WORLD TRADE ORGANIZATION

WT/COMTD/W/239

12 October 2018

(18-6313) Page: 1/176

Committee on Trade and Development

SPECIAL AND DIFFERENTIAL TREATMENT PROVISIONS IN WTO AGREEMENTS AND DECISIONS

NOTE BY THE SECRETARIAT[1]

[1] This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights and obligations under the WTO.

1 INTRODUCTION

1.1. This compilation of "Special and Differential Treatment Provisions in WTO Agreements and Decisions" has been prepared at the request of the Committee on Trade and Development (CTD). The compilation is an updated version of document WT/COMTD/W/219 of 22 September 2016. The focus is on the implementation of special and differential treatment (S&D) provisions in the WTO Agreements and Decisions.

1.2. The table below provides a numerical breakdown of S&D provisions by type (the classification into six types is outlined below) and by agreement. In this updated compilation, the total number of S&D provisions contained in the WTO Agreements amounts to 155. In addition, this update separately lists a number of Ministerial, General Council and other relevant Decisions that allow for special treatment to developing and least developed country (LDC) Members.

1.3. Sections 2 – 6 reflect the S&D provisions contained in the different WTO Agreements. Section 2 reflects the S&D provisions contained in the Multilateral Agreements on Trade in Goods, Section 3 the S&D provisions contained in the General Agreement on Trade in Services (GATS), Section 4 the S&D provisions contained in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Section 5 the S&D provisions contained in the Understanding on Rules and Procedures Governing the Settlement of Disputes and Section 6 the S&D provisions contained in the Plurilateral Agreements. Section 7 reflects S&D provisions and references in Ministerial, General Council and other relevant Decisions.

1.4. Sections 2 – 7 include, in some cases, introductory information relating to the relevant Agreement or Decision. These sections also contain tables which reproduce, in the left-hand column, the text of the different S&D provisions, and in the right-hand column titled "Comment", information regarding the provisions, particularly concerning their implementation. The "Comment" column is left blank where there is no specific information available.

1.5. The S&D provisions in this updated compilation have been classified according to the typology developed by the Secretariat in 2001[2]. This six-fold typology has been retained and includes:

1. Provisions aimed at increasing the trade opportunities of developing country Members;

2. Provisions under which WTO Members should safeguard the interests of developing country Members;

3. Flexibility of commitments, of action, and use of policy instruments;

4. Transitional time-periods;

5. Technical assistance;

6. Provisions relating to LDC Members.

1.6. It may be noted that a Decision was taken at the Bali Ministerial Conference in December 2013 to establish a Monitoring Mechanism on S&D (WT/MIN(13)/45 – WT/L/920). According to the Decision, the Monitoring Mechanism - which operates in Dedicated Sessions of the CTD - is to act as a focal point within the WTO to analyse and review the implementation of S&D provisions. The monitoring of special and differential provisions in the Mechanism is to be undertaken on the basis of written inputs or submissions made by Members, as well as on the basis of reports received from other WTO bodies to which submissions by Members could also be made. To date, no written submissions from Members have been made.

[2] The Agreement on Trade Facilitation (TFA), which entered into force on 22 February 2017, has for the first time been included in this update. Although the S&D provisions in the TFA differ in many respects from the S&D architecture of the other WTO Agreements, and therefore do not fit easily within this typology, efforts were nevertheless made to incorporate them into this common format for the classification of S&D provisions.

Table on Special and Differential Treatment provisions by type and agreement

Agreement	Provisions aimed at increasing the trade opportunities of developing country Members	Provisions that require WTO Members to safeguard the interests of developing country Members	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members	Total by Agreement[3]
General Agreement on Tariffs and Trade 1994	**8**	**13**	**4**				**25/25**
Understanding on Balance of Payments of GATT 1994			**1**		**1**		**2/2**
Agreement on Agriculture	**1**		**9**	**1**		**3**	**14/13**
Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures		**2**		**2**	**2**		**6/6**
Agreement on Technical Barriers to Trade	**3**	**10**	**2**	**1**	**9**	**3**	**28/25**
Agreement on Trade-Related Investment Measures (TRIMs)			**1**	**2**		**1**	**4/3**
Agreement on Implementation of Article VI of GATT 1994		**1**					**1/1**
Agreement on Implementation of Article VII of GATT 1994		**1**	**2**	**4**	**1**		**8/8**
Agreement on Import Licensing Procedures		**3**		**1**			**4/4**
Agreement on Subsidies and Countervailing Measures (SCM)		**2**	**10**	**7**			**19/16**
Agreement on Safeguards		**1**	**1**				**2/2**
General Agreement on Trade in Services (GATS)	**3**	**4**	**4**		**2**	**2**	**15/13**
Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)				**2**	**1**	**3**	**6/6**

[3] The first figure reported in this column is the sum over all categories of the listed number of S&D provisions in each Agreement. This figure is obtained by counting each appearance of a provision, including when a provision is classified in more than one category. There are 21 provisions across the WTO Agreements which are classified in more than one category: one provision in the Agreement on Agriculture, three in the TBT Agreement, one in the TRIMs Agreement, three in the SCM Agreement, two in the GATS, two in the GPA and nine in the TFA (the details can be found in the relevant sections). The second figure in this column, on the other hand, reports the number of provisions in each Agreement when each provision is counted only once. The total of 155 over all the Agreements counts the provisions once, while the total of 183 is the total of all listed provisions.

Agreement	Provisions aimed at increasing the trade opportunities of developing country Members	Provisions that require WTO Members to safeguard the interests of developing country Members	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members	Total by Agreement[3]
Understanding on Rules and Procedures Governing the Settlement of Disputes.		**7**	**1**		**1**	**2**	**11/11**
Agreement on Government Procurement (GPA)		**3**	**6**		**1**	**2**	**12/10**
Agreement on Trade Facilitation (TFA)			**3**	**7**	**7**	**9**	**26/10**
TOTAL	**15**	**47**	**44**	**27**	**25**	**25**	**183/155**

2 MULTILATERAL AGREEMENTS ON TRADE IN GOODS

2.1 General Agreement on Tariffs and Trade (GATT) 1994

2.1. The General Agreement on Tariffs and Trade (GATT) 1994 contains a total of 25 special and differential provisions. These provisions which are contained in Articles XVIII, XXXVI, XXXVII and XXXVIII of the GATT 1994, fall under the following three categories.

2.1.1 Provisions aimed at increasing the trade opportunities of developing country Members

Eight provisions [Articles XXXVI.2, XXXVI.3, XXXVI.4, XXXVI.5, XXXVII.1(a), XXXVII.4, XXXVIII.2(c),(e)].

2.1.2 Flexibility of commitments, of action, and use of policy instruments

Four provisions (Articles XXXVI.8, XVIII.7(a), XVIII.8, XVIII.13).

2.1.3 Provisions under which WTO Members should safeguard the interests of developing country Members

13 provisions [Articles XXXVI.6, XXXVI.7, XXXVI.9, XXXVII.1(b),(c), XXXVII.2, XXXVII.3, XXXVII.5, XXXVIII.1, XXXVIII.2(a),(b),(d),(f)].

2.2. Tariff concessions undertaken by developing country Members under Article II of GATT 1994 have generally been implemented over a longer or extended time-frame compared to developed countries. To date, the Secretariat is aware of two cases where a WTO Member has had difficulties in implementing its tariff reductions according to its schedule of concessions, both of which have obtained waivers[4]. Members having any difficulty in implementing their WTO tariff concessions also have the possibility to renegotiate them under GATT Article XXVIII procedures, which are available to all WTO Members and commonly utilized for various reasons. Since the WTO was established, 27 WTO Members, including 18 developing countries and two LDCs, have engaged in this type of renegotiations.[5]

[4] The two cases relate to Members that acceded under Article XI of the Marrakesh Agreement and related to concessions made in in the Schedules annexed to their Protocols of Accession. The first waiver was granted to Albania, through the General Council Decision of 26 May 2005 (WT/L/610), and the second one to Cabo Verde, through the General Council Decision of 28 July 2009 (WT/L/768).

[5] See Secretariat note G/MA/W/23/Rev.14 (Situation of Schedules of WTO Members) and Secretariat report G/MA/W/123/Rev.1 (Status of Renegotiations under Article XXVIII of GATT 1994).

GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

PROVISION	COMMENT
Article XVIII	
Flexibility of commitments, of action, and use of policy instruments	
<u>Section A</u>	
7. (a) If a contracting party coming within the scope of paragraph 4 (a) of this Article considers it desirable, in order to promote the establishment of a particular industry with a view to raising the general standard of living of its people, to modify or withdraw a concession included in the appropriate Schedule annexed to this Agreement, it shall notify the CONTRACTING PARTIES to this effect and enter into negotiations with any contracting party with which such concession was initially negotiated, and with any other contracting party determined by the CONTRACTING PARTIES to have a substantial interest therein. If agreement is reached between such contracting parties concerned, they shall be free to modify or withdraw concessions under the appropriate Schedules to this Agreement in order to give effect to such agreement, including any compensatory adjustments involved.	This provision has not been invoked by developing country Members since the WTO Agreement came into force.
<u>Section B</u>	
8. The contracting parties recognize that contracting parties coming within the scope of paragraph 4(a) of this Article tend, when they are in rapid process of development, to experience balance-of-payments difficulties arising mainly from efforts to expand their internal markets as well as from the instability in their terms of trade.	In the three parallel GATT Panel reports in 1989 on *Republic of Korea - Restrictions on Imports of Beef*, in response to complaints by Australia (BISD 36S/202), the United States (BISD 36S/268), and New Zealand (BISD 36S/234), Korea argued that its import restrictions on beef could be justified under Article XVIII:B because the restrictions were necessary to secure an adequate level of foreign reserves that were necessary for the implementation of its programme of economic development. Australia also recognized that developing countries have a legitimate right to recourse to Article XVIII:B in times of balance-of-payments (BOP) difficulties. (BISD 36S/202, para.66) The Panel took account of "all available information" and found that Korea's development indicators were improving, and therefore, Korea should establish a phase-out for its BOP restrictions on beef. (BISD 36S/202, paras. 98-101; 36S/268, paras. 120-123; and 36S/234, paras. 114-117) In *India – Quantitative Restrictions,* India argued that Article XVIII:B is the most important expression of the principle of S&D in the GATT. India further argued that, taking into account of its economic development situation, its import restrictions were consistent pursuant to Article XVIII:11 of the GATT 1994.(WT/DS90/R, panel report, para. 5.152) The Panel confirmed that Article XVIII:B embodies the S&D foreseen for developing countries with regard

PROVISION	COMMENT
	to the BOP measure at issue. (WT/DS90/R, para. 5.155) However, the Panel found that India's measures violated Article XVIII:11. Moreover, the Panel concluded that India's measures did not meet specific conditions "as provided in" Section B of Article XVIII; therefore those measures could not be justified by Article XVIII:B. (WT/DS90/R, para. 6.1; the Appellate Body upheld the Panel's findings in this respect.) In *India – Autos*, India asserted a defence under Article XVIII:B to the extent of any violation of Article XI of the GATT 1994. India presented no evidence regarding its BOP situation, and argued that the burden was on the complainants to establish that its measures were not justified on balance-of-payments grounds. The Panel rejected this argument and found that "the burden is on India in relation to this defence". The Panel ruled that India failed to make a *prima facie* case, because India presented no information on its actual BOP situation during the relevant period, and did not explain how it had met the substantive conditions of Article XVIII:9. (WT/DS 146, DS175, panel report, paras. 7.289-7.294) Article XVIII:B of the GATT 1994 was invoked more than 20 times before the WTO Agreement entered into force. Since then, 14 developing countries have made use of Article XVIII:B. (see records on BOP consultations from 1995-2010 in WTO Analytical Index, third edition, pp. 292-293; see also record of consultations from 1947-1994 at pp. 394-395 of the GATT Analytical Index). According to the latest annual report (2017) of the Committee on Balance-of-Payments Restrictions, Ecuador notified to the Committee the complete elimination of the tariff surcharge which was introduced in March 2015 (WT/BOP/R/115).

PROVISION	COMMENT
Section C	
13. If a contracting party coming within the scope of paragraph 4(a) of this Article finds that governmental assistance is required to promote the establishment of a particular industry with a view to raising the general standard of living of its people, but that no measure consistent with the other provisions of this Agreement is practicable to achieve that objective, it may have recourse to the provisions and procedures set out in this Section.	Before the WTO Agreement entered into force, Article XVIII:C was invoked 14 times.[6] From 1995 through July 2002, three developing country Members (Colombia[7], Bangladesh[8], Malaysia[9]) sought recourse to Article XVIII:C[10], and one developing country Member cited this provision during a dispute.[11] In *Malaysia – Prohibition of Imports of Polyethylene and Polypropylene* (WT/DS1/1), Singapore requested Malaysia to enter into consultations regarding the prohibition of imports of polyethylene (PE) and polypropylene (PP) instituted and maintained by the Malaysian Government under the Customs Order 1994 dated 16 March 1994 and which came into force on 7 April 1994. On 30 January 1995 – 20 days after the consultations request - Malaysia notified the WTO of its import restrictions on PE and PP, under the provisions of Article XVIII:C and the 1979 Decision on Safeguard Action for Development Purposes. In its request for the establishment of a panel, Singapore argued that Malaysia was not entitled to invoke Article XVIII:C in respect of the import prohibitions that had been in place 10 months prior to their notification, because "the requirements of Article XVIII:C for prior notification, consultations and approval of the measures by the CONTRACTING PARTIES were not met". (WT/DSB/M/2, p. 3; WT/DS1/2) Nonetheless, Singapore seems to have accepted Malaysia's notification because it announced that it had decided to withdraw its complaint at the DSB meeting on 19 July 1995.
Article XXXVI	
Provisions aimed at increasing the trade opportunities of developing country Members	
2. There is need for a rapid and sustained expansion of the earnings of the less-developed contracting parties.	
3. There is need for positive efforts designed to ensure that less-developed contracting parties secure a share in the growth in international trade commensurate with the needs of their economic development.	The average trade weighted tariff on industrial imports from developing Members fell by 37% after the cuts were completed following the conclusion of the Uruguay Round.

[6] WT/COMTD/39/Add.1.
[7] WT/COMTD/N/8.
[8] G/C/7.
[9] WT/L/32.
[10] WT/COMTD/39.
[11] WT/DS1/1.

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4. Given the continued dependence of many less-developed contracting parties on the exportation of a limited range of primary products, there is need to provide in the largest possible measure more favourable and acceptable conditions of access to world markets for these products, and wherever appropriate to devise measures designed to stabilize and improve conditions of world markets in these products, including in particular measures designed to attain stable, equitable and remunerative prices, thus permitting an expansion of world trade and demand and a dynamic and steady growth of the real export earnings of these countries so as to provide them with expanding resources for their economic development.	According to WTO's international trade statistics, the value of exports of agricultural products from developing countries increased from US$165 billion in 2001 to US$621 billion in 2016. See also the section on the Agreement on Agriculture.
5. The rapid expansion of the economies of the less-developed contracting parties will be facilitated by a diversification of the structure of their economies and the avoidance of an excessive dependence on the export of primary products. There is, therefore, need for increased access in the largest possible measure to markets under favourable conditions for processed and manufactured products currently or potentially of particular export interest to less-developed contracting parties.	A response to the provisions of paragraphs 3, 4 and 5 may be found in the maintenance of Members' Generalized System of Preferences (GSP) schemes and other non-reciprocal preferential schemes. Information on these schemes can be found in the WTO's Database on Preferential Trade Arrangements (http://ptadb.wto.org) See also the references to the Enabling Clause and to improved preferential market access measures for LDCs in Section 7 of this document.

PROVISION	COMMENT
Provisions under which WTO Members should safeguard the interests of developing country Members	
6. Because of the chronic deficiency in the export proceeds and other foreign exchange earnings of less-developed contracting parties, there are important inter-relationships between trade and financial assistance to development. There is, therefore, need for close and continuing collaboration between the CONTRACTING PARTIES and the international lending agencies so that they can contribute most effectively to alleviating the burdens these less-developed contracting parties assume in the interest of their economic development.	The Uruguay Round Final Act includes a number of decisions relating to collaboration with other organizations. The first is the Decision on achieving greater coherence in global economic policy-making which among other things, "notes that greater exchange rate stability based on more orderly underlying economic and financial conditions should contribute to 'the expansion of trade, sustainable growth and development, and the timely correction of external imbalance'. It recognizes that while difficulties whose origins lie outside the trade field cannot be redressed through measures taken in the trade field alone, there are nevertheless inter linkages between the different aspects of economic policy". The WTO is therefore called upon to develop its cooperation with the international organizations responsible for monetary and financial matters. As part of the Uruguay Round Final Act, Ministers also adopted the Declaration on the Contribution of the World Trade Organization to Achieving Greater Coherence in Global Economic Policy-making, which recognizes, *inter alia* that difficulties the origins of which lie outside the trade field cannot be addressed through measures taken in the trade field alone. In addition, they adopted the Decision on the Relationship of the WTO with the International Monetary Fund which reaffirms that "that, unless otherwise provided for in the Final Act, the relationship of the WTO with the International Monetary Fund, with regard to the areas covered by the Multilateral Trade Agreements in Annex 1A of the WTO Agreement, will be based on the provisions that have governed the relationship of the CONTRACTING PARTIES to the GATT 1947 with the International Monetary Fund". In November 1996, the General Council approved WTO agreements with the IMF and the World Bank. The agreements aimed to strengthen inter-agency relations.[12] The Enhanced Integrated Framework (EIF – successor to the Integrated Framework established in 1997) is a good example of an international partnership, through which the WTO, IMF, ITC, UNCTAD, UNDP, the World Bank Group, UNIDO and UNWTO combine efforts with those of LDCs, donors and other development partners to respond to the trade development needs of LDCs.

[12] WT/L/194.

PROVISION	COMMENT
	The Aid-for-Trade Initiative is another concrete example of the WTO working closely with the international lending agencies. For further information on the Aid-for-Trade Initiative see comments under Article XXXVIII of the GATT.
7. There is need for appropriate collaboration between the CONTRACTING PARTIES, other intergovernmental bodies and the organs and agencies of the United Nations system, whose activities relate to the trade and economic development of less-developed countries.	A global arrangement for cooperation between WTO and the United Nations was concluded on 29 September 1995 by an exchange of letters between the Director-General and the UN Secretary General (WT/GC/W/10). Generally speaking, the WTO collaborates with several intergovernmental bodies. The WTO Annual Reports provide a summary of such collaboration on a yearly basis.
9. The adoption of measures to give effect to these principles and objectives shall be a matter of conscious and purposeful effort on the part of the contracting parties both individually and jointly.	
Flexibility of commitments, of action, and use of policy instruments	
8. The developed contracting parties do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of less-developed contracting parties.	See above under paragraph 5. In addition, this provision was taken into account during the negotiations in the Uruguay Round. This is reflected both in the extent of bindings on industrial products and the average level of tariffs of the developing country Members.
Article XXXVII	
Provisions aimed at increasing the trade opportunities of developing country Members	
1. The developed contracting parties shall to the fullest extent possible - that is, except when compelling reasons, which may include legal reasons, make it impossible give effect to the following provisions: *(a) Accord high priority to the reduction and elimination of barriers to products currently or potentially of particular export interest to less-developed contracting parties, including customs duties and other restrictions which differentiate unreasonably between such products in their primary and in their processed forms;*	A similar provision was taken into account in the reduction of tariffs on tropical products during the Uruguay Round.
4. Less-developed contracting parties agree to take appropriate action in implementation of the provisions of Part IV for the benefit of the trade of other less-developed contracting parties, in so far as such action is consistent with their individual present and future development, financial and trade needs taking into account past trade developments as well as the trade interests of less-developed contracting parties as a whole.	See the references to improved preferential market access measures for LDCs in Section 7 of this document.

PROVISION	COMMENT
Provisions under which WTO Members should safeguard the interests of developing country Members	
1. (b) refrain from introducing, or increasing the incidence of, customs duties or non-tariff import barriers on products currently or potentially of particular export interest to less-developed contracting parties; and *(c) (i) refrain from imposing new fiscal measures, and (ii) in any adjustments of fiscal policy accord high priority to the reduction and elimination of fiscal measures, which would hamper, or which hamper, significantly the growth of consumption of primary products, in raw or processed form, wholly or mainly produced in the territories of less-developed contracting parties, and which are applied specifically to those products.*	
2. (a) Whenever it is considered that effect is not being given to any of the provisions of subparagraph (a), (b) or (c) of paragraph 1, the matter shall be reported to the CONTRACTING PARTIES either by the contracting party not so giving effect to the relevant provisions or by any other interested contracting party. *(b) (i) The CONTRACTING PARTIES shall, if requested so to do by any interested contracting party, and without prejudice to any bilateral consultations that may be undertaken, consult with the contracting party concerned and all interested contracting parties with respect to the matter with a view to reaching solutions satisfactory to all contracting parties concerned in order to further the objectives set forth in Article XXXVI. In the course of these consultations, the reasons given in cases where effect was not being given to the provisions of subparagraph (a), (b) or (c) of paragraph 1 shall be examined.* *(ii) As the implementation of the provisions of subparagraph (a), (b) or (c) of paragraph 1 by individual contracting parties may in some cases be more readily achieved where action is taken jointly with other developed contracting parties, such consultation might, where appropriate, be directed towards this end.* *(iii) The consultations by the CONTRACTING PARTIES might also, in appropriate cases, be directed towards agreement on joint action designed to further the objectives of this Agreement as envisaged in paragraph 1 of Article XXV.*	
3. The developed contracting parties shall: *(a) make every effort, in cases where a government directly or indirectly determines the resale price of products wholly or mainly produced in the territories of less-developed contracting parties, to maintain trade margins at equitable levels.*	

PROVISION	COMMENT
(b) give active consideration to the adoption of other measures designed to provide greater scope for the development of imports from less-developed contracting parties and collaborate in appropriate international action to this end.	
(c) have special regard to the trade interests of less-developed contracting parties when considering the application of other measures permitted under this Agreement to meet particular problems and explore all possibilities of constructive remedies before applying such measures where they would affect essential interests of those contracting parties.	This provision has been incorporated into the Anti-Dumping Agreement.
5. In the implementation of the commitments set forth in paragraph 1 to 4 each contracting party shall afford to any other interested contracting party or contracting parties full and prompt opportunity for consultations under the normal procedures of this Agreement with respect to any matter or difficulty which may arise.	
Article XXXVIII	
Provisions aimed at increasing the trade opportunities of developing country Members	
2. (c) collaborate in analysing the development plans and policies of individual less-developed contracting parties and in examining trade and aid relationships with a view to devising concrete measures to promote the development of export potential and to facilitate access to export markets for the products of the industries thus developed and, in this connection, seek appropriate collaboration with governments and international organizations, and in particular with organizations having competence in relation to financial assistance for economic development, in systematic studies of trade and aid relationships in individual less-developed contracting parties aimed at obtaining a clear analysis of export potential, market prospects and any further action that may be required;	One of the aims of the WTO is to help developing countries, and in particular the poorest among them, expand their production and exports of goods and services. Some countries are making progress in this regard – but others, including a large number of LDCs, continue to face constraints that result in them not being able to fully benefit from using trade as a vehicle for their economic growth and poverty reduction. The Aid-for-Trade Initiative was launched at the WTO Ministerial Conference in Hong Kong in December 2005, with the aim of assisting developing countries and LDCs reap greater trade benefits from enhanced market access opportunities. The WTO Initiative brings together developing countries and their development partners, including bilateral donors, the Bretton Woods Institutions, Regional Development Banks, specialized intergovernmental agencies and South-South partners. Aid for Trade is a subset of Official Development Assistance directed to build productive capacity, provide assistance for the implementation of WTO Agreements, and help build trade related infrastructure (both hard and soft). Commitment from across government to highlight and address trade-related constraints (i.e. mainstreaming) in national and regional development planning is needed by developing countries, including LDCs and their development partners. The support of the private sector is particularly critical if the Initiative is to live up to its promise. One of the Aid-for-Trade Task Force's conclusions in its report considered by the WTO's General Council in July 2006 was that existing mechanisms for

PROVISION	COMMENT
	monitoring, reviewing and evaluating Aid for Trade need to be strengthened and that improved monitoring and evaluation were essential for building confidence in the fact that increased Aid for Trade would be delivered and used effectively, and for enhancing the credibility of donors' commitments. Accordingly, in 2007, a system of monitoring Aid-for-Trade flows was established at three levels: the global level, the national level and the donor level. Six Global Aid-for-Trade Reviews and General Council debates have been held since the launch of the Aid-for-Trade Initiative. With their overarching themes including "Maintaining Momentum", "Showing Results", "Connecting to Value Chains", "Reducing Trade Costs for Inclusive, Sustainable Growth", and "Promoting Trade, Inclusiveness and Connectivity for Sustainable Development", the Reviews have made an important contribution to the Aid-for-Trade monitoring process, helped maintain commitment to mainstreaming trade in development policy, and provided Members with an opportunity to take stock of what is happening on Aid for Trade and identify where and how Aid for Trade can better assist developing countries. The 2013 Global Review, "Connecting to Value Chains", held on 8-10 July 2013, centered on the emerging phenomenon of trade through value chains, and the challenges and opportunities implied in this model of economic integration. Among the key themes emerging from the Review were the need to engage the private sector, the importance of services for adding value, the role that Aid-for-Trade could play in reducing investor risk, how Aid-for-Trade resources should leverage investment, the critical role of border management and transport services, and the importance of access to trade finance. The 2015 Global Review, "Reducing Trade Costs for Inclusive, Sustainable Growth", held from 30 June to 2 July 2015 examined the economic and development impact of high trade costs on developing countries and especially LDCs and discussed how Aid for Trade is helping reduce trade costs and the associated impacts to deliver inclusive, sustainable growth as envisioned by the Post-2015 Development Agenda. Among the messages emanating from the Review was that reducing trade costs will contribute to delivering the Sustainable Development Goals and that implementation of the Trade Facilitation Agreement would assist in this regard. The 2017 Global Review, "Promoting Trade, Inclusiveness and Connectivity for Sustainable Development", held on 11-13 July 2017, provided an opportunity

PROVISION	COMMENT
	for stakeholders to look at how best Aid for Trade can contribute to the integration of developing countries and least developed countries into the multilateral trading system and the achievement of the 2030 Agenda for Sustainable Development. Key messages included: the need to maintain a focus on LDCs and trade facilitation; the need to bridge the digital and physical divides; and the continued need for close synergy and correlation between Aid for Trade and the Sustainable Development Goals. Enhanced engagement and commitment by all Aid-for-Trade stakeholders has strengthened the Aid-for-Trade debate. In the Declaration adopted at the Nairobi Ministerial Conference in December 2015, Ministers, *inter alia*, recognized the importance of the Aid-for-Trade Initiative in supporting developing country Members to build supply-side capacity and trade-related infrastructure and of according priority to the needs of LDCs, and recognized the continuing need for the Aid-for-Trade Initiative. Important progress continues to be made with regard to the implementation of the Aid-for-Trade Initiative on the basis of biennial Aid-for-Trade work programmes. With its theme "Supporting Economic Diversification and Empowerment for Inclusive, Sustainable Development through Aid for Trade", the 2018-2019 Aid-for-Trade Work Programme seeks to build on the insights generated by the 2017 Global Review by analysing how trade can contribute to economic diversification and empowerment, with a focus on eliminating extreme poverty, particularly through the effective participation of women and youth, and how Aid for Trade can contribute to that objective by addressing supply-side capacity and trade-related infrastructure constraints, including for Micro, Small and Medium-sized Enterprises (MSMEs) notably for those MSMEs in rural areas. Other issues to be developed during the Work Programme will include industrialization and structural transformation, digital connectivity and skills, as well as sustainable development and access to energy. Work on these topics will provide inputs for the 2019 Global Review of Aid for Trade to be held in mid-2019.
(e) collaborate in seeking feasible methods to expand trade for the purpose of economic development, through international harmonization and adjustment of national policies and regulations, through technical and commercial standards affecting production, transportation and marketing, and through export promotion by the establishment of facilities for the increased flow of trade information and the development of market research;	The work of the International Trade Centre UNCTAD/WTO is oriented towards meeting the objectives of this provision. A number of initiatives have been put in place with the aim of providing trade-related information. Examples include the Global Trade Helpdesk (http://www.helpmetrade.org), the Integrated Trade Intelligence Portal (http://i-tip.wto.org) and ePing (http://www.epingalert.org).

PROVISION	COMMENT
Provisions under which WTO Members should safeguard the interests of developing country Members	
1. The contracting parties shall collaborate jointly, with the framework of this Agreement and elsewhere, as appropriate, to further the objectives set forth in Article XXXVI.	
2. In particular, the CONTRACTING PARTIES shall: *(a) where appropriate, take action, including action through international arrangements, to provide improved and acceptable conditions of access to world markets for primary products of particular interest to less-developed contracting parties and to devise measures designed to stabilize and improve conditions of world markets in these products including measures designed to attain stable, equitable and remunerative prices for exports of such products;*	
(b) seek appropriate collaboration in matters of trade and development policy with the United Nations and its organs and agencies, including any institutions that may be created on the basis of recommendations by the United Nations Conference on Trade and Development;	See comment in relation to Article XXXVI:7.
(d) keep under continuous review the development of world trade with special reference to the rate of growth of the trade of less-developed contracting parties and make such recommendations to contracting parties as may, in the circumstances, be deemed appropriate;	The CTD conducts regular reviews of the participation of developing economies in world trade, for which the Secretariat updates its statistical background paper. The last version of the paper, from November 2017, is contained in document WT/COMTD/W/230.
(f) establish such institutional arrangements as may be necessary to further the objectives set forth in Article XXXVI and to give effect to the provision of this Part.	The WTO CTD was established in 1995. The CTD's terms of reference can be found in document WT/L/46. At the Eighth Ministerial Conference (MC8), Ministers reaffirmed that development is a core element of the WTO's work. They also reaffirmed the positive link between trade and development and called for focused work in the CTD. Ministers called on WTO Members to fully operationalize the mandate of the CTD as a focal point for development work. A number of proposals for focused work were submitted by Members after MC8. Some of these were agreed to by the Committee, while some continued to be discussed in the course of 2018.

2.2 Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994

2.3. The Understanding on Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994 contains two S&D provisions falling under the following categories.

2.2.1 Flexibility of commitments, of action. and use of policy instruments

One provision (Paragraph 8).

2.2.2 Technical assistance

One provision (Paragraph 12).

UNDERSTANDING ON BALANCE-OF-PAYMENTS PROVISIONS OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

PROVISION	COMMENT
Members, *Recognizing the provisions of Articles XII and XVIII:B of GATT 1994 and of the Declaration on Trade Measures Taken for Balance-of-Payments Purposes adopted on 28 November 1979 (BISD 26S/205-209, referred to in this Understanding as the "1979 Declaration") and in order to clarify such provisions[13];* *Hereby agree as follows:*	
Flexibility of commitments, of action, and use of policy instruments	
Procedures for balance-of-payments consultations *8. Consultations may be held under the simplified procedures approved on 19 December 1972 (BISD 20S/47-49, referred to in this Understanding as "simplified consultation procedures") in the case of least developed country Members or in the case of developing country Members which are pursuing liberalization efforts in conformity with the schedule presented to the Committee in previous consultations. Simplified consultation procedures may also be used when the Trade Policy Review of a developing country Member is scheduled for the same calendar year as the date fixed for the consultations. In such cases the decision as to whether full consultation procedures should be used will be made on the basis of the factors enumerated in paragraph 8 of the 1979 Declaration. Except in the case of least developed country Members, no more than two successive consultations may be held under simplified consultation procedures.*	
Technical assistance	
Notification and documentation *12. The Secretariat shall, with a view to facilitating the consultations in the Committee, prepare a factual background paper dealing with the different aspects of the plan for consultations. In the case of developing country Members, the Secretariat document shall include relevant background and analytical material on the incidence of the external trading environment on the balance-of-payments situation and prospects of the consulting Member. The technical assistance services of the Secretariat shall, at the request of a developing country Member, assist in preparing the documentation for the consultations.*	

[13] Nothing in this Understanding is intended to modify the rights and obligations of Members under Articles XII or XVIII:B of GATT 1994. The provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Dispute Settlement Understanding (DSU) may be invoked with respect to any matters arising from the application of restrictive import measures taken for BOP purposes.

2.3 Agreement on Agriculture

2.4. The Agreement on Agriculture contains 13 S&D provisions. The S&D provisions of the Agreement fall under four categories.[14]

2.5. These provisions cover positive actions to be taken by Members with respect to developing country Members, including LDCs and Net Food-Importing Developing Country Members (NFIDCs), and actions developing countries may take as a result of exemptions, time-bound or otherwise provided for in the Agreement. With the exception of Article 12.2, available data show that developing countries made use of all the available provisions.

2.6. Under the notification requirements adopted by the Committee on Agriculture (G/AG/2 and G/AG/2/Add.1), LDCs are to submit notifications on domestic support only every two years. Developing countries are to notify their domestic support measures annually but the Committee on Agriculture may, upon request, set aside parts of the notification requirements. To date, there has been no request for such flexibility.

2.3.1 Provisions aimed at increasing trade opportunities of developing country Members

One provision (Preamble to the Agreement).

2.3.2 Transitional time-periods

One provision (Article 15.2).

2.3.3 Flexibility of commitments, of action, and use of policy instruments

Nine provisions (Article 6.2; Article 6.4; Article 9.2(b)(iv); Article 9.4; Article 12.2; Article 15.1; Annex 2, paragraph 3 and footnote 5; Domestic food aid: Annex 2, paragraph 4, footnotes 5 and 6; Annex 5, Section B).

2.3.4 Provisions relating to LDC Members

Three provisions (Article 15.2, Article 16.1[15] and Article 16.2[16]).

[14] Article 15.2 is listed in both the transitional time-periods category and the LDCs category but is not counted twice when calculating the total number of provisions in the Agreement.

[15] This provision is also available to NFIDCs.

[16] This provision is also available to NFIDCs.

AGREEMENT ON AGRICULTURE

PROVISION	COMMENT
Provisions aimed at increasing trade opportunities of developing country Members	
Preamble *Having agreed that in implementing their commitments on market access, developed country Members would take fully into account the particular needs and conditions of developing country Members by providing for a greater improvement of opportunities and terms of access for agricultural products of particular interest to these Members, including the fullest liberalization of trade in tropical agricultural products as agreed at the Mid-Term Review, and for products of particular importance to the diversification of production from the growing of illicit narcotic crops;*	Schedules of developed country Members show greater-than-average reductions in tariffs on a range of products of particular interest to developing countries and often their accelerated implementation.
Transitional time-periods	
Article 15.2 *Developing country Members shall have the flexibility to implement reduction commitments over a period of up to ten years. Least developed country Members shall not be required to undertake reduction commitments.*	Used by developing and least developed countries in the establishment of scheduled commitments in market access, domestic support, and export subsidies. The transition period is no longer valid for developing country Members.
Flexibility of commitments, of action, and use of policy instruments	
Article 6.2 (Domestic Support Commitments) *In accordance with the Mid-Term Review Agreement that government measures of assistance, whether direct or indirect, to encourage agricultural and rural development are an integral part of the development programmes of developing countries, investment subsidies which are generally available to agriculture in developing country Members and agricultural input subsidies generally available to low-income or resource-poor producers in developing country Members shall be exempt from domestic support reduction commitments that would otherwise be applicable to such measures, as shall domestic support to producers in developing country Members to encourage diversification from growing illicit narcotic crops. Domestic support meeting the criteria of this paragraph shall not be required to be included in a Member's calculation of its Current Total AMS.*	A number of developing countries took account of the provision when submitting the constituent data and methodologies in support of their respective Schedules. Individual notifications reflect the extent to which some Members have actually taken recourse to this provision during the implementation years. These include: Bahrain, Kingdom of; Bangladesh; Barbados; Botswana, Brazil; Burundi; Chile, Colombia; Costa Rica; Cuba; Ecuador; Egypt; Fiji; The Gambia; Honduras; India; Indonesia; Jordan; Korea, Republic of; Malawi; Malaysia; Maldives; Mauritius; Mexico; Morocco; Namibia; Nepal; Oman; Panama; Paraguay, Peru, Philippines; Qatar; Sri Lanka; Thailand; Tunisia; Turkey; United Arab Emirate; Uruguay and Venezuela, Bolivarian Republic of;. See Members' notifications in the G/AG/N/-- series.
Article 6.4 (b) (Domestic Support Commitments- calculation of current total AMS) *For developing country Members, the de minimis percentage under this paragraph shall be 10%.*	A number of developing countries took account of the *de minimis* clause when calculating their Base Total AMS in order to schedule domestic support reduction commitments. Actual recourse to the *de minimis* clause for the specified percentage, whether on a product-specific or non-product specific basis, during the implementation years is reflected in the notifications submitted by a number of developing

PROVISION	COMMENT
	country Members, including: Bangladesh; Barbados; Brazil; Chile; India; Israel; Jordan; Korea, Republic of; Mexico; Pakistan; Panama; Peru; Philippines; Saudi Arabia, Kingdom of; Thailand; Tunisia; Turkey and Uruguay. See Members' notifications in the G/AG/N/-- series.
Article 9.2(b)(Budgetary outlays for export subsidies) *(iv) the Member's budgetary outlays for export subsidies and the quantities benefiting from such subsidies, at the conclusion of the implementation period, are no greater than 64% and 79% of the 1986-1990 base period levels, respectively. For developing country Members these percentages shall be 76 and 86%, respectively.*	A number of developing countries took account of the provision in establishing their schedules. All developing country Members having scheduled export subsidy reduction commitments (e.g., Venezuela, Bolivarian Republic of; Brazil; Colombia; Indonesia; Israel; Mexico; Romania; Turkey and Uruguay) have used the flexibility to apply a lower rate of reduction. For further information see the individual Members' schedules.
Article 9.4 *During the implementation period, developing country Members shall not be required to undertake commitments in respect of the export subsidies listed in subparagraphs (d) and (e) of paragraph 1 above, provided that these are not applied in a manner that would circumvent reduction commitments:*[17]	Developing countries took account of the provision in the establishment of their Schedules. A number of developing countries (e.g. Barbados; India; Korea, Republic of; Mauritius; Mexico; Morocco; Pakistan; Sri Lanka; Thailand and Tunisia) notified the use of Article 9.1(d) and/or Article 9.1(e) export subsidies under this provision. See developing country Members' notifications in the G/AG/N/-- series.
Article 12.2 (Export prohibitions and restrictions) *The provisions of [Article 12.1] shall not apply to any developing country Member, unless the measure is taken by a developing country Member which is a net-food exporter of the specific foodstuff concerned.*	It should be noted that no developing country Member has ever notified the introduction of export restrictions and prohibitions, and that there is no formal indication of whether recourse to this flexibility has been taken at all.
Article 15.1 *In keeping with the recognition that differential and more favourable treatment for developing country Members is an integral part of the negotiation, S&D in respect of commitments shall be provided as set out in the relevant provisions of this Agreement and embodied in the Schedules of concessions and commitments.*	The schedules of developing countries and LDCs reflect the flexibility on ceiling bindings, longer implementation periods, and lower reduction commitments in market access, domestic support and export subsidies.
Annex 2, paragraph 3, footnote 5 (Public stockholding for food security purposes) *For the purposes of paragraph 3 of Annex 2, governmental stockholding programmes for food security purposes in developing countries whose operation is transparent and conducted in accordance with officially published objective criteria or guidelines shall be considered to be in conformity with the provisions of this paragraph, including programmes under which stocks of*	Developing countries took account of the provision in the establishment of the Schedules. This particular category of government assistance has been implemented by several developing country Members, as reflected in their respective domestic support notifications. See Members' notifications in the G/AG/N/-- series.

[17] Memo: paragraphs (d) and (e) of Article 9.1 of the Agreement on Agriculture refer to the following export subsidy policies:
"(d) the provision of subsidies to reduce the costs of marketing exports of agricultural products, (other than widely available export promotion and advisory services) including handling, upgrading and other processing costs, and the costs of international transport and freight;" and
"(e) internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favourable than for domestic shipments;".

PROVISION	COMMENT
foodstuffs for food security purposes are acquired and released at administered prices, provided that the difference between the acquisition price and the external reference price is accounted for in the AMS.	
Annex 2, paragraph 4, footnotes 5 & 6 (Domestic food aid) *For the purposes of paragraphs 3 and 4 of Annex 2, the provision of foodstuffs at subsidized prices with the objective of meeting food requirement of urban and rural poor in developing countries on a regular basis at reasonable prices shall be considered to be in conformity with the provisions of this paragraph.*	Developing countries took account of this provision in the establishment of the Schedules. This particular category of government assistance has been implemented by several developing country Members, as reflected in their respective domestic support notifications. See Members notifications in the G/AG/N/-- series. .
Annex 5, Section B *7. The provisions of paragraph 2 of Article 4 shall also not apply with effect from the entry into force of the WTO Agreement to a primary agricultural product that is the predominant staple in the traditional diet of a developing country Member and in respect of which the following conditions, in addition to those specified in paragraph 1(a) through 1(d), as they apply to the products concerned, are complied with:* *(a) minimum access opportunities in respect of the products concerned, as specified in Section I-B of Part I of the Schedule of the developing country Member concerned, correspond to 1% of base period domestic consumption of the products concerned from the beginning of the first year of the implementation period and are increased in equal annual instalments to 2% of corresponding domestic consumption in the base period at the beginning of the fifth year of the implementation period. From the beginning of the sixth year of the implementation period, minimum access opportunities in respect of the products concerned correspond to 2% of corresponding domestic consumption in the base period and are increased in equal annual instalments to 4% of corresponding domestic consumption in the base period until the beginning of the 10th year. Thereafter, the level of minimum access opportunities resulting from this formula in the 10th year shall be maintained in the Schedule of the developing country Member concerned;*	The Schedules of Korea, Republic of[18]; and Philippines[19] reflect recourse to this provision.

[18] Flexibility extended until 2014 (see G/MA/TAR/RS/98). In September 2014, Korea submitted a draft modification to its Schedule with a view to terminating Special Treatment on the relevant products as of January 2015 and subjecting those products to the application of ordinary customs duties (G/MA/TAR/RS/396). The certification process has been ongoing.

[19] Flexibility extended up to 30 June 2012 (see G/MA/TAR/RS/99). The Philippines later obtained additional time through a waiver from the General Council to undertake tariffication of eligible products so as to subject them to ordinary customs duties no later than 30 June 2017 (WT/L/932). The domestic process towards the tariffication of relevant products has been ongoing.

PROVISION	COMMENT
(b) appropriate market access opportunities have been provided for in other products under this Agreement. *10. In the event that special treatment under paragraph 7 is not to be continued beyond the 10th year following the beginning of the implementation period, the products concerned shall be subject to ordinary customs duties, established on the basis of a tariff equivalent to be calculated in accordance with the guidelines prescribed in the attachment hereto, which shall be bound in the Schedule of the Member concerned. In other respects, the provisions of paragraph 6 shall apply as modified by the relevant S&D accorded to developing country Members under this Agreement.*	
Provisions relating to LDC Members	
Article 15.2 *Developing country Members shall have the flexibility to implement reduction commitments over a period of up to 10 years. Least developed country Members shall not be required to undertake reduction commitments.*	See comment under Article 15.2 of transitional time-periods.
Article 16.1 *Developed country Members shall take such action as is provided for within the framework of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least Developed and Net Food-Importing Developing Countries.*	Information on actions undertaken within the framework of the decision is contained in the comments relating to paragraph 3(iii) of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least Developed and Net Food-Importing Developing Countries.
Article 16.2 *The Committee on Agriculture shall monitor, as appropriate, the follow-up to this Decision.*	The Decision has been on the agenda of virtually every meeting of the Committee on Agriculture. Please see the comments relating to paragraph 3(iii) of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least Developed and Net Food-Importing Developing Countries.

2.4 Agreement on the Application of Sanitary and Phytosanitary Measures

2.7. The Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) contains six specific S&D provisions which fall under three broad categories:

2.4.1 Provisions under which WTO Members should safeguard the interests of developing country Members

Two provisions (Article 10.1 and 10.4).

2.4.2 Transitional time-periods

Two provisions (Article 10.2 and 10.3).

2.4.3 Technical assistance

Two provisions (Article 9.1.and 9.2).

2.8. In addition, guidelines and decisions adopted by the Committee have regularly taken into consideration the specific needs and concerns expressed by developing country Members, and contain pertinent provisions. These include:

a. Guidelines to Further the Practical Implementation of Article 5.5 (G/SPS/15);

b. Decision on the Implementation of Article 4 of the SPS Agreement (on Equivalence) (G/SPS/19/Rev.2);

c. Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement (G/SPS/7/Rev.4);

d. Procedure to Enhance Transparency of S&D in Favour of Developing Country Members (G/SPS/33/Rev.1); and

e. Procedure to Encourage and Facilitate the Resolution of Specific Sanitary or Phytosanitary Issues among Members in Accordance with Article 12.2 (G/SPS/61).

f. Review of the Operation and Implementation of the Agreement on the Application of SPS Measures (G/SPS/62)

g. Catalogue of instruments available to WTO Members to Manage SPS Issues (G/SPS/63)

2.9. The Secretariat reports annually on all SPS-related technical assistance activities provided by the WTO Secretariat since September 1994[20]. For the period 1994 to 2017, the WTO Secretariat has undertaken a total of 386 technical assistance activities on the SPS Agreement, including 95 regional (or sub-regional) and 175 national seminars (G/SPS/GEN/1612). Training to LDCs and other developing country Members is a regular component of technical assistance activities[21].

Equivalence

2.10. In response to a request from the General Council to examine the concerns of developing country Members regarding the equivalence of sanitary and phytosanitary measures, the SPS Committee adopted guidelines on the Implementation of Article 4 of the Agreement regarding the Recognition of Equivalence in October 2001 (G/SPS/19). Following instructions from Ministers at the Doha Ministerial Conference, further guidance and clarifications were subsequently agreed, and revised guidelines were adopted in July 2004 (G/SPS/19/Rev.2).

2.11. Members are encouraged to provide information regarding their experiences or lack thereof, in the implementation of Art. 4 and in the use of guidance developed by the Committee

[20] G/SPS/GEN/521.
[21] G/SPS/W/280/Rev.2.

(G/SPS/19/Rev.2). In particular, Members are encouraged to notify any agreement reached on the notification of equivalence in accordance with the agreed procedure.

2.12. The international standard-setting organizations referenced in the SPS Agreement have, on their part, developed guidance in this area. The Codex Alimentarius Commission (Codex), International Plant Protection Convention (IPPC) and the World Organization for Animal Health (OIE) have been invited to provide information on equivalence at each meeting of the SPS Committee since June 2005. Codex has adopted principles for the development of equivalence agreements regarding food safety import and export inspection and certification systems, and guidelines on the judgement of equivalence of such systems.[22] In October 2011, Codex provided information regarding the development of guidelines for the judgement of equivalence of food control systems by the Committee on Food Import and Export Inspection and Certification Systems (CCFICS). It was proposed that the principle of recognition that other systems could be capable of meeting the same food safety objectives be included in the general guidelines for food control systems for both national and international levels. In March 2015, Codex further informed the SPS Committee of its new work on guidance for the monitoring of the performance of national food control systems. It was noted that the product of this work would not replace the equivalence provisions of the SPS Agreement. The final product would be available in about two to three years to improve the functioning of national food control systems.

2.13. The OIE has developed guidelines for judgement of the equivalence of zoo-sanitary measures. In February 2018, the OIE informed the Committee on its mandate to explore the manner and extent to which OIE members' countries have taken into account OIE standards in their veterinary legislation and decision-making in international trade. In particular, a specific questionnaire has been developed to investigate the use of key concepts that contribute to facilitating safe trade towards the recognition of equivalence.[23]

2.14. The IPPC adopted in 2005 an international standard for phytosanitary measures with guidelines for determination and recognition of equivalence of phytosanitary measures (ISPM 24). In addition, ISPM 1, which also includes principles on equivalence, was revised in 2006.[24] At the March 2012 SPS Committee meeting, the IPPC indicated that it would start an analytical study on the topic of equivalence (G/SPS/GEN/1153).

Transparency

2.15. Managing information on changes in other Members' measures remains challenging for many developing country Members that also struggle with implementing basic obligations with respect to the transparency provisions of the SPS Agreement. Many developing country Members have flagged their need for assistance and support to resolve their individual transparency difficulties, for example with the process of sending notifications to the WTO. Other difficulties faced by developing country Members relate to the operation of their SPS National Notification Authority and their National Enquiry Point.

2.16. As part of the discussion on the five proposals referred to the SPS Committee by the General Council in 2003, the SPS Committee tried to address the concerns that underlay the proposals (G/SPS/35). There have been some important developments that address, in part, some of the "initial elements" put forward in paragraph 43 of G/SPS/35, including improvements in the recommended notification procedures and creation of a public, searchable database of SPS notifications to, *inter alia*, help developing countries better make use of existing transparency procedures and information.

2.17. At the October 2014 SPS Committee meeting, the Secretariat recommended that developing country Members should clearly identify specific problems they face in implementing the transparency provisions of the Agreement. Assistance should be provided to least developed and developing country Members, and to their National Notification Authority and Enquiry Points, as

[22] http://www.Codexalimentarius.net/download/standards/10047/CXG_053e.pdf.
[23] G/SPS/GEN/1600.
[24] https://www.ippc.int/static/media/files/publication/en/2016/01/ISPM_01_2006_En_2015-12-22_PostCPM10_InkAmReformatted.pdf.

required, in order to enable them to fully implement the transparency provisions and to make use of the benefits associated with transparency (G/SPS/W/278).

2.18. The Committee adopted revised Recommended Procedures for Implementing the Transparency Provisions of the SPS Agreement in June 2018 (G/SPS/7/Rev.4). The public version of the SPS Information Management System (IMS) was launched in October 2007. Its trilingual interface allows access to the most recent information on notifications as well as on Enquiry Points and National Notification Authorities. It also includes information on specific trade concerns and other SPS documents. It facilitates the conduct of searches according to specific needs/interests and also the preparation of reports/summaries which can be shared with interested stakeholders.

2.19. At the March 2011 meeting, the Secretariat launched the SPS Notification Submission System (NSS) which allows National Notification Authorities to fill out and submit SPS notifications online. Currently, almost half of all notifications received are through the SPS NSS. The Secretariat has also established a mentoring mechanism which aims to bring together those individuals who are fulfilling the functions of Enquiry Points and Notification Authorities in different Members.[25] The objective of this voluntary procedure was to assist Members in not only implementing their obligations with respect to the transparency provisions but also in benefiting from their rights. The mentoring mechanism had not been active in recent years. To help Members in implementing the transparency provisions, a practical Manual on the operation of Enquiry Points and Notification Authorities has been prepared and is currently being updated. It includes guidance on how to prepare a notification, how to manage incoming notifications, how to alert stakeholders, and how to draft some standard letters.[26] The manual is available in English, French and Spanish[27].

2.20. The training and technical assistance activities of the WTO Secretariat on the SPS Agreement also devote a significant amount of time to transparency issues. The WTO Secretariat provides training on the SPS Information Management System (SPS IMS) and SPS notifications (SPS NSS) as part of its technical assistance programmes. According to the latest questionnaire on transparency, a majority of Members express a need for technical assistance in order to enhance their transparency mechanisms. Members that have received technical assistance reported to have found it very useful[28]. Transparency workshops have been organized in 2010, 2012, 2015 and 2017. The main recommendations from the October 2012 workshop highlighted the need of technical and substantial changes to the SPS IMS and SPS NSS, and to provide LDCs with training in the use of the SPS NSS. Budgetary approval was granted to fund the participation of a large number of developing country and LDC-participants to the October 2017 Transparency workshop[29]. The workshop included, *inter alia*, training on the use of the improved SPS Information SPS IMS and on-line submission system of SPS NSS, as well as on the ePing SPS/TBT notification alert system.

2.21. The training and technical assistance activities of the WTO Secretariat on the SPS Agreement also devote a significant amount of time to transparency issues. In addition, the Standards and Trade Development Facility (STDF) published a scoping study that identifies and assesses the myriad of regional SPS policy frameworks and strategies in Africa, in order to avoid multiplication of transparency requirements, and guide future work in this area.[30]

Transparency of S&D

2.22. In 2004, the SPS Committee formally adopted a Procedure to Enhance the Transparency of S&D.[31] The Committee agreed to review the proposed notification process after one year to evaluate its implementation, and determine whether changes were required and/or its continuation warranted. According to this procedure, if an exporting developing country Member identifies in its comments significant difficulties with a proposed SPS measure notified by another Member, the Member proposing to introduce the measure will, upon request, enter into discussions to examine

[25] See G/SPS/W/217 and G/SPS/GEN/1097.
[26] Go to http://www.wto.org/english/tratop_e/sps_e/transparency_toolkit_e.htm.
[27] The Procedural Step-by-step Manual for SPS National Notifications Authorities & National Enquiry Points can be downloaded from http://www.wto.org/spstransparency.
[28] See the Analysis of Replies to the Questionnaire on Transparency under the SPS Agreement, (G/SPS/GEN/1402, paras. 3.29 and 3.30).
[29] G/SPS/GEN/997/Rev.7.
[30] http://www.standardsfacility.org/sites/default/files/STDF_Regional_SPS_Stategies_in_Africa_EN_0.pdf
[31] G/SPS/33.

whether and how the identified problem could best be addressed to take into account the special needs of the exporting developing country Member. Resolution of the concern identified could include one or a combination of (1) a change in the measure; (2) the provision of technical assistance; or (3) the provision of S&D. Members agreed to inform the Committee regarding the response provided to such requests. At its October 2009 meeting, the Committee adopted a revision of the procedure to enhance the transparency of S&D.[32]

2.23. The STDF has funded various projects that contribute to enhancing inter-agency coordination at a national and/or regional level, as well as strengthening linkages between government agencies and the private sector. In 2017, STDF informed the SPS Committee on how STDF projects are improving the private sector's capacity to implement SPS measures and take advantage of trade opportunities[33]. In addition, the STDF Working Group agreed in late 2017 to begin new thematic work on the implementation of international standards in a public-private partnership (PPP) context, with particular attention to private assurance schemes (G/SPS/GEN/1612).

S&D – General Observations

2.24. A report to the General Council on the proposals referred to the SPS Committee was adopted in June 2005.[34] The report expresses the Committee's commitment to continue to examine the proposals before it, and any revision of these proposals, with the aim of developing specific recommendations for a decision. The report also identifies elements for discussion on further work to assist the Committee to address the concerns underlying the proposals as identified by Members, with a view to fulfilling the Doha Development Mandate. Discussion of these elements commenced at the Committee meeting of October 2005.

2.25. During 2006, the Committee continued its examination of the implementation of the SPS Agreement and the concerns of developing country Members. The proposals referred to the SPS Committee by the General Council were on the agenda of each meeting of the Committee. Although there were substantive discussions of some of the underlying issues in the proposals, the Committee was not able to reach a decision on any of the specific proposals as presented.[35]

2.26. The latest report of the Chairman of the SPS Committee to the General Council on S&D was in 2007.[36] In addition, as mentioned above, at its October 2009 meeting, the Committee adopted a revision of the procedure to enhance the transparency of S&D.[37]

Review of the Operation and Implementation of the SPS Agreement

2.27. At the Fourth Session of the Ministerial Conference, Ministers instructed the SPS Committee to review the operation and implementation of the SPS Agreement at least once every four years. The Second review of the Agreement was completed in July 2005. The Third Review ended in May 2010. The Fourth Review started in October 2013 and concluded in July 2017. At its July 2017 regular meeting, the Committee adopted the report on the Fourth Review of the Operation and Implementation of the SPS Agreement.[38] In March 2017, the SPS Committee adopted a process for the Fifth Review of the operation and implementation of the SPS Agreement[39]. The Fifth Review will be conducted through open-ended informal meetings, thematic sessions and workshops. Members are invited to identify issues for discussion as part of the Review, and to submit papers and propose specific actions on the issues under consideration (G/SPS/W/296/Rev.1). Several proposals are currently under discussion, including on the subjects of interest to developing countries identified in this report.

[32] G/SPS/33/Rev.1.
[33] http://www.standardsfacility.org/partnering-private-sector. Document G/SPS/GEN/1607.
[34] G/SPS/35.
[35] G/SPS/41.
[36] G/SPS/46.
[37] G/SPS/33/Rev.1.
[38] G/SPS/62.
[39] G/SPS/W/296/Rev.1

Regionalization (Art. 6 SPS Agreement)

2.28. Following the adoption of the Guidelines to Further the Practical Implementation of Article 6 of the Agreement on the Application of Sanitary and Phytosanitary Measures, the Committee agreed to monitor the implementation of Article 6, on the basis of information provided by Members through notifications and from information presented during SPS Committee meetings[40]. Members are encouraged to provide the Committee with information on their experiences in the implementation of Art. 6 (G/SPS/W/280/Rev.2).

2.29. The Guidelines on the Application of Sanitary and Phytosanitary Measures require the Secretariat to prepare an annual report on the information provided by Members concerning:

a. Request for recognition of pest- or disease- free areas of low pest or disease prevalence;

b. Determinations on whether to recognize a pest a pest- or disease-free area or area of low pest or disease prevalence; and/or

c. Members' experiences in the implementation of Article 6 and the provision of relevant background information by Members on their decision to other interested Members.

2.30. Four reports have been issued by the Secretariat on Regionalization: the first one covering the year 2009 through the end of 2011[41]; the second one covering the year 2012 through the first quarter of 2013[42]; the third one covering the period from 1 June 2013 until 31 March 2014[43]; and a fourth report covering the period from 1 April 2017 until 31 March 2018[44].

2.31. In 2017, a Thematic Session on Regionalization was organized by the Secretariat. Members had the opportunity to increase their awareness of regionalization principles, and to learn from each other by sharing experiences about the challenges, as well as the benefits, of implementing regionalization in practice from the perspective of an importing, as well as an exporting party. The Secretariat provided an overview of the provisions of the SPS Agreement on regionalization (Article 6),relevant guidelines, and recent regionalization-related disputes.[45] In addition, a Thematic Session on Pest-Free areas was held in February 2018.[46] The thematic session aimed to increase Members' awareness of IPPC standards on pest-free areas, and to share experiences about the challenges, as well as the benefits, of implementing pest-free areas in practice from the perspective of an importing, as well as an exporting party[47].

[40] G/SPS/48.
[41] G/SPS/GEN/1134.
[42] G/SPS/GEN/1245.
[43] G/SPS/GEN/1333.
[44] G/SPS/GEN/1618.
[45] G/SPS/GEN/1567.
[46] G/SPS/GEN/1593/Rev.1.
[47] G/SPS/R/90.

AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES (SPS AGREEMENT)

PROVISION	COMMENT
Provisions under which WTO Members should safeguard the interests of developing country Members	
Article 10.1 *In the preparation and application of sanitary or phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least developed country Members.*	A report to the General Council on the proposals referred to the SPS Committee was adopted in June 2005.[48] It includes the text of the proposals relating to Article 10.1. A revised proposal relating to Article 10.1 was presented to the Committee in June 2007 and discussed at its October meeting.[49] In this context, it may be useful to mention that the Procedure to Enhance Transparency of S&D in Favour of Developing Country Members (G/SPS/33/Rev.1) was developed explicitly in response to some of the S&D proposals, and the proposal relating to Article 10.1 can be said to have been addressed, in part, by the agreed procedure. G/SPS/33/Rev.1 uses virtually the same language as parts of the proposal re: "if an exporting developing country Member identifies significant problems…", but provides for consultations to address specific problems in complying with an SPS measure. In G/SPS/33/Rev.1, the exporting developing country Member should identify "the specific problems that the proposed measure may create for its exports, or the specific reasons why it is unable to comply…". Regarding the suggestion in the proposal that Members indicate the names of the developing country Members that could be affected by the applied measure, the recommended notification procedures adopted by the SPS Committee (G/SPS/7/Rev.3) requests the identification of regions or countries that are likely to be affected by the measure, to the extent practicable. This is already included in the notification formats. The proposal also refers to Members initiating consultations in the Committee before taking any measure likely to affect imports from developing countries. In discussions leading to G/SPS/35, Members indicated that they could not put on hold measures necessary for health protection in between Committee meetings (three times per year) - this would contradict the basic right to protect health. Already Members are obliged to give advance notification of proposed measures, and to receive comments from trading partners (more than 19,000 SPS notifications to date). There is already a standing agenda

[48] G/SPS/35.
[49] JOB(07)/99.

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	item under which Members can raise any questions/concerns regarding notified measures, or any "specific trade concern" about any measure. There have been 403 specific trade concerns raised in the SPS Committee since 1995, about half by developing countries. With regard to the proposal for an SPS-specific facility under the Global Trust Fund, no such facility was created. However, the WTO joined with FAO, WHO, OIE and the World Bank to create the STDF, which acts as a coordination and financing mechanism for SPS capacity building. The STDF helps to identify and disseminate good practice related to SPS capacity building and provides funding for the development and implementation of projects that promote compliance with international SPS requirements. In addition, the WTO funds the participation of developing country officials (approximately 75) once each year in a workshop, and an SPS meeting. Codex, IPPC and OIE all have trust funds to help fund participation, and WTO/STDF have in the past assisted in the establishment of regional initiatives that also help fund participation. The aim of the WTO training programmes at both regional and national levels is to increase knowledge of the SPS Agreement in developing countries. In relation to the legal interpretation of Article 10.1, in *US – Animals*, Argentina argued that the United States failed to accord Argentina special and differential treatment in the preparation and application of its SPS measures as required by Article 10.1 of the SPS Agreement. The Panel found that Article 10.1 imposes a positive obligation that is subject to dispute settlement, and that Argentina did not satisfy its burden of proof to establish that the United States did not take account of its special needs as required by Article 10.1 (WT/DS447/R, paras. 7.691 and 7.713).
Article 10.4 *Members should encourage and facilitate the active participation of developing country Members in the relevant international organizations.*	The General Council Decision of 15 December 2000 stated that: "In accordance with the request to the Director-General to work with the relevant international standard-setting organizations on the issue of the participation of developing countries in their work, these organizations are urged to ensure the participation of Members at different levels of development and from all geographic regions, throughout all phases of standard development". (WT/L/384) The Director-General provided three reports regarding his efforts in this area, the last one in the lead up to the Doha Ministerial Conference.[50] At the Doha Ministerial Conference, Members urged him to continue his efforts to facilitate participation of developing countries in standard setting.

[50] WT/GC/45, WT/GC/46, WT/GC/54.

PROVISION	COMMENT
	The growing consensus that financial support was needed to enhance participation of developing country Members in international organizations led to the creation of several funding initiatives. The Heads of the FAO, the OIE, the WHO, the World Bank and the WTO issued a joint statement during the Doha Ministerial Conference reaffirming their commitment to enhance developing countries' capacity to participate effectively in the development and application of international standards and in taking full advantage of trade opportunities.[51] (These discussions led to the establishment of the STDF.) A number of developments have since occurred which address some of the underlying concerns. With respect to the three standard-setting bodies of relevance under the SPS Agreement, trust funds have been established to increase participation of developing country Members in the standard-setting activities of the IPPC, of the FAO/WHO Codex and of the OIE. In addition, the OIE supports the participation of developing country Members in the elaboration of standards by ensuring that experts from every region participate in developing the draft text of a scientific standard. The Codex and the IPPC have trust funds which sponsor the participation of officials from developing country Members and economies in transition to participate in their meetings. These programmes are aimed at enhancing those officials' level of participation in the elaboration of Codex and IPPC standards. Meetings of the SPS Committee have, when possible, been scheduled back-to-back with the meetings of the Codex Commission and/or IPPC, to enable SPS experts from developing countries to combine both meetings in one trip.

[51] WT/MIN(01)/ST/97.

PROVISION	COMMENT
Transitional time-periods	
Article 10.2 *Where the appropriate level of sanitary or phytosanitary protection allows scope for the phased introduction of new sanitary or phytosanitary measures, longer time-frames for compliance should be accorded on products of interest to developing country Members so as to maintain opportunities for their exports.*	The Decision on Implementation-Related Issues and Concerns taken at the Doha Ministerial Conference in 2001 included, *inter alia*, a clarification on Article 10.2.[52] It specifies that where the appropriate level of protection allows scope for the phased introduction of SPS measures, the "longer time-frame for compliance" referred to in Article 10.2 shall normally mean at least six months. Where the phased introduction of a new measure is not possible, but a Member identifies specific problems, the Member applying the new measure shall enter into consultations, upon request, to try to find a mutually satisfactory solution. The Decision also indicated that in the context of paragraph 2 of Annex B of the SPS Agreement, a period of six months shall normally be provided between the publication of a measure and its entry into force. The relationship between the time-frames in different provisions of the SPS Agreement is described in G/SPS/GEN/819.
Article 10.3 *With a view to ensuring that developing country Members are able to comply with the provisions of this Agreement, the Committee is enabled to grant to such countries, upon request, specified, time-limited exception in whole or in part from obligations under this Agreement, taking into account their financial, trade and development needs.*	To date, no request has been made under Article 10.3.
Technical assistance	
Article 9.1 *Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, inter alia, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets.*	Technical assistance is a standing agenda item. At each regular meeting of the SPS Committee, Members and Observers are invited to identify any specific technical assistance needs which they may have. The WTO Secretariat reports on its assistance activities. In addition, Members regularly update the Committee on the SPS-specific assistance and capacity building they provide. The representatives of Codex, OIE, IPPC and of the other Observer organisations, including FAO, the World Bank, OIRSA, IICA, UNIDO and UNCTAD, provide regular updates concerning their provision of technical assistance.
Article 9.2 *Where substantial investments are required in order for an exporting developing country Member to fulfil the sanitary or phytosanitary*	In discussions in the SPS Committee, some developing country Members have indicated that although a substantial amount of technical assistance is

[52] WT/MIN(01)/17, paragraph 3.1.

PROVISION	COMMENT
requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved.	provided in the SPS area, in many cases this assistance is not appropriate or does not correspond to the needs of the developing country. The view was expressed that S&D provisions would be effective only if they were complemented by sufficient technical assistance to strengthen developing countries' ability to deal with scientific issues, especially risk assessment, and to improve laboratory facilities and technologies needed to comply with SPS obligations.[53] Noting their growing interest in trading with other developing countries, a number of developing country Members expressed concern that proposals for technical assistance to be provided by developed countries to specific developing country trading partners could discriminate among trading partners. In addition, a number of delegations suggested that S&D and technical assistance could be provided by some developing countries to other developing countries. Some Members also noted that justified SPS measures should not be withdrawn simply because some Members might have difficulty complying with the requirement.

[53] G/SPS/R/19 and G/SPS/GEN/128.

PROVISION	COMMENT
	It may be noted that several Members have created specific mechanisms to assist developing countries to participate in the relevant international institutions and in the activities of the SPS Committee, such as the Initiative for the Americas on Sanitary and Phytosanitary Measures.[54] Furthermore, bilateral technical assistance related to SPS capacity is being provided by many Members.[55] Similarly the STDF, which began operating in 2004, provides funding for SPS-capacity building through a demand-driven process. The STDF finances Project Preparation Grants (PPGs) to help turn good ideas into fully-developed proposals for funding from STDF or external funding sources. It also supports innovative and collaborative projects that promote compliance with international SPS requirements. Governments, private sector associations, academic institutions, etc. can all apply for STDF funding, but the endorsement of all relevant government agencies is required, as well as some financial/in-kind contribution from beneficiaries. From 2004 to 2017, the STDF has funded 88 PPGs and 85 projects, along with a number of cross-cutting practical studies, guidelines and briefing notes on issues such as enhancing SPS capacity to promote trade for development in LDCs, SPS e-certification, management of invasive alien species, creation of national and regional SPS coordination mechanisms, SPS risks related to climate change, use of Public-Private Partnerships to support SPS capacity, SPS capacity evaluation tools, and use of a multi-criteria decision analysis tool to prioritise SPS investment options. Since the SPS Agreement entered into force, the FAO/WHO, OIE and IPPC have also developed and/or strengthened technical assistance programmes, including conferences, seminars and workshops, to enhance national capacities on SPS matters. The IPPC developed a diagnostic tool, the Phytosanitary Capacity Evaluation (PCE), to help countries address their current capacity and identify needs for assistance.[56] Similar diagnostic tools have been developed by the FAO/WHO with respect to food safety, and by OIE.[57]

[54] G/SPS/GEN/549.
[55] Paragraphs 27 to 46 of document G/SPS/GEN/543 provide a summary description of recent actions taken to enhance the provision of SPS-related technical assistance.
[56] http://www.ippc.int
[57] See G/SPS/GEN/525; also "Performance, Vision and Strategy (PVS) for National Veterinary Services", available from http://www.oie.int

PROVISION	COMMENT
Committee Decision on Procedure to enhance transparency of special and differential treatment in favour of developing country Members	
G/SPS/33/Rev.1.	One of the specific issues raised in the Committee has been the need to enhance transparency regarding the provision of S&D. In October 2004 it adopted an elaboration of the steps to implement a procedure agreed to in principle in March 2003.[58] This procedure provides for the submission of specific addenda to notifications which indicate when S&D or technical assistance has been requested in the context of the notification of a new or modified SPS measure, and what response has been given to the request. The Committee agreed to review the proposed notification process one year after its adoption, to evaluate its implementation, and determine whether changes are required and/or its continuance warranted. In February 2006, the Committee agreed to further extend the procedure for transparency of S&D or technical assistance provided in response to the specific needs of developing country Members (G/SPS/33/Add 1). However, to date there has been no indication that Members are using this procedure, and no notifications have been submitted. Some Members have suggested that a mechanism is needed to help developing country Members cope with the large number of notifications concerning changing requirements. At its October 2009 regular meeting, the Committee adopted, on an ad referendum basis, a revision of the procedure to enhance the transparency of S&D. The revised decision was circulated as G/SPS/33/Rev.1.
Recommended Notification Procedures *G/SPS/7/Rev.4.*	There have been some important developments that address, in part, some of the elements in paragraph 43 of document G/SPS/35, including: (a) improvements in the recommended notification procedures (G/SPS/7/Rev.4), and (b) creation of a public, searchable database of SPS notifications (SPS IMS) to, *inter alia*, help developing countries better make use of existing transparency procedures and information.

[58] G/SPS/33.

2.5 Agreement on Technical Barriers to Trade

2.32. The Agreement on Technical Barriers to Trade (TBT Agreement) contains a total of twenty-five provisions relating to technical assistance and/or S&D, the majority of them contained in Articles 11 and 12.[59]

2.5.1 Provisions aimed at increasing trade opportunities of developing country Members

Three provisions (Preamble (8th recital) to the Agreement; Article 10.6 and Article 12.6).

2.5.2 Provisions under which WTO Members should safeguard the interests of developing country Members

Ten provisions (Preamble (9th Recital) to the Agreement; Article 2.12; Article 5.9; Article 12.1; Article 12.2; Article 12.3; Article 12.5; Article 12.9; Article 12.10 and Article 14.4).

2.5.3 Flexibility of commitments, of action, and use of policy instruments

Two provisions (Article 10.5 and Article 12.4).

2.5.4 Transitional time-periods

One provision (Article 12.8).

2.5.5 Technical assistance

Nine provisions (Article 11.1; Article 11.2; Article 11.3; Article 11.4; Article 11.5; Article 11.6; Article 11.7; Article 11.8 and Article 12.7).

2.5.6 Provisions relating to LDC Members

Three provisions (Article 11.8; Article 12.7 and Article 12.8).

Overall context of S&D in the TBT Agreement[60]

2.33. While the ninth recital of the Preamble of the TBT Agreement recognizes that developing countries may encounter "special difficulties" in, and may thus need assistance with, the formulation and application of TBT measures, the eighth recital of the Preamble, more positively, recognizes "the contribution which international standardization can make to the transfer of technology from developed to developing countries".

2.34. Article 12 of the TBT Agreement is the provision of the Agreement that more specifically deals with S&D of developing country Members. This Article has been a topic of consideration in the TBT Committee since 1995. On various occasions, Members have exchanged information and views on the operation and implementation of S&D under the TBT Agreement. Under Article 12.1, Members shall provide differential and more favourable treatment to developing country Members, both through the provisions of Article 12, as well as through the relevant provisions of other Articles of the Agreement. For example, pursuant to Article 2.12 of the TBT Agreement, Members shall allow a "... reasonable interval between the publication of technical regulations and their entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products or methods of production to the requirements of the importing Member" (the corresponding provision for conformity assessment procedures is contained in Article 5.9). The Decision on Implementation-Related Issues and Concerns adopted at the Fourth WTO

[59] Article 11.8 and Article 12.7 are listed in both the technical assistance category and the LDCs category, while Article 12.8 is listed in the transitional time periods category as well as in the LDCs category. However, these provisions are only counted once when calculating the total number of provisions in the Agreement.

[60] For further information on various TBT S&D-related issues, including a summary of WTO disputes involving TBT S&D provisions, see Secretariat Note in JOB/TBT/65 ("Special and Differential Treatment and Technical Assistance in the TBT Context").

Ministerial Conference in Doha, Qatar, in November 2001 clarified the phrase "reasonable interval". According to the Decision, the phrase shall be understood to mean "normally a period of not less than six months, except when this would be ineffective in fulfilling the legitimate objectives pursued".

2.35. Pursuant to Article 12.2, Members shall give particular attention to the provisions of the TBT Agreement concerning developing country Members' rights and obligations and shall take into account the special development, financial and trade needs of developing country Members in the implementation of the Agreement, both nationally and in the operation of the Agreement's institutional arrangements.

2.36. The TBT Agreement has a separate Article on technical assistance (Article 11). The eight paragraphs of Article 11 include two sorts of obligations: obligations to advise other Members, especially developing country Members, on certain issues, and obligations to provide them with technical assistance. Although there is a link between technical assistance and S&D – and this was noted by Members during the Fourth Triennial Review (in 2006)[61] - to date, these two issues have been discussed separately in the TBT Committee. What follows is an overview of the provision on S&D (Article 12) and the Committee's work in this area.

Information Exchange

2.37. At the Fourth Triennial Review (2006), the Committee underscored the continuing need for exchanges of information concerning implementation of the S&D of the Agreement. This includes sharing of information on S&D provided by Members and its impact, as well as information on how Members have taken into account S&D provisions in the preparation of technical regulations and conformity assessment procedures. The Committee also noted the possible challenges of ascertaining and providing information on S&D and also a possible link between discussions on S&D and technical assistance. In order to have a more focused exchange of information, the Committee agreed[62]:

a. to encourage Members to inform the Committee of S&D provided to developing country Members, including information on how they have taken into account S&D provisions in the preparation of technical regulations and conformity assessment procedures; and

b. to encourage developing country Members to undertake their own assessments of the utility and benefits of such S&D.

2.38. At the Sixth Triennial Review (2012), the Committee emphasized, again, the importance of Members providing S&D to developing Members through the implementation of Article 12 of the TBT Agreement. With a view to furthering discussion in this area, Members agreed to exchange views and explore ideas on the implementation of Article 12 of the TBT Agreement with respect to the preparation of technical regulations, standards and conformity assessment procedures, and the enhancement of the effective operation of Article 12, in coordination with the CTD.[63]

2.39. At the Seventh Triennial Review (2015), building on exchanges that took place in the context of thematic sessions on S&D held on 29 October 2013[64] and 4 November 2014[65] , as well as on previous decisions and recommendations of the Committee – and with a view to furthering its work in the area of S&D – the Committee agreed to encourage Members to continue to exchange information on the implementation of Article 12 of the TBT Agreement, with a view towards enhancing the effective operation of Article 12.[66]

2.40. Additionally, with respect to the technical assistance-related obligations under Article 11 of the TBT Agreement, at the Seventh Triennial Review (2015) the Committee agreed, as part of its 2016-2018 work programme:[67]

[61] G/TBT/19, paragraph 81.
[62] G/TBT/19, paragraphs 81-83.
[63] G/TBT/32, 29 November 2012, paragraph 22.
[64] G/TBT/GEN/156.
[65] G/TBT/GEN/174.
[66] G/TBT/37, 3 December 2015, paragraph 7.6.
[67] G/TBT/37, 3 December 2015, Section 6, pp. 16-18.

a. to *reaffirm* the need to review the effectiveness of technical assistance and capacity building activities among Members in the TBT area, and *encourage* Members to continue to exchange experiences on technical assistance;

b. to *stress* the importance and discuss possible approaches to enhancing the active participation of developing Members in thematic sessions held by the Committee; and

c. to *hold* a thematic session in November 2016 on technical assistance, including discussion of:

   i. the positive effects of technical assistance and capacity building in the TBT area for international trade; and,

   ii. possible approaches to identifying gaps between the demand and supply of technical assistance in the TBT area for developing Members, and seeking to close them where they exist, including through exploring the need for more coordination and better targeted TBT-related technical assistance.

AGREEMENT ON TECHNICAL BARRIERS TO TRADE (TBT AGREEMENT)

PROVISION	COMMENT
Provisions aimed at increasing trade opportunities of developing country Members	
Preamble of the TBT Agreement, 8th recital *Recognizing* the contribution which international standardization can make to the transfer of technology from developed to developing countries;	
Article 10.6 *The Secretariat shall, when it receives notifications in accordance with the provisions of this Agreement, circulate copies of the notifications to all Members and interested international standardizing and conformity assessment bodies, and draw the attention of developing country Members to any notifications relating to products of particular interest to them.*	
Article 12.6 *Members shall take such reasonable measures as may be available to them to ensure that international standardizing bodies, upon request of developing country Members, examine the possibility of, and, if practicable, prepare international standards concerning products of special interest to developing country Members.*	In the First Triennial Review (November 1997), the TBT Committee reiterated that in the preparation of international standards, it was important, *inter alia*, that trade needs were taken into account along with technical progress and Article 12.6 concerning products of special interest to developing country Members.[68] The TBT Committee also agreed to consider, as part of its work programme, inviting representatives of relevant international standardizing bodies and international systems for conformity assessment procedures to report to the Committee on whether and how account is taken of the special problems of developing countries in such bodies and systems.[69] At the Second Triennial Review (November 2000), and in order to improve the quality of international standards and to ensure the effective application of the TBT Agreement, the TBT Committee agreed there was a need to develop principles concerning transparency, openness, impartiality and consensus, relevance and effectiveness, coherence and developing country interests that would clarify and strengthen the concept of international standards under the Agreement and contribute to the advancement of its objectives.[70] In this regard, the TBT Committee adopted a Decision containing a set of principles it considered important for the development of international standards, guides and recommendations.[71] Section F of the Decision deals with the "Development Dimension". It states: "Constraints on developing countries, in particular, to effectively participate in standards development, should be taken

[68] G/TBT/5, paragraph 20.
[69] G/TBT/5, paragraph 33(b)(iii). These elements were subsequently reflected in the Committee's work programme, see G/TBT/M/13, paragraph 119.
[70] G/TBT/9, paragraph 20.
[71] G/TBT/1/Rev.9, Annex B (pp. 37-39).

PROVISION	COMMENT
	into consideration in the standards development process. Tangible ways of facilitating developing countries' participation in international standards development should be sought. The impartiality and openness of any international standardization process requires that developing countries are not excluded de facto from the process. With respect to improving participation by developing countries, it may be appropriate to use technical assistance, in line with Article 11 of the TBT Agreement. Provisions for capacity building and technical assistance within international standardizing bodies are important in this context." At the 2001 Doha Ministerial Conference, in the Decision on Implementation-Related Issues and Concerns, Members took note of actions taken by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard-setting organizations, as well as his efforts to coordinate with these organizations and financial institutions in identifying TBT-related technical-assistance needs and how best to address them. The Director-General was urged to continue his cooperative efforts with these organizations and institutions, including with a view to according priority to the effective participation of LDCs and facilitating the provision of technical and financial assistance for this purpose.[72] As a follow-up to this, in 2001-2002, the WTO Secretariat, in cooperation with various international standard-setting organizations, held five regional workshops (Bangkok, Belgrade, Bogotá, Cairo and Nairobi) aimed at identifying possible actions to enhance the participation of developing countries in international standardization.[73] Presently, observer international standard-setting organizations report regularly to the TBT Committee on actions they are taking to enhance the participation of developing country Members in their work. At its Fourth Triennial Review (in 2006), the TBT Committee noted and welcomed the actions taken by observer international standardizing bodies to enhance the participation of developing country Members in their work and invites these and other international standardizing bodies to provide information on steps taken to ensure their effective participation.[74]

[72] WT/MIN(01)/17, paragraph 5.3.
[73] For additional information on follow-up to this decision, see WT/GC/W/500, pp. 12-13.
[74] For instance, the ISO General Assembly adopted, in 2004, an ISO Strategic Plan for the period 2005-2010 which aims, *inter alia*, at enhancing developing country involvement in its technical activities. The IEC has also reported on the use of its "Affiliate Country Programme", which is aimed at facilitating the participation of developing

PROVISION	COMMENT
Provisions under which WTO Members should safeguard the interests of developing country Members	
Preamble of the TBT Agreement, 9th recital *Recognizing that developing countries may encounter special difficulties in the formulation and application of technical regulations and standards and procedures for assessment of conformity with technical regulations and standards, and desiring to assist them in their endeavours in this regard;*	
Article 2.12 *Except in those urgent circumstances referred to in paragraph 10, Members shall allow a reasonable interval between the publication of technical regulations and their entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products or methods of production to the requirements of the importing Member.*	
Article 5.9 *Except in those urgent circumstances referred to in paragraph 7, Members shall allow a reasonable interval between the publication of requirements concerning conformity assessment procedures and their entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products or methods of production to the requirements of the importing Member.*	
Article 12 *Article 12.1* *Members shall provide differential and more favourable treatment to developing country Members, through the provisions of this Article, as well as through the relevant provisions of other Articles of this Agreement.*	
Article 12.2 *Members shall give particular attention to the provisions of this Agreement concerning developing country Members' rights and obligations and shall take into account the special development, financial and trade needs of developing country Members in the implementation of this Agreement, both nationally and in the operation of this Agreement's institutional arrangements.*	
Article 12.3 *Members shall, in the preparation and application of technical regulations, standards and conformity assessment procedures, take account of the special development, financial and trade needs of developing country Members, with a view to ensuring that such technical regulations, standards and conformity*	Various Members have referred to the need for information to be provided as to how S&D is taken into account in the development of technical regulations and conformity assessment procedures. Such references have been raised in the TBT Committee's discussions on S&D and also in the context of other items on the Committee's agenda, such as specific trade concerns. Further, at the

countries in the elaboration of international electrotechnical standards. The FAO/WHO (for Codex) has set up trust funds to enhance the participation of developing countries in standard-setting meetings and activities, training programmes and regional technical consultations on standards and their implementation. G/TBT/19, paragraph 77.

PROVISION	COMMENT
assessment procedures do not create unnecessary obstacles to exports from developing country Members.	Third Triennial Review (November 2003), the TBT Committee resolved that to improve the ability of developing country Members to comment on notifications, and consistent with the principle of S&D, developed country Members were encouraged to provide more than a 60-day comment period.[75] In the area of conformity assessment, the TBT Committee has acknowledged the benefits of Supplier's Declarations of Conformity (SDoC)[76], as a flexible and trade-friendly approach to conformity assessment.[77] The TBT Committee has held focussed discussions on SDoC, including on how suppliers from developing country Members exporting to markets of developed country Members could benefit from this approach. In accordance with the work programme on conformity assessment agreed at the Third Triennial Review, the TBT Committee engaged in an in-depth discussion of SDoC at a special meeting held in June 2004, and a workshop specifically on SDoC was held in March 2005.[78]
Article 12.5 *Members shall take such reasonable measures as may be available to them to ensure that international standardizing bodies and international systems for conformity assessment are organized and operated in a way which facilitates active and representative participation of relevant bodies in all Members, taking into account the special problems of developing country Members.*	
Article 12.9 *During consultations, developed country Members shall bear in mind the special difficulties experienced by developing country Members in formulating and implementing standards and technical regulations and conformity assessment procedures, and in their desire to assist developing country Members with their efforts in this direction, developed country Members shall take account of the special needs of the former in regard to financing, trade and development.*	
Article 12.10	During an examination of S&D undertaken pursuant to Article 12.10 of the TBT Agreement, in October 1996, the TBT Committee took note of the fact

[75] G/TBT/13, paragraph 26, first tiret.
[76] A procedure by which a supplier provides assurance of conformity with specified requirements.
[77] G/TBT/13, paragraph 33.
[78] The Report of the Special Meeting of the TBT Committee Dedicated to Conformity Assessment Procedures Held on 29 June 2004 is contained in G/TBT/M/33/Add.1. The Committee's work programme on conformity assessment is contained in G/TBT/13, paragraph 40. A report on the 21 March 2005 SDoC workshop is contained in Annex 1 to G/TBT/M/35.

PROVISION	COMMENT
The Committee shall examine periodically the Special and Differential Treatment, as laid down in this Agreement, granted to developing country Members on national and international levels.	that no requests had been made under Article 12.8 of the TBT Agreement for "specified, time-limited exceptions".[79] The situation remains unchanged
Article 14.4 *The dispute settlement provisions set out above can be invoked in cases where a Member considers that another Member has not achieved satisfactory results under Articles 3, 4, 7, 8 and 9 and its trade interests are significantly affected. In this respect, such results shall be equivalent to those as if the body in question were a Member.*	
Flexibility of commitments, of action, and use of policy instruments	
Article 10.5 *Developed country Members shall, if requested by other Members, provide, in English, French or Spanish, translations of the documents covered by a specific notification or, in case of voluminous documents, of summaries of such documents.*	This obligation only applies to developed countries.
Article 12.4 *Members recognize that, although international standards, guides or recommendations may exist, in their particular technological and socio-economic conditions, developing country Members adopt certain technical regulations, standards or conformity assessment procedures aimed at preserving indigenous technology and production methods and processes compatible with their development needs. Members therefore recognize that developing country Members should not be expected to use international standards as a basis for their technical regulations or standards, including test methods, which are not appropriate to their development, financial and trade needs.*	In discussions that have taken place in the TBT Committee, various Members have noted the importance of Article 12.4. Also, in the First Triennial Review (November 1997), when considering the difficulties that might be encountered in relation to the use of certain international standards, the TBT Committee agreed to invite Members, on a voluntary basis, to submit specific examples to the Committee of the difficulties and problems they encountered in this regard, taking into account Article 12.4.[80]
Transitional time-periods	
Article 12.8 (…) *Accordingly, with a view to ensuring that developing country Members are able to comply with this Agreement, the Committee on Technical Barriers to Trade provided for in Article 13 is enabled to grant, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement. When considering such requests the Committee shall take into account the special problems, in the field of preparation and application of*	No request for time-limited exemptions has so far been made under this Article.

[79] G/TBT/M/6, paragraph 17.
[80] G/TBT/5, paragraphs 18 and 22.

PROVISION	COMMENT
technical regulations, standards and conformity assessment procedures, and the special development and trade needs of the developing country Member, as well as its stage of technological development, which may hinder its ability to discharge fully its obligations under this Agreement. The Committee shall, in particular, take into account the special problems of the least developed country Members.	
Technical assistance	
Article 11 *Article 11.1* *Members shall, if requested, advise other Members, especially the developing country Members, on the preparation of technical regulations.*	
Article 11.2 *Members shall, if requested, advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of national standardizing bodies, and participation in the international standardizing bodies, and shall encourage their national standardizing bodies to do likewise*	At the Fourth Triennial Review, the Committee noted and welcomed the actions taken by observer international standardizing bodies to enhance the participation of developing country Members in their work and invites these and other international standardizing bodies to provide information on steps taken to ensure their effective participation.[81]
Article 11.3 *Members shall, if requested, take such reasonable measures as may be available to them to arrange for the regulatory bodies within their territories to advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding:* *(i) the establishment of regulatory bodies, or bodies for the assessment of conformity with technical regulations; and* *(ii) the methods by which their technical regulations can best be met.*	At the Fourth Triennial Review of the TBT Agreement, Members noted that, *inter alia*, enhancing effective provision of technical assistance is important; in this regard the use of good practices is essential to enhance efficiency and effectiveness. For instance, it is important that technical assistance is provided in a timely manner and that it is predictable and sustainable. In some cases, technical assistance may need to be provided on an urgent and ad hoc basis to assist developing country Members regarding the methods by which technical regulations can best be met, in accordance with Article 11.3.2.[82]

[81] G/TBT/19, paragraph 77.
[82] G/TBT/19, paragraph 174.

PROVISION	COMMENT
Article 11.4 *Members shall, if requested, take such reasonable measures as may be available to them to arrange for advice to be given to other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of bodies for the assessment of conformity with standards adopted within the territory of the requesting Member.*	
Article 11.5 *Members shall, if requested, advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the steps that should be taken by their producers if they wish to have access to systems for conformity assessment operated by governmental or non-governmental bodies within the territory of the Member receiving the request.*	
Article 11.6 *Members which are members or participants of international or regional systems for conformity assessment shall, if requested, advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of the institutions and legal framework which would enable them to fulfil the obligations of membership or participation in such systems.*	
Article 11.7 *Members shall, if so requested, encourage bodies within their territories which are members or participants of international or regional systems for conformity assessment to advise other Members, especially the developing country Members, and should consider requests for technical assistance from them regarding the establishment of the institutions which would enable the relevant bodies within their territories to fulfil the obligations of membership or participation.*	
Article 11.8 *In providing advice and technical assistance to other Members in terms of paragraphs 1 to 7, Members shall give priority to the needs of the least developed country Members.*	
Article 12.7 *Members shall, in accordance with the provisions of Article 11 (see above), provide technical assistance to developing country Members to ensure that the preparation and application of technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to the expansion and diversification of exports from developing country Members. In determining the terms and conditions of the technical assistance, account shall*	Requirements on the provision of technical assistance under Article 12.7 are linked to the objective of Article 12.3. At the 2001 Doha Ministerial Conference, Ministers confirmed the approach to technical assistance being developed by the TBT Committee, reflecting the results of the triennial review work in this area, and mandated the work to

PROVISION	COMMENT
be taken of the stage of development of the requesting Members and in particular of the least developed country Members.	continue.[83] Furthermore, Members were urged to provide, to the greatest extent possible, the financial and technical assistance necessary to enable LDCs to respond adequately to the introduction of any new TBT measures which may have significant negative effects on their trade. Members were also urged to ensure that technical assistance was provided to LDCs with a view to responding to the special problems they faced in implementing the TBT Agreement.[84]
Provisions relating to LDC Members	
Article 11.8 *In providing advice and technical assistance to other Members in terms of paragraphs 1 to 7, Members shall give priority to the needs of the least developed country Members.*	
Article 12.7 *Members shall, in accordance with the provisions of Article 11, provide technical assistance to developing country Members to ensure that the preparation and application of technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to the expansion and diversification of exports from developing country Members. In determining the terms and conditions of the technical assistance, account shall be taken of the stage of development of the requesting Members and in particular of the least developed country Members.*	
Article 12.8 (…) *Accordingly, with a view to ensuring that developing country Members are able to comply with this Agreement, the Committee on Technical Barriers to Trade provided for in Article 13 is enabled to grant, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement. When considering such requests the Committee shall take into account the special problems, in the field of preparation and application of technical regulations, standards and conformity assessment procedures, and the special development and trade needs of the developing country Member, as well as its stage of technological development, which may hinder its ability to discharge fully its obligations under this Agreement. The Committee shall, in particular, take into account the special problems of the least developed country Members.*	

[83] WT/MIN(01)/17, paragraph 5.1.
[84] WT/MIN(01)/17, paragraph 5.4.

2.6 Agreement on Trade-Related Investment Measures

2.41. There are three S&D provisions in the Agreement on Trade-Related Investment Measures (TRIMs Agreement), which fall into three separate categories:[85]

2.6.1 Flexibility of commitments, of action, and use of policy instruments

One provision (Article 4).

2.6.2 Transitional time-periods

Two provisions (Article 5.2 and 5.3).

2.6.3 Provisions relating to LDC Members

One (Article 5.2).

[85] Article 5.2 is listed in both the transitional time-periods category and the LDCs category but is not counted twice when calculating the total number of S&D provisions in the Agreement. The Article specifies different transitional periods for developing country Members and LDC Members. For provisions relating to LDCs, see also the reference in Section 7.10 of this document to Decision 84 from Annex F of the Hong Kong Ministerial Declaration.

AGREEMENT ON TRADE-RELATED INVESTMENT MEASURES

PROVISION	COMMENT
Flexibility of commitments, of action, and use of policy instruments	
Article 4 (Developing Country Members) *A developing country Member shall be free to deviate temporarily from the provisions of Article 2 to the extent and in such a manner as Article XVIII of GATT 1994, the Understanding on the Balance-of-Payments Provisions of GATT 1994, and the Declaration on Trade Measures Taken for Balance-of-Payments Purposes adopted on 28 November 1979 (BISD 26S/205-209) permit the Member to deviate from the provisions of Articles III and XI of GATT 1994.*	In the TRIMs Committee a developing country Member cited this provision as justifying some measures it has taken; some other Members questioned this justification. (G/TRIMS/M/9, paragraphs 30-37 and G/TRIMS/M/10 paragraphs 16-22)
Transitional time-periods	
Article 5.2 *Each Member shall eliminate all TRIMs which are notified under Article 5.1, within two years of the date of entry into force of the WTO Agreement in the case of a developed country Member, within five years in the case of a developing country Member, and within seven years in the case of a least developed country Member.*	Notifications under Article 5.1 have been submitted by 28 Members (G/L/1197). For most Members having made notifications, the Article 5.2 transition period for elimination of the TRIMs expired on 1 January 2000. Issues that have arisen with respect to Article 5 include the question of what measures should be notified under Article 5.1, as well as the question of whether TRIMs notified after the deadline are still entitled to benefit from the transition period (G/TRIMS/M/2-7).
Article 5.3 *On request, the Council for Trade in Goods may extend the transition period for the elimination of TRIMs notified under Article 5.1 for a developing country Member, including a least developed country Member, which demonstrates particular difficulties in implementing the provisions of this Agreement. In considering such a request, the Council for Trade in Goods shall take into account the individual development, financial and trade needs of the Member in question.*	Ten developing country Members requested extensions of the transition period pursuant to Article 5.3. On 31 July 2001, eight developing country Members were granted extensions of the transition period to eliminate TRIMs through end-2003. The extensions were provided through decisions of the Council for Trade in Goods under Article 5.3 in seven of the eight cases (see G/L/460-466 and G/L/497-504), and in the other case through a waiver under Article IX of the WTO Agreement. (See WT/L/410)
Provisions relating to least developed country Members	
Article 5.2 *Each Member shall eliminate all TRIMs which are notified under Article 5.1 […]within seven years in the case of a least developed country Member.*	One LDC Member notified TRIMs under Article 5.1 (G/TRIMS/N/1/UGA/1). To date, no request for an extension has been received.

2.7 Agreement on Implementation of Article VI of the GATT 1994

2.7.1 Provisions under which WTO Members should safeguard the interests of developing country Members

One provision (Article 15).

AGREEMENT ON IMPLEMENTATION OF ARTICLE VI OF THE GATT 1994

PROVISION	COMMENT
Provisions under which WTO Members should safeguard the interests of developing country Members	
Article 15 (Developing Country Members) *It is recognized that special regard must be given by developed country Members to the special situation of developing country Members when considering the application of anti-dumping measures under this Agreement. Possibilities of constructive remedies provided for by this Agreement shall be explored before applying anti-dumping duties where they would affect the essential interests of developing country Members.*	**Disputes:** This article has been invoked in a number of anti-dumping-related disputes (*EC – Bed Linen* (DS141), *US – Steel Plate* (DS206) and *EC – Tube or Pipe Fittings* (DS219). The panels examining these disputes have considered issues pertaining to the extent of Members' obligations under this article, when and to whom "special regard" should be given, the constructive remedies provided for by the Anti-Dumping Agreement (ADA), the interpretation of the term "explore" and the phrase "before applying anti-dumping duties". **Committee *vs.* Negotiations:** In 2001, Paragraph 7.2 of the "Doha Ministerial Decision on Implementation-Related Issues and Concerns" recognized that this article is a mandatory provision and that modalities for its application would benefit from clarification. It instructed the Working Group on Implementation of the Committee on Anti-Dumping Practices (the Committee) to examine this issue and draw up appropriate recommendations for its operationalization. In 2003, the General Council referred anti-dumping proposals to the Negotiating Group on Rules. A number of Participants in the negotiations have submitted proposals under document series TN/RL/W/4, TN/RL/W/7 and TN/RL/GEN/154. **Committee:** Paragraph 7.4 of the Doha Ministerial Decision has also instructed the Committee to draw up guidelines for the improvement of annual reviews. In 2002, a Recommendation Regarding Annual Reviews of the ADA was adopted by The Committee (G/ADP/9). This Recommendation provided for regular reporting by developed country Members on fulfilment of their obligations under this article. It required those Members, when reporting anti-dumping actions in their semi-annual reports, to indicate the manner in which such obligations have been fulfilled (e.g. price undertakings and lesser duty). The recommendation also required the Committee's Annual Report to include a separate table compiling all information reported by each Member in this respect during the reporting period.

2.8 Agreement on Implementation of Article VII of the GATT 1994

2.42. The Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (GATT) 1994 contains eight provisions for S&D which fall under the following headings:

2.8.1 Provisions under which WTO Members should safeguard the interests of developing country Members

One provision (Annex III:5).

2.8.2 Flexibility of commitments, of action, and use of policy instruments

Two provisions (Annex III:3 and Annex III:4).

2.8.3 Transitional time-periods

Four provisions (Article 20.1; Article 20.2; Annex III:1; and Annex III:2).

2.8.4 Technical assistance

One Provision (Article 20.3).

2.43. In the course of the work of the Customs Valuation Committee, Members have made statements and/or taken action in regard, or pursuant to, a number of the S&D provisions listed above. The provisions in relation to which statements made or actions taken have been recorded by the Committee and are detailed below.

2.44. Following the Doha Ministerial Declaration (WT/MIN(01)/DEC/1), the Committee on Customs Valuation held a series of meetings during 2002 to carry out the mandates contained in paragraph 12(b) of the Doha Ministerial Declaration (WT/MIN(01)/DEC/1) and paragraphs 8.3 and 13 of the Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/17). The reports on this work are contained in documents G/VAL/50 and G/VAL/49 respectively. The General Council decided that the Committee should continue its work under the mandate contained in paragraph 8.3 of the Decision on Implementation-Related Issues and Concerns and report to the General Council upon its completion. This matter was dropped from the agenda of the Committee's meetings at the Committee meeting of 15 May 2017 (G/VAL/M/64).

AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GATT 1994

PROVISION	COMMENT
Provisions under which WTO Members should safeguard the interests of developing country Members	
Annex III:5 *Certain developing countries may have problems in the implementation of Article 1 of the Agreement in so far as it relates to importations into their countries by sole agents, sole distributors and sole concessionaires. If such problems arise in practice in developing country Members applying the Agreement, a study of this question shall be made, at the request of such Members, with a view to finding appropriate solutions.*	No request for a study has been made so far.
Flexibility of commitments, of action, and use of policy instruments	
Annex III:3 *Developing countries which consider that the reversal of the sequential order at the request of the importer provided for in Article 4 of the Agreement may give rise to real difficulties for them may wish to make a reservation to Article 4 in the following terms:* *"The Government of ..... reserves the right to provide that the relevant provision of Article 4 of the Agreement shall apply only when the customs authorities agree to the request to reverse the order of Articles 5 and 6."* *If developing countries make such a reservation, the Members shall consent to it under Article 21 of the Agreement.*	Fifty-three developing country Members, of which 13 are LDC Members, have invoked this paragraph.[86]
Annex III:4 *Developing countries may wish to make a reservation with respect to Article 5:2 of the Agreement in the following terms:* *"The Government of ..... reserves the right to provide that Article 5:2 of the Agreement shall be applied in accordance with the provisions of the relevant note thereto whether or not the importer so requests."* *If developing countries make such a reservation, the Members shall consent to it under Article 21 of the Agreement.*	Fifty-one developing country Members, of which 11 are LDC Members, have invoked this paragraph.[87]
Transitional time-periods	
Article 20.1 *Developing country Members not party to the Agreement on Implementation of Article VII of the GATT (Tokyo Round), may delay application of the provisions of this Agreement for a period not exceeding five years from the date of entry into force of the WTO Agreement for such Members. Developing*	This provision was invoked by 56 developing countries, of which 12 are LDCs (see G/VAL/2 and Rev.1 to 24). For 29 of these Members, the provision expired on 1 January 2000 and for another 24, the provision expired during the year up to July 2001.

[86] G/VAL/74.
[87] G/VAL/74.

PROVISION	COMMENT
country Members who choose to delay application of this Agreement shall notify the Director-General of the WTO accordingly.	The General Council decision of 15 December 2000 stated that: "Noting that the process of examination and approval, in the Customs Valuation Committee, of individual requests from Members for extension of the five-year delay period in Article 20.1 is proceeding well, the General Council encourages the Committee to continue this work." (WT/L/384) As of March 2009, this provision expired for all WTO Members which benefited from it.
Article 20.2 *In addition to paragraph 1, developing country Members not party to the Agreement on Implementation of Article VII of the GATT (Tokyo Round), may delay application of paragraph 2(b)(iii) of Article 1 and Article 6 for a period not exceeding three years following their application of all other provisions of this Agreement. Developing country Members that choose to delay application of the provisions specified in this paragraph shall notify the Director-General of the WTO accordingly.*	This provision was invoked by 48 developing country Members of which 11 are LDCs. As of March 2009, this provision expired for all WTO Members which benefited from it.
Annex III:1 *The five-year delay in the application of the provision of the Agreement by developing country Members provided for in paragraph 1 of Article 20 may, in practice, be insufficient for certain developing country Members. In such cases a developing country Member may request before the end of the period referred to in paragraph 1 of Article 20 an extension of such period, it being understood that the Members will give sympathetic consideration to such a request in cases where the developing country Member in question can show good cause.*	A total of 21 Members have requested extensions under this provision, and one Member requested a second extension; thirteen of which have been granted. (G/VAL/2 and Rev.1 to 24). The duration of extensions granted range from one year to two years. As of March 2009, this additional delay period expired for 20 WTO Members which benefited from it.
Annex III:2 *Developing countries which currently value goods on the basis of officially established minimum values may wish to make a reservation to enable them to retain such values on a limited and transitional basis under such terms and conditions as may be agreed to by the Members.* *(please also refer to Decision on texts relating to minimum values and imports by sole agents, sole distributors and sole concessionaires.)*	Seventeen developing country Members reserved their rights to retain minimum values under Annex III.2. (G/VAL/2 and Rev.1 to 24). The Committee has adopted four Decisions containing the terms and conditions under which four Members may continue to use minimum values while applying the Agreement. As of March 2009, this provision expired for all WTO Members which benefited from it.

PROVISION	COMMENT
Technical assistance	
Article 20.3 *Developed country Members shall furnish, on mutually agreed terms, technical assistance to developing country Members that so request. On this basis developed country Members shall draw up programmes of technical assistance which may include, inter alia, training of personnel, assistance in preparing implementation measures, access to sources of information regarding customs valuation methodology, and advice on the application of the provisions of this Agreement.*	All requests for technical assistance are now dealt with through the process established under the Institute for Training and Technical Cooperation (ITTC).

2.9 Agreement on Import Licensing Procedures

2.45. The Agreement on Import Licensing Procedures includes four S&D provisions, which can be classified as follows:

2.9.1 Provisions under which WTO Members should safeguard the interests of developing country Members

Three provisions [Article 1.2; Article 3.5 (a)(iv); Article 3.5(j)].

2.9.2 Transitional time-periods

One provision (Article 2.2, footnote 5).

AGREEMENT ON IMPORT LICENSING PROCEDURES

PROVISION	COMMENT
Provisions under which WTO Members should safeguard the interests of developing country Members	
Article 1.2 General Provisions *Members shall ensure that the administrative procedures used to implement import licensing regimes are in conformity with the relevant provisions of GATT 1994 including its annexes and protocols, as interpreted by this Agreement, with a view to preventing trade distortions that may arise from an inappropriate operation of those procedures, taking into account the economic development purposes and financial and trade needs of developing country Members.*	This matter has not been raised in the Committee on Import Licensing.
Article 3:5 Non-automatic Import Licensing *(a) Members shall provide, upon the request of any Member having an interest in the trade in the product concerned, all relevant information concerning: (iv) where practicable, import statistics (i.e. value and/or volume) with respect to the products subject to import licensing. Developing country Members would not be expected to take additional administrative or financial burdens on this account.*	At Committee meetings, with regard to some specific trade concerns, Members have requested import statistics from a few developing Members with respect to related products subject to import licensing. No developing Member has evoked this provision or refused to provide the information requested.
Article 3.5 Non Automatic Import Licensing *(j) In allocating licences, the Member should consider the import performance of the applicant. In this regard, consideration should be given as to whether licences issued to applicants in the past have been fully utilized during a recent representative period. In cases where licences have not been fully utilized, the Member shall examine the reasons for this and take these reasons into consideration when allocating new licences. Consideration shall also be given to ensuring a reasonable distribution of licences to new importers, taking into account the desirability of issuing licences for products in economic quantities. In this regard, special consideration should be given to those importers importing products originating in developing country Members and, in particular, the least developed country Members.*	This matter has not been raised in the Committee on Import Licensing.

PROVISION	COMMENT
Transitional time-periods	
Article 2:2 footnote 5 Automatic Import Licensing *A developing country Member, other than a developing country Member which was a Party to the Agreement on Import Licensing Procedures done on 12 April 1979, which has specific difficulties with the requirements of Article 2:2 subparagraphs (a)(ii) and (a)(iii) may, upon notification to the Committee, delay the application of these subparagraphs by not more than two years from the date of entry into force of the WTO Agreement for such Member.*	Twenty-four developing country Members invoked the delayed application provisions since the entry into force of the WTO Agreement. (WT/LT/1/Rev.2, WT/LT/1/Rev.14, WT/LT/1/Rev.19, WT/LT/1/Rev.24, WT/LT/1/Rev.41, WT/LT/1/Rev.48 and WT/LT/1/Rev.72) The two-year period of delay allowed under the Agreement had expired for all these Members, and accordingly the obligations of Articles 2.2(a)(ii) and (a)(iii) apply to all current WTO Members. It is recalled that the invocation of the above provisions did not exempt Members from the obligation to notify under Articles 1.4(a), 8.2(b) and 7.3 of the Agreement (G/LIC/W/14).

2.10 Agreement on Subsidies and Countervailing Measures

2.46. The Agreement on Subsidies and Countervailing Measures (SCM Agreement) contains 16 S&D provisions which fall under three categories:[88]

2.10.1 Provisions under which WTO Members should safeguard the interests of developing country Members

Two provisions (Articles 27.1 and 27.15).

2.10.2 Flexibility of commitments, of action, and use of policy instruments

Ten provisions (Article 27.2 (a) and Annex VII, Articles 27.4; 27.6; 27.7; 27.8; 27.9; 27.10; 27.11; 27.12 and 27.13). It should be noted that Article 27.2(a) is applicable to a subset of developing countries, listed in Annex VII, and not developing countries as a whole.

2.10.3 Transitional time-periods

Seven provisions (Articles 27.2 (b), 27.3; 27.4; 27.14; 27.5; 27.6; and 27.11).

In addition to these provisions applicable to developing countries, or a sub-group thereof, are the provisions of Article 29 which apply to Members in the process of transformation from a centrally-planned into a market, free-enterprise economy.

[88] Articles 27.4, 27.6 and 27.11 are listed in both the flexibility and transitional time-periods category, as their hybrid nature combines characteristics of both these categories, but they are not counted twice when calculating the total number of S&D provisions in the Agreement.

AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES

PROVISION	COMMENT
Provisions under which WTO Members should safeguard the interests of developing country Members	
Article 27.1 *Members recognize that subsidies may play an important role in economic development programmes of developing country Members.*	
Article 27.15 *The Committee shall, upon request by an interested developing country Member, undertake a review of a specific countervailing measure to examine whether it is consistent with the provisions of 27.10 and 27.11 as applicable to the developing country Member in question.*	No such request has been received by the Subsidies and Countervailing Measures (SCM) Committee.
Flexibility of commitments, of action, and use of policy instruments	
Article 27.2 *The prohibition of paragraph 1(a) of Article 3 shall not apply to:* *(a) developing country Members referred to in Annex VII.* *Annex VII (Developing country Members referred to in paragraph 2(a) of Article 27)* *(a) Least developed countries designated as such by the United Nations which are Members of the WTO.* *(b) Each of the following developing countries which are Members of the WTO shall be subject to the provisions which are applicable to other developing country Members according to Article 27.2(b) when GNP per capita has reached US$1,000 per annum; Bolivia, Plurinational State of; Cameroon; Congo; Côte d'Ivoire; Dominican Republic; Egypt; Ghana; Guatemala; Guyana; India; Indonesia; Kenya; Morocco; Nicaragua; Nigeria; Pakistan; Philippines; Senegal; Sri Lanka and Zimbabwe.*	The General Council's decision of 15 December 2000 stated that, "Taking into account the unique situation of Honduras as the only original Member of the WTO with a GNP per capita of less than US$1000 that was not included in Annex VII(b) to the Agreement on Subsidies and Countervailing Measures ('SCM Agreement'), Members call upon the Director-General to take appropriate steps, in accordance with WTO usual practice, to rectify the omission of Honduras from the list of Annex VII(b) countries". The rectification of this omission was communicated by the Director-General of the WTO to its Members through a letter dated 20 January 2001. (WT/Let/371) In paragraph 10.1 of the Doha Ministerial Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/17), Ministers agreed: "that Annex VII(b) to the Agreement on Subsidies and Countervailing Measures includes the Members that are listed therein until their GNP per capita reaches US$1,000 in constant 1990 dollars for three consecutive years. This decision will enter into effect upon the adoption by the Committee on Subsidies and Countervailing Measures of an appropriate methodology for calculating constant 1990 dollars. If, however, the Committee on Subsidies and Countervailing Measures does not reach a consensus agreement on an appropriate methodology by 1 January 2003, the methodology proposed by the Chairman of the Committee set forth in G/SCM/38, Appendix 2 shall be applied. A Member shall not leave Annex VII(b) so long as its GNP

PROVISION	COMMENT
	per capita in current dollars has not reached US$1000 based upon the most recent data from the World Bank". Additionally, in paragraph 10.4 of the same Decision, they agreed: "that if a Member has been excluded from the list in paragraph (b) of Annex VII to the Agreement on Subsidies and Countervailing Measures, it shall be re-included in it when its GNP per capita falls back below US$1,000". Based on this decision, the Secretariat carries out the necessary calculations and identifies, on a yearly basis, the Members that fall under Annex VII(b) of the SCM Agreement. The results of such calculations are circulated in the G/SCM/110/… document series.
Article 27.4 *Any developing country Member referred to in Article 27.2(b) shall phase out its export subsidies within the eight-year period, preferably in a progressive manner. However, a developing country Member shall not increase the level of its export subsidies, and shall eliminate them within a period shorter than that provided for in this paragraph when the use of such export subsidies is inconsistent with its development needs. If a developing country Member deems it necessary to apply such subsidies beyond the eight-year period, it shall not later than one year before the expiry of this period enter into consultation with the Committee, which will determine whether an extension of this period is justified, after examining all the relevant economic, financial and development needs of the developing country Member in question. If the Committee determines that the extension is justified, the developing country Member concerned shall hold annual consultations with the Committee to determine the necessity of maintaining the subsidies. If no such determination is made by the Committee, the developing country Member shall phase out the remaining export subsidies within two years from the end of the last authorized period.*	Please refer to the comment on Article 27.4 under the section on transitional time-periods.

PROVISION	COMMENT
Article 27.6 *Export competitiveness in a product exists if a developing country Member's exports of that product have reached a share of at least 3.25% in world trade of that product for two consecutive calendar years. Export competitiveness shall exist either (a) on the basis of notification by the developing country Member having reached export competitiveness or (b) on the basis of a computation undertaken by the Secretariat at the request of any Member. For the purposes of this paragraph, a product is defined as a section heading of the Harmonised System Nomenclature. The Committee shall review the operation of this provision five years from the date of the entry into force of the WTO Agreement.*	Please refer to the comment on Article 27.5 below.
Article 27.7 *The provisions of Article 4 shall not apply to a developing country Member in the case of export subsidies which are in conformity with the provisions of Article 27.2 through 27.5. The relevant provisions in such a case shall be those of Article 7.*	This provision has been invoked in the dispute settlement context (*Brazil - Aircraft*, WT/DS/46/R.) (See comment on Article 27.4 under the section on transitional time-periods.)
Article 27.8 *There shall be no presumption in terms of Article 6.1 that a subsidy granted by a developing country Member results in serious prejudice, as defined in this Agreement. Such serious prejudice, where applicable under the terms of Article 27.9, shall be demonstrated by positive evidence, in accordance with the provisions of Article 6.3 through 6.8.*	In the context of a complaint by two developed Members concerning subsidies provided by one developing Member, the Panel found: 1) that there was more than 5% subsidization as provided in Article 6.1, such that a serious prejudice claim could be brought against the developing Member based on positive evidence; and 2) that the subsidization caused serious prejudice in the form of significant price undercutting. (*Indonesia – Autos*, WT/DS54/R, WT/DS55/R, WT/DS59/R, WT/DS64/R.) [Note: Pursuant to Article 31, Article 6.1 applied for a period of five years from the date of entry into force of the WTO Agreement, and could have been extended for a further period by consensus of the SCM Committee. No such consensus was reached at the end of the five-year period (1999), so this provision lapsed.]
Article 27.9 *Regarding actionable subsidies granted or maintained by a developing country Member other than those referred to in Article 6.1, action may not be authorized or taken under Article 7 unless nullification or impairment of tariff concessions or other obligations under GATT 1994 is found to exist as a result of such a subsidy, in such a way as to displace or impede imports of a like product of another Member into the market of the subsidizing developing country Member or unless injury to a domestic industry in the market of an importing Member occurs.*	

PROVISION	COMMENT
Article 27.10 *Any countervailing duty investigation of a product originating in a developing country Member shall be terminated as soon as the authorities concerned determine that:* *(a) the overall level of subsidies granted upon the product in question does not exceed 2% of its value calculated on a per unit basis; or* *(b) the volume of the subsidized imports represents less than 4% of the total imports of the like product in the importing Member, unless imports from developing country Members whose individual shares of total imports represent less than 4% collectively account for more than 9% of the total imports of the like product in the importing Member.*	
Article 27.11 *For those developing country Members within the scope of Article 27.2(b) which have eliminated export subsidies prior to the expiry of the period of eight years from the date of entry into force of the WTO Agreement, and for those developing country Members referred to in Annex VII, the number in Article 27.10(a) shall be 3% rather than 2%. This provision shall apply from the date that the elimination of export subsidies is notified to the Committee, and for so long as export subsidies are not granted by the notifying developing country Member. This provision shall expire eight years from the date of entry into force of the WTO Agreement.* *(Article 27.10 (a): Any countervailing duty investigation of a product originating in a developing country Member shall be terminated as soon as the authorities concerned determine that: the overall level of subsidies granted upon the product in question does not exceed 2% of its value calculated on a per unit basis.)*	As stipulated in its text, Article 27.11 expired eight years from the date of entry into force of the WTO Agreement (at the end of 2002).
Article 27.12 *The provisions of Article 27.10 and 27.11 shall govern any determination of de minimis under Article 15.3.*	
Article 27.13[c] *The provisions of Part III (Actionable Subsidies) shall not apply to direct forgiveness of debts, subsidies to cover social costs, in whatever form, including relinquishment of government revenue and other transfer of liabilities when such subsidies are granted within and directly linked to a privatization programme of a developing country Member, provided that both such programme and the subsidies involved are granted for a limited period and notified to the Committee and that the programme results in eventual privatization of the enterprise concerned.*	The SCM Committee received and discussed one notification made pursuant to this provision (G/SCM/N/13/BRA and G/SCM/N/13/BRA/Corr.1).

PROVISION	COMMENT
Transitional time-periods	
Article 27.2 *The prohibition of Article 3.1(a) shall not apply to: (b) other developing country Members for a period of eight years from the date of entry into force of the WTO Agreement, subject to compliance with the provisions in Article 27.4.*	Please refer to the comment on Article 27.4, below. This provision has been the subject of a proposal in the Negotiating Group on Rules.
Article 27.3 *The prohibition of Article 3.1(b) shall not apply to developing country Members for a period of five years, and shall not apply to least developed country Members for a period of eight years, from the date of entry into force of the WTO Agreement.*	The five- and eight-year periods referred to in this provision expired at the end of 1999 and the end of 2002, respectively.
Article 27.4 *Any developing country Member referred to in Article 27.2(b) shall phase out its export subsidies within the eight-year period, preferably in a progressive manner. However, a developing country Member shall not increase the level of its export subsidies, and shall eliminate them within a period shorter than that provided for in this paragraph when the use of such export subsidies is inconsistent with its development needs. If a developing country Member deems it necessary to apply such subsidies beyond the eight-year period, it shall not later than one year before the expiry of this period enter into consultation with the Committee, which will determine whether an extension of this period is justified, after examining all the relevant economic, financial and development needs of the developing country Member in question. If the Committee determines that the extension is justified, the developing country Member concerned shall hold annual consultations with the Committee to determine the necessity of maintaining the subsidies. If no such determination is made by the Committee, the developing country Member shall phase out the remaining export subsidies within two years from the end of the last authorized period.*	The eight-year phase-out period mentioned in Article 27.4 expired at the end of 2002. However, certain Members obtained extensions of this transition period using the mechanism in Article 27.4. (documents G/SCM/95-G/SCM/102) Furthermore, in paragraph 10.6 of the Doha Ministerial Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/17), Ministers decided as follows: "Having regard to the particular situation of certain developing-country Members, directs the Committee on Subsidies and Countervailing Measures to extend the transition period, under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, for certain export subsidies provided by such Members, pursuant to the procedures set forth in document G/SCM/39. Furthermore, when considering a request for an extension of the transition period under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, and in order to avoid that Members at similar stages of development and having a similar order of magnitude of share in world trade are treated differently in terms of receiving such extensions for the same eligible programmes and the length of such extensions, directs the Committee to extend the transition period for those developing countries, after taking into account the relative competitiveness in relation to other developing-country Members who have requested extension of the transition period following the procedures set forth in document G/SCM/39".

PROVISION	COMMENT
	In accordance with the procedures set out in document G/SCM/39, and the language in paragraph 10.6 of the Ministerial Decision, the SCM Committee in 2002 granted extensions of the eight-year transition period with regard to certain export subsidy programmes maintained by 20 developing country Members. (See the 2003 Annual Report of the Committee, G/L/655, paragraph 23.) On 27 July 2007, the General Council adopted a Decision on Procedures for Continuation of Extensions Pursuant to Article 27.4 of the SCM Agreement of the Transition Period under Article 27.2(b) of the SCM Agreement for Certain Developing Country Members.[89] This Decision provided that with respect to certain export subsidy measures of Members covered by the procedures contained in G/SCM/39, the SCM Committee would continue the extensions of the transition period for calendar year 2008, if so requested by the Member concerned. The Decision also provided that in the period 2008-2012 the Committee would take annual decisions to continue these extensions of the transition period, subject to certain conditions. The Decision made it clear that the Committee could not extend the transition period beyond 31 December 2013, and that, as a consequence, the final two-year phase-out period provided for in the last sentence of Article 27.4 of the SCM Agreement would end not later than 31 December 2015. Nineteen Members benefited from the final year (2013) of such extensions, based on decisions taken by the Committee in October 2012 (G/SCM/M/83, paras.23-28). A list of the Members and programmes involved can be found in document G/SCM/W/546/Rev.9, Annex I. The final two-year phase-out period referred to in Article 27.4 began on 1 January 2014 for these programmes, such that the export subsidies thereunder had to be eliminated not later than 31 December 2015[90]. The Members with extensions were required to provide transparency notifications in respect of each of the two years of phase-out period (in 2015 covering 2014, and in 2016 covering 2015)[91]. The final transparency notifications provided by the beneficiary Members can be found in G/SCM/N/299/... document series. In the context of a dispute between a developing country Member and a developed country Member, the Panel held that the exemption for developing

[89] Document WT/L/691 dated 31 July 2007.
[90] Id., para. 1(b)
[91] Id., para. 2(c).

PROVISION	COMMENT
	Members from the prohibition on export subsidies is conditional on compliance with the provisions in Article 27.4. The Appellate Body held that the conditions set forth in Article 27.4 are positive obligations not affirmative defences. The Panel considered that the overall level of export subsidies was an appropriate measure for evaluating the Member's compliance with Article 27.4 in that case, and that the appropriate reference period was that immediately preceding the entry into force of the WTO Agreement (WT/DS46/R and WT/DS46/AB/R). Two proposals have been submitted by Members regarding this provision.
Article 27.14 *The Committee shall, upon request by an interested Member, undertake a review of a specific export subsidy practice of a developing country Member to examine whether the practice is in conformity with its development needs.*	No such request has been received by the SCM Committee.
Article 27.5 *A developing country Member which has reached export competitiveness in any given product shall phase out its export subsidies for such product(s) over a period of two years. However, for a developing country Member which is referred to in Annex VII and which has reached export competitiveness in one or more products, export subsidies on such products shall be gradually phased out over a period of eight years.*	In paragraph 10.5 of the Doha Ministerial Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/17), Ministers decided as follows: "Subject to the provisions of Articles 27.5 and 27.6, it is reaffirmed that least developed country Members are exempt from the prohibition on export subsidies set forth in Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures, and thus have flexibility to finance their exporters, consistent with their development needs. It is understood that the eight-year period in Article 27.5 within which a least developed country Member must phase out its export subsidies in respect of a product in which it is export-competitive begins from the date export competitiveness exists within the meaning of Article 27.6". No developing country Member has notified that it has reached export competitiveness. Requests by certain Members for the calculation of export competitiveness of other Members and the results of the calculations made are found in the following documents: G/SCM/Q3/COL/12; G/SCM/46; G/SCM/103; G/SCM/103/Add.1 and G/SCM/103/Add.2; G/SCM/47 - G/SCM/Q3/THA/16; G/SCM/48; G/SCM/132 and G/SCM/132/Add.1/Rev.1. Articles 27.5 and 27.6 have been the subject of a proposal in the Negotiating Group on Rules.
Article 27.6 *See above for the text of this Article.*	Please refer to the comment on Article 27.5 above.
Article 27.11 *See above for the text of this Article.*	Please refer to the comment on Article 27.11 above.

2.11 Agreement on Safeguards

2.47. The Agreement on Safeguards contains two S&D provisions:

2.11.1 Provisions under which WTO Members should safeguard the interests of developing country Members

One provision (Article 9.1 and Footnote 2).

2.11.2 Flexibility of commitments, of action, and use of policy instruments

One provision (Article 9.2).

AGREEMENT ON SAFEGUARDS

PROVISION	COMMENT
Provisions under which WTO Members should safeguard the interests of developing country Members	
Article 9.1: *Safeguard measures shall not be applied against a product originating in a developing country Member as long as its share of imports of the product concerned in the importing Member does not exceed 3%, provided that developing country Members with less than 3% import share collectively account for not more than 9% of total imports of the product concerned.* *Footnote 2:* *A Member shall immediately notify an action taken under Article 9.1 to the Committee on Safeguards.*	The vast majority of Members that impose safeguard measures, developed as well as developing, abide by this obligation, including the obligation to notify such exemptions to the Committee on Safeguards. Between 2004 and 2006, the Committee on Safeguards discussed the various ways Members implemented this provision (see G/SG/M/26, G/SG/M/27, G/SG/M/28, G/SG/M/29 and G/SG/M/30). In 2016 and in 2017, at the request of some Members, the Committee on Safeguards discussed another issue relating to how Members fulfilled the obligation to notify the exemptions (see G/SG/M/49 and G/SG/M/50).
Flexibility of Commitments, of action, and use of policy instruments	
Article 9.2: *A developing country Member shall have the right to extend the period of application of a safeguard measure for a period of up to two years beyond the maximum period provided for in Article 7:3. Notwithstanding the provisions of Article 7:5, a developing country Member shall have the right to apply a safeguard measure again to the import of a product which has been subject to such a measure, taken after the date of entry into force of the WTO Agreement, after a period of time equal to half that during which such a measure has been previously applied, provided that the period of non-application is at least two years.*	Several measures taken by developing country Members have been extended up to ten years by virtue of this provision (see, for example, G/SG/N/10/BRA/1, G/SG/N/10/BRA/2 and its supplements; G/SG/N/10/PHL/1, G/SG/N/14/PHL/1 and its supplements; G/SG/N/10/PHL/6 and its supplements.)

2.12 Agreement on Trade Facilitation

2.48. The Agreement on Trade Facilitation (TFA) contains special and differential treatment provisions that diverge from the S&D architecture of other WTO Agreements in several respects. Rather than falling within one particular type of S&D provision, as listed in paragraph 1.5, most S&D rules of the TFA touch upon several areas. In addition to capturing S&D in distinct provisions, the TFA establishes processes by which eligible Members may obtain additional flexibilities.

2.49. One also finds differences in scope. The TFA contains no less than ten – mostly fairly extensive – S&D provisions in Section II of the Agreement (Articles 13 – 22). Among the novel approaches are the establishment of a link between an individual Member's implementation capacity and its obligation to implement. The Agreement further allows developing and least developed countries to self-determine the time periods they consider to require for the implementation of the stipulated reforms without prescribing an upper limit. They are further allowed to self-assess necessary assistance-support.

2.50. It further has to be considered that the Agreement only entered into force on 22 February 2017 and that not all Members have already completed their respective ratification process. Furthermore, there is not yet any WTO jurisprudence that could help guide Members' practice. To date, there has only been one request for consultations related to parts of the TFA.[92] Practice concerning the application and implementation of the Agreement is hence still in its infancy.

2.51. While the S&D provisions under the TFA therefore do not easily fit the model used in this document, efforts were nevertheless made to incorporate them into the standard format with only a limited amount of adjustments.

2.12.1 Flexibility of commitments, of action, and use of policy instruments

Three articles (Articles 13, 18 and 20)

2.12.2 Transitional time-periods

Seven articles (Articles 13, 14, 15, 16, 17, 18 and 19)

2.12.3 Technical assistance

Seven articles (Articles 13, 14, 16, 17, 19, 21, and 22)

2.12.4 Provisions relating to LDC Members

Nine articles (Articles 13, 14, 15, 16, 17, 18, 19, 20 and 21)

[92] DS532: Russia — Measures Concerning the Importation and Transit of Certain Ukrainian Products.

AGREEMENT ON TRADE FACILITATION

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
Article 13: General Principles					
1. The provisions contained in Articles 1 to 12 of this Agreement shall be implemented by developing and least-developed country Members in accordance with this Section, which is based on the modalities agreed in Annex D of the July 2004 Framework Agreement (WT/L/579) and in paragraph 33 of and Annex E to the Hong Kong Ministerial Declaration (WT/MIN(05)/DEC).					
2. Assistance and support for capacity building[93] should be provided to help developing and least-developed country Members implement the provisions of this Agreement, in accordance with their nature and scope. The extent and the timing of implementation of the provisions of this Agreement shall be related to the implementation capacities of developing and least-developed country Members. Where a developing or least-developed country Member continues to lack the necessary capacity, implementation of the provision(s) concerned will not be required until implementation capacity has been acquired.			X	X	
3. Least-developed country Members will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.		X			X
4. These principles shall be applied through the provisions set out in Section II.					

[93] For the purposes of this Agreement, "assistance and support for capacity building" may take the form of technical, financial, or any other mutually agreed form of assistance provided.

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
Article 14: Categories of Provisions					
1. There are three categories of provisions:					
(a) Category A contains provisions that a developing country Member or a least-developed country Member designates for implementation upon entry into force of this Agreement, or in the case of a least-developed country Member within one year after entry into force, as provided in Article 15.			X		X
(b) Category B contains provisions that a developing country Member or a least-developed country Member designates for implementation on a date after a transitional period of time following the entry into force of this Agreement, as provided in Article 16.			X		
(c) Category C contains provisions that a developing country Member or a least-developed country Member designates for implementation on a date after a transitional period of time following the entry into force of this Agreement and requiring the acquisition of implementation capacity through the provision of assistance and support for capacity building, as provided for in Article 16.			X	X	
2. Each developing country and least-developed country Member shall self-designate, on an individual basis, the provisions it is including under each of the Categories A, B and C.			X		
Article 15: Notification and Implementation of Category A					
1. Upon entry into force of this Agreement, each developing country Member shall implement its Category A commitments. Those commitments designated under Category A will thereby be made an integral part of this Agreement.	To date, 86 developing country Members have notified Category A commitments under this provision. All types of notifications under the TFA can be found				

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
	in document series: WT/PCTF/N/- and G/TFA/N/-. The top 5 measures notified in category A by developing country Members are: Article 9 (Movement of goods), Article 10.5 (Pre-shipment inspection), Article 10.7 (Common border Procedures), Article 10.9 (Temporary Admission of Goods) and Article 10.6 (Use of Customs Brokers). More information can be found at https://www.tfadatabase.org/).				
2. A least-developed country Member may notify the Committee of the provisions it has designated in Category A for up to one year after entry into force of this Agreement. Each least-developed country Member's commitments designated under Category A will thereby be made an integral part of this Agreement.	To date, 26 LDC Members have notified Category A commitments under this provision. All types of notifications under the TFA can be found in document series: WT/PCTF/N/- and G/TFA/N/-. The top 5 measures notified in category A by LDC Members are: Article 5.2 (Detention), Article 9 (Movement of goods), Article 10.5 (Pre-shipment inspection), Article 10.8 (Rejected Goods) and Article 10.9 (Temporary Admission of Goods). More information can be found at https://www.tfadatabase.org/).		X		X
Article 16: Notification of Definitive Dates For Implementation of Category B And Category C					
1. With respect to the provisions that a developing country Member has not designated in Category A, the Member may delay implementation in accordance with the process set out in this Article.			X		
Developing Country Member Category B					

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
(a) Upon entry into force of this Agreement, each developing country Member shall notify the Committee of the provisions that it has designated in Category B and their corresponding indicative dates for implementation.[94]	To date, 44 developing country Members have made notifications under Category B. All types of notifications under the TFA can be found in document series: WT/PCTF/N/- and G/TFA/N/-. The top 5 measures notified in category B by developing country Members are: Article 5.1 (Notifications for enhanced controls or inspections), Article 10.2 (Acceptance of copies), Article 1.4 (Notification), Article 6.1 (General Disciplines on Fees and Charges) and Article 7.7 (Authorized operators). More information can be found at https://www.tfadatabase.org/).		X		
(b) No later than one year after entry into force of this Agreement, each developing country Member shall notify the Committee of its definitive dates for implementation of the provisions it has designated in Category B. If a developing country Member, before this deadline, believes it requires additional time to notify its definitive dates, the Member may request that the Committee extend the period sufficient to notify its dates.			X		
Developing Country Member Category C					
(c) Upon entry into force of this Agreement, each developing country Member shall notify the Committee of the provisions that it has designated in Category C and their corresponding	To date, 33 developing country Members have made notifications under Category C. All types of notifications under the TFA		X	X	

[94] Notifications submitted may also include such further information as the notifying Member deems appropriate. Members are encouraged to provide information on the domestic agency or entity responsible for implementation.

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
indicative dates for implementation. For transparency purposes, notifications submitted shall include information on the assistance and support for capacity building that the Member requires in order to implement.[95]	can be found in document series: WT/PCTF/N/- and G/TFA/N/-. The top 5 measures notified in category C by developing country Members are: Article 10.4 (Single Window), Article 5.3 (Test Procedures), Article 7.6 (Average Release Times), Article 7.4 (Risk Management), Article 7.7 (Authorized Operators). More information can be found at https://www.tfadatabase.org/). Developing country Members also define the following areas as priorities for technical assistance and capacity building: human resources and training, legislative and regulatory framework, as well as institutional procedures. More information can be found at https://www.tfadatabase.org/).				
(d) Within one year after entry into force of this Agreement, developing country Members and relevant donor Members, taking into account any existing arrangements already in place, notifications pursuant to paragraph 1 of Article 22 and information submitted pursuant to subparagraph (c) above, shall provide information to the Committee on the arrangements maintained or entered into that are necessary to provide assistance and support for capacity building to enable implementation of Category C.[96] The participating developing				X	

[95] Members may also include information on national trade facilitation implementation plans or projects, the domestic agency or entity responsible for implementation, and the donors with which the Member may have an arrangement in place to provide assistance.

[96] Such arrangements will be on mutually agreed terms, either bilaterally or through appropriate international organizations, consistent with paragraph 3 of Article 21.

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
country Member shall promptly inform the Committee of such arrangements. The Committee shall also invite non-Member donors to provide information on existing or concluded arrangements.					
(e) Within 18 months from the date of the provision of the information stipulated in subparagraph (d), donor Members and respective developing country Members shall inform the Committee of the progress in the provision of assistance and support for capacity building. Each developing country Member shall, at the same time, notify its list of definitive dates for implementation.				X	
2. With respect to those provisions that a least-developed country Member has not designated under Category A, least-developed country Members may delay implementation in accordance with the process set forth in this Article.			X		X
Least-Developed Country Member Category B					
(a) No later than one year after entry into force of this Agreement, a least-developed country Member shall notify the Committee of its Category B provisions and may notify their corresponding indicative dates for implementation of these provisions, taking into account maximum flexibilities for least-developed country Members.	To date, 19 LDC Members have made notifications under Category B and Category C, respectively. All types of notifications under the TFA can be found in document series: WT/PCTF/N/- and G/TFA/N/-. The top 5 measures notified in category B by LDC Members are: Article 2.2 (Consultations) Article 2.1 (Comments and information before entry into force), Article 1.1 (Publication, Article 6.3 (Penalty disciplines) and Article 6.1 (General disciplines on fees and charges).		X		X

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
	More information can be found at https://www.tfadatabase.org/).				
(b) No later than two years after the notification date stipulated under subparagraph (a) above, each least-developed country Member shall notify the Committee to confirm designations of provisions and notify its dates for implementation. If a least-developed country Member, before this deadline, believes it requires additional time to notify its definitive dates, the Member may request that the Committee extend the period sufficiently to notify its dates.			X		X
Least-Developed Country Member Category C					
(c) For transparency purposes and to facilitate arrangements with donors, one year after entry into force of this Agreement, each least-developed country Member shall notify the Committee of the provisions it has designated in Category C, taking into account maximum flexibilities for least-developed country Members.	The top 5 measures notified in category C by LDC Members are: Article 10.4 (Single Window), Article 7.7 (Authorized Operators), Article 8 (Border Agency Cooperation), Article 7.4 (Risk Management) and Article 5.4 (Test Procedures). More information can be found at https://www.tfadatabase.org/).		X		X
(d) One year after the date stipulated in subparagraph (c) above, least-developed country Members shall notify information on assistance and support for capacity building that the Member requires in order to implement.[97]			X	X	X
(e) No later than two years after the notification under subparagraph (d) above, least-developed country Members and relevant donor Members, taking into account information				X	X

[97] Members may also include information on national trade facilitation implementation plans or projects, the domestic agency or entity responsible for implementation, and the donors with which the Member may have an arrangement in place to provide assistance.

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
submitted pursuant to subparagraph (d) above, shall provide information to the Committee on the arrangements maintained or entered into that are necessary to provide assistance and support for capacity building to enable implementation of Category C.[98] The participating least-developed country Member shall promptly inform the Committee of such arrangements. The least-developed country Member shall, at the same time, notify indicative dates for implementation of corresponding Category C commitments covered by the assistance and support arrangements. The Committee shall also invite non-Member donors to provide information on existing and concluded arrangements.					
(f) No later than 18 months from the date of the provision of the information stipulated in subparagraph (e), relevant donor Members and respective least-developed country Members shall inform the Committee of the progress in the provision of assistance and support for capacity building. Each least-developed country Member shall, at the same time, notify the Committee of its list of definitive dates for implementation.				X	X
3. Developing country Members and least-developed country Members experiencing difficulties in submitting definitive dates for implementation within the deadlines set out in paragraphs 1 and 2 because of the lack of donor support or lack of progress in the provision of assistance and support for capacity building should notify the Committee as early as possible prior to the expiration of those deadlines.			X	X	

[98] Such arrangements will be on mutually agreed terms, either bilaterally or through appropriate international organizations, consistent with paragraph 3 of Article 21.

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
Members agree to cooperate to assist in addressing such difficulties, taking into account the particular circumstances and special problems facing the Member concerned. The Committee shall, as appropriate, take action to address the difficulties including, where necessary, by extending the deadlines for the Member concerned to notify its definitive dates.					
4. Three months before the deadline stipulated in subparagraphs 1(b) or (e), or in the case of a least-developed country Member, subparagraphs 2(b) or (f), the Secretariat shall remind a Member if that Member has not notified a definitive date for implementation of provisions that it has designated in Category B or C. If the Member does not invoke paragraph 3, or in the case of a developing country Member subparagraph 1(b), or in the case of a least-developed country Member subparagraph 2(b), to extend the deadline and still does not notify a definitive date for implementation, the Member shall implement the provisions within one year after the deadline stipulated in subparagraphs 1(b) or (e), or in the case of a least-developed country Member, subparagraphs 2(b) or (f), or extended by paragraph 3.			X		
5. No later than 60 days after the dates for notification of definitive dates for implementation of Category B and Category C provisions in accordance with paragraphs 1, 2, or 3, the Committee shall take note of the annexes containing each Member's definitive dates for implementation of Category B and Category C provisions, including any dates set under paragraph 4, thereby making these annexes an integral part of this Agreement.			X		

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
Article 17: Early Warning Mechanism: Extension Of Implementation Dates For Provisions In Categories B And C					
1.					
(a) A developing country Member or least-developed country Member that considers itself to be experiencing difficulty in implementing a provision that it has designated in Category B or Category C by the definitive date established under subparagraphs 1(b) or (e) of Article 16, or in the case of a least-developed country Member subparagraphs 2(b) or (f) of Article 16, should notify the Committee. Developing country Members shall notify the Committee no later than 120 days before the expiration of the implementation date. Least-developed country Members shall notify the Committee no later than 90 days before such date.			X		X
(b) The notification to the Committee shall indicate the new date by which the developing country Member or least-developed country Member expects to be able to implement the provision concerned. The notification shall also indicate the reasons for the expected delay in implementation. Such reasons may include the need for assistance and support for capacity building not earlier anticipated or additional assistance and support to help build capacity.			X	X	
2. Where a developing country Member's request for additional time for implementation does not exceed 18 months or a least-developed country Member's request for additional time does not exceed 3 years, the requesting Member is entitled to such additional time without any further action by the Committee.			X		X
3. Where a developing country or least-developed country Member considers that			X		X

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
it requires a first extension longer than that provided for in paragraph 2 or a second or any subsequent extension, it shall submit to the Committee a request for an extension containing the information described in subparagraph 1(b) no later than 120 days in respect of a developing country Member and 90 days in respect of a least-developed country Member before the expiration of the original definitive implementation date or that date as subsequently extended.					
4. The Committee shall give sympathetic consideration to granting requests for extension taking into account the specific circumstances of the Member submitting the request. These circumstances may include difficulties and delays in obtaining assistance and support for capacity building.			X	X	
Article 18: Implementation Of Category B And Category C					
1. In accordance with paragraph 2 of Article 13, if a developing country Member or a least-developed country Member, having fulfilled the procedures set forth in paragraphs 1 or 2 of Article 16 and in Article 17, and where an extension requested has not been granted or where the developing country Member or least-developed country Member otherwise experiences unforeseen circumstances that prevent an extension being granted under Article 17, self-assesses that its capacity to implement a provision under Category C continues to be lacking, that Member shall notify the Committee of its inability to implement the relevant provision.			X		
2. The Committee shall establish an Expert Group immediately, and in any case no later than					

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
60 days after the Committee receives the notification from the relevant developing country Member or least-developed country Member. The Expert Group will examine the issue and make a recommendation to the Committee within 120 days of its composition.					
3. The Expert Group shall be composed of five independent persons that are highly qualified in the fields of trade facilitation and assistance and support for capacity building. The composition of the Expert Group shall ensure balance between nationals from developing and developed country Members. Where a least-developed country Member is involved, the Expert Group shall include at least one national from a least-developed country Member. If the Committee cannot agree on the composition of the Expert Group within 20 days of its establishment, the Director-General, in consultation with the chair of the Committee, shall determine the composition of the Expert Group in accordance with the terms of this paragraph.					
4. The Expert Group shall consider the Member's self-assessment of lack of capacity and shall make a recommendation to the Committee. When considering the Expert Group's recommendation concerning a least-developed country Member, the Committee shall, as appropriate, take action that will facilitate the acquisition of sustainable implementation capacity.					X
5. The Member shall not be subject to proceedings under the Dispute Settlement Understanding on this issue from the time the developing country Member notifies the		X			

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
Committee of its inability to implement the relevant provision until the first meeting of the Committee after it receives the recommendation of the Expert Group. At that meeting, the Committee shall consider the recommendation of the Expert Group. For a least-developed country Member, the proceedings under the Dispute Settlement Understanding shall not apply to the respective provision from the date of notification to the Committee of its inability to implement the provision until the Committee makes a decision on the issue, or within 24 months after the date of the first Committee meeting set out above, whichever is earlier.					
6. Where a least-developed country Member loses its ability to implement a Category C commitment, it may inform the Committee and follow the procedures set out in this Article.			X		
Article 19: Shifting Between Categories B and C					
1. Developing country Members and least-developed country Members who have notified provisions under Categories B and C may shift provisions between such categories through the submission of a notification to the Committee. Where a Member proposes to shift a provision from Category B to Category C, the Member shall provide information on the assistance and support required to build capacity.			X		
2. In the event that additional time is required to implement a provision shifted from Category B to Category C, the Member may:					
(a) use the provisions of Article 17, including the opportunity for an automatic extension; or			X		

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
(b) request an examination by the Committee of the Member's request for extra time to implement the provision and, if necessary, for assistance and support for capacity building, including the possibility of a review and recommendation by the Expert Group under Article 18; or			X	X	
(c) in the case of a least-developed country Member, any new implementation date of more than four years after the original date notified under Category B shall require approval by the Committee. In addition, a least-developed country Member shall continue to have recourse to Article 17. It is understood that assistance and support for capacity building is required for a least-developed country Member so shifting.			X		X
Article 20: Grace Period for the Application Of The Understanding On Rules And Procedures Governing The Settlement Of Disputes					
1. For a period of two years after entry into force of this Agreement, the provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Understanding on Rules and Procedures Governing the Settlement of Disputes shall not apply to the settlement of disputes against a developing country Member concerning any provision that the Member has designated in Category A.		X			
2. For a period of six years after entry into force of this Agreement, the provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Understanding on Rules and Procedures Governing the Settlement of Disputes shall not apply to the settlement of disputes against a least-developed country Member concerning any provision that the Member has designated in Category A.		X			X

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
3. For a period of eight years after implementation of a provision under Category B or C by a least-developed country Member, the provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Understanding on Rules and Procedures Governing the Settlement of Disputes shall not apply to the settlement of disputes against that least-developed country Member concerning that provision.		X			X
4. Notwithstanding the grace period for the application of the Understanding on Rules and Procedures Governing the Settlement of Disputes, before making a request for consultations pursuant to Articles XXII or XXIII of GATT 1994, and at all stages of dispute settlement procedures with regard to a measure of a least-developed country Member, a Member shall give particular consideration to the special situation of least-developed country Members. In this regard, Members shall exercise due restraint in raising matters under the Understanding on Rules and Procedures Governing the Settlement of Disputes involving least-developed country Members.					X
5. Each Member shall, upon request, during the grace period allowed under this Article, provide adequate opportunity to other Members for discussion with respect to any issue relating to the implementation of this Agreement.					
Article 21: Provision of Assistance and Support for Capacity Building					
1. Donor Members agree to facilitate the provision of assistance and support for capacity building to developing country and least-developed country Members on mutually agreed terms either bilaterally or through the				X	

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
appropriate international organizations. The objective is to assist developing country and least-developed country Members to implement the provisions of Section I of this Agreement.					
2. Given the special needs of least-developed country Members, targeted assistance and support should be provided to the least-developed country Members so as to help them build sustainable capacity to implement their commitments. Through the relevant development cooperation mechanisms and consistent with the principles of technical assistance and support for capacity building as referred to in paragraph 3, development partners shall endeavour to provide assistance and support for capacity building in this area in a way that does not compromise existing development priorities.				X	X
3. Members shall endeavour to apply the following principles for providing assistance and support for capacity building with regard to the implementation of this Agreement:				X	
(a) take account of the overall developmental framework of recipient countries and regions and, where relevant and appropriate, ongoing reform and technical assistance programs;				X	
(b) include, where relevant and appropriate, activities to address regional and sub-regional challenges and promote regional and sub-regional integration;				X	

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
(c) ensure that ongoing trade facilitation reform activities of the private sector are factored into assistance activities;				X	
(d) promote coordination between and among Members and other relevant institutions, including regional economic communities, to ensure maximum effectiveness of and results from this assistance. To this end:				X	
(i) coordination, primarily in the country or region where the assistance is to be provided, between partner Members and donors and among bilateral and multilateral donors should aim to avoid overlap and duplication in assistance programs and inconsistencies in reform activities through close coordination of technical assistance and capacity building interventions;				X	
(ii) for least-developed country Members, the Enhanced Integrated Framework for trade-related assistance for the least-developed countries should be a part of this coordination process; and				X	X
(iii) Members should also promote internal coordination between their trade and development officials, both in capitals and in Geneva, in the implementation of this Agreement and technical assistance.				X	
(e) encourage use of existing in-country and regional coordination structures such as roundtables and consultative groups to coordinate and monitor implementation activities; and				X	
(f) encourage developing country Members to provide capacity building to other developing and least-developed country Members and				X	

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
consider supporting such activities, where possible.					
4. The Committee shall hold at least one dedicated session per year to:					
(a) discuss any problems regarding implementation of provisions or sub-parts of provisions of this Agreement;				X	
(b) review progress in the provision of assistance and support for capacity building to support the implementation of the Agreement, including any developing or least-developed country Members not receiving adequate assistance and support for capacity building;				X	
(c) share experiences and information on ongoing assistance and support for capacity building and implementation programs, including challenges and successes;				X	
(d) review donor notifications as set forth in Article 22; and				X	
(e) review the operation of paragraph 2.					
Article 22: Information on Assistance and Support For Capacity Building To Be Submitted To The Committee					
1. To provide transparency to developing country Members and least-developed country Members on the provision of assistance and support for capacity building for implementation of Section I, each donor Member assisting developing country Members and least-developed country Members with the implementation of this Agreement shall submit to the Committee, at entry into force of this Agreement and annually thereafter, the following information on its assistance and support for capacity building that was disbursed in the	To date, 13 Members have presented notifications under this provision. All types of notifications under the TFA can be found in document series G/TFA/N/-.			X	

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
preceding 12 months and, where available, that is committed in the next 12 months[99]:					
(a) a description of the assistance and support for capacity building;					
(b) the status and amount committed/disbursed;					
(c) procedures for disbursement of the assistance and support;					
(d) the beneficiary Member or, where necessary, the region; and					
(e) the implementing agency in the Member providing assistance and support.					
The information shall be provided in the format specified in Annex 1. In the case of Organisation for Economic Co-operation and Development (referred to in this Agreement as the "OECD") Members, the information submitted can be based on relevant information from the OECD Creditor Reporting System. Developing country Members declaring themselves in a position to provide assistance and support for capacity building are encouraged to provide the information above.					
2. Donor Members assisting developing country Members and least-developed country Members shall submit to the Committee:	To date, eight Members have notified the relevant information concerning processes and mechanisms to request assistance. All types of notifications under the TFA can be found in document series G/TFA/N/-.			X	
(a) contact points of their agencies responsible for providing assistance and support for capacity building related to the implementation of Section					

[99] The information provided will reflect the demand driven nature of the provision of assistance and support for capacity building.

PROVISION	COMMENT	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to Least developed country Members
I of this Agreement including, where practicable, information on such contact points within the country or region where the assistance and support is to be provided; and					
(b) information on the process and mechanisms for requesting assistance and support for capacity building.					
Developing country Members declaring themselves in a position to provide assistance and support are encouraged to provide the information above.				X	
3. Developing country Members and least-developed country Members intending to avail themselves of trade facilitation-related assistance and support for capacity building shall submit to the Committee information on contact point(s) of the office(s) responsible for coordinating and prioritizing such assistance and support.				X	
4. Members may provide the information referred to in paragraphs 2 and 3 through internet references and shall update the information as necessary. The Secretariat shall make all such information publicly available.					
5. The Committee shall invite relevant international and regional organizations (such as the International Monetary Fund, the OECD, the United Nations Conference on Trade and Development, the WCO, United Nations Regional Commissions, the World Bank, or their subsidiary bodies, and regional development banks) and other agencies of cooperation to provide information referred to in paragraphs 1, 2, and 4.					

3 GENERAL AGREEMENT ON TRADE IN SERVICES (GATS)

3.1. The General Agreement on Trade in Services (GATS) does not adopt the traditional concept of S&D, according to which, to a large extent, all developing countries are treated the same. It rather addresses the concerns and needs of developing countries through providing appropriate flexibility on an individual basis. Such flexibility is reflected in numerous provisions of the Agreement as well as in its basic structure, which allows each Member to undertake liberalization commitments in a manner consistent with its development needs.

3.2. Under the typology developed for considering S&D, it can be said that the GATS contains 13 S&D provisions dealing with developing country-related issues. Their classification can be broken down as follows:[100]

3.1.1 Provisions aimed at increasing trade opportunities of developing country Members

Three provisions (Preamble, Article IV:1; Article IV:2).

3.1.2 Provisions under which WTO Members should safeguard the interests of developing country Members

Four provisions (Preamble, Article XII:1; Article XV:1; Article XIX:3).

3.1.3 Flexibility of commitments, of action, and use of policy instruments

Four provisions (Article III:4; Article V:3; Article XIX:2; and Section 5(g) of the Annex on Telecommunications).

3.1.4 Technical assistance

Two provisions (Article XXV:2 and Section 6 of the Annex on Telecommunication).

3.1.5 Provisions relating to least developed country Members

Two Provisions (Article IV:3; Article XIX:3).

[100] The Preamble is listed in both the increasing trade opportunities category and the safeguarding interests category, while Article XIX:3 is listed in both the safeguarding interests category and the LDCs category. However, they are not counted twice when calculating the total number of S&D provisions in the Agreement.

GENERAL AGREEMENT ON TRADE IN SERVICES (GATS)

PROVISION	COMMENT
Provisions aimed at increasing trade opportunities	
Preamble *Wishing to establish a multilateral framework of principles and rules for trade in services with a view to the expansion of such trade under conditions of transparency and progressive liberalization and as a means of promoting the economic growth of all trading partners and the development of developing countries;* *Desiring to facilitate the increasing participation of developing countries in trade in services and the expansion of their services exports including, inter alia, through the strengthening of their domestic services capacity and its efficiency and competitiveness.*	For the negotiations on trade in services pursuant to Article XIX, the requirements of the provisions of this Article are reflected in S/L/93 "Guidelines and Procedures for the Negotiations on Trade in Services", particularly Section I ("Objectives and Principles"), paragraphs 1-2.
Article IV *Article IV:1* *The increasing participation of developing country Members in world trade shall be facilitated through negotiated specific commitments, by different Members pursuant to Parts III and IV of this Agreement, relating to:* *(a) the strengthening of their domestic services capacity and its efficiency and competitiveness, inter alia through access to technology on a commercial basis;* *(b) the improvement of their access to distribution channels and information networks; and* *(c) the liberalization of market access in sectors and modes of supply of export interest to them.*	For the negotiations on trade in services pursuant to Article XIX, the requirements of the provisions of this Article are reflected in S/L/93 "Guidelines and Procedures for the Negotiations on Trade in Services", particularly Section I ("Objectives and Principles"), paragraphs 1-4; and Section II ("Scope"), paragraph 5.
Article IV:2 *Developed country Members, and to the extent possible other Members, shall establish contact points within two years from the date of entry into force of the WTO Agreement to facilitate the access of developing country Members' service suppliers to information, related to their respective markets, concerning:* *(a) commercial and technical aspects of the supply of services;* *(b) registration, recognition and obtaining of professional qualifications; and* *(c) the availability of services technology.*	All developed country Members, and many developing country Members, have established contact points. The latest listing of enquiry and contact points notified to the Council for Trade in Services is contained in document S/ENQ/78/Rev. 17, dated 7 June 2018.

PROVISION	COMMENT
Provisions under which WTO Members should safeguard the interests of developing country Members	
Preamble *Recognizing the right of Members to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives and, given asymmetries existing with respect to the degree of development of services regulations in different countries, the particular needs of developing countries to exercise this right.*	For the negotiations on trade in services, the requirements of the provisions of this Article are reflected in S/L/93 "Guidelines and Procedures for the Negotiations on Trade in Services", specifically in paragraphs 1-2 of Section I relating to "Objectives and Principles".
Article XII:1 *"…It is recognized that particular pressures on the balance of payments of a Member in the process of economic development or economic transition may necessitate the use of restrictions to ensures, inter alia, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development or economic transition."*	
Article XV:1 *"…Such negotiations (on subsidies) shall recognize the role of subsidies in relation to the development programmes of developing countries and take into account the needs of Members, particularly developing country Members, for flexibility in this area…"*	
Article XIX:3 *For each round, negotiating guidelines and procedures shall be established. For purposes of establishing such guidelines, the Council for Trade in Services shall carry out an assessment of trade in services in overall terms and on a sectoral basis with reference to the objectives of this Agreement, including those set out in paragraph 1 of Article IV. Negotiating guidelines shall establish modalities for the treatment of liberalization undertaken autonomously by Members since previous negotiations, as well as for the special treatment for least developed country Members under the provisions of paragraph 3 of Article IV.*	For the negotiations on trade in services, the requirements of the provisions of this Article are reflected in S/L/93 "Guidelines and Procedures for the Negotiations on Trade in Services". See paragraph 2 of Section I relating to "Objectives and Principles"; and paragraphs 14-15 of Section III relating to "Modalities and Procedures". The "Modalities for the Special Treatment of Least-Developed Country Members in the Negotiations on Trade in Services" were adopted on 3 September 2003 (see TN/S/13, as set out in Section 7.8 below).
Flexibility of commitments, of action, and use of policy instruments	
Article III:4 *Each Member shall also establish one or more enquiry points to provide specific information to other Members, upon request, on all such matters as well as those subject to the notification requirement in paragraph 3. Such enquiry points shall be established within two years from the date of entry into force of the Agreement Establishing the WTO (referred to in this Agreement as the "WTO Agreement"). Appropriate flexibility with respect to the time-limit within which such enquiry points are to be established may be* *agreed upon for individual developing country Members. Enquiry points need not be depositories of laws and regulations.*	The latest listing of enquiry and contact points notified to the Council for Trade in Services is contained in document S/ENQ/78/Rev.17, dated 7 June 2018.

PROVISION	COMMENT
Article V:3 *(a) Where developing countries are parties to an agreement of the type referred to in Article V:1, flexibility shall be provided for regarding the conditions set out in Article V:1, particularly with reference to Article V:1(b) thereof, in accordance with the level of development of the countries concerned, both overall and in individual sectors and sub-sectors.* *(b) Notwithstanding Article V:6, in the case of an agreement of the type referred to in Article V:1 involving only developing countries, more favourable treatment may be granted to juridical persons owned or controlled by natural persons of the parties to such an agreement.*	Members did not clarify what was meant by S&D of developing countries in Article V (paragraph 46 of S/C/M/35) In response to a question, it was clarified that the need for flexibility with respect to coverage of such agreements when a developing country was involved was a point certainly raised and taken note of in the reports of the Committee on Regional Trade Agreements (paragraph 35 of S/C/M/46)
Article XIX:2 *The process of liberalization shall take place with due respect for national policy objectives and the level of development of individual Members, both overall and in individual sectors. There shall be appropriate flexibility for individual developing country Members for opening fewer sectors, liberalizing fewer types of transactions, progressively extending market access in line with their development situation and, when making access to their markets available to foreign service suppliers, attaching to such access conditions aimed at achieving the objectives referred to in Article IV. (See section on Article IV.)*	For the negotiations on trade in services pursuant to Article XIX, the requirements of the provisions of this Article are reflected in S/L/93 "Guidelines and Procedures for the Negotiations on Trade in Services", particularly Section I ("Objectives and Principles"), paragraphs 2-3, and Section III ("Modalities and Procedures"), paragraphs 12, 14 and 15.
Annex on Telecommunications, Section 5. g) *Notwithstanding the preceding paragraphs of this section, a developing country Member may, consistent with its level of development, place reasonable conditions on access to and use of public telecommunications transport networks and services necessary to strengthen its domestic telecommunications infrastructure and service capacity and to increase its participation in international trade in telecommunications services. Such conditions shall be specified in the Member's Schedule.*	To date, no developing country Member has elected to exercise this provision by indicating in its schedule any reservation or condition on the obligations contained in Section 5 of the Annex on Telecommunications.
Technical assistance	
Article XXV:2 *Technical assistance to developing countries shall be provided at the multilateral level by the Secretariat and shall be decided upon by the Council for Trade in Services.*	In the context of the negotiations on trade in services pursuant to Article XIX, the requirements of the provisions of this Article are reflected in S/L/93 "Guidelines and Procedures for the Negotiations on Trade in Services", Section III ("Modalities and Procedures"), paragraph 14, with regard to technical assistance in order to carry out national/regional assessments. Paragraph 10 of Annex C of the Hong Kong Ministerial Declaration (WT/MIN(05)/DEC) provides further information on technical assistance to developing and least developed country Members in the context of the services negotiations. It provides that "such assistance should be provided on, *inter*

PROVISION	COMMENT
	alia, compiling and analyzing statistical data on trade in services, assessing interests in and gains from services trade, building regulatory capacity, particularly on those services sectors where liberalization is being undertaken by developing countries."
Annex on Telecommunications, Section 6(c) *In cooperation with relevant international organizations, Members shall make available, where practicable, to developing countries information with respect to telecommunications services and developments in telecommunications and information technology to assist in strengthening their domestic telecommunications services sector.*	On 25 June 1999, the Council for Trade in Services held a special Information Session on Telecommunication Services. The Information Session examined in depth technical assistance to developing countries on regulatory issues such as the establishment of an independent regulator, interconnection and competitive safeguards. Experts from other international intergovernmental organizations including the International Telecommunications Union and the World Bank participated as well as national regulators from capitals. On 26 May 2000, the Council for Trade in Services adopted the text of the cooperation agreement between the International Telecommunication Union and the World Trade Organization (S/C/9/Rev.1). Subsequently, the ITU Council also adopted the text at its annual session held on 19-28 July. Paragraph 6 of the agreement states that the WTO and ITU Secretariats will endeavour to cooperate on matters relating to technical assistance and technical cooperation.
Provisions relating to LDC Members	
Article XIX:3 *"…Negotiating guidelines shall establish modalities for the treatment of liberalization undertaken autonomously by Members since previous negotiations, as well as for the special treatment for least developed country Members under the provisions of paragraph 3 of Article 4."*	For the negotiations on trade in services pursuant to Article XIX, the requirements of the provisions of this Article are reflected in S/L/93 "Guidelines and Procedures for the Negotiations on Trade in Services", Section III relating to "Modalities and Procedures", paragraph 13. The "Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services" were adopted on 3 September 2003 (TN/S/13), see Section 7.8 below.
Article IV:3 Increasing Participation of Developing Countries *Special priority shall be given to the least developed country Members in the implementation of Article IV:1 and 2. Particular account shall be taken of the serious difficulty of the least developed countries in accepting negotiated specific commitments in view of their special economic situation and their development, trade and financial needs.*	For the negotiations on trade in services pursuant to Article XIX, the requirements of the provisions of this Article are reflected in S/L/93 "Guidelines and Procedures for the Negotiations on Trade in Services", Section I relating to "Objectives and Principles", paragraph 2. In paragraph 26 of the Hong Kong Ministerial Declaration (WT/MIN(05)/DEC), Ministers "recognize the particular economic situation of LDCs, including the difficulties they face, and acknowledge that they are not expected to undertake new commitments." Paragraph 3 of Annex C to the Hong Kong Ministerial Declaration provides that "Members shall pursue full and effective implementation of the Modalities for the Special Treatment for Least Developed Country Members in the Negotiations on Trade in Services (LDC Modalities) adopted by the Special

PROVISION	COMMENT
	Session of the Council for Trade in Services on 3 September 2003, with a view to the beneficial and meaningful integration of LDCs into the multilateral trading system". Paragraph 9 of Annex C to the Declaration expands on methods through which the LDC Modalities are to be implemented. By virtue of the Decision of 17 December 2011 on "Preferential Treatment to Services and Service Suppliers of Least Developed Countries" (WT/L/847) ("Waiver"), Members may under certain conditions grant to LDC services or service suppliers preferential treatment that would otherwise be inconsistent with Article II (MFN) of the GATS (see Section 7.13). The Decision on the "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) extends the duration of the Waiver, originally agreed for a 15-year period, by four years, until 31 December 2030 (see Section 7.31).

4 AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

4.1. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and related instruments contain six S&D provisions and five Decisions. The six provisions fall under the following categories:

4.1.1 Transitional time-periods

Two provisions (Article 65.2 and 65.4).

4.1.2 Technical assistance

One provision (Article 67).

4.1.3 Provisions relating to LDC Members

Three provisions (Part of the Preamble to the Agreement; Article 66.1 and 66.2); and three related Decisions, namely TRIPS Council Decision of 6 November 2015 on the Extension of the Transition Period under Article 66.1 of the TRIPS Agreement for LDC Members for Certain Obligations with respect to Pharmaceutical Products (IP/C/73)[101]; General Council Decision of 30 November 2015 on LDC Members Obligations under Article 70.8 and Article 70.9 of the TRIPS Agreement with respect to Pharmaceutical Products (WT/L/971)[102]; and TRIPS Council Decision of 11 June 2013 on the Extension of the Transition Period under Article 66.1 for Least Developed Country Members (IP/C/64).[103]

The following two Decisions include provisions in favour of LDCs: General Council Decision of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/L/540 and Corr.1) and General Council Decision of 6 December 2005 on the Amendment of the TRIPS Agreement (WT/L/641). See the references in Section 7 of this document.

[101] See also TRIPS Council Decision of 27 June 2002 on the Extension of the Transition Period under Article 66.1 of the TRIPS Agreement for LDC Members for Certain Obligations with respect to Pharmaceutical Products (IP/C/25).

[102] See also General Council Decision of 8 July 2002 on LDC Members Obligations under Article 70.9 of the TRIPS Agreement with respect to Pharmaceutical Products (WT/L/478).

[103] See also TRIPS Council Decision of 29 November 2005 on the Extension of the Transition Period under Article 66.1 for LDC Members (IP/C/40).

AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

PROVISION	COMMENT
Transitional time-periods	
Article 65.2 *A developing country Member is entitled to delay for a further period of four years the date of application, as defined in paragraph 1, of the provisions of this Agreement other than Articles 3, 4 and 5.*	Extensive use was made of the transition period provided for developing countries under Article 65.2. This transition period expired on 1 January 2000.
Article 65.4 *To the extent that a developing country Member is obliged by this Agreement to extend product patent protection to areas of technology not so protectable in its territory on the general date of application of this Agreement for that Member, as defined in paragraph 2, it may delay the application of the provisions on product patents of Section 5 of Part II to such areas of technology for an additional period of five years.*	The additional transition period for developing country Members in fields of technology not subject to product patent protection on the date of application of the TRIPS Agreement expired on 1 January 2005. Some Members made use of this transition period.
Technical assistance	
Article 67 *In order to facilitate the implementation of this Agreement, developed country Members shall provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in favour of developing and least developed country Members. Such cooperation shall include assistance in the preparation of laws and regulations on the protection and enforcement of intellectual property rights as well as on the prevention of their abuse, and shall include support regarding the establishment or reinforcement of domestic offices and agencies relevant to these matters, including the training of personnel.*	Considerable attention has been given by the TRIPS Council to the provision of technical cooperation pursuant to Article 67 of the TRIPS Agreement. This issue has been a regular item on the agenda of the Council's meetings, with a view to monitoring compliance with the obligation contained in Article 67, sharing information on the technical cooperation possibilities available and providing an opportunity to identify any needs not adequately being addressed. Developed country Members have provided, on an annual basis, for a special technical cooperation review meeting normally held at the end of year TRIPS Council's meeting, reports on their technical and financial cooperation activities of relevance (in 2017 in documents IP/C/W/632 and addenda). In the past, some Members have provided complementary reports specifically focusing on their technical cooperation activities for the benefit of LDCs. Furthermore, they have notified contact points in their administrations for technical cooperation on TRIPS (available on the Members' transparency toolkit page at http://www.wto.org/english/tratop_e/trips_e/trips_toolkit_e.htm). As part of the annual review, intergovernmental organizations with observer status in the TRIPS Council have also provided written information on their technical cooperation activities relating to TRIPS matters (in 2017 in documents IP/C/W/633 and addenda), as has the WTO Secretariat (in 2017 in document IP/C/W/634). Pursuant to the provisions on enhanced technical cooperation for LDC Members contained in the earlier 2005 TRIPS Council

PROVISION	COMMENT
	Decision on the Extension of the Transition Period under Article 66.1 for LDC Members, nine LDC Members submitted information on their priority needs to the TRIPS Council (IP/C/W/499 and IP/C/W/523, IP/C/W/500 and IP/C/W/510, IP/C/W/546, IP/C/W/548 and IP/C/W/548/Add.1, IP/C/W/552, IP/C/W/555, IP/C/W/575, IP/C/W/584 and IP/C/W/597). In the past, the Secretariat has organized, at the request of the LDC Group, symposia on LDC priority needs that have brought together delegates from LDCs and technical cooperation partners from developed countries, as well as representatives from a number of intergovernmental organizations.
Provisions relating to LDC Members	
Preamble *Recognizing also the special needs of the least developed country Members in respect of maximum flexibility in the domestic implementation of laws and regulations in order to enable them to create a sound and viable technological base.*	
Article 66.1 *In view of the special needs and requirements of least developed country Members, their economic, financial and administrative constraints, and their need for flexibility to create a viable technological base, such Members shall not be required to apply the provisions of this Agreement, other than Articles 3, 4 and 5, for a period of 10 years from the date of application as defined under Article 65.1. The Council for TRIPS shall, upon duly motivated request by a least developed country Member, accord extensions of this period.*	With a view to implementing paragraph 7 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2), and based on earlier decisions to that extent (IP/C/25 and WT/L/478), the TRIPS Council adopted a Decision on 6 November 2015 by which the transition period under Article 66.1 for LDC Members with respect to the protection and enforcement of patents and undisclosed information was extended until 1 January 2033 (IP/C/73). This was completed by a Decision of the General Council of 30 November 2015, which waived the obligations of LDC Members under Article 70.8 regarding the possibility to file patent applications, as well as under Article 70.9 with respect to exclusive marketing rights for pharmaceutical products subject of a patent application until 1 January 2033 (WT/L/971). The general transition period for LDC Members under Article 66.1 was initially due to expire on 1 January 2006. Recognizing their special needs and requirements, the TRIPS Council adopted a decision on 29 November 2005 that extended the transition period under Article 66.1 for LDC Members until 1 July 2013 (IP/C/40). The TRIPS Council adopted a Decision on 11 June 2013 that further extended the transition period until 1 July 2021 (IP/C/64).

PROVISION	COMMENT
Article 66.2 *Developed country Members shall provide incentives to enterprises and institutions in their territories for the purpose of promoting and encouraging technology transfer to least developed country Members in order to enable them to create a sound and viable technological base.*	Following the instructions of the Ministerial Conference to the TRIPS Council in paragraph 11.2 of the Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/17), a Decision of the TRIPS Council of 20 February 2003 put in place a mechanism monitoring the implementation of the obligations under Article 66.2 (IP/C/28). Developed country Members are to submit annually reports on actions taken or planned in pursuance of their commitments under Article 66.2 and to provide new detailed reports every third year and updates in the intervals (in 2017 in documents IP/C/W/631 and addenda). Those reports have been regularly reviewed at the TRIPS Council's end of year meetings (see IP/C/M/87 and addendum for the review in 2017). Since 2008, the Secretariat has organized, at the request of the LDC Group, workshops back-to-back with the Council's end-of-year meetings as a platform for LDC Members and developed country Members to engage in in-depth dialogues on the implementation of Article 66.2. Paragraph 7 of the Doha Declaration on the TRIPS Agreement and Public Health reaffirmed the commitment of developed country Members pursuant to Article 66.2 (WT/MIN(01)/DEC/2). According to the Decision of the General Council on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/L/540 and WT/L/540/Corr.1) and paragraph 6 of the Annex to the amended TRIPS Agreement, Members also undertook to cooperate in paying special attention to the transfer of technology and capacity building in the pharmaceutical sector pursuant to Article 66.2.

5 UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES

5.1. The Understanding on Rules and Procedures Governing the Settlement of Disputes (Dispute Settlement Understanding or DSU) contains 11 provisions relating to S&D, which can be classified as follows:

5.1.1 Provisions under which WTO Members should safeguard the interests of developing country Members

Seven provisions (Article 4.10, Article 8.10*, Article 12.10*, Article 12.11*, Article 21.2*, Article 21.7*, and Article 21.8*).

5.1.2 Flexibility of commitments, of action, or use of policy instruments

One provision (Article 3.12).

5.1.3 Technical assistance

One provision (Article 27.2).

5.1.4 Provisions relating to LDC Members.

Two provisions (Article 24.1 and Article 24.2).

** Note that these provisions are addressed to specific organs within the dispute settlement process, rather than to "WTO Members" directly.*

5.2. Possible improvements and clarifications to the DSU continue to be discussed in Special Sessions of the Dispute Settlement Body (DSB). The latest publicly available compilation of proposals in these negotiations is contained in the Report by the Chairman of the Special Session of the DSB, dated 21 April 2011.[104] This document provides an overall assessment of the negotiations at that point. It also reproduces the consolidated draft legal text and thematic overview of the issues under discussion circulated by the Chairman in July 2008.[105] Since then, and throughout 2015, the Chairman of the Special Session of the DSB has issued three reports on the state-of-play of the negotiations and the areas where convergence has been reached.[106] One of the twelve issues in discussion identified in the negotiations is "Developing country interests, including S&D". In the report dated 6 August 2015, the Chairman of the Special Session of the DSB provided an update of the negotiations on the basis of different stages of the dispute settlement proceedings, rather than grouped around the twelve issues in discussion. The latest update on these issues and related discussions is contained in section 3 of the Chairman's report.[107]

5.3. Discussions have continued on the issues identified in the Chairman's text of July 2008.[108] In this context, a group of Members presented a revised draft legal text on developing country interests. The group identified four aspects of dispute settlement proceedings for improvement: (1) adequate timeframes to address the specific needs of specific disputes; (2) adjusting the remedies available in order to induce effective compliance; (3) mitigating the cost of litigation in dispute settlement procedures; and (4) regulating the access to participation in the process in order to secure a more positive solution.

5.4. In December 2015, the Chairman of the Special Session of the DSB reported to the TNC the advances in the "horizontal process" of the negotiations. He also recalled Members' responsibility to determine how to address current and future challenges of WTO dispute settlement and the importance of Members continuing to devote the effort necessary to bring about improvements and

[104] TN/DS/25.
[105] JOB(08)/81.
[106] TN/DS/26 (dated 30 January 2015), TN/DS/27 (dated 6 August 2015), and TN/DS/28 (dated 4 December 2015).
[107] TN/DS/27, pp. 2-12.
[108] Summaries of the discussions are available in the JOB/DS series.

clarifications to the DSU, as mandated by Ministers.[109] A new Chair of the DSB Special Session was elected in 2016. Following consultations with Members, the Chair decided to engage in sequential focused work on the twelve issues for negotiation identified by his predecessor.[110] Some of the issues under negotiation, or components of those issues, touch upon developing country interests. The sequential focused work is ongoing under the current Chair, elected in 2017, and is expected to conclude in 2019.[111]

[109] TN/DS/28.
[110] TN/DS/29.
[111] TN/DS/30.

UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES

PROVISION	COMMENT
Provisions under which WTO Members should safeguard the interests of developing country Members	
Article 4.10 *During consultations Members should give special attention to developing country Members' particular problems and interests.*	One developing country Member complained that its request for consultations with another Member (developed) had been disregarded, thus discriminating against and impairing its interests, contrary to the provisions of Article 4.10 of the Dispute Settlement Understanding. (WT/DSB/M/7, p. 2)
Article 8.10 *When a dispute is between a developing country Member and a developed country Member the panel shall, if the developing country Member so requests, include at least one panelist from a developing country Member.*	In disputes between developing country Members and developed country Members, nationals of developing country Members regularly serve as panelists. For example, in *US – Steel Safeguards*, the Director-General was requested to compose the single panel taking into account Article 8.10 of the Dispute Settlement Understanding. (WT/DS248/R, WT/DS249/R, WT/DS251/R, WT/DS252/R, WT/DS253/R, WT/DS254/R, WT/DS258/R and WT/DS259/R) Overall, 283 different persons have served as panelists, 141 of whom have come from developing countries. Two have come from LDCs.
Article 12.10 *In the context of consultations involving and measures taken by a developing country Member, the parties may agree to extend the periods established in paragraphs 7 and 8 of Article 4. If, after the period has elapsed, the consulting parties cannot agree that the consultations have concluded, the Chairman of the DSB shall decide, after consultation with the parties, whether to extend the relevant period and, if so, for how long. In addition, in examining a complaint against a developing country Member, the panel shall allow sufficient time for the developing country Member to prepare and present its argumentation. The provisions of paragraph 1 of Article 20 and paragraph 4 of Article 21 are not affected by any action pursuant to this paragraph.*	In one dispute, a developing country respondent contended that the process raised important questions in relation to the Dispute Settlement Understanding such as: (i) the real difficulties faced by developing countries on the insistence by a developed country that consultations be held only in Geneva; (ii) the meaning and significance of the consultations stage; (iii) whether a Member could decide unilaterally that consultations had been concluded in particular because Article 12.10 of the Dispute Settlement Understanding provided that "in the context of consultations involving a measure taken by a developing country Member, the parties may agree to extend the period established in paragraphs 7 and 8 of Article 4". (WT/DSB/M/21, page 4) After the DSB had considered the complaining party's first request for establishment of a panel, in *Turkey – Rice* (WT/DS334). On 27 February 2006, Turkey (the respondent) requested by letter a longer consultation period in light of Article 12.10. Given the timing of the request by Turkey, the Chairman of the DSB stated at the DSB meeting on 17 March 2006 that he did not intend to rule *per se* on the Turkish request at this point. Subsequently, the DSB Chairman responded (in his personal capacity) in writing to the letter sent to him on this matter by Turkey (see also WT/DSB/M/207, pp. 18-19). The final panel report (WT/DS334/R) was adopted at the DSB meeting on 22 October 2007. (see also

PROVISION	COMMENT
	WT/DS334/8) At this meeting, the United States raised a "systemic concern" on the inclusion of Part VII.G., S&D, in the final report, because it was a finding not requested by either party and neither party had had a chance to review it in the interim report. (WT/DS334/9) The United States considered that the Panel's decision to make new findings in a new section of its report at the final stage of the proceeding, and after the interim report had been reviewed by the parties could not be reconciled with the provisions of Article 15 of the Dispute Settlement Understanding. Australia and Canada expressed similar concerns. (WT/DSB/M/241, p. 10) In *India – Quantitative Restrictions* (WT/DS90), India requested additional time to review the interim report, in accordance with Article 12.10 of the Dispute Settlement Understanding (see also WT/DS90/R, para. 4.1) A number of panels have taken the respondent's status as a developing country Member into account when preparing and revising the timetable for the proceeding. (For instance, *Turkey – Rice,* WT/DS334/R, para. 7.305; see also, *Brazil – Taxation*, WT/DS472/R and WT/DS497/R, paras. 7.1239 and 7.1241, India – *Solar Cells*, WT/DS456/R, footnote 6 to para. 1.7; *Colombia – Textiles*, WT/DS461/R, paras. 7.601-7.604; *Peru - Agricultural Products*, WT/DS457/R, paras. 7.529-7.531; *Argentina - Import Measures*, WT/DS438/R, WT/DS444/R, and WT/DS445/R, paras. 6.01-6.10; *Philippines – Distilled Spirits*, WT/DS396/R and WT/DS403/R, para. 7.190; *Dominican Republic - Safeguard Measures*, WT/DS417/R and WT/DS418/R, para. 7.443; and *EC-Bananas III (Article 21.5-Ecuador II),* WT/DS27/RW2/ECU, paras. 2.74-2.76.)
Article 12.11 *Where one or more of the parties is a developing country Member, the panel's report shall explicitly indicate the form in which account has been taken of relevant provisions on differential and more-favourable treatment for developing country Members that form part of the covered agreements which have been raised by the developing country Member in the course of the dispute settlement procedures.*	Panel reports show how this provision has been taken into account. For example, see: WT/DS27/R, WT/DS27/RW2/ECU, WT/DS46/R, WT/DS90/R, WT/DS204/R, WT/DS217, WT/DS234/R, WT/DS248/R, WT/DS249/R, WT/DS251/R, WT/DS252/R, WT/DS253/R, WT/DS254/R, WT/DS258/R, WT/DS259/R; WT/DS308/R WT/DS334/R, WT/DS396/R, WT/DS403/R, WT/DS417/R, WT/DS418/R, WT/DS472/R and WT/DS497/R.
Article 21.2 *Particular attention should be paid to matters affecting the interests of developing country Members with respect to measures which have been subject to dispute settlement.*	This provision has been referred to in arbitration awards pursuant to Article 21.3(c) of the Dispute Settlement Understanding (See WT/DS54/15, WT/DS55/14, WT/DS59/13, WT/DS64/12, WT/DS87/15, WT/DS110/14, WT/DS207/13, WT/DS217/14, WT/DS234/22; WT/DS246/14, WT/DS265/33, WT/DS266/33, WT/DS283/14,

PROVISION	COMMENT
	WT/DS268/12, WT/DS269/13, WT/DS286/15 WT/DS285/13, WT/DS366/13, WT/DS384/24 and WT/DS386/23.)
Article 21.7 *If the matter is one which has been raised by a developing country Member, the DSB shall consider what further action it might take which would be appropriate to the circumstances.*	
Article 21.8 *If the case is one brought by a developing country Member, in considering what appropriate action might be taken, the DSB shall take into account not only the trade coverage of measures complained of, but also their impact on the economy of developing country Members concerned.*	This provision has been taken into account in an arbitrator's decision pursuant to Article 22.7 of the Dispute Settlement Understanding. (See e.g. WT/DS27/ARB/ECU.)
Flexibility of commitments, of action, or use of policy instruments	
Article 3.12 *Notwithstanding Article 3.11, if a complaint based on any of the covered agreements is brought by a developing country Member against a developed country Member, the complaining party shall have the right to invoke, as an alternative to the provisions contained in Articles 4, 5, 6 and 12 of this Understanding, the corresponding provisions of the Decision of 5 April 1966 (BISD 14S/18), except that where the Panel considers that the time-frame provided for in paragraph 7 of that Decision is insufficient to provide its report and with the agreement of the complaining party, that time-frame may be extended. To the extent that there is a difference between the rules and procedures of Articles 4, 5, 6 and 12 and the corresponding rules and procedures of the Decision, the latter shall prevail.*	*In European Communities – Regime for the Importation of Bananas*, Colombia, referring to Article 3.12 of the Dispute Settlement Understanding and the Decision of April 1966 (BISD 14S/18) in its request for consultations (26 March 2007, WT/DS361/1), reserved the possibility of requesting the good offices of the Director-General. Panama filed a similar request for consultations (WT/DS364/1) on 27 June 2007. On 2 November 2007, Colombia referred the matter to the Director-General, requesting that he act in an *ex officio* capacity and use his good offices to help facilitate a solution under Article 3.12 of the Dispute Settlement Understanding. Panama similarly requested the Director-General's good offices on 14 December 2007. After conducting several meetings under the Colombia/EU and the Panama/EU "good offices" processes, on 21 December 2009, the Director-General circulated to Members his report on the use of his good offices (WT/DS361/2, WT/DS364/2). On 15 December 2009, together with eight other Latin American countries, Colombia and Panama announced a comprehensive agreement with the European Union, i.e. Geneva Agreement on Trade in Bananas (WT/L/784). On 8 November 2012, the European Union and ten Latin American countries reached an agreement on the EU's revised commitments, which include the 2009 Geneva Agreement, and finally settled the EU-Latin American banana disputes (WT/DS27, WT/DS361, WT/DS364, WT/DS16, WT/DS105, WT/DS158, WT/DS158, WT/L/616 and WT/L/625).

PROVISION	COMMENT
Technical assistance	
Article 27.2 *While the Secretariat assists Members in respect of dispute settlement at their request, there may also be a need to provide additional legal advice and assistance in respect of dispute settlement to developing country Members. To this end, the Secretariat shall make available a qualified legal expert from the WTO technical cooperation services to any developing country Member which so requests. This expert shall assist the developing country Member in a manner ensuring the continued impartiality of the Secretariat.*	The Secretariat makes available to developing countries the services of two consultants who are available to provide legal assistance to developing countries in dispute settlement, pursuant to this provision. This service is coordinated by ITTC.
Provisions relating to LDC Members	
Article 24.1 *At all stages of the determination of the causes of a dispute and of dispute settlement procedures involving a least developed country Member, particular consideration shall be given to the special situation of least developed country Members. In this regard, Members shall exercise due restraint in raising matters under these procedures involving a least developed country Member. If nullification or impairment is found to result from a measure taken by a least-developed country Member, complaining parties shall exercise due restraint in asking for compensation or seeking authorization to suspend the application of concessions or other obligations pursuant to these procedures.*	To date, one LDC has initiated a dispute settlement proceeding (WT/DS306 – *India – Anti-Dumping Measure on Batteries from Bangladesh*). On the basis of the UN list of LDCs[112] and WTO data of disputes by country[113], the participation of LDC Members in WTO dispute settlements is summarized as follows: Bangladesh, as complainant (DS306), as third party (DS243) Benin, as third party (DS267) Chad, as third party (DS267) Madagascar, as third party (DS27, DS265, DS266, DS283) Malawi, as third party (DS265, DS266, DS283, DS434) Senegal, as third party, (DS27, DS58) Tanzania, as third party (DS265,DS266,DS283) Zambia, as third party (DS434) Eight LDCs have participated in panel proceedings as a third party. As DS243 was not appealed and DS434 is still at the panel stage, six LDCs have participated in Appellate Body proceedings as a third participant.

[112] http://unctad.org/en/Pages/ALDC/Least%20Developed%20Countries/UN-list-of-Least-Developed-Countries.aspx
http://www.wto.org/english/thewto_e/whatis_e/tif_e/org7_e.htm
[113] http://www.wto.org/english/tratop_e/dispu_e/dispu_by_country_e.htm

PROVISION	COMMENT
Article 24.2 *In dispute settlement cases involving a least developed country Member, where a satisfactory solution has not been found in the course of consultations the Director-General or the Chairman of the DSB shall, upon request by a least developed country Member offer their good offices, conciliation and mediation with a view to assisting the parties to settle the dispute, before a request for a panel is made. The Director-General or the Chairman of the DSB, in providing the above assistance, may consult any source which either deems appropriate.*	In an attempt to make Article 5 of the Dispute Settlement Understanding operational (on good offices, conciliation and mediation), the Director-General has proposed some procedural steps to be taken by the parties to a dispute when requesting the Director-General's assistance under Article 5 (see WT/DSB/25).

6 PLURILATERAL TRADE AGREEMENTS

6.1 Agreement on Government Procurement

6.1. The revised Agreement on Government Procurement (GPA/113)[114] contains ten S&D provisions falling under four categories.[115]

6.1.1 Provisions under which WTO Members should safeguard the interests of developing country Members

Three provisions (Article V.1; Article V.2; and Article V.10).

6.1.2 Flexibility of commitments, of action, and use of policy instruments

Six provisions (Article V.3; Article V.4; Article V.5; Article V.6; Article V.7; and Article V.9).

6.1.3 Technical assistance

One provision (Article V.8).

6.1.4 Provisions relating to LDC Members

Two provisions (Article V.1 (a) and Article V.4 (a)).

6.2. The focus of the S&D provisions in the Agreement on Government Procurement is to provide developing country Members acceding to the GPA with the flexibility to negotiate more nuanced, tailor-made exclusions and exceptions from the Agreement. Compared with the GPA 1994, the revised text aims at providing more legally precise and enforceable transitional measures.

6.3. As a plurilateral Agreement, not all WTO Members are bound by the GPA. The Agreement at present covers the following 47 WTO Members: Armenia; Canada; the European Union and its 28 member States; Hong Kong, China; Iceland; Israel; Japan; Korea, Republic of; Liechtenstein; Moldova, Republic of; Montenegro; the Netherlands with respect to Aruba; New Zealand; Norway; Singapore; Switzerland; Chinese Taipei; Ukraine; and the United States.

[114] The revised GPA entered into force on 6 April 2014 for those GPA Parties having submitted their instruments of acceptance of the Protocol Amending the Agreement on Government Procurement (see GPA/113) and currently applies to all but one of the Parties to the GPA (Switzerland). Therefore, the presentation here refers to the revised text. For the GPA 1994 provisions on S&D, see document TN/CTD/W/33.

[115] In addition to Article V.1 being listed in the safeguarding interests category, and Article V.4 being listed in the flexibility category, Articles V.1(a) and V.4(a) have been placed in the LDCs category. However, the two references in the LDCs category are not counted separately when calculating the total number of provisions in the Agreement.

AGREEMENT ON GOVERNMENT PROCUREMENT

PROVISION	COMMENT
Article V	
Provisions under which WTO Members should safeguard the interests of developing country Members	
1. In negotiations on accession to, and in the implementation and administration of, this Agreement, the Parties shall give special consideration to the development, financial and trade needs and circumstances of developing countries and least developed countries (collectively referred to hereinafter as "developing countries", unless specifically identified otherwise), recognizing that these may differ significantly from country to country. As provided for in this Article and on request, the Parties shall accord S&D to: *[…] any other developing country, where and to the extent that this S&D meets its development needs.*	Note that this provision explicitly addresses the situation of developing countries acceding to the Agreement in addition to the implementation and administration of the Agreement.
2. Upon accession by a developing country to this Agreement, each Party shall provide immediately to the goods, services and suppliers of that country the most favourable coverage that the Party provides under its annexes to Appendix I to any other Party to this Agreement, subject to any terms negotiated between the Party and the developing country in order to maintain an appropriate balance of opportunities under this Agreement.	
10. The Committee shall review the operation and effectiveness of this Article every five years.	
Flexibility of commitments, of action, and use of policy instruments	
3. Based on its development needs, and with the agreement of the Parties, a developing country may adopt or maintain one or more of the following transitional measures, during a transition period and in accordance with a schedule, set out in its relevant annexes to Appendix I, and applied in a manner that does not discriminate among the other Parties: *(a) a price preference programme, provided that the programme:* *(i) provides a preference only for the part of the tender incorporating goods or services originating in the developing country applying the preference or goods or services originating in other developing countries in respect of which the developing country applying the preference has an obligation to provide national treatment under a preferential agreement, provided that where the other developing country is a Party to this Agreement, such treatment would be subject to any conditions set by the Committee; and*	This provision not only spells out the specific types of flexibilities permitted but also requires that all measures should be limited in time, non-discriminatory and set out in an Annex. It should be noted that any flexibility is to be negotiated by each developing country individually based on its specific developmental needs. Since the entry into force of the revised GPA in April 2014, the transitional measures available under Article V:3(c) of the GPA have been used by the Republic of Moldova, which has adopted threshold levels for goods and services that are higher than their permanent levels for a two-year transition period.

PROVISION	COMMENT
(ii) is transparent, and the preference and its application in the procurement are clearly described in the notice of intended procurement; *(b) an offset, provided that any requirement for, or consideration of, the imposition of the offset is clearly stated in the notice of intended procurement;* *(c) the phased-in addition of specific entities or sectors; and a threshold that is higher than its permanent threshold.*	
4. In negotiations on accession to this Agreement, the Parties may agree to the delayed application of any specific obligation in this Agreement, other than Article IV:1(b), by the acceding developing country while that country implements the obligation. The implementation period shall be: *[…]* *(b) for any other developing country, only the period necessary to implement the specific obligation and not to exceed three years.*	
5. Any developing country that has negotiated an implementation period for an obligation under paragraph 4 shall list in its Annex 7 to Appendix I the agreed implementation period, the specific obligation subject to the implementation period and any interim obligation with which it has agreed to comply during the implementation period.	
6. After this Agreement has entered into force for a developing country, the Committee, on request of the developing country, may: *(a) extend the transition period for a measure adopted or maintained under paragraph 3 or any implementation period negotiated under paragraph 4; or* *(b) approve the adoption of a new transitional measure under paragraph 3, in special circumstances that were unforeseen during the accession process.*	
7. A developing country that has negotiated a transitional measure under paragraph 3 or 6, an implementation period under paragraph 4 or any extension under paragraph 6 shall take such steps during the transition period or implementation period as may be necessary to ensure that it is in compliance with this Agreement at the end of any such period. The developing country shall promptly notify the Committee of each step.	
9. The Committee may develop procedures for the implementation of this Article. Such procedures may include provisions for voting on decisions relating to requests under paragraph 6.	

PROVISION	COMMENT
Technical assistance	
8. The Parties shall give due consideration to any request by a developing country for technical cooperation and capacity building in relation to that country's accession to, or implementation of, this Agreement.	Unlike the GPA 1994 provisions on technical assistance, this provision does not refer to any specific technical assistance measures in order to provide maximum flexibility. The revised text also extends the coverage of recipients from existing Parties to also include any developing country Member that is not yet a party to the GPA. The WTO Secretariat provides technical assistance on a regular basis under its annual technical assistance programme. This includes: (i) a regional seminar on government procurement organized for each developing country region once every two years; and (ii) national seminars on government procurement to developing country Members of the WTO on request whether or not they are a party to the Agreement. On average, six such seminars were delivered every year. Up-to-date information on such activities can be found at: http://gtad.wto.org/category_project.aspx?cat=33154.
Provisions relating to LDC Members	
1. In negotiations on accession to, and in the implementation and administration of, this Agreement, the Parties shall give special consideration to the development, financial and trade needs and circumstances of developing countries and least developed countries (collectively referred to hereinafter as "developing countries", unless specifically identified otherwise), recognizing that these may differ significantly from country to country. As provided for in this Article and on request, the Parties shall accord S&D to: *(a) least developed countries; and* *[…]*	
4. In negotiations on accession to this Agreement, the Parties may agree to the delayed application of any specific obligation in this Agreement, other than Article IV:1(b), by the acceding developing country while that country implements the obligation. The implementation period shall be: *(a) for a least developed country, five years after its accession to this Agreement;* *[…]*	

7 MINISTERIAL, GENERAL COUNCIL AND OTHER RELEVANT DECISIONS

7.1. The following section includes Ministerial, General Council and other relevant Decisions providing S&D to developing and least developed countries. As in sections 2 to 6, the tables reproduce in the left-hand column, the text of the relevant Decision, and in the right-hand column titled "Comment", information on their implementation.

7.1 Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries - Decision of 28 November 1979 (Enabling Clause - L/4903)

PROVISION	COMMENT
1. Notwithstanding the provisions of Article I of the General Agreement, contracting parties may accord differential and more favourable treatment to developing countries,[116] without according such treatment to other contracting parties.	
2. The provisions of paragraph 1 apply to the following:[117]	
Provisions aimed at increasing the trade opportunities of developing country Members	
(a) Preferential tariff treatment accorded by developed contracting parties to products originating in developing countries in accordance with the Generalized System of Preferences.[118]	Implementation of this provision has been through GSP schemes. The WTO's Database on Preferential Trade Arrangements (http://ptadb.wto.org) contains information on the GSP schemes being implemented by WTO Members.
Flexibility of commitments, of action, and use of policy instruments	
(b) Differential and more favourable treatment with respect to the provisions of the General Agreement concerning non-tariff measures governed by the provisions of instruments multilaterally negotiated under the auspices of the GATT.	
(c) Regional or global arrangements entered into amongst less-developed contracting parties for the mutual reduction or elimination of tariffs and, in accordance with criteria or conditions which may be prescribed by the CONTRACTING PARTIES, for the mutual reduction or elimination of non-tariff measures, on products imported from one another.	To date, 46 RTAs and five accessions to existing agreements have been notified under the Enabling Clause. Divergent views have been expressed in the CTD on how to deal with the issues relating to the RTAs notified under both the Enabling Clause and GATT Article XXIV and their implications, in particular with regard to the RTA notifications concerning the Gulf Cooperation Council Customs Union, the ASEAN-Korea Agreement and the India-Korea Agreement. Members have made numerous interventions on this matter. A communication titled "Systemic and specific issues arising out of the dual notification of the Gulf Cooperation Council Customs Union" (WT/COMTD/W/175) was submitted by China, Egypt and India in this regard.

[116] The words "developing countries" as used in this text are to be understood to refer also to developing territories.
[117] It would remain open for the CONTRACTING PARTIES to consider on an ad hoc basis under the GATT provisions for joint action any proposals for differential and more favourable treatment not falling within the scope of this paragraph.
[118] As described in the Decision of the CONTRACTING PARTIES of 25 June 1971, relating to the establishment of "generalized, non-reciprocal and non-discriminatory preferences beneficial to the developing countries".

PROVISION	COMMENT
Provisions relating LDC Members	
(d) Special treatment of the least developed among the developing countries in the context of any general or specific measures in favour of developing countries.	Most developed countries accord special preferences to LDCs through LDC-specific components of their GSP schemes. In particular, nearly all developed country Members provide either full or significant DFQF market access to LDC products. See also the information provided in Sections 7.10 and 7.22 on the Hong Kong and Bali Decisions concerning DFQF market access for LDCs. The Sub-Committee on LDCs, pursuant to the WTO Work Programme for LDCs, annually reviews market access for LDC products. The 2018 version of the Secretariat Note on this subject is contained in document WT/COMTD/LDC/W/66.

7.2 Decision on Measures in Favour of Least Developed Countries (15 December 1993)

PROVISION	COMMENT
Ministers... *2. Agree that:* *(i) Expeditious implementation of all special and differential measures taken in favour of least developed countries including those taken within the context of the Uruguay Round shall be ensured through, inter alia, regular reviews.* *(ii) To the extent possible, MFN concessions on tariff and non-tariff measures agreed in the Uruguay Round on products of export interest to the least developed countries may be implemented autonomously, in advance and without staging. Consideration shall be given to further improve GSP and other schemes for products of particular export interest to least developed countries.* *(iii) The rules set out in the various agreements and instruments and the transitional provisions in the Uruguay Round should be applied in a flexible and supportive manner for the least developed countries. To this effect, sympathetic consideration shall be given to specific and motivated concerns raised by the least developed countries in the appropriate Councils and Committees.* *(iv) In the application of import relief measures and other measures referred to in paragraph 3(c) of Article XXXVII of GATT 1947 and the corresponding provision of GATT 1994, special consideration shall be given to the export interests of least developed countries.* *(v) Least developed countries shall be accorded substantially increased technical assistance in the development, strengthening and diversification of their production and export bases including those of services, as well as in trade promotion, to enable them to maximize the benefits from liberalized access to markets.* *3. Agree to keep under review the specific needs of the least developed countries and to continue to seek the adoption of positive measures which facilitate the expansion of trading opportunities in favour of these countries.*	This Decision has been a landmark one to help LDCs integrate into the multilateral trading system, in particular by enhancing trading opportunities for LDCs as well as providing for greater flexibility in the implementation of WTO rules. The Decision asks Members to continue to seek the adoption of positive measures to facilitate expansion of trading opportunities for LDCs. In fact, pursuant to the letter and spirit of the Decision, several important measures/legal instruments have been adopted by Members both in the area of goods as well as in services. Most notably, three of the important LDC Agreement-specific proposals under the S&D Work Programme which have been adopted by Members through Annex F of the Hong Kong Ministerial Declaration stems from provisions contained in this Decision. The significant one among the three is the comprehensive decision on duty-free and quota-free (DFQF) market access for LDC products (See Section 7.10). The other two Agreement-specific proposals reaffirmed that LDCs will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial or trade needs, or their administrative and institutional capacities. The Decision on Measures in Favour of LDCs also played a role in the designing of the Integrated Framework in 1997 - a trade capacity building programme for the LDCs - which evolved into the Enhanced Integrated Framework (EIF) in 2009. Through a multi-donor trust fund, the EIF provides financial and technical support to build trade policy and institutional capacity, together with the ability to coordinate and leverage additional Aid-for-Trade resources in the LDCs. Following a first phase from 2009 to 2015, Phase Two of the EIF began on 1 January 2016 and will last for seven years until the end of 2022. All 47 LDCs, as well as four recently graduated LDCs, are currently benefitting from the EIF Programme. Information on the EIF is available at the following website: www.enhancedif.org. A number of important decisions have been taken in favour of LDCs, which refer to the Decision on Measures in Favour of LDCs. These include: (i) Decision on waiver to allow developing country Members to provide preferential tariff treatment to products of LDCs (WT/L/304; see Section 7.5. the waiver has been extended until 30 June 2019 (WT/L/759)); (ii) The LDC Services Waiver Decision adopted at MC8 (WT/L/847; see Section 7.13).

PROVISION	COMMENT
	Members have been responsive to the needs and requirements of the LDCs in the WTO. For instance, upon expiry of the initial transition period under Article 66.1 of the TRIPS Agreement, the LDCs were granted an additional transition period until 1 July 2013. On 11 June 2013, the TRIPS Council adopted a Decision that further extended the transition period until 1 July 2021 (IP/C/64; see Section 7.15). Furthermore, on 6 November 2015, the TRIPS Council extended a transition period that exempts LDCs from providing patent protection for pharmaceutical products until 1 January 2033 (IP/C/73; see Section 7.24). The Decision on Measures in Favour of LDCs also stipulates that specific needs of LDCs be kept under review. The WTO Work Programme for LDCs (WT/COMTD/LDC/11/Rev.1), addresses systemic issues of interest to LDCs in the multilateral trading system.

7.3 Decision on Texts Relating to Minimum Values and Imports by Sole Agents, Sole Distributors and Sole Concessionaires (15 December 1993)

7.2. The Decision On Texts Relating To Minimum Values And Imports By Sole Agents, Sole Distributors And Sole Concessionaires contains two provisions for S&D.

7.3.1 Provisions under which WTO Members should Safeguard the Interests of Developing Country Members

Two provisions (Text I and Text II).

DECISION ON TEXTS RELATING TO MINIMUM VALUES AND IMPORTS BY SOLE AGENTS, SOLE DISTRIBUTORS AND SOLE CONCESSIONAIRES (15 DECEMBER 1993)

PROVISION	COMMENT
Provisions under which WTO Members should safeguard the interests of developing country Members	
Text I *Where a developing country makes a reservation to retain officially established minimum values within the terms of Annex III:2 and shows good cause, the Committee shall give the request for the reservation sympathetic consideration. Where a reservation is consented to, the terms and conditions referred to in Annex III:2 shall take full account of the development, financial and trade needs of the developing country concerned.*	For information on the Members that have made use of this provision see G/VAL/2 and Rev.1 to 24. Currently, no Member is making use of this provision.
Text II.I *A number of developing countries have a concern that problems may exist in the valuation of imports by sole agents, sole distributors and sole concessionaires. Under Article 20:1, developing country Members have a period of delay of up to five years prior to the application of the Agreement. In this context, developing country Members availing themselves of this provision could use the period to conduct appropriate studies and to take such other actions as are necessary to facilitate application.* *In consideration of this, the Committee recommends that the Customs Co-operation Council assist developing country Members, in accordance with the provisions of Annex II, to formulate and conduct studies in areas identified as being of potential concern, including those relating to importations by sole agents, sole distributors and sole concessionaires.*	There have been no such studies requested.

7.4 Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least Developed and Net Food-Importing Developing Countries[119] (15 December 1993)

7.3. All the provisions of the Decision cover positive actions to be taken by Members with respect to developing country Members, including LDCs.

7.4. The Secretariat prepares a background note on an annual basis in order to facilitate the work of the Committee on Agriculture in this area.[120] The note provides an introduction on the follow-up process to the net food-importing developing countries (NFIDC) Decision as a whole and examines the substantive provisions of the Decision, providing detailed information regarding their implementation.

[119] The WTO list of NFIDCs as it currently stands comprises:
(a) the LDCs as recognized by the Economic and Social Council of the United Nations; as well as
(b) Antigua and Barbuda; Barbados; Venezuela, Bolivarian Republic of; Botswana; Côte d'Ivoire; Cuba; Dominica; Dominican Republic; Egypt; El Salvador; Gabon; Grenada; Honduras; Jamaica; Jordan; Kenya; Maldives; Mauritius; Mongolia; Morocco; Namibia; Pakistan; Peru; Saint Kitts and Nevis; Saint Lucia; Saint Vincent and the Grenadines; Senegal; Sri Lanka; Swaziland; Trinidad and Tobago and Tunisia (G/AG/5/Rev.10, dated 23 March 2012).

[120] These are circulated in the G/AG/W/42/ series. The latest document is contained in G/AG/W/42/Rev.19 dated 1 February 2018.

DECISION ON MEASURES CONCERNING THE POSSIBLE NEGATIVE EFFECTS OF THE REFORM PROGRAMME ON LEAST DEVELOPED AND NET FOOD-IMPORTING DEVELOPING COUNTRIES (15 DECEMBER 1993)

PROVISION	COMMENT
Provisions under which WTO Members should safeguard the interests of developing country Members	
Paragraph 3(i) *To review the level of food aid established periodically by the Committee on Food Aid under the Food Aid Convention 1986 and to initiate negotiations in the appropriate forum to establish a level of food aid commitments sufficient to meet the legitimate needs of developing countries during the reform programme.*	The Food Aid Convention is administered by the International Grains Council which services the Food Aid Committee (FAC). The Food Aid Convention 1999 was expected to expire on 30 June 2002. Considering the linkages between the work of the FAC and negotiations in the WTO on international food aid, the FAC decided that conclusive recommendations under the new food aid convention should await the outcome of the WTO negotiations. In these circumstances, the Convention was extended several times pending the outcome of the DDA negotiations. At its 103rd Session on 14 December 2010, the FAC launched the formal process of renegotiating the Food Aid Convention 1999, with immediate effect. The new Food Assistance Convention was adopted on 25 April 2012 and entered into force on 1st January 2013. For more details, see G/AG/W/42/Rev.19 and G/AG/GEN/143.
Paragraph 3(ii) *To adopt guidelines to ensure that an increasing proportion of basic foodstuffs is provided to least developed and net food-importing developing countries in fully grant form and/or on appropriate concessional terms in line with Article IV of the Food Aid Convention 1986.*	Under the Food Aid Convention 1999, all food aid provided to LDCs will be in the form of grants. Overall, food aid in the form of grants is to represent, at a minimum, 80% of FAC member's contributions and donors are to seek to progressively exceed this share. Similarly, under the Food Assistance Convention, no less than 80% of a party's committed food assistance to eligible countries and vulnerable populations shall be in fully grant form. Donors are to seek progressively to exceed this share. For more details, see sub-section 2.1.2 of G/AG/W/42/Rev.19.
Paragraph 4 *Ensure that any agreement relating to agricultural export credits makes appropriate provision for differential treatment in favour of least developed and net food-importing developing countries.*	The matter of agricultural export credits has been undertaken in both the regular meetings of the Committee on Agriculture and in the Special Session negotiations on the basis, *inter alia*, of the proposals that have been tabled and other inputs, including with respect to S&D in favour of developing countries. At MC-10 at Nairobi, the Ministers adopted the Decision on export competition which, *inter alia*, includes disciplines in the area of export credits, export credit guarantees or insurance programmes. Provisions towards a more favourable treatment of least developed and net food-importing developing countries are included under "*Special and Differential Treatment*" (S&D) part of the disciplines (see section 2.3 of G/AG/W/42/Rev.19 and the Nairobi Ministerial Decision on Export Competition WT/MIN(15)/45).
Paragraph 5	During the Committee's annual monitoring exercise of the Marrakesh NFIDC Decision, several of the international observer organizations regularly

PROVISION	COMMENT
As a result of the Uruguay Round certain developing countries may experience short-term difficulties in financing normal levels of commercial imports and that these countries may be eligible to draw on the resources of international financial institutions under existing facilities, or such facilities as may be established, in the context of adjustment programmes, in order to address such financing difficulties. In this regard, Ministers take note of paragraph 37 of the report of the Director-General to the CONTRACTING PARTIES to GATT 1947 on his consultations with the Managing Director of the International Monetary Fund and the President of the World Bank (MTN.GNG/NG14/W/35).	comment on the development of international food prices and their impact on the food import bills of the LDCs and NFIDCs as well as on the resources of the international financial institutions and initiatives in favour of LDCs and NFIDCs - see section 2.4 of G/AG/W/42/Rev.19 and the statements by the international observer organizations circulated in the G/AG/GEN series.
Technical assistance	
Paragraph 3(iii) *To give full consideration in the context of their aid programmes to requests for the provision of technical and financial assistance to least developed and net food-importing developing countries to improve their agricultural productivity and infrastructure.*	During the Committee's annual monitoring exercise of the Marrakesh NFIDC Decision, the provision of technical and financial assistance continues to be subject of review. For this purpose, updated Table NF:1 notifications are submitted by donor Members concerned. Any contributions made by the observer organizations in this context are also circulated. For more details, see section 2.2 of G/AG/W/42/Rev.19 and the statements by the international observer organizations circulated in the G/AG/GEN series.

7.5 Preferential Tariff Treatment for Least Developed Countries – Decision on Waiver – 15 June 1999 (WT/L/304)

PROVISION	COMMENT
Considering that the Parties to the World Trade Organization Agreement have recognized the need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development; *Considering the statements contained in the Comprehensive and Integrated WTO Plan of Action for the Least Developed Countries adopted at the Singapore Ministerial Conference on 13 December 1996 and in the Ministerial Declaration of 20 May 1998 concerning integration of least developed countries into the world trading system and providing predictable and favourable market access conditions for the products of such countries;* *Considering the 1979 Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries and the 1994 Decision on Measures in Favour of Least Developed Countries, and without prejudice to rights of Members to continue to act pursuant to the provisions contained in those Decisions;* *Desiring to provide an additional means for developing country Members to offer preferential tariff treatment to products of least developed countries notwithstanding the obligations of paragraph 1 of Article I of the General Agreement;* *Having regard to the Guiding Principles to be followed in considering applications for waivers adopted on 1 November 1956, the Understanding in Respect of Waivers of Obligations under the General Agreement on Tariffs and Trade 1994, and paragraphs 3 and 4 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization (the "WTO Agreement");* *Members, acting pursuant to the provisions of paragraph 3 of Article IX of the WTO Agreement,* *Decide that:* *1. Subject to the terms and conditions set out hereunder, the provisions of paragraph 1 of Article I of the GATT 1994 shall be waived until 30 June 2009, to the extent necessary to allow developing country Members to provide preferential tariff treatment to products of least developed countries, designated as such by the United Nations, without being required to extend the same tariff rates to like products of any other Member.* *2. Developing country Members wishing to take actions pursuant to the provisions of this Waiver shall notify to the Council on Trade in Goods the list of all products of least developed countries for which preferential tariff treatment is to be provided on a generalized, non-reciprocal and*	Through the Decision of 27 May 2009 (WT/L/759), the waiver contained in the 1999 Decision (WT/L/304) was extended until 30 June 2019. Several notifications concerning preferential schemes for products from LDCs were made to the Council for Trade in Goods (CTG) under this waiver. These schemes were also notified to the CTD under the Transparency Mechanism for Preferential Trade Arrangements (see Section 7.12). Six developing Members have notified DFQF schemes in favour of LDCs to the WTO: Chile (G/C/W/695 – WT/COMTD/N/44; G/C/W/695/Add.1/Rev.1 – WT/COMTD/N/44/Add.1/Rev.1); China (WT/COMTD/N/39; G/C/W/656/Rev.1 – WT/COMTD/N/39/Add.1/Rev.1; G/C/W/656/Add.1 – WT/COMTD/N/39/Add.2); India (G/C/W/651 – WT/COMTD/N/38; G/C/W/651/Add.1 – WT/COMTD/N/38/Add.1); Korea (WT/COMTD/N/12/Rev.1; G/C/W/670 – WT/COMTD/N/12/Rev.1/Add.1); Chinese Taipei (WT/COMTD/N/40; WT/COMTD/N/40/Corr.1; G/C/W/664); and Thailand (G/C/W/714 – WT/COMTD/N/46). In addition, Morocco notified a preferential scheme for African LDCs in 2001 (G/C/6 - WT/LDC/SWG/IF/18). Information on the preferential schemes for LDCs notified under this waiver can be found on the WTO's Database for Preferential Trade Arrangements (http://ptadb.wto.org).

PROVISION	COMMENT
non-discriminatory basis and the preference margins to be accorded. Subsequent modifications to the preferences shall similarly be notified. *3. Any preferential tariff treatment implemented pursuant to this Waiver shall be designed to facilitate and promote the trade of least developed countries and not to raise barriers or create undue difficulties for the trade of any other Member. Such preferential tariff treatment shall not constitute an impediment to the reduction or elimination of tariffs on a most-favoured-nation basis.* *4. In accordance with the provisions of paragraph 4 of Article IX of the WTO Agreement, the General Council shall review annually whether the exceptional circumstances justifying the Waiver still exist and whether the terms and conditions attached to the Waiver have been met.* *5. The government of any Member providing preferential tariff treatment pursuant to this Waiver shall, upon request, promptly enter into consultations with any interested Member with respect to any difficulty or any matter that may arise as a result of the implementation of programmes authorized by this Waiver. Where a Member considers that any benefit accruing to it under GATT 1994 may be or is being impaired unduly as a result of such implementation, such consultation shall examine the possibility of action for a satisfactory adjustment of the matter. This Waiver does not affect Members' rights as set forth in the Understanding in Respect of Waivers of Obligations under GATT 1994.* *6. This waiver does not affect in any way and is without prejudice to rights of Members in their actions pursuant to the provisions of the 1979 Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries.*	

7.6 Accession of Least Developed Countries – Decision of 10 December 2002 (WT/L/508)

PROVISION	COMMENT
The General Council ... *Decides that:* *1. Negotiations for the accession of LDCs to the WTO, be facilitated and accelerated through simplified and streamlined accession procedures, with a view to concluding these negotiations as quickly as possible, in accordance with the guidelines set out hereunder:*	The adoption of the Guidelines on LDCs' Accessions in December 2002 marked a concrete step in favour of acceding LDCs. In addition, building on the 2002 guidelines a new set of provisions were adopted by the General Council in 2012 to further facilitate the accession of LDCs to the WTO (WT/L/508/Add.1; see Section 7.14). Accession terms of LDCs are to be negotiated in accordance with these two important decisions by WTO Members. WTO Members have emphasized their commitment to implement these guidelines. The 2002 Decision on LDC Accession sets out guidelines with respect to (i) market access; (ii) WTO rules; (iii) the process; and (iv) trade-related technical assistance and capacity building. A brief analysis on the implementation of measures to facilitate LDC accessions has been carried out in WTO document WT/COMTD/LDC/W/44. Acceding LDCs appear to have benefitted from the provisions contained in the accession guidelines. WTO Members continue to attach priority to LDCs' accessions. Section 7.14 provides an overview of completed and ongoing LDC accessions as well as how the issue of LDC accessions is followed up at the WTO.
I. Market access	
- WTO Members shall exercise restraint in seeking concessions and commitments on trade in goods and services from acceding LDCs, taking into account the levels of concessions and commitments undertaken by existing WTO LDCs' Members;	
- acceding LDCs shall offer access through reasonable concessions and commitments on trade in goods and services commensurate with their individual development, financial and trade needs, in line with Article XXXVI.8 of GATT 1994, Article 15 of the Agreement on Agriculture, and Articles IV and XIX of the General Agreement on Trade in Services.	
II. WTO rules	
- S&D, as set out in the Multilateral Trade Agreements, Ministerial Decisions, and other relevant WTO legal instruments, shall be applicable to all acceding LDCs, from the date of entry into force of their respective Protocols of Accession;	
- transitional periods/transitional arrangements foreseen under specific WTO Agreements, to enable acceding LDCs to effectively implement	

PROVISION	COMMENT
commitments and obligations, shall be granted in accession negotiations taking into account individual development, financial and trade needs;	
- transitional periods/arrangements shall be accompanied by Action Plans for compliance with WTO rules. The implementation of the Action Plans shall be supported by Technical Assistance and Capacity Building measures for the acceding LDCs'. Upon the request of an acceding LDC, WTO Members may coordinate efforts to guide that LDC through the implementation process;	
- commitments to accede to any of the Plurilateral Trade Agreements or to participate in other optional sectoral market access initiatives shall not be a precondition for accession to the Multilateral Trade Agreements of the WTO. As provided in paragraph 5 of Article IX and paragraph 3 of Article XII of the WTO Agreement, decisions on the Plurilateral Trade Agreements shall be adopted by the Members of, and governed by the provisions in, those Agreements. WTO Members may seek to ascertain acceding LDCs interests in the Plurilateral Trade Agreements.	
III. Process	
- The good offices of the Director-General shall be available to assist acceding LDCs and Chairpersons of the LDCs' Accession Working Parties in implementing this decision;	
- efforts shall continue to be made, in line with information technology means and developments, including in LDCs themselves, to expedite documentation exchange and streamline accession procedures for LDCs to make them more effective and efficient, and less onerous. The Secretariat will assist in this regard. Such efforts will, inter-alia, be based upon the WTO Reference Centres that are already operational in acceding LDCs;	
- WTO Members may adopt additional measures in their bilateral negotiations to streamline and facilitate the process, e.g., by holding bilateral negotiations in the acceding LDC if so requested;	
- upon request, WTO Members may through coordinated, concentrated and targeted technical assistance from an early stage facilitate the accession of an acceding LDC.	
IV. Trade-related technical assistance and capacity building	
- Targeted and coordinated technical assistance and capacity building, by WTO and other relevant multilateral, regional and bilateral development partners, including inter alia under the Integrated Framework (IF), shall be provided, on a priority basis, to assist acceding LDCs. Assistance shall be accorded with the objective of effectively integrating the acceding LDC into the multilateral trading system;	

PROVISION	COMMENT
- effective and broad-based technical cooperation and capacity building measures shall be provided, on a priority basis, to cover all stages of the accession process, i.e. from the preparation of documentation to the setting up of the legislative infrastructure and enforcement mechanisms, considering the high costs involved and in order to enable the acceding LDC to benefit from and comply with WTO rights and obligations.	
2. The implementation of these guidelines shall be reviewed regularly in the agenda of the Sub-Committee on LDCs. The results of this review shall be included in the Annual Report of the Committee on Trade and Development to the General Council. In pursuance of their commitments on LDCs' accessions in the Doha Ministerial Declaration, Ministers will take stock of the situation at the Fifth Ministerial Conference and, as appropriate, at subsequent Ministerial Conferences.	

7.7 The implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/L/540 and WT/L/540/Corr.1) - Decision of 30 August 2003

PROVISION	COMMENT
1(b): "eligible importing Member" means any least developed country Member ...; *2(a)(ii): confirms that the eligible importing Member in question, other than a least developed country Member, has established that it has insufficient or no manufacturing capacities in the pharmaceutical sector ...;* *4. ... in the event that an eligible importing Member that is a developing country Member or a least developed country Member experiences difficulty in implementing this provision, developed country Members shall provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in order to facilitate its implementation;* *6. With a view to harnessing economies of scale for the purpose of enhancing purchasing power for, and facilitating the local production of, pharmaceutical products:* *(i) where a developing or least developed country WTO Member is a party to a regional trade agreement within the meaning of Article XXIV of the GATT 1994 and the Decision of 28 November 1979 on Differential and More Favourable Treatment Reciprocity and Fuller Participation of Developing Countries (L/4903), at least half of the current membership of which is made up of countries presently on the United Nations list of least developed countries, the obligation of that Member under Article 31(f) of the TRIPS Agreement shall be waived to the extent necessary to enable a pharmaceutical product produced or imported under a compulsory licence in that Member to be exported to the markets of those other developing or least developed country parties to the regional trade agreement that share the health problem in question.*	Rwanda has been the first LDC Member to make use of the System established under the Decision as an eligible importing Member and notified the TRIPS Council on 17 July 2007 accordingly (IP/N/9/RWA/1). The Decision provides for an annual review of the functioning of the System by the TRIPS Council and an annual report on its operation to the General Council (most recently in document IP/C/79). In 2010 and 2011, those reviews had been framed by a more structured debate which, beyond the narrow aspects of the System's operation, extended to broader issues related to the innovation of and access to medical technologies. The WTO Secretariat has also made available on its webpage a Guide to Notifications under the System, including a set of model notifications: (http://www.wto.org/english/tratop_e/trips_e/par6_modelnotifs_e.htm). An overview of measures taken by WTO Members to implement the System into domestic law[121] is available at https://www.wto.org/english/tratop_e/trips_e/par6laws_e.htm

[121] For a more detailed overview, including implementing measures taken by certain LDC Members, see "Special Compulsory Licences for Export of Medicines: Key Features of WTO Members' Implementing Legislation, WTO Staff Working Paper (R. Kampf) of 31 July 2015, available at: https://www.wto.org/english/res_e/reser_e/wpaps_e.htm

7.8 Modalities for the Special Treatment for Least Developed Country Members in the Negotiations on Trade in Services – Adopted by the Special Session of the Council for Trade in Services on 3 September 2003 (TN/S/13)

PROVISION	COMMENT
I. OBJECTIVES AND PRINCIPLES 1. In pursuance of the objectives of the GATS and as required by Article XIX:3 of the GATS special treatment for least developed country Members (LDCs) shall be granted by providing special priority to LDCs in the implementation of paragraphs 1 and 2 of Article IV of the GATS. Particular account shall be taken of the serious difficulty of LDCs in undertaking negotiated specific commitments in view of their special economic situation and their development, trade and financial needs. 2. The importance of trade in services for LDCs goes beyond pure economic significance due to the major role services play for achieving social and development objectives and as a means of addressing poverty, upgrading welfare, improving universal availability and access to basic services, and in ensuring sustainable development, including its social dimension. LDCs are facing serious difficulty in addressing a number of complex issues simultaneously, and lack institutional and human capacities to analyse and respond to offers and requests. This should be factored into the negotiating process in general and regarding the individual requests made to LDCs. 3. Together with the Guidelines and Procedures for the Negotiations on Trade in Services (S/L/93), the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services shall ensure maximum flexibility for LDCs and shall form the basis for the negotiations.	
II. SCOPE 4. Members shall take into account the serious difficulty of LDCs in undertaking negotiated specific commitments in view of their special economic situation, and therefore shall exercise restraint in seeking commitments from LDCs. In particular, they shall generally not seek the removal of conditions which LDCs may attach when making access to their markets available to foreign service suppliers to the extent that those conditions are aimed at achieving the objectives of Article IV of the GATS. 5. There shall be flexibility for LDCs for opening fewer sectors, liberalizing fewer types of transactions, and progressively extending market access in line with their development situation. LDCs shall not be expected to offer full national treatment, nor are they expected to undertake additional commitments under Article XVIII of the GATS on regulatory issues which may go beyond their institutional, regulatory, and administrative capacities. In response to requests, LDCs may make commitments compatible with their	In paragraph 26 of the Hong Kong Ministerial Declaration (WT/MIN(05)/DEC), Ministers "recognize the particular economic situation of LDCs, including the difficulties they face, and acknowledge that they are not expected to undertake new commitments." By virtue of the Decision of 17 December 2011 on "Preferential Treatment to Services and Service Suppliers of Least Developed Countries" (WT/L/847) ("Waiver"), Members may under certain conditions grant to LDC services or service suppliers preferential treatment that would otherwise be inconsistent with Article II (MFN) of the GATS (see Section 7.13). The Decision on the "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) extends the duration of the Waiver, originally

PROVISION	COMMENT
development, trade and financial needs and which are limited in terms of sectors, modes of supply and scope. 6. Members shall, as provided for in Articles IV and XIX of the GATS, give special priority to providing effective market access in sectors and modes of supply of export interest to LDCs, through negotiated specific commitments pursuant to Parts III and IV of the GATS. LDCs should indicate those sectors and modes of supply that represent priority in their development policies, so that Members take these priorities into account in the negotiations. 7. Members shall work to develop appropriate mechanisms with a view to achieving full implementation of Article IV:3 of the GATS and facilitating effective access of LDCs' services and service suppliers to foreign markets. 8. Members shall take measures, in accordance with their individual capacities, aimed at increasing the participation of LDCs in trade in services. Such measures could include: • strengthening programmes to promote investment in LDCs, with a view to building their domestic services capacity and enhancing their efficiency and export competitiveness; • reinforcing export/import promotion programmes; • promoting the development of LDCs' infrastructure and services exports through training, technology transfer, enterprise level actions and schemes, intergovernmental cooperation programmes, and where feasible, financial resources; and • improving the access of LDCs' services and service suppliers to distribution channels and information networks, especially in sectors and modes of supply of interest to LDCs. 9. It is recognized that the temporary movement of natural persons supplying services (Mode 4) provides potential benefits to the sending and recipient Members. LDCs have indicated that this is one of the most important means of supplying services internationally. Members shall to the extent possible, and consistently with Article XIX of the GATS, consider undertaking commitments to provide access in mode 4, taking into account all categories of natural persons identified by LDCs in their requests. 10. LDCs shall be granted appropriate credit for their autonomous trade liberalization. In addition, Members shall refrain from requesting credits from LDCs. 11. In developing any multilateral rules and disciplines, including under GATS Articles VI:4 (Domestic regulation), X (Emergency safeguard measures), XIII (Government procurement) and XV (Subsidies), Members shall take into account the specific interests and difficulties of LDCs.	agreed for a 15-year period, by four years, until 31 December 2030 (see Section 7.31).

PROVISION	COMMENT
III. PRINCIPLES FOR THE PROVISION OF TECHNICAL ASSISTANCE WITH REGARD TO TRADE IN SERVICES 12. Targeted and coordinated technical assistance and capacity building programmes shall continue to be provided to LDCs in order to strengthen their domestic services capacity, build institutional and human capacity, and enable them to undertake appropriate regulatory reforms. In pursuance of Paragraph 14 of the Guidelines and Procedures for the Negotiations on Trade in Services (S/L/93), technical assistance shall also be provided to LDCs to carry out national assessments of trade in services in overall terms and on a sectoral basis with reference to the objectives of the GATS and Article IV in particular.	

7.9 Amendment of the TRIPS Agreement (WT/L/641) – Decision of 6 December 2005

PROVISION	COMMENT
The General Council; ... *Decides as follows:* *1. The Protocol amending the TRIPS Agreement attached to this Decision is hereby adopted and submitted to the Members for acceptance.* *2. The Protocol shall be open for acceptance by Members until 1 December 2007 or such later date as may be decided by the Ministerial Conference.* *3. The Protocol shall take effect in accordance with the provisions of paragraph 3 of Article X of the WTO Agreement.*	After acceptance by two thirds of WTO Members (list of Members is regularly updated at: http://www.wto.org/english/tratop_e/trips_e/amendment_e.htm), the amended TRIPS Agreement entered into force on 23 January 2017 and applies to Members which have accepted it. The Protocol Amending the TRIPS Agreement remains open for acceptance by WTO Members that are yet to complete their domestic procedures until 31 December 2019 (WT/L/1024). Paragraph 3 of Article 31bis and paragraphs 1(b), 2(a)(ii), 3 of the Annex to the amended TRIPS Agreement contain the same provisions as the initial 2003 waiver Decision (see above section 7.7). The WTO Secretariat has made available background information clarifying a range of procedural issues regarding the acceptance of the Protocol by WTO Members. (available at: http://www.wto.org/english/tratop_e/trips_e/accept_e.htm).

7.10 Other Decisions in Favour of Least Developed Countries – Annex F of the Hong Kong Ministerial Declaration adopted on 18 December 2005 (WT/MIN(05)/DEC)

PROVISION	COMMENT
23) Understanding in Respect of Waivers of Obligations under the GATT 1994 *(i) We agree that requests for waivers by least developed country Members under Article IX of the WTO Agreement and the Understanding in respect of Waivers of Obligations under the GATT 1994 shall be given positive consideration and a decision taken within 60 days.* *(ii) When considering requests for waivers by other Members exclusively in favour of least developed country Members, we agree that a decision shall be taken within 60 days, or in exceptional circumstances as expeditiously as possible thereafter, without prejudice to the rights of other Members.*	WTO Members have been responsive in relation to requests for waivers by LDCs or by other Members. An important waiver granted in 2009 was the Decision to extend the waiver on "Preferential Tariff Treatment for Least Developed Countries". (WT/L/759; see Section 7.5)
36) Decision on Measures in Favour of Least Developed Countries *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.* *(a)(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% 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.* *(a)(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*	DFQF market access remains a standing item on the CTD's agenda. As per the Ministerial Declaration, annual reviews are carried out in the CTD, typically in the last meeting of the calendar year. Members have provided information on the steps they are taking, or have already taken, to provide DFQF market access to LDCs. A number of written communications have been considered. At the Bali Ministerial Conference in 2013, Members adopted a decision that provided further impetus to provide DFQF market access for LDC products (WT/L/919; see Section 7.22, including for more recent developments).

PROVISION	COMMENT
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.	
38) Decision on Measures in Favour of Least Developed Countries *It is reaffirmed that least developed country Members will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial or trade needs, or their administrative and institutional capacities.* *Within the context of coherence arrangements with other international institutions, we urge donors, multilateral agencies and international financial institutions to coordinate their work to ensure that LDCs are not subjected to conditionalities on loans, grants and official development assistance that are inconsistent with their rights and obligations under the WTO Agreements.*	
84) Agreement on Trade-Related Investment Measures *LDCs shall be allowed to maintain on a temporary basis existing measures that deviate from their obligations under the TRIMs Agreement. For this purpose, LDCs shall notify the Council for Trade in Goods (CTG) of such measures within two years, starting 30 days after the date of this declaration. Least developed countries will be allowed to maintain these existing measures until the end of a new transition period, lasting seven years. This transition period may be extended by the CTG under the existing procedures set out in the TRIMs Agreement, taking into account the individual financial, trade, and development needs of the Member in question.* *LDCs shall also be allowed to introduce new measures that deviate from their obligations under the TRIMs Agreement. These new TRIMs shall be notified to the CTG no later than six months after their adoption. The CTG shall give positive consideration to such notifications, taking into account the individual financial, trade, and development needs of the Member in question. The duration of these measures will not exceed five years, renewable subject to review and decision by the CTG.* *Any measures incompatible with the TRIMs Agreement and adopted under this decision shall be phased out by year 2020.*	The two-year period for notification referred to in the first paragraph expired on 18 January 2008 with no notifications received from any least developed countries. So far, no notifications have been received under the second paragraph.
88) Decision on Measures in Favour of Least Developed Countries - Paragraph 1 *Least developed country Members, whilst reaffirming their commitment to the fundamental principles of the WTO and relevant provisions of GATT 1994, and while complying with the general rules set out in the aforesaid instruments, will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs, and*	

PROVISION	COMMENT
their administrative and institutional capabilities. Should a least developed country Member find that it is not in a position to comply with a specific obligation or commitment on these grounds, it shall bring the matter to the attention of the General Council for examination and appropriate action. *We agree that the implementation by LDCs of their obligations or commitments will require further technical and financial support directly related to the nature and scope of such obligations or commitments, and direct the WTO to coordinate its efforts with donors and relevant agencies to significantly increase aid for trade-related technical assistance and capacity building.*	Aid-for-Trade commitments to LDCs amounted to US$14.7 billion in 2016, constituting a 55% increase compared to 2006. Aid-for-Trade disbursements to LDCs amounted to US$9.8 billion in 2016, constituting a 51% increase in real terms as compared to the 2006 average.

7.11 Transparency Mechanism for Regional Trade Agreements – Decision of 14 December 2006 (WT/L/671)

7.5. In accordance with paragraph 47 of the Doha Ministerial Declaration (WT/MIN(01)/DEC/1), the General Council, on 14 December 2006, established on a provisional basis a transparency mechanism for all regional trade agreements (RTAs). The Transparency Mechanism builds upon the existing transparency requirements contained in WTO provisions related to RTAs and it introduces the provisions for early announcement of any RTA and consideration of the notified RTAs on the basis of a factual presentation by the WTO Secretariat. The Committee on Regional Trade Agreements is to implement the Mechanism for RTAs falling under Article XXIV of GATT and Article V of the GATS. The CTD, meeting in dedicated session, is to implement the Mechanism for RTAs falling under the Enabling Clause (trade arrangements between developing countries). With a view to enhancing transparency in, and understanding of, RTAs and their effects, it was agreed in paragraph 28 of the Nairobi Ministerial Declaration (WT/MIN(15)/DEC) to work towards the transformation of the current provisional Transparency Mechanism into a permanent mechanism in accordance with the General Council Decision of 14 December 2006, without prejudice to questions related to notification requirements.

TRANSPARENCY MECHANISM FOR REGIONAL TRADE AGREEMENTS – DECISION OF 14 DECEMBER 2006 (WT/L/671)

PROVISION	COMMENT
Flexibility of commitments, of action, and use of policy instruments	
Section C *8. The data referred to in paragraph 7(a) shall be made available as soon as possible. Normally, the timing of the data submission shall not exceed ten weeks – or 20 weeks in the case of RTAs involving only developing countries – after the date of notification of the agreement.*	Parties to notified RTAs have to make available to the WTO Secretariat data as specified in the Annex, if possible in an electronically exploitable format. The data is required for the drafting of the Factual Presentation of the RTA by the Secretariat. Recognizing the resource and technical constraints of developing country Members, the Decision extends the timing of the data submission from ten to 20 weeks in the case of RTAs involving only developing countries. In case of RTAs between developed and developing country Members the standard ten weeks' time-frame applies.
Technical assistance	
Section F *19. Upon request, the WTO Secretariat shall provide technical support to developing country Members, and especially least developed countries, in the implementation of this Transparency Mechanism, in particular – but not limited to - with respect to the preparation of RTA-related data and other information to be submitted to the WTO Secretariat.*	Recognizing the resource and technical constraints of developing country Members, the Decision provides for the provisions, by the Secretariat, of technical support to developing country Members for the implementation of the Transparency Mechanism. The provision has not been invoked by developing country Members.

7.12 Transparency Mechanism for Preferential Trade Arrangements – Decision of 14 December 2010 (WT/L/806)

7.6. The Transparency Mechanism for Preferential Trade Arrangements (PTAs) is implemented by the CTD. The CTD, meeting in dedicated session, considers notified PTAs on the basis of a factual presentation prepared by the WTO Secretariat. The Transparency Mechanism is to apply on a provisional basis until Members approve its permanent application. The Decision indicates that Members will review the Mechanism after three years and will if necessary modify it in light of the experience gained from its provisional application.

TRANSPARENCY MECHANISM FOR PREFERENTIAL TRADE ARRANGEMENTS – DECISION OF 14 DECEMBER 2010 (WT/L/806)

PROVISION	COMMENT
Flexibility of commitments, of action, and use of policy instruments	
Section C *8. The data referred to in paragraph 7(a) shall be made available as soon as possible. Normally, the timing of the data submission shall not exceed ten weeks – or 20 weeks in the case of PTAs notified by developing country Members – after the date of notification of the PTA.*	Members notifying PTAs have to make available to the WTO Secretariat data as specified in Annex I in an appropriate electronic format. The data is required for the drafting of the Factual Presentations of the PTAs by the Secretariat. The timing of the data submission is extended from ten to 20 weeks for PTAs notified by developing countries.
Section D *18. To the extent a developing country Member has technical constraints fulfilling the notification requirements of paragraph 16, the Member will not be expected to do so until 31 July 2013. The Member may submit an outline of the steps to be taken to fulfil these notification requirements to the CTD by 31 July 2012.*	An outline of steps to be taken to fulfil these notification requirements was not submitted by any Member.
Technical assistance	
Section E *22. Upon request, the WTO Secretariat shall and any Member may provide technical support to developing country Members, and especially least developed countries, in the implementation of this Mechanism, in particular - but not limited to - with respect to the preparation of PTA-related data and other information to be submitted to the WTO Secretariat, as well as regarding access to the information provided by the notifying Member.*	Recognizing the resource and technical constraints of developing country Members, the Decision provides for the provision, by the Secretariat and any Member, of technical support to developing country Members for the implementation of the Transparency Mechanism. The provision has not been invoked by any developing country Member.

7.13 Preferential Treatment to Services and Service Suppliers of Least Developed Countries - Decision of 17 December 2011 (WT/L/847)

PROVISION	COMMENT
The Ministerial Conference… *Decides as follows:* *1. Notwithstanding the provisions of Article II:1 of the GATS, Members may provide preferential treatment to services and service suppliers of least developed countries with respect to the application of measures described in Article XVI and any other measures as may be annexed to this waiver, than to like services and service suppliers of other Members. Any such treatment shall be granted immediately and unconditionally to like services and service suppliers of all least developed country Members. Preferential treatment with respect to the application of measures other than those described in Article XVI, is subject to approval by the Council for Trade in Services in accordance with its procedures and will be annexed to this waiver.*	Twenty-four notifications of preferential treatment under the LDC Waiver have been submitted to date. The complete set of notifications can be accessed under https://www.wto.org/english/tratop_e/serv_e/ldc_mods_negs_e.htm At the meetings of the Council for Trade in Services on 2 November 2015 and 18 March 2016, preferential treatment with respect to the application of measures other than those described in Article XVI set out in the notifications by Switzerland (S/C/N/819), Iceland (S/C/N/835), Turkey (S/C/N/824), Norway (S/C/N/806), India (S/C/N/833), China (S/C/N/809), as well as the European Union (S/C/N/840), South Africa (S/C/N/853), Canada (S/C/N/792/Rev.1), and Thailand (S/C/N/860), was approved by the Council for Trade in Services (see S/C/M/125, paragraph 1.62, and S/C/M/126, paragraph 3.15, respectively).
2. 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.	
3. Each Member granting preferential treatment pursuant to this waiver 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.	
4. 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.	
5. For the purpose of preferential treatment granted pursuant to paragraph 1, a service supplier of a least developed country is:	

PROVISION	COMMENT
(a) a natural person of a least developed country; or *(b) a juridical person which is either:* *(i) constituted or otherwise organized under the law of a least developed country and, if it is owned or controlled by natural persons of a non-least developed country Member or juridical persons constituted or otherwise organized under the law of a non-least developed country Member, is engaged in substantive business operations in the territory of any least developed country; or* *(ii) in the case of the supply of a service through commercial presence, owned or controlled by:* *1. natural persons of least developed countries; or* *2. juridical persons of least developed countries identified under subparagraph (i).*	
6. In accordance with the provisions of paragraph 4 of Article IX of the WTO Agreement, the General Council shall review annually whether the exceptional circumstances justifying the Waiver still exist and whether the terms and conditions attached to the Waiver have been met.	
7. This Waiver shall terminate upon the expiration of a period of 15 years from the date of its adoption.	Paragraph 1.1 of the Nairobi Ministerial Decision on 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, dated 19 December 2015) extends the Waiver until 31 December 2030. It provides that "preferences notified so far may, as appropriate, be extended accordingly."
8. This Waiver shall apply to preferential treatment granted to services and service suppliers of least developed countries designated as such by the United Nations. Notwithstanding the provisions of paragraph 7 above, this Waiver shall terminate with respect to the preferential treatment granted to services and service suppliers of any particular least developed country when graduation of that country from the United Nations list of least developed countries becomes effective.	

7.14 Accession of Least Developed Countries - Decision of 25 July 2012 (WT/L/508/Add.1)

PROVISION	COMMENT
The General Council… *Decides that:* *1. The 2002 LDC Accession Guidelines shall be strengthened, streamlined and operationalized in accordance with the provisions set out hereunder. This Decision is to be considered as an Addendum to the 2002 LDC Accession Guidelines.*	In accordance with the mandate contained in the Ministerial Decision of 17 December 2011 (WT/L/846), the General Council on 25 July 2012 adopted a Decision on the Accession of LDCs (WT/L/508/Add.1), with the objective to strengthen the provisions contained in the 2002 accession guidelines (WT/L/508; see Section 7.6). The addendum to the 2002 guidelines has introduced specific flexibilities for acceding LDCs, including by establishing benchmarks on market access negotiations on goods and services, and by including provisions relating to transparency in accession, S&D and transition periods, and technical assistance. Accession of LDCs has been recognized as one of the systemic issues under the Work Programme for the LDCs (WT/COMTD/LDC/11/Rev.1). The Sub-Committee on LDCs regularly monitors the accession of LDCs and also serves as a forum where acceding LDCs and Members exchange views and share experiences. Furthermore, the WTO Director-General annually reports on LDC accessions to the WTO Membership in his annual report on accessions. The 2017 report is contained in document WT/ACC/31. Since the establishment of the WTO, nine LDCs have successfully completed the accession process under Article XII of the WTO Agreement, including Nepal (2004), Cambodia (2004), Vanuatu (2012), Lao PDR (2013), Yemen (2014), Liberia (2016) and Afghanistan (2016). Cabo Verde (2008) and Samoa (2012) concluded their accession negotiations as LDCs and graduated from LDC status in 2007 and 2014, respectively. There are currently eight LDCs in the process of acceding to the WTO: Bhutan, Comoros, Ethiopia, Sao Tomé and Principe, Somalia, South Sudan, Sudan and Timor-Leste. Acceding LDCs have benefitted from transitional arrangements for compliance with WTO Agreements. Furthermore, WTO delivers technical assistance to acceding LDCs on a priority basis. The 2018-2019 Technical Assistance and Training Plan is contained in WT/COMTD/W/227/Rev.1. LDC accession packages can be reviewed in the following documents: Nepal (WT/ACC/NPL/16, WT/ACC/NPL/16/Add.1, WT/ACC/NPL/16/Add.2); Cambodia (WT/ACC/KHM/21, WT/ACC/KHM/21/Add.1, WT/ACC/KHM/21/Add.2); Cabo Verde (WT/ACC/CPV/30, WT/ACC/CPV/30/Add.1, WT/ACC/CPV/30/Add.2);

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	Samoa (WT/ACC/SAM/30, WT/ACC/SAM/30/Add.1, WT/ACC/SAM/30/Add.2); Vanuatu (WT/ACC/VUT/17, WT/ACC/VUT/17/Add.1, WT/ACC/VUT/Add.2); Lao PDR (WT/ACC/LAO/45, WT/ACC/LAO/45/Add.1, WT/ACC/LAO/45/Add.2); Yemen (WT/ACC/YEM/42, WT/ACC/YEM/42/Add.1, WT/ACC/YEM/42/Add.2); Afghanistan (WT/ACC/AFG/36, WT/ACC/AFG/36/Add.1, WT/ACC/AFG/36/Add.2); Liberia (WT/ACC/LBR/23, WT/ACC/LBR/23/Add.1, WT/ACC/LBR/23/Add.2)
I. BENCHMARKS ON GOODS *2. The 2002 guidelines stipulate that Members are to exercise restraint in seeking market access concessions from acceding LDCs, while the latter are expected to offer reasonable concessions commensurate with their individual development, financial and trade needs. Further, the Decision on LDC accession adopted at the MC8 Conference directs the Sub-Committee to develop recommendations to further strengthen, streamline and operationalize the 2002 guidelines, and in this context, inter alia, develop benchmarks in the area of goods taking into account the level of commitments undertaken by existing LDC Members.* *3. Members agree that market access negotiations on goods shall be guided by the following principles and benchmarks:* *Principles:* *(a) Comprehensive binding coverage is a fundamental objective of the multilateral trading system (MTS), ensuring stability and predictability about a country's trading regime. At the same time, it is also recognized that some flexibility should be provided to the acceding LDCs in order to help them integrate into the MTS, consistent with their individual development, financial and trade needs.* *(b) Tariff negotiations of Members with acceding LDCs should ensure the appropriate balance between predictability of tariff concessions of acceding LDCs and their need to address specific constraints or difficulties as well as to pursue their legitimate development objectives.* *(c) It is recognized that each accession is unique. The tariff concessions to be offered by the acceding LDCs could vary depending on their individual/particular circumstances. Establishing benchmarks on average bound rates does not prejudge the right of Members to negotiate the level of bound rates in individual lines of interest to them. At the same time, this offers an opportunity to acceding LDCs to determine the bound rate suitable to each tariff line.[122] Benchmarks do not stipulate minimum or maximum bound tariffs to be undertaken by any acceding LDC.*	

[122] In accordance with established procedures and practice, market access negotiations shall proceed bilaterally on the basis of requests from WTO Members or on the basis of offers from an acceding LDC.

PROVISION	COMMENT
4. Drawing from the above principles, the acceding LDCs shall undertake commitments in the following manner:	
A. Agriculture	
5. Pursuant to the provisions of the Agreement on Agriculture, Members had bound all their agricultural tariff lines at the time of joining the WTO. This will also be required from the acceding LDCs. With regard to average bound rates, the acceding LDCs shall bind all of their agricultural tariff lines at an overall average rate of 50%.[123]	
B. Non-Agriculture	
6. With regard to negotiations on tariff bindings on non-agricultural products, while comprehensive binding coverage is a fundamental objective, flexibilities shall be provided to acceding LDCs consistent with their individual development, financial and trade needs.	
7. Accordingly, the acceding LDCs shall undertake commitments in the area of non-agricultural market access as set out below:[124]	
(i) Acceding LDCs shall bind 95% of their non-agricultural tariff lines at an overall average rate of 35%.	
(ii) Acceding LDCs that choose to undertake comprehensive bindings of NAMA tariff lines may do so and be afforded proportionately higher overall average rates than provided for in paragraph 7(i), with the precise level of bindings and average rates to be agreed between the acceding LDC and the Members. In such cases the acceding LDC shall be entitled to transition periods of up to 10 years for up to 10% of their tariff lines.	
II. BENCHMARKS ON SERVICES	
8. Members agree that market access negotiations on services shall be guided by the following principles and benchmarks:	
(a) Negotiations of Members with acceding LDCs shall respect the principle of special treatment for LDCs contained in Articles IV and XIX of the General Agreement on Trade in Services (GATS). In particular, Members shall take into account the serious difficulty of acceding LDCs in undertaking commitments, in view of their special economic situation and their individual development, financial and trade needs.	
(b) There shall be flexibility for acceding LDCs for opening fewer sectors, liberalizing fewer types of transactions, and progressively extending market access in line with their development situation. Acceding LDCs shall not be expected to offer full national treatment, nor are they expected to undertake additional commitments under Article XVIII of the	

[123] Simple average of the final *ad valorem* tariff rates or *ad valorem* equivalents.
[124] The unbound tariff lines will be subject to negotiations and will include tariff lines that take into account the sensitivities of acceding LDCs.

PROVISION	COMMENT
GATS on regulatory issues which may go beyond their institutional, regulatory, and administrative capacities. *(c) Since each accession is unique, offers from acceding LDCs may vary depending on their individual/particular circumstances, without prejudice to the right of Members to negotiate commitments of interest to them or the commitments that would be undertaken by an acceding LDC.*	
9. Drawing from the above principles, the acceding LDCs shall undertake commitments in the following manner:	
10. Acceding LDCs shall identify their priority services sectors and sub-sectors and make reasonable offers commensurate with their individual development, financial and trade needs as well as their regulatory and institutional capacities. Acceding LDCs shall be provided with technical assistance, as appropriate, to enhance their regulatory and institutional capacities.	
11. Acceding LDCs shall have the flexibility to undertake commitments, whether full or partial, under different modes of supply. They shall have the flexibility to phase in such commitments, as appropriate, over an adequate period of time.	
12. Acceding LDCs shall not be required to undertake commitments in services sectors and sub sectors beyond those that have been committed by existing WTO LDC Members, nor in sectors and sub-sectors that do not correspond to their individual development, financial and trade needs. Accordingly, WTO Members shall exercise restraint in seeking commitments in trade in services from the acceding LDCs.	
III. TRANSPARENCY IN ACCESSION NEGOTIATIONS	
13. Members agree that transparency in the accession negotiations shall be further enhanced in the following manner:	
14. The Accession Working Parties will continue to provide the forum for Members and acceding LDCs to collectively review the bilateral market access negotiations on goods and services. Members shall refrain from reopening the accession package once negotiations have been completed and consolidated schedules circulated for verification at the level of the Working Party.[125]	
15. Accession of LDCs shall continue to remain one of the systemic elements of the WTO Work Programme for the LDCs under which Members may monitor the progress in LDC accessions, including based on state-of-play reports from the Secretariat. The Chairs of Working Parties of acceding LDCs shall report regularly to the Sub-Committee on LDCs on the	

[125] The consolidated schedules refer to both the schedule of concessions & commitments on goods as well as schedule of specific commitments on services.

PROVISION	COMMENT
progress made in their respective accession processes. The accession of LDCs shall continue to receive particular attention in the Director-General's annual reports on the state-of-play of accessions to the WTO.	
16. The good offices of the Chairperson of the Sub-Committee on LDCs as well as Chairpersons of the LDCs' Accession Working Parties shall be available to facilitate the conclusion of the accession process of acceding LDCs.	
17. Upon request from the acceding LDCs or Members, periodic dialogues under the aegis of the Sub-Committee on LDCs could be held, with a view to deepening the understanding of issues relating to LDC accessions as well as to finding ways to address any difficulties encountered by the acceding LDCs.[126]	
IV. S&D AND TRANSITION PERIODS	
18. It is reaffirmed that S&D, as set out in the Multilateral Trade Agreements, Ministerial Decisions, and other relevant WTO legal instruments, shall be applicable to all acceding LDCs, from the date of entry into force of their respective Protocols of Accession.[127]	
19. Requests for additional transition periods/arrangements beyond the ones foreseen under specific WTO Agreements shall be favourably considered on a case-by-case basis, taking into account individual development, financial and trade needs of acceding LDCs.	
20. Requests for transition periods/arrangements shall be accompanied by Action Plans, with a view to helping acceding LDCs implement WTO rules. It is recognized that acceding LDCs need adequate technical assistance and support to implement such Action Plans. Members commit themselves to ensure support and assistance during the transition periods.	
V. TECHNICAL ASSISTANCE	
21. Members underline the need for enhanced technical assistance and capacity building to help acceding LDCs to complete their accession process, implement their commitments and to integrate them into the multilateral trading system.	
22. As part of each LDC's accession process, the WTO Secretariat shall draw up technical assistance framework plans, based on inputs from the acceding LDCs, aiming at greater coordination and effective delivery of technical assistance at all stages of the process, making optimal use of existing facilities. Such plans will include the assistance required to	

[126] To the extent possible, these dialogues should take place on the margins of Geneva Week to allow participation of non-resident acceding LDCs.
[127] As originally set out in the 2002 Accession Guidelines in document WT/L/508.

PROVISION	COMMENT
implement the Action Plans referred to in paragraph 20. The TA framework Plans will be demand driven and will be adjusted over time to reflect changes in acceding LDCs' needs.	
23. The Sub-Committee on LDCs, through the WTO Secretariat, shall seek reports, on a periodic basis, from relevant multilateral, regional or bilateral development partners, to update WTO Members on their TA support in favour of acceding LDCs. The WTO Secretariat shall continue to attach priority attention to the technical assistance requests from the acceding LDCs.	
24. It is reaffirmed that acceding LDCs preparing or updating their DTIS under the Enhanced Integrated Framework (EIF) have the option to identify and prioritize accession-related needs through their DTIS and DTIS Action Matrix. Development partners are urged to respond adequately to such needs expressed by the acceding LDCs.	

7.15 Extension of the Transition Period under Article 66.1 for Least Developed Country Members - Decision of the Council for TRIPS of 11 June 2013 (IP/C/64)

PROVISION	COMMENT
(...) *Decides as follows:* *1. Least developed country Members shall not be required to apply the provisions of the Agreement, other than Articles 3, 4 and 5, until 1 July 2021, or until such a date on which they cease to be a least developed country Member, whichever date is earlier.* *2. Recognizing the progress that least developed country Members have already made towards implementing the TRIPS Agreement, including in accordance with paragraph 5 of IP/C/40, least developed country Members express their determination to preserve and continue the progress towards implementation of the TRIPS Agreement. Nothing in this decision shall prevent least developed country Members from making full use of the flexibilities provided by the Agreement to address their needs, including to create a sound and viable technological base and to overcome their capacity constraints supported by, among other steps, implementation of Article 66.2 by developed country Members.* *3. This Decision is without prejudice to the Decision of the Council for TRIPS of 27 June 2002 on "Extension of the Transition Period under Article 66.1 of the TRIPS Agreement for Least Developed Country Members for Certain Obligations with respect to Pharmaceutical Products" (IP/C/25), and to the right of least developed country Members to seek further extensions of the period provided for in paragraph 1 of Article 66 of the Agreement.*	See also comments under Articles 66.1 and 67 of the TRIPS Agreement. The general transition period for least developed country Members was initially due to expire on 1 January 2006. Recognizing their special needs and requirements, the TRIPS Council adopted a Decision on 29 November 2005 that extended the transition period under Article 66.1 for least developed country Members until 1 July 2013 (IP/C/40). The TRIPS Council adopted a Decision on 11 June 2013 that further extended the transition period until 1 July 2021 (IP/C/64).

7.16 General Services - Ministerial Decision of 7 December 2013 (WT/MIN(13)/37 - WT/L/912)

PROVISION	COMMENT
(...) Members recognize the contribution that General Services programmes can make to rural development, food security and poverty alleviation, particularly in developing countries. This includes a range of General Services programmes relating to land reform and rural livelihood security that a number of developing countries have highlighted as particularly important in advancing these objectives. Accordingly, Members note that, subject to Annex 2 of the Agreement on Agriculture, the types of programmes listed below could be considered as falling within the scope of the non-exhaustive list of general services programmes in Annex 2, paragraph 2 of the AoA. General Services programmes related to land reform and rural livelihood security, such as: i. land rehabilitation; ii. soil conservation and resource management; iii. drought management and flood control; iv. rural employment programmes; v. issuance of property titles; and vi. farmer settlement programmes in order to promote rural development and poverty alleviation.	The list of General Services was expanded by adding programmes that were considered of particular importance for developing Members to address challenges related to rural development, food security and poverty alleviation.

7.17 Public Stockholding for Food Security Purposes - Ministerial Decision of 7 December 2013 (WT/MIN(13)/38 - WT/L/913)

PROVISION	COMMENT
(...) 1. Members agree to put in place an interim mechanism as set out below, and to negotiate on an agreement for a permanent solution[128], for the issue of public stockholding for food security purposes for adoption by the 11th Ministerial Conference. 2. In the interim, until a permanent solution is found, and provided that the conditions set out below are met, Members shall refrain from challenging through the WTO Dispute Settlement Mechanism, compliance of a developing Member with its obligations under Articles 6.3 and 7.2 (b) of the Agreement on Agriculture (AoA) in relation to support provided for traditional staple food crops[129] in pursuance of public stockholding programmes for food security purposes existing as of the date of this Decision, that are consistent with the criteria of paragraph 3, footnote 5, and footnote 5 & 6 of Annex 2 to the AoA when the developing Member complies with the terms of this Decision.[130]	This Decision is in itself a S&D provision as it is applicable to developing Members only. The domestic support provided by developing Members under their "existing" Public Stockholding Programmes for Food Security Purposes are protected against the legal challenges under the Agreement on Agriculture as long as the transparency, safeguard and anti-circumvention provisions are respected. The Interim Solution has not yet been used.

[128] The permanent solution will be applicable to all developing Members.
[129] This term refers to primary agricultural products that are predominant staples in the traditional diet of a developing Member.
[130] This Decision does not preclude developing Members from introducing programmes of public stockholding for food security purposes in accordance with the relevant provisions of the Agreement on Agriculture.

7.18 Understanding on Tariff Rate Quota Administration Provisions of Agricultural Products, as defined in Article 2 of the Agreement on Agriculture - Ministerial Decision of 7 December 2013 (WT/MIN(13)/39 - WT/L/914)

PROVISION	COMMENT
(...) *Annex A:* *4.* The importing Member shall then promptly provide unencumbered access via one of the following tariff quota administration methods[131]: a first-come, first-served only basis (at the border); or an automatic, unconditional license on demand system within the tariff quota. In taking a decision on which of these two options to implement, the importing Member will consult with interested exporting Members. The method selected shall be maintained by the importing Member for a minimum of two years, after which time - provided that timely notifications for the two years have been submitted – it will be noted on the Secretariat's tracking register and the concern marked "closed". *Developing country Members may choose an alternative tariff quota administration method or maintain the current method in place.* (emphasis added)	The italicized phrase in paragraph 4 of the Annex to this Decision provides additional flexibilities to developing country Members with respect to obligations to change TRQ administration methods in the final stages of the underfill mechanism. The TRQ underfill mechanism has not been invoked. A review of the operation of the Decision towards improved utilization of TRQs has been ongoing in the Committee on Agriculture so as to enable the General Council to make recommendations to MC12 including on the status of paragraph 4 (see G/AG/W/171 and paragraph 13 of the Decision in WT/MIN(13)/39-WT/L/914).

[131] The actions and remedies taken by the importing Member shall not modify or impede the rights of a Member holding a country-specific allocation for that tariff quota with respect to their country-specific allocation.

7.19 Cotton – Ministerial Decision of 7 December 2013 (WT/MIN(13)/41 - WT/L/916)

PROVISION	COMMENT
The Ministerial Conference… *Decides as follows:* *1. We stress the vital importance of cotton to a number of developing country economies and particularly the least developed amongst them.* *(…)* *7. The dedicated discussions shall in particular consider all forms of export subsidies for cotton and all export measures with equivalent effect, domestic support for cotton and tariff measures and non-tariff measures applied to cotton exports from LDCs in markets of interest to them.* *8. We reaffirm the importance of the development assistance aspects of cotton and in particular highlight the work of the Director-General's Consultative Framework Mechanism on Cotton in reviewing and tracking of cotton-specific assistance as well as infrastructure support programmes or other assistance related to the cotton sector. We commit to continued engagement in the Director-General's Consultative Framework Mechanism on Cotton to strengthen the cotton sector in the LDCs.* *9. We welcome the positive trend in growth and improved performance in the cotton sector, particularly in Africa.* *10. In this context, we underline the importance of effective assistance provided to LDCs by Members and multilateral agencies. We invite the LDCs to continue identifying their needs linked to cotton or related sectors, including on a regional basis, through their respective dialogues with development partners and national development strategies. We urge the development partners to accord special focus to such needs within the existing aid-for-trade mechanisms/channels such as the EIF and the technical assistance and capacity building work of relevant international institutions.* *11. We invite the Director General to continue to provide periodic reports on the development assistance aspects of cotton, and to report on the progress that has been made in implementing the trade-related components of the 2005 Hong Kong Ministerial Declaration, at each WTO Ministerial Conference.*	Following the Bali Ministerial Conference, dedicated discussions of the relevant trade-related developments for cotton took place on 20 June 2014, 28 November 2014, 9 July 2015, and 26 November 2015. Back-to-back with these dedicated discussions, four rounds of consultations of the Director-General's Consultative Framework Mechanism on Cotton were held to review and track cotton-specific assistance as well as infrastructure support programmes in favour of the cotton sector in LDCs.

7.20 Preferential Rules of Origin for Least Developed Countries – Ministerial Decision of 7 December 2013 (WT/MIN(13)/42 – WT/L/917)

PROVISION	COMMENT
The Ministerial Conference, *Having regard to* paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization; *Recalling* the "Decision on Measures in Favour of Least-Developed Countries" (Annex F of the Hong Kong Ministerial Declaration) which states that: "Developed country Members shall, and developing country Members declaring themselves in a position to do so should: ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access"; *Considering* that duty-free and quota-free market access for LDCs can be effectively utilized if accompanied by simple and transparent rules of origin; *Recognizing* that simple and transparent rules of origin may take into account the capacities and levels of development of LDCs; *Recognizing* that the purpose of rules of origin for preference programmes benefiting LDCs is to ensure that only preference-receiving LDCs and not others benefit from the market access opportunities that have been afforded to them under such arrangements; *Recognizing* that lower costs of compliance with rules of origin requirements will encourage LDC exporters to avail of market access opportunities provided to them; *Recognizing* that the objectives of transparent and simple rules of origin that contribute to facilitating market access of LDC products can be achieved in a variety of ways, and that no one method is preferred to another; *Decides* as follows: 1.1. With a view to facilitating market access for LDCs provided under non-reciprocal preferential trade arrangements for LDCs, Members should endeavour to develop or build on their individual rules of origin arrangements applicable to imports from LDCs in accordance with the following guidelines. These guidelines do not stipulate a single set of rules of origin criteria. Rather, they provide elements upon which Members may wish to draw for preferential rules of origin applicable to imports from LDCs under such arrangements.	By adopting this Ministerial Decision, Members broke new ground as they agreed, for the first time, on a set of multilateral guidelines on preferential rules of origin. Indeed, the Decision contains several recommendations regarding the design and utilization of preferential rules of origin. It only covers rules of origin used in non-reciprocal preferential trade arrangements that benefit least-developed countries (LDCs). The objective of the Decision is to offer more specific elements to clarify the 2005 Hong Kong mandate according to which preferential rules of origin for LDCs should be "transparent and simple". It recognizes that the objective of applying simple and transparent origin requirements could be achieved in different ways and that preference-granting Members are free to choose the origin method that best suits their needs. However, the Decision also requires preference-granting Members to assess and take into consideration the productive capacity of the LDCs to avoid imposing overly cumbersome origin requirements. In addition, for each type of origin method, for cumulation and for documentary procedures, the Decision contains illustrations or "elements" indicating how rules could be designed to meet these objectives. Finally, the Decision strengthens the oversight and reporting role of the Committee on Rules of Origin by requiring the Committee to conduct annual reviews about developments related to preferential rules of origin for LDCs. The Committee reports to the General Council and informs the LDC Sub-Committee.
A. ELEMENTS FOR PREFERENTIAL RULES OF ORIGIN 1.2. Preferential rules of origin should be as transparent, simple and objective as possible. It is recognized that other than wholly obtained products, origin may be conferred by substantial or sufficient transformation, which can be defined in a number of ways, including through: (a) *ad valorem* percentage criterion; (b) change of tariff classification; and (c) specific manufacturing or	

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processing operation. It is also recognized that these methods in certain cases may be used in combination.[132] 1.3. In the case of rules based on the *ad valorem* percentage criterion, given the limited productive capacity in the LDCs, it is desirable to keep the level of value addition threshold as low as possible, while ensuring that it is the LDCs that receive the benefit of the preferential trade arrangements. It is noted that the LDCs seek consideration of allowing foreign inputs to a maximum of 75% of value in order for a good to qualify for benefits under LDC preferential trade arrangements.[133] 1.4. The methods for the calculation of value should be as simple as possible. It is recognized that different methodologies are used to calculate the *ad valorem* percentage of value addition. This percentage may be determined on the basis of the principles of simplicity and transparency. For example, in case of methods used for calculation of foreign inputs, Members may exclude costs related to freight and insurance as well as international transportation costs.[134] In case of methods used for calculation of local/domestic content, Members may include national or regional inland transportation costs. 1.5. In the case of rules based on the change of tariff classification criterion, a substantial or sufficient transformation should generally allow the use of non-originating inputs as long as an article of a different heading or sub-heading was created from those inputs in an LDC, notwithstanding that product specific rules with different requirements may also be more appropriate. 1.6. In the case of rules that allow a specific manufacturing or processing operation for the purpose of conferring origin, such rules should, as far as possible, take into account the productive capacity in LDCs. For example, in a number of cases the use of process-based rules for chemical products has made such rules more transparent and easy to comply with. In addition, for articles of apparel and clothing it may be simpler to demonstrate a substantial transformation using such rules instead of the equivalent change of tariff classification. 1.7. Cumulation should be considered as a feature of non-reciprocal preferential trade arrangements. The core objective of cumulation is to allow LDCs to combine originating materials without losing the originating status of the materials and to jointly share materials or production. Certain	

[132] For example, an across-the-board rule does not preclude having some product specific rules of origin for specific sectors whenever they are more appropriate or when they could offer better market access opportunities for LDCs.

[133] The precise percentage may vary depending on the calculation methodology used in different schemes.

[134] This is without prejudice to the meaning of customs value as defined by the 1994 Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on Customs Valuation).

PROVISION	COMMENT
non-reciprocal preferential trade arrangements provide illustrations of a range of cumulation possibilities, which Members may take into account in designing their preferential rules of origin. For example, such arrangements may allow bilateral cumulation (i.e. cumulation with the respective preference-granting country) as well as cumulation with other LDCs. Other possibilities include cumulation among GSP beneficiaries of a given preference-granting country and/or among developing country Members forming part of a regional group as defined by the preference-granting country.	
B. DOCUMENTARY REQUIREMENTS 1.8. The documentary requirements regarding compliance with the rules of origin should be simple and transparent. For instance, requirement to provide proof of non-manipulation or any other prescribed form for a certification of origin for products shipped from LDCs across other Members may be avoided. With regard to certification of rules of origin, whenever possible, self-certification may be recognized. Mutual customs cooperation and monitoring could complement compliance and risk-management measures.	
C. TRANSPARENCY 1.9. Preferential rules of origin for LDCs shall be notified as per the established procedures.[135] The objectives of notification are to enhance transparency, make the rules better understood, and promote an exchange of experiences as well as mainstreaming of best practices. 1.10. The Committee on Rules of Origin shall annually review the developments in preferential rules of origin applicable to imports from LDCs, in accordance with these guidelines, and report to the General Council. The Secretariat shall annually provide the Sub-Committee on LDCs with a report on the outcome of such review.	The Committee has been holding dedicated discussions on preferential rules of origin for LDCs and the implementation of this Decision. As required by the Decision, the Committee has reported yearly to the General Council indicating the main developments in that respect (documents G/RO/76; G/RO/77; G/RO/79 and G/RO/85).

7.21 Operationalization of the Waiver Concerning Preferential Treatment to Services and Service Suppliers of Least Developed Countries – Ministerial Decision of 7 December 2013 (WT/MIN(13)/43 - WT/L/918)

PROVISION	COMMENT
The Ministerial Conference, *Decides* as follows	
1.1. The Council for Trade in Services is instructed to initiate a process aimed at promoting the expeditious and effective operationalization of the LDC	

[135] These notifications are made pursuant to the Transparency Mechanism for Preferential Trade Arrangements (PTAs). It is also noted that the Agreement on Rules of Origin stipulates that Members provide their preferential rules of origin to the Secretariat.

PROVISION	COMMENT
services waiver. The Council for Trade in Services shall periodically review the operationalization of the waiver. The Council for Trade in Services may make recommendations on steps that could be taken towards enhancing the operationalization of the waiver.	
1.2. With a view to accelerating the process of securing meaningful preferences for LDCs' services and service suppliers, the Council for Trade in Services shall convene a High-level meeting six months after the submission of an LDC collective request identifying the sectors and modes of supply of particular export interest to them. At that meeting, developed and developing Members, in a position to do so, shall indicate sectors and modes of supply where they intend to provide preferential treatment to LDC services and service suppliers.	The LDC collective request was submitted on 23 July 2014 (S/C/W/356 and S/C/W/356/Corr.1, and S/C/W/356/Corr.2). The High-level meeting was held on 5 February 2015 (S/C/M/121).
1.3. Members, in their individual capacities, are encouraged at any time to extend preferences to LDCs' services and service suppliers, consistent with the waiver Decision, which have commercial value and promote economic benefits to LDCs. These preferences may accord, *inter alia,* improved market access, including through the elimination of economic needs tests and other quantitative limitations. In doing so a Member may accord preferences similar to those arising from preferential trade agreements to which it is a party noting that preferential treatment, with respect to the application of measures other than those described in Article XVI of GATS, may be granted subject to approval by the Council for Trade in Services under paragraph 1 of the waiver Decision.	
1.4. Members underline the need for enhanced technical assistance and capacity building to help LDCs benefit from the operationalization of the waiver. Special focus should be directed towards the delivery of targeted and coordinated technical assistance aimed at strengthening the domestic and export services capacity of LDCs, making optimal use of existing aid-for-trade channels such as the EIF and the technical assistance and capacity building work of relevant international institutions. In this context, the LDCs are invited to include their services related needs in their respective national development strategies and in their dialogues with development partners. Members urge development partners to respond adequately to such needs.	

7.22 Duty-Free and Quota-Free Market Access for Least Developed Countries – Ministerial Decision of 7 December 2013 (WT/MIN(13)/44 - WT/L/919)

PROVISION	COMMENT
The Ministerial Conference, *(...)* *Decides* as follows: Developed-country Members that do not yet provide duty-free and quota-free market access for at least 97% of products originating from LDCs, defined at the tariff line level, shall seek to improve their existing duty-free and quota-free coverage for such products, so as to provide increasingly greater market access to LDCs, prior to the next Ministerial Conference; Developing-country Members, declaring themselves in a position to do so, shall seek to provide duty-free and quota-free market access for products originating from LDCs, or shall seek to improve their existing duty-free and quota-free coverage for such products, so as to provide increasingly greater market access to LDCs, prior to the next Ministerial Conference; Members shall notify duty-free and quota-free schemes for LDCs and any other relevant changes pursuant to the Transparency Mechanism for Preferential Trade Arrangements; The Committee on Trade and Development shall continue to 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; To aid in its review, the Secretariat shall, in close coordination with Members, prepare a report on Members' duty-free and quota -free market access for LDCs at the tariff line level based on their notifications; The General Council is instructed to report, including any recommendations, on the implementation of this Decision to the next Ministerial Conference.	Further to the 2005 Hong Kong DFQF Decision (Annex F, WT/MIN(05)/DEC; see Section 7.10), this Decision, adopted at the 2013 Bali Ministerial Conference, provides further impetus to provide DFQF market access for LDC products. The Bali DFQF Decision mandates the Secretariat to aid the CTD's annual review of DFQF market access with a report on Members' DFQF market access for LDCs at the tariff line level based on their notifications. So far, three such Secretariat reports have been prepared (WT/COMTD/W/206, WT/COMTD/W/214, WT/COMTD/W/222). In 2017, no Secretariat report was issued for consideration in the CTD because of a divergence of views between some Members on the scope and coverage of the report. DFQF market access remains under discussion in the CTD. A special CTD meeting devoted to DFQF market access was held on 23 September 2015 (WT/COMTD/M/96). In 2016, the CTD considered a proposal by the LDC Group on the terms of reference for a Secretariat study ("clinical examination") relating to DFQF implementation (WT/COMTD/W/218/Rev.1). The proposal, however, could not find consensus among Members (WT/COMTD/M/100). Progress in preferential market access for LDCs, including DFQF market access, is also registered in an annual Secretariat Note, which is prepared to facilitate the annual review of the Sub-Committee on LDCs of market access for products originating from LDCs. The 2018 version of this Note is contained in document WT/COMTD/LDC/W/66.

7.23 Public Stockholding for Food Security Purposes – Decision of 27 November 2014 (WT/L/939)

PROVISION	COMMENT
The General Council, *(...) Decides* that: 1. Paragraph 2 of the Bali Decision shall be read as follows: Until a permanent solution[136] is agreed and adopted, and provided that the conditions set out in paragraphs 3 to 6 of the Bali Decision are met, Members shall not challenge through the WTO Dispute Settlement Mechanism, compliance of a developing Member with its obligations under Articles 6.3 and 7.2(b) of the Agreement on Agriculture (AoA) in relation to support provided for traditional staple food crops[137] in pursuance of public stockholding programmes for food security purposes existing as of the date of the Bali Decision,[138] that are consistent with the criteria of paragraph 3, footnote 5, and footnote 5 and 6 of Annex 2 to the AoA. 2. If a permanent solution for the issue of public stockholding for food security purposes is not agreed and adopted by the 11th Ministerial Conference, the mechanism referred to in paragraph 1 of the Bali Decision, as set out in paragraph 1 of this Decision, shall continue to be in place until a permanent solution is agreed and adopted. 3. In accordance with paragraph 1.11 of the Bali Ministerial Declaration (WT/MIN(13)/DEC) dated 11 December 2013, the negotiations on a permanent solution on the issue of public stockholding for food security purposes shall be pursued on priority. 4. Members shall engage constructively to negotiate and make all concerted efforts to agree and adopt a permanent solution on the issue of public stockholding for food security purposes by 31 December 2015. In order to achieve such permanent solution, the negotiations on this subject shall be held in the Committee on Agriculture in Special Session ("CoA SS"), in dedicated sessions and in an accelerated time-frame, distinct from the agriculture negotiations under the Doha Development Agenda ("DDA"). The three pillars of the agriculture negotiations, pursuant to the DDA, will continue to progress in the CoA SS. (…)	The Decision clarified the duration of the Interim Solution. It also put the Public Stockholding negotiations on an accelerated and separate track from the DDA negotiations. The negotiations have to be pursued on priority, in dedicated sessions of the Committee on Agriculture in Special Session. The first dedicated session of the CoA SS on Public Stockholding was held on 28 January 2015; several others have been held since.

[136] The permanent solution will be applicable to all developing Members.
[137] This term refers to primary agricultural products that are predominant staples in the traditional diet of a developing Member.
[138] This Decision does not preclude developing Members from introducing programmes of public stockholding for food security purposes in accordance with the relevant provisions of the Agreement on Agriculture.

7.24 Extension of the Transition Period under Article 66.1 of the TRIPS Agreement for Least Developed Country Members for Certain Obligations with Respect to Pharmaceutical Products – Decision of the Council for TRIPS of 6 November 2015 (IP/C/73)

PROVISION	COMMENT
The Council for Trade-Related Aspects of Intellectual Property Rights (the "Council for TRIPS"), *(...)* *Decides as follows:* *1. Least-developed country Members will not be obliged, with respect to pharmaceutical products, to implement or apply Sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these Sections until 1 January 2033, or until such a date on which they cease to be a least developed country Member, whichever date is earlier.* *2. This decision is made without prejudice to the right of least-developed country Members to seek other extensions of the period provided for in paragraph 1 of Article 66 of the TRIPS Agreement.*	When Rwanda made use of the System established under the Decision of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, it referred to the earlier TRIPS Council Decision of 27 June 2002 that had initially extended the transition period in the pharmaceutical sector until 1 January 2016 (IP/C/25) as constituting the basis for its decision not to enforce patent rights that may have been granted within its territory with respect to pharmaceutical products to be imported under the system (IP/N/9/RWA/1).

7.25 Least Developed Country Members – Obligations under Article 70.8 and Article 70.9 of the TRIPS Agreement with Respect to Pharmaceutical Products – Decision of 30 November 2015 (WT/L/971)

PROVISION	COMMENT
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"); *Conducting* the functions of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement; *Recalling* the decision of the General Council on Least Developed Country Members – Obligations Under Article 70.9 of the TRIPS Agreement With Respect to Pharmaceutical Products (WT/L/478), adopted by the General Council at its meeting of 8 July 2002; *Having regard* to the request from least developed country Members, dated 23 February 2015, for a waiver from obligations under paragraph 8 of Article 70 of the TRIPS Agreement and a further extension of the waiver from obligations under paragraph 9 of Article 70 of the TRIPS Agreement with respect to pharmaceutical products (IP/C/W/605); *Noting* the decision of the Council for TRIPS on the Extension of the Transition Period under Article 66.1 of the TRIPS Agreement for Least Developed Country Members for Certain Obligations with Respect to Pharmaceutical Products, adopted by the Council for TRIPS at its meeting of 6 November 2015 (IP/C/73); *Recalling* the decision of the Council for TRIPS on the Extension of the Transition Period under Article 66.1 of the TRIPS Agreement for Least Developed Country Members for Certain Obligations with Respect to Pharmaceutical Products (IP/C/25), adopted by the Council for TRIPS at its meeting of 25-27 June 2002, pursuant to the instructions of the Ministerial Conference contained in paragraph 7 of the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2) (the "Declaration"); *Considering* that obligations under paragraphs 8 and 9 of Article 70 of the TRIPS Agreement, where applicable, should not prevent attainment of the	

PROVISION	COMMENT
objectives of paragraph 7 of the Declaration and the decision of the Council for TRIPS, adopted on 6 November 2015 (IP/C/73); *Noting* that, in light of the foregoing, exceptional circumstances exist justifying a waiver from paragraphs 8 and 9 of Article 70 of the TRIPS Agreement with respect to pharmaceutical products in respect of least developed country Members;	
Decides as follows: 1. The obligations of least developed country Members under paragraphs 8 and 9 of Article 70 of the TRIPS Agreement shall be waived with respect to pharmaceutical products until 1 January 2033, or until such a date on which they cease to be a least developed country Member, whichever date is earlier. 2. This waiver shall be reviewed by the Ministerial Conference not later than one year after it is granted, and thereafter annually until the waiver terminates, in accordance with the provisions of paragraph 4 of Article IX of the WTO Agreement.	

7.26 Special Safeguard Mechanism for Developing Country Members – Ministerial Decision of 19 December 2015 (WT/MIN/(15)/43 - WT/L/978)

PROVISION	COMMENT
The *Ministerial Conference*, *(…)* *Decides* as follows: 1. The developing country Members will have the right to have recourse to a special safeguard mechanism (SSM) as envisaged under paragraph 7 of the Hong Kong Ministerial Declaration. 2. To pursue negotiations on an SSM for developing country Members in dedicated sessions of the Committee on Agriculture in Special Session ("CoA SS"). 3. The General Council shall regularly review progress in these negotiations.	This Decision concerns negotiations on a Special Safeguard Mechanism for developing Members only. The negotiations pursuant to the Decision have been ongoing in dedicated sessions of the CoA SS.

7.27 Public Stockholding for Food Security Purposes – Ministerial Decision of 19 December 2015 (WT/MIN(15)/44 - WT/L/979)

PROVISION	COMMENT
… 1. Members note the Ministerial Decision of 7 December 2013 (WT/MIN(13)/38 and WT/L/913) and reaffirm the General Council Decision of 27 November 2014 (WT/L/939). 2. Members shall engage constructively to negotiate and make all concerted efforts to agree and adopt a permanent solution on the issue of public stockholding for food security purposes. In order to achieve such permanent solution, the negotiations on this subject shall be held in the Committee on Agriculture in Special Session ("CoA SS"), in dedicated sessions and in an accelerated time-frame, distinct from the agriculture negotiations under the Doha Development Agenda ("DDA").	Members took note of the Bali Ministerial Decision and reaffirmed the General Council Decision applicable to developing Members only. The negotiations pursuant to the Decision have been ongoing in dedicated sessions of the CoA SS.

7.28 Export Competition – Ministerial Decision of 19 December 2015 (WT/MIN/(15)/45 - WT/L/980)

PROVISION	COMMENT
The Ministerial Conference… *Decides as follows:*	Three dedicated discussions on export competition took place since the Nairobi Ministerial Conference during the meetings of the Committee on Agriculture on 7 June 2016, 7 June 2017 and 12 June 2018. The triennial review of the Nairobi Decision was initiated during the February 2018 meeting of the Committee on Agriculture. Three Members had revised schedules eliminating the export subsidies entitlements pursuant to the Nairobi Decision certified by end of June 2018.
General *(…)* 3. Nor can anything in this Decision be construed to diminish in any way the existing commitments contained in the Marrakesh Ministerial Decision of April 1994 on Measures Concerning the Possible Negative Effects of the Reform Programme on Least developed and Net Food-importing Developing Countries and the Ministerial Decision of 14 November 2001 on Implementation-related Issues and Concerns[139] on, inter alia, commitment levels of food aid, provision of food aid by donors, technical and financial assistance in the context of aid programmes to improve agricultural productivity and infrastructure, and financing normal levels of commercial imports of basic foodstuffs. Nor could it be understood to alter the regular review of these decisions by the Ministerial Conference and monitoring by the Committee on Agriculture. *(…)*	
Export subsidies 7. Developing country Members shall eliminate their export subsidy entitlements by the end of 2018.[140] 8. Developing country Members shall continue to benefit from the provisions of Article 9.4 of the Agreement on Agriculture until the end of 2023, i.e. five years after the end-date for elimination of all forms of export subsidies. Least developed countries and net food-importing developing countries listed in G/AG/5/Rev.10 shall continue to benefit from the provisions of Article 9.4 of the Agreement on Agriculture until the end of 2030. *(…)*	

[139] Document WT/MIN(01)/17.

[140] Notwithstanding this paragraph, a developing country Member shall eliminate its export subsidy entitlements by the end of 2022 for products or groups of products for which it has notified export subsidies in in one of its three latest export subsidy notifications examined by the Committee on Agriculture before the date of adoption of this Decision.

PROVISION	COMMENT
Cotton *12. With regard to cotton, the disciplines and commitments contained in this Decision shall be immediately implemented as of the date of adoption of this Decision by developed country Members, and not later than 1 January 2017 by developing country Members.*	
Export Credits, Export Credit Guarantees or Insurance Programmes *(…)* ***Special and Differential Treatment*** 16. Developing country Member providers of export financing support shall be eligible to benefit from the following: **Maximum repayment terms**: the developing country Members concerned shall have a phase-in period of four years after the first day of the implementation period[141] by the end of which to fully implement the maximum repayment term of 18 months. This shall be achieved as follows: (a) on the first day of implementation, the maximum repayment term for any new support entered into shall be 36 months; (b) two years after implementation, the maximum repayment term for any new support to be entered into shall be 27 months; (c) four years after implementation, the maximum repayment term of 18 months shall apply. It is understood that where there are, after any of the relevant dates, pre-existing support arrangements entered into under the limits established in the sub-paragraphs (a)-(c) above, they shall run their original term.	

[141] For the purposes of this paragraph, implementation period shall be defined as the period commencing in the year 2016 and ending on 31 December 2020.

PROVISION	COMMENT
17. Notwithstanding the terms of paragraphs 15(a) and 16 above, least developed and net food-importing developing countries listed in G/AG/5/Rev.10 shall be accorded differential and more favourable treatment comprising allowance for a repayment term in respect of them of between 36 and 54 months, for the acquisition of basic foodstuffs.[142] Should one of these Members face exceptional circumstances which still preclude financing normal levels of commercial imports of basic foodstuffs and/or in accessing loans granted by multilateral and/or regional financial institutions within these timeframes, it shall have an extension of such a time-frame. The standard monitoring and surveillance provisions, as resulting from this Decision, shall apply to these cases.[143] (…)	
International Food Aid 22. Members reaffirm their commitment to maintain an adequate level of international food aid, to take account of the interests of food aid recipients and to ensure that the disciplines contained hereafter do not unintentionally impede the delivery of food aid provided to deal with emergency situations. To meet the objective of preventing or minimizing commercial displacement, Members shall ensure that international food aid is provided in full conformity with the disciplines specified in paragraphs 23 to 32, thereby contributing to the objective of preventing commercial displacement. 23. Members shall ensure that all international food aid is: a. needs-driven; b. in fully grant form; c. not tied directly or indirectly to commercial exports of agricultural products or other goods and services; d. not linked to the market development objectives of donor Members; and that e. agricultural products provided as international food aid shall not be re-exported in any form, except where the agricultural products were not permitted entry into the recipient country, the agricultural products were determined inappropriate or no longer needed for the purpose for which they were received in the recipient country, or re-exportation is necessary for logistical reasons to expedite the provision of food aid for another country in an emergency situation.	

[142] Belize; Bolivia, Plurinational State of; Ecuador; Fiji; Guatemala; Guyana; Nicaragua; Papua New Guinea and Suriname shall also have access to this provision.
[143] In the event that Cuba is a recipient Member in this situation, the time-frame can be greater than 54 months and any such monitoring and surveillance shall not apply without the prior express consent of Cuba.

PROVISION	COMMENT
Any re-exportation in accordance with this subparagraph shall be conducted in a manner that does not unduly impact established, functioning commercial markets of agricultural commodities in the countries to which the food aid is re-exported. 24. The provision of food aid shall take into account local market conditions of the same or substitute products. Members shall refrain from providing in-kind international food aid in situations where this would be reasonably foreseen to cause an adverse effect on local[144] or regional production of the same or substitute products. In addition, Members shall ensure that international food aid does not unduly impact established, functioning commercial markets of agricultural commodities. 25. Where Members provide exclusively cash-based food aid, they are encouraged to continue to do so. Other Members are encouraged to provide cash-based or in-kind international food aid in emergency situations, protracted crises (as defined by the FAO[145]), or non-emergency development/capacity building food assistance environments where recipient countries or recognized international humanitarian/food entities, such as the United Nations, have requested food assistance. 26. Members are also encouraged to seek to increasingly procure international food aid from local or regional sources to the extent possible, provided that the availability and prices of basic foodstuffs in these markets are not unduly compromised. 27. Members shall monetize international food aid only where there is a demonstrable need for monetization for the purpose of transport and delivery of the food assistance, or the monetization of international food aid is used to redress short and/or long-term food deficit requirements or insufficient agricultural production situations which give rise to chronic hunger and malnutrition in least developed and net food-importing developing countries.[146] 28. Local or regional market analysis shall be completed before monetization occurs for all monetized international food aid, including consideration of the recipient country's nutritional needs, local United Nations Agencies' market data and normal import and consumption levels of the commodity to be monetized, and consistent with Food Assistance Convention	

[144] The term "local" may be understood to mean at the national or subnational level.
[145] FAO defines protracted crises as follows: *"Protracted crises refer to situations in which a significant portion of a population is facing a heightened risk of death, disease, and breakdown of their livelihoods."*
[146] Belize; Bolivia, Plurinational State of; Ecuador; Fiji; Guatemala; Guyana; Nicaragua; Papua New Guinea and Suriname shall also have access to this provision.

PROVISION	COMMENT
reporting. Independent third party commercial or non-profit entities will be employed to monetize in-kind international food aid to ensure open market competition for the sale of in-kind international food aid. 29. In employing these independent third party commercial or non-profit entities for the purposes of the preceding paragraph, Members shall ensure that such entities minimize or eliminate disruptions to the local or regional markets, which may include impacts on production, when international food aid is monetized. They shall ensure that the sale of commodities for food assistance purposes is conducted in a transparent, competitive and open process and through a public tender.[147] 30. Members commit to allowing maximum flexibility to provide for all types of international food aid in order to maintain needed levels while making efforts to move toward more untied cash-based international food aid in accordance with the Food Assistance Convention. 31. Members recognize the role of government in decision-making on international food aid in their jurisdictions. Members recognize that the government of a recipient country of international food aid can opt out of the usage of monetized international food aid. 32. Members agree to review the provisions on international food aid contained in the preceding paragraphs within the regular Committee on Agriculture monitoring of the implementation of the Marrakesh Ministerial Decision of April 1994 on Measures Concerning the Possible Negative Effects of the Reform Programme on Least developed and net food-importing developing countries.	
ANNEX[148] (…)	

[147] In the instance where it is not feasible to complete a sale through a public tender, a negotiated sale can be used.

[148] Notwithstanding paragraph 4 of this Decision, developing country Members, unless they are in a position to do so at an earlier date, shall implement this Annex no later than five years following the date of adoption of this Decision.

7.29 Cotton - Ministerial Decision of 19 December 2015 (WT/MIN(15)/46 - WT/L/981)

PROVISION	COMMENT
The Ministerial Conference… *Decides as follows:* (…)	Since the Nairobi Ministerial Conference five dedicated discussions of the relevant trade-related developments for cotton were held on 1 July 2016, 23 November 2016, 24 July 2017, 17 November 2017 and 19 June 2018. Five rounds of consultations of the Director-General's Consultative Framework Mechanism on Cotton were held back-to-back with the dedicated discussions to review and track cotton-specific assistance as well as infrastructure support programmes in favour of the cotton sector in LDCs.
1. TRADE COMPONENT **1.1 MARKET ACCESS** *1. We welcome the progress made voluntarily by some Members towards providing duty-free and quota-free market access for cotton and cotton-related products originating from LDCs.* *2. Developed country Members, and developing country Members declaring themselves in a position to do so, shall grant, to the extent provided for in their respective preferential trade arrangements[149] in favour of LDCs, as from 1 January 2016, duty-free and quota-free market access for cotton produced and exported by LDCs.* *3. Developing country Members declaring themselves not in a position to grant duty-free and quota-free market access for cotton produced and exported by LDCs shall undertake, as from 1 January 2016, to consider the possibilities for increased import opportunities for cotton from LDCs.* *4. Developed country Members, and developing country Members declaring themselves in a position to do so, shall grant, to the extent provided for in their respective preferential trade arrangements[120] in favour of LDCs, as from 1 January 2016, duty-free and quota-free market access for exports by LDCs of relevant cotton-related products included in the list annexed to this Decision and covered by Annex 1 of the Agreement on Agriculture.* *5. We agree to review the list annexed to this Decision in the Dedicated Discussions on cotton referred to in paragraph 14 of this Decision within two*	

[149] In this regard, China declares itself in a position to do so to the extent provided for in its preferential trade arrangements and political commitments.

PROVISION	COMMENT
years, on the basis of updated trade statistics provided by Members on their imports from LDCs. *6. The Dedicated Discussions on cotton referred to in paragraph 14 of this Decision shall continue to address the following specific elements, based on factual information and data compiled by the WTO Secretariat from Members' notifications, complemented, as appropriate, by relevant information provided by Members to the WTO Secretariat:* *(a) identification and examination of market access barriers, including tariff and non-tariff barriers for the entry of cotton produced and exported by cotton-producing LDCs;* *(b) reviews of market access improvements and of any market access measures undertaken by Members, including the identification of access barriers to cotton produced and exported by cotton-producing LDCs in markets of interest to them; and* (c) *examination of possible additional measures for progressive and predictable improvements in market access, in particular the elimination of tariff and non-tariff barriers to cotton produced and exported by cotton-producing LDCs.* (…)	
1.3 EXPORT COMPETITION *9. The disciplines and commitments contained in the Ministerial Decision on Export Competition (WT/MIN(15)/45-WT/L/980 adopted on 19 December 2015) shall be immediately implemented with regard to cotton by developed country Members as of the date of adoption of that Decision, and by developing country Members not later than 1 January 2017.*	
2. DEVELOPMENT COMPONENT *10. We reaffirm the importance of the development assistance aspects of cotton, and commit to continued engagement in the Director-General's Consultative Framework Mechanism on Cotton. We take note of the Director-General's seventh periodic report to the Membership on the development assistance aspects of cotton. We invite the Director-General to submit the next periodic report prior to the 11th Ministerial Conference.* *11. We underline the importance of effective assistance to support the cotton sector in developing country Members, especially the LDCs amongst them. We recognize that the Aid-for-Trade (AfT) initiative, including through the*	

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Enhanced Integrated Framework (EIF), should play a key role in strengthening the cotton sector in LDCs. The linkage between this initiative and the development aspects of cotton should be reinforced to help formulate, on the basis of priorities identified by LDC cotton producers, multidimensional and integrated programmes and projects at the regional and sub-regional level, to be submitted to development partners. *12. We urge WTO Members and development partners to continue their efforts and contributions to enhance the production, productivity and competitiveness of the cotton sector in developing country Member producers, especially the LDCs. Likewise, the beneficiaries of cotton development assistance are encouraged to continue carrying forward their domestic cotton sector reforms.* *13. We recognize the importance of the role of Cotton Focal Points and encourage Members to enhance the experiences and information sharing amongst all interested parties in the cotton dossier.* (…)	

7.30 Preferential Rules of Origin for Least Developed Countries – Ministerial Decision of 19 December 2015 (WT/MIN(15)/47 - WT/L/917/Add.1)

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The *Ministerial Conference*, *Having regard to* paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization; *Recalling* the "Decision on Measures in Favour of Least Developed Countries" (Annex F of the Hong Kong Ministerial Declaration) which states that: "Developed country Members shall, and developing country Members declaring themselves in a position to do so should: ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access"; *Reaffirming and building upon* the guidelines enumerated in the "Ministerial Decision on Preferential Rules of Origin for Least Developed Countries" adopted at the Bali Ministerial Conference; *Decides,* with respect to preferential rules of origin applicable to imports from LDCs under non-reciprocal preferential trade arrangements, as follows*:* **1. REQUIREMENTS FOR THE ASSESSMENT OF SUFFICIENT OR SUBSTANTIAL TRANSFORMATION** 1.1. When applying an *ad valorem* percentage criterion to determine substantial transformation, Preference-granting Members shall: (a) Adopt a method of calculation based on the value of non-originating materials. However, Preference-granting Members applying another method may continue to use it. It is recognized that the LDCs seek consideration of use of value of non-originating materials by such Preference-granting Members when reviewing their preference programmes; (b) Consider, as the Preference-granting Members develop or build on their individual rules of origin arrangements applicable to imports from LDCs, allowing the use of non-originating materials up to 75% of the final value of the product, or an equivalent threshold in case another	This Ministerial Decision builds on two previous instruments: – the 2005 Hong Kong Ministerial Conference Declaration (Annex F of the Ministerial Declaration (WT/MIN(05)/DEC); see Section 7.10); and, – the 2013 Bali Ministerial Decision on preferential rules of origin for LDCs (WT/L/917) (See Section 7.20). Building on the 2013 Decision, the 2015 Decision adopted in Nairobi contains specific disciplines and requirements concerning the design of rules of origin requirements. It only governs the rules applicable to non-reciprocal preferences for LDCs. Like the 2013 Bali Decision, the Nairobi Decision contains provisions which cover both substantive elements (e.g. substantial transformation requirements and cumulation) and procedural elements (e.g. origin certification). However, it is more specific about the specific steps which preference-granting Members should make to simplify their rules of origin. In implementing the requirements of this Decision, developing country Members enjoy "appropriate flexibility". The Decision confirms the role of the Committee on Rules of Origin in overseeing the implementation of this Decision and acting as a forum where Members could discuss new developments and best practices. It also confirms that the Committee reports to the General Council and informs the LDC Sub-Committee.

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calculation method is used, to the extent it is appropriate and the benefits of preferential treatment are limited to LDCs[150]; (c) Consider the deduction of any costs associated with the transportation and insurance of inputs from other countries to LDCs. 1.2. When applying a change of tariff classification criterion to determine substantial transformation, Preference-granting Members shall: (a) As a general principle, allow for a simple change of tariff heading or change of tariff sub-heading; (b) Eliminate all exclusions or restrictions to change of tariff classification rules, except where the Preference-granting Member deems that such exclusions or restrictions are needed, including to ensure that a substantial transformation occurs; (c) Introduce, where appropriate, a tolerance allowance so that inputs from the same heading or sub-heading may be used. 1.3. When applying a manufacturing or processing operation criterion to determine substantial transformation, Preference-granting Members shall, to the extent provided for in their respective non-reciprocal preferential trade arrangements, allow as follows: (a) if applied to clothing of chapters 61 and 62 of the Harmonised System nomenclature, the rule shall allow assembling of fabrics into finished products; (b) if applied to chemical products, the rule shall allow chemical reactions that form a new chemical identity; (c) if applied to processed agricultural products, the rule shall allow transforming of raw agricultural products into processed agricultural products;	

[150] This provision shall not apply to Preference-granting Members who do not use the *ad valorem* percentage criterion as their main method for the determination of substantial transformation.

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(d) if applied to machinery and electronics, the rule shall allow assembling of parts into finished products, provided that the assembly of parts goes beyond simple assembly. 1.4. Preference-granting Members shall, to the extent possible, avoid requirements which impose a combination of two or more criteria for the same product. If a Preference-granting Member still requires maintaining a combination of two or more criteria for the same product, that Preference-granting Member remains open to consider relaxing such requirements for that specific product upon due request by an LDC. 1.5. Preference-granting Members are encouraged to offer alternative rules for the same product. In such cases, the above-mentioned provisions will be applicable to only one of the alternative rules. **2. CUMULATION** 2.1. Recognizing that the development of cumulation possibilities should be considered in relation to the rules applied to determine sufficient or substantial transformation, Preference-granting Members are encouraged to expand cumulation to facilitate compliance with origin requirements by LDC producers using the following possibilities: (a) cumulation with the respective Preference-granting Member; (b) cumulation with other LDCs; (c) cumulation with GSP beneficiaries of the respective Preference-granting Member; and (d) cumulation with developing countries forming part of a regional group to which the LDC is a party, as defined by the Preference-granting Member. 2.2. Preference-granting Members remain open to consider requests from LDCs for particular cumulation possibilities in the case of specific products or sectors.	

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3. DOCUMENTARY REQUIREMENTS 3.1. With a view to reducing the administrative burden related to documentary and procedural requirements related to origin, Preference-granting Members shall: (a) As a general principle, refrain from requiring a certificate of non-manipulation for products originating in a LDC but shipped across other countries unless there are concerns regarding transhipment, manipulation, or fraudulent documentation; (b) Consider other measures to further streamline customs procedures, such as minimizing documentation requirements for small consignments or allowing for self-certification. **4. IMPLEMENTATION, FLEXIBILITIES AND TRANSPARENCY** 4.1. Developing country Members declaring themselves in a position to do so should, with appropriate flexibility, undertake the commitments set out in the above provisions.	
4.2. No later than 31 December 2016 each developed Preference-granting Member, and each developing Preference-granting Member undertaking the commitments in accordance with paragraph 4.1 up to that date or thereafter, shall inform the Committee on Rules of Origin (CRO) of the measures being taken to implement the above provisions.	The Committee has been holding dedicated discussions on preferential rules of origin for LDCs and the implementation of this Decision. In that respect, several developed and some developing preference-granting Members have delivered written and oral reports about the efforts they are making to implement this Ministerial Decision and its provisions.
4.3. Preferential rules of origin shall be notified as per the established procedures.[151] In this regard, Members reaffirm their commitment to annually provide import data to the Secretariat as referred to Annex 1 of the PTA Transparency Mechanism, on the basis of which the Secretariat can calculate utilization rates, in accordance with modalities to be agreed upon by the CRO. Furthermore, the CRO shall develop a template for the notification of preferential rules of origin, to enhance transparency and promote a better understanding of the rules of origin applicable to imports from LDCs.	The Committee has adopted a new template for the notification of preferential rules of origin for LDCs (G/RO/84) and most developed and developing preference-granting Members have submitted their relevant legislation to the Committee. In addition, a first report on utilization rates was prepared by the Secretariat and considered by Members of the Committee in 2017 (G/RO/W/168/Rev.1).
4.4. The CRO shall annually review the implementation of this Decision in accordance with the Transparency provisions contained in the Ministerial	

[151] These notifications are made pursuant to the Transparency Mechanism for Preferential Trade Agreements (PTAs). It is also noted that the Agreement on Rules of Origin stipulates that Members provide to their preferential rules of origin to the Secretariat.

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Decision on Preferential Rules of Origin for Least Developed Countries adopted at the Bali Ministerial Conference.	As required by the Decision, the Committee has reported yearly to the General Council indicating the main developments in that respect (documents G/RO/76; G/RO/77; G/RO/79 and G/RO/85).

7.31 Implementation of Preferential Treatment in favour of Services and Service Suppliers of Least Developed Countries and Increasing LDC Participation in Services Trade – Ministerial Decision of 19 December 2015 (WT/MIN(15)/48 - WT/L/982)

PROVISION	COMMENT
The *Ministerial Conference*, *Decides* as follows: 1.1. Due to the extended period between the adoption of the Waiver in December 2011 and the notification of preferences in 2015, the Waiver is extended as of the date of this Decision until 31 December 2030. Preferences notified so far may, as appropriate, be extended accordingly. 1.2. Developed and developing Members, in a position to do so, that have not notified preferences under the Waiver are urged to redouble efforts to promptly notify preferences which have commercial value and promote economic benefits to LDCs. 1.3. In negotiations pursuant to GATS Article VI:4, Members shall give special priority to addressing regulatory barriers of interest to LDCs. 1.4. With a view to further increasing LDC participation in services trade and to complement notification of preferential treatment under the Waiver, Members are encouraged to undertake specific technical assistance and capacity building measures to orient LDC service suppliers to preference benefits available so that such suppliers can utilize the preferences granted.	
1.5. The Council for Trade in Services shall: • maintain a standing agenda item to review and promote the operationalization of the Waiver; • expeditiously consider approval of notified preferences relating to measures other than those described in GATS Article XVI, in accordance with the Waiver; • with a view to furthering the objectives of GATS Article IV, facilitate an exchange of information by Members on technical assistance measures undertaken to promote the increasing participation of LDCs in world services trade; • initiate a process to review the operation of notified preferences, on the basis of information provided by Members. In support of that process, Members may request WTO Secretariat inputs, as appropriate; and • further discuss any issues that may facilitate benefits provided under the notified preferences.	The Operationalization of the LDC services Waiver has been made a standing item on the Council's agenda. All preferences relating to measures other than those described in GATS Article XVI notified thus far have been expeditiously considered and approved (for more detail, see Section 7.13 above).
1.6. The Council for Trade in Services may make recommendations on steps that could be taken towards enhancing the operationalization of the Waiver.	

7.32 Fisheries Subsidies – Ministerial Decision of 13 December 2017 (WT/MIN(17)/64-WT/L/1031)

PROVISION	COMMENT
The *Ministerial Conference* *Decides* as follows: 1. Building on the progress made since the 10th Ministerial Conference as reflected in documents TN/RL/W/274/Rev.2, RD/TN/RL/29/Rev.3, Members agree to continue to engage constructively in the fisheries subsidies negotiations, with a view to adopting, by the Ministerial Conference in 2019, an agreement on comprehensive and effective disciplines that prohibit certain forms of fisheries subsidies that contribute to overcapacity and overfishing, and eliminate subsidies that contribute to IUU-fishing recognizing that appropriate and effective special and differential treatment for developing country Members and least developed country Members should be an integral part of these negotiations. 2. Members re-commit to implementation of existing notification obligations under Article 25.3 of the Agreement on Subsidies and Countervailing Measures thus strengthening transparency with respect to fisheries subsidies.	While the principal focus of this Ministerial Decision is the negotiation of an agreement on WTO disciplines on certain harmful forms of fisheries subsidies, it also explicitly provides that appropriate and effective special and differential treatment for developing country Members and least developed country Members should be integral to the negotiations.