

Next steps upon the entry into force of the WTO Trade Facilitation Agreement



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This technical note provides guidelines to countries for actions to be taken following the entry into force of the WTO Trade Facilitation Agreement

What is the Trade Facilitation Agreement?

The Trade Facilitation Agreement (TFA) of the World Trade Organization (WTO) contains provisions for expediting the import, export and transit procedures, including the movement, release and clearance of goods with a view to reducing related costs. It also sets forth ground-breaking rules on special and differential treatment, linking implementation by developing and least developed countries (LDCs) to their acquisition of technical assistance and capacity building.

The full implementation of the TFA is expected to reduce total trade costs by more than 14% for low-income countries and more than 13 % for upper middle-income countries (OECD, 2013). It is further expected to decrease trade costs of manufactured goods by 18 % and of agricultural goods by 10.4 %. The TFA could also generate up to US\$1 trillion of gains around the world annually (WTO, 2015). Developing countries and LDCs, particularly African countries are expected to see the greatest reductions in trade costs.

The TFA is the first multilateral trade agreement concluded under the WTO umbrella in 21 years. To bring the WTO TFA into force, 110 out of the 164 WTO Members had to ratify the Agreement. WTO Members that have ratified the Agreement, upon entry into force, would implement it on Most-Favoured-Nations (MFN) basis.

Categorization

Under Section II of the TFA, developing and least developed countries shall self-determine the time and the means required to implement measures in Article 1 to 12 of the TFA per the following categories:

Category A: measures that the WTO Member will implement by the time the Agreement enters into force (LDCs may implement up to one year thereafter);

Category B: measures for which the WTO Member will need additional time; and

Category C: measures for which the WTO Member will need additional time which it defines and technical and/or financial assistance or capacity building to implement.

What is required upon entry into force?⁺

Upon entry into force of the TFA, WTO Members that have ratified the Agreement need to take the steps below depending on their stage of development.

Note that developing countries and LDCs shall undertake these steps contingent they wish to use Section II of the TFA. The deadlines were calculated under the assumption that such countries will use the full timeframes for notifications set forth in Section II of the TFA.

Developed countries

Upon entry into force

- Have a National Trade Facilitation Committee (NTFC) in place.
- Implement all measures contained in the TFA.
- Submit to the WTO information on the disbursed and committed Technical Assistance and Capacity Building (TACB) support in the format annexed to the TFA and annually thereafter.
- Notify the WTO of contact information of their Agencies Responsible for TACB and contact points within the country or region of intended assistance.
- Submit to the WTO information on the process and the mechanism of requesting assistance from developing and least developed countries.

After one year from entry into force

Inform the WTO Committee on Trade Facilitation on the arrangements made or entered into for the implementation of Category C provisions for developing countries.

After two year from entry into force

Submit to the WTO information on the disbursed and committed TACB support in the format annexed to the TFA.

Within two and a half years from entry into force

Provide information to the WTO Committee on Trade Facilitation on progress made in terms of the provision of TACB support to developing countries.

Within four years from entry into force

Notify the WTO of the arrangements made with the LDCs to enable the implementation of Category C provisions.

Within five and a half years from entry into force

Inform the WTO Committee on Trade Facilitation on progress made in terms of the provision of TACB support to the LDCs.

⁺ International Trade Centre, WTO Trade Facilitation Agreement Timeline, available at <http://www.intracen.org/itc/trade-facilitation-programme/research-and-capacity-building-publications/>

Developing countries

- Have an NTFC in place.
- Notify the WTO of category A designations by the countries that have not done so.
- Implement category A designations.
- Notify the WTO of category B and C designations, including the indicative dates - for implementation. The category C notifications shall include information on TACB required to implement.
- Submit to the WTO – in the case of developing countries declaring themselves in a position to assist and support other developing or least developed countries – information on the disbursed and committed TACB support in the format annexed to the TFA.

Upon entry into force

- Notify the WTO of the definitive dates for implementation of category B designations.
- Inform the WTO Trade Facilitation Committee of the arrangements made or entered into for the implementation of Category C provisions.

Within one year from entry into force

Submit to the WTO – in the case of developing countries declaring themselves in a position to assist and support other developing or least developed countries – information on the disbursed and committed TACB support in the format annexed to the TFA.

Within two years from entry into force

- Notify the WTO of the definitive dates for the implementation of category C designations.
- Provide information to the WTO Trade Facilitation Committee on the progress made on TACB support.

Within two and a half years from entry into force



National Trade Facilitation Committees

The entry into force of the TFA also brings important institutional changes at the national level. Under Article 23.2, WTO Members, either developed or developing country, are required to establish, or maintain National Trade Facilitation Committees (NTFCs).

The NTFCs are platforms where representatives from the public and private sectors consult, inform, coordinate and engage in strategies towards the successful implementation of the Agreement. Upon entry into force, WTO Members are expected to have fully operational NTFC in place.

The UN Repository on NTFCs around the world contains case studies from over 120 countries that have set up NTFCs. More information available at unctad.org/tfc

Least developed countries

Upon entry into force

- Have an NTFC in place.
 - Start the countdown for notification of categories A, B and C designations.
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Within one year from entry into force

- Notify the WTO of category A designations.
 - Notify the WTO of category B designations with the option of notifying indicative dates of implementation.
 - Notify the WTO of category C designations.
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Within two years from entry into force

Inform the WTO Committee on Trade Facilitation on the TACB support required for implementation of category C designations.

Within three years from entry into force

Confirm with the WTO of category B designations and definitive dates of implementation.

Within four years from entry into force

- Inform the WTO Committee on Trade Facilitation on the arrangements entered into for the implementation of category C provisions.
 - Notify indicative dates for the implementation of category C designations.
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Within five and a half years from entry into force

- Inform the WTO Committee on Trade Facilitation on the progress made on provision of TACB support.
- Notify the WTO of the definitive dates for the implementation of category C designations.

What about countries that have not ratified by the entry into force?

At the time of entry into force, the Agreement takes effect only for the WTO Members that have ratified it. Thereafter, the TFA shall apply to each of the remaining WTO Members as they ratify the agreement. WTO Members that ratify the TFA after its entry into force shall implement its category A commitments immediately on ratification, and categories B and C commitments counting the relevant periods from the date of the entry into force of the agreement (Article 24.4 of the TFA), thus having reduced periods for the implementation.

As long as not all WTO Members have ratified the TFA, there can be two sets of WTO Members at least temporarily.

The first set of Members who have ratified would implement, on MFN basis, the TFA (and continue to implement GATT Articles V, VIII and X); while the second set of Members who have not yet ratified would continue implementing only GATT Articles V, VIII and X making them 'free riders' to the extent of the TFA.

Experience in this field is quite limited since this is the first multilateral agreement adopted under the WTO framework. Considering that WTO Members agreed on the text of the TFA and the Protocol of amendment by consensus, it is believed that all WTO Members will ratify the WTO TFA.

What should be borne in mind?

The TFA offers for the first time in the history of the multilateral trading system, the opportunity for developing and least developed countries to link the fulfilment of the obligations in the agreement with their implementation capacities.

In compliance with the spirit of the Agreement, developing countries and the LDCs should undertake

commitments that are consistent with their needs and capacities and on the condition of receiving the assistance required.

Accordingly, countries wishing to take advantage of the special and differential treatment provisions must categorize each measure of the TFA in accordance with the specific timelines outlined therein and as set out in the flow-chart below.



Tip

The sooner developing countries and LDCs notify the categories for their commitments, the better are the chances of attracting donor support.

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Annex: Flow-chart

