



Briefing Paper

Post-graduation of LDCs: Implications in the context of the WTO

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Summary

This briefing paper presents an overview of LDCs graduation issues and support measures applied to LDCs in terms of assisting their efforts towards graduation in the context of the WTO. The brief also highlights important proposals for consideration towards enabling a “post- graduation soft landing” of LDCs, especially with regard to their status in the WTO. It summarises a study by CUTS International Geneva on “Support for post-graduation soft-landing of LDCs: Implications in the context of the WTO” authored by Taffere Tesfachew.

Introduction

The United Nations' General Assembly in 1971 created amongst its membership, a category of the 'least developed countries' (LDCs), with the objective of providing them with targeted specific support measures so as to bridge the development gap and achieve global economic and social progress.

In order to assist the LDCs in overcoming their challenges, it was agreed that international support measures would be put in place, implemented and reviewed on a ten-year programme basis. The measures are geared towards assisting the graduation plans of the LDCs. In doing so, the measures identify priority areas to be addressed and policies to be implemented according to their economy and tenuous production capacity. The current Programme of Action was established in Istanbul for the 2011-2021 period at the last United Nations Decennial Conference on LDCs. LDCs are reviewed every three years by the Committee for Development Policy (CDP) that inspects eligibility for graduation through various criteria.

The drive towards graduation of LDCs is collaborative work of various international organizations, including the World Trade Organization, which deals with trade related aspects of assisting these group of countries to hasten their development endeavours. However, the issue of graduating from LDC status has come with concerns with regard to losing trade-related advantages and LDC-specific International Support Mechanisms, which calls for an examination of how a smooth transition from LDC status could be achieved. The concern for most LDCs is the lack of an effective, systemic and binding support that would be required during the post-graduation transition period.

The Need for International Support Mechanisms provided to LDCs

Discussions on the 'less developed' countries among developing countries commenced in 1964, the objective was to 'rebalance the disparity between countries through targeted International Support Measures (ISMs)¹'. Developing countries were at first cautious on such division in their group but later opened up to discussions on identifying the most disadvantaged countries in the developing world so as to support their development. Subsequently, the Committee on Development Planning designed the criteria through which countries would be categorised as LDCs. Forty-seven countries are now identified as LDC with thirty- four of them in Africa.

The increase of the listed LDCs from the original number of 25 at the formation of the category, which later went up to 51 countries as of 2003 and is presently 47 countries calls for more support to achieve the envisaged social and economic development of this category of countries.

With regard to the post-graduation process, there are critical considerations for countries losing support that was vital for their graduation process and which they need to sustain their development efforts. Currently, there are no alternative support programmes that could balance the negative economic and social effects of withdrawing from LDC-specific support measures. Moreover, no formal and clear guidelines are given to graduating LDCs to stabilize their economy after losing international support measures.

The need for post-graduation transitional arrangements is critical for LDCs and it was emphasised at the latest Ministerial-level meeting in New York (September 2018)², where it was

acknowledged that although graduation from LDC status is symbolic of the social-economic progress, it also comes with challenges due to loss of the LDC-specific benefits and waivers from compliance with often onerous international obligations and commitments. Such challenges risk washing away the gains during their LDC status mode.

Delayed graduation processes

LDCs concerns are evidenced by recent situations where eligible LDCs have resisted the transition to graduation due to eminent loss of the International Support Mechanisms critical for their development. Illustrations include Samoa, which graduated 23 years after having met the criteria for the first time; Maldives 14 years after; and Cape Verde 13 years later.³ In such cases, the resistance to graduate is a result of the countries' concerns of the likely implications from losing access to International Support Mechanisms. Moreover with no alternative support programmes to mitigate potential negative economic and social effects of the withdrawal from LDC status. Presently the graduation process is more focused on withdrawing or winding down international support measures rather than supporting the graduating countries to face challenges ahead, hence the reluctance of qualifying countries to evolve from the LDC status.

Recognizing the need to support graduated LDCs, the General Assembly of the UN introduced the 'smooth transition' principle, which provides for gradual and predictable transition following the final exit of countries from LDC status so as not to disrupt the development progress made by the graduating country. Some categories within LDCs heavily depend on external support; to be deprived from it would harm their fragile economy if no transition period is availed. Soft-landing is especially critical for island LDCs as they heavily rely on Overseas

Development Aid, technical assistance and the need for protection from exposure to external shocks. Export-oriented LDCs also heavily rely on trade-related International Support Mechanisms.

Homogeneity of graduating LDCs

The LDC Decennial Conference of May 2011 targeted that at least half the LDCs would graduate during the period to 2021. Although this ambition is unlikely to be achieved during this period, the momentum generated has been a major motivational force for these set of countries to work towards graduation. It is however noteworthy that during this period it is projected the more likely LDCs to graduate will be those from Asia and the Pacific region, which will effectively make the LDC issue a more homogenous geographical issue with the African continent hosting almost all of the remaining countries.⁴ This presents a bigger challenge of emancipating these group of countries that are characterised by weak productive capacity, larger shares of agricultural employment, higher export concentration and greater dependency on aid among other issues. This calls for consideration of alternative support measures in order to realise the objective of ensuring the world's poorest countries are brought up to higher level of development.

Ordeals to graduation

The graduation process has been complicated by the current highly interconnected economic environment. LDCs are more vulnerable to economic crises and shifts in trading arrangements, especially export-oriented LDCs where commodity production is an important source of income and wealth- generator. In that context, price volatility is extremely harmful. Moreover, the trend towards protectionism by some developed countries is a threat to the future of multilateralism. In addition, the monopoly of international firms that run major

global value chains and dominate international markets often hinders LDCs from becoming competitive in the multilateral trading system.

Another challenge faced by LDCs is ‘mainstreaming the 2030 Agenda for Sustainable Development’, which would need to be integrated into their Programme of Action. The set goals are more ambitious than the previous Millennium Development Goals and require more effort in accelerating the development of productive capacity in LDCs as well as creating productive jobs with decent wages in order to eliminate poverty.

Trade-related International Support Mechanisms for LDCs in the context of the WTO

The global community acknowledges the challenges faced by LDCs, hence the international support mechanisms that have been put in place to help these group of countries redress the challenges.

International support measures are without doubt necessary and helpful if they are defined clearly and easily accessible. At the WTO, these support measures are in the form of four major areas: a) Preferential market access in favour of LDCs; b) Special and Differential Treatment (SDT) provisions in WTO Agreements; c) support for accession of LDCs to the WTO; and d) trade-related technical assistance. These are briefly discussed below:

Preferential market access in favor of LDCs

Preferential market access in favour of LDCs is amongst the most significant and multidimensional support mechanisms available to LDCs, through which their exporters can access certain markets at lower or no tariffs, as well as without quotas restrictions that apply to exporters from non- LDCs.

Developed countries and developing countries provide such preferential schemes on a non-reciprocal basis, which allows LDCs to access their markets without obligations. The rationale is to enable LDCs to export competitively to more developed markets without incurring the costs associated with tariffs or quotas, so as to develop and improve their productive capacity.

In reality, such market access has not been optimally utilised by the LDCs mainly due to the fact that most LDCs still lack the capacity to produce goods at the required quality and standard demanded in the countries offering these preferential schemes. Nevertheless, LDCs are now attracting foreign investments that could assist them in building the necessary capacity to leverage the preferential schemes. There have also been efforts by LDCs to build the necessary production capacity by undertaking trade diagnostics and integrating the necessary measures in their national development plans. The successful Bangladesh textile industry and emergence of countries such as Cambodia, Ethiopia, Lesotho, Rwanda and others as important players in light manufacturing products, particularly textile and leather products, is largely due to the preferential schemes they enjoy as LDCs.

Although the WTO from the outset called for a binding agreement on preferential market access for LDCs, this is yet to be fully achieved despite express commitments made by members through the 2001 Doha Ministerial Declaration as well as at Hong Kong Ministerial Conference that further reinforced and clarified the commitment urging developed countries and developing countries in a position to do so, to provide duty free, quota-free market access on a lasting basis, for all products originating from LDC or up to least 97 percent. Fortunately, there has been progress in terms of provision of such market access through unilateral terms. The EU “Everything

But Arms” scheme introduced in 2001 later became a model for other preference granting countries that are providing similar schemes. While such schemes differ in terms of coverage, they provide wider markets for LDCs and play an important incentive for them to diversify their products and markets.

Recent records indicate that since the turn of the century in 2000, up to 22 countries are now providing non-reciprocal market access to LDCs, which indicates the international commitment to assist LDCs development efforts. The major issue remains the low utilisation by LDCs of these market opportunities. Most exports remain concentrated in traditional markets and products of LDCs despite the wider opportunities availed elsewhere, for instance in 2015 LDCs exported the highest number of products to the EU, which has always been their traditional destination.

Complying with trade-partner markets’ requirements

A major concern for LDCs regarding market access through the preference schemes is that the advantages therein are often diminished by the cost of compliance with the requirements under the schemes’ rules, regulations and procedures. The rules of origin (ROO) issue has particularly been a challenge that has effectively curtailed optimal utilisation of such preferential schemes due to:

- Limited productive capacity of LDCs and underdeveloped domestic supply chains to sufficiently locally source inputs and raw materials required to produce exportable goods.
- Lack of standard National Quality Infrastructure and institutional frameworks necessary for quality control and standard setting, hence a gap for the necessary checks to

ensure conformity with target market requirements

- Under the Global Value Chains that now dominate global trade, production processes are fragmented and trade in intermediate products plays a central role, with an estimated 60 percent of global trade that consists of trade in intermediate goods and services that are incorporated at various stages in the production process up to final consumption.

The foregoing challenges underlie the critical issue of Rules of Origin, which if stringently applied become burdensome to the LDCs more especially in the apparel and clothing sectors, where the LDCs are more competitive and more likely to utilise the sector to spur industrial development in their countries.

Additionally, the lack of harmonisation of the Rules of Origin by the preference granting countries, remains a major challenge for the targeted beneficiary LDCs since these vary and have cost implications, which at times outweigh their utility. Efforts are ongoing at the WTO to rectify this challenge and a solution in this regard will no doubt facilitate better utilisation of the preferences granted to LDCs. At both the 9th and 10th WTO Ministerial Conferences, resolutions were made to improve and harmonise preference granting countries Rules of Origin. Although huddles remain, efforts in this regard are in the right direction.

Preferential schemes for trade in services for LDCs remain problematic as well. Although modalities for special treatment of LDCs services providers were agreed in 2003, it was only in 2011 that the WTO adopted a waiver enabling developed and other developing countries in a position to grant preferential treatment to services and services suppliers from LDCs. A number of countries have already made notifications including developing

countries such as Brazil, Chile, China, India, South Africa, Thailand, Turkey and Uruguay which in itself is an encouraging sign of the willingness to assist LDCs to leverage the services sector potential. Enhanced services trade is particularly important for LDCs given that the sector is less likely to cause trade diversion for other developing countries. Moreover with the emergence of ICT-related services and expansion of tourism and transport services, the sector has become an important component of LDCs' export package.⁹ There are ongoing efforts to operationalise the services waiver, although a lot remains to be done so as to translate the notifications so far made at the WTO into concrete economic gains.

Special and Differential Treatment

Recognising that trade liberalisation in and of itself would not automatically lead to economic development and welfare gains for all countries, the principle of special and differential treatment (SDT) was adopted in the multilateral trading system. The WTO lists about 155 provisions in its agreements that provide SDT to developing countries and LDCs, among these are also LDC specific SDT provisions.

The SDT provisions are classified as follows: (i) Provisions aimed at increasing the trade opportunities of developing country members; (ii) Provisions under which WTO members should safeguard interests of developing country members; (iii) Flexibility of commitments, of action, and use of policy instruments; (iv) Transitional time-periods; and; (v) Technical assistance.

The foregoing categorisation denotes the purposes, scope and impact intended by the SDT provisions in the WTO. In the context of graduation and the likely impacts in the post- graduation transition period, such SDT provisions extended by the WTO system could be sustained to support the gains made. These

could include:¹⁰ Provisions that reaffirm the necessity of taking into account the interests and needs of developing countries including LDCs, for example Article XXXVI of GATT; and provisions that are designed to provide transitional periods and flexibility from commitments. The latter are critical since they allow beneficiaries to enjoy the “policy space” needed to protect infant industries and implement other policies without restrictions from the multilateral trading system. This would ideally enable them to become more competitive and eventually be better integrated globally.

Accession of LDCs to WTO

A number of LDCs are still in the accession process to the WTO. It is noteworthy that the negotiation process is long and complex involving negotiations in WTO Working Parties on the country's trade regimes, as well as with its bilateral partners on its tariff schedules on trade in goods and on offers in trade in services. Although WTO members adopted guidelines in 2002 and later in 2012 that are intended to facilitate and accelerate the accession of LDCs, challenges remain and recent examples indicate that the average time for recently acceded LDCs is about 13 years (Vanuatu, Lao PDR, Yemen, Liberia), which exemplifies the difficulties involved.

Trade-Related Technical Assistance

At the WTO, the Enhanced Integrated Framework (EIF) is the main LDC specific trade-related technical assistance programme. It was established by development partners in collaboration with a number of international organizations to assist LDCs build their capacity in trade. The EIF focuses on three key objectives:

- Undertaking diagnostic trade integration studies in beneficiary LDCs and mainstreaming trade into national development strategies;

- Establishing structures at the country level to coordinate the delivery of trade-related technical assistance, thereby enhancing the national ownership of the trade-related support provided;
- Building LDCs capacity to trade, including by addressing critical supply side constraints with a focus on productive capacity.

Cognisant of the growing importance of technology in global trade and the implications for global value chains, the EIF recently launched (February 2019) a new strategy plan (2019-2022) aimed at accelerating support to LDCs and enabling them to better position themselves in the global economic system.¹¹ The new strategy plan is also designed to facilitate support that improves the trade environment for LDCs so that they are better able to benefit from market access opportunities and achieve inclusive and sustainable growth in line with the Agenda 2030.

Need for Support for Post-Graduation soft Landing

Presently, the existing smooth transition arrangements for LDCs post-graduation phase are *ad hoc* and dependent on the will of development partners despite the United Nations resolutions from the General Assembly that called for predictable and systemic transition arrangements.

UNCTAD has also underscored the need for post-graduation support, pointing out that “*the goal is not graduation per se but graduation with momentum, which would allow the development trajectory to be maintained and pitfalls avoided*” (UNCTAD, 2016a, p.v.). In re- thinking the smooth transition and soft-landing of LDCs, the following principles should be taken into account:

- Transition arrangements should begin as soon a country is first evaluated by the CDP as

eligible for graduation, which would give such country a total of nine (9) years of transition preparatory phase before full graduation. It is also suggested that the transition period may be extended further by at least three (3) years, giving the graduating country a total of twelve (12) years from the point of eligibility to prepare for the eventual withdrawal of LDC specific international support mechanisms.

- Such transition arrangements should have clearly defined objectives, as well as a clearly laid out systemic approach for implementation.
- Transition arrangements should take into account the fact that there is no “one-size fits all” which calls for a targeted approach that in some cases may go beyond the present international support mechanisms provided to LDCs
- Support measures aimed at building institutional frameworks and productive capacity should be prioritised.

Conclusion and Recommendation

LDCs graduation projections clearly imply that by 2025, the group will become more homogenous geographically with the majority concentrated in Africa and characterised by considerably poorer countries. In this respect graduation will likely become relatively harder than it has been in recent years.

Further, despite nearly fifty years of international support to LDCs, the challenges they face remain pervasive and constricting.

The target of halving the number of LDCs by 2021 will likely be missed, and graduation will therefore remain a priority goal well into the next decade and perhaps even beyond.

The resistance by some LDCs to graduate from the LDC category even when eligible clearly demonstrates the critical need for provision of a smooth-transition for the post-graduation phase. Despite two General Assembly resolutions, the smooth transition arrangements as currently applied lack formal procedures that are applicable to all LDCs.

Going forward, there is need to design international support mechanisms for graduating and graduated LDCs, which should, as suggested above, commence early (as soon as a country is first evaluated as eligible); extend the period for the smooth transition period so as to avoid hard landing due to withdrawal of critical support; take into account each country's specific situation; and prioritise support measures for building institutions and productive capacities.



CUTS International, Geneva

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