Chapter IV

MULTILATERAL TRADING SYSTEM AND THE LEAST DEVELOPED COUNTRIES
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the Least Developed Countries

A. Historical Background of Least Developed Countries (LDCs)

In 1971, the poorest countries of the world are designated by the United Nations as the least developed countries (LDCs).\(^1\) Based on the criteria established at that time 25 countries fell into this category. However, over the period of last three decades, the number of countries falling into this category continued to grow, with only one country, Botswana, so far having been able to graduate to developing country status. At present there are 49 LDCs in the world.

In its latest triennial review of the list of Least Developed Countries in 2000, the Economic and Social Council of the United Nations (ECOSOC) used the following three criteria for determining the new list, as proposed by the Committee for development Policy: low income, human resource weakness and economic vulnerability.\(^2\) In the 2000 review of the list, a country qualified to be added to the list if it met the above three criteria and did not have a population greater than 75 million. Application of this rule resulted in the inclusion of Senegal.\(^3\)

According to UNCTAD Least Developed Countries Report for 2000 (UNCTAD LDC Report 2000), if the present trend of economic growth and/or recovery continues, only one country (Lesotho) will be able to graduate to developing country status by 2015.\(^4\) At least seventeen LDCs, all from Africa, are either facing negative growth rates or are stagnant, such that they

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\(^1\) UNCTAD website http://www.unctad.org/idec/
\(^2\) UNCTAD website http://www.unctad.org/idec/
\(^3\) There are 48 LDCs in the world for a long time. Inclusion of Senegal increased the number to 49.
\(^4\) The Least Developed Countries, 2000 Report., at XXX (3) UNCTAD/LDC/2000 E.00II.D.21 (December 10, 2000)
are not likely to be graduated to developing country status even after a hundred years.5

LDCs have, for decades, been striving to find the right development strategy to enable them to reduce the economic disparities between them and more advanced economies. The 49 LDCs, which collectively are home to 10.7 percent of the global population, have a 0.5 percent share in global GNP.6 Their collective share in global trade is rapidly falling and it now stands at 0.4 percent. While the decade of 1980s was dubbed the “lost decade” for developing countries in general, the 1990s became the decade of increasing marginalization, inequality, poverty and social exclusion for the LDCs.7 If the present trend continues, the decade of the 2000s may well become a decade of rhetoric and inaction. The experience of many LDCs during the 1990s shows that despite massive economic liberalization, the overall progress in increasing a real income, combating poverty, and achieving human development has remained disappointing.8 The efforts made at the international level to integrate these countries into the multilateral trading system so far have largely failed.

(i) The Post-war Period

Prior to the Uruguay Round (UR), the preoccupation of the LDCs had been mainly with preserving and improving the preferential trade liberalization they received from major trading partners through various programmes, paying little if any attention to the multilateral trade negotiations conducted under the auspices of the GATT, which were traditionally confined to the reduction to tariff and non-tariff barriers to trade. The perceived limited interest in the GATT trade liberalization process could partially be explained by the inability of the LDCs to supply foreign markets on a competitive basis, and

5 The Least Developed Countries, 2000 Report., at XXX (3) UNCTAD/LDC/2000 E.001I.D.21 (December 10, 2000)
7 John Cuddy, the State of Development in Least Developed countries, BRIDGES MONTHLY REVIEW, Year 5, No 4, 3 (May 2001)
8 Hiramani Ghimire, Least- Developed Countries in Search of Identity in the WTO, in Salvaging The WTO’S Future-Doha And Beyond 350 (Amit Dasgupta and Bibek Debroy eds.2001).
thus their limited capacity to take advantage of global trade liberalization on a 
most-favored-nation (MFN) basis.\footnote{Rubens Ricupero, Foreword in Future Multilateral Trade Negotiations: Handbook for Trade Negotiators from Least Developed Countries VII (1999).}

During the post-war period (or post-colonial period for some), it was the 
view of a number of prominent development economists that the quickest way 
for the developing countries to achieve industrial status was through the 
adoption of import substitution policies.\footnote{Edwin Kwame Kessie, Developing Countries and the World Trade Organization: What Has Changed, 22 World Competition 2,86 (1999)} This prescription led a number of 
the developing countries to adopt an import substitution industrialization 
strategy, little realizing that this would only breed vested interest groups, 

The 1960s witnessed the entry of number of LDCs in the GATT system. 
Myanmar (formerly Burma), was the only LDC to be a founding member 
(Contracting Party) of the GATT, while Haiti was the first non-founding LDC 
to join the club, in 1950. This was followed by the entry of Tanzania and Sierra 
Leone in 1961. A large number of African LDCs entered the GATT between 
1963 and 1965. Only two Asian LDCs entered the club, but much later than 
their African counterparts, while Bangladesh joined GATT in 1972, the 
Maldives did not join until 1983.\footnote{The list of GATT Members which had joined the GATT by 1994 and their date of accession can be found at http://www.wto.org/english/thewto_e/gattmen_e.htm} No other LDCs from the Asia-Pacific region 
are Members of the GATT/WTO.

(ii) The Uruguay Round

Viewed from the perspective of the developing countries in general and 
the LDCs in particular, the Uruguay Round was a disaster. This was mainly 
due to lack of preparedness on their part. However, towards the end of the 
Round, they managed to secure some special arrangements as well as the 
continuation of previous arrangements. This was possible because of their
market conditions, the weakness of their institutions, and their relative lack of capacity.\textsuperscript{13}

Acknowledgement of the difficulties which the developing countries, particularly the LDCs, are likely to encounter in fulfilling their obligations under the UR was expressed through the continuation of the special and differential (S&D) provisions of the GATT in various WTO agreements. These provide for:

i. a lower level of obligations;

ii. more flexible implementation schedules;

iii. best endeavour commitments by developed countries;

iv. more favourable treatment for the least-developed countries and

v. technical assistance and training.\textsuperscript{14}

Meanwhile, between 1988 and 1993, while the UR negotiations were in progress, the terms-of-trade of the LDCs fell on average by about twelve percent, although in 1994-95 there was an upturn that was sustained until 1997. However, there was a precipitous decline in the exports of major commodities by the LDCs during 1998 and 1999. Over the last four decades their share in world exports decreased more or less constantly from 3.06 percent in 1954 to 0.42 percent in 1998, even though their volume of global trade has increased in absolute terms.\textsuperscript{15}

(iii) First WTO Ministerial Conference

The problem of marginalization of certain developing countries, in particular the LDCs, figured prominently in the First Ministerial Conference of the WTO held in Singapore in December 1996. The participating Ministers in

\textsuperscript{13} Debapriya Bhattacharya and Mustafizur Rahman, The least Developed Countries in The WTO: Strengthening Participation Capacities, paper prepared for the Meeting of Senior Officials on Future WTO Trade Agedba Abd Developing Countries, organized by U.N.-ESCAP, Bangkok, 23-25 August, 3 (1999)

\textsuperscript{14} Debapriya Bhattacharya and Mustafizur Rahman, The least Developed Countries in The WTO: Strengthening Participation Capacities, paper prepared for the Meeting of Senior officials on Future WTO Trade Agedba and Developing Countries, organized by U.N.-ESCAP, Bangkok, 23-25 August, 3 (1999), at 3-4

\textsuperscript{15} UNCTAD and Commonwealth Secretariat, Duty and Quota Free Market Access for LDCs : An analysis of quad initiative 1(2001)
the Declaration of the Conference acknowledged that developing country member had undertaken significant new commitments, both substantive and procedural, and recognized the range and complexity of the effort that they were making to comply with these commitments. In order to assist them in these efforts, including those with respect to notification and legislative requirements, it was decided that the WTO would improve the availability of technical assistance to the developing countries.¹⁶

*Regard the LDCs, the Singapore Conference agreed to:*

(a) Develop a Plan of Action, including provisions for taking positive measures, for example duty-free access, on an autonomous basis, aimed at improving their overall capacity to respond to the opportunities offered by the trading system;

(b) Seek to give operational content to the Plan of Action, for example, by enhancing conditions for investment and providing predictable and favourable market access conditions for the products of LDCs, to foster the expansion and diversification of their exports to the markets of all developed countries; and in the case of relevant developing countries in the context of the Global System of Trade Preferences; and

(c) Organize a meeting with UNCTAD and the International Trade Centre as soon as possible in 1997, with the participation of aid agencies, multilateral financial institutions and the least-developed countries, to foster an integrated approach to assisting these countries in enhancing their trading opportunities.

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¹⁶ Debapriya Bhattachrya and Mustafizur Rahman, *The Least Developed Countries in the WTO: Strengthening Participation Capacities*, paper prepared for the meeting of senior officials on future WTO trade agebda and developing countries, organized by U.N.-ESCAP, Bangkok, 23-25 August, 3 (1999), at 3
(iv) The High Level Meeting

Following up on the mandate contained in the Singapore Ministerial Declaration, a High Level Meeting on the Integrated Initiatives for Least-Developed Countries' Trade and Development (HLM) was held at the WTO on October 27-28, 1997, with the main objective of devising a mechanism for arresting the marginalization the LDCs from the multilateral trading system. One of the major achievements of the HLM was that it endorsed an Integrated Framework (IF) for Trade-Related Technical Assistance.

(v) The Second Ministerial Conference

The Declaration of the Second Ministerial Conference of the WTO, which was held in Geneva on May 10, 1998, recommended follow-up on the decisions of the HLM on LDCs. However, the work programme of the Second Ministerial was more ceremonial than substantive in nature as it was scheduled to coincide with the fiftieth anniversary of the establishment of the GATT.17

B. Weakness of LDCs

The LDCs continue to suffer from serious social, economic, political and structural weaknesses which are responsible for their exclusion from the global economic mainstream. Some of these are due to their specific geographical location (such as land-lockedness), some are political (such as civil strife), some are economic (such as macroeconomic instability), some are social (such as poor health and education), while some others are structural (lack of required infrastructure).

(i) Lack of competitive ability

In the era of global competition, it is not sufficient for LDC enterprises to be locally competitive. They need to be globally competitive, for which they should possess some competitive advantage such as economics of scale, cutting-edge technology, marketing strengths, efficient production and distribution systems, and/or cheap labor. The LDCs do not generally have comparative advantage in any one of these areas except for the availability of cheap labor. However, because of the low productivity of such labor, resulting mainly from lack of such labour, resulting mainly from lack of education and skill and poor health, even this comparative advantage of the LDCs has not been fully exploited.

The precarious socio-economic situation and structural weaknesses inherent in the economic of the LDCs relegate these countries to a weak competitive ability of businesses in the LDCs is improved, they will not able to achieve any significant success in integrating themselves into the multilateral trading system.

(ii) Lack of supply side constraints

In the LDCs, lack of linkage between production facilities, service and infrastructure faculties limits their potential to specialize in crucial productive sectors and to reap the benefit of productivity gain. While poorly developed human resources have led to a paucity of managerial, entrepreneurial and technical skills, ability to conduct adaptive research is severely constrained by lack of incentive and entrepreneurial zeal. Similarly, poorly developed infrastructure (e.g., transport, power and storage facilities) and support services (e.g. telecommunications, financial services and other technical support service institutions) limit their ability to supply even otherwise competitively produced goods to the international market. In the face of poor infrastructural services and administrative inefficiencies resulting from cumbersome bureaucratic procedures, many LDCs are creating specially designed Export Processing

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Zones (EPZs) and providing support services to industries. These mechanisms are worth emulating by other LDCs.

Trade facilitation services such as access to business information (particularly on rules and procedures of export markets), use of information technology, development of new products, advice on standards, packaging, quality control, marketing and distribution channels, and functioning of trade promotion organization are virtually non-existent in the LDCs. They also lack the capacity and resources to modernize and reform customs and other government agencies participating in trade transactions and simplifying export and import procedures.19

Access to finance is a major problem facing exporters in the LDCs. This can, in part, be ascribed to the virtual absence of capital market in some LDCs and high interest rates on credit charged by financial institutions reflecting high risk.20 Labour productivity is another major problem. Besides lack of skills and poor health, due to generally high degree of politicization of labour, industrial enterprises in LDCs continue to lose to their competitors from more advanced countries.21

(iii) Lack of high exports concentration ratio

The LDCs have not been able to diversify their domestic production structures, not only with regard to manufactured goods, but even with respect to their primary commodities. This renders them especially vulnerable to international market volatility. Of the 4,162 products exported by LDCs to thirty major trading partners in 2000, 127 accounted for ninety percent of their total export trade. On an average, the top three commodities exported by each

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19 Debapriya Bhattachrya and Mustafizur Rahman, The least Developed Countries in The WTO: Strengthening Participation Capacities, paper prepared for the meeting of senior officials on future WTO Trade Agaba and developing countries, organized by U.N.-ESCAP, Bangkok, 23-25 August, 3 (1999), at 7
20 Flora Musoans, Wilfred Mbowe and Feye Sampson, The competition Regime in Tanzania, Competition Law Pigmies of Select Developing Countries (7-UP product), 2001
LDC usually account for over seventy percent of its total exports.\textsuperscript{22} The export concentration ratios (defined as the share of the principal; export product in the total export value) have remained high and largely unchanged since 1980 for all LDCs. Several countries greatly depend on particular primary commodity exports, especially in sub-Saharan Africa.\textsuperscript{23} What makes the situation even worse for many LDCs is that, while exports of a single product may constitute a large share of their export basket, they count for relatively little in terms of the international supply, so that they are unable to influence world process in a way that is beneficial to them.

(iv) Lack of implementation of WTO Agreement

For several reasons, many LDCs have not been able to fully implement several WTO Agreements. At the time of signing of the UR accord, it was decided that the LDCs (as well as, to a lesser extent, other developing countries) would be giver certain transitional periods for implementation of some of the agreements, such as TRIPS and TRIMS. However, arguing for the need to extend the transitional periods for the LDCs, and UNCTAD report states that such "time-bound transitional periods" given to the LDCs have serious shortcomings.

LDCs are also required to bring their trade policy regimes in line with the WTO rules. This requires new laws, new laws, new institutions, and skilled human resources. Even the administrative machinery has to undergo a significant change. In the LDCs, where the salary structure for civil servants is extremely low, these changes are difficult to implement.\textsuperscript{24} This is particularly true in the case of Trade Related Aspects of Intellectual Property Rights ("TRIPS"). Many LDCs have very limited experience in many areas of the

\textsuperscript{22} WTO Sub-committee on Least-Developed Countries, Market Access Conditions for Least Developed Countries (WT/LDC/SWG/F/14), (2000).
\textsuperscript{23} C.P Chandradekhar and Jayati Ghose, WTO and Poor Countries Cuts-Citee Briefing Paper, 3. (2000).
\textsuperscript{24} Hiramani Ghimire, Integrating LDCs into the Multilateral Trading System: Need for a Bond Between Promise and Performance, Sawte Briefing Paper 5 (2000)
TRIPS Agreement. This renders the implementation of the Agreement a very costly exercise.

(v) Lack of capacity

Strengthening the capacities of developing countries in the area of international trade is of crucial importance, both for the countries themselves and for their partners, in view of the number of international trade negotiations, both ongoing and forthcoming. The developing countries in general and LDCs in particular find it increasingly difficult to cope with the commitments they have made under the WTO. An analysis of the lack of capacity reveals that three issues figure prominently. The first issue relates to the capacity to implement the WTO Agreements. A second related to the capacity to understand the texts of the Agreements and their implications for the country. A third relates to the capacity to negotiate effectively in the increasingly loaded agenda items of the WTO.

Most WTO Agreements reflect the tough negotiations that went on during the drafting process. Most of these negotiations took place between the developed countries, although some developing countries played a role. The final agreements are highly legalistic. It takes a well-trained trade lawyer to understand these agreements and interpret them. However, most LDCs do not have such lawyers. The officials at the commerce ministries, who have in most cases received no other exposure than attending a training course on trade policy offered by the WTO Secretariat, are not likely to be able to understand some of the provisions relating to such complicated Agreements of the WTO as the Agreement on Agriculture, SPS, TBT, TRIPS or Anti-dumping Agreement.

(vi) Lack of “knowledge-based Economy”

One of the major factors of production in the New Economy is knowledge. It is the only production factor that multiplies and expand when used. The level of knowledge in a given society is reflected in its technological capacity. In today's society, information technology (IT) plays an important role in achieving one's competitive advantages. In the era of globalization, the Information and Communication technologies (ICTs) revolution offers genuine potential, but also presents the risk that a significant portion of the world will lose out. Applied to commercial needs, IT can enhance foreign export marketing, improve the access of exporters and importers to foreign market information, establish and sustain linkages between buyers and supplies, and facilitate access to training and technical assistance. ICTs can also strengthen the trade-related development co-operation by increasing the flexibility and reach, enhancing the content and reducing the cost of many kind of technical assistance.

Since LDCs are largely excluded from the digital global economy, a sharp digital divide has been created in an already decided world. As indicated in the 2001 ILO Employment Report:

Despite the phenomenal growth of ICT in the industrialized world and its increasing penetration into the developing countries, "vast swathes" of the globe remain "technologically disconnected" from the benefits of the electronic marvels that are revolutionizing life, work and communication in the digital era.

The report further highlights the very real constraints facing developing countries in their capacity to join the communications revolution. Those countries and regions that fail to make the "technological leap" not only risk missing out on the large and growing trade in ICT products, but will be unable to profit from the economic efficiency and productivity gains that derive from

26 Hiramani Ghimire, Least-Developed Countries in Search of Identity in the WTO, in Salvaging the WTO's Future-Doha and Beyoun 350 (Amit Dasgupta and Bibek Debroy eds. 2001).
27 Cf. UNGLS (United Nation Non-governmental Liaison Service), Go between 30, at 84 (January-February, 2001)
28 OECD, the DAC Guidelines: Strengthening Trade Capacity for Development 50 (2001)
29 Cf. UNGLS (United Nation Non-governmental Liaison Service), Go between 30, at 84 (January-February, 2001), at 30
these industries, the Report states. Such a development has created, by implication, additional barriers to the LDCs for their integration into the global economy. Access to these technologies will continue to be extremely restricted mainly because a vast majority of LDC institutions and individuals cannot afford to buy them. The following figures show how backward LDCs are in terms of harnessing the potential of ICT:

a) In LDCs telephone density is 0.59 percent compared to the developing countries.

b) There is less than one Internet user per thousand people, against one user per 36 people in the developing countries.

c) By April 2002, estimated number of internet user in the LDCs (population 6 billion) was 360 million, or six percent. In the corresponding period, the number of Internet user in the LDCs (population 680 million) was estimated at 0.58 million, or less than 0.1 percent, and representing 0.13 percent of the global internet use.  

(vii) Other weakness

This analysis of the weaknesses the LDCs would not be complete without addressing the problems endemic to LDCs, about which the international community can do virtually nothing. These problems are related mostly to political and governance issues in the LDCs. Some LDCs economies have been marred by continued war and civil strife for decades. It would be absurd to blame globalization in general and trade liberalization in particular for the marginalization of countries like Sierra Leone, Haiti, the Democratic Republic of Congo, Somalia and Afghanistan.

Similarly, the lack of democratic culture and pluralism is the major cause of the failure to achieve sustained economic growth in many LDCs a fact which the anti-globalization movement has chosen to ignore so far. Economic

http://www.itu.int/osg/spu/ni/ipdc/workshop/presentation/Sarrocco.ppt,
openness and democratic pluralism can and should complement each other. However, this is the major missing link in the case of LDCs.

Likewise, openness to trade and investment and leaving everything at the mercy of market mechanism do not guarantee economic growth. Institutions guaranteeing, inter alia, adequate protection of property rights, regulation to prevent fraud and deceptions, macroeconomic stabilization, social insurance and conflict management are necessary to fully reap the benefit of openness. As Rodrik argues, “All well-functioning market economics are ‘embedded’ in a set of non-market institutions without which markets cannot perform adequately.” However such institution either non existence functional in almost all the LDCs.

Bribery and corruption in high offices, which is a recurrent phenomenon in most LDCs, has contributed significantly towards holding back the development prospects of these economies. According to the Corruption Perception Index produced by Transparency International, there LDCs figure among the top ten countries with massive corruption. It is no surprise that in the year 2001, Bangladesh-a longtime leader of the LDC camp in the WTO-figured on the top of this list, and Tanzania- the current leader of the LDC camp in the WTO- is the tenth on the list. This problem is exacerbated but fact that LDCs lack credible institutions to tackle corruption issues.

C Efforts made by International Community and its defect

The credibility of multilateral trading system lies in its ability to ensure the full particular and of the developing countries as a whole both in the rule-making process and in deriving an equitable share of the benefits from global trade liberalization. Integration into the trading system and preventing further marginalization of the LDCs- and indeed their continued faith in the system-

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32 http://www.transparency.org
mean nothing less. Integration in the global economy is indeed of paramount importance to LDCs: through international trade and foreign direct investment they can increase their access to technology and capital, learn new ways of doing business, and enhance their capacity to compete on a global basis.34

(i) Market Access

Improved market access is key to any effective policy to integrate the least-developed countries into the world trading system and to ensure their participation in international trade and investment flows.35 However, the experience of recent years has shown that one must get the basics right, in terms of sound domestic macro-economic policies, a good infrastructure, well-developed human and institutional capacities, and a vibrant entrepreneurial sector. Without this, no amount of market access or well-meaning technical assistance programmes can make a significant long-term difference to the performance of structurally weak developing countries.36

Market access opportunities of the LDCs are not only impeded by tariff barrier, but also by non-tariff barriers. Among the tariff barriers the most injurious one is tariff escalation, which discourages LDCs from advancing along the processing chain, where much of the added value of a product is realized. FAO studies have shown that tariff escalation even in the post-UR era has averaged seventeen percent in Europe, the United States and Japan, and in many products of interest LDCs it has been much higher (e.g., 85 percent on second-stage fruit products entering the EU, 82 percent on first-stage sugar

34 Jan Pronk, Chairman’s Opening Statement at the High Level Meeting, High Level Meeting on Integrated Initiatives for Least Developed Countries Trade Development, note on the meeting, WT/LDC/HL/M/1, AT 25 (26 November, 1997)
35 WTO High Level Meeting on Integrated Initiatives for Least Developing Trade Development, note on the meeting at 2, WT/LDC/HL/M/1 (November 26, 1997).
36 Rubens Ricupero, Address to the High Level Meeting, High Level Meeting on Integrated Initiatives for Least developed Countries Trade Development, note on the meeting, WT/LDC/HL/M/1,31 (November 26, 1997)
products entering Japan and 28 percent on second-stage sugar products entering the United States). Tariff peaks are also a major problem for LDCs.

Total LDC exports in 1999 were US$ 22.7 billion, of which US$ 17 billion went to Quad countries were affected by tariff peaks-US$5.5 billion of LDC exports to Canada, more than US$ 3 billion to the United states; about US$ 800 million to the EU.

Quoting the US Department of Commerce, Hoekman states: “In 1999, in the US alone, imports originating in the least developed countries (LDCs) generated tariff revenue of $487 million, equal to 11.6 percent of the value of their exports to the US, and 15.7 of dutiable imports.” These figures illustrate the benefits that LDCs could derive from duty-free access to the markets of the industrialized countries.

The prevalence of tariff peaks and tariff escalation on products emanation from LDCs is one of the great scandals of our time. The idea of providing zero tariff access for LDCs was conceived at UNCTAD VIII, held in Cartagena in 1992, but nothing concrete has been done so far in this direction in order to positively influence the trade performance of the LDCs.

As mention earlier, zero tariff market entry is a necessary, but not a sufficient condition for the better integration of LDCs into multilateral trading system, but this idea has been used and abused over the years more for political purposes than for economic reasons. The idea was reborn in the Singapore ministerial Meeting of the WTO, When the director-general of the WTO made a plea to the Members of the WTO, to consider the proposal seriously, but the response to his proposal was lukewarm.

37 John Cuddy, the State of Development in Least Developed countries, Bridges Monthly Review, Year 5, No 4, 3 (May 2001) at 4
38 ICTSD, Canadian LDC Initiative to Free up Entry of Goods from World’s Poorest in Bridges Weekly Trade News Digest, Vol. 6, No. 29 (August 6,2002)
39 Olarreage, Marcelo and Ng., Tariff Peaks and Peaks and Preferences in Development, Trade, and The WTO 109 (Bernard Hoekman, Aaditya Mattoo, and Philip English eds. 2002)
40 Bernard Hoekman; Strengthening the Global Trade Architecture for Development 5 (2002)
During the preparation for the Third Ministerial Conference in Seattle, the European Union formally launched a proposal directed at “entering into a commitment to ensure duty-free market access not later than at the end of the new round of negotiations for essentially all products exported by the LDCs”. Following the failure of the Seattle ministerial Conference, the proposal for granting duty-free and/or quota-free access for “essentially all” products was discussed in the context of various international forums and included in the UNCTAD X Bangkok Plan of Action.41

Finally, just two months before the U.S. LDC-III Conference in May 2001, the EU made its “Everything but Arms” (“EBA”) proposal, which proposed duty-free treatment for all imports from LDCs except arms, and, for the time being, rice, sugar, bananas. The LDCs were jubilant, thinking of better market access opportunities, but little realizing that rules of origin requirements and non-tariff barriers could still hamper their trading prospects.42

However, looking at the utilization rates of the existing preferences granted by various developed countries, one finds that the LDCs still face a host of tariff barriers on exports that are supposed to be covered by the “preferential” arrangements.

Inama further maintains that the four major factors that affect the utilization of unilateral trade preferences are:

(a) Lack of security of access, due to the unilateral and optional nature of preferences, which can be eliminated at the discretion of the providers,

(b) Insufficient product coverage, due to exclusion of certain “sensitive” sectors from the preference scheme by the providers,

41 Stefano Inama, Market access for LDCs: Issues to be addresses, 36(1) Journal of World Trade 85 (2002)
42 Stefano Inama, Market access for LDCs: Issues to be addresses, 36(1) Journal of World Trade 85 (2002) at 92-94.
(c) Rules of origin that is excessively stringent in light of the industrial capacity of LDCs,

(d) Lack of understanding or awareness of the preferences available and the conditions attached thereto, leading to the application of MFN rates rather than preferential ones.\(^{43}\)

(ii) Special and Deferential Treatment

Analysts are divided on whether or not special and differential treatment is the right policy to facilitate the integration of the developing countries and LDCs into the multilateral trading system. According to Srinivasan, the continued insistence of developing countries on special ad differential treatment and their reluctance to take part in the GATT negotiations as equal partners was the main reason for their marginalization from the global economy.\(^{44}\) However, developing countries, as a group, insisted on special and differential treatment, asserting that applying the same rules to unequal trading countries could be disastrous. It is certainly true that countries that have achieved long-term economic growth have usually combined the opportunities offered by the world markets with a growth strategy that mobilizes the capabilities of domestic institution and investors.\(^{45}\) Therefore, well-designed, effective, enforceable and time-bound special and differential treatment is necessary for the successful integration of the LDCs into the multilateral trading system, some developing economies which are now well nitrated into the global economy, were major users of the preferential market access opportunities in the past and some of them (such as Thailand, South Korea and Brazil) have been reluctant to ‘graduate’ to a higher status.

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\(^{43}\) Stefano Inama, Market access for LDCs: Issues to be addresses, 36(1) Journal of World Trade 85 (2002) at 92-94.

\(^{44}\) T.N. Srinivasan, Developing Countries in the World Trading System: From GATT, 1947 to the Third Ministerial Meeting of WTO, a revised version of the Keynote Speech delivered at the high level symposium on the Trade and Development, World Trade Organization, 10 (1999)

The preamble to the WTO agreement recognizes the special needs of developing countries for positive efforts designed to ensure that they secure a share in the growth in international trade commensurate with their economic development needs, the preambles to the many of the Uruguay Round agreements contain similar language.

The Enabling Clause of 1979 provided the basis for "special treatment of the least developed countries (LDCs) in the context of any general or specific measures in favor of developed countries". The Uruguay Round Agreement contains seventeen provisions that apply specifically to LDC Members, in addition to those that are applicable to all developing Members. These include provisions for more extended transitional periods than those applicable to the developing countries, in the TRIPS, TRIMS, and Sanitary and Phyto-sanitary Measures agreements, the Agreement on Agriculture exempts LDCs from all reduction commitments, while the Agreement on Subsidies

And Countervailing Measures Places no restriction on the ability of LDCs to grant export subsidies (though it does require them phase out import substitution subsidies, but over a longer period of time than that for other developing countries). The GATS Annex on Telecommunications contains a provision seeking to encourage private suppliers transfer technology and training to LDCs with a view to developing the telecommunication sector.

In spite of the "special and differential" provisions contained in various WTO Agreements, the LDCs are being increasingly marginalized. The "measures" in favor of LDCs have not been of much help to them. There has been a gap between prescription and practice. There is also a strong case for extending transition periods in areas where LDCs face real difficulties in meeting the deadline for reforms called for by the Uruguay Round Agreements.

46 Art.2 (d), Enabling Clause.
47 WTO, Background document, high level symposium on trade and development, Geneva, at 39-48 (March 17-18, 1999)
In fact, a number of measures supposed to have been adopted for the LDCs have remained unimplemented.

(iii) Integrated Framework

The Integrated Framework (IF) was "endorsed" at the HLM in October 1997 essentially as the institution mechanism for the delivery of trade-related technical assistance to LDCs by six core participating Agencies – the International Trade Center (ITC) the IMF, UNCTAD, the United Nation Development Programme (UNDP), the World Bank and the WTO. The IF has been in operation since October 1997.49

As defined in the Integrated Framework document, the IF aims to:

(a) Ensure that trade-related technical assistance activities are demand-driven by the least-developed countries and meet their individual needs effectively,

(b) Enhance ownership by each least-developed country over the trade-related technical assistance activities being provided,

(c) Enable each agency involved to increase its efficiency and effectiveness in the delivery of trade-related technical assistance activities,

(d) Keep under review trade-related technical assistance activities in individual least-developed countries, evaluate periodically their success in meeting the country's needs, review how those needs change, and adapt the programme for activities accordingly, and

(e) Provide comprehensive information about the specific needs of each least-developed country and about the trade-related technical assistance activities of the six Agencies involved to other relevant

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49 WTO, Report by the Director General, WT/LDC/SWG/IF/17/REV.1, (April 17, 2001)
multilateral and regional intergovernmental organizations, to bilateral development partners and to the private sector.

Despite the noble intentions of the IF it has not so far achieved its intended goals.

The review of the Integrated Framework, pursuant to paragraph 6 of the Framework document that emerged from the 1997 High Level Meeting, was initiated in November 1999 by six core Agencies, in consultation with LDCs and their development partners. Prior to consideration by the agencies, an independent review the three-year operation of the IF in the light of experience that urgently required the agencies to respond to a number of issues and to improve the IF as a vehicle for delivering trade-related technical assistance.\textsuperscript{50} The report of the independent review of the IF provided the following recommendations for the improvement of the IF, both in terms of its design and its delivery mechanism:

1. Clarify Policy Objective: Clarify the objectives of the IF by restricting it to technical assistance for the trade-related development, to support, inter alia, policy reforms, manpower and human resources development, customs reforms, institutional change and legal environment reforms.

2. Priorities and link to Overall Development Assistance Architecture: In the future most development assistance strategy issues are likely to be developed though participatory processes, in the context of such exercises as the Poverty Reduction Strategy Papers (PRSRs), the Comprehensive Development framework (CDF) and the United Nations Development Strategy Frameworks (UNDAF). In all such endeavours, country strategy will define the role of trade development and related technical assistance. The IF will then be

\textsuperscript{50} Problems and challenges facing the IF are well documents. Example, WT/MIN (99)/7, WT/COMTD/LDC/W/18 and WT/LDC/SWG/IF/1.
linked to the priorities established through the formulation of country development strategies.

3. Give Ownership to the LDCs: Make the IF process more demand-driven and country-owned by requiring LDCs to priorities their specific needs from the list of trade-related technical assistance activities listed in the Needs Assessments.

4. Strengthen Governance and Administration: The review considered two options: (i) strengthening the Administrative Unit to the point that it can manage the IF while continuing to be located at the ITC in Geneva, and (ii) moving the responsibility for managing the IF to WTO (where the Administrative Unit would be integrated).

5. Coordination Issues: once governance is strengthened along the lines of the foregoing recommendation, coordination can be better assured, as the WTO will be the designated clearinghouse for inter-agency coordination issues.

6. Funding the IF: First, the Inter-agency Working Group (IAWG) agencies and donors will need to ensure that they budget their administrative costs related to the IF while providing whatever other incentives are needed for a better recognition of the responsibilities which they undertook when the IF was created. Second, when it comes to the financing of Trade-related technical assistance projects, one approach would be for WTO, as the managing agency for the IF, to set up and manage a Trust Fund to Finance such technical assistance projects. All donors, including multilateral agencies, would contribute (on a Voluntary basis) to ht Trust Fund as an expression of their commitment to the IF.

7. Monitor Trade-Related Technical Assistance Performance: As trade development activities are brought into the mainstream by including
them in the overall assistance process, they will be monitored and evaluated along with the progress of other programmes in the countries. However, these reviews should go beyond the review of consistency with trade rules to assess how well trade regimes and trade-related technical assistance are contributing to the integration of LDCs into the global trading environment.

8. Enlarging the IF to Other Countries and Agencies: This review recommends that the question of enlarging the IF be revisited in the future, after the new recommended arrangements are in place for about three years. At that time a review could be undertaken to see what progress had been made since 1997 to advance the objectives established for the IF.¹⁵¹

Based on the review report, it was decided that a pilot scheme would be initiated. The IF Steering Committee also agreed to proceed with the implementation of the IF Pilot Scheme based on the Pilot Phase Work Programme prepared by the World Bank, on behalf of the IAWG. The Work Programme sets out the stages for implementing the trade integration strategy chapters, and lists the cluster of possible countries in the Pilot Scheme on the basis of which the mainstreaming of trade integration analysis into PRSPs would proceed.¹⁵² A typical pilot project begins with diagnostic trade studies that assess the external competitiveness of the LDC. The studies present recommendations for enhancing trade capacity and undertaking pro-poor reforms, and it is anticipated that these will inform the PRSP process.

To date, integration studies for three pilot LDCs (Cambodia, Madagascar and Mauritania) have been submitted to respective government authorities. Diagnostic studies for Lesotho, Malawi and Senegal are now being prepared and it is expected that a total of eight such studies will be

¹⁵¹ WTO, Report by the Director General, WT/LDC/SWG/IF/17/REV.1, (April 17, 2001) at 7.
¹⁵² WTO, Report by the Director General, WT/LDC/SWG/IF/17/REV.1, (April 17, 2001) at 9
implemented during the course of 2002.\textsuperscript{53} Based on the successful implementation of the Pilot Scheme, it will be replicated in other LDCs. However, it must be pointed out that without the commitment of the donors to commit funds for building capacity of the LDCs to enhance their trade performance, the efforts are likely to be futile.

**D. International Conferences on LDCs**

Of late there has been a growing recognition of the need to prevent the marginalization of LDCs from the multilateral trading system, due to the untiring efforts made by United Nations bodies such as UNCTAD and UNDP, coupled with the increase in the size and influence of pro-LDC constituencies in the developed countries – mostly civil society organizations, development agencies and media. This realization is reflected in the commitment made by the global leaders at a number of international conferences. However, one needs to recognize the fact that commitments made during these conference do not serve any useful purpose if they are not implemented in practice.

In the recent past, five major conferences have made some reference to the marginalization of LDCs, and drawn the attention to the international communities of the need to reverse this trend. They are: the United Nations Millennium summit held in New York in September 2000; the Third United Nations Conference on LDC (UNLDC III) held in Brussels in May 2001; the Fourth Ministerial Conference of the WTO held in Doha in November 2001, the Financing for Development Conference held in Monterrey in March 2002; and the world summit on Sustainable development held in August-September 2002 in Johannesburg.


The Third U.N. Conference on LDCs held in Brussels is May 2001 provided one more opportunity to the international community to identify ways

\textsuperscript{53} http://www.worldbank.org/wbiep/trade/integrated_framework.html.
of integrating the LDCs into the world economy. Its main focus was the Paris Declaration and the Programme of action for the Least Developed Countries for the 1990s. In this declaration, the international community had committed itself to urgent and effective action, based on the principle of shared responsibility and strengthened partnership, to arrest and reverse the deterioration in the socio-economic situation of the LDCs and to revitalize their growth and development.

The Conference focused on making objective assessments with regard to commitment made in the areas of official Development Assistance (ODA), debt relief, investment promotion, and international trade, the conference agreed on seven areas of commitment, in which both the international community and national governments would work together: a people-central policy framework, food governance, capacity building, productive resources, trade and development, environmental protection, and mobilization of financial resources. 54

The Conference also underlined the need for improving preferential market access for LDCs, full implementation of special and differential treatment measures contemplated by the WTO system, simplified accession procedures, and due representation of LDCs in international standards organizations.

Despite the use of 'soft' language, the Conference emphasizes effective implementation of the Integrated Framework and encourages new and additional contributions to the Trust Fund created under the Framework. Importantly, the Conference requested developed countries and multilateral agencies to provide assistance to LDCs in their efforts to develop infrastructure for tradable services in which they have comparative advantage.

(ii) The Fourth Ministerial Conference of the WTO

Despite their meagre achievements at the Brussels Conference, the LDCs were of the opinion that whatever little had been achieved should be reviewed in the Doha Ministerial Conference (November 2001) in order to ensure that "commitments" could be made binding. In fact, one of the purposes of the Zanzibar Meeting of the LDC Trade Ministers (July 2001) was to achieve the same objective. This Meeting did conclude with a number of concrete proposals, not only on the Brussels issues, but also on other fundamental issues, including, but to limited to, the development agenda. The Meeting called upon the Doha Ministerial Conference, among other elements, to agree upon:

(a) A binding commitment on duty-and quota-free market access for all the products from LDCs on a secure long-term and predictable basis, with realistic and flexible rules of Origin to match the industrial capacity of LDCs.

(b) A binding and full implementation of the provisions of special and Differential Treatment, including the adoption of new special and differential Measures to take into account problems encountered by LDCs in implementation.

(c) A future work programme manageable in scope and size and agreed by all WTO Members by consensus and future negotiations based on an agenda that would accommodate LDC interests.

(d) Meaningful support from development partners to provide assistance to upgrade the trade-related infrastructure of LDCs, cancel debts and strengthen UNCTAD's technical assistance and capacity-building programmes on multilateral trade negotiation issues.

The Doha Ministerial Declaration recognized the particular needs, interests and concern of the LDCs in 21 different paragraphs. These references fall into two broad categories: first, broad, systemic issues; second, part of the negotiating
mandate of particular negotiations, industrial tariff negotiations, investment, competition policy, trade facilitation, environment, debt and finance, technical cooperation and capacity building, and special and differential treatment.

To some extent, the Doha Conference can be considered as an attempt to bridge the gap between the developed and the developing as well as the least-developed countries. Nonetheless, on the whole, the Doha Declaration can be considered as a positive step towards realizing the concerns of the LDCs.

Reversing the appalling trend of marginalization of the LDCs within the global trading system, despite their relative openness to international trade, will not be an easy task. Some of the genuine efforts by various multilateral, bilateral and intergovernmental agencies to achieve such a reversal have not produced desired results. Clearly, there is a need to arrest this adverse trend by moving beyond rhetoric. This is not only necessary for helping LDCs overcome the vicious circle they are faced with, but also for the very survival of the multilateral trading system. However, the LDCs are equally to be blamed for the continuation of the status quo.

At the same time the international community must show solidarity with the poorest of the world, guaranteeing open markets for all products exports by the LDCs. This would be in the enlightened self-interest of the developed countries as it would be creating markets for increased imports for their countries in the long run. If the marginalization of LDCs continues unabated, it would not only threaten to derail the process of trade liberalization achieved through several rounds of acrimonious multilateral trade negotiations, but also imperil the prospect of global peace and security.

As time goes by and the international community becomes increasingly aware of the need to better integrate LDCs into the multilateral trading system, things seem to be moving in the right direction. The LDCs have been have gaining incremental support or commitments from their development partners. There is a growing realization that industrial countries must open their markets
for the products of the LDCs – not only in letter but also in spirit – to help the LDCs come out of the present trap they have fallen into.

Starting from the Marrakesh Ministerial Conference, and traversing through Singapore, Geneva and Brussels, the Doha Ministerial conference too did recognize the special problems facing the LDCs. However Doha Declaration has fallen far short of the expectation of the LDCs. Considering the attitude of the developed countries, and taking their past record of fulfillment as a guide, even the few commitments made during the Doha Conference should also be closely monitored by the LDCs to ensure that they are translated into reality. As a priority the LDCs should focus on operationalizing Paragraph 42 of Doha Declaration.

Finally, it is necessary for the LDCs to understand that they need to keep their own house in order, so as to reap the benefits of improved market openings. If they continue to blame the international community for their failure to correct the problems they have created for themselves, they will not be taken seriously.