2 LDC integration into the multilateral trading system

A potter at work in Bhaktapur, Nepal.

MARKET ACCESS FOR GOODS AND SERVICES

Preferential market access for goods and services represents an essential tool to support LDCs in their efforts to increase and diversify their exports. Over the past decade, further progress has been made by WTO members in the areas of duty-free and quota-free (DFQF) market access and of preferential rules of origin for LDCs, and with the LDC services waiver. Preferential market access will remain a priority area for LDCs in the WTO for the next decade.

Duty-free and quota-free market access

The United Nations (UN) and WTO share the common goal of achieving DFQF market access for LDCs. The call for DFQF access has been expressed via the IPoA and target 17.12 of the UN Sustainable Development Goals (SDGs), and this has also been one of the key priorities of LDCs in the multilateral trading system.

There has been significant progress in providing comprehensive DFQF market access for LDC products. Ever since the adoption of the Ministerial Decision on Duty-Free and Quota-Free Market Access for Least-Developed Countries at the Bali Ministerial Conference in 2013, there has been renewed focus on the implementation of DFQF market access for LDC products. Developed-country members have expanded their DFQF coverage, while key developing-country trading partners of LDCs have introduced DFQF schemes for LDCs. As a result of these schemes, LDCs enjoy either full or nearly full DFQF access to many of their key export destinations.

Despite this notable progress, there is scope for further improvement of the DFQF coverage in certain markets of export interest to LDCs, and steps taken by members continue to be under review in the WTO's Committee on Trade and Development. The WTO Secretariat has issued dedicated reports on members' DFQF market access for LDCs. Progress in DFQF market access is also discussed in the WTO Sub-Committee on LDCs, which is the only dedicated forum at the WTO to look at systemic issues of interest to LDCs.

The LDC Trade Ministers' Declaration, adopted on 19 October 2021, calls upon WTO members to implement all ministerial decisions taken in favour of LDCs, including on DFQF market access. In recent years, LDCs have submitted proposals for studies to find a way forward for the full and effective implementation of DFQF decisions.

The international community can also contribute to helping LDCs to achieve full DFQF access for their export products. Given LDCs' narrow export base, full DFQF coverage for products originating from LDCs in all developed-country markets and in as many developing-country markets as possible is likely to increase the participation of LDCs in merchandise trade.

One important development in 2019 was the extension of a waiver allowing

Target 17.12

Realize timely implementation of duty-free and quota-free market access on a lasting basis for all least developed countries, consistent with World Trade Organization decisions, including by ensuring that preferential rules of origin applicable to imports from least developed countries are transparent and simple, and contribute to facilitating market access.

17 PARTNERSHIPS FOR THE GOALS

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developing-country members to provide preferential tariff treatment to LDC products until 2029. This, along with the improved transparency mechanism, has been providing LDCs with opportunities to explore new market destinations.

Preferential rules of origin

Considerable progress has been made in advancing the goal of ensuring simple and transparent rules of origin for LDC products. Over the past decade, two sets of preferential rules of origin guidelines have been adopted to contribute to facilitating market access for LDC imports.[1] These two sets of guidelines provide certain recommendations with regard to the assessment of substantial transformation, cumulation possibilities and documentary requirements.

Most of the preference-granting members notified their preferential rules of origin using a new template adopted by the WTO Committee on Rules of Origin in 2017.[2] These notifications have improved transparency, and have allowed the Committee to examine the substantive aspects of origin requirements of preference-granting members, as well as the utilization of preferences by LDCs. Developments in preferential rules of origin for LDCs are reviewed every year by WTO members.[3]

LDC services waiver

The LDC Services Waiver Decision, which was adopted in 2011, and subsequent decisions relating to its operationalization mark an important step forward in the multilateral trading system. Increasing LDC participation in services trade is an important part of global efforts to support LDCs' greater integration into global trade, as has also been reiterated in the IPoA. Over the years, WTO members have taken incremental steps to support LDC services exporters in realizing trading opportunities.

One of the key milestones in these efforts was the adoption in 2011 of a decision allowing WTO members to grant preferential treatment to services and service suppliers from LDC members – the LDC services waiver.[4] At present, the LDC services waiver is valid until 2030 or until a member's date of graduation from LDC status – whichever occurs earlier.[5]

In 2013, a process to operationalize the LDC services waiver was put in place.[6] Thereafter, LDCs submitted a collective request indicating the sectors of interest in which they wished received preferential treatment, including travel, tourism, hospitality, banking and other financial services, and transport.[7] The LDC collective request also indicated mode 4 (movement of natural persons)[8] as a priority mode of supply, particularly for the categories of contractual service suppliers and independent professionals. Other measures range from waiving visas, work permits and related fees, to facilitating the recognition of LDC professionals and the accreditation of LDC institutions.

Increasing LDC participation in services trade is an important part of global efforts to support LDCs' greater integration into global trade.

Currently, 25 WTO members have notified measures under the LDC services waiver in response to the LDCs' collective request.[9] They represent over 86 per cent of global services trade. The notified measures cover a wide range of sectors and modes of supplies. Top sectors include business services, transport, and tourism and travel. At the same time, most of the notified measures for modes 1 (cross-border supply) and 3 (commercial presence), according to the General Agreement on Trade in Services (GATS), reflect the applied regime. In addition, some members notified measures of specific benefit to LDCs, including visa waivers for businesspersons, e-visa applications, authorized destination status for tourism purposes, and designation of specific contact points.

Farmers work on rice terrace fields in Ambalavao, central Madagascar.

While the notified measures have contributed to ensuring the greater transparency of members' services regimes, the limited availability of data makes it difficult to assess whether these measures have created new opportunities for LDCs.

WTO members periodically review the operation of the notified preferences and technical assistance offered to LDCs to strengthen their participation in services trade. In addition, the WTO Secretariat has been organizing workshops to foster discussions with relevant stakeholders on service-related topics of interest to LDCs. The recurrent themes over the past two years have included the impact of the COVID-19 pandemic, experience-sharing by exporters and importers of LDC services, the ongoing efforts to improve LDC services data, and support for LDC services suppliers. An idea to develop an online services portal, which would take stock of challenges that LDCs meet in utilizing the measures under the LDC services waiver, was also highlighted. Productive services firms in LDCs are a prerequisite for exploring possible export opportunities.

POLICY FLEXIBILITY FOR LDCS

Over the last decade, WTO members have continued to provide flexibilities to LDCs to implement WTO rules. Longer transition periods for implementing the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) have been one of the key flexibilities available to LDCs at the WTO. The WTO TRIPS Agreement initially allowed LDCs to delay the implementation of the Agreement for a period of 11 years. This general transition period was extended in 2005, in 2013 and in 2021.[10] The current extension lasts until 1 July 2034, or until a member graduates from LDC status, whichever occurs earlier.

At the Fourth WTO Ministerial Conference in Doha in 2001, LDCs were also granted

BOX 1

LDC accessions

The fact that LDC accessions have been gaining momentum over time is reflected in the increasing pace of LDC accessions (see also Annex Table 4). Since the establishment of WTO in 1995, nine LDCs have joined the organization through the accession process, of which six joined after the adoption of the IPoA in 2011. These nine completed accessions are:

- Cambodia (2004)
- Nepal (2004)
- Cabo Verde (2008)
- Samoa (2012)
- Vanuatu (2012)
- Lao People's Democratic Republic (2013)
- Yemen (2014)
- Afghanistan (2016)
- Liberia (2016)

Among the completed LDC accessions, three acceded LDCs graduated from LDC status:

- Cabo Verde (2007)
- Samoa (2014)
- Vanuatu (2020)

Currently, the following eight LDCs are at different stages of the WTO accession process, and of these, half are on the path to graduation from LDC status (see Chapter 4).

- Bhutan
- Comoros
- Ethiopia
- Sao Tomé and Principe
- Somalia
- South Sudan
- Sudan
- Timor-Leste

a specific transition period which exempted them from providing patent protection and undisclosed information for pharmaceutical products until 1 January 2016. This specific transition period has been further extended to 1 January 2033, or until a member graduates from LDC status, whichever is earlier.[11]

The entry into force of the TRIPS Amendment in 2017 marked a significant achievement in facilitating access to medicine. It offers a legal pathway for using compulsory licensing for export, thereby enabling access to medicines for people in countries with limited manufacturing capacity. This is the case for LDCs, which are deemed to have insufficient manufacturing capacity, and which are therefore exempt from the notification obligation for using compulsory licensing.

Incentives related to technology transfer have also been an important element of support to LDCs. The TRIPS Agreement requires developed-country members to provide incentives to enterprises and institutions on their territories for technology transfer to LDCs. Since 2003, developed-country members have been providing annual reports on actions taken or planned regarding technology transfer to LDCs.[12] The WTO Secretariat has also organized annual workshops to provide a platform for discussion on technology transfer measures. As part of the 2021 workshop, an assessment on LDC needs and priorities for technology transfer took place in the form of a survey, to raise greater awareness on LDCs priorities. Effective implementation of the relevant WTO agreements and decisions will continue to support the efforts of LDCs to develop a viable technological base over the next decade.

Over the last decade, WTO members have undertaken special efforts to facilitate LDC accessions (see Box 1 and Annex Table 4), including by adopting a set of strengthened LDC accession guidelines in 2012, which built on the initial set of guidelines adopted in 2002. LDC accessions guidelines call upon WTO members to exercise restraint in seeking market access commitments from acceding LDCs and set specific benchmarks regarding market access negotiations for goods and services. The IPoA and WTO share the common goal of facilitating and accelerating negotiations with acceding LDCs.

BROADER AREAS OF INTEREST TO LDCS

Trade facilitation

The adoption of the Trade Facilitation Agreement (TFA) at the Ninth WTO Ministerial Conference in Bali in 2013 and its subsequent entry into force in 2017 marked a significant milestone in the multilateral trading system. The TFA has offered a pathway for tackling some of the longstanding trade-related challenges faced by LDCs that IPoA had sought to address.

LDCs could benefit from estimated reductions in trade costs of over 16% following full implementation of the Trade Facilitation Agreement.

The TFA aims to cut trade costs by streamlining and harmonizing customs procedures, and to speed up the flow of goods, including goods in transit, thereby helping to boost global trade and contributing to the integration of LDCs into the global economy. Currently, 154 out 164 WTO members have ratified the TFA, representing over 90 per cent of the WTO membership. Within the WTO LDC Group, more than 80 per cent of WTO members have already ratified the TFA.

The TFA introduced a new approach for implementation. Developing countries and LDCs are required to notify their TFA provisions using three categories, and this categorization has enabled these members to set their own pace for implementing the Agreement, and allows them to identify the areas in which they need technical assistance. The three categories are category A (implementation upon entry into force), category B (implementation after a transition period) and category C (implementation after a transition period and the provision of technical assistance).

Once fully implemented, the TFA will help to cut trade costs by up to 14 per cent worldwide. LDCs stand to benefit the most from full implementation, as they could benefit from estimated reductions in trade costs of over 16 per cent. In addition, implementation of the TFA will also support LDCs in their export diversification efforts, in terms both of products and of markets. The 2015 *World Trade Report* finds that full implementation of the TFA could support LDCs in increasing the number of exported products by destination by up to 35 per cent, and the number of destinations by product by up to 59 per cent.[13]

LDCs face challenges in implementing the trade facilitation measures stipulated in the TFA. The implementation rate among LDCs is only 36.8 per cent, according to the existing notification data as of 26 May 2021. Most of the TFA commitments implemented by LDCs include category A commitments

80%

Currently, 154 out of 164 WTO members have ratified the Trade Facilitation Agreement, representing over 90 per cent of the WTO membership. Within the WTO LDC Group, more than 80 per cent of WTO members have already ratified the TFA.

(27.8 per cent), followed by category B (5.8 per cent) and category C (3.3 per cent).[14] LDCs have also indicated over half of the total commitments for future implementation, of which 15.4 per cent required additional time (category B future implementation) and 39.2 per cent required technical assistance (category C future implementation).

In terms of technical assistance, 80 per cent of LDCs have already notified their technical assistance needs and nine LDCs have already presented progress in the provision of assistance for capacity-building. Human resources and training account for nearly 60 per cent of the total requests for technical assistance submitted by LDCs, followed by requests for assistance with their legal and regulatory frameworks and with information and communication technologies.

The WTO members created the Trade Facilitation Agreement Facility (TFAF – https://www.tfafacility.org) to support developing countries and LDCs in implementing the TFA. The TFAF helps LDCs to prepare their notifications, build capacity and access TFA implementation assistance from development partners, by improving information flows and strengthening the coordination of trade facilitation support. TFAF also has two funding windows for developing countries and LDCs that cannot access trade facilitation support elsewhere: project preparation grants (US$ 30,000 per project) and project implementation grants (US$ 200,000 per project).

Agriculture

Over the last decade, WTO members have recognized the special needs of LDCs in the agricultural sector, which occupies a central place in the economies of most LDCs. In 2013, at the Ninth WTO Ministerial Conference, members recognised the need to make progress in enhancing transparency and in monitoring trade-related measures in cotton – a sector of vital importance to the economic lifeline of a group of LDCs in Africa. Moreover, the dual approach of addressing the trade and development assistance aspects of cotton simultaneously has been a unique initiative in the WTO's response to the specific concerns of LDCs.

The WTO launched World Cotton Day in October 2019 in collaboration with the Food and Agriculture Organization of the UN (FAO), UNCTAD, ITC and the International Cotton Advisory Committee (ICAC). The UN General Assembly adopted a resolution on 31 August 2021 recognizing 7 October as World Cotton Day, which reaffirms the importance of improving market access opportunities for cotton and cotton-related products from LDCs, as well as the need to substantially reduce any trade-distorting effects of undue measures in international cotton trade.

At the 10th WTO Ministerial Conference in Nairobi in 2015, WTO members adopted a number of important decisions on agriculture, including a commitment to fully eliminate all forms of agricultural export subsidies, marking a historic decision in the reform of international agricultural trade.

Fishing in the Salary lagoon, Madagascar.

This decision offers LDCs special treatment, as they can keep the flexibility of covering marketing and transport costs for agricultural exports until the end of 2030. LDCs also enjoy a better framework for international food aid and maximum repayment terms for export financing programmes for agricultural exports supported by governments.

In the ongoing agriculture negotiations, special provisions for LDCs are being contemplated. For instance, LDCs would be exempted from future tariff reduction commitments on agricultural products and would not be subject to the advance notice provision for export restrictions, while benefitting from better market access and enhanced predictability in export restrictions. In addition, any decision that would exempt food purchases by the World Food Programme (WFP) from export restrictions would benefit any LDCs that are recipients of food aid provided by the WFP.

Fisheries subsidies

Over the past decade, significant progress has been made in advancing the negotiations on fisheries subsidies. With the adoption of the United Nations 2030 Sustainable Development Agenda, the international community called for reaching an agreement by 2020 to eliminate subsidies for illegal, unreported and unregulated fishing and to prohibit certain forms of fisheries subsidies that contribute to overcapacity and overfishing, with special and differential treatment being an integral part of the negotiations (SDG target 14.6). In 2017, WTO members reaffirmed this commitment at the 11th WTO Ministerial Conference.

In 2021, WTO members redoubled their efforts to complete the negotiations on fisheries subsidies at the WTO. The Ministerial Meeting on Fisheries Subsidies,

Target 14.6

By 2020, prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, eliminate subsidies that contribute to illegal, unreported and unregulated fishing and refrain from introducing new such subsidies, recognizing that appropriate and effective special and differential treatment for developing and least developed countries should be an integral part of the World Trade Organization fisheries subsidies negotiation.

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BOX 2

LDC participation in joint initiatives

The global trading landscape has changed rapidly over the past decade, and the views of WTO members on the future of trade negotiations have evolved considerably alongside it. The WTO ministerial conferences have served as signposts for marking this evolution.

This has led to the emergence of the so-called joint initiatives (JIs) by several groups of members in 2017 at the 11th WTO Ministerial Conference in Buenos Aires. The JIs announced cover electronic commerce, investment facilitation for development, micro, small and medium-sized enterprises (MSMEs) and services domestic regulation. An informal working group was established in 2020 to support the economic empowerment of women. In 2020, two more JIs were launched to intensify work among WTO members on trade and environmental sustainability and on plastics pollution and environmentally sustainable plastics trade.

Currently the discussions across all of the JIs continue to evolve. There is growing interest from a number of LDCs in joining these discussions. As of 15 November 2021, 17 LDCs have been participating in the JI on investment facilitation for development, four in the JI on e-commerce, three in the JI on MSMEs, three in the JI on trade and environmental sustainability, and three participate in the JI on plastics pollution and environmental sustainability, while 28 LDCs are participating in the informal working group on the economic empowerment of women.[15] The only initiative in which none of the LDCs have shown an interest so far remains the JI on domestic regulation of services.

held on 15 July 2021, provided an opportunity for trade ministers to exchange views about the latest negotiating text on fisheries subsidies, thereby offering a new impetus to the negotiations. Thereafter, the negotiations intensified, and currently WTO members are at an advanced stage of securing an agreement on fisheries subsidies disciplines.

LDCs have been given a special consideration by WTO members in the fisheries subsidies negotiations, and have been allowed flexibilities in different disciplines being negotiated. For instance, LDCs are exempt from the prohibition on subsidies that contribute to overcapacity and overfishing. In addition, WTO members have been requested to exercise due restraint in raising matters involving LDCs, and to take into consideration the specific situations of LDC members involved in exploring solutions. LDCs are also expected to benefit from targeted technical assistance to fully implement the agreement once it enters into force.

An agreement on fisheries subsidies will be an important milestone for achieving the SDGs, reinvigorating the WTO and improving people's lives. It would positively contribute to shielding marine fisheries from depletion and to securing livelihoods for millions of people dependent on marine fisheries, many of whom are living in LDCs.

LDCs have been given a special consideration by WTO members in the fisheries subsidies negotiations.

Development

WTO members continue to reaffirm the provisions of special and differential treatments for developing countries and LDCs in WTO agreements, ranging from provisions aimed at increasing trade opportunities, safeguarding developing and LDC interests, granting longer transition periods and providing technical assistance. Over the last decade, efforts to make some of these provisions more effective and operational have continued. In 2013, at the Ninth WTO Ministerial Conference, WTO members adopted a monitoring mechanism providing opportunities to members to review implementation of existing provisions on special and differential treatment (S&D) (i.e., special treatment given to developing countries and LDCs in WTO agreements).

In the ongoing discussions on strengthening S&D provisions led by the G90 Group (made up of the African Group, the Organisation of African, Caribbean and Pacific States (ACP) and the LDCs), several S&D provisions relate to LDCs, reflecting the special needs and specific constraints of LDCs in integrating into the multilateral trading system. These include areas such as trade-related investment measures (TRIMs), export subsidies, customs valuation methodologies, technology transfer and provisions to promote domestic manufacturing abilities and accelerate industrialization.

There has been limited progress in responding to the proposals of developing countries with regard to strengthening certain S&D provisions in the WTO agreements, partly due to differences of opinion on trade and development. However, WTO members continue to be sympathetic to the specific capacity constraints in LDCs, and S&D remains a fundamental pillar of the WTO agreements.

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[1] See WTO official documents numbers WT/L/917 and WT/L/917/Add.1.

[2] See WTO official document number G/RO/84.

[3] See WTO official document number G/RO/91.

[4] See WTO official document number WT/L/847.

[5] See WTO official documents numbers WT/L/847 and WT/L/982.

[6] See WTO official document number WT/L/918.

[7] See WTO official document number S/C/W/356.

[8] Under the General Agreement on Trade in Services (GATS), services can be supplied internationally in four different ways, known as “modes of supply”. Mode 4 refers to services traded by individuals of one WTO member through their presence in the territory of another. It covers employees of services firms and self-employed service suppliers.

[9] See WTO official documents numbers S/C/N/*: Australia (805), Brazil (839), Canada (792/Rev.1), Chile (834), China (809), Chinese Taipei (811), European Union (840), Hong Kong, China (810), Iceland (835), India (833), Japan (820), Republic of Korea (808), Liechtenstein (841), Mexico (821), New Zealand (813), Norway (806), Singapore (812), South Africa (853), Switzerland (819), Thailand (860), Turkey (824/Rev.1), United Kingdom (1038) (replicating the EU notification), United States (825) and Uruguay (857).

[10] See WTO official documents numbers IP/C/40, IP/C/64 and IP/C/73.

[11] See WTO official documents numbers WT/MIN(01)/DEC/2, IP/C/25, WT/L/478 and IP/C/73.

[12] See WTO official document number IP/C/28.

[13] WTO (2015), *World Trade Report 2015 – Speeding up trade: benefits and challenges of implementing the WTO Trade Facilitation Agreement*, Geneva: WTO.

[14] See https://tfadatabase.org, accessed on 12 May 2021.

[15] LDC participants in the JIs are as follows:

For investment facilitation for development: Afghanistan; Benin; Burundi; Cambodia; Central African Republic; Chad; Djibouti; Guinea; Guinea-Bissau; Lao People’s Democratic Republic, Liberia; Mauritania; Myanmar; Sierra Leone; Togo; Yemen; and Zambia.

For e-commerce: Benin; Burkina Faso; Lao PDR; and Myanmar.

For micro, small and medium-sized enterprises (MSMEs): Afghanistan; Lao PDR; and Myanmar.

For trade and environmental sustainability: Chad; The Gambia; and Senegal.

For plastics pollution and environmental sustainability: Cambodia, the Central African Republic and The Gambia.

For the informal working group on women’s economic empowerment: Afghanistan; Angola; Benin; Cambodia; Chad; Democratic Republic of the Congo; Ethiopia; The Gambia; Guinea; Guinea-Bissau; Haiti; Lao PDR; Lesotho; Liberia; Madagascar; Malawi; Maldives; Mali; Myanmar; Niger; Rwanda; Senegal; Sierra Leone; Somalia; Sudan; Togo; Uganda; and Zambia.