

**COMMUNICATION FROM THE CORE GROUP OF  
DEVELOPING COUNTRIES ON TRADE FACILITATION<sup>1</sup>**

Proposal on Implementation Mechanism for Special and Differential Treatment(S&D) and Technical Assistance and Capacity Building (TACB) Support

The following communication, dated 25 July 2006, is being circulated at the request of the Core Group of Developing Countries on Trade Facilitation (CGDCTF).

**I. INTRODUCTION**

1. This communication builds on key elements from TN/TF/W/81 submitted by a group of Latin American delegations, TN/TF/W/82 submitted by a group of Asian delegation, TN/TF/W/95 submitted by the African Group, and TN/TF/W/137 jointly submitted by a group of developed and developing Members.
2. Through this communication, the CGDCTF seeks to substantively contribute to the negotiations on trade facilitation, especially with respect to implementing and making operational the mandates in Annex D of the July 2004 Framework to ensure that the principle of special and differential treatment is fully reflected in the negotiated outcome, and to link the implementation of trade facilitation obligations by developing and least-developed Members, including low-income economies in transition, to the provision of technical assistance and capacity building support.
3. The textual proposal that follows herein builds on and revises the structure in the proposed text contained in TN/TF/W/137 and incorporates key elements regarding S&D and TACB that were already made in previous other submissions as well as new elements deemed to be of such importance as to require inclusion in the revised structure.
4. This text lays out in a Preamble some general principles on S&D based on Annex D of the July 2004 Framework and Annex E of the Hong Kong Ministerial Declaration. All provisions are to be incorporated into the text of a final TF Agreement as integral parts thereof. This text contains operational provisions with respect to the classification and categorization of new TF obligations, their applicability and the linkage to the provision of TACB with respect to their implementation. A schematic for this text is contained in Annex A.
5. Other provisions relating to the establishment and functions of a new WTO Committee on Trade Facilitation, other than references thereto are not dealt with in this text.

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<sup>1</sup> Bangladesh, Botswana, Cuba, Egypt, India, Indonesia, Jamaica, Kenya, Malaysia, Mauritius, Namibia, Nepal, Nigeria, Philippines, Rwanda, Tanzania, Trinidad & Tobago, Uganda, Venezuela, Zambia and Zimbabwe.

6. This communication is without prejudice to individual Members' final positions and progress in other areas of the negotiations. In addition, this is a work in progress and inputs and comments will be welcome.

## **II. TEXTUAL PROPOSAL**

### **PREAMBLE – GENERAL PRINCIPLES ON SPECIAL AND DIFFERENTIAL TREATMENT**

The principle of special and differential treatment shall be fully reflected and taken into account in the adoption and implementation of trade facilitation-related commitments by Members. Developing and least-developed Members, including low-income economies in transition, shall not be required to undertake obligations that would require investments in trade facilitation-related infrastructure projects beyond their means. The extent and the timing of entering into commitments shall be related to the implementation capacities of developing and least-developed Members, including low-income economies in transition.

The provision of technical assistance and support for capacity building is vital for developing and least-developed countries to enable them to fully participate in and benefit from this Agreement. Members, in particular developed countries, therefore commit themselves to adequately ensure such support and assistance. In cases where required support and assistance is not forthcoming, and where a developing or least-developed Member continues to lack the necessary capacity, implementation will not be required

Least-developed Members have the right to undertake only those obligations that are consistent with their individual development, financial and trade needs or their administrative and institutional capabilities. Least-developed Members shall be accorded special consideration and attention in the provision of technical assistance and capacity building support under the provisions of this Agreement.

These general principles on special and differential treatment in trade facilitation shall guide, be taken into account, and be reflected in the implementation and interpretation of the provisions of this Agreement.

#### **A. TRANSITIONAL PROVISIONS**

##### **Provisions applicable after signing of the Trade Facilitation Agreement**

1. The provisions of paragraphs 1 to 9, 11(v), 20 to 25, 27 and 28, and 30 and 31 hereunder will be immediately applicable after the signing of the Trade Facilitation Agreement.

##### **Establishment of the Trade Facilitation Technical Assistance and Capacity-Building Support Unit (TFTACBSU)**

1bis. Within three months from the date of the signing of the Trade Facilitation Agreement, the WTO Secretariat shall establish the TFTACBSU within its structure and reporting to the WTO Committee on Trade Facilitation, to:

- (i) monitor and annually report on the compliance by developed Members with their obligations to provide technical assistance and capacity-building support to developing and least-developed Members, including low-income economies in transition, under this Agreement;

- (ii) monitor and annually report on the extent, efficacy, and usefulness for the beneficiaries of the bilateral provision of trade facilitation-related technical assistance and capacity-building support among Members;
- (iii) monitor and inform Members of the various trade facilitation-related technical assistance and capacity-building facilities being provided by other relevant international organizations which developing and least-developed Members, including low-income economies in transition, could access or resort to;
- (iv) work with other relevant international organizations to establish and/or expand trade facilitation-related technical assistance and capacity building resources for developing and least-developed Members, including low-income economies in transition; and
- (v) serve as the focal point for coordinating the provision of technical assistance and capacity-building by establishing a Trade Facilitation Register for the entry of notifications and requests for technical assistance and capacity-building provided by Members hereunder. The Register of notifications and technical assistance and capacity building requests shall be published on the WTO Members' Internet portal.

### **Capacity self-assessment**

2. For the purpose of ascertaining their capacity to meet the agreed obligations, developing and least-developed Members, including low-income economies in transition, shall commence, after the signing of the Agreement, a capacity self-assessment exercise in relation to the various processes and obligations involved in the provisions which form part of the Trade Facilitation Agreement. On request, developed Members, and other donors (including relevant international organizations to the extent appropriate and feasible within their organizational mandates<sup>2</sup>), shall assist Members in this exercise in accordance with the provisions of paragraphs 21 to 23. Developing and least-developed Members, including low-income economies in transition, shall commence the capacity self-assessment no later than [X] months from the start of receipt of support for such self-assessment from developed Members and other donors.

### **Notification procedure for obligations subject to a transition period**

3. On the basis of their individual capacity self-assessment, developing and least-developed Members, including low-income economies in transition, shall, no later than [X] months after the conclusion of the capacity self-assessment exercise referred to in paragraph 2 above, through the WTO Secretariat's TFTA CBSU, notify all other Members of the obligations under paragraph 11(ii) below for which it needs additional time which shall not exceed [N] years to implement. This Notification of obligations subject to a transition period for deferred implementation may indicate if technical assistance and capacity-building support should be provided by developed Members or other donors in order to shorten the transition period, and shall be made available on the WTO Members' Trade Facilitation Internet portal.

4. Members may modify their Notification pursuant to paragraph 3 above at any time prior to the entry into force of the Trade Facilitation Agreement and the deposit of their instrument of ratification. Such modification shall be notified to the TFTA CBSU for information as soon as the problem has been identified.

5. Members shall finalise their Notification before the entry into force of the Trade Facilitation Agreement, which shall be published on the Trade Facilitation portal of the WTO Members' section of the WTO Internet portal.

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<sup>2</sup> Relevant international organisations as referred to in Annex D of the July framework, including the IMF, OECD, UNCTAD, WCO and the World Bank.

5bis. The Notifications are hereby made integral parts of this Agreement.

**Formulation of the capacity building plans**

6. For obligations requiring technical assistance and capacity building under paragraph 11(iii), each developing country or least-developed country Member, including low-income economies in transition, shall detail its requests for technical assistance and capacity building and enter into discussions with developed Members and other donors, including relevant international organizations as appropriate and to the extent feasible within their organizational mandates. On this basis, capacity building plans shall be prepared and notified by the developing or least-developed Member concerned pursuant to paragraph 7 below. On request, developed Members and other donors, including relevant international organizations as appropriate and to the extent feasible within their organizational mandates, shall assist Members in this exercise of preparing capacity-building plans in accordance with the provisions of paragraphs 7 to 9, 21, 24 and 25. Developing and least-developed Members, including low-income economies in transition, shall commence the preparation of their respective capacity-building plans no later than [X] months from the start of receipt of support for such preparation from developed Members and other donors.

**Preparation and notifications of capacity building plans**

7. The capacity building plans referred to in paragraph 6 above shall be notified to the TFTACBSU no later than [X] months from the date of their finalization and made available on the Trade Facilitation Register and shall contain at least the following information:

- (i) the obligations for which technical assistance and capacity building will be required;
- (ii) intermediary steps as necessary;
- (iii) the capacity building implementation periods that may be needed for the provision of such technical assistance and capacity building for each specific obligation;
- (iv) the potential or identified donors, if any;
- (v) the implementation agency if appropriate;
- (vi) "benchmarks" that the technical assistance and capacity building support being provided must meet in order to ensure that such support delivers on developing the implementation capacity of the recipient country; and
- (vii) other relevant data.

8. Members shall, on request, be provided with the opportunity to engage in consultations with the notifying Member.

9. The Notifications shall be up-dated with such additional information as may be needed to be included in the capacity building plans in the course of their implementation.

**B. PROVISIONS OF THE TRADE FACILITATION AGREEMENT**

**Entry into force of the Trade Facilitation Agreement**

10. This Agreement shall enter into force at the same time as the entry into force of all other agreements under the single undertaking of the Doha Work Programme; provided, however, that for developing and least developed Members, including low-income economies in transition, under the principle of special and differential treatment, the obligations under this Agreement will not apply unless the provisions of paragraphs 2 to 9 above have first been complied with.

**Applicability of Trade Facilitation obligations**

11. The obligations set forth in this paragraph shall apply to Members in accordance with the provisions below:

- (i) All obligations shall be immediately implemented by developed Members upon the entry into force of this Agreement or the deposit of their respective instruments of ratification, whichever is later;
- (ii) The following obligations shall immediately apply to developing and least-developed Members, including low-income economies in transition, from the date of the entry into force of this Agreement or the deposit of their instruments of ratification, whichever is later:
  - (a) Xxxxxx
  - (b) Yyyyy
  - (c) Zzzzzz

Provided, however, that those obligations covered by this sub-paragraph (ii) which are listed under a Notification submitted by a developing or least-developed Member, including low-income economies in transition, pursuant to paragraph 3 above shall be applicable only after the expiration of the transition period indicated in such Notification. The provision of technical assistance and capacity building support to shorten the transition period for obligations listed under such Notification shall be in accordance with the provisions of paragraphs 21 and 26;

- (iii) Obligations not covered under paragraph 11(ii) above shall, without need for prior notification, be deemed as requiring the acquisition of capacity to implement by individual developing or least-developed Members, including low-income economies in transition. These obligations shall be implemented by such Members only after: (a) the entry into force of the Agreement or the deposit of their respective instruments of ratification, whichever is later, (b) the provision of the necessary technical assistance and capacity-building support hereunder; and (c) the submission of the Notifications of acquisition of implementation capacity in accordance with paragraphs 16 to 18 hereafter;
- (iv) All Members shall endeavour to implement to the extent practicable, taking into account their individual capacity, as soon as possible after the entry into force of this Agreement or the deposit of their respective instruments of ratification, whichever is later, the following obligations:
  - (a) Aaaaa
  - (b) Bbbbb
  - (c) Ccccc

Developing or least-developed Members may prepare capacity building plans and submit their requests for technical assistance and capacity building support to implement the obligations under this sub-paragraph to developed Members and other donors, including relevant international organizations as appropriate and to the extent feasible within their organizational mandates. Such capacity building plans shall conform to paragraph 7. On request, developed Members and other donors, including relevant international organizations as appropriate and to the extent feasible within their organizational mandates, shall assist Members in this exercise of preparing and implementing capacity-building plans for obligations under this sub-paragraph in accordance with the provisions of paragraphs 24 to 26.

- (v) Least-developed Members shall not be required to implement any of the obligations under sub-paragraphs (ii), (iii) and (iv) above unless their requests for the provision of technical assistance and capacity-building support in the course of negotiations, including prior and up to the signing of the Agreement (such as, but not limited to, support for travel and training of officials to enhance participation in the negotiations) and for needs and priorities assessments have been adequately responded to promptly and in a timely manner by developed Members on a demand-driven, need-based, and sustainable basis, specifically tailored to the needs and requirements of each individual recipient country, and in accordance with paragraph 21. In addition, special consideration and attention shall be provided to least-developed Members with respect to the provision of the requisite technical assistance and capacity building support after the signing and entry into force of the Agreement, including but not limited to the provision of such additional time periods as they may require, for the conduct of capacity self-assessments, provision of notifications, the preparation and implementation of capacity-building plans, and the implementation of their obligations.

#### **Implementation of trade facilitation capacity-building plans**

12. For obligations under paragraph 11(iii) above, Members shall take actions at the earliest possible moment to achieve compliance according to the implementation periods for the acquisition of capacity specified in the Notification under paragraph 7 above. In this regard, on request, developed Members and other donors, including relevant international organizations as appropriate and to the extent feasible within their organizational mandates, shall assist developing and least-developed Members, including low-income economies in transition, in implementing their capacity-building plans in accordance with the provisions of paragraphs 21 and 26. Developing and least-developed Members, including low-income economies in transition, shall commence the implementation of their capacity-building plans no later than [X] months from the start of receipt of support for such implementation from developed Members and other donors.

13. Progress in implementing notified capacity building plans shall be reviewed by Members on a periodic basis.

#### **Verification of capacity acquisition**

14. At the end of each implementation period related to the provision of capacity building and technical assistance with respect to each obligation as contained in the Notification under paragraph 7, the implementing developing or least developed Member and, if so agreed by the parties, the other parties involved<sup>3</sup>, shall assess whether capacity building and technical assistance has been effectively provided according to the mutually agreed terms and conditions and whether capacity has been acquired.

15. Should this implementing developing or least-developed Member comes to the conclusion that capacity has not been satisfactorily acquired, this Member shall so notify the TFTA CBSU. The latter shall, upon receipt of such notification, immediately assist the Member concerned in taking the necessary steps to satisfactorily acquire capacity as soon as possible.

15bis. Should such implementing developing or least-developed Member still deem itself as lacking in implementation capacity after the assistance referred to in paragraph 15 above has been provided, the TFTA CBSU shall, within [X] months from the end of the initial implementation period for the capacity building plan notified under paragraph 7, report and make recommendations to the

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<sup>3</sup> The parties involved means: the recipient Member, donor Members providing technical assistance and capacity building in that Member as well as the implementing agency.

Committee on Trade Facilitation, which will review the matter and decide on a case-by-case basis on the appropriate action to take.

**Notification of the acquisition of capacity and applicability of implementation of trade facilitation obligations**

16. Members who deem themselves as having successfully acquired the capacity to implement a certain obligation falling under paragraph 11(iii) shall notify this, at the latest 6 months after the capacity acquisition to the TFTACBSU. The obligation shall apply after this notification from a date to be indicated by the concerned Member.

17. The Notifications of capacity acquisition may be modified as needed with up-dated information at any time prior to the date of application of the obligation. The date of application of the obligation may not, however, be modified unless such modification has been approved by the WTO Committee on Trade Facilitation.

18. In case a Member fails to notify within the time period under paragraph 16, the obligation becomes applicable 6 months after the end of the capacity building implementation period of that obligation.

**Full implementation**

19. Members shall ensure full implementation of the obligations contained in the Agreement in accordance with the provisions herein.

C. KEY ELEMENTS OF TECHNICAL ASSISTANCE AND CAPACITY BUILDING

**Obligations of developed Members relating to technical assistance and capacity building support**

20. Developed Members, no later than [X] months from the date of the signing of the Trade Facilitation Agreement but prior to the entry into force thereof, shall:

- (i) establish appropriate mechanisms or modalities for the provision of technical assistance and capacity-building support to developing and least-developed countries that lack the necessary implementation capacity to adopt and implement such obligations. Such mechanisms or modalities shall provide for simple and time-bound procedures to be followed for such assistance and support to be accessed, and shall also identify the financial and technical assistance resources that they are going to make available taking into account the elements in paragraphs 22, 24 and 26; and
- (ii) notify the WTO Secretariat's TFTACBSU of the mechanisms or modalities and of the resources to be made available for technical assistance and capacity building support referred to in sub-paragraph (i) above.

21. Developed Members shall provide the requested technical assistance and capacity-building support no later than [X] months from the date of receipt of the request from a developing or least-developed Member, including low-income economies in transition, for such assistance and support.

**Technical assistance and capacity building in the transitional provisions**

22. Members shall carry out a clear and precise diagnosis of the situation in each developing and least-developed Member, including low-income economies in transition, through capacity self-

assessment with, upon request, developed Member and other donor support to assist in this assessment exercise. Such assistance from developed Members shall be prompt, timely, demand-driven, need-based, sustainable, and specifically tailored to the needs and requirements of each individual recipient country. Such diagnosis shall assess and identify factors that need to be addressed which would otherwise compromise the success of domestic implementation of the obligations. While carrying out the diagnosis relevant work done in the context of the Integrated Framework for LDCs and other international or regional development programmes may be taken into account, such as existing tools developed for this purpose by relevant international organizations such as the World Bank and the World Customs Organisation.

23. Developing and least-developed Members, including low-income economies in transition, that lack capacity to carry out a capacity self-assessment shall so inform the TFTACBSU which shall circulate this information to Members and relevant international organizations in the field of trade facilitation.

#### **Technical assistance and capacity building in the phase of formulating capacity building plans**

24. Members shall take into account the following elements when providing on request technical assistance and capacity building:

- (i) Capacity building plans shall provide for adequate long-term assistance and access to sustainable funding and also provide for post-implementation support.
- (ii) Training, deployment of in-country advisors, particular attention to SMEs, to be reflected, as appropriate and as requested, in capacity building plans.
- (iii) Technical assistance and capacity building could be also provided to support initiatives to overcome sub-regional divides and facilitate regional or sub-regional integration.
- (iv) To the extent practicable, account should also be taken of the implementation plans of neighbouring countries.

25. A developing-country Member that has not managed to finalize the capacity building plan shall so inform the TFTACBSU, which shall take the necessary steps to facilitate interaction with developed Members and other donors. On request, developed Members and other donors, including relevant international organizations as appropriate and to the extent feasible within their organizational mandates shall assist developing country Members in formulating capacity building plans.

#### **General principles for technical assistance and capacity building support in implementing capacity building plans**

26. Members shall apply the following principles and elements for providing technical assistance and capacity building with regard to the implementation of this agreement:

- (i) Provide technical assistance and capacity building in a manner that is demand-driven, need-based, and specifically tailored to the needs and requirements of each individual recipient country. Further, such technical assistance and capacity-building shall be sustainable, i.e. provided over a reasonable period of time with adequate funding that will allow for the development of domestic implementation capacities in the recipient country.
- (ii) Reflect the overall developmental framework of recipient countries and regions.
- (iii) Design and strengthen targeted technical assistance and capacity building with mutually supportive components to build trade facilitation capacity also taking into account already ongoing reform programs. Particular attention should be paid to ongoing trade facilitation reform activities of the private sector when designing support programs.

- (iv) Coordinate with and between Members and relevant international organizations coordinated with the Integrated Framework for LDCs. Avoid inconsistencies in reform activities through close coordination of technical assistance and capacity building interventions. In particular, strengthen coordination at the national level and build capacities to plan, manage, implement and monitor technical assistance and capacity building.
- (v) To the extent practicable, assign focal points to coordinate the implementation of the trade facilitation Agreement both in donor as well as in partner countries.
- (vi) Facilitate in-country coordination structures such as round tables and consultative groups to coordinate and monitor implementation activities.
- (vii) Take into account developing countries in a position to do so to provide capacity building to other developing and least developed countries and consider supporting such activities.
- (viii) Make efforts to reduce administrative burdens for partner countries in the management of technical assistance and capacity building including for requests.
- (ix) Provide trade facilitation-related technical assistance and capacity building support which is additional and complementary to the developed Members' existing or already allocated resources for official development assistance. Developed Members shall ensure that the provision of such assistance and support shall be adequate, responsive to, commensurate with, and based on the capacity-building plans and requirements of the developing or least-developed Member requesting such assistance and support.
- (x) Donors shall make efforts to organize availability of the required technical assistance identified in the capacity building plans as necessary to achieve implementation capacity. To the extent possible, financial assistance needed to put in place the necessary capacity, structures or processes for the implementation of required procedural changes by Customs or other border agencies should be provided.

#### **Joint Platform for Cooperation and Coordination**

27. Through the TFTACBSU, Members, as part of the work of the WTO Committee on Trade Facilitation, shall operate, without the creation of a new body outside the WTO, a joint platform on technical assistance and capacity building to facilitate the implementation of this Agreement. TFTACBSU shall not duplicate the activities of existing coordination mechanisms, but shall coordinate with them and use such instruments to help it fulfil its functions. It shall take into account relevant work being carried out in the context of the Integrated Framework for LDCs, and other instruments for development. The TFTACBSU shall, in addition to its terms of reference under paragraph 1bis above:

- (i) promote international transparency, cooperation and coordination of technical assistance in the field of trade facilitation, bringing together donor Members and recipient Members, relevant international organizations, regional groupings, as well as other intergovernmental organizations with a role to play (e.g. UNCTAD, UN regional economic commissions, etc.); and
- (ii) help ensure, where necessary, coordination of assistance between donors and recipients so that recipients' needs are matched with donors, and that potential gaps are filled.

28. A role may be provided for national and international trade federations in such transparency and coordination efforts, where such trade federations are already providing assistance or investment in trade facilitation, are interested in doing so, or are directly affected by measures.

#### **D. EXCEPTIONS**

29. Nothing in this Agreement shall be construed to prevent the adoption or enforcement by any developing or least-developed Member of measures that may be justified under GATT Article XX (General Exceptions) or GATT Article XXI (Security Exceptions).

E. DISPUTE SETTLEMENT

30. No developing or least-developed Member, including low-income economies in transition, shall be brought by any other Member to dispute settlement proceedings under the Dispute Settlement Understanding in order to enforce compliance with obligations that such developing or least-developed Member, including low-income economies in transition, is not yet obliged to implement.

31. Members shall prioritize the use of consultations, good offices, conciliation or mediation as mechanisms for ensuring compliance with the obligations, including the obligations relating to the provision of technical assistance and capacity building support under paragraphs 20 and 21, which they are implementing. As the last resort, the Dispute Settlement Understanding may be resorted to in order to settle disputes in this regard.

**ANNEX A**

**CLASSES OF TRADE FACILITATION OBLIGATIONS\***

(Para. 11)

**Class A**

**Mandatory Obligations – *Pre-agreed closed list***

(Para. 11(i)-(iii))

- To be implemented by developed Members immediately after entry into force of Agreement

**Special and Differential Treatment for Class A Obligations**

<p align="center"><b><u>Category 1:</u></b> <b><u>Immediate Implementation after Entry into Force for:</u></b> Para. 11(ii)</p> <p align="center"><b>Obligations without a transition period under Para. 11(i)</b></p> <ul style="list-style-type: none"> <li>• Closed list of obligations agreed upon by all Members</li> <li>• No technical assistance or capacity-building required</li> <li>• <u>No notification required</u></li> <li>• <u>To be implemented immediately after entry into force</u></li> </ul> <p align="center"><b><u>Except for:</u></b></p> <p align="center"><b>Obligations with a transition period notified under Paras. 3 and 11(ii)</b></p> <ul style="list-style-type: none"> <li>• Open-ended list of obligations (from the closed list above) to be self-determined by each developing and least-developed Member (may be modified before entry into force under Paras. 4 and 5)</li> <li>• Identified on the basis of capacity self-assessment</li> <li>• Capacity self-assessment to commence no later than [X] months from signing</li> <li>• Deferred implementation subject to transition period not to exceed [N] years</li> <li>• Notification to WTO Secretariat required after conclusion of capacity self-assessment</li> </ul>	<p align="center"><b><u>Category 2:</u></b> <b><u>Deferred Implementation -</u></b> <b><u>Capacity Acquisition Required</u></b> Para. 11(iii)</p> <ul style="list-style-type: none"> <li>• Includes all obligations not falling under Category 1 and Class B lists</li> <li>• Deferred implementation subject to capacity acquisition</li> <li>• Development and notification of capacity-building plan required</li> <li>• Capacity building implementation period based on capacity-building plan</li> <li>• <u>No special notification identifying the obligation to WTO Secretariat required</u></li> <li>• <u>Notification of capacity acquisition required no later than 6 months from date of capacity acquisition</u> (e.g. end of capacity-building plan implementation period)</li> <li>• <u>Implementation of obligation to take place on: (i) date indicated by Member after the date of notification of acquisition of capacity; or (ii) 6 months from end of capacity-building implementation period in case of failure to notify acquisition of capacity</u></li> </ul>
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\* Note: Obligations do not enter into force for least-developed Members unless TACB during negotiations, prior to signing and entry into force of the Agreement, and post-entry into force, has been satisfactorily provided. (Para. 11(v)).

• <u>Implementation to take place upon expiration of notified transition period</u>	
<p><b>Class B</b> <b>Best Endeavour Obligations – <i>Pre-agreed closed list</i></b> (Para. 11(iv))</p> <ul style="list-style-type: none"><li>• Closed list of obligations agreed upon by all Members<ul style="list-style-type: none"><li>• TACB may be provided</li><li>• <u>No notification required</u></li></ul></li></ul>	

**Special provisions for LDCs:**

- Preamble – General Principles on Special and Differential Treatment (in particular, 3<sup>rd</sup> paragraph of preamble).
- Para. 11(v) – Implementation of obligations not required unless, prior to signing of TF Agreement, TACB during the negotiations and for needs and priorities assessment have been provided. Special provision for post-entry into force capacity building and implementation support also provided.
- All provisions with respect to TACB in capacity self-assessment and the preparation and implementation of capacity building plans are applicable to LDCs.

**Core Group Proposal – TACB Steps and Implementation of Obligations**

**Signing of the TF Agreement**



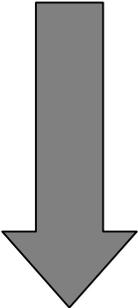
**Para. 1bis**

- Establishment by WTO Secretariat of Trade Facilitation Technical Assistance and Capacity-Building Support Unit (TF TACB SU) [within 3 months from signing]



**Para. 20**

- Developed Members to establish modalities for TF TACB and to notify WTO Secretariat through TF TACB SU of such modalities [within [X] months from signing]

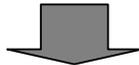


**Para. 2**

- Capacity self-assessment by developing and least-developed Members for purposes of identifying Category 1 obligations to be subject to a transition period [start within [X] months from receipt of support from donors]

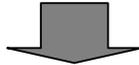


TACB for self-assessment to be provided:  
 - on request pursuant to Paras. 2, 22, and 23; and  
 - **no later than [X] months from the date of receipt of request for TACB** (Para. 21)



**Para. 3**

- Notification of list of Category 1 obligations subject to a transition period under Para<sup>s</sup>. 3 and 7(ii) in a Notification to be submitted to TF TACB SU [no later than [X] months from conclusion of capacity self-assessment]



**Para. 6**

- Requirement to prepare capacity-building plans for Category 2 obligations [start within [X] months from receipt of support from donors]

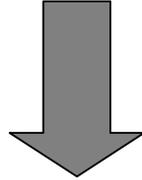


TACB to develop capacity-building plans to be provided:  
 - consistent with Para. 24 elements; and  
 - **no later than [X] months from the date of receipt of request for TACB** (Para. 21)



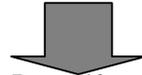
- Requirement to notify capacity-building plans to WTO Secretariat (TF TACB SU), identifying: (i) obligation applicable; (ii) steps; (iii) implementation period (no time limit); (iv) donor; (v) implementation agency; (vi) TACB delivery benchmarks; (vii) other data  
**[with [X] months from finalization]**

Entry into force of the Agreement



- Implementation of capacity-building plan  
**[implementation period based on what is stated in the plan as determined by the Member]**  
**[start within [X] months from receipt of support from donors]**

TACB to implement capacity-building plans to be provided:  
- consistent with Para. 26 elements; and  
- **no later than [X] months from the date of receipt of request for TACB** (Para. 21)



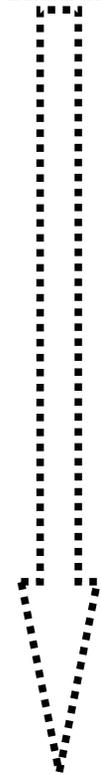
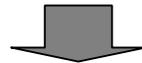
- Periodic reviews of implementation of capacity-building plans  
**[no specific time period for conduct of reviews]**



- Verification of capacity acquisition at the end of implementation period for capacity-building plan by implementing Member  
**[time limit subject to Paras. 19 and 21]**

**Paras. 15 and 15bis**

- Continued lack of capacity as self-determined by implementing Member triggers first WTO Secretariat assistance (Para. 18) and then, after such assistance and continuing lack of capacity, report and recommendation by the WTO to the Committee on Trade Facilitation for appropriate action  
**[time limit of X years/months for Para. 18bis]**



**Para. 16**

- Requirement to notify TF TACB SU of Member's self-determination of acquisition of capacity for Category 2 obligations no later than 6 months from date of such acquisition (e.g. end of verification process under Para. 14). Notification to include date for the start of implementation of Category 2 obligation.

**Para. 18**

- Failure to notify acquisition of capacity within 6 months after verification of such acquisition makes obligation applicable 6 months after the end of the capacity building implementation period.



**Implementation of Category 2 obligation takes effect:**

- **After the entry into force of the Agreement** (Para. 11); **AND**
  - (i) **On the date indicated by the Member in the notification of capacity acquisition under Para. 16** (Para. 11(iii) and 16); **or**
  - (ii) **6 months after the end of the capacity building implementation period indicated in the capacity building plan if notification of acquisition of capacity under Para. 20 has been provided** (Para. 18).



**Dispute Settlement**

- DSU **not applicable** to obligations that the developing or least-developed Member is not yet implementing (Para. 30).
- DSU **applicable as a last resort** (after consultations, good offices, conciliation or mediation) to enforce compliance with obligations that Members are implementing, including obligations of developed Members to notify TACB modalities and provide TACB under Paras. 20 and 21 (Para. 31).

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