

**Sub-Committee on Least-Developed Countries**

**IMPLEMENTATION OF WTO AGREEMENTS:  
SURVEY OF THE DIFFICULTIES FACED BY LEAST-DEVELOPED  
COUNTRIES AND THE CURRENT RESPONSE**

Note by the Secretariat

1. At its meeting on 6 July 1998, the Sub-Committee requested the Secretariat to prepare a paper which could help the Sub-Committee assess the difficulties the least-developed countries (LDCs) face with regard to implementation of WTO obligations, and the appropriateness of the current response.
2. The context of the request is several-fold: the importance attached by WTO Ministers in their 1998 Declaration to the implementation of individual WTO Agreements and the realization of their objectives; WTO Ministers' intention to further pursue their evaluation of this issue at their Third Ministerial Conference covering, *inter alia*, the problems encountered in implementation and the consequent impact on the trade and development prospects of Members; and the Sub-Committee's monitoring of follow-up to the High-Level Meeting on Least-Developed Countries, one of the central themes of which is that the least-developed countries' capacity to take advantage of the benefits of participating in the multilateral trading system is closely linked to their capacity to implement WTO Agreements.
3. The main source of information available to the Secretariat on this subject is the needs assessments for trade-related technical assistance that have been prepared by 39 LDCs under the Integrated Framework. Information has also been collected from LDC Members' replies to a questionnaire on priorities that should be assigned to WTO technical assistance circulated in May 1996 by the Chairman of the Committee on Trade and Development, as well as from WTO notifications, records of Committee meetings and TPR reports, from the Secretariat's experience gained in the course of its technical assistance activities in LDCs, and from statements by LDC Ministers at the Ministerial Conference in May 1998.
4. The following sections describe the main areas in which LDCs appear to be experiencing difficulties, illustrate the scale of these difficulties, and describe the steps that are being taken by the Secretariat to help LDCs overcome them.

**I. MAIN AREAS OF DIFFICULTY IDENTIFIED**

- (i) Developing effective means of coordination among government ministries whose activities have a bearing on the implementation of WTO Agreements

5. A number of LDCs have in part attributed the difficulties they are experiencing in implementing WTO Agreements to problems related to the need to improve coordination among the large number of ministries involved in one way or another, including most importantly the authority

---

\*This symbol WT/COMTD/LDC/- continues the series WT/COMTD/LLDC/- but there is no change in the numbering.

for policy and legislative change. In some cases, up to eight different ministries have WTO-related competence. This has resulted in difficulties for LDCs in coordinating work, for example related to notifications. Efforts to ensure that appropriate legislation is in place become equally cumbersome. All ministries are not involved to the same degree and it is therefore important to have a strong coordinating body. However, the coordinating task is normally accorded to the Ministry of Trade or Commerce, which often lacks the authority with other ministries, and sometimes the capacity, to provide effective coordination. This has prompted some of the LDCs to set up national focal points dedicated to WTO matters, and several have requested assistance in this area.

6. An area where the importance of coordination between relevant ministries and agencies has emerged particularly strongly in the feedback received by the Secretariat from least-developed countries is that of TRIPS. The implementation of this Agreement may involve all or several of the following: Ministries of Trade, Foreign Affairs, Finance, Justice, Culture, Education and Agriculture and the Patent and Trademarks Offices, the Police and Customs services and the Judiciary.

7. One delegation informed the Secretariat that it had established an Inter-Institutional Committee (including policy-makers, representatives of the private sector and academics) to deal with the problems, which were described in the following way:

"The policy-making process is always dogged by bureaucratic red tape and therefore decision-making may not match the speed of the problems. Much as the mechanisms for decision-making and implementation of policies exist, their response to everyday changes is very poor. Information flow suffers from bottlenecks, and takes too long. Important information is available in institutions like the Ministries of Trade and Industry, Finance, Planning and Economic Development, Justice, the Uganda Export Promotion Board, the National Bureau of Standards, the Bank of Uganda etc. However, the tendency was to keep most of this information as official secrets until recently, when the move was made to ensure all the stake holders had access to this information."<sup>1</sup>

(ii) Creating the necessary domestic institutional and administrative framework

8. A large number of LDCs appear to be experiencing difficulties in this area, particularly with regard to implementation of the WTO Agreements on Safeguards, Subsidies and Countervailing Measures, and Anti-Dumping, Technical Barriers to Trade and Sanitary and Phytosanitary Measures, and TRIPS. The needs assessments prepared under the Integrated Framework include requests for technical assistance to establish administrative and institutional machinery to conduct investigations in conformity with the Safeguards Agreement; to set up and strengthen the administrative machinery necessary to conduct anti-dumping and countervailing duty investigations; and more broadly, training to carry out investigations in the area of unfair trade practices.

9. Requests for technical assistance in the areas of TBT and SPS are numerous and cover the following: establishing expertise and setting up and strengthening enquiry points, and linking them to ISONET to enhance access to information on technical and SPS regulations and standards applied in export markets; training in the use of international standardisation programmes or packages such as the ISO 9000 and 14000 series; establishing test laboratories and documentation centres; creating institutions to set and certify conformity with health and phytosanitary standards, quality controls etc; and setting up food import and export inspection services.

---

<sup>1</sup>From the reply, dated 4 November 1996, of the Ugandan Ministry of Trade and Industry to the questionnaire on priorities that should be assigned to WTO technical assistance circulated in May 1996 by the Chairman of the WTO Committee on Trade and Development.

10. With regard to implementation of the TRIPS Agreement, requests for technical assistance cover the establishment and reinforcement of autonomous, specialized intellectual property offices (patent and trademark offices) and collecting societies, establishing the administrative machinery required for the enforcement of intellectual property rights, including through the acquisition of modern equipment to detect infringing goods, the acquisition of science and technology databases on intellectual property materials, regional cooperation in training, implementation and sharing experience, computerization, and promoting public awareness among high-level decision makers in both government and the private sector, as well as the public at large, of the benefits and importance of intellectual property rights.

(iii) Training officials

11. Insufficient trained officials in LDCs responsible for WTO matters, and for implementation of WTO Agreements in particular, is a problem area listed frequently by LDCs in the Integrated Framework exercise. Difficulties in meeting notification requirements are attributed by many LDCs to this. For several WTO Agreements, effective implementation implies the need for trained personnel extending well beyond routine functions such as meeting notification requirements, and beyond officials in trade ministries. An example where assistance has been requested by a large number of LDCs is the training of customs officials, who clearly are central to the effective administration and implementation of many of the WTO Agreements. In the case of the TRIPS Agreement, which is probably the most demanding of the WTO Agreements in terms of the need for skilled personnel, many LDCs have identified the need for technical assistance to train officials involved in the enforcement of intellectual property rights, including customs officials, the judiciary and the police, as well as staff employed in patent and trademark offices.

12. Some LDCs have expressed the view that their implementation difficulties could be eased not only by having a larger number of trained officials in capital but also by being able to staff a delegation to the WTO in Geneva.

(iv) Adapting domestic legislation, regulations and procedures to comply with WTO obligations

13. In their needs assessments prepared under the Integrated Framework, some LDCs have requested assistance from the WTO Secretariat in drafting or reforming legislation, regulations and procedures to implement their WTO obligations. Most of the difficulties identified are concentrated in the areas covered by the Agreements on Safeguards, Subsidies and Countervailing Measures, Anti-Dumping and TRIPS. Two other areas where assistance may be needed in drafting and implementing legislation and regulations to apply the procedures of the Agreements are TRIMs and customs valuation (see also Section II).

14. One delegation has for example described the scale of the task involved, when incorporating WTO Agreements into national laws and regulations is necessary to give them domestic effect:

"We have already identified about 30 basic trade related laws which need review, and in some cases, complete repeal. A Uganda Law Reform Commission is in place but has the huge task of reviewing all the Laws of Uganda. A smaller committee under the chairmanship of the Ministry of Justice is in place to focus on all trade related legislation with a bearing on investment. This committee is being alerted to the need to comply with the provisions of the WTO to ensure that the legislation is in line with them. There may be need to have these laws redrafted, for which the Commission and the committee do not have the resources or institutional capacity. In some cases it may be necessary to draft a completely new piece of legislation to cover areas of the Agreements which had not been anticipated by our legislators. All these would call for some assistance and model draft legislation .... This will help

speed up the process and probably give our Parliament time to pass the relevant statutes within the time-frame of the WTO system."<sup>2</sup>

(v) Meeting WTO notification requirements

15. By far the most widespread difficulty reported by the LDCs to date is in meeting their WTO notification obligations. This matter was given prominence by several LDC Ministers in their statements at the Ministerial Conference in May 1998. Technical assistance has been requested in this area by almost all of the LDCs that have submitted needs assessments under the Integrated Framework, and the Secretariat regularly encounters requests for help in fulfilling notification requirements during the course of its technical assistance activities in LDCs.

16. From committee records of notifications received, the difficulties that are being encountered appear to be general and not associated with any one WTO Agreement in particular. A few of the 29 LDC Members of the WTO have established a good record of meeting their notification obligations, but overall the situation appears to be unsatisfactory.

17. For example, only six LDCs met the biennial requirement under the Agreement on Agriculture to make a notification of their domestic support measures in the period 1995-97, and the number meeting their annual notification requirements on export subsidies fell from twelve in 1995 to two in 1997.<sup>3</sup> In the case of customs valuation, one LDC has informed the WTO that its legislation notified under the Tokyo Round Agreement is still valid under the WTO Agreement on Customs Valuation, and 15 have invoked the special provision allowing them a five year period to delay application of the provisions of the Agreement, but the remaining 13 have neither invoked the special provision according them a delay nor notified their legislation putting into effect the Agreement. In the case of safeguards, subsidies and countervailing measures, anti-dumping and state trading, very few LDCs have submitted notifications despite the fact that for the majority of them it is felt by the Secretariat that notification of legislation or actions taken would require relatively little effort, since most LDCs are believed not to have relevant legislation nor to take actions under these Agreements. Under the TRIMs Agreement, LDCs wishing to benefit from the transition period of seven years to eliminate inconsistent measures were required to notify their measures before 31 March 1995; to date, three such notifications have been made, two of them well after the stipulated deadline. Under the Agreement on Textiles and Clothing, there has been only a limited response by LDCs to the provisions relating to the submission of programmes for the progressive integration of Members' textiles and clothing products into GATT 1994 rules. Five LDCs initially notified their intention to retain the right to use the transitional safeguard mechanism which required them, in turn, to develop and notify a three phase integration programme; three have notified the first-phase, and one the second phase.

(vi) Establishing modern data processing facilities

18. Several LDCs have pointed to their lack of modern information technology as creating difficulties in implementing certain WTO Agreements, particularly Customs Valuation and TRIPS. It is not only hardware and software which is lacking, but also trained personnel. LDCs have requested assistance in modernizing and computerising customs procedures and in building up a data base on prices, freight and insurance charges, and assistance in establishing computerized databases to allow them to proceed with implementation of the TRIPS Agreement.

---

<sup>2</sup>From the reply, dated 4 November 1996, of the Ugandan Ministry of Trade and Industry to the questionnaire on priorities that should be assigned to WTO technical assistance circulated in May 1996 by the Chairman of the WTO Committee on Trade and Development.

<sup>3</sup>Even where a particular LDC does not apply domestic support measures or export subsidies, a notification to that effect is required.

(vii) Designing and implementing policy changes

19. In their needs assessments prepared under the Integrated Framework, a number of LDCs requested assistance in designing the extent, sequence and timing of liberalization of their tariffs and other import restrictions which would be in conformity with their WTO obligations, taking due account of the transitional periods for LDCs where these are provided. A few LDCs have requested assistance in developing policies to assist the development of their agricultural production without violating WTO rules.

## II. OVERVIEW OF THE SECRETARIAT'S TECHNICAL ASSISTANCE ACTIVITIES WITH LDC MEMBERS

(i) Integrated Framework

20. In the context of the Integrated Framework for Trade-related Technical Assistance for least-developed countries, adopted at the High Level Meeting in October 1997, LDCs submitted assessments of their needs for trade-related technical assistance. These needs assessments include requests for technical assistance in the area of compliance with WTO obligations. In response to such requests, WTO and the other five agencies involved in the Integrated Framework exercise have set out their planned activities, details of which are contained in the document series WT/COMTD/IF/1 through 39, in particular in the matrixes included in these documents which contain the Integrated Response by the six agencies, under section A(I).

21. The WTO response to requests for technical assistance in the area of compliance with WTO obligations broadly covers four types of activities: (i) organize special trade policy courses in 1998 and 1999, in each year, one for English-speaking and one for French-speaking LDCs; (ii) hold regional seminars on trade-related topics of specific concern to LDCs; (iii) organize national seminars in LDCs to increase awareness of the multilateral trading system and rights and obligations under the WTO Agreements; (iv) provide the Ministries responsible for international trade in each LDC Member and Observer with computer hardware and software, link with them to the Internet and give them training in using new technologies and accessing information through the WTO website.

22. A more detailed account is included in document WT/COMTD/W/45 which sets out the activities WTO has so far undertaken/plans to undertake, in response to the LDCs' needs expressed in their Needs Assessments. These are the following:

- National seminars

23. Sixteen national seminars were undertaken since the High-Level Meeting (Democratic Rep. of Congo, Rwanda, Djibouti, Chad, Equatorial Guinea, Ethiopia, Madagascar, Malawi, Mozambique, Nepal, Niger, Cambodia, Laos, Zambia, Haiti, Myanmar), of those three national seminars were undertaken with the participation of ITC (Chad, Madagascar and Rwanda) and two with UNDP (Djibouti and Niger). Five national seminars are being planned for subsequent weeks (Guinea, Mauritania, Burundi, Central African Republic and Togo).

- Regional seminars

24. One regional seminar for English-speaking African least-developed countries has taken place in mid-June, with the participation of ITC. Two other regional seminars specifically for least-developed countries have been undertaken in Djibouti (French-speaking least-developed countries) and in Bangladesh (Asian and Pacific least-developed countries).

25. Twelve regional seminars were held since the High-Level Meeting in which least-developed countries' officials and representatives from the private sector and from academic institutions participated. Four of these regional seminars on the multilateral trading system were undertaken jointly with the World Bank (in Senegal, Tanzania, Botswana, and in Cameroon). Eight regional seminars focussed on specific subjects, in particular on financial services, dispute settlement, market access, trade and environment and TRIPS.

- Short trade policy course

26. The first short trade policy course for English-speaking least-developed countries was held in May 1998 with 23 participants. The second short trade policy course is being undertaken for French-speaking least-developed countries in Turin (Italy) in October 1998.

- Technical missions

27. Six technical missions were undertaken to assist individual least-developed countries in their implementation of WTO obligations, with a view to enhancing their participation in the multilateral trading system. Three missions concerned specifically notification obligations and issues relating to the adaptation of internal legislation to WTO disciplines (Haiti, Djibouti and Equatorial Guinea). The three remaining missions were undertaken to assist individual countries in the implementation of their services commitments (Djibouti, Niger and Madagascar). Eleven additional missions concerning implementation issues are being planned (Gambia, Mauritania, Angola, Burundi, Mali, Niger, Uganda, Tanzania, Benin, Burkina Faso and Maldives).

- Establishing modern data processing facilities

28. In response to requests for assistance to establishing modern data processing facilities, the Secretariat began a programme to install computers and Internet links in the trade or commerce ministries of all LDCs. At the end of October 1998, 31 least-developed countries will have been provided with such "Reference Centres" (26 Members and five Observers). In the course of 1999 it is foreseen that 38 least-developed countries will have received Reference Centres (all 29 LDC Members plus nine Observers).

(ii) Joint Integrated Technical Assistance Programme

29. Prior to the High Level Meeting, a Joint Integrated WTO/UNCTAD/ITC Technical Assistance Programme for Selected Least-Developed and Other African Countries (JITAP) was adopted in May 1996. It responds to the urgent need of least-developed and other African countries to be assisted in the expansion and diversification of their trade and in the process of their integration into the multilateral trading system. This programme currently covers eight developing countries, including four least-developed: Benin, Burkina Faso, Tanzania, Uganda. Activities under this Programme for individual LDCs are being subsumed under the Integrated Framework. In 1998, a Common Trust Fund was established to finance country projects by the three organizations involved.

(iii) General

30. With a view to helping LDCs meet their obligations in the field of tariffs, including the establishment of schedules of tariff concessions, several technical assistance missions have taken place; in addition, a programme of regional seminars for LDCs has been instituted. The Secretariat has also organized a programme of technical assistance on customs valuation to assist all developing countries in implementing the Agreement; this is open to LDC Members and LDCs in the process of accession, on their request.

31. The Secretariat stands ready to assist LDC Members in drafting legislation concerning anti-dumping, safeguards, and countervailing measures, and has materials available in this regard. The Secretariat also has conducted regional and national technical assistance missions in the WTO rules area.

32. Model notifications covering all WTO *notification requirements* were prepared by the Secretariat and distributed to all WTO Members in the Technical Cooperation Handbook on Notification Requirements in 1996. The Secretariat has conducted several Notification Workshops, some of which are available on video and can be obtained at the Secretariat. In addition, it routinely assists Members on request with notification problems through contacts with Geneva-based and capital-based officials by providing comments on draft notifications received and concrete advice on how to comply with specific notification requirements.

33. In response to requests for assistance to *create the necessary domestic institutional and administrative framework*, in the case of the TRIPS Agreement, the Secretariat has held three workshops for officials from LDCs and some developing countries with the objective of familiarising them with the basic concepts, principles and obligations of the TRIPS Agreement and facilitating its implementation. In these seminars, the need for coordination between relevant authorities having various responsibilities related to the implementation of the TRIPS Agreement, including preparation of laws and regulations, administration of industrial property, and domestic and border enforcement, has often been emphasized. In the rules area the Secretariat has conducted workshops to train investigators, aimed principally at Members conducting investigations; a few LDCs have participated in such training programmes to date.

34. Assistance in designing and implementing policy changes is also provided by the Secretariat in the context of the Trade Policy Reviews of LDCs. Following the recommendation made at the High-Level Meeting to accommodate a greater number of TPRs for LDCs, TPRs have now been completed or are under preparation in the 1998 review programme for ten of the 29 LDC Members: Bangladesh, Benin, Burkina Faso, Guinea, Lesotho, Mali, Solomon Islands, Togo, Uganda and Zambia.

---