

Status of LDC Issues at the WTO

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**Taufiqur Rahman, Head, LDC Unit, Development
Division, WTO**

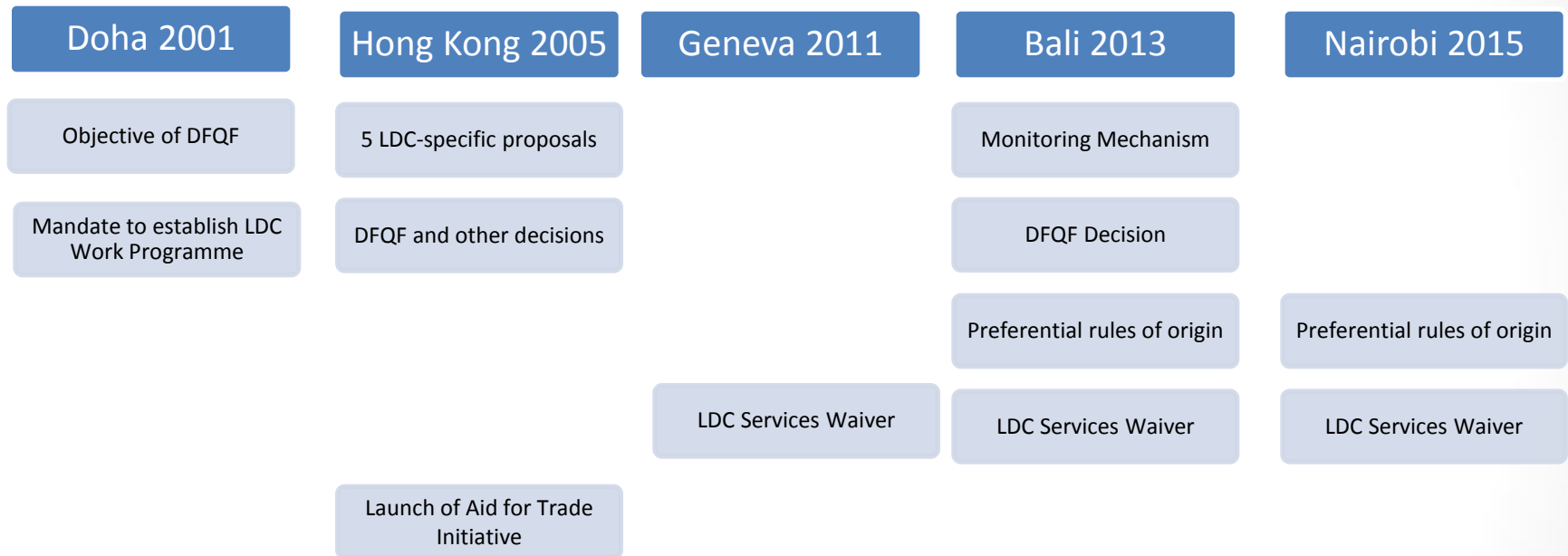


WTO OMC

Introduction

- LDCs receive special status at the WTO
- The multilateral trading system has been responsive to the LDCs
- Despite the full conclusion of the Doha Round, important decisions have been taken in favour of LDCs
- Flexibilities have been provided in undertaking commitments/obligations as well as in enhancing market access opportunities for LDC products
- Bali Package (2013)
- Nairobi Package (2015)

Timeline of decisions in favour of LDCs



Development on LDC issues – Bali and Nairobi Packages

Goods

DFQF market access

- Hong Kong, 2005 (Annex F, WT/MIN(05)/DEC)
- Bali, 2013 (WT/L/919)

Preferential rules of origin

- Bali, 2013 (WT/L/917)
- Nairobi, 2015 (WT/L/917/Add.1)

Services

LDC Services Waiver

- Geneva, 2011 (WT/L/847)
- Bali, 2013 (WT/L/918)
- Nairobi, 2015 (WT/L/982)

Duty-free and quota-free (DFQF) market access for LDCs



The Hong Kong DFQF Decision

- The Hong Kong Ministerial Conference in 2005 adopted a concrete decision on DFQF
- It asked developed Members to provide DFQF access for all products originating from all LDCs by 2008 or no later than the start of the implementation period
- However, Members facing difficulties are asked to provide 97% DFQF coverage
- Differentiated obligations for developing country Members, flexibility in coverage and in implementation.
- There was also linkage made with the overall conclusion of the Doha Round (i.e. DFQF to be provided no later than the start of the implementation period of the Round)
- Implementation of the schemes to be notified to the CTD every year

The Bali DFQF Decision

- The Bali Decision stipulates that developed country Members, that do not provide 97% DFQF coverage, shall seek to improve their existing DFQF coverage.
- Developing country Members are also encouraged to provide DFQF access to LDCs.
- The Secretariat is to prepare a report on Members' DFQF coverage, to aid annual review on steps taken by Members to provide DFQF access for LDC products.

Current status of DFQF

- Significant progress made since the launching of the Doha Development Agenda (DDA)
- Most of the WTO developed Members provide either full or nearly full DFQF access
- The exceptions to comprehensive duty-free coverage for LDCs are limited to a few developed markets
- A number of developing country Members provide nearly full DFQF market access to LDC products

DFQF market access in GSP schemes of developed Members, 2014

Members	Duty-free coverage (major exclusions)	Dutiable tariff lines
Australia	100%	0
Canada	98.6% (dairy, eggs and poultry)	105
European Union	99.0% (arms and ammunitions)	91
Iceland	91.8% (meat and dairy products, eggs, vegetables and plants, cereals and starch, other food preparations)	707
Japan	97.9% (rice, sugar, fishery products, articles of leather)	197
New Zealand	100%	0
Norway	100%	0
Russian Federation	36.3% (petroleum products, copper, iron ores, articles of leather, articles of apparel and clothing)	7,415
Switzerland	100%	0
United States	82.6% (dairy products, sugar, cocoa, articles of leather, cotton, articles of apparel and clothing, other textiles and textile articles, footwear, watches)	1,862

Source: Market Access for Products and Services of Export Interest to LDCs (WT/COMTD/LDC/W/64)

DFQF access under preferential schemes of selected developing Members, 2014

Members	Duty-free coverage (major exclusions)	Dutiable tariff lines
Chile	99.5% (wheat, wheat flour and sugar)	41
China	95.1% (agricultural products, chemicals, machinery, paper and wood products, cotton, skins)	636
India	94.1% (meat and dairy products, vegetables, coffee, tobacco, iron and steel products, copper products)	674
Korea, Rep. of	90.3% (meat, fish, vegetables, food products)	1,187
Chinese Taipei	31.0%. Some 136 products enjoy exclusive duty-free access, including selected plastic items, raw hides and skins, textile and clothing articles, parts of vehicles, precious stones, etc.	6,159
Turkey (2013)	79.0% (meat, fish, food, steel products, etc.)	2,480

Source: Market Access for Products and Services of Export Interest to LDCs (WT/COMTD/LDC/W/64)

- China: As of January 2015, 97% (statement in the CTD in March 2015)
- Thailand: 73% as of April 2015 (notified in July 2015)

The debate on DFQF implementation

- Differences in the LDC Group surfaced in 2008
- Few African LDCs have concerns that progress on DFQF may have adverse impact on them. They prefer status quo
- Different approaches/methodologies have been tried to find common ground
- Suggestions were made to carve out most vital tariff lines of concern to African LDCs
- Carving out option did not succeed, as question of future potential trade possibility is raised



How to move forward on DFQF

- The implementation of DFQF market access remains a sensitive issue
- Finding common ground has been a particular challenge over the past few years, especially accommodating export interests of all stakeholders
- Relevance of DFQF is losing ground in view of proliferation of bilateral and regional free trade agreements
- Discussion ongoing concerning a proposal by the LDC Group on a “clinical examination” with a view to finding a way forward on the implementation of DFQF market access for LDC products
- DFQF review is a standing item on the CTD’s agenda

Preferential rules of origin (RoO)



Background

- The LDC Group called for a for simplification of preferential rules of origin, so as to better utilize the preferences accorded to them
- The Hong Kong DFQF Decision underlined the need to ensure that "preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access“
- At Bali, Ministers adopted the first set of multilateral guidelines on preferential rules of origin which Members may wish to draw upon as they develop or improve their preferential rules of origin arrangements for LDCs
- At Nairobi, Ministers adopted a decision building on the guidelines from Bali and inviting Members to consider a series of measures to further facilitate exports from LDCs

The Bali Decision (WT/L/917)

- The guidelines do not envisage common or harmonized rules of origin across all unilateral preference schemes for LDCs
- The guidelines preserve the prerogative of governments to follow the method they deem appropriate, but provides some normative elements in each of the major methods in which origin is conferred on goods
- The guidelines contain some illustrations in which rules of origin can be made easier for the LDCs to comply with



The Nairobi Decision (WT/L/917/Add.1)

- New set of RoO provisions which build on the 2013 Bali Ministerial Decision, with a view to facilitating LDC exports.
- More specific and stronger language
- Provisions on four issues:
 - Requirements for the assessment of sufficient or substantial transformation
 - Cumulation
 - Documentary requirements
 - Implementation, flexibilities and transparency

Bali vs. Nairobi: Substantial transformation

Bali	Nairobi
<i>Ad valorem percentage criterion</i>	
No recommendation regarding method of calculation	Recommends calculation based on value of non-originating materials
Acknowledgement of LDC demand of use of foreign inputs to a maximum of 75% of value of the product	Consideration of allowing use of non-originating materials up to 75% of the final value of the product
<i>Change of tariff classification criteria</i>	
Should generally allow the use of non-originating imports as long as an article of a different heading or sub-heading was created	Shall, as a general principle, allow for a simple change of tariff heading or change of tariff sub-heading
<i>Manufacturing or processing operation</i>	
Mention of the usefulness of process-based rules for chemical products, articles of apparel and clothing but no guidance	Concrete guidance on clothing (HS 61 & 62), chemical products, processed agricultural products and machinery & electronics. E.g.: Allow assembling of fabrics into finished products.

Bali vs. Nairobi: Cumulation and documentation

Bali	Nairobi
<i>Cumulation</i>	
....Members may take into account...	Encouragement to expand cumulation possibilities
<p>A range of cumulation possibilities recognized:</p> <ul style="list-style-type: none"> • Bilateral cumulation • Cumulation with other LDCs • Cumulation among GSP beneficiaries • Cumulation among developing country Members forming part of a regional group 	<p>Reaffirmation of all cumulation possibilities</p> <p>Consider requests from LDCs for participation in cumulation possibilities in the case of specific products or sectors</p>
<i>Documentary requirements</i>	
Proof of non-manipulation may be avoided	General principle of refraining from asking for a certificate of non-manipulation
Whenever possible, self-certification may be recognized	Consideration of allowing self-certification and of minimizing documentation requirements for small consignments

Bali vs. Nairobi: Transparency

Bali	Nairobi
<i>Transparency</i>	
Notifications as per established procedures (Transparency Mechanism for PTAs)	Bali notification procedures reaffirmed
Committee on Rules of Origin (CRO) to annually review the developments in preferential rules of origin applicable to imports from LDCs	CRO to follow the same review process outlined in Bali
	CRO to develop templates for the notification of preferential rules of origin, to enhance transparency
	No later than 31 December 2016, preference-granting Members to inform the CRO of the measures being taken to implement the provision of the Decision. Reference to preference utilization rates



Way forward

- CRO to continue to annually review the implementation of the Decision
- Some specific work envisaged in the CRO, i.e. developing a template for notifications and modalities for calculation of utilization rates
- Near agreement on the template for notification of preferential rules of origin
- Methodology of the calculation of utilization rates is being discussed
- LDCs need to sustain a substantive and focused debate



Rules of Origin in GSP schemes of selected developed Members

Country	Origin determination criteria	Cumulation
Australia	Minimum local value content of 25 per cent	Cumulation among LDCs or with Australia possible
Canada	Minimum local value content of 40 per cent. Two possibilities for apparel: (i) Single transformation (if fabrics are sourced from among the LDCs or Canada) (ii) Minimum local value added of 25 per cent if fabrics are sourced from GSP beneficiary countries	Cumulation among LDCs or with Canada possible Cumulation also possible with any other GSP beneficiary countries including for textile and apparel products
EU	In general, minimum local value content of 30 per cent (other than apparels). For most articles of apparels, single transformation rule (manufacturing from fabric).	Bilateral cumulation, simplified regional cumulation and extended cumulation with FTA partners or neighbouring countries
Japan	In general, change in tariff classification rule is followed. Applies product specific rules for a number of products (e.g. minimum local value content of 50 to 60 per cent for electronics, vehicles). Single jumping for apparel of woven fabric; two-stage jumping for knitted apparel.	Cumulation among LDCs or with Japan possible
Switzerland	Different product specific rules with different percentage levels. For knitted articles of apparels, double jumping is required (manufacturing from yarn).	Bilateral cumulation, extended cumulation with EU and Norway, and regional cumulation possible
US	Minimum local value content of 35 per cent for all products including apparels	Global sourcing of fabric possible under AGOA



LDC Services Waiver



Adoption of the LDC Services Waiver

- Decision on the LDC services waiver at the MC in 2011
 - Preferential Treatment to Services and Services Suppliers of LDCs (WT/L/847)
 - Allows Members to provide LDCs with preferential treatment in terms of market access measures (Art. XVI in GATS) or other measures if approved by the Council for Trade in Services (CTS)
 - Initially valid for 15 years (until December 2026, extended until December 2030 through the Nairobi Decision)
- Waiver was not utilised by any Member between the MCs in 2011 and 2013

Operationalization of the Services Waiver (I)

- Decision on the operationalization of the waiver at the Bali MC in 2013 (WT/L/918)
 - Outlined the process to operationalize the waiver
 - Recognized the need to strengthen LDCs' domestic service capacity to make use of existing opportunities and any preferences in the future.
- LDCs collective request in July 2014 (S/C/W/356 and Corr. 1 & 2)
- High-level meeting of the Council for Trade in Services in February 2015 (S/C/M/121)



Operationalization of the Services Waiver (II)

- 2015 Nairobi Decision: Implementation of Preferential Treatment in Favour of Services and Service Suppliers of Least Developed Countries and Increasing LDC Participation in Services Trade (WT/L/982)
 - Extended the waiver until 31 December 2030
 - Urges developed and developing Members, in a position to do so, to notify preferences
 - Encourages Members to undertake technical assistance and capacity building to orient LDC services suppliers to preference benefits so that they can utilize the preferences granted

Notifications of services preferences

- 23 Members have submitted notifications

Member	Symbol	Member	Symbol
Canada	S/C/N/792/Rev.1	Turkey	S/C/N/824
Australia	S/C/N/805	U.S.	S/C/N/825
Norway	S/C/N/806	India	S/C/N/833
Korea, Rep.	S/C/N/808	Chile	S/C/N/834
China	S/C/N/809	Iceland	S/C/N/835
Hong Kong, China	S/C/N/810	Brazil	S/C/N/839
Chinese Taipei	S/C/N/811	EU	S/C/N/840
Singapore	S/C/N/812	Liechtenstein	S/C/N/841
New Zealand	S/C/N/813	South Africa	S/C/N/853
Switzerland	S/C/N/819	Uruguay	S/C/N/857
Japan	S/C/N/820	Thailand	S/C/N/860
Mexico	S/C/N/821		

- The LDCs are examining to what extent these preferences respond to their needs and interests

General observations on the notifications

- Whether one takes GATS or DDA as benchmarks, degree of actual preferences is limited.
- A large number of notified preferences do not exceed the level of DDA offers; and most DDA offers reflect the applied regime;
- If some measures go beyond DDA offers, these reflect measures taken in the context of preferential arrangements with other trading partners



Way forward

- The Nairobi Decision, *inter alia*, mandates the Council for Trade in Services to:
 - Maintain standing agenda item: operationalization of the services waiver
 - Facilitate an exchange of information by Members on technical assistance measures to promote the participation of LDCs in services trade
 - Initiate a process to review the operation of notified preferences
- LDCs need to direct the way forward in the CTS discussions

