

ECOSOC 2004 High-Level Segment Preparatory Roundtable
Issues paper E

“Trade and market access preferences – commitments, achievements, challenges and prospects”

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10:45 a.m. – 12:45 p.m.

1. Trading arrangements providing preferences to exports from developing countries constitute a traditional feature of the international trading system. In recent years, several development partners have reviewed their schemes of generalized tariff preferences (GSP) by granting more favourable treatment (in some cases, quota-free, duty-free) to products originating in LDC beneficiaries. However the utilization of preferences has remained relatively low. Thus the question arises whether the existence of such special market access preferences for LDCs, while representing a laudable effort on the part of the international community to ease access to developed countries' markets, has indeed brought the expected benefits to LDCs, in terms of increased export revenues, investment, employment creation, product diversification and strengthened productive capacity.

2. Experience has shown (see table in the annex) that generally LDCs make only very limited use of the preferential schemes to which they have access. The real benefits deriving from the available tariff advantages keep falling short of the potential, hence undermining the effectiveness of preferences. The Roundtable may wish to explore the reasons behind these shortcomings and discuss ways to overcome the problems thus enhancing the effectiveness of trade preferences.

3. Extending the scope of unilateral trade preferences in new areas of interest for LDCs, whether in the traditional domain of goods or in new fields such services, could also be investigated. Such a departure from “traditional preferences” could, inter alia, also mitigate the negative impact of preference erosion

4. Given the current unilateral legal status of these preferences, the solutions to existing limitations primarily depends on the good-will” of preference giving countries.

The issue of utilisation of trade preferences

5. The following factors are regarded as the main obstacles to the full utilization of preferences.

- ***Unpredictability of market access preferences and lack of harmonisation of requirements under the various preferential schemes***

6. The current autonomous character and limited duration of unilateral preferences create uncertainties that are generally exacerbated by built-in eligibility reviews of both product coverage and beneficiary countries. These factors may undermine the capacity of LDC beneficiaries to implement long-term industrial plans and attract FDI flows. Although the EU EBA initiative has improved the duration of preferences (now granted for an indefinite period) while AGOA abandoned the determination of the product coverage (whose reviews are no longer on a annual basis) there is still scope for ameliorating the stability of the preferential schemes. What kind of instrument could be envisaged at multilateral level to address the instability of preferential trade arrangements?

7. A closely linked issue is the lack of harmonisation of requirements in the various preferential schemes, which imposes an unnecessary administrative burden and relative transaction costs to LDC exporters, who have to cope with different sets of conditions depending on the export market. How, could these conditions for markets access preferences be harmonized at the best possible practice to simplify the use of such schemes and minimize the costs in order to maximize LDCs benefits? What lessons could be drawn from AGOA, EBA and other preferential schemes in this regard?

- ***Rules of origin***

8. Rules of origin are rightly regarded as a predominant cause of the under-utilization of trade preferences. As preferences are granted unilaterally and non-contractually, preference-giving countries have consistently expressed the view that they ought to be free to decide on the rules of origin, although they have indicated their willingness to hear the views of beneficiary countries. Yet experience shows that basic requirements and the rationale for rules of origin has remained almost unchanged for nearly 30 years with beneficiary countries facing a wide variety of non-harmonized provisions. Even in practical aspects such as certification, control, verification, sanctions and mutual cooperation the progress of harmonization has been limited.

9. One major issue revolves around the criteria used in determining origin. Practice shows that the “domestic content” often requires beneficiary countries to devise and operate an accounting system to detect the local value added that is conceptually and operationally different from national legal requirements, and often beyond the capacity and resources of local enterprises. By contrast, it has been argued that the “import content” is more easily defined (the value of imported goods), and the determination of its exact value leaves less room for doubtful or incorrect interpretation. How could the experience of the various GSP schemes provide some useful guidance and clearer rules in this regard?

10. Another important issue is the mismatch between rules of origin and industrial capacity of beneficiary countries, which in some respects, is closely linked to the issue of supply side constraints (see paragraph below). Indeed, often the conditions required are overly stringent and fail to recognize competitive international supply chains where different stages of production take place in different locations to reap comparative advantages and thus cost-savings. When the sourcing of input from external suppliers is considered by domestic firms a factor of competitiveness more important than the use of market access preferences, then it comes as no surprise that preferences are under-utilized. It is interesting to note that both the EU GSP and US AGOA implicitly recognize this difficulty, particularly for the LDCs. Yet the solution they provide (normally in form of time-limited derogation from the general rule) is not generally applicable to all LDCs (as a non-discrimination principle would require) but rather, follow a case-by-case approach. Thus the EU grants derogation to certain Asian LDCs to import regional fabrics above the value allowed by the applicable general cumulation rule giving them an important economic benefit that other LDCs are not entitled to. The AGOA too, provides a special dispensation on rules of origin on textiles and clothing exports from SSA LDCs. Other regional trade agreements (for example within the SADC region) also provide similar special provisions for LDCs members.

11. Although these measures are generally subject to export quotas they do offer a viable avenue for a full utilization of preferences. Given the proven effectiveness of such initiatives, why then shouldn't all LDCs be entitled, as a starting point, to such a treatment? In addition, how could preferential rules of origin be simplified (and possibly harmonized) to reflect the industrial capacity and supply chains of LDCs while at the same encouraging south/south trade by providing for LDCs and developing countries cumulation as is the case in some schemes, such as Australia?

- ***Subsidies in developed countries***

12. Subsidies artificially increase the competitiveness of producers in the developed countries, thereby making it very difficult for LDC exporters to compete on the world market despite that they might have comparative advantages on certain subsidized products (cotton is a striking and well known example). The dubious combination of market access preferences and agricultural subsidies in developed countries reveals a lack of policy coherence that can make a set of development policies ineffective, in particular with regard to the role of trade in poverty reduction strategies. What kind of measures can be envisaged to improve coherence in the different policies relevant to aid, trade, technical assistance with the objective of reducing poverty?

- *Non-tariff barriers*

13. Overcoming non-tariff barriers to trade and complying with product standards normally set by importing countries and large distribution networks —be they technical barriers to trade, sanitary or phytosanitary measures or other market entry conditions— is a formidable challenge for many LDCs, and often a greater market access problem than tariff barriers. As in the case or rules of origin, this issues is closely linked to that of supply side constraints as most LDCs lack adequate infrastructure, such as internationally accredited and recognized laboratories with advanced testing equipment, lack of technology and diffusion processes (for example with regard to quality), lack of production structures but also poor legislative capacity, limited skills and training capacities, and a lack of engagement in international standard-setting. Failure to comply with these product requirements, not only translate in foregone export opportunities: the fish as seafood export bans that in different times have been imposed to Mozambique, Uganda, Tanzania and Bangladesh (all LDC countries) on safety/standards ground have clearly shown that the social-economic effects of such a measures can be serious. Do current capacity building efforts ensure a proper balance between knowledge and skill needs on the one hand and infrastructural requirements (institutions and equipment) for meeting product quality and standards on the other?

- *Supplies side constraints*

14. Recent studies point out that supply side constraints, rather than market access are the main obstacle and limitation for LDCs export performance.

15. Therefore, improved market access, if it is to be fully exploited by these countries, should be accompanied by other measures and innovative instruments aimed at addressing these important limitations. Such measures could include, for example, home countries granting fiscal incentives to foreign investors investing in LDCs. Is there a scope for such measures or others which would complement the liberalized FDI regimes of LDCs to generate supply-side responses to market access opportunities?

The issue of expanding preferential coverage and its scope

16. Most LDCs are now granted improved preferential market access in developed countries (particularly in the Quad). However, further improvement need to be made in order to minimize the negative impact of preference erosion that is taking place as a result of multilateral, regional and bilateral trade initiatives and this underscores the temporary nature of these preferences. In north-south preferential trade, the unavoidable negative consequences of preference erosion could be partially remedied through efforts to establish or deepen preferential margins. There are a number of “sensitive” products of interest to LDCs (and where they could gain considerable benefits) such as garments and agricultural products that still attract relatively high tariffs and currently are partially or not covered by preferences (tariff quotas for LDCs’ sugar, bananas and rice under EBA is an illustrative case). Recent initiatives similar to the EBA to improve market access for LDCs products like those adopted by Canada (dairy, eggs and poultry excluded) and Australia (no product excluded and the rules of origin provide for LDCs and developing countries cumulation) in 2003 are commendable and should be followed by other countries.

17. There appears to be also considerable scope to enhance south-south preferential trade. The GSTP provides an effective instrument through which LDCs could secure improved market access to other developing countries. What are the practical modalities for enhancing LDCs participation in South-South trade?

18. Finally, besides improving trade preferences either in their product or geographical coverage, possibilities exist for enlarging the scope of preferences in new areas such services. Indeed there is a growing consensus that services, and in particular the temporary movement of persons (the so-called mode four of the GATS) might have a far larger positive effect on the economies of developing and least developed countries than current trade in goods in terms of both value added (the labour force) and investments (through

remittances. If so, how could a suitable “preferential scheme for services” be properly designed and implemented to have a significant and positive impact upon LDCs economies?

The issue of granting the same level of preferences to all LDCs

19. The existence of so many unilateral preferential trade arrangements and of *ad-hoc* improvements that over time have been sought by specific beneficiary countries in order to accommodate legitimate concerns with regard to the functioning of the preferential schemes have eventually created a highly segmented preferential treatment within the same LDCs group. Most recent initiatives have only partially addressed this issue, leaving the principle of non discrimination in the treatment provided to LDCs under the current GSP schemes a continuing concern to affected LDCs.

20. The example presented before on the special derogation in the domain of rules of origin (more specifically on cumulation) granted by the EU under its GSP scheme to certain Asian LDCs only and not to all LDCs, is already a case in point. The AGOA initiative, although laudable, seems to provide different treatment on a double ground: between LDCs as group and between LDCs that are not beneficiaries of AGOA and AGOA beneficiaries developing countries. As for the former, it is well known that Asian LDCs are excluded from AGOA benefits (although for Cambodia, as an example, an arrangement to allow export quotas of garments in the US market has been put in place). The latter case is even more evident as LDCs not benefiting from AGOA have a more restricted market access than SSA developing countries. Both situations raise the question of non-discrimination and of their compatibility with the original principles behind the creation of the GSP.

The issue of technical assistance

21. Capacity development for trade in LDCs is a critical element in taking advantage of market access opportunities granted to them. It has been noted by LDCs that the current emphasis of trade-related technical assistance (TRTA) is focused more on policies, trade regulations, compliance and trade facilitation and less on addressing supply-side constraints which is essential for taking advantage of preferential market access. It has been suggested that in order to redress this bias, the IF Diagnostic Trade Integration Studies (DTIS) expand their analysis to cover productive sector development. In addressing these needs what have been the lessons from trade-related technical assistance provided to LDCs so far, including through the Integrated Framework initiative? Has the response of development partners been sufficiently commensurate with the needs?

22. In concluding, it appears that the overall policy challenge of the international community to provide tangible export opportunities to LDCs is to enhance existing preferential schemes, including their scope, while supporting and encouraging structural improvements in the productive capacities of LDCs. Realizing this dual objective requires, on the part of preference-giving countries, a constructive partnership with LDCs need to be strengthened. In what way can this be realized?

Annex table:

The use of market access preferences granted by Quad countries to LDCs

Country	Year	Total imports	Dutiable imports	Imports eligible for GSP treatment	Imports receiving GSP treatment	Product Coverage ratio	Utilization ratio	Utility ratio
(1)	(2)	(3)	(4)	(5) million \$	(6)	(5)/(4)	(6)/(5) %	(6)/(4)
Quad	1994	5,347.0	3,917.3	2,071.0	999.0	52.9	48.2	25.5
	1995	6,087.8	4,706.1	2,564.3	1,361.2	54.5	53.1	28.9
	1996	9,956.3	7,451.1	2,985.0	1,517.9	40.1	50.9	20.4
	1997	10,634.1	8,163.4	5,923.1	1,788.2	72.6	30.2	21.9
	1998	9,795.7	7,915.1	5,564.2	2,704.5	70.3	48.6	34.2
	1999	10,486.5	8,950.4	5,869.3	3,487.5	65.6	59.4	39.0
	2000	13,359.2	11,715.5	7,836.0	4,990.2	66.9	63.7	42.6
	2001	12,838.2	11,167.1	7,185.5	4,919.9	64.3	68.5	44.1
Canada	1994	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
	1995	175.9	41.3	6.4	4.1	15.5	64.1	9.9
	1996	336.9	34.5	6.3	2.9	18.3	46.0	8.4
	1997	205.3	47.3	8.6	4.7	18.2	54.7	9.9
	1998	256.0	92.1	9.8	5.8	10.6	59.2	6.3
	1999	154.6	60.7	8.2	4.9	13.5	59.8	8.1
	2000	180.1	75.9	9.9	7.2	13.0	72.7	9.5
	2001	243.2	94.6	11.4	8.0	12.1	70.2	8.5
European Union	1994	2,471.2	1,823.4	1,791.7	748.1	98.3	41.8	41.0
	1995	2,814.6	2,277.8	2,246.3	1,077.6	98.6	48.0	47.3
	1996	3,219.0	2,580.3	2,520.1	1,196.8	97.7	47.5	46.4
	1997	3,614.8	2,926.3	2,888.8	770.8	98.7	26.7	26.3
	1998	3,519.4	2,932.1	2,908.0	761.8	99.2	26.2	26.0
	1999	3,562.2	3,100.9	3,075.2	1,035.0	99.2	33.7	33.4
	2000	4,247.1	3,671.7	3,633.6	1,499.5	99.0	41.3	40.8
	2001	4,372.4	3,958.1	3,935.7	1,847.4	99.4	46.9	46.7
Japan	1994	1,120.5	695.5	211.2	200.5	30.4	94.9	28.8
	1995	1,309.8	912.7	241.9	230.1	26.5	95.1	25.2
	1996	1,504.3	939.8	388.9	269.9	41.4	69.4	28.7
	1997	1,204.9	757.3	306.3	222.1	40.4	72.5	29.3
	1998	1,045.4	643.8	364.0	189.9	56.5	52.2	29.5
	1999	989.0	679.6	366.2	231.9	53.9	63.3	34.1
	2000	1,236.5	881.3	615.3	236.0	69.8	38.4	26.8
	2001	1,001.3	398.1	278.3	228.4	69.9	82.1	57.4
United States	1994	1,755.3	1,398.4	68.1	50.4	4.9	74.0	3.6
	1995	1,787.5	1,474.3	69.7	49.4	4.7	70.9	3.4
	1996	4,896.1	3,896.5	69.7	48.3	1.8	69.3	1.2
	1997	5,609.1	4,432.5	2,719.4	790.6	61.4	29.1	17.8
	1998	4,974.9	4,247.1	2,282.4	1,747.0	53.7	76.5	41.1
	1999	5,780.7	5,109.2	2,419.7	2,215.7	47.4	91.6	43.4
	2000	7,695.5	7,086.6	3,577.2	3,247.5	50.5	90.8	45.8
	2001	7,221.3	6,716.3	2,960.1	2,836.1	44.1	95.8	42.2

Source: Based on UNCTAD (2003, forthcoming).

Notes: (a) Values for Quad countries for 1995 exclude Canada; (b) figures are based on member State notifications; (c) figures for Japan are based on fiscal years; (d) figures for the European Union for 1994-1995 exclude Austria, Finland and Sweden.