



TRADE IMPACT
FOR GOOD



1964-2014

Special and Differential Treatment (S&DT) in the TFA

National Workshop, June 17th and 18th, Dushanbe, Tajikistan
“Implementing the WTO Trade Facilitation Agreement”



S&DT in WTO Agreements

Developing and Least developed Countries having **favourable treatment** as compared to Developed Countries have been an **'integral part'** of WTO such as:

- Lesser tariff reduction
 - Rate of duty
 - Product coverage
- Longer implementation period
- Delayed or deferred implementation
- Lesser Obligations
- Special Provisions

Outlook of Bali Ministerial Decision

- ✓ Negotiations on TF concluded
- ✓ Text of TFA agreed
- ✓ Preparatory Committee Established to:
 - Legal scrubbing of the TFA
 - Adoption of Protocol of Amendment
 - Open Protocol for Acceptance
- ✓ Developing countries to submit **Category A** measures



Ratification process

- ✓ TF Preparatory Committee to draft Protocol of Amendment
- ✓ General Council to adopt Protocol before 31 July 2014
- ✓ Members to go through their internal treaty ratification process and notify acceptance of protocol to WTO
- ✓ The Protocol will be open for acceptance until **31 July 2015**
- ✓ The Agreement will enter into force once **2/3 of the WTO Members** ratify it

Developing Country Negotiators successfully negotiated TFA....



- The end result (TFA provisions) matches with the starting point (July package)**
- Unique provisions for S&D**
 - The extent of obligations to be decided by the countries themselves
 - The timing is also of the choice of Developing countries
 - The obligations are linked with implementation capacity

S&DT in TFA vs. July package

What was required in the July package ?

Should extend beyond traditional transition periods for implementing commitments



What was obtained in the TFA ?

Timing of each category to be decided by individual country



Extent and timing of entering into commitments shall be related to the implementation capacities of developing and LD countries



Self designation of provisions into category A, B & C - Category C implementation linked with acquisition of capacity



Developing countries and LDCs are not obliged to undertake investments in infrastructure projects beyond their means



No infrastructure development requirements mentioned in TFA



LDCs I only required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their institutional capabilities



Fully accounted for in the TFA



S&DT in WTO Agreements and TFA

Developing and LDCs having favourable treatment as compared to Developed Countries has been an **'integral part'** of WTO

S&DT in WTO Agreements

Lesser tariff reduction

- Rate of duty
- Product coverage

Longer implementation period

Delayed or deferred implementation

Lesser Obligations

Special Provisions

S&DT in TFA

Self designation of provisions into category A, B & C

Timing of each category to be decided by individual country

Category C commitments implementation linked with acquisition of implementation capacity

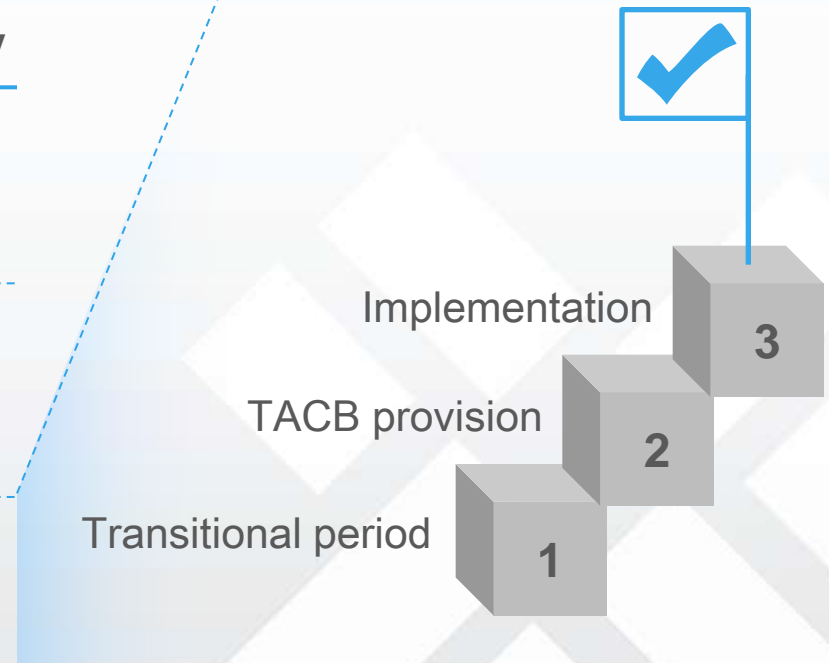
- Through provision of TA and CB including the financial assistance

Timing and extent of commitments

3 different categories of commitments: A, B & C

Categories	Timing	Conditionality
Category A	Time of entry into force of the TFA	∅
Category B	(x) years after entry into force	∅
Category C	(x) years after entry into force	TACB

Cat. C provisions implementation process



Notification and Implementation of Category A commitments

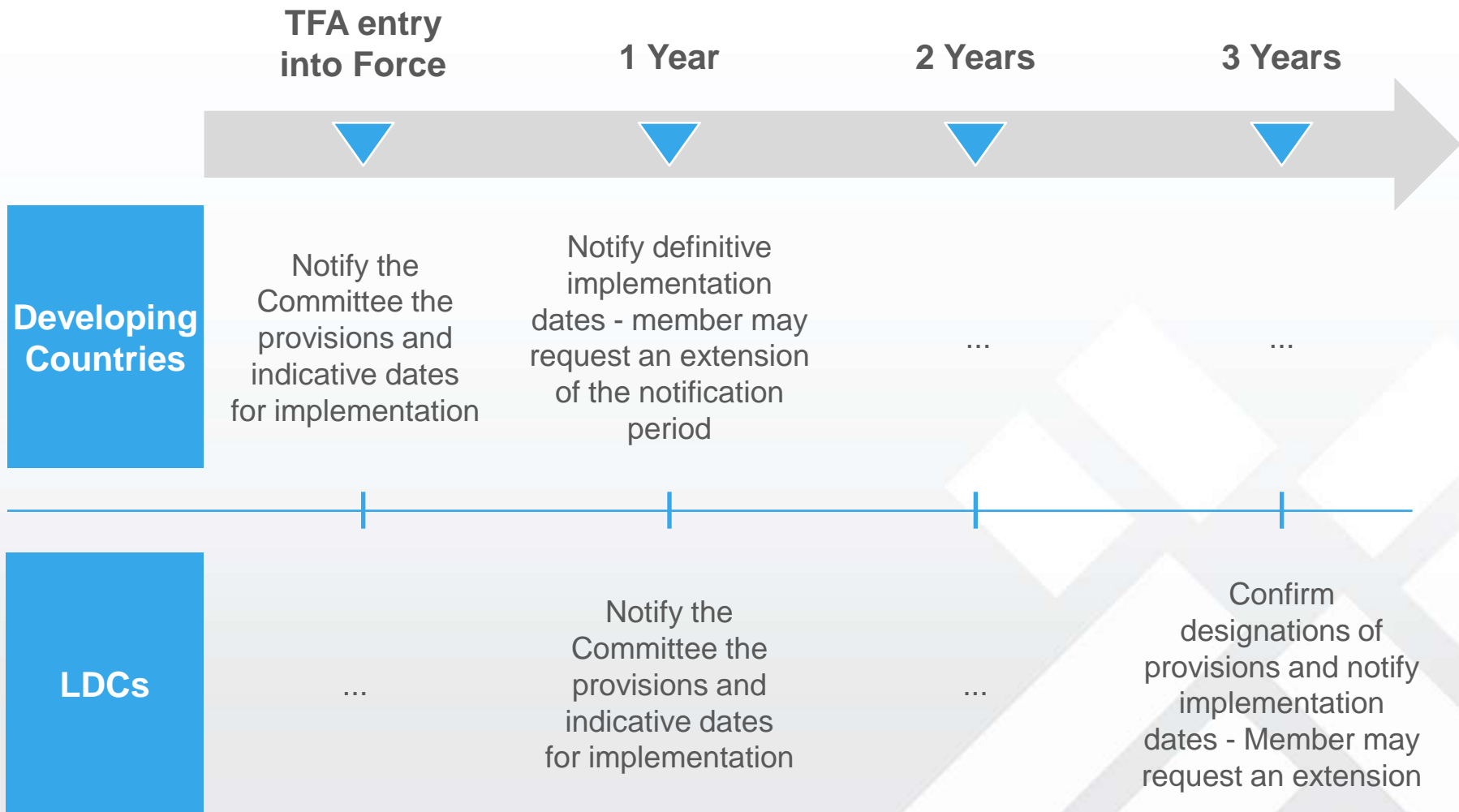
Developing countries

- Implement upon entry into force
- Category A commitments will then be made an integral part of the Agreement
- Notifications due by 31 July 2014

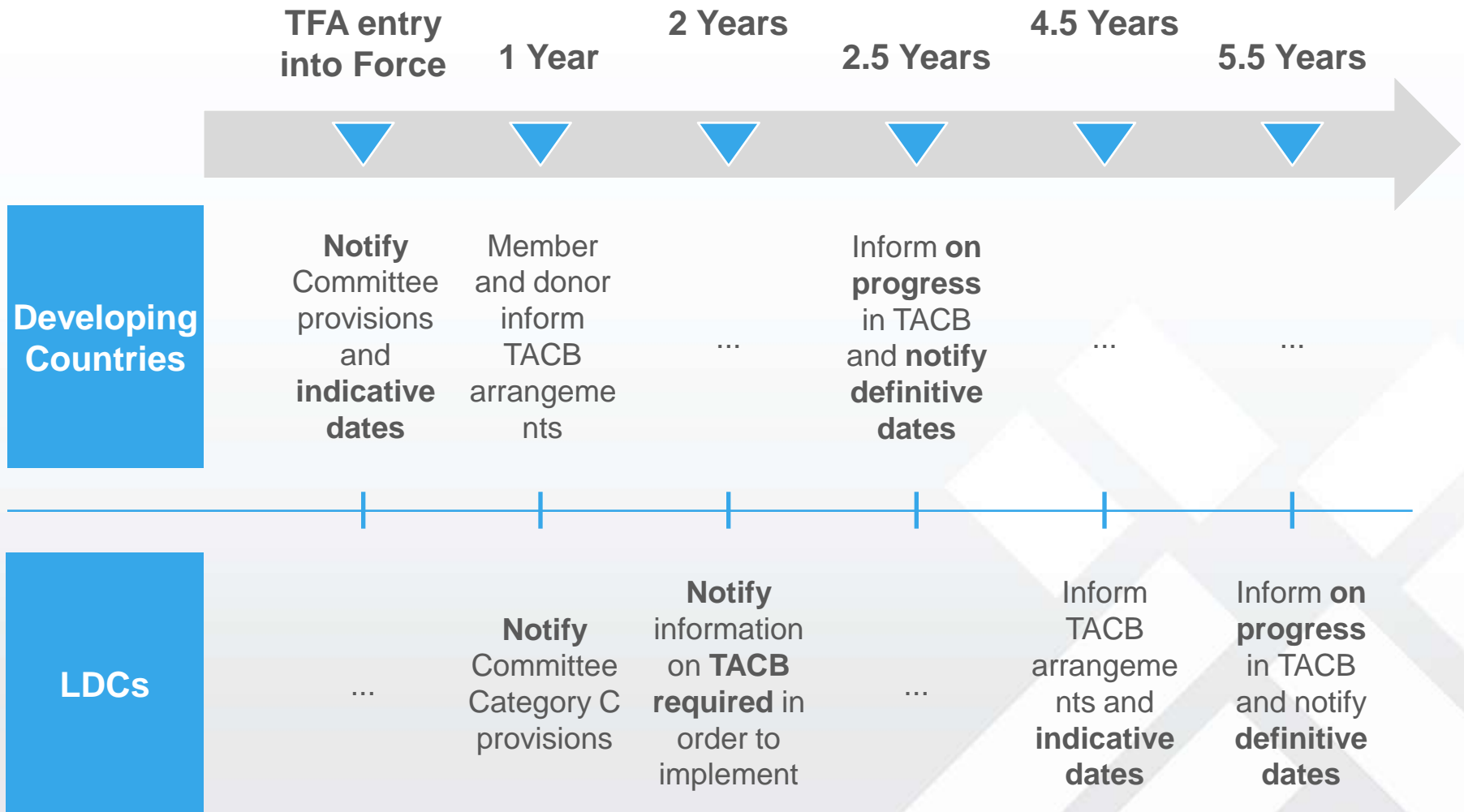
LDCs

- Notify to the Committee up to one year after entry into force
- And thereby be made an integral part of the Agreement

Category B notification and implementation



Category C Notification and implementation



Timeline for Tajikistan

By 31 July 2014: Notify Category A provisions

By 31 July 2015: Deposit acceptance of the Protocol to the WTO (implied)

Upon entry into force

- Implement Category A provisions
- Notify Category B and C provisions along with **indicative dates**
- Inform the CTF on **arrangements required** for implementation of Category C provisions

Within one year of entry into force

- Notify **definitive dates** for implementation of Category B provisions.
- Inform the CTF on **arrangement made** or entered into for implementation of Category C provisions

Within two and a half years after entry into force

- Provide information to the CTF on the **progress made** on provision of assistance and support
- Notify the **definitive dates** for implementation of Category C provisions

Early Warning Mechanism

If a Member experiences difficulties implementing by the definitive dates it established, it should notify the Committee:

- Developing Countries: no later than 120 days before the expiration date
- LDCs: no later than 90 days before the expiration date

Notify new dates and indicate reasons for delay

Automatic extension if it is the first request and:

- Extension requested less than 1.5 years (developing)
- Extension requested less than 3 years (LDCs)

Subsequent extensions submitted to the Committee which will give sympathetic consideration



Other TFA mechanisms

Shifting between Cat. B and C

Developing members and LDC would have option to shift between categories

- Through notification to Committee

Shifting from B to C would contain information on

- Technical Assistance
- Capacity building and
- Financial needs

Extension in time frame, if needed, through Early waning Mechanism

Dispute Settlement – Grace Period

For Cat A measures

- Developing: 2y after entry into force
- LDCs: 6y after entry into force
-

For Cat B&C measures

- 8 years after implementation of the provision for LDCs only

Opportunity for consultation during the grace period

- For discussing issues relating to implementation

Due Constraint for invoking DSU for LDCS

Trade Facilitation Committee

At least one dedicated session per year to:

- Discuss problems regarding implementation
- Review progress in provision of TACB
- Share experiences and information
- Review donor notifications



Nature of TFA obligations

- The language of the text will determine the nature of obligations**
 - Shall, May, encouraged to, shall subject to and consistent with...
- Categorization of measure within Cat. A, B or C would not change the nature of obligations**
- Categorization will only determine at what point in time a particular measure will be implemented**
- To the extent of cat. C provisions, the categorization will also help in soliciting technical assistance and capacity building**
 - Including financial assistance

Nature of Obligation - examples

Locution	How they should be interpreted
Shall...	Mandatory and must be implemented as per as per description of the provision according to categorization and dates notified
May ...	Member has the discretion to implement or otherwise
Encouraged to (where applicable / appropriate)..	'Best endeavor' measure. It is encouraged that Member should implement the measure. The level of efforts to implement is further diluted by linking it to the extent applicable / appropriate

Thank you for your attention