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IMPLEMENTATION OF URUGUAY ROUND PROVISIONS IN FAVOUR OF DEVELOPING COUNTRY MEMBERS

Note by the Secretariat

The implementation of the Uruguay Round provisions in favour of developing country (LDC) Members is one of the priorities of the work programme of the Committee on Trade and Development (CTD) for 1996, with a view to making an input into the Singapore Ministerial Conference.¹ To this end, the Chairman of the CTD requested the Secretariat, at its Eight Session, to prepare a note organizing the replies received to his request for relevant information from the Chairpersons of WTO Bodies responsible for monitoring the implementation of the Uruguay Round results. This note is a response to that request and is to be taken up under agenda item B of the Ninth Session of the CTD, *Implementation of Uruguay Round Provisions in Favour of Developing Country Members*.

The information provided below does not cover all the legal instruments resulting from the Uruguay Round for two reasons: not all instruments contain provisions in favour of developing country Members and, second, the information received to date does not cover all relevant WTO Bodies.² Also, only those provisions which are action-oriented and are therefore relevant for the review have been included. Provisions contained in the Preamble of the various agreements as well as those in the *Decision on Measures in Favour of Least-Developing Countries* (LLDCs) have not been included, as they do not provide for action *per se*, but rather describe the background against which action is to be taken.³

In the following, the left-hand column summarizes the action-oriented provisions in favour of LDCs. The right-hand column indicates the relevant information - that is, the extent to which the provision has been implemented - provided by the Chairperson of the WTO Body. For those agreements where the Chairperson has made a general observation, this appears as the first entry in the right-hand column (therefore there is no corresponding text in the left-hand column). In turn, if no comments were received from the Chairperson with respect to specific provisions, then the right-hand column is blank. Finally, provisions relating to LLDCs have been grouped at the end of the commentaries on each of the agreements.

¹This is in accordance with the following statement made by the Chairman of the Committee on Trade and Development at the meeting held on 12 July 1996: "The Chairman recalled that after informal consultations, the Committee had decided that the review of the implementation of Uruguay Round provisions in favour of developing country Members should be one of the priorities of its work programme for this year, with a view to making an input to the Singapore Ministerial Conference." (See paragraph 2 of document WT/COMTD/M/8.)

²Replies received at a later stage will be included in an Addenda to this document.

³One exception, however, is the Agreement on Agriculture. For a comprehensive description of all special provisions relating to developing countries see *A Description of the Provisions Relating to Developing Countries in the Uruguay Round Agreements, Legal Instruments and Ministerial Decisions*, COM.TD/W/510, 2 November 1994.

Provision	Implementation
Understanding on Balance-of-Payments Provisions	
	Since the entry into force of the WTO, 11 LDCs (including 1 LLDC) have held BOP consultations. Two LDCs disinvoked BOP provisions in 1995.
Assisting in preparing documentation for the consultations (Para. 12).	
<u>For LLDCs only</u> Simplified procedures for consultations (Para. 8).	Bangladesh held consultations under simplified procedures.
Agreement on Agriculture	
	LLDCs are to make notifications on domestic support only every two years; LDCs are to notify annually but the Committee on Agriculture may, upon request, set aside parts of the notification.
	Technical assistance with respect to the Agreement (including seminars) has been provided.
In implementing their commitments, developed country Members are to take into account the needs of the LDCs (Preamble).	Schedules of developed country Members show commitments of greater-than-average reductions in tariffs on products of interest to LDCs (e.g. average reduction in tropical agricultural products tariffs of 43%) and their accelerated implementation.
Exclusion of some domestic support policies from the reduction commitments (Art. 6:2).	The vast majority of LDCs have reflected such exclusion in their Schedules. As for implementation, only 4 LDCs have made notifications on domestic support; of these, 3 made use of this provision and 1 indicated the absence of subsidies.
Greater <i>de minimis</i> allowance on domestic support (Art. 6:4).	The vast majority of LDCs have reflected such provision in their Schedules. As for implementation, only 4 LDCs have made notifications on domestic support; of these, 2 made use of this provision and 1 indicated the absence of subsidies.
Lower export subsidy reduction commitments (Art. 9:2(b)(iv)).	Used by all LDCs.
Exclusion of some export subsidies from the reduction commitments (Art. 9:4).	The vast majority of LDCs have reflected such exclusion in their Schedules. As for implementation, 14 LDCs have made notifications on export subsidies; of these, 2 made use of this provision.

Provision	Implementation
The disciplines on export prohibition and restriction only apply to LDCs which are net-exporters of the concerned foodstuff (Art. 12:2).	
Special and differential (S&D) treatment in respect of commitments shall be applied in line with the Agreement and the Schedules (Art. 15).	The Schedules of LDCs and LLDCs reflect the flexibility on ceiling bindings, longer implementation period and lower reduction commitments in tariffs, domestic support and export subsidies.
Actions for implementing, and monitoring of the implementation of the Decision on Net-Food Importing Developing Countries (Art. 16).	See pages 10-11 of this document.
Consideration of S&D treatment in the negotiations on the continuation of the reform process in agricultural trade (Art. 20(c)).	
More flexible criteria and conditions to exempt some domestic support policies from the reduction commitments (Annex 2, paras. 3-4).	The vast majority of LDCs have reflected such provisions in their Schedules. As for implementation, only 4 LDCs have made notifications on domestic support; of these, one indicated the absence of subsidies.
LDCs have more flexible criteria for deferring tariffication for certain products, and the required market opening in such cases is substantially lower (Annex 5, Section B).	Certain Schedules from LDCs reflect recourse to this provision.
<u>For LLDCs only</u> No requirement to undertake reduction commitments (Art. 15:2).	Used by all LLDCs.
Agreement on Sanitary and Phytosanitary Measures (SPS)	
A Member shall accept other Members' SPS measures as equivalent if the exporting Member demonstrates that its measures achieve the importing Member's appropriate level of SPS protection (Art. 4:1).	Several LDCs have reported to the SPS Committee that they have entered into consultations with other Members and achieved bilateral recognition of the equivalence of specific SPS measures.
Recognition of the concepts of pest- or disease-free areas and low pest or disease prevalence (Art. 6:1-3).	With the aim of having their territories (or parts thereof) recognized as pest- or disease-free areas or areas of low pest or disease prevalence, a number of LDCs initiated negotiations and risk assessment procedures with importing Members. Some of these negotiations have been successfully concluded and trade has therefore been facilitated between the Members concerned.

Provision	Implementation
Facilitate the provisions of assistance to help LDCs in complying with trading partners' requirements (Art. 9:1).	Technical assistance has focused on informing LDCs of the SPS Agreement. The Secretariat organized six regional seminars in cooperation with other international organizations and an additional seminar is planned. The Secretariat has participated in a number of seminars organized by Members or by other international organizations. The FAO has numerous programmes focusing on meeting multilateral trade requirements, in particular regarding food safety and Codex standards. However, assistance in the area of plant quarantine is very limited.
Providing assistance where substantial investments are required for complying with trading partners' requirements (Art. 9:2).	
Consideration of special needs in the preparation and application of SPS measures (Art. 10:1).	
Longer time-frames for compliance with new SPS measures (Art. 10:2).	
Specified, time-limited exceptions in whole or in part from obligations under this Agreement may be granted upon request (Art. 10:3).	While the implementation of the transparency provisions has been identified as a serious problem for many LDCs, no LDC has as yet requested any exceptions from the obligations of the Agreement.
Encourage and facilitate LDCs' active participation in international organizations related to SPS regulations (Art 10:4).	
Delayed implementation for some obligations for LLDCs (5 years) and for LDCs (2 years) (Art. 14).	With the transition period for LDCs elapsing at the end of 1996, specific requests for S&D treatment may become more evident as from 1997. Infrastructure shortages with regard to SPS services as well as deficient functioning of national regulatory bodies are among possible problem-causing areas.
Allow a reasonable interval between the publication and entry into force of a SPS regulation (Annex B, para. 2).	
The Secretariat is to draw the attention of LDCs to notifications relating to products of particular interest to them (Annex B, para. 9).	The Secretariat has done so on several occasions.
Agreement on Textiles and Clothing	
More favourable growth factor for small exporters, new entrants and possibly LLDCs (Art. 1:2, 2:18).	Restrictions applied under Article 2:1 vis-à-vis LLDCs have been notified by Canada and US (three LLDCs each). In that context, Canada has advanced by one stage the growth rates for two LLDCs, and the US did the same for one LLDC.
Consideration of particular interests of cotton-producing exporting Members (Art.1:4).	No measure has been notified.

Provision	Implementation
A Member may autonomously eliminate any restrictions ⁴ (Art. 2:15).	Norway eliminated as from 1.1.96 some restrictions which benefit 12 LDCs.
Some small exporters move ahead one stage in the growth process (Art. 2:18).	The growth rates were advanced by one stage for all exporters falling within the criteria. This covers 12 LDCs (of which 2 LLDCs) in Canada, 2 LDCs in the EC, 18 LDCs (of which 1 LLDC) in the US.
More favourable treatment regarding the application of quota levels, growth rates and flexibility in the transitional safeguard for small suppliers, new entrants and possibly LLDCs (Art. 1:2, 6:6(b)).	No safeguard action involving exports of LLDCs has been notified. For the other categories of countries, the Textiles Monitoring Body (TMB) received no information on the extent to which recourse was made to this provision in setting the parameters of the restraints.
Special consideration of the export needs of Members dependent on wool exports in the application of quota levels, growth rates and flexibility in the transitional safeguard (Art. 6:6(c)).	No safeguard action involving exports of this category of countries has been notified.
More favourable treatment regarding the transitional safeguard applied on some products exported by Members active in outward-processing trade (Art. 6:6(d))	The US has provided more favourable treatment to these products exported by 6 LDCs.
No transitional safeguard to be applied on LDCs exporting handloom fabrics and LLDCs exporting certain other products (Annex, para. 3).	No safeguard action involving exports of these categories of countries has been introduced.
<u>For LLDCs only</u> Significantly more favourable treatment regarding the transitional safeguard (Art. 6:6(a)).	No safeguard action involving exports of LLDCs has been notified.
Agreement on Anti-Dumping	A number of Members have provided technical assistance and training in areas relevant to the operation of the Agreement.
	It has been suggested that technical assistance be granted by the Committee and Members with experience in the administration of anti-dumping laws to new users and LDCs.

⁴May benefit all Members, and not only LDCs/LLDCs.

Provision	Implementation
Special regard to special situation of LDCs when considering the application of anti-dumping measures (Art. 15).	Some of the anti-dumping legislation and regulations reviewed by the Committee reflect this provision. In the context of the review of notifications of anti-dumping actions, no LDC has raised a question concerning the application of this provision.
Exploring constructive remedies before applying anti-dumping duties (Art. 15).	Some of the anti-dumping legislation and regulations reviewed by the Committee reflect this provision. In the context of the review of notifications of anti-dumping actions, no LDC has raised a question concerning the application of this provision.
Agreement on Customs Valuation	
Delayed application of the provisions of the Agreement (Art. 20:1).	Invoked by 48 LDCs (of which 10 LLDCs).
Delayed application of the computed value method (Art. 20:2).	Invoked by 43 LDCs (of which 8 LLDCs).
Technical assistance in general, upon request (Art. 20:3).	The World Customs Organization (WCO) is conducting an extensive programme of technical assistance.
Reservation concerning minimum values (Annex III, para. 2).	Invoked by 27 LDCs (of which 6 LLDCs).
Reservation concerning reversal of sequential order of Art. 5 and 6 (Annex III, para. 3).	Invoked by 42 LDCs (of which 8 LLDCs).
Reservation concerning application of Art. 5:2 whether or not the importer so requests (Annex III, para. 4).	Invoked by 41 LDCs (of which 7 LLDCs).
Upon request, preparation of a study on the problem regarding the non-inclusion in the customs value of special discounts and commissions obtained by sole agents, sole concessionaires and sole distributors, (Annex III, para. 5).	
Preparation by the WCO of studies in areas of potential concern to LDCs (Text 2 of the Decision relating to the Agreement).	The Technical Committee of the WCO finalized its consideration of a draft case study related to an importation by a sole distributor.

Provision	Implementation
Agreement on Import Licensing Procedures	
Consideration of LDCs' economic development purposes and financial and trade needs to preventing trade distortions arising from an inappropriate operation of administrative procedures used to implement import licensing régimes (Art. 1:2).	
Upon invocation, delay by a maximum of two years of the implementation of some obligations related to automatic licensing (Art. 2:2 and Footnote 5).	24 LDCs (including 3 LLDCs) have invoked this provision.
Better treatment in the allocation of quotas administered through an import licensing system when it concerns products originating in LDCs and in particular LLDCs (Art. 3:5(j)).	
Agreement on Subsidies and Countervailing Measures	
	A number of Members have provided technical assistance and training in areas relevant to the operation of the Agreement.
When the GNP per capita of an Annex VII(b) country reaches US\$ 1,000 per annum, such Member becomes subject to the prohibition of granting export subsidies (Art. 27:2).	The Committee on Subsidies took note that the GNP per capita per annum of 3 LDCs listed in Annex VII(b) have exceeded this figure.
More favourable dispute resolution during the transition period (Art. 27:7).	
Positive demonstration that Article 6:1 subsidies caused serious prejudice (Art. 27:8).	
Limitations on actionability (Art. 27:9).	
Application of defined threshold for classifying the volume of subsidized imports as negligible, and more favourable threshold for classifying the level of subsidization as <i>de minimis</i> (Art. 27:10, 27:11).	Some of the countervailing duty legislation and regulations reviewed by the Committee include provisions relating to such favourable treatment.
No actionability under multilateral rules of direct forgiveness of debt and certain other subsidies in the context of a privatization programme (Art. 27:13).	The Committee received and discussed one notification made pursuant to this provision.
Review of the consistency of a Member's countervailing measure with special and differential treatment, upon request (Art. 27:15).	

Provision	Implementation
Agreement on Safeguards	
LDCs exports are to be exempted from safeguard measures provided they remain below a certain threshold (Art. 9:1).	A number of Members have provided technical assistance and training in areas relevant to the operation of the Agreement.
LDCs may apply safeguard measures for longer time periods and re-impose them after shorter periods (Art. 9:2).	While no safeguard measure has yet been applied pursuant to the Agreement - and therefore this provision remains unused for the time being - some of the safeguard legislation and regulations reviewed by the Committee reflect this provision.
	While no safeguard measure has yet been applied pursuant to the Agreement - and therefore this provision remains unused for the time being - some of the safeguard legislation and regulations reviewed by the Committee reflect this provision.
TRIPS Agreement	
Transition period for LDCs (Art. 65:2 and 65:4) and for LLDCs (Art. 66:1).	While these transition periods apply automatically and no notification is required, some Members which can claim these benefits have indicated to the TRIPS Council their intentions with respect to the transition periods.
Developed country Members are to provide technical and financial cooperation in favour of LDCs and LLDCs, upon request (Art. 67).	Technical cooperation has been a prominent issue in the TRIPS Council, which has assembled information on such activities provided by developed country Members (to be updated annually) and intergovernmental organizations, notably WIPO. This year, the September meeting of the Council will have a special focus on this issue and LDCs have been encouraged to indicate their technical cooperation needs' to the Council. In addition, the Council has endorsed a Secretariat proposal for a pilot thematic workshop on border enforcement, to take place immediately before the September meeting of the Council. Furthermore, the Agreement between the WIPO and the WTO (in force since 1.1.96) provides for cooperation between the two organizations in the areas of legal-technical assistance and technical cooperation relating to the TRIPS Agreement, including the requirement that the International Bureau of WIPO make available to LDC Members of the WTO, but not Members of WIPO, the same legal-technical assistance relating to the TRIPS Agreement as it makes available to Member States of WIPO which are LDCs (the WTO Secretariat is required to reciprocate). Pursuant to this, the two Secretariats cooperated in a number of projects and are planning additional projects.

Provision	Implementation
<p><u>For LLDCs only</u> Incentives to enterprises and institutions in developed country Members territories for the purpose of promoting and encouraging technology transfer to LLDCs(Art. 66:2).</p>	
<p>Trade Policy Review Mechanism</p> <p>Some flexibility might be needed by LLDCs in compiling their reports (Section D).</p> <p>Assistance in the compilation of national reports, upon request (Section D).</p>	<p>By end-1996, reviews will have been held for 57 Members (counting the EC as one), including 41 LDCs; some Members (including 8 LDCs) will have been reviewed twice. This leaves 51 LDCs for which a review is yet to be scheduled (including numerous LLDCs), thereby depriving them of the benefits the reviews bring to the Members concerned.</p> <p>The TPRB is looking at more effective ways than the one presently being used to channel the experience gained from reviews into wider WTO deliberations.</p> <p>The Secretariat has been providing technical assistance for Members under review.</p>
<p>Decision on Measures in Favour of LLDCs</p> <p>Extended time period to present Schedules of Concessions and Commitments (Para. 1).</p> <p>Regular reviews for ensuring expeditious implementation of all special and differential measures (Para. 2(i)).</p> <p>Autonomous implementation, in advance and without staging, of Uruguay Round concessions on tariffs and non-tariff measures (Para. 2(ii)).</p> <p>Consideration of improving preferential treatment (Para. 2(ii)).</p> <p>Special consideration of export interests when applying import restrictions (Para.2(iv)).</p>	<p>All the 29 LLDCs contracting parties to the GATT 1947 presented their Schedules in time to become original WTO Members. Currently, 24 LLDCs are WTO Members; for the other 5, membership will become effective once the WTO Agreement is ratified domestically.</p> <p>The Secretariat is not aware of any autonomous advanced implementation of concessions on products of export interest to LLDCs.</p> <p>Some developing country Members have notified improvements in their GSP schemes.</p>

Provision	Implementation
<p>Increased technical assistance in developing, strengthening and diversifying production and export bases including those of services (Para. 2(v)).</p> <p>The problems of the LLDCs shall be kept under continuous review and continuous efforts shall be made to adopt positive measures which facilitate the expansion of their trading opportunities (paragraph 3).</p>	<p>Discussions on the type of technical assistance to be provided by the WTO Secretariat, by other international organizations and by the Members themselves in the areas covered by the WTO are being held in the CTD and are intended to produce guidelines for technical cooperation. Extra (non-budgetary) resources have been made available for technical assistance to LLDCs by various Members, e.g. the Government of Norway and the European Communities.</p> <p>The review of the LLDCs' problems and the adoption of positive measures to facilitate their trade expansion are part of the terms of reference of the Sub-Committee on LLDCs. These two items were on the agenda of the last meeting of the Sub-Committee, which arrived at the following conclusions: LLDCs needed assistance in strengthening their human and institutional capacity; the role of the WTO in efforts to increase the participation of LLDCs in world trade was to be defined by the Sub-Committee; and LLDCs should be encouraged to participate more fully in WTO work. Work in the Sub-Committee on LLDCs is continuing.</p>

Decision Relating to LLDCs and Net Food-Importing Developing Countries (NFICs)

	<p>The follow-up of the Decision has represented an important part of the work of the Committee on Agriculture in 1995-96. Agreement was found on a number of elements related to the Decision. That is - (i) annual review (November) of the implementation of the Decision, including a preparatory work programme for the reviews; (ii) notification requirements for actions taken under the Decision; (iii) basis/criteria for the establishment of a WTO list of NFICs, which comprises currently the 48 LLDCs as defined by the United Nations and 15 LDC Members. In the first review of the Decision, the International Grains Council, the World Food Programme, the FAO, the World Bank, the IMF and Members reported on their work relevant to the Decision.</p>
<p>Periodical review of the level of food aid (Para. 3(i)).</p>	<p>The Committee agreed on a preparatory work programme for this review.</p>
<p>Adoption of guidelines to ensure that an increasing proportion of basic foodstuffs is provided (Para. 3(ii)).</p>	<p>The Committee agreed on a preparatory work programme.</p>

Provision	Implementation
<p>Consideration to requests for the provision of technical and financial assistance to improve agricultural productivity and infrastructure (Para. 3(iii)).</p>	
<p>Ensuring that any agreement relating to agricultural export credits makes appropriate provision for differential treatment (Para. 4).</p>	
<p>Possibility of drawing on the resources of international financial institutions in cases of short-term difficulties in financing normal levels of commercial imports (Para. 5).</p>	<p>The Director-General of the WTO raised the question of the implementation of the Decision in his contacts with the President of the World Bank and the Managing Director of the IMF. Their reactions can be found in documents G/AG/W/12 and Add.1.</p>
<p><u>For LLDCs only</u> Establishing a level of food aid commitments sufficient to meet legitimate needs during the reform programme (Para. 3(i)).</p>	
Decision on Notification Procedures	
<p>Some LDCs may need technical assistance in meeting their notification (Part III).</p>	<p>The WTO Secretariat is preparing a practical handbook on notification obligations.</p>
