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Beyond market access: Trade-related measures for the least developed countries. What strategy?

Ana Luiza Cortez

Abstract

This paper assesses the effectiveness of non-tariff special and differential treatment (SDT) offered exclusively to the least developed countries by WTO agreements. SDTs are inefficient in at least four aspects. First, they are not easily accessed as they require a certain level of institutional capacity. Second, when accessible they either need to be complemented by other policy interventions or are offset by measures taken elsewhere. Third, some do not respond to LDC needs. Fourth, many are too vaguely defined to provide concrete benefits. Effectiveness can be enhanced by increased LDC ownership and improved policy coherence by trading and development partners.

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Keywords: special and differential treatment, least developed countries, World Trade Organization, Uruguay Round, technical assistance, accession, multilateral trade regime, institutional capacity, enhanced integrated framework

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Beyond market access: Trade-related measures for the least developed countries. What strategy?¹

Ana Luíza Cortez

The category of the least developed countries (LDCs) was created by the United Nations General Assembly in 1971 with a view to provide the least developed among the developing countries with special support measures to overcome their specific disadvantages. Currently, special support measures to the LDCs fall into three main areas: (i) international trade including special and differential treatment in trade agreements and capacity building, (ii) official development assistance, and, (iii) other forms of assistance.²

Special and differential treatment (SDT) in multilateral trade agreements has a long history. The term itself dates from the 1973 Tokyo Round Declaration which recognizes “the importance of the application of differential measures to developing countries in ways which will provide special and more favourable treatment [...]”.³ Differential treatment includes those provisions granting preferential market access and flexibilities in the adoption and implementation of the disciplines dictated by the multilateral trade regime. This paper will examine non-tariff SDT provisions made available for the LDCs within the context of the agreements of the World Trade Organization (WTO). It will also address the Enhanced Integrated Framework for Trade-Related Technical Assistance for the Least Developed Countries (EIF, previously IF).

The paper is organized as follows. Section I provides a brief background on the origins and evolution of special and differential treatment in the context of the GATT/WTO agreements. The section also includes an overview of the LDC specific measures incorporated in the WTO legal texts as adopted by the Uruguay round of trade negotiations. Section II addresses issues of utilization, including those related to SDTs on accession to the WTO. Section III attempts at assessing the impact of the measures actually used by LDCs. The task is complicated not only by the shortcomings in the design of the provisions but also because the objectives they aim to achieve are not clearly defined. Part IV examines LDC-specific measures related to capacity building, in particular the Enhanced Integrated Framework, its origins and evolution. Section V concludes.

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 - 2 UNDESA and Committee for Development Policy, *Handbook on the Least Developed Country Category: Inclusion, Gradation and Special Support Measures*, United Nations publication, sales No. E.07.II.A.9.
 - 3 John Whalley, Non-discriminatory Discrimination: Special and Differential Treatment under the GATT for Developing Countries. *The Economic Journal*, 100 (December 1990), p. 1319.

Special and differential treatment in WTO agreements: how have LDCs been differentiated?

Currently (August 2011), 31 of the 48 LDCs included in the list of LDCs are members of WTO. Except for Cambodia and Nepal that acceded in 2004, all are founding members of the Organization. Another 12 LDCs are currently in process of accession (see table 1) including Vanuatu, which recently had its accession package approved by the working party dealing with the country's application.⁴

A brief background

Differential treatment for developing countries can be traced initially to the revision of article XVIII of the General Agreement on Tariffs and Trade (GATT) in the 1950s and the inclusion of a special provision to address balance-of-payment difficulties and protect infant industries of those economies that “can only support low standards of living and are in the early stage of developments” (art. XVIII). GATT contracting parties adopted Part IV (Trade and Development) in 1964. It recognized, among other things, that “[...] there is need to provide in the largest possible measure more favourable and acceptable conditions of access to world markets for these products [primary commodities]” and “[...] for processed and manufactured products currently or potentially of particular export interest to less-developed contracting parties[...]” (art. XXXVI.4 and .5). Part IV reinforced the principle that the “less-developed contracting parties to use special measures to promote their trade and development” (art XXXVI.1(f)). It also stated that “[t]he developed contracting parties do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of less-developed contracting parties” (art. XXXVI.8).

Table 1: LDCs and the World Trade Organization

<i>Members</i>			<i>Ongoing accessions</i>
Angola	Gambia	Myanmar	Afghanistan
Bangladesh	Guinea	Nepal	Bhutan
Benin	Guinea Bissau	Niger	Comoros
Burkina Faso	Haiti	Rwanda	Equatorial Guinea
Burundi	Lesotho	Senegal	Ethiopia
Cambodia	Madagascar	Sierra Leone	Lao, People's D.R.
Central African Republic	Malawi	Solomon Islands	Liberia
Chad	Mali	Togo	Samoa
Congo, D.R.	Mauritania	Uganda	Sao Tome and Principe
Djibouti	Mozambique	Tanzania	The Sudan
		Zambia	Vanuatu
			Yemen

Source: http://www.wto.org/english/thewto_e/acc_e/status_e.htm

Note: as of August 2011

⁴ See http://www.wto.org/english/news_e/news11_e/acc_vut_02may11_e.htm

Subsequently, under the auspices of the United Nations Conference on Trade and Development (UNCTAD) developed countries established, on a voluntary and individual basis, the General System of Preference (GSP) in 1968. Under this system, selected products originated in developing countries would be granted zero tariff or tariffs lower than those under the Most-Favoured-Nation (MFN) treatment. In 1971 a waiver of GATT obligations (article I on “general most favoured nation treatment”) was granted for a period of 10 years.

The year 1971 also witnessed the establishment of the LDC category. The category was created in recognition that certain economies were confronting specific challenges that kept them lagging behind the other developing countries. Compared to the other developing countries, the least developed had a much lower level of income per capita, an undiversified economic structure and a low level of education. LDCs were caught in a vicious cycle of low rates of growth and low incomes and thus needed special supplementary support measures by the international community to address such problems.⁵

The differentiation between developing and least developed countries was incorporated in the GATT in 1979 with the adoption of the decision on “Differential and more favourable treatment reciprocity and fuller participation of developing countries”— the “*Enabling Clause*”. It provided for the legal basis, a derogation to GATT Article I, the MFN clause, for preferential tariff treatment by developed countries of developing countries’ exports; differential and more favourable treatment for developing countries on GATT non-tariff provisions; regional trade arrangements among developing countries; and, introduced special treatment for the LDCs in the context of any special measure granted to developing countries. Moreover, the developed countries, in view of the particular situation of LDCs, agreed to exert utmost restraint in seeking concessions from these countries. The Clause reaffirmed the principle of non-reciprocity and provided a stronger legal basis for SDT but not a binding one.⁶

The principle of non-reciprocity of commitments is maintained in the Uruguay Round negotiations. Article XI of the Agreement establishing the WTO stresses that least-developed countries will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities. Meanwhile, the recognition that LDCs need differential treatment within the WTO framework is reflected in the Decision on Measures in Favour of the Least-Developed Countries adopted on 15 December 1993. The Decision calls for expeditious implementation of SDT provisions, flexibility in the application of WTO rules and substantially increased technical assistance for LDCs. The call for attention to the special needs of LDCs is a common feature of subsequent ministerial decisions and declarations and particularly after the establishment of the WTO Sub-Committee on Least-Developed Countries in July 1995 by the Committee on Trade and Development.⁷

However, the Uruguay Round introduced major changes in the way negotiations were conducted and in the thrust and objectives of special and differential treatment. A “single undertaking” approach was

5 Committee for Development Planning. *Report on the Seventh Session (22 March – 1 April 1971)*. Economic and Social Council. Official Records: fifty-first session. Supplement No. 7

6 Constantine Michalopoulos, Trade and Development in the GATT and WTO: the Role of Special and Differential Treatment, working draft, 28 February 2000.

7 Its terms of reference include, among others, to review periodically the provisions existing in the multilateral trade agreements and related Ministerial decisions in favour of LDCs and to consider specific measures to assist LDC to expand trade and investment opportunities. (WTO/Committee on Trade and Development, Decision for the Establishment of the WTO Sub-Committee on the Least-Developed Countries, WTO/COMTD/2, 18 July 1995).

adopted. Developing countries could no longer opt out of specific agreements, as it was the case under the GATT⁸, and were brought under the same disciplines as developed countries. The single undertaking implied significant additional commitments by developing countries and the need for flexibilities (longer implementation periods, exemptions, etc.) in the implementation of the new trade rules. The change also required increased technical assistance due to the vast gap in institutional capacities between developed and developing countries. In this regard, most of the Uruguay Round (and post UR) SDTs aim at guaranteeing participation by developing countries (and LDCs) in the multilateral trade regime and facilitating the implementation of the new WTO disciplines.⁹ While measures to provide for preferential market access on a non-reciprocal basis were maintained, the special rights developing countries had to protect and promote have been curtailed and their use became subject to more stringent discipline. The nature of the new SDTs has therefore changed, mirroring the shift in the development paradigm where the role of the state is now suggested to be confined in creating the proper conducive economic environment for the private sector to flourish and thrive.

The Uruguay Round provisions: what more for the LDCs?

LDCs that are members of the WTO may benefit from special considerations regarding the implementation of its agreements. The Agreement creating the WTO and its annexes contain 18 articles and paragraphs explicitly mentioning differential treatment for LDCs, although not all of them imply interventions in their *exclusive* favour or go beyond expressing general principles and considerations (see table 2). These measures are beyond special and differential treatment granted to all developing countries.¹⁰ Over the years, provisions adopted at the Uruguay Round have been complemented by Ministerial decisions and declarations, decisions of the General Council and other governing bodies of the WTO (see table 3).

As mentioned in the previous session, several measures seem to be intended to facilitate compliance with WTO rules in view of LDCs' limited institutional capacities by giving them longer transitional periods, facilitating reporting and making technical assistance available. For instance, trade policy reviews are to be conducted less often for LDCs than for other countries; LDCs can use "simplified" procedures in balance-of-payments consultations; LDCs do not have to prove they have limited manufacturing capacity to import pharmaceutical under compulsory licensing; etc. Other measures are related to monitoring provisions by WTO bodies and/or its Secretariat. For instance, the Committee on Trade and Development has to periodically review the special provisions in favour of LDCs and report to the General Council for appropriate action (article IV. 7).

At the same time, the Uruguay Round maintained for the LDCs some of the special rights acquired in the previous rounds with respect to protection and promotion of economic activities. In this regard, some of the LDC-specific SDT give LDCs more room for policy space than what is allowed for other developing countries: LDCs were not required to make reduction commitments in agriculture; they were exempted

8 WTO Secretariat, *Guide to Uruguay Round Agreements, Kluwer Law International, 1998* (Part Five: Developing Countries).

9 Ajit Singh, Elements for a New Paradigm on Special and Differential Treatment (mimeo).

10 This excludes the Agreement on Textiles and Clothing which expired in 2005. It is interesting to note that there seems to be no consensus on the exact number of measures enacted in favour of LDCs by the Uruguay Round. UNCTAD in its *The Least Developed Countries Report 2004* indicates 24 articles and paragraphs that extend special and differential treatment explicitly to LDCs, while the WTO Secretariat puts that number at 14 provisions. See WTO, *Special and Differential Treatment Provisions in WTO Agreements and Decisions*. Note by the Secretariat (TN/CTD/W/33, 4 June 2010)

Table 2: LDC special and differential treatment provisions of the Uruguay Round agreements

Uruguay Round Agreements	Number of provisions	Types of provisions						LDC Specific?	Observations
		Flexibilities of commitments	General: consider/give priority/take into account	WTO procedures	Longer Transition period [Expired?]	Technical assistance	Monitoring/ review		
TRIMS (article 5.2)	1				✓, extended			Yes	Renewed at Hong Kong. Only Uganda has informed WTO on TRIMS
Licensing procedures (article 3.5 (j))	1		✓					No	Special consideration for LDCs
Subsidies and Countervailing Duties (articles 27.2 and 27.3)	2	✓			✓, Yes (exemption on domestic inputs expired in 2003)			No, developing countries with per capita income up to \$1,000	Export subsidy exemption not taken in Cambodia and Nepal accessions
GATS (articles IV.3, XIX.3 Annex on Telecommunications art 6(d))	3		✓			✓, Annex on tele-communications		Yes	Special priority to LDCs; guidelines on future negotiations to include SDTs for LDCs
TRIPS (Preamble, Articles 66.1 and 66.2)	3		✓		✓, extended until 1 July 2013. Art 70.9 till 1 January 2016	✓	✓	Yes	Extension linked to identifying priority needs for assistance on implementation of TRIPS. Bangladesh, Rwanda, Senegal, Sierra Leone, Tanzania, and Uganda submitted reports. Subsequent measures on pharmaceuticals (para. 6 of Doha Declaration)
Annex 2 Dispute settlement (articles 24.1 and 24.2)	2		✓					Yes	No DS with LDC as defendant; DG office consulted in cotton initiative
Annex 3 Trade policy review mechanism	2	✓		✓		✓		Yes	longer review periods. In practice, LDCs are reviewed every 6 years as the majority of members
Annex 4. Government procurement (articles 1, 2, 12, and 13)	4		✓			✓		yes/no	in particular the LDCs, bearing in mind special problems of LDCs, special treatment for LDCs. No LDC is party to the Agreement
Total	18								

Source: Based on WTO. Special and Differential Treatment Provisions in WTO Agreements and Decisions. Note by the Secretariat (TN/CTD/W/33) 4 June 2010.

from the prohibition on export subsidies. At the Hong Kong ministerial, transition periods for existing TRIMs have been extended and the introduction of new TRIMs was allowed in LDCs.

Apparently also with the idea of promoting economic activities, some measures call on WTO members to assist LDCs in developing specific sectors (telecommunication infrastructure; viable technological base) and in removing impediments to trade (technical assistance regarding compliance with technical barriers to trade and sanitary and phytosanitary requirements).

The nature of SDT provisions is very diverse, even within measures that have similar objectives. For instance, among those measures providing for longer transitional periods, some have expired (for example, Agreement on Countervailing Duties) while others have been renewed and extended (e.g., TRIPS article 66.1). Technical assistance (discussed further below) may be provided by private agents (GATS annex on telecommunications), in some instances with the encouragement of developed country members (e.g., TRIPS), by WTO members themselves (Implementation of the Decision on Measures in Favour of Least Developed Countries-Singapore Ministerial) or by the WTO Secretariat (Trade Review Mechanism, Accessions).

Table 3: Selected Ministerial and other decisions containing specific measures in favour of the LDCs

Differential and more favourable treatment, reciprocity and fuller participation of developing countries - decision of 28 November 1979 (Enabling Clause - L/4903)
Decision on measures in favour of least-developed countries (15 December 1993)
Decision on measures concerning the possible negative effects of the reform programme on least-developed and net food importing developing countries (15 December 1993)
Preferential tariff treatment for least developed countries – Decision on waiver – 15 June 1999 (WT/L/304)
Extension of the transition period under article 66.1 of the TRIPS Agreement for least-developed country members for certain obligations with respect to pharmaceutical products - Decision of the Council for Trips of 27 June 2002 (IP/C/25)
Least-developed country Members – obligations under article 70.9 of the TRIPS Agreement with respect to pharmaceutical products - Decision of 8 July 2002 (WT/L/478)
Accession of least-developed countries – Decision of 10 December 2002 (WT/L//508)
The implementation of paragraph 6 of the Doha Declaration on the trips agreement and public health (WT/L/540 and Corr.1) - Decision of 30 August 2003
Extension of the transition period under article 66.1 for least-developed country members - Decision of the Council for Trips of 29 November 2005 (IP/C/40)
General Council Decision on the amendment of the TRIPS Agreement (WT/L/641) – Decision of 6 December 2005
Other decisions in favour of least developed countries: Annex F Hong Kong Ministerial Declaration adopted on 18 December 2005 (WT/MIN(05)/DEC)

Source: WTO. Special and Differential Treatment Provisions in WTO Agreements and Decisions. Note by the Secretariat (TN/CTD/W/33) 4 June 2010.

Provisions may be very precise such as those exempting LDCs from specific obligations. Cases in point are, among others, article 15.1 of the Agreement on Agriculture by which LDCs do not need to make reduction commitments and article 27.2 of the Agreement on Subsidies and Countervailing measures that exempts LDCs from the prohibition of using export subsidies. Others seem to indicate intentions, best endeavors or provide guidelines for the future. For example, several provisions indicate that contracting parties commit “to take into consideration” a particular action or approach, “to have special regard” or to give “special priority” to LDCs, “to take into account special needs” of the LDCs, “to exercise due restraint” when negotiating with LDCs, etc. These shortcomings were noticed already in 2001 when the Doha Ministerial Conference adopted the Decision on Implementation-Related Issues and Concerns which, among other things, instructs the Committee on Trade and Development to consider the legal implications of converting SDTs into mandatory provisions and to consider ways in which SDTs can be made more effective.

Special and preferential treatment and its use by the LDCs

The wide variety of SDTs makes it difficult to ascertain the extent of their effective use by LDCs. Information on the use of the trade-related SDT measures by LDCs is dispersed and not available from one single source – although the most comprehensive records on LDCs’ participation in the WTO system is the WTO Secretariat. Thus, an assessment of the actual application of SDT measures to LDCs and the potential benefits they have derived from them is not always readily available. Accordingly, the Secretariat of the Committee for Development Policy (CPD) devised a survey on the *International Support Measures related to WTO Provisions and Preferential Market Access for LDCs* to assemble information on trade-related support measures for LDCs and to collect relevant data using the LDCs themselves as sources. The main findings of the survey are included in the analysis that follows below.¹¹

In general, the surveys indicated little awareness of existing measures which suggests that LDCs are not making full use of the support available to them. The limited awareness suggests lack of full understanding of the agreements and their provisions and unavailability of qualified human resources to follow up on complex WTO legal matters.

Not with standing the above, it may be reasonable to assume that measures that urge WTO members to take into account the special needs and conditions of LDCs are being implemented. No dispute settlement procedures have been initiated against LDCs. This may indicate that Members may be “exercising due restraint in raising matters under these procedures” and giving “particular consideration to the special situation of LDC members”. Similarly, under “due restraint”, Nepal indicated that there was a noticeable favourable change in trading partners’ attitude regarding accession negotiations after the adoption of the Decision on Accession of least developed countries (see below).

It is also realistic to suppose that LDCs have benefited from SDTs that grant them longer transition periods. Extensions of transition periods have often been negotiated at the group level. However, there has been occurrences of individual LDCs requesting and being granted additional time to implement a particular WTO discipline. According to the results of the survey conducted by the CDP Secretariat, Bangladesh’s request on phasing out quantitative restrictions on agricultural imports is a case in point. Meanwhile, several countries indicated the use of flexibilities related to the implementation of certain provisions of the Custom Valuation Agreement.

¹¹ Additional information on the survey is available at <http://www.un.org/ldcportal>.

LDCs have also benefited from food aid which has been delivered in grant form and according to other provisions of the Decision on measures concerning possible negative effects of the reform programme on least developed and net food importing countries. Food aid deliveries to least developed and net food importing developing countries by the signatories of the Food Aid Convention reached 7.9 million metric tons of wheat equivalent in 2008/2009 apparently reverting a downward trend observed over the 2000s and well above agreed commitments. Meanwhile, ODA by all donors to LDCs reached \$1.4 billion in 2008 up from about \$600 million during the period 2002-2006—reflecting the higher food prices (see table 4).

The Survey also indicated that LDCs are receiving other forms of technical and financial assistance either from partners or the WTO Secretariat, but some provisions on technical assistance seem to be used more than others (see figure 1). While most countries have received technical assistance related to SPS issues, only a few countries (Bangladesh, Guinea, Lesotho, and Uganda) have benefited from art. 67 of TRIPS and obtained the technical cooperation they requested from trading partners.

At the same time, there are measures that are much less used by LDCs, in particular those that require some sort of active intervention by the countries themselves. These often fall within the SDTs that exempt them from certain disciplines (policy space) or those requiring notification to WTO bodies which would lead to follow-up actions such as the provision of technical assistance. In fact, only a few countries have acknowledged the use of subsidies and other forms of support to exports and/or agriculture (Bangladesh, Madagascar, Tanzania, and Uganda) while only one LDC indicated it maintained a TRIM. Rwanda has been the only LDC that imported medicines under compulsory licensing. Meanwhile, the

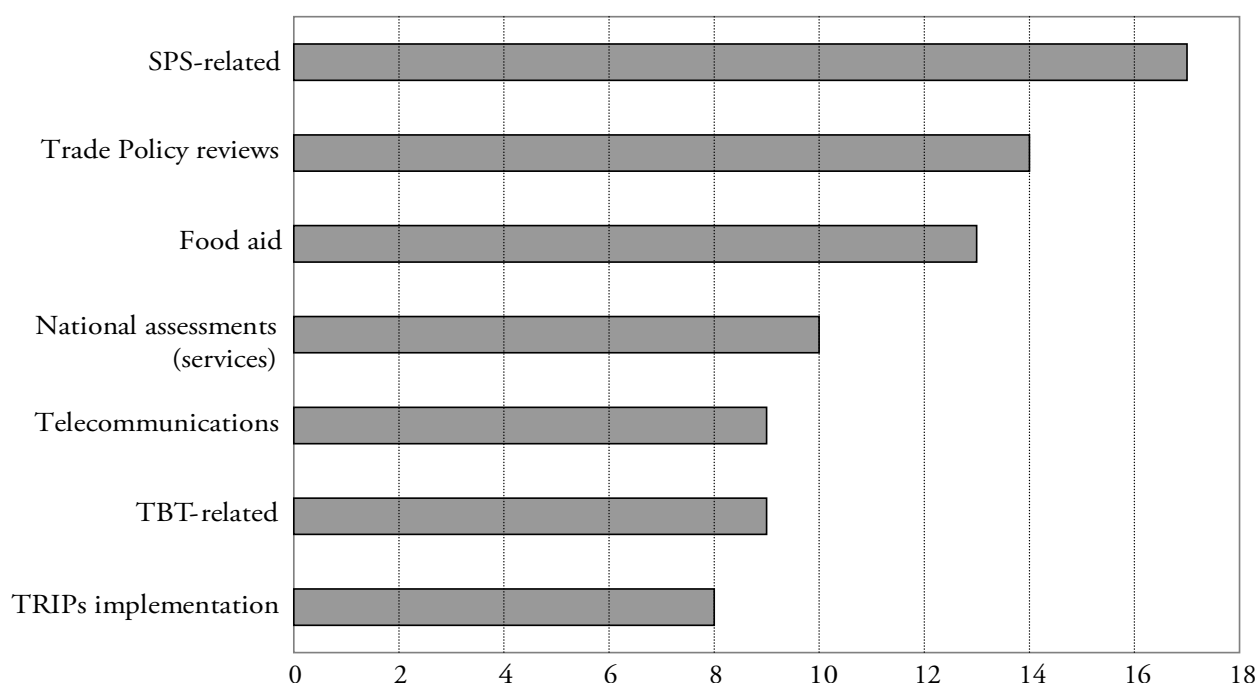
Table 4: Food Aid Convention 1999 annual operations and Development Food Aid disbursements, 2000-2008

Millions of metric tons of wheat equivalent, and current \$ million		
<i>Year</i>	<i>FAC Operations (Millions of metric tons)</i>	<i>Development Food Aid (Current \$ million)</i>
2000	10.473	n.a.
2001	10.283	n.a.
2002	9.618	589.9
2003	9.365	615.6
2004	8.916	647.9
2005	8.925	645.2
2006	7.516	579.3
2007	7.147	879.8
2008	7.941	1,406.7

Sources: Food Aid Convention (<http://www.foodaidconvention.org/en/index/Summarytable.aspx>, downloaded on 27/08/2010) and OECD.Stat, dataset DAC2a ODA Disbursements (data extracted on 27 Aug 2010 15:48 UTC (GMT))*Note:* FAC operations refer to July/June year and include deliveries to both NFIDC and LDCs. ODA flows refer to calendar year and include flows to LDCs only.

Note: FAC operations refer to July/June year and include deliveries to both NFIDC and LDCs. ODA flows refer to calendar year and include flows to LDCs only.

**Figure 1. Survey results: technical and financial assistance received (*)
(Number of countries)**



Source of data: Survey on International Support Measures related to WTO Provisions and Preferential Market Access for LDCs available at <http://www.un.org/ldcportal>.

Note: Out of the 18 LDCs participating in the Survey, 11 LDCs conducted national assessments on trade in services; 17 LDCs had their trade policies reviewed.

(*) Indicates assistance has been received at least once.

WTO databases on SPS and TBT indicate that only Malawi, Tanzania and Zimbabwe have formally notified the TBT Committee on specific TBT concerns, while the Gambia and Senegal raised SPS concerns before the SPS Committee. Conversely, most LDCs had their exports affected by SPS and/or TBT measures.

Why SDTS are not been fully used?

First, preferential treatment utilization reflects to a certain extent the level of understanding countries have about the WTO Agreements which varies from country to country. Those with better knowledge of the SDT provisions have been able to access and use them. But these are a few. In general, there is inadequate knowledge about special measures and other support available as well as about the existing procedures to request such assistance. Moreover, LDCs, on average, do not seem to be using existing mechanisms at the WTO to formally voice their concerns and demand remedial action.

Second, coordination and communication failures have compromised the use of SDTs by LDCs. Communication among the several ministries with jurisdiction on WTO at the country level—as well as between the government and the private sector—are often fragmented or non-existing. In some instances, the private sector itself is poorly organized and does not effectively communicate within itself and with the government.

Many LDCs have not established the necessary mechanisms to follow up on WTO matters that bear direct relevance for them. Moreover, they have not been able to absorb the content of the various technical notifications delivered by trade partners that affect their exports (or their export potential), in particular those related to phytosanitary measures and technical barriers to trade. For instance, in some countries, exporters whose products had been rejected on TBT or SPS grounds did not inform their governments and, without the governments' awareness of the problem, action (that is to say, evoking the pertinent SDT) cannot be taken. Thus, technical assistance that could be provided by the relevant contracting parties is not requested.

A related problem is the fact that some LDCs do not have representations in WTO¹² and/or have limited human resources to follow up and participate at the various WTO meetings. Therefore, they have little influence on decisions being made at these meetings and inadequate access to information being discussed/analyzed/shared there. Thus, while the interests of the LDCs are to be safeguarded or given particular attention, LDCs are not there to present and defend their interests. Moreover, whereas there may be indirect participation, that is to say, via the representative of LDC group, communication between representations in Geneva and New York and the relevant ministries at the national level needs to be strengthened.

A third reason refers to the requirements associated with the use of the some of these measures. In this sense, some SDTs do not seem to be adjusted to conditions in LDCs. When replying to the Survey, LDCs underscored inadequate and insufficient human and financial resources, lack of organizational structures, out-dated or non existent data systems as important factors preventing them from more effective use of SDTs. In fact, the very use of transitional periods and their extension indicate that LDCs continue to face difficulties in implementing several WTO disciplines and in effectively engaging in the multilateral trading regime. These difficulties reflect the incompatibility and/or unsuitability of some WTO disciplines with respect to current stage of development of these economies. It also suggests that additional measures are necessary if WTO rules are to be adopted at the country level.

TRIPS is a case in point. At the LDC group request, the Council for TRIPS agreed in November 2005 to extend the transition period for LDC members to apply the provisions of the agreement to 1 July 2013. That decision also requested LDCs to submit—preferably by 1 January 2008—an assessment of their priority needs for technical and financial cooperation to facilitate implementation of the agreement by these countries. As of August 2011, 6 LDCs have submitted their priority need assessments: Bangladesh, Rwanda, Senegal, Sierra Leone, Tanzania and Uganda. Except for Bangladesh, the assessments have been conducted with the assistance of independent international experts, multilateral organizations and bilateral donors¹³. The provision—albeit well meant—is not in complete synchrony with the realities at the country level. Burkina Faso, for example, indicated that it did not submit its priority needs due to difficulties it had experienced in assessing and formulating such needs. In this regard, it seems very likely that additional extensions and maximum flexibility in implementing the Agreement domestically will be necessary so as to allow LDCs to develop their intellectual property regimes which will enable them to “create a sound and viable technological base”.

Facing financial constraints, most LDCs cannot afford to subsidize exports and/or agriculture. This implies little usefulness of the measure for the category as a whole, although the measure may still benefit some individual countries. Institutional capacity constraints are binding in many LDCs, which make it extremely difficult for them to fulfill reporting requirements, present specific documentation or adjust

12 Guinea Bissau, Malawi, Sao Tome and Principe, Sierra Leone, and Solomon Islands.

13 Additional information available at http://www.wto.org/english/tratop_e/trips_e/ldc_e.htm

legislation in order to use some of the provisions. The importation of medicines under compulsory licensing is a case in point.

Fourth, an important factor preventing fuller use of the measures is the fact that some SDTs are offset by measures taken elsewhere, thus indicating some lack of coherence and coordination in the global policy making. Conditionalities imposed by international financial organizations related to structural adjustment programmes, for instance, implied reductions and/or elimination of subsidies, agriculture support and tariffs despite the fact that LDCs were exempted from making reduction commitments at WTO. Uganda (agriculture support) and Bangladesh (tariffs) are cases in point. Guinea also indicated that conditionalities attached to structural adjustment programmes—besides insufficient financial resources—are among the reasons why the country does not provide subsidies to its exporters. In other instances, special and differential provisions contained in WTO agreements have been offset by bilateral or regional free trade agreements which often encompass greater liberalization of trade and trade-related areas such as TRIMs and TRIPS. Given differences in bargaining power and between LDCs and their trading partners, SDTs may be given up (and additional commitments taken up) by the former in the hope of securing access to a larger share of the market of the latter.

Finally, some SDTs are not used because they are currently irrelevant. SDTs in the Agreement on Government procurement are a case in point. No LDC is a signatory party.

Accession to WTO: has it been made easier for LDCs?

SDT provisions contained in WTO legal texts are not applicable to acceding LDC members. Accessions are ruled by article XII.1 of the Marrakesh Agreement which states that parties “[...] may accede to this Agreement, on terms to be agreed between it and the WTO.” Terms of accession are detailed in the Protocol of Accession which is negotiated between the acceding state and a Working Party composed of interested members. The process is complex and long which prompted the Third UN Conference on LDCs to call for the streamlining of the WTO accession requirements for LDCs to make them less onerous for these countries and more in synchrony with their economic conditions. In order to facilitate accession by LDCs, on 10 December 2002 the WTO General Council adopted the Decision on Accession of Least Developed Countries which contains guidelines on how to conduct accession negotiations with LDCs.¹⁴

Have negotiations become shorter for LDCs?

Table 5 provides information on the length of the accession process of countries that applied for membership since the establishment of WTO in January 1995. While several acceding LDCs initiated their accession process over the past few years and the Decision on Accession is also relatively new, it is not obvious that being an LDC makes the accession process faster. Georgia, Kyrgyz Republic and Oman had their processes completed in 3 to 4 years while it took at least twice as long as that for Cambodia and Nepal (and Cape Verde). Negotiations for Bhutan, Laos and Samoa are still going on after 12-13 years, while Viet Nam and Tonga—countries with comparable level of income—completed their accession in 10-12 years.

The Decision on Accession calls for WTO members to exercise restraint when seeking concessions from LDCs. While only detailed analysis can indicate whether WTO members exercised restraint in seeking commitments, some of the concessions agreed by LDCs that recently joined the Organization appear not to

14 General Council Decision on Accession of Least developed Countries (WT/L/508), 10 December 2002.

Table 5: Applications to WTO membership, January 1995 - August 2011

<i>Country</i>	<i>Date of Application</i>	<i>Date of Accession</i>	<i>Years since application to accession/Aug-09</i>
Viet Nam	Jan-95	Nov-06	12
Seychelles	May-95	Ongoing	16
Tonga	Jun-95	Dec-05	10
Vanuatu	Jul-95	Ongoing	16
Kazakhstan	Jan-96	Ongoing	15
Kyrgyz Republic	Feb-96	Oct-98	3
Oman	Apr-96	Oct-00	4
Georgia	Jun-96	Oct-99	3
Iran	Jul-96	Ongoing	15
<i>Nepal</i>	<i>Feb-97</i>	<i>Sep-03</i>	6
Azerbaijan	Jun-97	Ongoing	14
Andorra	Jul-97	Ongoing	14
Lao People's Democratic Republic	Jul-97	Ongoing	14
Samoa	Apr-98	Ongoing	14
Lebanon	Jan-99	Ongoing	13
Bosnia and Herzegovina	May-99	Ongoing	12
Bhutan	Sep-99	Ongoing	12
<i>Cape Verde</i>	<i>Nov-99</i>	<i>Dec-07</i>	8
Yemen	Apr-00	Ongoing	11
Bahamas	May-01	Ongoing	10
Tajikistan	May-01	Ongoing	10
Ethiopia	Jan-03	Ongoing	8
Libyan Arab Jamahiriya	Jun-04	Ongoing	7
Iraq	Sep-04	Ongoing	7
Afghanistan	Nov-04	Ongoing	7
Montenegro	Dec-04	Ongoing	7
Serbia	Dec-04	Ongoing	7
Sao Tome and Principe	Jan-05	Ongoing	6
Comoros	Feb-07	Ongoing	4
Equatorial Guinea	Feb-07	Ongoing	4
Liberia, Republic of	Jun-07	Ongoing	4
Memo item: Cambodia	Oct-94	Sept-03	9

Source: WTO website

Note: Countries in italics are LDCs. Countries in bold have their accession completed

be in line with their level of development and considerable policy space is being relinquished too soon, too quickly (see below).

Other provisions of the Decision reinforce the uniqueness of the accession process and its country-by-country approach thus reflecting—rather than guiding—the negotiations between the working party and the acceding country. For instance, the Decision indicates that transitional periods shall be granted by taking into account countries' individual development, financial and trade needs, while acceding LDCs shall offer commitments and concessions on trade in goods and services that are commensurate with their individual development. But uniqueness may be leading to increasing differentiation among countries belonging to the same category.

Differentiation among equals

With respect to market access, for instance, LDCs that are original members of the WTO committed on average 20 service sub-sectors (out of 160 sub-sectors identified by the WTO classification list) while Cambodia, Nepal—the only LDCs to join the WTO after 1995— and Cape Verde¹⁵ undertook commitments in 94, 99 and 77 of the service sub sectors, respectively.¹⁶ Cambodia and Nepal committed to bind 100 per cent of their tariff lines, while the average binding coverage is 58 per cent in the founding LDC members. Other LDCs in accession negotiations, such as Laos and Vanuatu, also committed to 100 per cent binding coverage. Meanwhile, binding coverage for agricultural products is less than 10 per cent in 10 LDCs that are original members (see table 6). Nepal committed to tariff reductions in agriculture while the Agreement on Agriculture, as mentioned above, does not require LDCs to make reduction commitments. Cambodia set its maximum bound rate in agriculture at 60 per cent, a level relatively low even when compared with maximum *ad valorem* duty applied by developed countries on certain agricultural products. Compared to existing members, by binding their tariffs—in some instances at levels lower than prevailing in existing members—acceded LDCs have less policy space as far as the use of tariffs as policy instrument is cornered.

Cambodia also gave up using export subsidies in its agricultural sector¹⁷, still a common practice among developed countries. It agreed to full implementation of the TRIPS provisions by no later than 1 January 2007, while founding LDC members have until 1 January 2013 to implement TRIPS. Nepal also agreed to fully implement that agreement (by 31 December 2006) but got slighter better deal as there is understanding that such commitment would not affect the country's rights with respect to the provision of the Doha Declaration on the TRIPS Agreement and Public Health.¹⁸ Meanwhile, Vanuatu, whose accession package has been accepted by the working party, agreed to apply TRIPS by 1 December 2012.¹⁹

From the above, it is possible to note that, first, albeit belonging to the same category of countries, there is a distinction between founding and acceding LDC members since SDTs granted to the former do

15 Cape Verde(graduated from the LDC Category in December 2007) negotiated its accession to WTO while an LDC.

16 WTO, Accession of Least-Developed Countries to the WTO. Note by the Secretariat (WT/COMTD/LDC/W/44), 10 March 2009. Simon J. Evenett and Carlos A. Primo Braga, WTO Accession: lessons form experience. *World Bank Trade Note* No. 22, 6 June 2005.

17 Ratnakar Adhikari, Navin Dahal and Manisha Pradhanaga, *Learning from Nepal: Ensuring Development-Supportive Accession of Least-Developed Countries to the WTO*. International Institute for Sustainable Development, June 2008.

18 Ratnakar Adhikari, Posh Raj Pandey and Swarnim Waglé, *Nepal's accession to the world trade organization: case study in issues relevant to least developed countries* (Draft: June 20, 2010).

19 Vanuatu on the verge of WTO membership, available at http://www.wto.org/english/news_e/news11_e/acc_vut_02may11_e.htm (accessed on 4 August 2011)

Table 6: Least Developed Countries: Binding coverage, bound and applied tariff rates, 2006-2007

Percentage									
	<i>Simple average final bound</i>			<i>Simple average MFN applied</i>			<i>Binding coverage</i>		
	<i>Total</i>	<i>Ag</i>	<i>Non-Ag</i>	<i>Year</i>	<i>Total</i>	<i>Ag</i>	<i>Non-Ag</i>	<i>Total</i>	<i>Non-Ag</i>
Angola	59.2	52.8	60.1	2007	7.3	10.0	6.9	100.0	100.0
Bangladesh	169.2	192.0	34.4	2007	14.6	16.9	14.2	15.5	2.6
Benin	28.3	61.8	11.4	2007	11.9	14.5	11.5	39.3	30.1
Burkina Faso	41.8	98.1	13.1	2007	11.9	14.5	11.5	39.2	29.9
Burundi	68.2	95.1	26.6	2007	12.7	10.5	13.1	21.8	9.9
<i>Cambodia</i>	19.0	28.1	17.7	2007	14.2	18.1	13.6	100.0	100.0
Central African Republic	36.2	30.0	37.9	2007	17.9	21.9	17.3	62.5	56.8
Chad	79.9	80.0	75.0	2007	17.9	21.9	17.3	13.5	0.2
Congo, Dem. Rep.	96.2	98.2	95.9	2007	12.0	12.8	11.9	100.0	100.0
Djibouti	41.0	48.4	39.9	2007	27.8	21.2	28.8	100.0	100.0
Gambia	102.0	103.5	56.1	2007	19.0	18.9	19.0	13.7	0.5
Guinea	20.1	39.7	10.0	2007	11.8	14.2	11.5	38.9	29.6
Guinea-Bissau	48.6	40.0	50.0	2007	11.9	14.5	11.5	97.8	97.4
Haiti	18.7	21.3	18.3	2007	2.8	5.7	2.4	89.2	87.6
Lesotho	78.5	200.0	60.0	2007	7.8	9.6	7.5	100.0	100.0
Madagascar	27.4	30.0	25.3	2007	12.4	14.7	12.1	29.7	18.9
Malawi	75.9	121.3	42.4	2006	13.5	14.7	13.3	31.2	20.7
Mali	28.5	59.2	13.5	2007	11.9	14.5	11.5	40.2	31.1
Mauritania	19.6	37.7	10.5	2007	11.9	10.1	12.1	39.3	30.1
Mozambique	97.4	100.0	6.6	2007	10.3	13.5	9.9	13.6	0.4
Myanmar	83.0	102.2	21.1	2007	5.6	8.7	5.1	17.4	4.7
<i>Nepal</i>	26.0	41.4	23.7	2007	12.6	14.0	12.4	99.4	99.3
Niger	44.3	83.1	38.1	2007	11.9	14.5	11.5	96.8	96.3
Rwanda	89.5	74.3	91.9	2006	18.7	14.6	19.4	100.0	100.0
Senegal	30.0	29.8	30.0	2007	11.9	14.5	11.5	100.0	100.0
Sierra Leone	47.4	40.3	48.5	2006	13.6	16.4	13.1	100.0	100.0
Solomon Islands	79.1	75.7	79.6	2007	10.3	17.1	9.2	100.0	100.0
Tanzania	120.0	120.0	120.0	2007	12.7	19.0	11.7	13.4	0.1
Togo	80.0	80.0	80.0	2007	11.9	14.5	11.5	14.0	0.8
Uganda	73.4	77.7	50.6	2007	12.6	19.0	11.7	15.8	2.9
Zambia	106.4	123.3	42.2	2007	13.9	19.4	13.1	16.7	4.0

Source: WTO Tariff Profiles Database

(<http://stat.wto.org/TariffProfile/WSDBTariffPFHome.aspx?Language=E>)

not represent acquired rights for the latter.²⁰ It is only through membership in WTO these rights can be exercised, *provided* that the country's terms of accession do not forfeit them. And second, there is differentiation within LDC acceding members as they commit to different levels of concessions.

While it seems reasonable that SDT should be tailored to needs and needs are country specific (for instance, some countries may need more time than others to adopt certain WTO disciplines), it is not clear what the advantages of belonging to the LDC category are if the support measures associated with that category cannot necessarily be accessed by all (as in the case of LDCs being asked to forego the use of export subsidies, participate in plurilateral agreements, etc.). Acceding LDCs cannot count on the political pressure/support founding members had by *functioning as a group* when SDTs were being negotiated in GATT/WTO rounds. In the end, acceding countries' ability to secure the necessary SDTs will depend on their *individual* negotiating skills—however well supported by technical assistances they may be—and on their *individual* bargaining position vis à vis members of the Working Party. The statement by Cambodia's Commerce Minister H.E. Cham Prasidh on the occasion of his country accession summarizes the issue well: "We managed to secure a package of commitments and concessions we feel was the most affordable and possible deal for Cambodia's accession, bearing in mind Cambodia's little political and economic weight and its current reliance on external assistance from the major donor countries who are also WTO members."²¹

Yet, one would expect that the advantages of belonging to the WTO are perceived to compensate for the costs of joining, otherwise countries would opt not to join. As mentioned by Vanuatu, "Because we are a LDC and vulnerable to pressures, we have made a conscious and rational choice in favour of "open protection" under rules-based multilateralism".²² Having the possibility of shaping up those rules—and counting on the heavier weight of the LDC group to advance common positions—may be another major reason why LDCs wish to join the WTO.

Assessing effectiveness (of what is being used)

A comprehensive assessment of the value of the SDTs for LDCs is complicated by the lack of specific benchmarks, targets or agreed standards for comparisons. Additionally, in some instances there are issues of attribution: it is not clear whether support is being extended because of an existing provision in WTO agreements or due to other factors. For instance, article 6(d) of the GATS Annex on telecommunications states that suppliers of telecommunication services have to assist in the transfer of technology and capacity building. While technology transfer may have taken place and training was made available by telecommunication companies operating in some LDCs, it is not clear whether the reasons for such activities is Article 6 of the Annex or whether it simply reflects customary business practices.

20 According to the Technical Note on Accessions by the WTO Secretariat, "The transition periods provided in the Uruguay Round had formed part of the Single Undertaking and had been intended to allow the negotiators time to become accustomed to the new rules and to move to address in legislation their new responsibilities.[...]Throughout the accession process, conformity with the WTO Agreements is the standard against which acceding governments' trade policies are measured." (Technical Note on the Accession Process. Note by the Secretariat. Revision. WT/ACC/10/Rev.3. 28 November 2005. p.15.

21 *Ambition achieved as ministers seal Cambodia membership deal*. WTO NEWS: 2003 PRESS RELEASES. Press/354.11 September 2003. Available at http://www.wto.org/english/news_e/pres03_e/pr354_e.htm.

22 Statement by H.E. Honourable Sela Molissa, Minister of trade, commerce, industry of Vanuatu on the occasion of the re-convened working party on accession of Vanuatu, 2 May 2011.

Similar conclusions have been reached by a study on the reports submitted during the period 1999-2007 on implementation of TRIPS Article 66.2 (developed countries shall provide incentives for enterprises operating in their territories for promoting and encouraging technology transfer to LDCs). It indicates that out of 292 programmes reviewed, only 116 (or 40 per cent) were specifically targeted towards LDCs (members and non members of the WTO), and among these, 84 qualify as technology transfer programmes. Yet, the study was unable to establish whether these programmes were put together specifically in compliance with art. 66.2 or they just reflect business as usual policies. Moreover, many of the activities listed fall under traditional ODA, and assessing additionality is a problem.²³ As stated elsewhere, “In effect, the major outcome of article 66.2 is the reporting mechanism. The incentives offered so far are inappropriate or insufficient in relation to the obligation.”²⁴

Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health is another case in point.²⁵ As seen above, Rwanda has been the only LDC to benefit from that flexibility so far. Some argue that the complexities associated with the process discourage its use.²⁶ Meanwhile, some LDCs have acknowledged that they do not evoke the measure because medicines are being supplied through bilateral donor’s aid programmes. It is not clear, however, if Paragraph 6 played a role in facilitating access to medicines by inducing affordable provision of the drugs by donors through their assistance programmes. Moreover, it is not clear whether these drugs are acquired at lower cost as it would have been the case under compulsory licensing. But this issue falls beyond the scope of this review.

WTO-related support measures have become more numerous with time, as the complexity of the disciplines and difficulties of implementation have become more evident and LDCs become more politically engaged and active in the WTO negotiations. The fact that many provisions are quite recent, such as those adopted subsequently to the Uruguay Round (see again table 3) compounds the complexity of assessing their effectiveness even further as there may not be sufficient evidence available to draw firm conclusions.²⁷ In any case, more provisions do not necessarily mean more precise, effective and operational provisions. In fact, some of the more recent provisions only reinforce or reaffirm commitments made previously and do not advance much in adding further precision in terms of actions to be taken. Finally, it is not clear how enforceable these provisions are. SDT measures contained in relevant Ministerial and General Council texts may not be enforceable through dispute settlement. Some seem to “represent political commitments and inform

23 Sueri Moon, “Does TRIPS Art. 66.2 Encourage Technology Transfer to LDCs? An Analysis of Country Submissions to the TRIPS Council (1999-2007)” UNCTAD - ICTSD Project on IPRs and Sustainable Development Policy Brief Number 2. December 2008.

24 UNCTAD. *The Least Developed Countries Report 2010*. Geneva, p. 71.

25 “We recognize that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement. We instruct the Council for TRIPS to find an expeditious solution to this problem and to report to the General Council before the end of 2002.”

26 Members discuss implantation of TRIPS “Para 6” solution. TWN Info Service on WTO and Trade Issues (Feb10/12). 22 February 2010. Available at <http://www.twinside.org.sg/title2/wto.info/2010/twninfo100212.htm>

27 For instance, table 2 identified 29 provisions specifically related to measures to assist LDC members in all Uruguay Round agreements. The Doha Ministerial Declaration alone contains 21 different paragraphs on LDCs concerns. See Implementation of Special and Differential Treatment Provisions in WTO Agreements and Decisions. Note by the Secretariat. Revision. WT/COMTD/W/77/Rev.1, 21 September 2001 and WTO Work Programme for the Least Developed Countries (LDCs) adopted by the Sub Committee on Least-Developed Countries, WT/COMTD/LDC/11, 13 February 2002.

policy development towards LDCs".²⁸ Besides being non-enforceable, some measures may not be mandatory. An analytical exercise undertaken by the WTO Secretariat indicated that among 16 LDC-specific SDTs, four were non-mandatory.²⁹

Besides issues of attribution, design and timing, another problem in evaluating the usefulness of SDTs refers to the identification of the objectives these measures were supposed to fulfill. In other words, should SDTs be assessed in terms of how effectively they address the relevant LDC handicaps as established by the criteria used to classify countries as LDCs (in this case low income, export concentration and volatility of export earnings)? Alternatively, should SDTs be evaluated in relation to how successful the measures have been in integrating these economies into the global trading system?³⁰ The latter includes not only increasing their participation in the world trade but also implementing the rules and disciplines created to ensuring the expansion of global trade in goods and services.

Are SDTs addressing LDC structural handicaps?

SDT provisions are obviously no silver bullet for overcoming the challenges LDCs face. However, at least in principle—arguably, unintentionally designed as such—and when combined with other interventions, they can contribute to tackling some of the structural handicaps that characterize LDCs: low level of income, acute export concentration and marked export volatility. The provisions allow LDCs to provide temporary incentives for export diversification and for more stable export revenue flows (through preferential market access) and promote faster income growth (through increased exports facilitated by easier market access and the provision of technical assistance). In theory, those measures can contribute to reducing some of the LDCs structural vulnerabilities by supporting the diversification of their economies and contributing to decreasing their exposure to the volatility (and diminishing returns) of commodity markets. What seems to be debatable is whether these measures, *as currently conceived and implemented*, can be effectively used by the LDCs to address—admittedly in a very indirect way—the handicaps they confront.

Bearing in mind all caveats discussed above, the SDTs that have been used have not led to encouraging outcomes as far as reducing LDC handicaps is concerned. The income gap between LDCs and the rest of the developing world has continued to increase since 1995. Average income per capita in LDCs corresponded to 23 per cent of the average income in the rest of the developing countries in 1995 but only to 19 per cent in 2009. As of August 2011, 30 out of 48 LDCs remained low-income countries.³¹ Participation in world trade continues to be marginal. The share of merchandise exports by LDC in world exports doubled from 0.5 per cent in 1995 to 1 per cent in 2009 but most of that increase has been facilitated by exports of fuels. In fact, there has been very limited progress in lowering export concentration in LDCs, with export concentration actually increasing in some LDC subgroups from 1995 to 2010 (see figure 2).

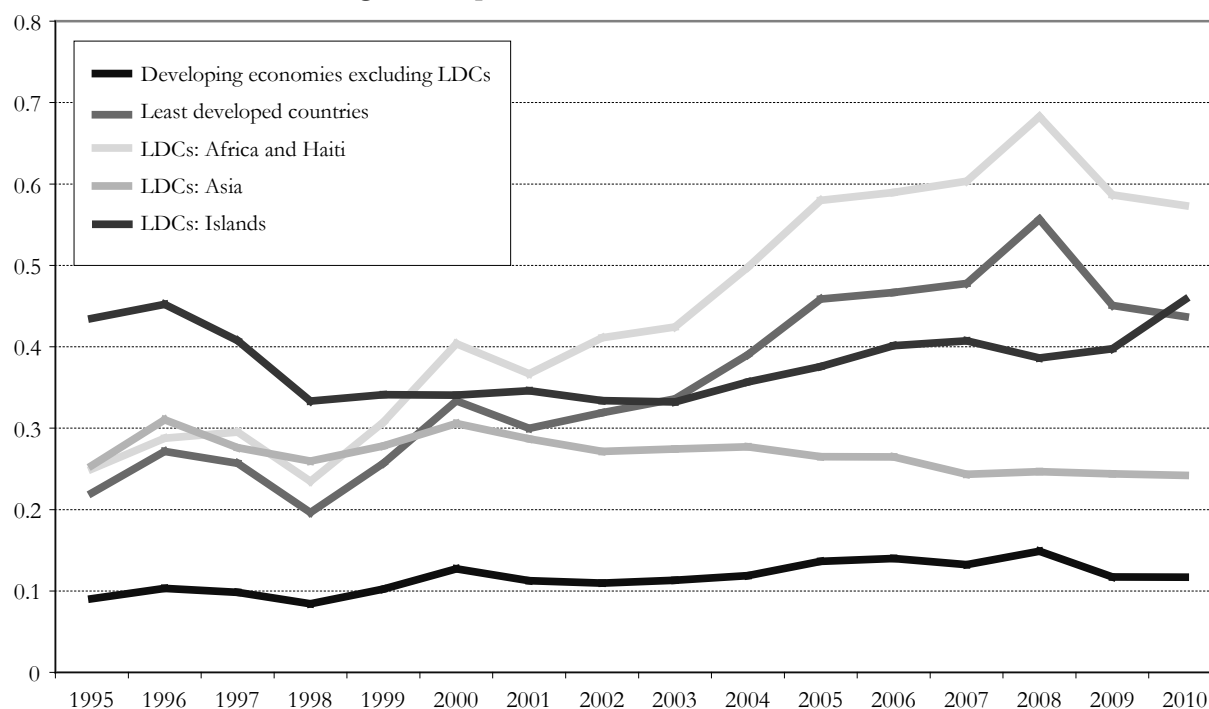
28 Nahn Nguyen, WTO Accession at Any Cost? Examining the Use of WTO-Plus and WTO-Minus Obligations for Least Developed Country Applicants, *Temple International and Comparative Law Journal*, vol. 22, Number 1, Spring 2008, p. 245.

29 Implementation of Special and Differential Treatment Provisions in WTO agreements and Decisions. Mandatory and Non-Mandatory Special and Differential Treatment Provisions. Note by the Secretariat. Corrigendum. WT/COMTD/W/77Rev.1/Add.1/Corr.1. 4 February 2002

30 As stated in the preamble of the Agreement establishing the WTO: "Recognizing further that there is need for positive efforts designed to ensure that developing countries and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development."

31 Since 1995, 2 LDCs graduated from the category (Cape Verde and Maldives).

Figure 2. Export concentration indices, 1995-2010



Source of data: UNCTADStat database available at http://unctadstat.unctad.org/ReportFolders/reportFolders.aspx?sRF_ActivePath=P,1&sRF_Expanded=P,1 (accessed on 12 August 2011)

Are SDTs facilitating LDC integration in the global trading system?

As suggested by the WTO Secretariat, SDT provisions can be classified into 5 main groups according to their objectives: i) increasing trade opportunities through market access; ii) safeguarding the interest of developing countries, iii) allowing flexibility in the application of rules and disciplines governing trade measures; iv) providing longer transitional periods; v) providing technical assistance.³²

Issues related to the effectiveness of preferential market access are beyond the objectives of this paper. However, as seen above, the measures seem to have led to limited results as the structure of exports by LDCs remain concentrated in a few commodities and the presence of LDCs in world markets –except in the case of fuels and some successful exporters of apparel and textiles—has declined.

The granting of longer transition periods aims at facilitating LDC integration in the rule-based system. While extensions have been used, it is not clear whether they have achieved their goal. Transition periods and their extensions highlight the difficulties LDCs continue to experience in implementing WTO agreements. In fact, 15 out of the 18 LDCs participating in the Survey conducted by the CDP Secretariat indicated they had faced difficulties in implementing WTO agreements, while 12 LDCs mentioned they expected to continue to have difficulties in complying with WTO obligations in the future.

32 Special and Differential Treatment for the Least Developed Countries. Note by the Secretariat, WT/COMTD/135, 5 October 2004.

Similarly, technical and financial assistance has facilitated implementation and some positive developments have been recorded on this front. At the same time, technical assistance appears to be well below countries' needs or has not been delivered as anticipated. In the survey conducted by the CDP Secretariat, several LDCs indicated that while extremely valuable, some of the training received could go beyond generic seminars and workshops currently offered. Yet, LDCs did not formulate how such initiatives could be better tailored to their needs. Additionally, there are some areas where trading partners do not seem to be delivering on their commitments fully. For example, only a third of the countries surveyed indicated they had received assistance to facilitate their increased participation in global trade of services.

Finally, it is rather complex to determine whether SDTs are safeguarding the interests of LDCs. SDTs are deviation from "rules" that were adopted to contribute "[...] to raising standards of living, ensuring full employment and a large and steadily growing volume of real income...". SDTs are supposed to provide some flexibility and allow countries with varying levels of development (and conflicting interests) to participate in a single system. Even on that account, the approach does not seem to be working well. As seen above, measures adopted to accelerate their accession to the WTO do not seem to be producing desired results as their accession process has been taking as long as those of other countries.

In any case, there seems to be an implicit contradiction: GATT/WTO rules aim at improving welfare of all but at the same time deviations from the rule are necessary. If deviations are needed, then some of the rules may not necessarily be in synchrony with the LDCs interests. Increasing LDC participation in the multilateral trading system may then strengthen the system itself but not necessarily promote the development of these countries. More worrisome, this reasoning may give further weight to the relevance of the question of whether the policy package implicit in WTO agreements is in fact appropriate for economies at an early stage of development.³³

In all, the current SDTs seem to be inefficient in at least four aspects. First, some provisions cannot be accessed as they require a certain level of institutional capacity—lacking in many LDCs—to be integrated into the countries' policies. Second, when accessible they need to be complemented by other policy interventions to be effective such as, for instance, upgrading the productive capacity of these countries: duty-free access of unprocessed raw materials (already a characteristic of most MFN regimes) is not enough to put these countries on a sustained development path.³⁴ Other SDTs may need financial support by donors as in the case of support for agriculture. In this regard, it is encouraging to see that in some instances donors have been able to provide such financial support as in the case of Madagascar and Tanzania. Third, some SDTs are simply off the target and do not respond to LDC specific needs. And fourthly, others are too vaguely defined or just indicate unenforceable good intentions to provide concrete benefits. As seen above, SDTs (not only for LDCs) are being reviewed in the Doha Round in order to make them more precise, effective and operational. However, negotiations have not advanced much.

33 For a discussion on this last aspect, whose analysis is beyond the objectives of this chapter, see *Diverging Growth and Development. World Economic and Social Survey 2006*. (United Nations Sales Publication No. E.06.II.C.1) in particular chapter III (Has trade integration caused greater divergence?) pp. 53-90. See also, among others, Dani Rodrik, 'The Global Governance of Trade- as if Development Really Mattered'. UNDP, October 2001; Martin Khor and José Antonio Ocampo, *The Unsettled Global Trade Architecture*, 2008, Mimeo, and Hoekman, Bernard (2004a) *Policy Space, Coherence and Economic Development: options for the WTO*. Mimeo.

34 Market access measures need also to be more user-friendly in order to facilitate compliance and provide greater access for processed goods.

Trade capacity building: the integrated framework and its enhancements

With the increasingly important role assigned to international trade in development and the complexity of the trade rules, the provision of technical assistance to developing countries in general and to LDCs in particular becomes prominent in WTO legal texts and documents. Naturally, technical assistance for LDCs in the area of trade precedes these initiatives given the central role trade has in the economic development of these countries. It has been a well established component of the work of the UN system, in particular through UNCTAD, which is the focal point within the United Nations for the integrated treatment of trade and development, and has exercised considerable leadership in the areas of international trade in goods and services and commodities, investment and enterprise development, trade logistics and technology, services infrastructure for development and trade efficiency.³⁵

There are several provisions for technical assistance for developing countries in the UR Agreements, some of which are related exclusively to LDCs (see table 2).³⁶ Subsequently, the need for additional effort in trade capacitation in LDCs was acknowledged with the creation of the Integrated Framework for Trade-related Assistance for LDCs at the High level Meeting on Integrated Initiatives for LDCs' Trade Development, held at the WTO in October, 1997.

The initial Integrated Framework and its limitations

The Integrated Framework for Trade-Related Technical Assistance for Least Developed Countries (IF) was created in 1997 as a coordinating mechanism among 6 multilateral agencies to deliver technical assistance to improve capacity of LDCs to formulate, negotiate and implement trade policies so as to facilitate and to derive greater benefits from their integration into the multilateral trading system. The agencies included the International Monetary Fund (IMF), the International Trade Centre (ITC), UNCTAD, the United Nations Development Programme (UNDP), the World Bank and the WTO. Subsequently, UNIDO joined the group in 2009 as an observer.

Little was accomplished during the early years due to lack of clear priorities, ill-defined governance structure, and no funding attached to the mechanism.³⁷ As a result, the IF was restructured in 2001. The IF objectives then included: (i) mainstreaming trade into national development plans such as the Poverty Reduction Strategy Papers (PRSP) of LDCs; and, (ii) to assist in the coordinated delivery of technical assistance. A tripartite governance and management structure (multilateral agencies, donors and LDCs) was established, while a trust fund, managed by the UNDP and funded by donors was created. Two funding windows were envisaged: Window 1 for financing diagnostic trade integration studies (DTIS, limited to \$300,000 per country) and strengthening in-country structures (limited to \$38,000 per country); and, Window 2: for priority projects as identified in the DTIS Action Matrices (limited to \$1 million per country). In fact, the idea behind the revamped IF was to use Window 2 financing as seed money and to allow LDCs to leverage much greater sums in their usual dialogue/platforms with their bilateral/regional/multilateral development partners, based on the priorities they listed in their Action Matrices of the DTIS.

35 For additional information on UNCTAD's technical cooperation activities in the area of trade and in LDCs is available at <http://www.unctad.org/Templates/Page.asp?intItemID=1479&clang=1>

36 These are found in GATS Annex on Telecommunications, the Annex on Trade Policy Review Mechanism and the Decision on Measures in Favour of Least Developed Countries.

37 Manmohan Agarwal and Jozefina Cutura, *Integrated Framework for Trade-Related Technical Assistance Addressing Challenges of Globalization: An Independent Evaluation of the World Bank's Approach to Global Programs*. World Bank Operations Evaluation Department, Washington, DC. 2004.

Despite the restructuring, the IF continued to suffer from some of its original shortcomings, including insufficient attention being paid to trade outcomes. Funding was inadequate and unpredictable, and many of the activities identified in the action matrices could not be implemented/financed with the initiative stalling at the diagnostic phase.

There have been also issues of misperception of objectives among partners, with LDCs understanding the IF as a funding mechanism created to finance required infrastructure to alleviate supply bottlenecks, while donors perceived the IF as an instrument to promote better policy and regulatory framework in recipient countries. Lack of measurable objectives and performance targets has been one of the persistent shortcomings of the framework. Additionally, there was recognition that a comprehensive approach was needed: improved trade outcomes could not be accomplished by addressing constraints on the supply side while access to main markets continued to be restricted by tariff and non-tariff barriers.³⁸

The 2001 reform was not satisfactory in terms of results achieved. With few exceptions, trade was not being sufficiently integrated in the PRSPs, with LDCs finding it difficult to mainstream trade into their development plans, coordinate action and policies among several stakeholders. Overall awareness of the IF at the country level remained weak and translated in poor country ownership.³⁹ More worryingly, there has been a strong perception that the IF remained agency and donor driven.⁴⁰ Meanwhile, the participation of several agencies and donors with different reporting requirements, programming cycles and priorities made coordination challenging and compounded difficulties.⁴¹

Enhancing the Integrated Framework

In view of the problems mentioned above and the growing importance attached to international trade as an engine of growth, the Development Committee of the World Bank and the IMF decided that the IF should be enhanced and given additional resources. This prompted the IF's governing structures to establish a Task Force at the WTO to prepare proposals that would comprise three main elements as later endorsed by the WTO Hong Kong Ministerial in December, 2005: (i) additional resources to implement activities identified in the Action Matrices; (ii) increased country ownership through enhanced country capacity to manage implement and monitor the process and (iii) enhanced IF governance at the global level.

The recommendations of the task force were adopted in May 2007. They included increased funding through Window 1 (now called Tier 1) to support greater capacity building at the country level, and, Window 2 (now Tier 2) which was modified to allow for greater implementation of activities identified as priority in the action matrix, including the strengthening of export supply capabilities, trade support services and trade facilitation. Tier 2 financing would be available to provide bridge funding to jump start identified activities while larger projects (infrastructure) were to be supported by other funding mechanisms outside the EIF Trust Fund. The EIF is designed to allow LDCs to leverage necessary additional funding, over and above that available through the EIF Trust Fund, through their normal dialogue/ platform with their usual development partners.

38 Agarwal and Cutura, *op. cit.*

39 An Enhanced Integrated Framework. Report of the Chairman of the Task Force on an Enhanced Integrated Framework, Including Recommendations. (WT/ISFC/W/15), 29 June 2006.

40 Integrated Framework Steering Committee. Final Report of the Evaluation of the Integrated Framework. Revision. (WT/IFSC/6/Rev.2), 26 November 2003.

41 Agency for International Trade Information and Coordination. Information Note on the Enhanced Integrated Framework. Background Note. February 2007. (available at http://www.acici.org/aitic/documents/notes/note43_eng.htm)

In order to increase country ownership, National Implementation Units are being created to manage the implementation of the EIF at the country level and support the national Focal Point (a senior government official). National Steering Committees (inter ministerial) are also being created to provide overall policy guidance in a cross-cutting manner, thus ensuring the crucial involvement of all national stakeholders, Ministries etc. At the global level, at the WTO in Geneva, overall policy guidance is also set by a tri-partite EIF Steering Committee and a tri-partite EIF Board. An Executive Secretariat located at the WTO and headed by the Executive Director is responsible for managing, liaising with national units, and overseeing monitoring and evaluation. The Executive Secretariat has become operational in October 2008. Before that date, the work related to the EIF was handled by the staff of the WTO LDC Unit. An EIF Trust Fund (with UNOPS as Trust Fund manager) completes the administrative structure.

Information on the level of disbursements under the (old) IF indicates that a total of \$13.2 million had been spent on Window I projects, while some \$15.4 million were disbursed to Window 2 programmes over the period 2001-2008. Total contributions to the fund amounted to \$67 million during the period.⁴² The Integrated Framework Trust Fund (with UNDP as Trust Fund manager) was closed for new commitments in May 2008 but continued to fund approved/ongoing projects. Some \$23.5 million were transferred to the Enhanced Integrated Framework Trust Fund (EIFTF). As of July 2011, the EIFTF had accumulated \$125.7 million, with a level of funding commitments at \$232 million. At the end of 2010, 42 LDCs had their diagnostic trade integration study completed (including Cape Verde which is no longer a LDC but had access to the EIF extended so as to facilitate its transition from the LDC category). Support to 24 countries on strengthening trade institutions under Tier 1 had been provided while there were some 20 projects in the pipeline under Tier 2.⁴³

A slowly evolving process

Recently, the EIF has started to show signs of having a positive impact in the mobilization of additional resources for aid for trade in LDCs. According to UNCTAD, the share of LDCs in total aid for trade disbursements had declined from some 32 per cent in 2002-2003 to less than 27 per cent, on average, in 2005-2006.⁴⁴ Although still not at the level recorded in 2002-2003, it recovered somewhat reaching 28.4 per cent, or \$8.2 billion, in 2009.⁴⁵

Yet, it is still too early to pass judgment on the Enhanced Integrated Framework. However, it is not clear how the present restructuring would address problem areas such as remaining inter-agency disagreements, poor donor coordination and micromanaging.⁴⁶ In any case, measuring the impact of the programme can be challenging even in the presence of quantifiable targets, as it is very difficult to attribute changes at the macro level to specific interventions at the micro sphere. The task is even more daunting if these targets refer to qualitative goals such as mainstreaming trade into development policies or improved policy making processes and enhanced capacity to trade—which should not be seen as an end in themselves but as means to improved export performance, faster growth and sustained higher levels of income. Hopefully, the

42 UNDP. Integrated Framework Trust Fund. Status Report as of 31 December 2008 (December 2009) available at http://www.integratedframework.org/files/non-country/IFTF_Status_%20Report_31%20December%202008.pdf

43 Presentation by the Executive Secretariat and UNOPS during the Third Global Review on Aid for Trade, 18 - 19 July, 2011, WTO

44 UNCTAD. *The Least Developed Countries Report 2010*, table 16, p. 67.

45 WTO/OECD. Aid for Trade and LDCs: Starting to Show Results. 2011

46 Report on AITIC Flash Meeting: The Enhanced Integrated Framework: Ready to go? Geneva, 25 March 2009.

Monitoring and Evaluation Framework (including programme and project log-frames) will address these issues. As of August 2011, the framework was not yet available.⁴⁷

Concluding remarks

This last observation above would forcefully take us back to the underlying working hypothesis of the current strategy to promote development in LDCs, that is to say, the centrality of trade as engine of growth and the specific modalities supporting/encouraging trade in these countries. It is undeniable that trade has an important role to play in promoting development and, as such, it should be considered an instrument and not a goal in itself. Yet, the special measures—developed in parallel with the strategy to support trade by LDCs—are not adequate to achieve this goal. As already recognized by the Doha Round, these measures need to be made more precise, effective and operational. But negotiations have been progressing slowly and, even if and when concluded, it is not clear how the Round will impact on differential and special treatment being accorded to developing countries and to LDCs in particular. What is clear is that, however imperfect these instruments currently are, they can have a role in removing some of the obstacles these countries face in increasing and diversifying their exports.

In this regard, LDCs need to have a more active position and get better acquainted with the measures developed in their benefit, including through the formulation of requests for specific capacity building assistance programmes for that end. It is only through accessing and making use of these measures LDCs will be able to identify problems with their utilization and formulate specific demands for change and improvement. As seen above, part of the lack of effectiveness of the SDTs is due to the fact that LDCs are not fully aware of them and, when aware, cannot make productive use of them due to existing communication and coordination failures at the country level. LDCs themselves need to correct these problems and take increased ownership of these provisions.

The other part of the problem has to do with the way some of these measures have been designed (not necessarily tailored to the conditions prevailing in most LDCs), the “add-ons” they carry (such as stringent rule of origin and other requirements) and the lack of policy coherence at the global level, all contributing to mitigate (and even completely offset in some occasions) the potential contribution that some of these measures can bring to LDCs. Enlightened international cooperation is urgently needed to address these shortcomings.

47 EIF Monitoring and Evaluation. “The EIF has a strong focus on results, accountability and transparency building on the earlier IF programme. We are in the process of rolling out a new Monitoring and Evaluation Framework (including programme and project log-frames) to support us in managing for results, together with a Communications Strategy to showcase the impact being made on the ground.” (<http://www.enhancedif.org/EN%20web%20pages/EIF%20toolbox/M&E.htm>, accessed on 18 August 2011).

Annex

Legal Texts of the WTO

Adopted by the Uruguay Round of trade negotiations Articles with reference to the least developed countries

Agreement Establishing the World Trade Organization

Article IV – Structure of the WTO

7. The Ministerial Conference shall establish a Committee on Trade and Development, a Committee on Balance-of-Payments Restrictions and a Committee on Budget, Finance and Administration, which shall carry out the functions assigned to them by this Agreement and by the Multilateral Trade Agreements, and any additional functions assigned to them by the General Council, and may establish such additional Committees with such functions as it may deem appropriate. As part of its functions, the Committee on Trade and Development shall periodically review the special provisions in the Multilateral Trade Agreements in favour of the least-developed country Members and report to the General Council for appropriate action. Membership in these Committees shall be open to representatives of all Members.

Article XI – Original Membership

2. The least-developed countries recognized as such by the United Nations will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities

Understanding on the balance-of-payments provisions of the GATT 1994

Article 8 – Procedures for Balance-of-Payments Consultations

Consultations may be held under the simplified procedures approved on 19 December 1972 (BISD 20S/47-49, referred to in this Understanding as “simplified consultation procedures”) in the case of least-developed country Members or in the case of developing country Members which are pursuing liberalization efforts in conformity with the schedule presented to the Committee in previous consultations. Simplified consultation procedures may also be used when the Trade Policy Review of a developing country Member is scheduled for the same calendar year as the date fixed for the consultations. In such cases the decision as to whether full consultation procedures should be used will be made on the basis of the factors enumerated in paragraph 8 of the 1979 Declaration. Except in the case of least-developed country Members, no more than two successive consultations may be held under simplified consultation procedures.

Agreement on Agriculture

Article 15 – Special and Differential Treatment

2. Developing country Members shall have the flexibility to implement reduction commitments over a period of up to 10 years. Least-developed country Members shall not be required to undertake reduction commitments.

Article 16 – Least-Developed and Net Food-Importing Developing Countries

1. Developed country Members shall take such action as is provided for within the framework of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries.
2. The Committee on Agriculture shall monitor, as appropriate, the follow-up to this Decision.

Agreement on the Application of Sanitary and Phytosanitary Measures***Article 10 – Special and Differential Treatment***

1. In the preparation and application of sanitary or phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least-developed country Members.

Article 14 – Final Provisions

The least-developed country Members may delay application of the provisions of this Agreement for a period of five years following the date of entry into force of the WTO Agreement with respect to their sanitary or phytosanitary measures affecting importation or imported products. Other developing country Members may delay application of the provisions of this Agreement, other than paragraph 8 of Article 5 and Article 7, for two years following the date of entry into force of the WTO Agreement with respect to their existing sanitary or phytosanitary measures affecting importation or imported products, where such application is prevented by a lack of technical expertise, technical infrastructure or resources.

Agreement on Technical Barriers to Trade***Article 11 – Technical Assistance to Other Members***

- 11.8 In providing advice and technical assistance to other Members in terms of paragraphs 1 to 7, Members shall give priority to the needs of the least-developed country Members.

Article 12 – Special and Differential Treatment of Developing Country Members

- 12.7 Members shall, in accordance with the provisions of Article 11, provide technical assistance to developing country Members to ensure that the preparation and application of technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to the expansion and diversification of exports from developing country Members. In determining the terms and conditions of the technical assistance, account shall be taken of the stage of development of the requesting Members and in particular of the least-developed country Members.
- 12.8 [...]Accordingly, with a view to ensuring that developing country Members are able to comply with this Agreement, the Committee on Technical Barriers to Trade provided for in Article 13 (referred to in this Agreement as the “Committee”) is enabled to grant, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement. When considering such requests the Committee shall take into account the special problems, in the field of preparation and application of technical regulations, standards and conformity assessment procedures, and

the special development and trade needs of the developing country Member, as well as its stage of technological development, which may hinder its ability to discharge fully its obligations under this Agreement. The Committee shall, in particular, take into account the special problems of the least-developed country Members.

Agreement on Trade Related Investment measures (TRIMs)

Article 5 – Notification and Transitional Arrangements

2. Each Member shall eliminate all TRIMs which are notified under paragraph 1 within two years of the date of entry into force of the WTO Agreement in the case of a developed country Member, within five years in the case of a developing country Member, and within seven years in the case of a least-developed country Member.

Agreement on Import Licensing Procedures

Article 3 – Non-Automatic Import Licensing

- .5 (j) in allocating licenses, the Member should consider the import performance of the applicant. In this regard, consideration should be given as to whether licenses issued to applicants in the past have been fully utilized during a recent representative period. In cases where licenses have not been fully utilized, the Member shall examine the reasons for this and take these reasons into consideration when allocating new licenses. Consideration shall also be given to ensuring a reasonable distribution of licenses to new importers, taking into account the desirability of issuing licenses for products in economic quantities. In this regard, special consideration should be given to those importers importing products originating in developing country Members and, in particular, the least-developed country Members;

Agreement on Subsidies and Countervailing Measures

Part VIII: Developing Country Members

Article 27 – Special and Differential Treatment of Developing Country Members

- 27.2 The prohibition of paragraph 1(a) of Article 3 [export subsidies] shall not apply to:
 - (a) developing country Members referred to in Annex VII.
 - (b) other developing country Members for a period of eight years from the date of entry into force of the WTO Agreement, subject to compliance with the provisions in paragraph 4.
- 27.3 The prohibition of paragraph 1(b) of Article 3 [domestic inputs] shall not apply to developing country Members for a period of five years, and shall not apply to least developed country Members for a period of eight years, from the date of entry into force of the WTO Agreement.

Agreement on Trade in Services (GATS)

Article IV – Increasing Participation of Developing Countries

3. Special priority shall be given to the least-developed country Members in the implementation of paragraphs 1 and 2. Particular account shall be taken of the serious difficulty of the least-developed countries in accepting negotiated specific commitments in view of their special economic situation and their development, trade and financial needs.

Article XIX – Negotiation of Specific Commitments

3. For each round, negotiating guidelines and procedures shall be established. For the purposes of establishing such guidelines, the Council for Trade in Services shall carry out an assessment of trade in services in overall terms and on a sectoral basis with reference to the objectives of this Agreement, including those set out in paragraph 1 of Article IV. Negotiating guidelines shall establish modalities for the treatment of liberalization undertaken autonomously by Members since previous negotiations, as well as for the special treatment for least-developed country Members under the provisions of paragraph 3 of Article IV.

Annex on Telecommunications

6. Technical Co-operation

(d) Members shall give special consideration to opportunities for the least-developed countries to encourage foreign suppliers of telecommunications services to assist in the transfer of technology, training and other activities that support the development of their telecommunications infrastructure and expansion of their telecommunications services trade.

Agreement on Trade related Intellectual Property Rights (TRIPS)

Preamble:

Recognizing also the special needs of the least-developed country Members in respect of maximum flexibility in the domestic implementation of laws and regulations in order to enable them to create a sound and viable technological base;

Part VI – Transitional Arrangements

Article 66 – Least-Developed Country Members

1. In view of the special needs and requirements of least-developed country Members, their economic, financial and administrative constraints, and their need for flexibility to create a viable technological base, such Members shall not be required to apply the provisions of this Agreement, other than Articles 3, 4 and 5, for a period of 10 years from the date of application as defined under paragraph 1 of Article 65. The Council for TRIPS shall, upon duly motivated request by a least-developed country Member, accord extensions of this period.

2. Developed country Members shall provide incentives to enterprises and institutions in their territories for the purpose of promoting and encouraging technology transfer to least-developed country Members in order to enable them to create a sound and viable technological base.

Article 67 – Technical Cooperation

In order to facilitate the implementation of this Agreement, developed country Members shall provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in favour of developing and least-developed country Members. Such cooperation shall include assistance in the preparation of laws and regulations on the protection and enforcement of intellectual property rights as well as on the prevention of their abuse, and shall include support regarding the establishment or reinforcement of domestic offices and agencies relevant to these matters, including the training of personnel.

Annex 2: understanding on rules and procedures governing the settlement of disputes

Article 24 – Special Procedures Involving Least-Developed Country Members

1. At all stages of the determination of the causes of a dispute and of dispute settlement procedures involving a least-developed country Member, particular consideration shall be given to the special situation of least-developed country Members. In this regard, Members shall exercise due restraint in raising matters under these procedures involving a least-developed country Member. If nullification or impairment is found to result from a measure taken by a least-developed country Member, complaining parties shall exercise due restraint in asking for compensation or seeking authorization to suspend the application of concessions or other obligations pursuant to these procedures.
2. In dispute settlement cases involving a least developed country Member, where a satisfactory solution has not been found in the course of consultations the Director-General or the Chairman of the DSB shall, upon request by a least-developed country Member offer their good offices, conciliation and mediation with a view to assisting the parties to settle the dispute, before a request for a panel is made. The Director General or the Chairman of the DSB, in providing the above assistance, may consult any source which either deems appropriate.

Annex 3: Trade Policy Review Mechanism (TPRM)

C. Procedures for review

- (ii) The trade policies and practices of all Members shall be subject to periodic review. The impact of individual Members on the functioning of the multilateral trading system, defined in terms of their share of world trade in a recent representative period, will be the determining factor in deciding on the frequency of reviews. The first four trading entities so identified (counting the European Communities as one) shall be subject to review every two years. The next 16 shall be reviewed every four years. Other Members shall be reviewed every six years, except that a longer period may be fixed for least-developed country Members [...]

D. Reporting

[...] Particular account shall be taken of difficulties presented to least-developed country Members in compiling their reports. The Secretariat shall make available technical assistance on request to developing country Members, and in particular to the least-developed country Members. Information contained in reports should to the greatest extent possible be coordinated with notifications made under provisions of the Multilateral Trade Agreements and, where applicable, the Plurilateral Trade Agreements.

Annex 4: Plurilateral trade agreements

Agreement on Government Procurement

Article V: Special and Differential Treatment for Developing Countries

Objectives

1. Parties shall, in the implementation and administration of this Agreement, through the provisions set out in this Article, duly take into account the development, financial and trade needs of developing countries, in particular least-developed countries, in their need to:
 - (a) safeguard their balance-of-payments position and ensure a level of reserves adequate for the implementation of programmes of economic development;
 - (b) promote the establishment or development of domestic industries including the development of small-scale and cottage industries in rural or backward areas; and economic development of other sectors of the economy;
 - (c) support industrial units so long as they are wholly or substantially dependent on government procurement; and
 - (d) encourage their economic development through regional or global arrangements among developing countries presented to the Ministerial Conference of the World Trade Organization (hereinafter referred to as the "WTO") and not disapproved by it.
2. Consistently with the provisions of this Agreement, each Party shall, in the preparation and application of laws, regulations and procedures affecting government procurement, facilitate increased imports from developing countries, bearing in mind the special problems of least-developed countries and of those countries at low stages of economic development.

Special Treatment for Least-Developed Countries

12. Having regard to paragraph 6 of the Decision of the CONTRACTING PARTIES to GATT 1947 of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (BISD 26S/203-205), special treatment shall be granted to least-developed country Parties and to the suppliers in those Parties with respect to products or services originating in those Parties, in the context of any general or specific measures in favour of developing country Parties. A Party may also grant the benefits of this Agreement to suppliers in least-developed countries which are not Parties, with respect to products or services originating in those countries.

13. Each developed country Party shall, upon request, provide assistance which it may deem appropriate to potential tenderers in least-developed countries in submitting their tenders and selecting the products or services which are likely to be of interest to its entities as well as to suppliers in least-developed countries, and likewise assist them to comply with technical regulations and standards relating to products or services which are the subject of the intended procurement.