



## Survey on the International Support Measures related to WTO Provisions and Preferential Market Access for LDC

### Responses by Trading Partners

#### SUMMARY AND ANALYSIS\*

#### ABSTRACT

*This note presents the main findings of the **Survey on the International Support Measures related to WTO Provisions and Preferential Market Access in favour of LDCs**. Four trading partners (Canada, the European Union, Japan and New Zealand) participated in this initiative.*

*The Surveys show that trading partners provide a wide range of measures in response to their obligations related to the provision of special and differential treatment for LDCs as contained in various WTO. Many follow a broad-based approach in their capacity-building activities aiming at the better integration of LDCs in the multilateral trading system. Trading partners also provide various schemes for preferential market access for LDCs. While there has been noticeable progress towards the provision of duty and quota free access for LDCs, the amount of duties paid on imports from LDCs continues to be significant, indicating that further efforts are needed. Finally, trading partners express different views regarding the extension of LDC preferences to countries graduating from the LDC category. A homogenous approach for the implementation of the agreed concept of smooth transition from the LDC list is yet to emerge.*

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\* *Unedited version.* This report is based on responses to a survey on LDC-specific international support measures submitted by trading partners. The summary, findings, interpretations and conclusions expressed in this summary are those of United Nations staff who prepared this report and do not necessarily represent the views of the United Nations, or the trading partners that responded to the survey. The views or rankings presented in this document should not be considered as the official position of the United Nations or the organizations that responded to the survey.

## I. Background

This note focuses on the international support measures provided by trading partners to countries from the Least Developed Countries (LDCs) category. As of end of April 2011, three countries (Canada, Japan, and New Zealand) and the European Union have responded to the survey. This note complements the results of the survey on international trade support addressed to least-developed countries.

Information on the availability of international support measures for LDCs is spread over a wide range of sources and is often not easy to locate. The measures fall into three main areas: international trade; official development assistance, including development financing and technical cooperation; and other forms of assistance.

To assess the support received by LDCs from the international development community, it is important to identify the LDC specific international support measures - and to what extent - LDCs can use the measures they receive due to their status as an LDC.

Preliminary research by the Committee for Development Policy (CDP) Secretariat on the existing support measures are documented in the Handbook on the LDC Category.

In its continued work on providing background information about the identification of LDCs, the CDP Secretariat initiated a multi-year project on capacity building for graduating strategies for LDCs. One important objective of the project is to document the international support measures made available for LDCs by the international community, including those measures related to the smooth transition from the category. Surveys were designed to collect the relevant information. Summaries of the responses to the surveys are made available on the internet information portal developed under the project ([www.un.org/ldcportal](http://www.un.org/ldcportal)). The portal was launched at LDC IV, in Istanbul, in May 2011.

This report note focuses on the survey by the CDP Secretariat addressed to international trading partners to collect further details about these types of support measures. As of the end of April 2011, three countries (Canada, Japan, and New Zealand) and the European Union have responded to the survey. This report note complements the results of the survey on international trade support addressed to least developed countries.

## II. LDC specific support by trading partners

Support from trading partners to LDCs in the area of international trade falls broadly in two categories:

- (i) Implementation of commitments to take measures in favor of LDCs under various agreements of the World Trade Organization (WTO), in particular, in the Agreements on Agriculture; Application of Sanitary and Phytosanitary (SPS) Measures; Technical Barriers to Trade (TBT); Import Licensing Procedures; Subsidies and Countervailing Measures (SCM); Trade in Services (GATS) and Trade Related Intellectual Property Rights (TRIPS), including public health, and WTO decisions on food aid and on accession <sup>1</sup>;
- (ii) Provision of non- reciprocal preferential market access to LDCs. In the WTO Doha Declaration from 2001, developed countries subscribed to the objective of providing duty free, quota free (DFQF) access for products originating from LDCs. The implementation of DFQF commitment was further reaffirmed by the Sixth WTO Ministerial Conference in Hong Kong in 2005<sup>2</sup>.

Provisions under (i) potentially benefit only those LDCs that are member of WTO (31 countries) or are in process of accession (12 countries, see table 1), even though trading partners may extend these benefits to other LDCs as well. In this case, special and differential treatment mainly relate to the provision of technical assistance and to safeguarding the interests of LDCs. In addition, LDCs benefit from other forms of SDT such as increased flexibility in the implementation of rules and disciplines governing trade measures and longer transition periods for implementing WTO obligations<sup>3</sup>. However, these provisions do not require direct support from trading partners.

Commitments under (ii) can potentially benefit all 48 LDCs, independently of their WTO status.

1 See [www.un.org/ldcportal](http://www.un.org/ldcportal) for additional information, in particular the database on WTO provisions for LDCs.

2 Non-reciprocal preferential market access to developing countries, including the LDCs, has a long history and was made possible by the adoption of the Enabling Clause in 1979.

3 See Summary and Analysis of Survey LDCs on international support measures related to WTO provisions and preferential market access.

**Table 1: LDCs and the World Trade Organization**

Members			On going accessions
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
D.R. of the Congo	Mauritania	Uganda	Sao Tome and Principe
Djibouti	Mozambique	United Republic of Tanzania	The Sudan
		Zambia	Vanuatu
			Yemen
<i>Memo item:</i> LDCs currently not acceding the WTO are Eritrea, Kiribati, Somalia, Timor-Leste and Tuvalu			

Source: [http://www.wto.org/english/thewto\\_e/acc\\_e/status\\_e.htm](http://www.wto.org/english/thewto_e/acc_e/status_e.htm)

### III. Obligations and commitments under WTO agreements

#### The Agreement on Agriculture and the Decision on LDCs and net food importing developing countries

Food aid is often a contentious issue in international trade, as it is seen as a potentially trade-distorting measure if food aid replaces regular trade and domestic or regional food production. By adopting The Decision on Measures Concerning The Negative Effects of The Reform Programme on the Least-Developed And Net Food Importing Developing Countries (NFIDC) agreed that an increasing proportion of food aid should be in fully grant form and/or appropriate concessional terms. Subsequently the WTO Hong Kong Ministerial Declaration specified that food aid should be in grant form, if possible cash based, and in-kind food aid should avoid causing an adverse effect on local or regional production of the same or substitute products.

During the period 2005-2008 the following countries notified the WTO of the assistance provided to LDCs and NFIDC its modalities: Argentina, Canada, European

Union, Japan, New Zealand, Norway, Switzerland and the United States<sup>4</sup>.

All respondents to the Survey indicated that they operate in conformity with the relevant decisions on food aid. Respondent also indicated that they have provided a wide range of financial and technical assistance to LDCs to improve their agricultural productivity and infrastructure.

#### Agreement on the Application of SPS Measures

The SPS Agreement provides that Members should take measures to minimize the barriers that their SPS regulations could present to the exports of LDCs. Under Article 9, Members agree to facilitate the provision of technical assistance, inter alia, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, to allow such countries to adjust to, and comply with measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets.

Rejections of LDC imports due to SPS violations differ widely across survey respondents, ranging from no rejections reported by Canada to 63 rejections of imports from Bangladesh by the EU since 2008. It is unclear to which extent various possible explanations, such as size of markets, general stringency of SPS rules, specific disadvantages of LDCs and reporting practices, are responsible for these differences.

All respondents provide technical and financial assistance to LDCs to help exporters from LDCs to comply with SPS regulations or to assist governments in implementing SPS rules, both bilaterally and, with the exception of New Zealand, through the multilateral Standards and Trade Development Facility (SDTF). Support measures ranged from capacity building, training manuals, information dissemination and enhancing participation in meetings of the Codex Alimentarius and other relevant organizations.

#### Agreement on Technical Barriers to Trade

The TBT Agreement (Article 11) provides that Members shall, if requested, arrange for their regulatory bodies

<sup>4</sup> See Information Manual on International Support Measures related to WTO provisions available at the LDC portal (<http://www.un.org/ldcportal>).

to advise other Members and shall grant them technical assistance regarding the establishment of regulatory bodies, or bodies for the assessment of conformity with technical regulations and the methods by which their technical regulations can best be met. In doing so they shall give priority to the needs of LDCs.

Among the respondents, Canada, New Zealand and the EU reported the provision of technical assistance to enhance LDCs' TBT-related capacity and help them meet these standards and implement TBT rules. The EU indicated that such assistance is often part of broader programmes. While the three responding countries did not report border rejections of imports due to TBT violations, there is not sufficient information to make conclusion whether TBTs act as potential barriers for LDCs exports.

### Agreement on Import Licensing Procedures

The Agreement on Import Licensing Procedures states that in allocating non-automatic licenses, consideration shall also be given to ensuring a reasonable distribution of licenses to new importers. In this regard, special consideration should be given to those importers importing products originating in developing country Members and, in particular, the LDC Members.

The few existing non-automatic licensing requirements in the responding countries (on selected agricultural products in Canada and on select fishery products in Japan) do not distinguish between LDCs and other developing countries. No information is available on actual exports from LDCs under such licenses, making it difficult to assess the relevance and effectiveness of the SDT provision.

### Agreement on Trade-Related Aspects of Intellectual Property Rights

The TRIPS Agreement includes, among other things, a provision that 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. Additionally, developed members shall provide, on request and on mutually agreed terms

and conditions, technical and financial cooperation in favour of developing and least-developed members.

All respondents report a wide range of activities in response to these obligations. It is noteworthy that capacity-building appears to be the main approach with regard to technology transfer.

### Pharmaceuticals and public health

Due to their insufficient or total lack of manufacturing capacities in the pharmaceutical sector, LDCs face difficulties in making effective use of compulsory licensing permitted under the TRIPS Agreement. Therefore, a waiver allows LDCs and other countries with insufficient manufacturing capacity to issue such compulsory licenses to suppliers in third countries. However, the waiver has been used only once (for exports from Canada to Rwanda). This has raised concerns regarding the effectiveness of the waiver and the procedures of its implementation.

A Protocol to amend the TRIPS Agreement and give this provision a permanent legal status has not yet been accepted by a sufficient number of WTO Members. Among the survey respondents, Canada, Japan as well as the EU have accepted the Protocol.

### General Agreement on Trade in Services (GATS)

Article IV:1 of the GATS states that the increasing participation of developing countries in world trade in services shall be facilitated through negotiated specific commitments relating to: (a) the strengthening of their domestic services capacity and its efficiency and competitiveness, inter alia through access to technology on a commercial basis; (b) the improvement of their access to distribution channels and information networks; and (c) the liberalization of market access in sectors and modes of supply of export interest to them. Special priority should be given to LDCs (article IV:3). In 2003, Members decided to develop appropriate mechanisms to facilitate effective access of LDCs' services and service suppliers to foreign markets. They also decided that targeted and coordinated technical assistance and capacity building programmes shall continue to be provided to LDCs in order to strengthen their domestic services capacity, build institutional and human capacity, and enable them to undertake appropriate regulatory reforms.



Additionally, paragraph 6 of the GATS Annex on Telecommunications states that “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.”

All respondents report a wide range of measures in this regard, ranging from investment promotion, trade promotion, training, technology transfer, enterprise level actions and improving access to distribution channels. Japan and the EU also encouraged suppliers of telecommunication services to assist in the transfer of technology, training and other activities that support the development of LDC telecommunications infrastructure and expansion of their telecommunications services trade.

### Agreement on Subsidies and Countervailing Duties

According to Annex VII to the Agreement on Subsidies and Countervailing measures LDCs are not subject to the prohibition on export subsidies as set out in Article 3.1(a) of that Agreement. However, their subsidized exports are potentially liable for countervailing duties (if the subsidies exceed the de minimis requirements). LDCs lose this exemption for products in which they achieve “export competitiveness”, a share of at least 3.25 per cent in world trade of a product for two consecutive calendar years. Legally, “export competitiveness” only exists if the LDC notifies the WTO or if the WTO Secretariat performs the calculation on request of another Member. LDCs can benefit from a phase out period of eight years after reaching “export competitiveness”.

No WTO member initiated countervailing duties for LDC exports under the SCM Agreement, but it is not possible to infer whether this is due to restraints exercised by trading partners to impose such measures or due to absence of significant export subsidies by LDCs.

### Dispute Settlement

In possible disputes within the WTO framework, particular consideration should be given to the special situation of LDCs in all stages of a dispute involving an LDC. Members are obliged also to exercise due restraint

in raising matters involving an LDC. In fact, no dispute has been brought against a LDC. However, it is not clear whether this is due to the effectiveness of these provisions, the conformity of trade measures in LDCs with WTO rules, or a low commercial or systemic importance of LDCs in the multilateral trading system.

### Accessions

In December 2002 the General Council of the WTO adopted the decision on “Accession of Least Developed Countries”, which stated, inter alia, that WTO Members shall exercise restraint in seeking concessions and commitments on trade in goods and services from acceding LDCs, taking into account the levels of concessions and commitments undertaken by existing LDC Members.

All respondents actively engage in negotiations on WTO accession by LDCs. The three responding countries Canada, Japan and New Zealand view their requests as being conform with the relevant WTO decision under which they commit to exercising restraint in seeking concessions and commitments. In addition to allowing longer transition periods in acceptance of WTO Agreements and requesting only limited tariff bindings, some respondents also reported that they made limited requests for services commitments and encouraged other WTO members to take a restrained approach. New Zealand and Canada also reported targeted technical assistance for acceding countries. At the same time, accession processes continue to be long-lasting for LDCs. It should be recognized, though, that type and content requests in the negotiations are just one factor determining the length of accession negotiations.

## IV. Preferential market access

### Non-reciprocal arrangements

The provision of non-reciprocal preferential market access for LDCs is intended to improve their integration into the world economy and to allow them to better harness trade as means to achieve sustainable development. Between 2000 and 2009, the share of LDCs in world merchandise trade has increased from 0.6 per cent to 1 per cent, partly driven by the commodity boom that took place from 2002 to 2008. Still, the share of

LDCs in world trade is far less than their share in world population, which is about 12 per cent.

However, progress towards achieving the duty free, quota free commitment has been slow. The share of duty free exports (excluding arms and oil) from LDCs to major developed countries has risen only slightly between 1996 and 2008, from 77.6 per cent to 80.6 per cent. Moreover, during the same period, the share of duty free imports from developing countries in general has risen from 54.2 per cent to 79.7 per cent<sup>5</sup>. Hence, in relative terms, market access conditions for LDCs may have actually deteriorated. Many factors explain this outcome, including progress in trade liberalization under the WTO, the proliferation of free trade agreements and the establishment of preferential regimes, such as the African Growth and Opportunity Act (AGOA) of the United States, that benefits selected LDCs but also non-LDCs.

At the same time, preferential market access to LDCs has been increasingly provided by developing countries, even if product coverage mostly remains below 100 per cent. According to the WTO Secretariat <sup>6</sup>, eight developing countries offer 24 preference schemes for all or select LDCs. These schemes are either unilateral or part of two regional trading agreements that include a LDC sub-category, the Asia-Pacific Trade Agreement (APTA) and the South Asian Free Trade Area (SAFTA). In addition, countries with economies in transition also provide preferential access to LDCs, covering all LDCs and all products.

All four respondents have preferential scheme for all LDCs in place. In addition, the European Union and New Zealand provide additional benefits to those LDCs that are parties to their regional free trade arrangements (FTAs). The coverage of duty free treatment of LDC exports in terms of tariff lines is high. The percentage of tariff lines with duty free access ranges from 98 per cent in Japan to 100 per cent in New Zealand, whereas the share of Most Favoured Nation (MFN) duty-free tariff lines ranges from 24.5 per cent in the EU to 58 per cent in New Zealand. The duty free access provided to LDCs is not limited by quotas.

Despite the high degree of nominal duty-free access, duties are nevertheless paid on a substantial part of LDC exports in value terms. In the European Union, 8 per cent of all imports from LDCs are dutiable, whereas in Canada the corresponding figure is 3.6 per cent.

Due to limitations in product coverage of preference schemes and incomplete utilization of such schemes, the amount of duties paid on LDC imports remains significant, at least from an LDC point of view. Even in New Zealand, which has no product exceptions in its LDC preference scheme, duties paid on LDC imports were almost 1 per cent of the value of those imports in 2010, mostly on imports of clothing, textiles and footwear. Because New Zealand's average MFN tariffs on these product categories range between 1.9 and 9.8 per cent, a 1 per cent average duty implies that duty free treatment is rejected or unclaimed for a significant share of imports. However, it should be noted that effective market access conditions for LDCs, if measured by the ratio of duties paid to the value of total merchandise imports (excluding oil), are more favourable in New Zealand than in Canada (ratio of approximately 1.4 per cent in 2010), the EU (approximately 2.1 per cent in 2008) and the United States of America (approximately 10.1 per cent in 2008).

In fact, low utilization of preferences is a common concern of respondents. A broad range of reasons for low utilization has been identified, such as supply-side constraints, low awareness, rules of origin and low preference margins. The wide range of concerns and different ranking probably reflect both different perceptions on the reasons behind low utilization and differences in the duty free regimes.

In the area of rules of origin there is a remarkable policy shift. Since the beginning of 2011 the European Union follows the example of Canada and New Zealand in adopting rules of origin that are less stringent for LDCs than for other developing countries. It is also noteworthy that the relaxation is a response to criticism of the restrictiveness of the previous rules of origin regime. In general, exports from LDCs to the EU now need to contain at least 30 per cent of local value-added, compared with 50 per cent in case of other developing countries. In addition, the new rules of origin contain a single (rather than two) transformation processes rule for clothing exports, a main good of commercial interest for various LDCs. For Canada, local value-added

5 United Nations/DESA. *The Millennium Development Goals Report 2010*.

6 WTO. Market Access for Products and Services of Export Interest to Least Developed Countries. Note by the Secretariat. Document WT/COMTD/LDC/W/48/Rev.1. Issued 9 March 2011.

conditions are 40 per cent for LDCs and 60 per cent for other developing countries. Moreover, in the clothing sector, Canada allows for cumulation of inputs from developing countries. However, it should be noted that various special rules and conditions make a comparison of rules of origin regimes difficult.

### Reciprocal arrangements

Both New Zealand and the EU are of the view that membership in their respective FTAs provides additional benefits to LDCs. Whereas these FTAs do not contain LDC specific conditions, the EU reported that the different needs and interests of the countries involved, including LDCs, are taken into account with regard to their tariff concessions, obligations and transition periods. Improved access to service markets, additional investments, financial and technical assistance as well as increased economic cooperation were listed as benefits both in Economic Partnership Agreements (EPAs) with the EU and in the ASEAN-Australia/New Zealand Free Trade Agreement (AANZFTA). Hence, in view of the trading partners the majority of additional benefits for LDCs from FTAs go beyond trade in goods.

## V. Graduation from LDC status

The list of LDCs is reviewed every three years by the United Nations Committee for Development Policy, which advises the United Nations Economic and Social Council which countries may be added to or graduated from the LDC category. The advice is based on the progress of countries with regard to per capita income, human assets and economic vulnerability. As graduation may result in the cessation of LDC-specific support measures, the withdrawal of such support needs to be carefully planned by graduating countries and their partners. In this regard, in 2004 the United Nations General Assembly adopted resolution 59/209 on a smooth transition strategy for countries graduating from the LDC list. In the area of trade, the resolution invites development and trading partners to consider extending to the graduated country LDC trade preferences or reducing them in a phased manner. It also invited all WTO members to consider extending LDC specific special and differential treatment provisions for an appropriate time period. Since adoption of the resolution, two countries gradu-

ated from the LDC list, Cape Verde on 1 January 2008 and Maldives on 1 January 2011.

Respondents hold diverging views regarding the extension or phased reduction of trade benefits for countries graduating from the LDC list. Canada, the EU and New Zealand are in favour of providing a limited transition period with respect to special and differential treatment and exemptions available to LDCs under the WTO.

Differences also exist in the treatment of graduating countries in bilateral LDC preference schemes. Japan will remove Maldives from the list of beneficiaries on 1 July 2011<sup>7</sup>, six months after the country's graduation from the LDC list. However, Maldives and Cape Verde still enjoy LDC preferences in Canada, the EU and New Zealand. In the EU, the extensions are based on a regulation prescribing an addition of at least three years upon graduation for every graduating country, thereby probably reducing uncertainty over future market access.

It should be noted that other countries, such as Norway, Switzerland, Australia and Turkey, currently continue to grant Cape Verde and Maldives the same preferential access to their markets as current LDCs. Based on available information, the United States is the only major trading partner--besides Japan-- not extending LDC preferences to graduated countries. However, due to the expiration of the US GSP scheme, these preferences are currently unavailable in any case.

## VI. Conclusion and recommendations

Trading partners undertake a wide range of trade-related technical capacity-building activities in line with their WTO obligations. Respondents often adopt a comprehensive approach, integrating specific components for which WTO commitments exist into broader capacity-building programs. This approach allows harnessing synergies among different trade-related topics. In this context, it remains an open question whether the specific WTO commitments have led to additional capacity-building efforts or whether these commitments are effectively incorporated into existing broad-based commitments outside WTO to build trade-related capacity in LDCs. Trading partners also indicated they have been undertaking measures to safeguard the trading interests of LDCs, but further work would be needed to

<sup>7</sup> See <http://www.mofa.go.jp/policy/economy/gsp/benef.pdf>, accessed 29 April 2011.

better assess the relevance and effectiveness of the SDT provisions and their implementation. Generally, more targeted SDT provisions for LDCs could facilitate their further integration in world trade.

Despite progress towards implementing duty and quota free access for LDCs, tariffs remain a significant market access barrier for many LDCs. In addition to providing full product coverage in preferential schemes, the establishment of simple and preferential rules of origin can be an important trade policy component of improving market access for LDCs. Some respondents view the participation of LDCs in free trade arrangements as beneficial, in particular in areas beyond trade in goods, even if these arrangements do not include specific LDC treatment. However, more detailed studies would be needed to make recommendations in this regard.

The different treatment of recently graduated LDCs in different countries and, in some cases, the vagueness of information on future treatment, indicates that further efforts may be needed to implement and operationalize the concept of smooth transition agreed upon by the United Nations General Assembly in 2004.