

## **LDC PACKAGE: STATE OF PLAY AND PROPOSED LANGUAGE FOR WTO'S MC8**

### **SYNOPSIS**

The LDC Package was proposed by the WTO Director General, in his capacity as Trade Negotiations Committee (TNC) Chair in May 2011 for early harvesting at the Eighth Ministerial Conference (MC8) in December 2011. Since then, these negotiations have run into problems due to the resistance of the United States. Nevertheless, the LDC Package enjoys broad support from other WTO members and the LDC Group in the WTO is continuing to push for results of the package at MC8.

This paper provides i) a brief of the issues within the LDC package: duty-free quota-free market access (DFQF); rules of origin in relation to DFQF; the services waiver; and cotton ii) why the LDC Package should be early harvested and iii) proposed language for insertion into the outcome document of MC8.

November 2011  
Geneva, Switzerland

---

This Analytical Note is produced by the Trade for Development Programme (TDP) of the South Centre to contribute to empower the countries of the South with knowledge and tools that would allow them to engage as equals with the North on trade relations and negotiations.

Readers are encouraged to quote or reproduce the contents of this Analytical Note for their own use, but are requested to grant due acknowledgement to the South Centre and to send a copy of the publication in which such quote or reproduction appears to the South Centre.

Electronic copies of this and other South Centre publications may be downloaded without charge from: <http://www.southcentre.org>.

**TABLE OF CONTENTS**

I.	INTRODUCTION - WHAT IS THE LDC PACKAGE?.....	3
II.	WHY LDC PACKAGE ISSUES SHOULD BE EARLY HARVESTED .....	3
III.	THE LDC PACKAGE ISSUES .....	4
IV.	WAY FORWARD .....	10
V.	POSSIBLE LANGUAGE ON THE LDC PACKAGE.....	122
VI.	ANNEX I -HONG KONG DFQF DECISION .....	16
VII.	ANNEX II - MAJOR MULTILATERAL NON-RECIPROCAL LDC PREFERENCE SCHEMES UNDERTAKEN BY MEMBERS .....	17
VIII.	ANNEX III - COVERAGE OF US TARIFF PREFERENCE SCHEMES FOR EACH OF THE 48 LDCs.....	22
IX.	ANNEX IV - DRAFT LDC SERVICES WAIVER TEXT .....	23

## **I. INTRODUCTION - WHAT IS THE LDC PACKAGE?**

1. The LDC Package was first sought to be delivered to LDCs by December 2011 during the 8<sup>th</sup> Session of the WTO's Ministerial Conference when it was established in May 2011 that a completion of the Doha Round by the end of 2011 would not be possible.
2. The Director General then made a plea for harvesting some LDC issues on the basis that 'the most feasible and desirably issues for agreement by December are those with a strong development content' (31 May 2011, Informal TNC meeting).<sup>1</sup>
3. The LDC Package, the Chair of the Trade Negotiations Committee (TNC) Pascal Lamy noted at this 31 May 2011 meeting, would include:
  - duty-free, quota-free, including
  - rules of origin
  - the LDC services waiver and
  - a step forward on cotton.
4. Importantly, he said that 'These LDC specific issues should be put on a Fast Track'. (Statement by Pascal Lamy, 31 May 2011, Informal TNC meeting).
5. The large majority of WTO members have supported the LDC Package. Some developed countries, however, tried to add on certain 'plus' issues to the package - e.g. fisheries subsidies; 'standstill' on trade barriers. This eventually led to the collapse of the 'LDC plus' package.
6. Nevertheless, LDCs are still asking for the conclusion of their package and they continue to have the broad support of the majority of the Membership.

## **II. WHY LDC PACKAGE ISSUES SHOULD BE EARLY HARVESTED**

7. There are many reasons why the LDC Package should be early harvested:
  - i. There is a moral imperative that the WTO - if it wants to show that it is an institution that delivers - must deliver concrete results to its most vulnerable members.
  - ii. LDCs share of exports in goods was about only 1 per cent in 2010. Export of oil and gas constitutes over 50 per cent of LDC exports.<sup>2</sup> Preferences to LDCs will have little impact on trade flows.

<sup>1</sup> [http://www.wto.org/english/news\\_e/news11\\_e/tnc\\_infstat\\_31may11\\_e.htm](http://www.wto.org/english/news_e/news11_e/tnc_infstat_31may11_e.htm)

<sup>2</sup> ITC Trade Map figures.

- iii. The duty-free and quota-free (DFQF) proposal of LDCs has been on the table since 1996! This was reflected in the Singapore Ministerial Declaration where Ministers committed to taking action on DFQF:

*'We remain concerned by the problems of the least-developed countries and have agreed to: a Plan of Action, including provision 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' (para 14, Singapore Ministerial Declaration).*

- iv. DFQF and the Services Waiver are elements which can be found in the Special and Differential Treatment negotiation proposals, mandated for early harvest under para 44 of the Doha Declaration (by July 2002). DFQF is based on proposal no. 33 in the General Council Chair's list of 88 S&D items, and the LDC Services Waiver is also reflected in S&D proposal no. 55 (*General Council Chair's letter on S&D to heads of Delegations of 5 May 2003*).
- v. The Sectoral Initiative on Cotton (*language from July Framework, para 1b*) was provided a mandate at the Hong Kong Ministerial to be address ambitiously, expeditiously and specifically (*Hong Kong Declaration, para 11*).

### III. THE LDC PACKAGE ISSUES

#### A. Duty Free Quota Free market access for exports from LDCs

##### Snapshots of the DFQF's history until the Hong Kong Ministerial Declaration

8. The notion of Duty Free Quota Free market access for LDCs has a long history. Former WTO Director-General Renato Ruggiero introduced the idea in July 1996 at the Group of Eight Summit in Lyon, France. In December of that year Ministers from Member Governments agreed at the first WTO Ministerial Conference in Singapore to adopt a Comprehensive and Integrated Plan of Action for LDCs.

9. One result of that initiative was a high-level meeting for LDCs in Geneva in October 1997. At that meeting, Canada, Egypt, the European Union, Mauritius, Switzerland, Turkey and the United States provided formal notification of their intention to improve access to their markets for the LDC imports. The meeting also led to the creation of the Integrated Framework for Trade-Related Technical Assistance (IF) for the LDCs.<sup>3</sup>

10. **UN Millennium Declaration.** In the United Nations Millennium Declaration of 2000, the international community declared that "We also undertake to address the special needs of the least developed countries. In this context, we welcome the Third United Nations Conference on the Least Developed Countries to be held in May 2001 and will endeavor to ensure its success. We call on the industrialized countries: To adopt,

<sup>3</sup> [http://www.wto.org/english/thewto\\_e/minist\\_e/min99\\_e/english/about\\_e/06ldcs\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/min99_e/english/about_e/06ldcs_e.htm)

preferably by the time of that Conference, a policy of duty- and quota-free access for essentially all exports from the least developed countries”<sup>4</sup>

#### Hong Kong Ministerial Declaration.

11. In 2005, Members decided that developed countries and developing countries declaring themselves in a position to do so shall provide duty-free and quota-free (DFQF) market access for at least 97 per cent of products originating from LDCs, defined at the tariff line level, by 2008 or no later than the start of the implementation period.

12. Members shall take steps to progressively achieve 100% DFQF, taking into account the impact on other developing countries at similar levels of development, and, as appropriate, by incrementally building on the initial list of covered products.

13. Members shall also ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access.

14. See Annex I for complete text of the DFQF decision taken at the Hong Kong Ministerial Conference 2005.<sup>5</sup>

15. Given the present stalemate in the Doha negotiations, this decision in Hong Kong is limited because it is dependent on the conclusion of the Doha negotiations. This is due to the phrase “no later than the start of the implementation period”. Only if the Doha Round concludes would there be a “start of the implementation period.” There is therefore a need now to take a decision to implement DFQF independent of the conclusion of the Doha negotiations.

#### Current state of play

##### *All developed countries except United States are implementing a DFQF scheme for LDCs*

16. As of 2011, all developed countries have implemented DFQF schemes. In addition, some developing countries have announced or notified schemes, among others Brazil, China and India, Turkey and Korea. (Former) transition economies in Europe and Central Asia also maintain schemes (see Annex II for a list).

17. All developed countries offer at least 97 per cent DFQF market access. EU, Norway, Switzerland, Australia and New Zealand offer full or practically full product coverage. Only one developed country is lagging behind - the United States does not have a DFQF scheme for LDCs.

18. *At present, around half of the LDCs face MFN tariffs in the US market.*

<sup>4</sup> <http://www.un.org/millennium/declaration/ares552e.pdf>

<sup>5</sup> [http://www.wto.org/english/thewto\\_e/minist\\_e/min05\\_e/final\\_annex\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/min05_e/final_annex_e.htm)

19. The US GSP has lapsed since 31 December 2011. As a result, exports from around half of the LDCs (22 out of 48) face MFN tariffs. Under MFN, only 35.8 per cent of tariff lines are duty free.

20. Through AGOA, the United States provides duty-free quota-free on 1,683 tariff lines for most countries in Sub-Saharan Africa. AGOA countries that are eligible for apparel benefits, have duty free market on 1,600 more tariff lines (HS Chapter 50 to 63). The more flexible rules of origin – the single transformation rule – only applies to a subset of those 1,600 tariff lines (Chapter 62 and 63). Fifteen (15) African LDCs can avail to this treatment. A similar sized group of 14 African LDCs does not significantly benefit from AGOA. At present, 5 African LDCs are not eligible for AGOA (i.e. MFN treatment) and nine others do not benefit from the provisions relating to textiles and clothing.

21. A special case is Haiti. It falls under the Caribbean Basin Trade Partnership Act (CBTPA). In addition, the HOPE II act allows duty free treatment of certain textile products not covered by CBTPA. Estimated product coverage is 97.1%.

22. See Annex III for number and share of tariff lines on which US provide duty free treatment on LDC exports, for each of 48 LDCs.

#### *LDCs benefit from DFQF, marginal impact on preference-giving countries*

23. Research shows that, overall, DFQF is highly beneficial for LDCs. One study estimated that the full implementation of DFQF by OECD countries would see total LDC exports increase with as much as \$2 billion, or 17 percent. (Bouët, Debucquet et al. 2010). In contrast, the impact of DFQF on preference-granting countries is estimated to be marginal.

24. Security of market access has been a longstanding concern of LDCs with regards to non-reciprocal schemes. Making DFQF a permanent feature within the WTO would address this concern

25. AGOA is set to expire by 2015, and the more flexible rules of origin in textiles and clothing by July 2012. The US could possibly extend AGOA benefits for another limited period. However, it should be noted that the US is already exploring the possibility of negotiating Free Trade Agreements (FTAs) with some African countries in a post-AGOA era. DFQF could be an alternative to a prospective FTA with the United States. Many African countries are probably not ready to conclude an FTA with the United States, considering their experience with negotiating Economic Partnership Agreements (EPAs) with the European Union after the expiry of the Cotonou preferences in 2007.

#### *Intra-LDC competitive pressures*

26. Notwithstanding the benefits that the LDCs could derive from DFQF, there could be some increased competitive pressure for LDC producers from producers of other LDCs especially if both LDC countries export similar products to the same market. This would be the case if current market access conditions are better for the LDC with relatively less

competitive producers. To resolve this issue, there can be negotiations on certain tariff lines that could be excluded from the DFQF scheme or a longer phase-in period for certain tariff lines to enable the less competitive LDC to adjust.

27. This problem does not apply to the LDCs primarily exporting to the EU, Norway, Switzerland, Australia and New Zealand, as all LDCs already enjoy 100% of market access to these markets. This issue arises mainly in relation to some LDCs having more access to the US market than the level of access which they currently have.

### **B. Rules of origin under DFQF schemes**

28. The Hong Kong language states that rules of origin should be “transparent and simple, and contribute to facilitating market access”.

29. In their submission on the rules of origin (TN/MA/W/74/Rev.1), the LDCs mainly focus on how substantive transformation should be calculated and what the level of substantive transformation should be. They also propose a common list of insufficient working or processing operations that do not confer origin such as the removal of dust or washing and common rules on cumulation.

30. LDCs argue that rules of origin should be simple in that the “percentage criterion” should be used as much as possible by preference-giving countries. Product-specific rules of origin should be kept at a minimum.

### **C. LDC Services Waiver**

- 1) On 30 June 2010, the LDC Group submitted a proposal for a draft waiver decision to the CTS in special session. This is essentially a waiver from the most-favoured nation treatment clause (Article II. 1) in GATS to allow Members to provide preferential and more favourable treatment to services and services suppliers of LDCs (See JOB/SERV/18).
- 2) The waiver’s cornerstone lies in its paragraph 1, wherein MFN obligations of the GATS are hereby waived to the extent necessary to permit members to provide preferential treatment to services and services suppliers of LDCs without according the same treatment to like services and service suppliers of all other members. The waiver is designed to promote the trade of LDCs in sectors and modes of supply that are of particular export interest to them. Paragraph 6 proposes the termination date of the waiver to be 15 years from the date it is granted. In each of its annual reviews, the General Council shall examine whether the exceptional circumstances justifying the waiver still exist and whether the termination date of the waiver shall be extended by a further year. Paragraph 5 provides that each member according preferential treatment pursuant to this waiver may deny the benefits of that treatment to (i) the supply of a service, if it establishes that the service is not supplied from the territory of a LDC and (ii) the supply of a service supplier that is a juridical person, if it establishes that it is not a service supplier of a LDC.

- 3) Two main issues have arisen in the draft waiver text. Firstly LDC Members state that the types of preferences covered by the waiver, in order to be effective, needs to go beyond market access measures; developed countries stress the importance of restricting the coverage of the waiver only to market access measures. Limiting the scope to market access only would run contrary to the spirit of the LDC Modalities and Hong Kong decisions. The second issue is that of rules of origin. There is need to clarify the meaning of rules of origin in the waiver.

#### **A. The scope of the waiver**

- 4) Regarding the scope, it is important for the waiver to go beyond market access and include national treatment rules. The question which some have asked is to indicate what these might include. To answer this question, one only has to look at some national treatment limitations in some members' schedules to get examples. For instance, economic needs tests which take the form of labour market tests (impact on employment) conducted in the absence of clearly defined criteria and residency and nationality requirements are a major bias against LDC mode 4 interests. The current obstacles to mode 4 trade are considerable. These include vague definitions for the categories of persons included in schedules, the limited number of commitments for categories de-linked from commercial presence, the bias in favour of highly skilled persons; the lack of recognition of certain qualifications and visa.

#### **B. Rules of origin**

- 5) Rules of origin are meant to ensure that services and services suppliers from non-LDCs do not free-ride on the concessions granted to the LDCs. For example, suppose the US gives preferential market access of business services to Bangladesh, how can the US prevent Indian companies from supplying these services through an affiliated or unaffiliated company in Bangladesh? A further issue is what level of 'service transformation' would need to take place for these business services imported into Bangladesh to qualify for trade preferences? The choice of rule of origin determines *who* will benefit from the preferential treatment.
- 6) Defining rules of origin in services trade is different and more complex than for goods. Services being intangible, it is difficult or nearly impossible to measure domestic value addition. And transformation of services is not as clear as might be the case in goods to distinguish processing.
- 7) The central question is whether LDCs would prefer a restrictive rule of origin or a liberal/broader one. If service suppliers take the form of firms (juridical persons), a restrictive rule of origin would limit export to national suppliers (or, more broadly, already established suppliers). On the other hand, liberal rules extend benefits to third party service suppliers.
- 8) Adopting restrictive rules of origin could be disadvantageous for LDCs in terms of potential access to foreign markets. Most LDCs are small economies and not globally



competitive in most sectors, partnerships and joint ventures could enhance their ability to enter foreign markets.

#### D. Cotton

31. The Hong Kong ministerial declaration (paragraph 11) provides the following mandate on the cotton negotiations:

“We recall the mandate given by the Members in the Decision adopted by the General Council on 1 August 2004 to address cotton ambitiously, expeditiously and specifically, within the agriculture negotiations in relation to all trade-distorting policies affecting the sector in all three pillars of market access, domestic support and export competition, as specified in the Doha text and the July 2004 Framework text. (..)”

32. The proposal by the Cotton-4 countries (C-4), Burkina Faso, Chad, Mali and Benin on the cutting of subsidies in relation to cotton has been included in the Agriculture Draft modalities by the Chair (TN/AG/W/4/Rev.4 paragraphs 54 and 55, reproduced in TN/AG/26 of April 2011), because other Members did not put forward counter proposals.

33. Their proposal is as follows:

$$R_c = R_g + \frac{(100 - R_g) * 100}{3 * R_g}$$

$R_c$  = Specific reduction applicable to cotton as a percentage

$R_g$  = General reduction in Aggregate Measure of Support (AMS)<sup>6</sup> as a percentage

34. The problem with the current language is that cuts to subsidies on cotton are linked to the agriculture negotiations (cuts in the Aggregate Measure of Support). No movement in the agriculture negotiation could mean that the issue of cotton remains at an impasse. What is therefore needed is to delink the co-sponsor’s proposal from the main agricultural negotiations.

35. Technically, this could be done in the following manner, taking the numbers proposed in the present Agriculture draft modalities (TN/AG/W/4/Rev.4 of 6 December 2008, reproduced in the Chairman’s document – TN/AG/26 of 21 April 2011 ) as final and agreed, and plugging these numbers into the C4 proposal.

36. Paragraph 13 of the agriculture draft modalities sets out the “general reduction in AMS as a percentage” according to a tiered formula:

---

<sup>6</sup> Aggregate Measure of Support (AMS) is an index that measures the monetary value of the extent of government support to an economic sector. As defined in the Agreement on Agriculture, the AMS includes both direct and indirect government supports to the sector, if they are judged to create distortions in the market. For example, it includes both direct payments to farmers, such as payments to guarantee them a higher than world market price, as well as indirect payments such as taxes on food at the point of sale to consumers that are used to support farm programmes.

- a. where the Final Bound Total AMS is greater than US\$40 billion, or the equivalent in the monetary terms in which the binding is expressed, the reduction shall be 70 per cent;
- b. where the Final Bound Total AMS is greater than US\$15 billion and less than or equal to US\$40 billion, or the equivalents in the monetary terms in which the binding is expressed, the reduction shall be 60 per cent;
- c. where the Final Bound Total AMS is less than or equal to US\$15 billion, or the equivalent in the monetary terms in which the binding is expressed, the rate of reduction shall be 45 per cent."

37. Using the cotton reduction formula, and the AMS numbers in the Agriculture draft modalities text yields the percentage reduction in AMS for cotton by WTO Members provided in the Box below. The exact reduction commitments to be undertaken by each Member will depend on the level of Members' final bound total AMS in their Uruguay Round schedule.

**Table 1: Percentage reduction in AMS support for cotton**

Paragraph 13	General reduction (Rg)	Reduction for cotton (Rc)
a) Final Bound Total AMS greater than US\$40 billion	70%	$70 + (100 - 70) * 100 / 3 * 70 = 84.3\%$
b) Final Bound Total AMS between US\$15 billion and US\$40 billion	60%	$60 + (100 - 60) * 100 / 3 * 60 = 82.2\%$
c) Final Bound Total AMS is less than or equal to US\$15 billion	45%	$45 + (100 - 45) * 100 / 3 * 45 = 85.7\%$

38. Members' product-specific support to cotton will be reduced from their base value of support, which is the average value of support to cotton from 1995 - 2000 (according to paragraph 55 of the agriculture draft modalities text TN/AG/W/4/Rev.4).

#### IV. WAY FORWARD

##### 39. DFQF

- a. The LDCs should push for DFQF as an integral part of an LDC package
- b. LDCs with less competitive producers and LDCs with more competitive producers should come together and agree that DFQF is in the interest of the LDC Group
- c. There would be a common understanding which tariff lines could be excluded from DFQF schemes or which would have a longer phase-in period to enable LDCs with less competitive producers to adjust

- d. The LDCs involved should call for international support for diversification to move beyond their limited export base.

#### **40. Rules of Origin - DFQF**

- a. DFQF schemes can operate on the basis of the LDC proposal on Rules of Origin (TN/CTD/W/30/Rev.1; TN/MA/W/74/Rev.1). Where there are exceptions, these should be discussed, for instance, within the Sub-Committee on LDCs. (When the first Generalised System of Preference (GSP) schemes were established, there was an UNCTAD Working Group on Rules of Origin).

#### **41. LDC Services waiver**

- a. The services waiver text can be adopted as soon as possible.
- b. Each member that accords preferential market access should not have national treatment limitations that discriminate against LDCs versus local suppliers in the sector /subsector where preferences have been granted.
- c. On the rules of origin, there are two broad options:
  - A new article on rules of origin in the waiver text
  - Leaving it to the Sub-Committee on LDCs or a Working Group within the Sub-Committee to define principles on rules of origin.

#### **42. Cotton**

- a. The main focus should be on the trade dimension.
- b. Delink the C-4 cotton subsidy reduction formula from the overall Doha agriculture subsidies negotiations by using the figures already provided in the draft agriculture modalities text on AMS reduction.
- c. Bring the negotiations to a conclusion as soon as possible.

## V. POSSIBLE LANGUAGE ON THE LDC PACKAGE

### A. DUTY FREE QUOTA FREE MARKET ACCESS

#### Option 1

*(Repeat HK language, except changing of the dates to April 2012)*

In accordance with the Hong Kong Ministerial Declaration (Annex F, Item 36), we agree that developed-country Members shall, and developing-country Members declaring themselves in a position to do so should:

- (a) (i) Provide duty-free and quota-free market access on a lasting basis, for all products originating from all LDCs by **1 April 2012** in a manner that ensures stability, security and predictability.
  - (ii) Members facing difficulties at this time to provide market access as set out above shall provide duty-free and quota-free market access for at least 97 per cent of products originating from LDCs, defined at the tariff line level, by **1 April 2012**. In addition, these Members shall take steps to progressively achieve compliance with the obligations set out above, taking into account the impact on other developing countries at similar levels of development, and, as appropriate, by incrementally building on the initial list of covered products.
  - (iii) Developing-country Members shall be permitted to phase in their commitments and shall enjoy appropriate flexibility in coverage.
- (b) Ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access.

Members shall notify the implementation of the schemes adopted under this decision every year to the Committee on Trade and Development. The Committee on Trade and Development shall annually review the steps taken to provide duty-free and quota-free market access to the LDCs and report to the General Council for appropriate action.

We urge all donors and relevant international institutions to increase financial and technical support aimed at the diversification of LDC economies, while providing additional financial and technical assistance through appropriate delivery mechanisms to meet their implementation obligations, including fulfilling SPS and TBT requirements, and to assist them in managing their adjustment processes, including those necessary to face the results of MFN multilateral trade liberalisation.

*(Language in this entire section taken from Item 36 of Annex F of the Hong Kong Ministerial Declaration 2005 except for the change of date in para 3 to 2012.)*

#### Option 2

*(This option is in essence the same as option 1 but is more compact. It also takes language from the NAMA draft modalities on rules of origin, marked in bold under (b))*

a (i) We agree that the “start of the implementation period” referred to in Annex F of the Hong Kong Ministerial Declaration on duty-free and quota-free (DFQF) market access shall be 1 April 2012, or earlier (para a (i) and a (ii)).

*(Implication is that the Hong Kong commitment is to be implemented by April 2012).*

a (ii) Developing-country members shall be permitted to phase in their commitments and shall enjoy appropriate flexibility in coverage.

*(Repeating language from Hong Kong Declaration Annex F, para a (iii))*

**(b) Ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access. In this connection, we urge members to use the model provided in document TN/MA/W/74.Rev.1 in the design of the rules of origin for their autonomous preference programmes.**

*(Repeating language from the NAMA modalities. TN/MA/W/74.Rev.1 is an LDC proposal on Rules of Origin)*

Members shall notify the implementation of the schemes adopted under this decision every year to the Committee on Trade and Development. The Committee on Trade and Development shall annually review the steps taken to provide duty-free and quota-free market access to the LDCs and report to the General Council for appropriate action. *(Hong Kong Declaration, Annex F)*

We urge all donors and relevant international institutions to increase financial and technical support aimed at the diversification of LDC economies, while providing additional financial and technical assistance through appropriate delivery mechanisms to meet their implementation obligations, including fulfilling SPS and TBT requirements, and to assist them in managing their adjustment processes, including those necessary to face the results of MFN multilateral trade liberalisation *(Hong Kong Declaration, Annex F)*.

## B. LDC SERVICES WAIVER

We affirm that the obligations imposed under paragraph 1 of Article II of the GATS are hereby waived to the extent necessary to permit Members to provide preferential treatment to services and service suppliers of least-developed countries without according the same treatment to like services and services suppliers of all other Members provided that any such treatment shall be granted immediately and unconditionally to like services suppliers of all least-developed countries *(Language from para 1 of the LDC Draft Waiver Decision)*. This preferential treatment shall be provided on a permanent basis and in a manner that ensures security, stability and predictability *(Language from TN/S/W/59, 28 March 2006<sup>7</sup>)*.

In this regard, we adopt the **Decision on Preferential Treatment to Services and Services Suppliers of Least-Developed Countries** contained in Annex IV. *(The proposal as submitted by LDCs on 30 June 2010, JOB/SERV/18)*

*(The following two additional paragraphs address the implementation of the LDC Services waiver, with language that has already been agreed upon (in-principle), taken from Annex C and Hong Kong)*

**The Ministerial Conference agrees that in formulating schemes under this decision, developed-country Members will consult with LDCs with a view to ensuring that their services of export interest are accorded meaningful market access.**

*(Language taken from the draft Cancun Ministerial Declaration Annex C (Special and Differential treatment). This language attempts to address the concern that the LDC Services Waiver could remain an empty shell).*

<sup>7</sup> TN/S/W/59 is a proposal submitted by Zambia on behalf of the LDCs entitled 'A Mechanism to Operationalize Article IV: 3 of the GATS'.

**The Council on Trade in Services shall annually review the steps taken to provide preferential treatment to services and service suppliers of LDCs pursuant to this decision and report to the General Council for appropriate action.**

*(Hong Kong Declaration, Annex F's DFQF language adjusted for services)*

### C. COTTON

In accordance with the mandate in the General Council Decision on 1 August 2004 to address cotton ambitiously, expeditiously and specifically, in relation to all trade-distorting policies affecting the sector in all three pillars of market access, domestic support and export competition, and with the Hong Kong Ministerial Declaration paras 11 and 12, we agree as follows:

- All forms of export subsidies for cotton will be eliminated by developed countries in 2012.
- On market access, developed countries will give duty and quota free access for cotton exports from least-developed countries (LDCs) in 2012.
- Members agree that trade distorting domestic support for cotton production be reduced ambitiously. *(Up to here, the language in this section is from the Hong Kong Ministerial Declaration, para 11, except for the date 2012).*

*Cotton could perhaps be defined to also include "cotton-by products", which were emphasized in the Dar es Salaam declaration in relation to domestic support, Sixth LDC Trade Ministers' Meeting in 2009)*

#### **Percentage reduction in AMS support for cotton**

##### Option 1

The modalities for reduction and eventual elimination of these subsidies are as follows:

AMS support for cotton shall be reduced according to the following tiered formula:

- (a) where the Final Bound Total AMS is greater than US\$40 billion, or the equivalent in the monetary terms in which the binding is expressed, the reduction shall be 84 per cent;
- (b) where the Final Bound Total AMS is greater than US\$15 billion and less than or equal to US\$40 billion, or the equivalents in the monetary terms in which the binding is expressed, the reduction shall be 82 per cent;
- (c) where the Final Bound Total AMS is less than or equal to US\$15 billion, or the equivalent in the monetary terms in which the binding is expressed, the rate of reduction shall be 86 per cent.

*(The percentages above are derived from calculations shown in Table 1 of this paper)*

This reduction shall be applied to the base value of support calculated as the arithmetic average of the amounts notified by Members for cotton in supporting table DS:4 from 1995 to 2000 *(draft agriculture modalities text, TN/AG/W/4/Rev.4, para 55)*

##### Option 2

*(The rationale to demand higher reductions from countries that have a low final bound total AMS (86%) than from large subsidy-providing countries (84%) is not entirely clear. In any case, the reduction in AMS support for cotton is in a close range between 82 and 86 per cent. One option is to simply pick a value in this range).*

The modalities for reduction and eventual elimination of these subsidies are as follows:

- AMS support for cotton shall be reduced by 86 per cent.
- This reduction shall be applied to the base value of support calculated as the arithmetic average of the amounts notified by Members for cotton in supporting table DS:4 from 1995 to 2000 (*draft AG modalities text, para 55*)

#### **Blue Box**

*(The second sentence of paragraph 55 of the Ag draft modalities reads: "The Blue Box limit applicable to cotton shall amount to one third of the product-specific limit that would otherwise have been the resultant from the methodology generally above.")*

For all Members the limit to the value of support that may be provided to as Blue Box entitlement (Article 6.5 of the Agreement on Agriculture) shall be one-third of the average value of support provided to cotton, consistent with Article 6.5(a) of the Uruguay Round Agreement on Agriculture, during the 1995-2000 period and with notifications to the Committee on Agriculture. This limit shall be bound in Part IV of the Schedule of the Member concerned, and shall apply immediately (*taken from paragraph 40 of the Ag draft modalities*).

Blue Box entitlements for cotton may not exceed the limits set out above. (*According to paragraph 43 Blue Box entitlements for specific products may exceed the limits set out in paragraphs 40-42 which would be a way to circumvent the limits. In the agriculture negotiations, Members could "pay" for exceeding their product-specific Blue Box limit in cotton by providing a corresponding and irreversible two-for-one reduction. However, since the agriculture negotiations have not been concluded, this payment is not possible.*)

## VI. ANNEX I - HONG KONG DFQF DECISION

We agree that developed-country Members shall, and developing-country Members declaring themselves in a position to do so should:

(a)(i) Provide duty-free and quota-free market access on a lasting basis, for all products originating from all LDCs by 2008 or no later than the start of the implementation period in a manner that ensures stability, security and predictability.

(ii) Members facing difficulties at this time to provide market access as set out above shall provide duty-free and quota-free market access for at least 97 per cent of products originating from LDCs, defined at the tariff line level, by 2008 or no later than the start of the implementation period. In addition, these Members shall take steps to progressively achieve compliance with the obligations set out above, taking into account the impact on other developing countries at similar levels of development, and, as appropriate, by incrementally building on the initial list of covered products.

(iii) Developing-country Members shall be permitted to phase in their commitments and shall enjoy appropriate flexibility in coverage.

(b) Ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access.

Members shall notify the implementation of the schemes adopted under this decision every year to the Committee on Trade and Development. The Committee on Trade and Development shall annually review the steps taken to provide duty-free and quota-free market access to the LDCs and report to the General Council for appropriate action.

We urge all donors and relevant international institutions to increase financial and technical support aimed at the diversification of LDC economies, while providing additional financial and technical assistance through appropriate delivery mechanisms to meet their implementation obligations, including fulfilling SPS and TBT requirements, and to assist them in managing their adjustment processes, including those necessary to face the results of MFN multilateral trade liberalisation.



VII. ANNEX II - MAJOR MULTILATERAL NON-RECIPROCAL LDC PREFERENCE SCHEMES UNDERTAKEN BY MEMBERS

Preference granting country	Description	Beneficiary(ies)	Coverage/margin of preference	References
Australia	Duty- and quota-free entry. Entry into force: 1 July 2003	LDCs	All products.	WT/COMTD/N/18
Canada	GSP - Least-developed Countries' Tariff Programme (LDCT) Entry into force: 1 January 2003, extended until 30 June 2014	LDCs	With the exception of over-quota tariff items for dairy, poultry and egg products, Canada provides duty-free access under all tariff items for imports from LDCs.	WT/COMTD/W/159 WT/COMTD/N/15/Add.1 and Add.2
China	Duty-free treatment for LDCs	LDCs	As of 1 July 2010, China has granted zero-tariff treatment to 4,762 tariff lines - which accounts for nearly 60 per cent of its total tariff lines. China intends to continue to expand this coverage with the aim of achieving the final objective of reaching 95 per cent of tariff lines under zero-tariff treatment.	WT/COMTD/W/164 WT/COMTD/M/80 WT/COMTD/LDC/M/57
EU	GSP - Everything But Arms (EBA) initiative Entry into force: 5 March 2001	LDCs	Since 1 October 2009, the EBA has been granting DFQF access for all products from	WT/COMTD/N/4/Add.2, Add.4 and Add. 5 WT/TPR/S/214/Rev.1 ec.europa.eu

Preference granting country	Description	Beneficiary(ies)	Coverage/margin of preference	References
			all LDCs (except arms and ammunitions). The EU introduced revised rules of origin for the GSP, as of 1 January 2011, simplifying rules specially for the LDCs.	
Iceland	GSP - Tariff Preferences in Regard to the Importation of Products Originating in the World's Poorest Developing Countries Entry into force: 29 January 2002	LDCs	Essentially all products with some exceptions in agricultural products (HS chapters: 04, 15, 18, 19, 21 and 22) and non-agricultural products (HS sub-headings: 3502 and 3823, and all of HS 16 with the exception of sub-headings 1603 to 1605).	WT/COMTD/N/17 and Corr.1 WT/TPR/S/164/Rev.1
India	Duty-Free Tariff Preference Scheme (DFTP) Entry into force: 13 August 2008	LDCs	Duty-free access on 85 per cent tariff lines at HS 6-digit level over a period of five years.	WT/COMTD/N/38
Japan	GSP - Enhanced duty- and quota-free market access Entry into force: 1 April 2007 Extended till 2021	LDCs	Duty-free access on 8,859 tariff lines (or 98 per cent at the tariff line level), covering over 99 per cent in terms of the import value from LDCs.	WT/COMTD/N/2/Add.14 and Add..15
Korea, Rep. of	Presidential Decree on	LDCs	As of January 2009, Korea has	WT/COMTD/N/12/Rev.1

Preference granting country	Description	Beneficiary(ies)	Coverage/margin of preference	References
	Preferential Tariff for LDCs Entry into force: 1 January 2000		provided duty-free access to nearly 80 per cent of its tariff lines.	WT/GC/M/120
Kyrgyz Republic	Harmonized system of preference by the Eurasian Economic Community (EAEC) Entry into force: May 2001	LDCs	Duty free for all imports.	WT/TPR/S/170/Rev.1
Morocco	Preferential tariff treatment for LDCs Entry into force: 1 January 2001	33 African LDCs	Duty-free access on 61 products (at the HS 4 to 10-digit level). Under the Global System of Trade Preferences among Developing Countries (GSTP), signed by Morocco, a special treatment is provided to LDCs.	WT/LDC/SWG/IF/18 and G/C/6 WT/TPR/S/217/Rev.1
New Zealand	GSP- Tariff Treatment for LDCs Entry into force: 1 July 2001	LDCs	All products.	WT/COMTD/27, WT/GC/36 WT/TPR/S/216/Rev.1
Norway	GSP - Duty - and quota-free market access Entry into force: 1 July 2002	LDCs	All products.	WT/COMTD/N/6/Add.4
Switzerland	GSP - Revised Preferential Tariffs Ordinance Entry into force:	LDCs	Duty-free access for all products originating from all LDCs as of September 2009.	TN/CTD/M/28 WT/COMTD/N/7/Add.2 and Add.3

Preference granting country	Description	Beneficiary(ies)	Coverage/margin of preference	References
	1 April 2007			
Chinese Taipei	Duty-free treatment for LDCs	LDCs	Limited duty-free access on items of LDCs.	WT/TPR/S/232/Rev.1
Turkey	GSP Entry into force: 31 December 2005	LDCs	Duties are eliminated for LDCs on the basis of EU's EBA Initiative.	WT/TPR/S/192/Rev.1
United States	GSP for least-developed beneficiary developing countries (LDBDC) Entry into force: 1 January 1976. The GSP reauthorization is awaiting confirmation by the Congress, as it expired on 31 December 2010.	42 designated LDCs <sup>b</sup>	Preferential duty-free treatment for over 3,451 products from 129 designated beneficiary countries (BDCs) and territories, including 42 least developed beneficiary developing countries (LDBDCs). An additional 1,430 products are GSP-eligible for LDBDCs.	WT/COMTD/N/1/Add.7 WT/TPR/S/235/Rev.1 www.ustr.gov
	African Growth and Opportunity Act (AGOA) Entry into force: 18 May 2000, extended until 30 September 2015 <sup>c</sup>	37 designated Sub-Saharan African Countries (including 24 LDCs <sup>d</sup> )	1,835 products, available for duty-free treatment, in addition to products designated for duty-free treatment under GSP. <sup>e</sup>	WT/COMTD/N/1/Add.3 WT/TPR/S/235/Rev.1 WT/L/754 WT/L/818 and Corr.1
	Caribbean Basin Trade Partnership Act (CBTPA) Entry into force: 1 October 2000, extended until 30 September 2020	17 designated beneficiaries (including one LDC, i.e. Haiti) in Central America and the Caribbean	Duty-free for most products, including textiles and apparels. The Haitian Hemispheric Opportunity through	WT/TPR/S/235/Rev.1 WT/L/753 WT/L/817 www.ustr.gov

Preference granting country	Description	Beneficiary(ies)	Coverage/margin of preference	References
			Partnership Encouragement (HOPE) Act of 2006 provided new trade benefits, especially of apparel imports from Haiti. The HOPE II Act of 2008 enhanced duty-free treatment for qualifying apparel imports from Haiti. The Haiti Economic Lift Program (HELP) Act of 2010 provided duty-free treatment for additional textile and apparel products from Haiti.	

Source: WTO document WT/COMTD/LDC/W/51 of 10 October 2011, page 44-45

<sup>a</sup> This table represents a non-exhaustive list of non-reciprocal multilateral market access initiatives undertaken in favour of LDCs. For those measures taken in favour of exports originating from LDCs prior to 2001, see document WT/COMTD/LDC/W/38.

<sup>b</sup> Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Ethiopia, The Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, São Tomé and Príncipe, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen and Zambia.

<sup>c</sup> The Africa Investment Incentive Act of 2006 or AGOA IV extended the third-country fabric provision from September 2007 until September 2012; added an abundant supply provision; designated certain denim articles as being in abundant supply; and allows lesser developed beneficiary Sub-Saharan African countries to export certain textile articles under AGOA. See more information on the official AGOA website at: [www.agoa.gov](http://www.agoa.gov)

<sup>d</sup> Angola, Benin, Burkina Faso, Burundi, Chad, Comoros, Djibouti, Ethiopia, The Gambia, Guinea-Bissau, Lesotho, Liberia, Malawi, Mali, Mauritania, Mozambique, Rwanda, São Tomé and Príncipe, Senegal, Sierra Leone, Tanzania, Togo, Uganda and Zambia.

<sup>e</sup> The LDCs eligible for AGOA apparel benefits are: Benin, Burkina Faso, Chad, Ethiopia, The Gambia, Lesotho, Malawi, Mali, Mozambique, Rwanda, Senegal, Sierra Leone, Tanzania, Uganda, Zambia.

VIII. ANNEX III - COVERAGE OF US TARIFF PREFERENCE SCHEMES FOR EACH OF THE 48 LDCs

LDC	Scheme(s)	Coverage in terms of tariff lines (100% = 10,449 tariff lines)			
		With US GSP		Without GSP (current situation)	
		# tariff lines	Share (%)	# tariff lines	Share (%)
5 LDCs Equatorial Guinea, Eritrea, Lao PDR, Myanmar, Sudan	US GSP for non-LDCs	7,189	68.8	3,738	35.8
17 LDCs Central African Republic, Guinea, Madagascar, Niger, Somalia Afghanistan, Bangladesh, Bhutan, Cambodia, Kiribati, Nepal, Samoa, Solomon Islands, Timor-Leste, Tuvalu, Vanuatu, Yemen	US GSP for LDCs	8,619	82.5	3,738	35.8
1 LDC Senegal	AGOA including eligibility for third country fabrics provision (till September 2012), US GSP for non-LDCs	8,745	83.7	7,021	67.2
9 LDCs Angola, Burundi, Comoros, DR Congo, Djibouti, Guinea-Bissau, Mauritania, Sao Tome and Principe and Togo	AGOA, not eligible for third country fabrics provision, US GSP for LDCs	8,852	84.7	5,421	51.9
1 LDC Haiti	Caribbean Basin Trade Partnership Act, Haiti-specific provisions, US GSP for LDCs	10,143	97.1	10,143	97.1
15 LDCs Benin, Burkina Faso, Chad, Ethiopia, The Gambia, Lesotho, Liberia, Malawi, Mali, Mozambique, Rwanda, Sierra Leone, Tanzania, Uganda and Zambia	AGOA including eligibility for third country fabrics provision (till September 2012), US GSP for LDCs	10,175	97.4	7,021	67.2

IX. ANNEX IV - DRAFT LDC SERVICES WAIVER TEXT

JOB/SERV/18

30 June 2010

Council for Trade in Services Special Session

**COMMUNICATION FROM ZAMBIA ON BEHALF OF LDCS  
DRAFT TEXT FOR A WAIVER DECISION**

The proposed draft waiver decision below has been submitted by the delegation of Zambia on behalf of LDCs for circulation to WTO Members.

---

**Preferential Treatment to Services and  
Services Suppliers of Least-Developed Countries**

Decision of [date of decision]

The General Council,

*Having regard to* paragraphs 1, 3 and 4 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization (the "WTO Agreement"), paragraph 2 of the Annex on Article II Exemptions of the General Agreement on Trade in Services (the "GATS"); and the Decision-making Procedures Under Articles IX and XII of the WTO Agreement agreed by the General Council (WT/L/93);

*Conducting* the function of the Ministerial Conference in the interval between Ministerial Conference meetings pursuant to paragraph 2 of Article IV of the WTO Agreement;

*Considering* the 1979 Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries, the 1994 Decision on Measures in Favour of Least-Developed Countries, and the 1999 Decision on Preferential Tariff Treatment for Least-Developed Countries, and without prejudice to the rights of Members to continue to act pursuant to the provisions contained in those Decisions;

*Noting that the WTO Agreement recognises* the need for "positive efforts designed to ensure that developing countries, especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development";

*Confirming* the importance of trade in services for economic growth and development;

*Noting* that Article IV:3 of the GATS provides that special priority shall be given to least-developed country Members *inter alia* in respect of the liberalization of market access in sectors and modes of supply of export interest to them;

*Acknowledging* the serious difficulty of the least-developed countries in view of their special economic situation and their development, trade and financial needs;

*Determining* that this serious difficulty is an exceptional circumstance that prevents least-developed countries from securing an adequate share in the growth of world trade in services;

*Affirming* that a waiver from the obligations imposed under paragraph 1 of Article II of the GATS to enable Members to provide preferential treatment to services and service suppliers of least-developed countries without according the same treatment to like services and service suppliers of all other Members will constitute a positive effort towards facilitating the increased participation of least-developed countries in trade in services;

*Noting* that, in light of the foregoing, least-developed countries are confronted with exceptional circumstances justifying a waiver from paragraph 1 of Article II of the GATS;

*Being mindful of* the 2003 Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services (TN/S/13) and Annex C of the 2005 Hong Kong Ministerial Declaration;

*Decides* as follows:

The obligations imposed under paragraph 1 of Article II of the GATS are hereby waived to the extent necessary to permit Members to provide preferential treatment to services and service suppliers of least-developed countries without according the same treatment to like services and service suppliers of all other Members provided that any such treatment shall be granted immediately and unconditionally to like services and service suppliers of all least-developed countries.

Each Member according preferential treatment pursuant to this waiver shall submit a notification to the Council for Trade in Services. The notification shall specify the preferential treatment made available, the sectors or sub-sectors concerned and the period of time during which the Member is intending to maintain those preferences. A supplemental notification shall be made if the preferential treatment is subsequently modified. The notifications shall be made before the preferential treatment is granted or modified

Each Member granting preferential treatment shall, upon request, promptly enter into consultations with any Member with respect to any difficulty or matter that may arise as a result of such treatment. Where a Member considers that any benefit accruing to it under the GATS may be or is being impaired unduly as a result of such treatment, the consultations shall examine the possibility of action for a satisfactory adjustment of the matter.



Any preferential treatment accorded pursuant to this Waiver shall be designed to promote the trade of least-developed countries in those sectors and modes of supply that are of particular export interest to the least-developed countries and not to raise barriers or create undue difficulties for the trade of any other Member. Such preferential treatment shall not constitute an impediment to the reduction or elimination of market access barriers on a most-favoured-nation basis.

Each Member according preferential treatment pursuant to this waiver may deny the benefits of that treatment to:

the supply of a service, if it establishes that the service is not supplied from or in the territory of a least-developed country; and  
the supply of a service supplier that is a juridical person, if it establishes that it is not a service supplier of a least-developed country.

The termination date of this Waiver shall be fifteen years from the date it is granted. In each of its annual reviews pursuant to paragraph 4 of Article IX of the WTO Agreement, the General Council shall examine whether the exceptional circumstances justifying the waiver still exist and whether the termination date of the waiver shall be extended by a further year.<sup>8</sup> In making that determination, the General Council shall take into account that preferential treatment made available pursuant to this Waiver is likely to generate investments by services suppliers in the least-developed countries only if it is predictable.

This Waiver shall apply to preferential treatment granted to services and services suppliers in least-developed countries designated as such by the United Nations. Notwithstanding the provisions of paragraph 6 above, this Waiver shall terminate with respect to the preferential treatment granted to services and service suppliers in any particular least-developed country when graduation of that country from the United Nations list of least-developed countries becomes effective.

---

---

<sup>8</sup> This approach ensures that investors are aware of any potential extensions to the waiver well in advance of the initial termination date. It avoids an approach whereby potential extensions to the waiver are only made shortly before the termination date as this would have the effect of discouraging investments towards the end of the waiver period even where subsequent extensions are granted.

**READERSHIP SURVEY QUESTIONNAIRE**  
**South Centre Analytical Note**

**LDC PACKAGE: STATE OF PLAY AND PROPOSED LANGUAGE FOR WTO'S MC8**

An important objective of the South Centre is to provide concise and timely analytical inputs on selected key issues under ongoing negotiation in the WTO and other related multilateral fora such as WIPO. Our publications are among the ways through which we try to achieve this objective.

In order to improve the quality and usefulness of South Centre publications, we would like to know your views, comments, and suggestions regarding this publication.

**Your name and address (optional):** \_\_\_\_\_

**What is your main area of work?**

- |   |  |
|---|--|
| <input type="checkbox"/> Academic or research       | <input type="checkbox"/> Media                         |
| <input type="checkbox"/> Government                 | <input type="checkbox"/> Non-governmental organization |
| <input type="checkbox"/> International organization | <input type="checkbox"/> Other (please specify)        |

**How useful was this publication for you? [Check one]**

- Very useful    Of some use    Little use    Not useful

*Why?* \_\_\_\_\_

**What is your assessment of the contents of this publication? [Check one]**

- Excellent    Very Good    Adequate    Poor

**Other comments:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Would you like to be on our electronic and/or hardcopy mailing lists? [ ] Yes [ ] No**

*If yes, please indicate:*

- Electronic** – please indicate your name and email address:  
 **Hardcopy** – please indicate your name and mailing address:

**Personal Information Privacy Notice:** Your personal contact details will be kept confidential and will not be disseminated to third parties. The South Centre will use the contact details you provide solely for the purpose of sending you copies of our electronic and/or hardcopy publications should you wish us to do so. You may unsubscribe from our electronic and/or hardcopy mailing lists at anytime.

Please return this form by e-mail, fax or post to:

South Centre Feedback  
Chemin du Champ d'Anier 17  
1211 Geneva 19  
Switzerland

E-mail: [south@southcentre.org](mailto:south@southcentre.org)  
Fax: +41 22 798 8531



**Chemin du Champ d'Anier 17  
Case postale 228, 1211 Geneva 19  
Switzerland**

**Telephone: (41 22) 791 8050  
Fax: (41 22) 798 8531  
Email: [south@southcentre.org](mailto:south@southcentre.org)**

**Website:  
<http://www.southcentre.org>**