



# WTO Trade Facilitation Agreement:

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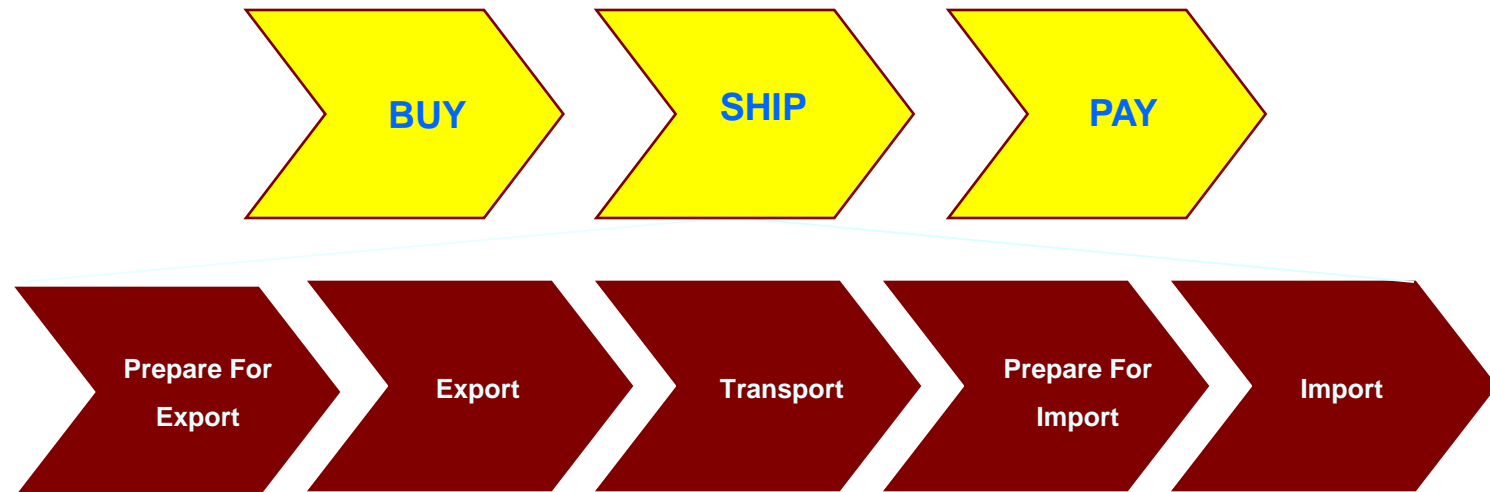


## Structure of the Presentation

1. Trade Facilitation concept
2. TF negotiations at the WTO
3. Bali Ministerial Decision
4. TFA obligations and actions
5. TFA implementation and Customs



# International Trade Transaction Process



## INVOLVES

### Commercial Procedures

- Establish Contract
- Order Goods
- Advise On Delivery
- Request Payment



### Transport Procedures

- Establish Transport Contract
- Collect, Transport and Deliver Goods
- Provide Waybills, Goods Receipts Status reports



### Regulatory Procedures

- Obtain Import/Export Licences etc
- Provide Customs Declarations
- Provide Cargo Declaration
- Apply Trade Security Procedures
- Clear Goods for Export/Import



### Financial Procedures

- Provide Credit Rating
- Provide Insurance
- Provide Credit
- Execute Payment
- Issue Statements





# International Supply Chain

Buying agents  
Road/Rail Operator  
Freight forwarder  
Consolidator  
Bank

COUNTRY OF ORIGIN

PROD

**SYSTEM EFFICIENCY**

$$90\% \times 90\% = 81\%$$

$$90\% \times 90\% \times 90\% = 72.9\%$$

Marine  
carrier

STINATION

Marine  
carrier

Port  
Operator

Customs

Agents

**BUYER**

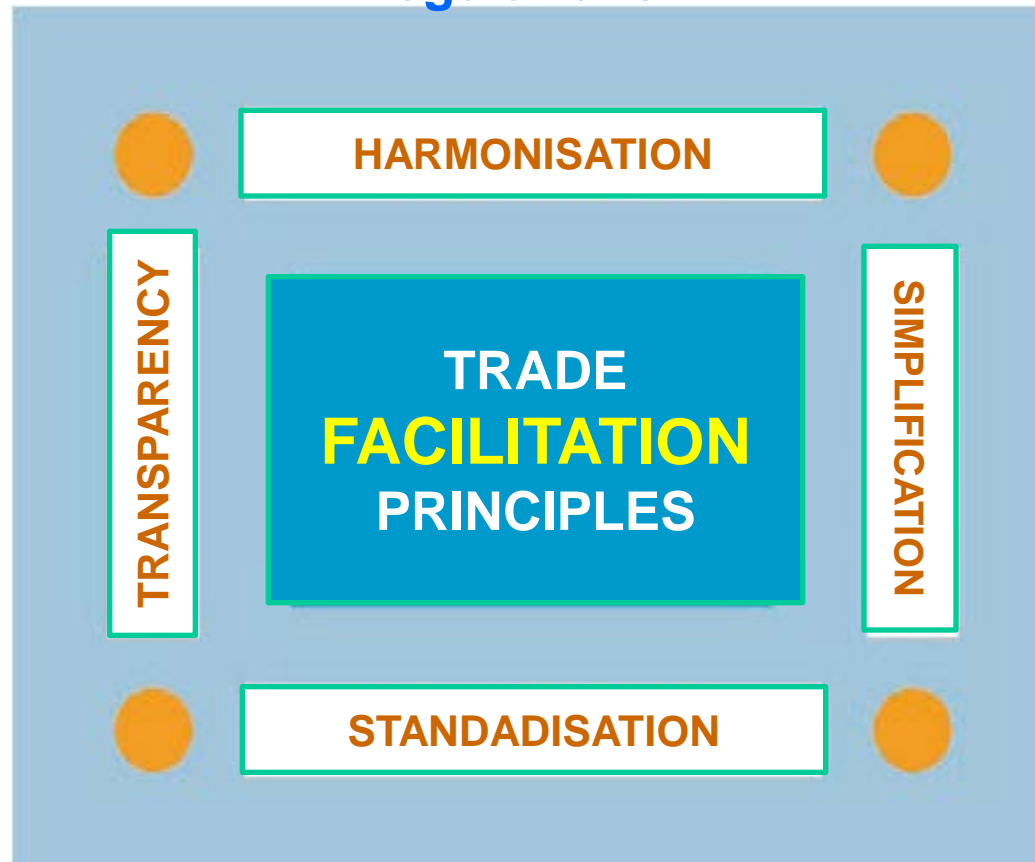
Custom House brokers  
De-Consolidators  
Road/Rail Operator  
Bank



# Facilitation Principles

legislation and  
regulations

clear,  
specific and  
easily  
accessible  
for all  
involved



administrative  
processes

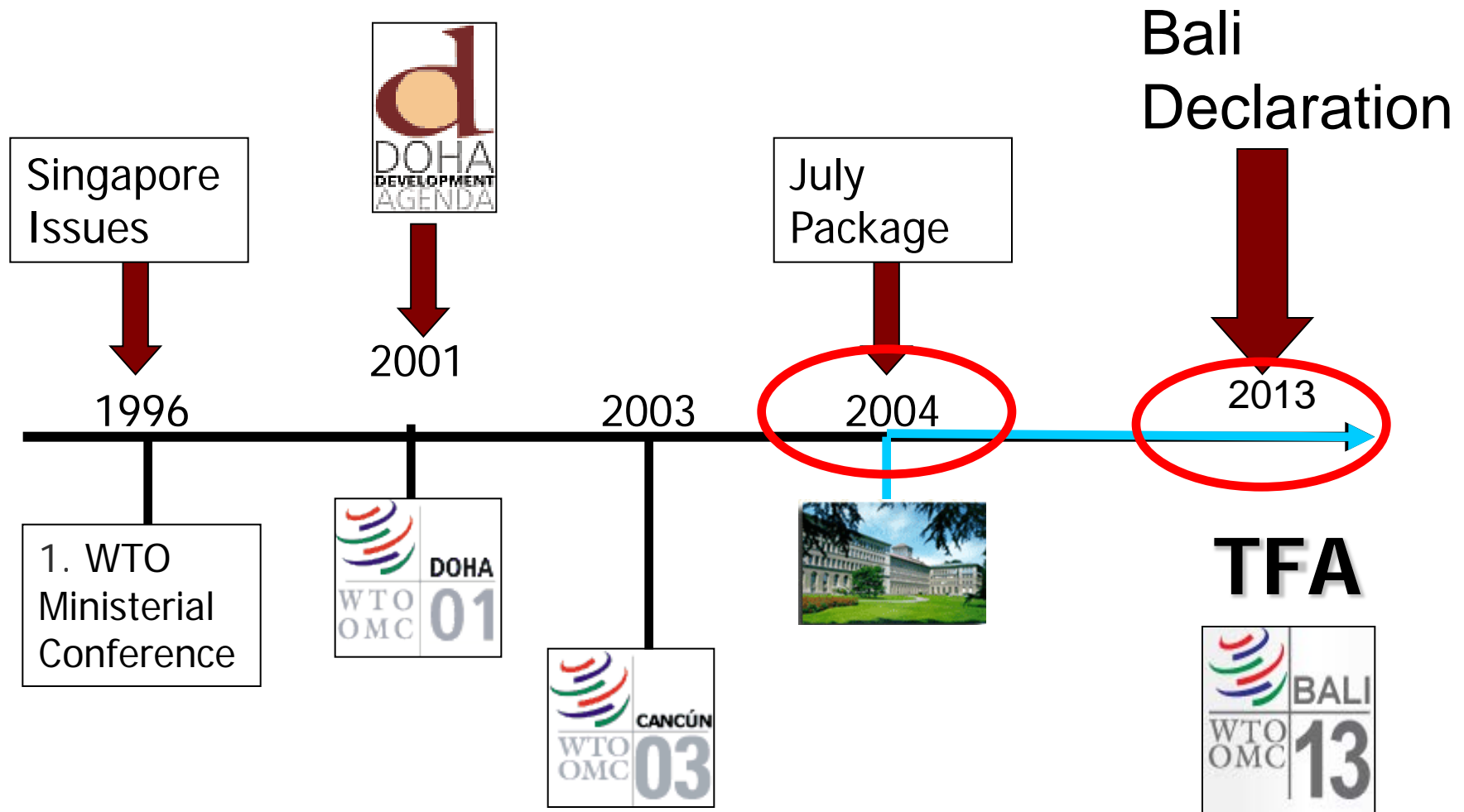
information, efficient IT use



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# Time Line of TF Negotiations



## Walking Along the Path

- ❑ **Phase 1- 1996-2004**
  - Singapore to July Package
- ❑ **Phase 2- 2004-2009**
  - July Package to Draft Consolidated Negotiated Text (DCNT)
- ❑ **Phase 3- 2009-2013**
  - Different Revisions of DCNT
- ❑ **Phase 4- 2013-20??**
  - Bali and onwards







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## Phase 4- Bali (2013) onwards

- Negotiations on TF concluded
- Text of TFA agreed
- Preparatory Committee Established to
- ‘Legalize’ the TFA
- Adoption of Protocol of Amendment
- Open Protocol for Acceptance
- Developing countries to submit Cat A measures






## Trade Facilitation Agreement (TFA)

### -Section I- Substantive Provisions;

#### GATT

#### TFA

- Art. X (Transparency)  Art. 1-5
- Art. VIII (Fees & Formalities)  Art. 6-10
- Art. V (Transit)  Art. 11
- Other issues  Art. 12-13

- Section II- Special and Differential Treatment
- Final Provisions



## Relationship with GATT and other Agreements (2)

- The **TFA** would be inserted in **Annex 1A** of the WTO Agreement--- and would become part of the Multilateral Agreement on Trade in Goods
- In case of conflict between GATT 1994, the provisions of the TFA would prevail to the extent of conflict (General interpretive note to **Annex 1A**).
- The **TFA** cannot diminish the rights and obligations under SPS and TBT Agreement (s)

# From Policy statement to legal text

## ❖ Policy Statement

“**Extent and timing** of entering into commitments shall be related to the **implementation capacities** of developing and Least Developed countries” (July Package)

## ❖ Legal Text

### Self designation by DCs and LDCS - 3 categories

**Cat A** - Measures that will apply immediately after entry into force of the TFA

**Cat B** - Those that will apply after expiration of a transition period

**Cat C** - Those that will apply upon acquisition of implementation capacity through provision of TACB



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# TFA obligations and actions

- A. All TFA provisions binding for all Members.
- A. Developed countries to implement provisions upon entry into force of the TFA.
- A. Developing and least developed Members shall self-designate and categorize in A, B and C category.
- A. Developed countries agreed to facilitate the support and technical assistance for capacity building.
- A. A Committee on Trade Facilitation (CTF) is established in the WTO.



# TFA obligations and actions

## WTO

By 31 July 2014

- A. Establish 'Preparatory Committee' operational
- B. Legal review of the text.
- C. Draw 'Protocol of Amendment' to insert the TFA in Annex 1A of the WTO Agreement.
- D. Receive notifications of Category A.
- E. Adopt Protocol of Amendment.
- F. Annex notification of Category A commitments of developing countries to the TFA.
- G. Open the Protocol for acceptance until 31 July 2015 (BMD paragraph 3).





# TFA obligations and actions

## WTO

By 31 July 2015

A. Receive acceptance of the Protocol of Amendment from Members.

B. Inform the Members regarding the exact date of entry into force of the.



# TFA obligations and actions

## WTO

### Entry into force and beyond

- A. Operationalize the Committee on Trade Facilitation.
- B. Annex different category provisions from developing and least developed countries to the TFA.
- C. Review the operation and implementation after four years after entry into force and periodically
- D. Remind Members for notifying the definitive date of implementation of Category B or C three months before those are.
- E. Extension of deadlines for the Member(s) experiencing difficulty to notify its definitive dates.



# TFA obligations and actions

## WTO

### Entry into force and beyond

F. Within 60 days after notification of the definitive dates, TF Committee would annex these provisions and dates to make it integral part of the TFA (Member's schedule of commitment).

G. Establishing an Expert Group no later than 60 days after receiving the notification from a developing Member its inability to implement a particular provision on account of lacking the ability to implement or unforeseen circumstances (Article 6.2 of Section II).



# TFA obligations and actions

## **Least Developed Countries**

By July 2015

- A. Deposit acceptance of the Protocol of Amendment to the WTO.



# TFA obligations and actions

## **Least Developed Countries**

Within one year of entry into force

A. Notify Category A provisions to the WTO.

B. Notify Category B provisions and may notify indicative dates of implementation (for the dates, the expression used is 'may' not 'shall').

C. Notify the Category C.



# TFA obligations and actions

## **Least Developed Countries**

Within two years of entry into force (one year after notification of Cat C)

A. Inform the TF Committee on assistance and support required for implementation of Category C provisions.



# TFA obligations and actions

## **Least Developed Countries**

Within three years of entry into force (Two years after the notification date of Category B)

- A. Notification to confirm Category B provisions and dates for implementation. In case of difficulty, there is a possibility to request the TF Committee for extension in time for notification.



# TFA obligations and actions

## **Least Developed Countries**

Within four years of entry into force (Two years after the notification of assistance 'Required')

- A. Provide information on the arrangements entered for provision of assistance and support (also for donor members).
- B. Notify indicative dates for implementation of Category C provisions.





# TFA obligations and actions

## **Least Developed Countries**

Within five and a half years of entry into force (18 months after the notification of indicative dates of Category C)

- A. Provide information to the TF Committee on the progress made on provision of assistance and support (also by donor members).
- B. Notify the definitive dates for implementation of Category C provisions. In case of difficulty possibility to request TF Committee for extension in time for notification as soon as possible prior to expiration of deadlines.



# TFA obligations and actions

## **Developing Countries**

By 31 July 2014

A. Notify Category A provisions.



# TFA obligations and actions

## **Developing Countries**

By 31 July 2015

A. Deposit acceptance of the Protocol to the WTO.



# TFA obligations and actions

## **Developing Countries**

### Upon entry into force

A. Implement Category A provisions.

B. Notify Category B and C provisions along with indicative dates of implementation.

C. Inform the TF Committee on arrangement required for implementation of Category C provisions.



# TFA obligations and actions

## **Developing Countries**

### Within one year of entry into force

- A. Notify definitive dates for implementation of Category B. In case of difficulty possibility to request TF Committee for extension in time for notification as soon as possible prior to expiration of deadlines.
- B. Inform the TF Committee on arrangement made or entered into for implementation of Category C provisions (also by donor members).



# TFA obligations and actions

## **Developing Countries**

Within two and a half years after entry into force (18 months after notification of assistance 'Required' for Category C)

A. Provide information to the TF Committee on the progress made on provision of assistance and support (also by donor members).

B. Notify the definitive dates for implementation of Category C provisions. In case of difficulty possibility to request TF Committee for extension in time for notification as soon as possible prior to expiration of deadlines.



# TFA obligations and actions

## **Developed Members**

By 31 July 2015

- A. Deposit acceptance of the Protocol to the WTO (implied from paragraph 3 of BMD).



# TFA obligations and actions

## **Developed Members**

### Upon Entry into force

- A. Implement all measures upon entry into force.
- B. Submit information on Technical Assistance (TA) and Capacity Building (CB) in the annexed format upon entry into force and annually thereafter.
- C. Notify contact information of their agencies responsible for TA and CB and contact points within the country or region of intended assistance.
- D. Submit the process and mechanism of requesting assistance.





# TFA obligations and actions

## **Developed Members**

After one year of entry into force

A. Inform the TF Committee on arrangement made or entered into for implementation of Category C provisions for developing countries.



# TFA obligations and actions

## **Developed Members**

Within two and a half years after entry into force

- A. Provide information to the TF Committee on the progress MADE on provision of assistance and support to the Developing Countries.



# TFA obligations and actions

## **Developed Members**

Within four years of entry into force

A. Notify TA arrangements with LDCs to enable implementation of category “C” provisions.



# TFA obligations and actions

## **Developed Members**

Within five and a half years of entry into force

- A. Inform the Committee on the progress in delivery of to LDC.

|  | 7 Dec. 2013                                      |   | 31 July 2014                                       |  |  | Within one year (Y1)  | Within two years (Y2)   | Within three years (Y3)   | Within four years (Y4)   | Within five years (Y5) and first half of sixth year   |  |
|--|--|---|--|--|--|---|---|---|--|---|--|
| WTO  | Bali Ministerial Decision and Agreed text of TFA | <ul style="list-style-type: none"><li>• Preparatory Committee</li><li>• Legal review of the text</li><li>• Draw Protocol of Amendment (PoA)</li><li>• Receive notifications on category “A” provisions</li><li>• Adopt PoA</li><li>• Annex notification of A commitments of DCs to TFA</li><li>• Open PoA for acceptance until 31 July 2015</li></ul> |  | <div>Inform Members regarding the exact date of entry into force of the TFA</div>  | (date to be specified by the WTO)            | <ul style="list-style-type: none"><li>• Operationalize the Committee on Trade Facilitation (TFC)</li><li>• Annex different category provisions from DC and LDCs to the TFA</li></ul>  | <div><ul style="list-style-type: none"><li>• Remind Members about the implementation's date of Category B or C commitments (3 months before deadline)</li><li>• Extension of deadlines for Members experiencing difficulty to notify definitive dates</li><li>• Within 60 days after notification of definitive dates TFC would annex provisions and dates into the TFA</li><li>• Establish Expert Group</li></ul></div>  |   |  | Review the operation and implementation of TFA  |  |
| LDCs   |  |   | <div>Deposit acceptance of the PA to the WTO</div> |  |  | <ul style="list-style-type: none"><li>• Notify category “B” provisions and <u>may</u> notify <u>indicative</u> dates of implementation</li><li>• Notify category “C” provisions</li></ul>   | Inform the TFC on assistance and support <u>required</u> for implementation category “C” provisions   | <ul style="list-style-type: none"><li>• Confirm cat. B provisions and dates of implementation</li><li>• In case of difficulty <b>possibility to request for extension</b> in notification</li></ul> | <ul style="list-style-type: none"><li>• Provide information on the <u>arrangements entered</u> for provision of assistance</li><li>• Notify <u>indicative</u> dates to implement cat. “C” provisions</li></ul> | <ul style="list-style-type: none"><li>• Provide information on <u>progress made</u> on assistance and support received.</li><li>• Notify <u>definitive</u> dates of implementation of cat. C provisions</li><li>• An extension in time for notification can be requested to TFC</li></ul> |  |
| <div>Notify category “A” provisions to the WTO</div> |  |   |  |  |  |   |   |   |  |   |  |
| Developing Countries (DC)                            |  | Notify category “A” provisions to the WTO   | Protocol of Amendment adopted                      | <div><ul style="list-style-type: none"><li>• Deposit acceptance of the PoA to the WTO</li><li>• Implement category “A” provisions</li><li>• Notify category “B’ and “C” provisions and <u>indicative</u> dates of implementation</li></ul></div> |  | Entry into force  | <ul style="list-style-type: none"><li>• Notify <u>definitive</u> dates for implementation of category “B” provisions</li><li>• An <u>extension in time</u> for notification can be requested</li><li>• Inform TFC <u>arrangements required</u> for implement category “C” provisions</li></ul> <div><ul style="list-style-type: none"><li>• Notify <u>progress made</u> on support received</li><li>• Notify <u>definitive</u> implementation dates of category “C” provisions</li><li>• <u>Extension in time</u> for notification can be requested</li></ul></div> |   |  |   |  |
| Developed Countries                                  |  | <div>Deposit acceptance of the PoA to the WTO</div> <div>Implement all measures upon entry into force</div>   |  | Notify TA arrangements with DC to enable implementation of category “C” provisions   | <div>Notify progress made on TA to DCs</div> |   |   | Notify TA arrangements with LDCs  | Notify <u>progress</u> made on TA delivered to LDCs  |   |  |
|  |  |   |  |  |  | <div><ul style="list-style-type: none"><li>• Submit information on technical assistance (TA) and capacity building (CB) in annexed format</li><li>• Notify contact information of their agencies responsible for TA and CB</li><li>• Notify on process of and mechanism for requesting assistance</li></ul></div> |   |   |  |   |  |



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# TFA impact on Customs

**Table 1: List of TF measures that can particularly benefit from ASYCUDA**

Article 3. Advance Ruling  
Article 7.1. Pre-arrival Processing  
Article 7.3. Sep/Release/Payment  
Article 7.4. Risk Management  
Article 7.5. Post-clearance Audit  
Article 7.6. Av. Release Times  
Article 7.7..Authorized Operators  
Article 7.8. Expedited Shipments  
Article 8. Border Agency Coop

Article 9. Decl/Transhipped Article  
Article 10.3. Int Standards  
Article 10.4. Single Window  
Article 10.7. Com/Border Proc and  
Uniform Forms Doc  
Article 10.8. Opt Return Goods  
Article 10.9. Temp Admission/  
Inward\_Outward Procv  
Article 11. Freedom of Transit

**Table 1: Use of ASYCUDA for implementing TF reforms**

| <b>Measure (as per Article in the WTO TFA)</b>         | <b>Details of ASYCUDA's role in the implementation of the measure</b>  |
|--|--|
| Article 1: Publication and availability of information |  |
| 1.1. Publication                                       |  |
| 1.2. Information available through Internet            | <p>ASYCUDA integrates in its system trade related legislation (tariffs, fees, import-export procedures, etc).</p> <p>Through an interface ASYCUDA may link this information to a Governmental website to make it available to public through internet.<br/>Example: Rwanda</p> |
| 1.3. Enquiry Points                                    | <p>It is possible to create special user profiles for connecting to ASYCUDA and make inquiries about applicable tariff duties, classification, etc.</p>  |





|   |  |
|---|--|
| 1.4. Notification   |  |
| Article 2: Opportunity to comment, information before entry into force and consultation |  |
| 2.1 Opportunity to comment and information before entry into force                      |  |
| 2.2. Consultations  |  |



|  |   |
|--|---|
| Article 3: Advance rulings   | ASYCUDA facilitates the treatment of advance ruling, notably, with respect to the tariff classification and valuation.  |
| Article 4: Appeal or review procedures   |   |
| Article 5: Other measures to enhance impartiality, non-discrimination and transparency |   |
| 5.1. Notifications for enhanced controls or inspections                                | ASYCUDA makes possible, through integrating in the system selection criteria, electronic alert notifications both within and between Governmental agencies, as well as their prompt termination.              |
| 5.2. Detention   | ASYCUDA provides a technical tool for communicating with the competent authorities of the country of the exporter, once the necessary protocol has been established and the competent authorities identified. |
| 5.3. Test Procedures   |   |



**Article 6: Disciplines on fees and charges imposed on or in connection with importation and exportation**

**6.1. General disciplines on fees and charges imposed on or in connection with importation and exportation**

ASYCUDA provides a measuring step-by-step tool to calculate time and resources spent on various phases of the clearance process (i.e. time necessary to validate a Customs declaration) and, thus, helps estimate the costs of these operations.

**6.2. Specific disciplines on fees and charges imposed on or in connection with importation and exportation**

**6.3. Penalty Disciplines**

ASYCUDA provides a tool for implementing the penalties disciplines, as through a “Contentious automated system”. It may establish different sanctions according to the severity of infraction and past contraventions.



## Article 7: Release and clearance of goods

### 7.1. Pre-arrival Processing

Electronic pre-arrival processing is a standard functionality offered by the ASYCUDA system, and it works especially well with reliable importers.

### 7.2. Electronic payment

### 7.3. Separation of release from final determination of Customs duties, taxes, fees and charges

This is a standard functionality offered by ASYCUDA and it works especially well with registered trusted traders

### 7.4. Risk Management

This is a standard functionality offered by ASYCUDA

### 7.5. Post-clearance Audit

This is a standard functionality offered by ASYCUDA. Its Customs information database can be used to create a plan of future post-clearance audits based on a set of relevant criteria, to share the results with other agencies and, very importantly, to use the results of the audit to update the risk parameters for risk management.



|   |   |
|---|---|
| 7.6. Establishment and publication of average release times | ASYCUDA allows measuring the processing time of the major clearance steps (unloading, entry of Customs declaration, its validation and release of goods). However, the information available does not include exact reasons for eventual delays; and it might vary according to the mean of transport used. |
| 7.7. Trade facilitation measures for Authorized Operators   | Managing authorized operators is a standard functionality offered by ASYCUDA  |
| 7.8. Expedited Shipments                                    | Managing expedited shipments is a standard functionality offered by ASYCUDA. The system manages expedited shipments as a type of authorized operators.  |
| 7.9. Perishable goods                                       |   |



### Article 8. Border Agency Cooperation

ASYCUDA provides a platform for inter-agency cooperation at both national (Single Window, coordinated risk management, joint inspections) and cross-border level. Interoperability and exchange of information can easily be achieved even if the other countries do not use ASYCUDA, through XML messages; even though the cooperation is even more facilitated if they do.

### Article 9: Movement of goods under Customs control intended for import

Managing domestic transit is a standard functionality offered by ASYCUDA

### Article 10: Formalities connected with importation and exportation and transit

Each installation or update of ASYCUDA system means mapping of existing formalities and documentation requirements for import, export and transit. During its operation, it provides a source of graphic representation of the different steps and documents in each step of the procedures.





|  |  |
|--|--|
| 10.1: Formalities and documentation requirements | Each installation or update of ASYCUDA system is also an opportunity to simplify existing formalities and documentation requirements for import, export and transit.                                 |
| 10.2. Acceptance of copies                       |  |
| 10.3. Use of International Standards             | International standards, such as WCO Data Model and UNLK are integral part of the ASYCUDA system. New standards can be easily integrated, if needed.   |
| 10.4. Single Window                              | ASYCUDA provides a solid platform for a fully-fledged Single Window system, involving the relevant governmental agencies and utilizing fully the ICT resources and expertise available from Customs. |
| 10.5. Pre-shipment inspection                    |  |



**10.7. Common Border Procedures and uniform documentation requirements**

By introducing ASYCUDA in all border-crossing points, common border procedures and documental requirements for the Customs purposes are ensured, as the system is updated centrally and simultaneously.

**10.8. Rejected Goods**

This is a standard functionality offered by ASYCUDA

**10.9. Temporary admission of goods/inwards and outward processing**

This is a standard functionality offered by ASYCUDA



UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

**UNCTAD**



**WTO TFA:** implementation of international obligations as per national capacity & priorities



# Thank You

Division on Technology and Logistics

Trade Logistics Branch

Trade Facilitation Section

[www.unctad.org/TTL](http://www.unctad.org/TTL)

[www.unctad.org/RMT](http://www.unctad.org/RMT)

[www.unctad.org/TransportNews](http://www.unctad.org/TransportNews)