Scope:

- Transparency & Appeals
- Import/Export Fees and Formalities
- Freedom of Transit
- Customs cooperation
- SDT
- Technical Assistance



WTO Basic Principles

Transparent

Bottom up

Member driven

All Inclusive (open-ended meetings)

WORLD TRADE ORGANIZATION

TN/TF/W/115/Rev.1
2 October 2007

(07-4172)

Negotiating Group on Trade Facilitation

Original: English

COMMUNICATION FROM HONG KONG, CHINA, JAPAN, KOREA, MONGOLIA AND SWITZERLAND

Revision

The following communication, dated 1 October 2007, is being circulated at the request of the Delegations of Hong Kong, China, Japan, Korea, Mongolia and Switzerland.

PROPOSAL ON PRIOR PUBLICATION AND CONSULTATION

1. The following textual proposal is submitted by Hong Kong, China, Japan, Korea, Mongolia, and Switzerland for consideration by the Negotiating Group. It is closely based on the proposals on prior publication and consultation made in the joint communication TN/TF/W/102 of 10 May 2006 and takes account of the discussion and other submissions on this issue in the Negotiating Group.
2. We acknowledge that some provisions require transitional implementation by developing-country Members because of their lack of capacity to meet the obligations. However, several core elements such as publication of trade-related law and regulations in accordance with Article X of GATT 1994 should be implemented by all the Members immediately upon the entry into force of the Trade Facilitation Agreement because of the basic nature of such provisions and the fact that the new agreement does not add any new obligations to the current system of GATT 1994. Similarly, we believe that national treatment, most-favoured-nation treatment, general and security exceptions provided for in Articles I, III, XX, and XXI of GATT 1994 should apply to all the Members immediately even if those concepts are not stipulated in the new agreement. The following is an example of text which explicitly incorporates Articles XX and XXI of GATT 1994 into the new agreement:

Consolidated Text

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION

5. Single Window/One-time Submission

5.1 Members [[in so far as possible][where practicable]] [[shall][may]] [[endeavour to] [maintain or] establish a "single window" where documentation and/or data requirements for exportation, importation and transit [procedures] are submitted [by a trader resident in the Member state in question] [[one time only][to a single entry point]] [to all stakeholders in international trade procedures]. [[The single window shall undertake onward distribution of the aforementioned documentation and/or data requirements to all the relevant authorities [[or agencies which require them][and participating agencies]]. [[A single window will be responsible for distribution of documents and information for all the bodies involved in international trade.]] [After the examination by the relevant authorities or agencies of the documentation and/or data, [[the single window shall notify the results to the applicants][the results shall be notified to the applicants through the single window]] in a timely manner.]

Sections I and III

THE TRADE FACILITATION AGREEMENT

Trade Facilitation Agreement

Section I:


- ❖ 12 articles of technical measures

Section II:

- ❖ Special and Differential Treatment (SDT) Provisions for developing countries

Section III:

- ❖ Institutional Arrangements and Final Provisions

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AGREEMENT ON TRADE FACILITATION		
Preamble		
SECTION I		
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		
ARTICLE 13: INSTITUTIONAL ARRANGEMENTS		
SECTION II		
SPECIAL AND DIFFERENTIAL TREATMENT PROVISIONS FOR DEVELOPING COUNTRY MEMBERS AND LEAST DEVELOPED COUNTRY MEMBERS		
FINAL PROVISIONS		

Existing WTO Legal Framework

GATT Article X – Transparency

- Publication
- Administration of laws
- Right to appeal

GATT Article VIII – Fees and Formalities

- Fees reflect cost of services rendered
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GATT Article V – Freedom of Transit

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- No discrimination
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TF Disciplines

GATT X:

- Art. 1: Publication & Availability of Information
- Art. 2: Opportunity to Comment, Information before Entry into Force & Cons
- Art. 3: Advance Rulings
- Art. 4: Appeal or Review Procedures
- Art. 5: Other Measures to Enhance Impartiality, Non-Discrimination and Tra

GATT VIII:

- Art. 6: Disciplines on Fees & Charges imposed on or in connection with Impos
- Art. 7: Release and Clearance of Goods
- Art. 8: Border Agency Cooperation

TF Measures

Transparency and Appeals



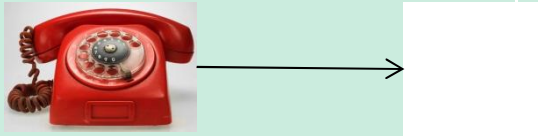
- **Publication/internet publication**
- **Enquiry Point for trade information**
- **Opportunity to comment**
- **Consultations**
- **Advance rulings**
- **Right of appeal**

Transit

- **Restrictions on fees and charges**
- **Use of guarantee**

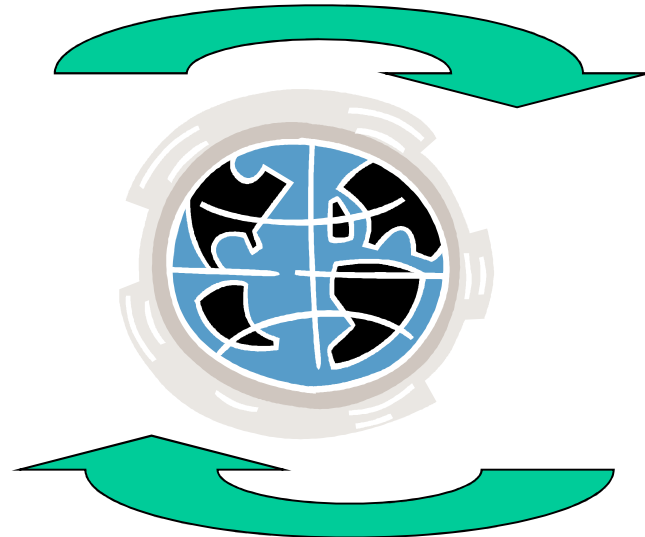
Import/Export/Transit Fees & Formalities

- **Disciplines on fees**
- **Pre-arrival processing**
- **Risk management**
- **Post clearance audit**
- **Publish average release times**
- **Authorized operators**
- **Border agency cooperation**
- **Review formalities and documents**
- **Single window**
- **Eliminate use of PSI for tariff classification and customs valuation.**
- **Separate release from clearance**

	Benefits for Your Exporters	Benefits for Government
<p>Transparency + Fairness</p> 	<ul style="list-style-type: none"> •Predictability •Reduced time/costs 	<ul style="list-style-type: none"> •Better compliance •Better quality decisions
<p>Good Governance</p> 	<ul style="list-style-type: none"> •Reduced costs •Reduced delays •Reduced complexity 	<ul style="list-style-type: none"> •Better compliance •More effective government •More efficient government
<p>Modernization</p> 	<ul style="list-style-type: none"> •Reduce clearance times and costs 	<ul style="list-style-type: none"> •Align with modern business practice •More effective government •More efficient government

Article 12. Customs Cooperation

Multilateral Mechanism for Exchange and Handling of Information



Section III

Institutional Arrangements

Article 23.1 WTO Committee

- Establishment of a committee in WTO
- Made up of all WTO Members
- Oversee implementation of Agreement
- Share relevant info and best practices
- Liaise with other international organizations

NATIONAL COMMITTEE ON TRADE FACILITATION



ARTICLE 23.2

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.

Article 24 - Final Provisions

Provides further detail on implementation and relationship to GATT 1994

Examples:

2. “All provisions of this Agreement are binding on all Members.”

9. “Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Members.”

Level of Legal Commitment

Mandatory Provisions

- “Shall...”
- “Shall not...”

Qualified Provisions

- “may...”
- “to the extent practicable...”
- “to the extent possible...”
- “whenever practicable...”
- “are encouraged...”
- “as appropriate...”
- “shall endeavor...”

“Best Endeavor”

6 ESTABLISHMENT AND PUBLICATION OF AVERAGE RELEASE TIMES

6.1 Members are encouraged to measure and publish their average release time of goods periodically and in a consistent manner, using tools such as, *inter alia*, the Time Release Study of the World Customs Organization (referred to in this Agreement as the “WCO”).

6.2 Members are encouraged to share with the Committee their experiences in measuring average release times, including methodologies used, bottlenecks identified, and any resulting effects on efficiency.

Footnote: Each Member may determine the scope and methodology of such average release time measurement in accordance with its needs and capacity.

“Best Endeavor”

7.2 ELECTRONIC PAYMENT

Each Member shall, to the extent practicable, adopt or maintain procedures allowing the **option of electronic payment** for duties, taxes, fees and charges collected by customs incurred upon importation and exportation.

Developed Countries

The Agreement must be implemented by date of entry into force



SPECIAL PROVISIONS FOR DEVELOPING AND LDC COUNTRIES

Key Demands of DCs/LDCs:

- More cautious level of ambition
- Extended SDT beyond traditional transition periods
- Large flexibility for LDCs
- Extensive TA/support and review of effectiveness
- Assistance to identify needs and priorities
- Support for infrastructure development
- Conditionality between TA and implementation commitments



Special and Differential Treatment (SDT)



Section II of Agreement

Applies only to developing countries

(including least-developed countries)

Gives flexibility in implementation of
Obligations - Exception to MFN principle

In TFA is bigger than ever before



Special & Differential Treatment for developing and LDC countries

- 🕒 Implementation of agreement linked with capacity
- 🕒 Each country can say when it will implement each measure
- 🕒 Each country will determine for itself what assistance it requires to implement
- 🕒 Donors have promised sufficient technical assistance



Categorization of each measure

Each developing and LDC country Member will categorize each measure into one of three

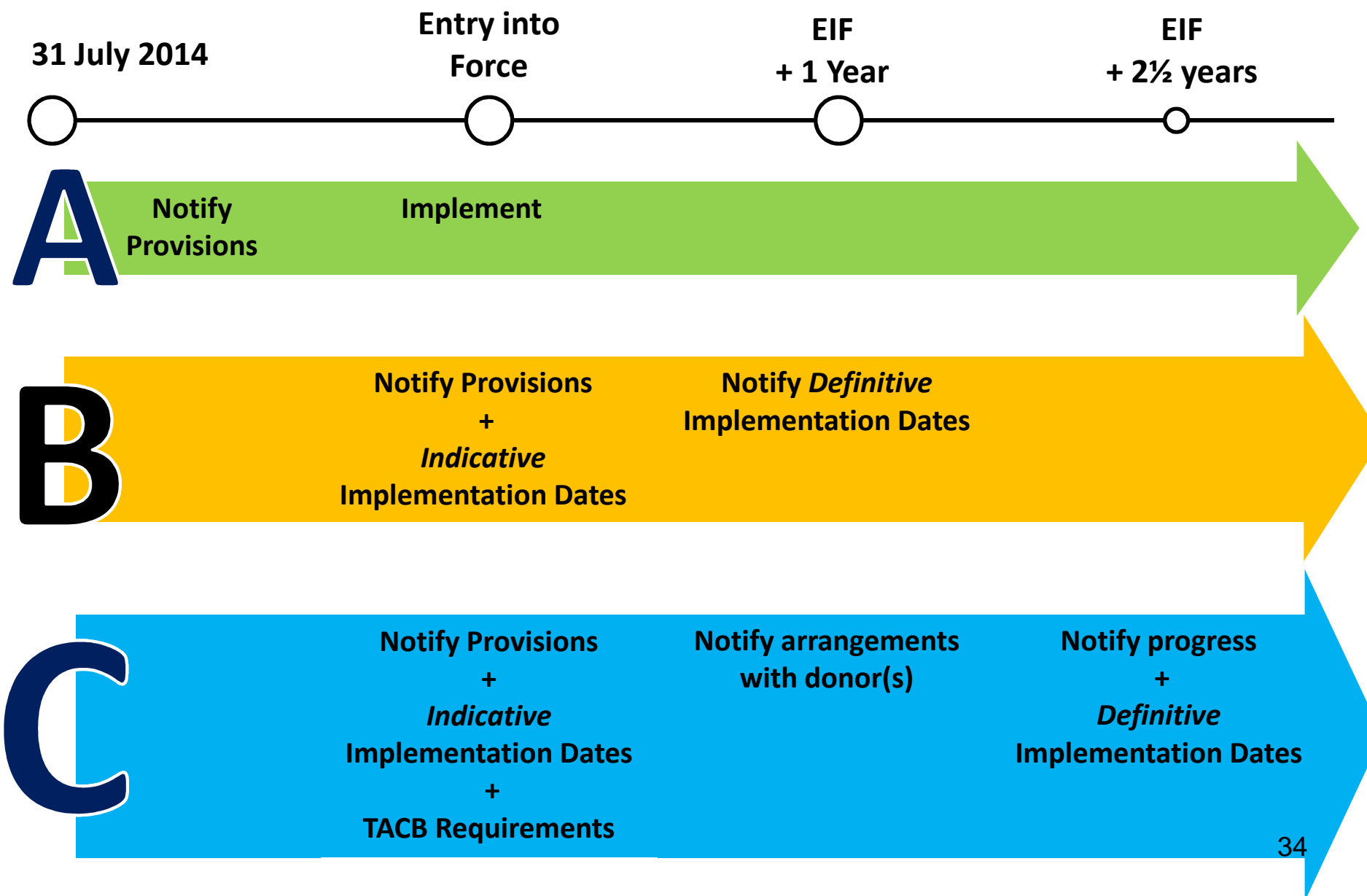
- **Category A:** at time Agreement enters into force (one year later for LDCs)
- **Category B:** Entry into force + (X) time
- **Category C:** With time & TACB



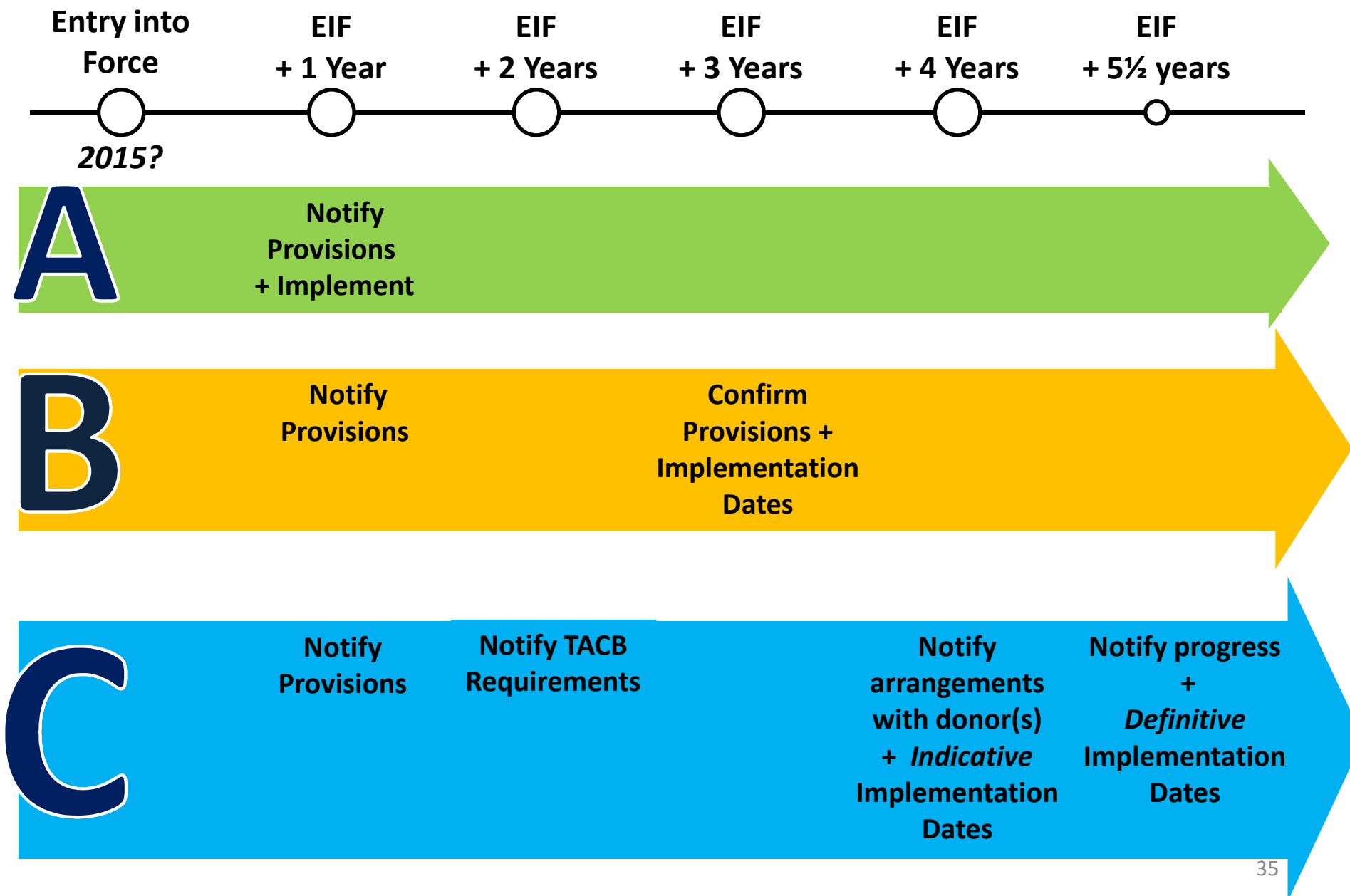
Categories ABC for Barua

A- Implement right away	B – time needed	C – time and TACB needed
1 Publication 2.2 Consultations 4 Right of Appeal 5 Import/Rapid Alert 6 Disciplines on Fees 7.3 Separation of Release	1.2 Internet Publication 1.3 Enquiry Point 1.4 Notification 7.4 Risk Management 7.7 Authorized Traders 7.8 Expedited Shipment 10.1 Periodic review of Formalities	3 Advance Rulings 7.1 Pre-Arrival Processing 7.5 Post-Clearance Audit 10.1 Reduction of Formalities 10.4 Single Window 10.5 PSI

Developing Country - Deadlines





Least Developed Country - Deadlines




Additional Flexibilities and Assistance

Section II


Early-Warning System

-  Request more time (with reasons) to WTO committee
-  Automatic extension if less than 18 months (3 years for LDC's)

Category Shifting

-  B→C (or C→B)

Grace Period

-  No complaints shall be brought for two years after implementation (6 years for LDC's)

WTO Trade Facilitation Committee

(Article 23.2)



- Receives Category A, B and C notifications
- Administers extensions
- Oversees Provision of TACB
 - Annual session on implementation
 - Collects/publishes annual donor reports

Donor Commitment

WTO: 2013 PRESS RELEASES

PRESS/709

3 December 2013

TECHNICAL ASSISTANCE

Australia donates AUD 5,400,000 to programmes for developing countries

WTO: 2014 PRESS RELEASES

PRESS/718

24 February 2014

TECHNICAL ASSISTANCE

Estonia donates EUR 20,000 to technical assistance for developing countries

WTO: 2013 PRESS RELEASES

PRESS/715

17 December 2013

TECHNICAL ASSISTANCE

Denmark pledges CHF 2,950,000 to training programmes for developing countries

WTO: 2013 PRESS RELEASES

PRESS/707

3 December 2013

TECHNICAL ASSISTANCE

Sweden launches new trade facilitation training facility in Africa

WTO: 2014 PRESS RELEASES

PRESS/716

6 February 2014

TECHNICAL ASSISTANCE

Finland donates €5 million for trade projects in least-developed countries

EU stands ready to support developing countries realize the benefits of a WTO Trade Facilitation Agreement

Development Commissioner Andris Piebalgs and Trade Commissioner Karel De Gucht have joined forces to help secure a WTO Trade Facilitation Agreement as part of global efforts to increase trade's contribution to development. The EU's support responds to demands from Least-Developed Countries (LDCs) for help to make the most of the deal, which could be agreed at the WTO's 9th Ministerial Conference in December 2013.

“Donor Members agree to facilitate the provision of assistance and support for capacity building to developing and least developed countries”

- Technical, financial, or any other form of assistance as “mutually agreed”
- Support provided by
 - bilateral (e.g, USAID) or
 - international/ regional organizations (WCO, UNCTAD, ADB, World Bank, etc.)
- WTO Committee plays oversight role

CURRENT WORK AND WAY FORWARD

Bali Ministerial Decision on TF

☺ Concludes negotiation of TFA

☺ Establishes Preparatory Committee

☺ Mandates follow-up work for entry into force

WT/MIN(13)/36 – WT/L/911





What Now?



➤ Preparatory Committee

Open to all WTO Members (only)

(Will be superseded by Article 23 Committee on TF)

- under General Council:
 - Chair- Ambassador of Philippines

➤ What are its responsibilities & tasks?

- ensure expeditious entry into force & prepare for the efficient operation of the Agreement
 - Legal scrubbing
 - Protocol of Amendment
 - Receive notifications

Legal Scrubbing

Rectifications of legal text that do not affect the substance:

- ↪ numbering
- ↪ use of Capital or small letters for indents
- ↪ Grammatical/editorial (use of , ; .)
- ↪ Consistent use of terms (“Each Member” or “A Member”)

Changes made by consensus or Bali text rema

Final version to be issued this month

The Protocol of Amendment

✚ Insert TFA into WTO Agreement

✚ GC adopt by July 31, 2014

✚ Open for acceptance until July 2015

✚ *TFA enters into force upon acceptance
by 2/3 of Members (106 out of 160)*

DOHA MINISTERIAL DECLARATION

PARAGRAPH 47

47. With the exception of the improvements and clarifications of the Dispute Settlement Understanding, the conduct, conclusion and entry into force of the outcome of the negotiations shall be treated as parts of a single undertaking. However, agreements reached at an early stage may be implemented on a provisional or a definitive basis. Early agreements shall be taken into account in assessing the overall balance of the negotiations.

Receipt Category A Notifications



✓ **Prep Com receives**

✓ **General Council to meet July 24 - will annex to TFA**

Category A notifications received to date:

1. Hong Kong, China
2. Mexico
3. Costa Rica
4. Korea
5. Singapore
6. Paraguay
7. Colombia
8. China
9. Nicaragua



What's Next?

TF Preparatory Committee

- July 10 meeting to gavel final text
- July ?? meeting to finalize protocol

General Council Meeting July 24

- Adopt protocol & open for acceptance
- Annex notifications received

WTO/WCO

Opportunities for Cooperation

WTO TF Committee – Art. 23.1.5

The Committee shall maintain close contact with other international organizations in the field of trade facilitation, such as the **World Customs Organization**, with the objective of securing the best available advice for the implementation and administration of this Agreement and in order to ensure that unnecessary duplication of effort is avoided. To this end, the Committee may invite representatives of such organizations or their subsidiary bodies to:

- attend meetings of the Committee; and
- discuss specific matters related to the implementation of this Agreement.



WCO Involvement

⇒ Advise TF Committee

⇒ Share experience to implement:

- ❖ TRS
- ❖ Authorized Operator
- ❖ Minimize Formalities
- ❖ International standards

⇒ Support WTO TA/symposia

⇒ Standards/Instruments



Transparency of TACB

Section II - Article 22.2

- ★ **Contact point for TACB**
- ★ **information on how to request**
- ★ **Annual information on TACB programs**



Thank you



WTO OMC