

How to use the Trade Facilitation Agreement to solve your transit issues

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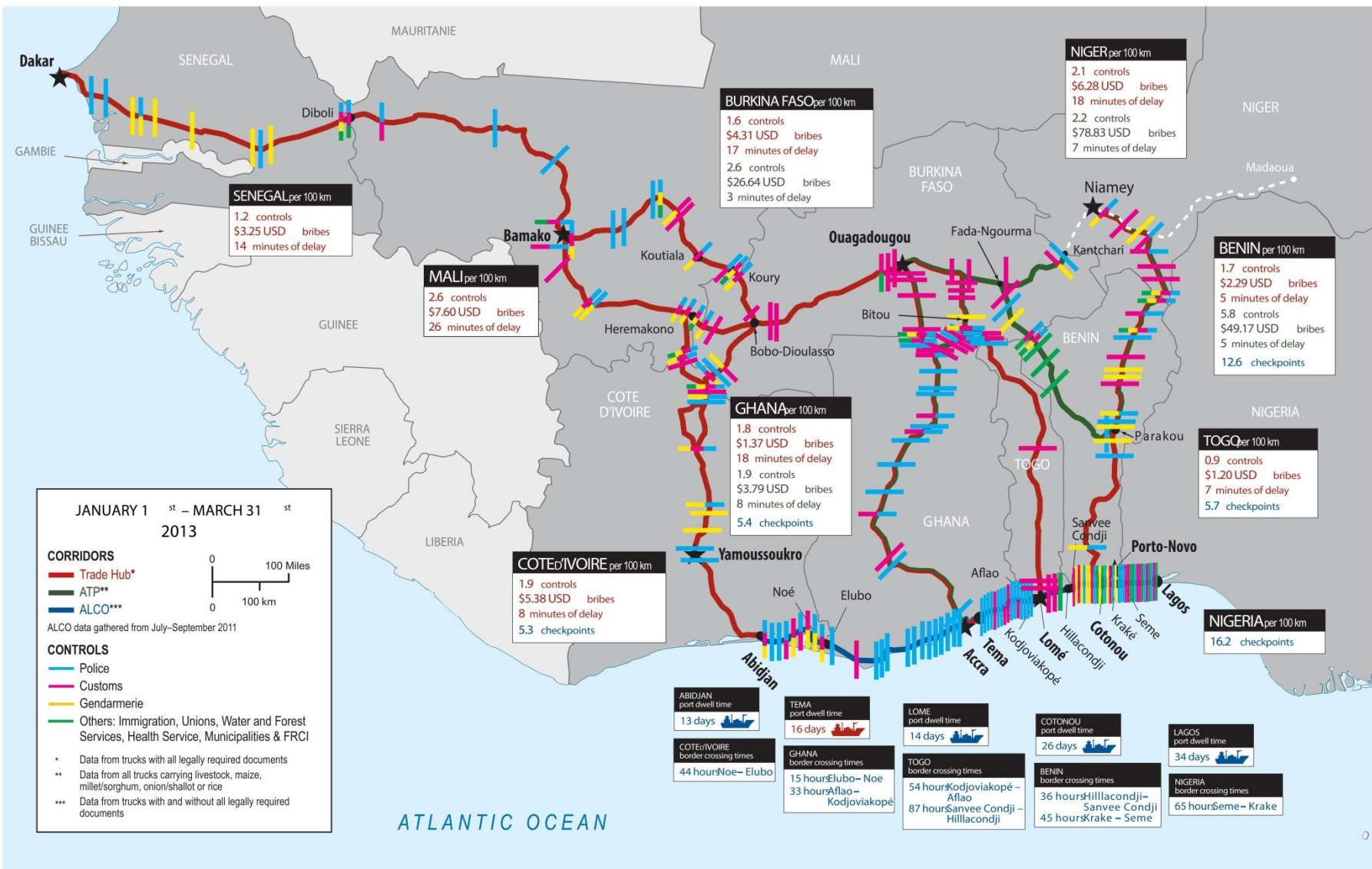


WTO OMC



BORDERLESS

Removing trade barriers in West Africa



The recent TPR Summary of a Fictitious African country..

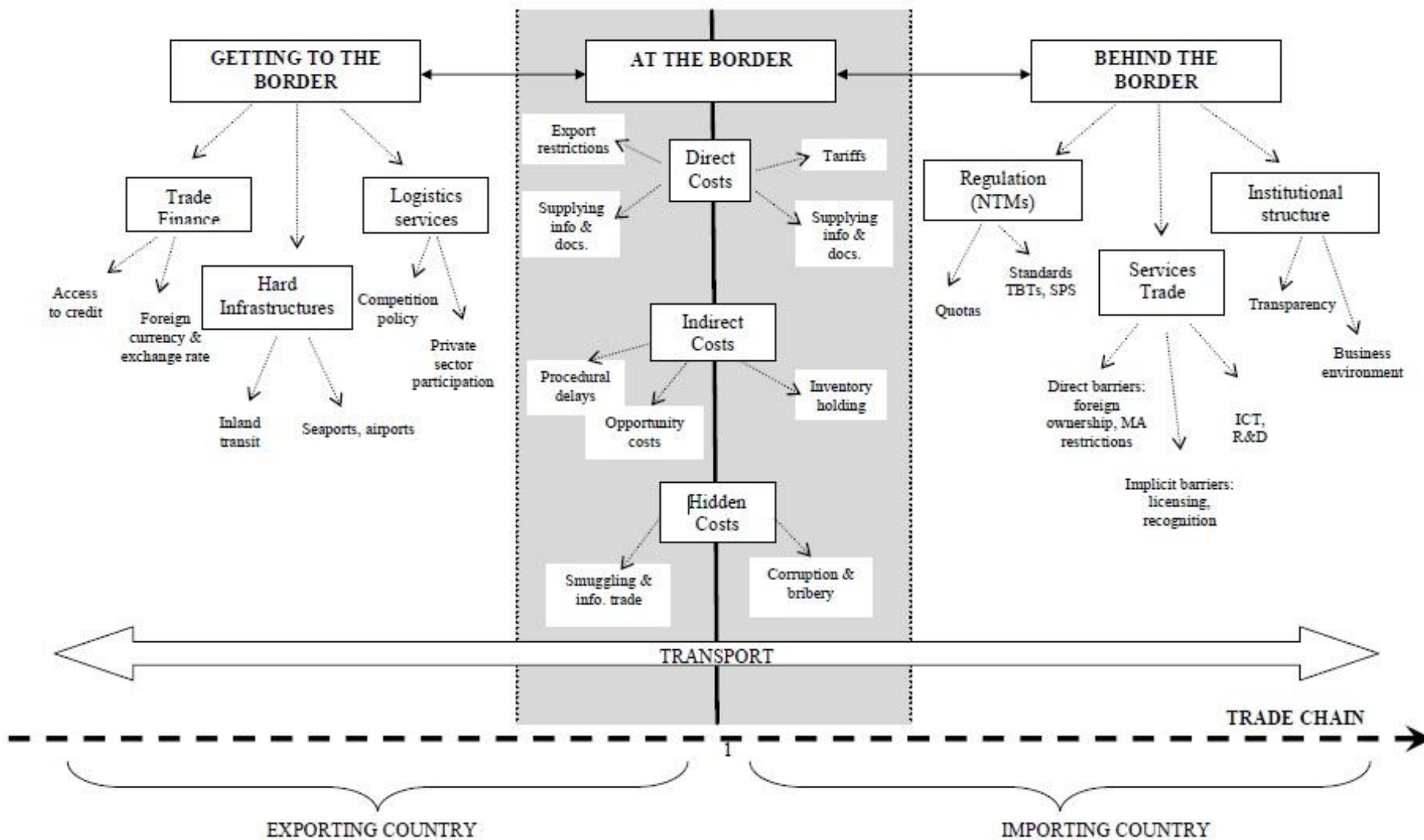
- Country X has **modified several features of its transit system** since its last TPR. As a result, **transit flows have nearly doubled, showing that traders respond rapidly and favourably to appropriate trade facilitation measures.**
- However, considerable **efforts are still required for trading across borders**, so as to bring import and export procedures into conformity with the standards of a modern economy.
- **Specific issues include: very slow clearance procedures; defective scanners or inefficiencies in their use; multiple destination inspection agencies that duplicate the work of customs officers; and frequent physical inspection of goods.**
- In addition **port operations are congested and expensive, resulting in long cargo backlogs and additional port charges, while numerous compliance-checking agencies slow procedures further and add to their costs.**

Trade Facilitation and Competitiveness

- Customs clearance times are key determinants of foreign investment, export status and productivity.
- For integration into global value chains efficient importation is as important as exportation.
- **Inefficient customs practices** and complex procedures significantly **reduce the ability to successfully integrate to global value chains.**
- Trade costs are a crucial ingredient for competitiveness and FDI.

Trade Transaction Costs (TTCs)

- TTCs depend on the good, trader and country.
 - Direct TTCs amount to 2-15% of the value of goods
 - Indirect TTCs (delays, corruption, etc.) amount to 1-24%
- TF measures **at the border** have a high potential for cost reduction: **10%** OECD countries and **13-15.5%** for non-OECD countries



Time as a trade barrier

- Time delays and depreciation costs can reduce trade flows even more significantly than trade tariffs.
 - Each day of delay at the border reduces the export by volume by about one per cent (World Bank).
- Time-sensitive products (perishable, just-in-time) are even more affected by delays at the border.

The WTO Trade Facilitation Agreement: examples of its provisions on TRANSIT

- treat products in transit no less favourably;
- remove any regulations or formalities no longer needed;
- ensures that goods will not be subject to further customs controls until they conclude their transit nor will they be subject to technical regulations while in transit

Article 11- Freedom of Transit

1. Any regulations and formalities shall not:
 - a. Be maintained if circumstances/objectives no longer exist.
 - b. Constitute a disguised restriction on trade
2. Traffic in transit shall not be conditioned on collection of fees (except cost based, transport and administrative expenses)
3. Prohibition of voluntary restraints on traffic in transit
4. Non-discrimination principle expanded and strengthened

Article 11- Freedom of Transit

5. Separate infrastructure for traffic in transit encouraged
6. Formalities, documents and controls shall not be more cumbersome than necessary
7. No charges, delays or restrictions once goods cleared for transit
8. No application of TBT measures to transit goods
9. Advance filing and processing of transit documentation to be allowed and provided

Article 11- Freedom of Transit

12. Members shall endeavour to cooperate and coordinate with one another.

13. Each Member shall endeavour to appoint a national transit coordinator to respond to enquiries and proposals by other Members.

**TFA SECTION II
SPECIAL AND DIFFERENTIAL
TREATMENT**

General Principles

- Section I will be implemented by developing and LDCs in accordance with Section II
- TA and CB should be provided to help implementation
- The extent and the timing of implementation will be related to the implementation capacities.
- Implementation will not be required until capacity has been acquired

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 (only “local action” needed)
- **Category C:** After TACB



Category B Notification and Implementation

Developing
Countries

Notify the
Committee the
provisions and
indicative dates for
implementation

Notify **definitive**
dates for
implementation
Member may
request an extension
of the notification
period

1 year

2 years

3 years

Entry into Force

Notify the Committee
the provisions and
indicative dates for
implementation

Confirm
designations of
provisions and
notify its dates for
implementation.

Member may
request an
extension

LDCs

Category C

Notification and Implementation

Developing Countries

Notify
Committee
provisions and
indicative dates

Member and
donor inform
TACB
arrangements

Inform on
progress in
TACB and **notify**
definitive dates

1 year

2.5 years

5.5 years



Entry into force

2 years

4 years

Notify
Committee
Category C
provisions

Notify
information on
TACB required
in order to
implement

Inform TACB
arrangements
and **indicative**
dates

Inform on
progress in
TACB and notify
definitive dates

LDCs

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 for less than **1.5 years** (developing) or **3 years** (LDCs)
- Subsequent extensions submitted to the Committee

Expert Group

- Where an extension has not been granted or there are unforeseen circumstances and a Member **self-assesses** its lack of capacity to implement, the TF Committee will establish an Expert Group (composed of 5 independent persons)
- Expert Group will examine issue and make a recommendation within **120 days** of its composition
- **No DSU recourse** from the time of notification until:
 - a) first meeting of the Committee after the recommendation (developing countries);
 - b) Committee makes a decision (LDCs)

Additional Measures

- Members can **shift** provisions between Category B and C but must provide information on assistance required to build capacity
- **DSU Grace Period:**
 - Developing: Cat. A- **2 years**
 - LCDs: Cat. A- **6 years**
Cat. B & C- **8 years**

Donor Members: Information on Assistance

- For transparency purposes, Donor Members assisting developing and LDC Members will inform the Committee, at entry into force and annually thereafter, the TACB that was given.
- This includes amounts, agencies involved, description of assistance and procedures.

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

The Protocol of Amendment

✚ 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)



Receipt Category A Notifications

✓ **Prep Com receives**

✓ **General Council to meet by July 31, 2014
to annex to TFA**



CONCLUSION

- Use the WTO Trade Facilitation Agreement as one of the platforms available to you to solve your transit issues.
- You can do this in parallel with using other platforms available to you, such as your regional ones.

- ... and remember, Members of a customs union or regional economic arrangement may adopt regional approaches to assist in the implementation of their obligations under the TFA, including through the establishment and use of regional bodies.

Economic Impact

- The Agreement could help bring investment in trade-related infrastructure in Africa
- Donor reporting compiled by the OECD shows that over the last ten years more than \$2.5 billion in official development assistance was committed to Trade Facilitation, mostly benefiting African countries (\$290 million in 2012 alone)

Article V: GATT

Freedom of Transit

- 1. Goods (including baggage), and also vessels and other means of transport, shall be deemed to be in transit across the territory of a contracting party when the passage across such territory, with or without trans-shipment, warehousing, breaking bulk, or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of the contracting party across whose territory the traffic passes. Traffic of this nature is termed in this article “traffic in transit”.
- 2. There shall be freedom of transit through the territory of each contracting party, via the routes most convenient for international transit, for traffic in transit to or from the territory of other contracting parties. No distinction shall be made which is based on the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership of goods, of vessels or of other means of transport.

Article V: GATT

Freedom of Transit (contd).

- 3. Any contracting party may require that traffic in transit through its territory be entered at the proper custom house, but, except in cases of failure to comply with applicable customs laws and regulations, such traffic coming from or going to the territory of other contracting parties shall not be subject to any unnecessary delays or restrictions and shall be exempt from customs duties and from all transit duties or other charges imposed in respect of transit, except charges for transportation or those commensurate with administrative expenses entailed by transit or with the cost of services rendered.
- 4. All charges and regulations imposed by contracting parties on traffic in transit to or from the territories of other contracting parties shall be reasonable, having regard to the conditions of the traffic.
- 5. With respect to all charges, regulations and formalities in connection with transit, each contracting party shall accord to traffic in transit to or from the territory of any other contracting party treatment no less favourable than the treatment accorded to traffic in transit to or from any third country.*

Article V: GATT

Freedom of Transit (end)

- 6. Each contracting party shall accord to products which have been in transit through the territory of any other contracting party treatment no less favourable than that which would have been accorded to such products had they been transported from their place of origin to their destination without going through the territory of such other contracting party. Any contracting party shall, however, be free to maintain its requirements of direct consignment existing on the date of this Agreement, in respect of any goods in regard to which such direct consignment is a requisite condition of eligibility for entry of the goods at preferential rates of duty or has relation to the contracting party's prescribed method of valuation for duty purposes.
- 7. The provisions of this Article shall not apply to the operation of aircraft in transit, but shall apply to air transit of goods (including baggage).

THANK YOU