



Pre-MC9

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# Upcoming Ninth WTO Ministerial *Securing the LDCs Deliverables*

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## Outcome Document

Organised by



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## **Outcome Document**

The Dhaka Outcome Document is the result of deliberations at the pre-Bali international conference titled “Upcoming Ninth WTO Ministerial: Securing the LDCs Deliverables”, which was held in Dhaka, Bangladesh, on October 25–26, 2013. The purpose of this document is to raise awareness among major stakeholders as regards issues of interest to the least developed countries (LDCs) and articulate key deliverables of a possible “LDC package” at the upcoming Ninth World Trade Organization (WTO) Ministerial Conference (MC9) in Bali, Indonesia, on December 3–6, 2013. Participants hope that stakeholders will make use of this document to advance the interests of the LDCs at MC9 in Bali and other relevant fora. It is also hoped that LDC policymakers will benefit from this document while pursuing the cause of the LDCs in the WTO.

The key recommendations that emerged from the conference are as follows:

- Implementation of the Hong Kong Ministerial Decision as regards DF-QF market access by taking cognisance of sensitivities of African LDCs, and a time-bound plan for inclusion of the items in the ‘3 per cent exclusion list’.
- Preferential rules of origin for the DF-QF initiative should be simple and easy to comply with by the LDCs (e.g. RoO for Canadian GSP which stipulates a 25 per cent domestic value addition).
- Set up a WTO Work Programme to look at LDCs food security issues in a comprehensive manner, and a commitment not to impose restrictions on exports to LDCs during periods of food crisis.
- Operationalise services waiver in a manner that enables LDCs to have commercially meaningful market access in services markets of developed countries, and convene the proposed High Level Meeting in early 2014.
- Set up a monitoring mechanism towards regular reviews of S&D provisions in the WTO.
- Harmonise trade facilitation provisions within the overall context of the WTO and ensure adequate support to LDCs to enhance compliance capacities of the LDCs with TF provisions.
- Any discussion relating to systemic dimensions concerning decision making process in the WTO must take into account LDC views and must be conducted in an inclusive manner.
- A timeframe for assessment of progress as regards the envisaged post-Bali work programme should be clearly spelt out in the Bali outcome document.

In view of the above, the following sections present the background of the key issues of interest to the LDCs in the context of MC-9 and details out some of the major deliverables in each of the concerned areas as emerged from deliberations of the Dhaka Conference.

### **1. Background**

The current Doha Round–related negotiations have been the most prolonged in the history of multilateral trade negotiations. The round was expected to conclude in 2005, but negotiations have been ongoing for 12 years. The world has changed significantly since November 2001, when ministers met in Doha, Qatar. The LDCs have reasons to be

frustrated, since they have witnessed a round ambitiously termed the “Development Round” gradually lose its “developmental content”. Meanwhile, they have continued to suffer significant preference erosion in the face of a growing number of regional trade agreements, weak commitments to aid for trade, high and volatile food and commodity prices, and global financial shocks that have had adverse impacts through a variety of transmission channels. Although the Millennium Development Goals (MDGs) have caught the imagination of the international community and tangible progress has been made on many indicators and targets, MDG 8: “Develop a Global Partnership for Development”, which has the potential to make trade work for development, has remained the weakest goal. Since the launch of the MDGs in September 2000, LDCs’ economies have become more dependent on international trade and more open, hence the need to realise opportunities to trade out of poverty has become more urgent. The ongoing discussions on the post-2015 development agenda are trying to redirect and refocus the attention of the international community to change global rules to enhance LDCs’ trade capacities, which would improve their abilities to attain newly identified development targets and strengthen global integration.

It is pertinent to recall that the Istanbul Programme of Action for the LDCs endorsed at the Fourth United Nations Conference on LDCs in 2011 set the target that half of the LDCs will commence the process of graduation by 2020. Is the multilateral trading system, as represented by the WTO, prepared to take up the challenges posed by the Istanbul Programme of Action and post-2015 aspirations? If a significant number of LDCs aim to meet the graduation target, then it is not just a “LDC package” but the entire negotiation agenda in Bali that will be of interest to them from a medium-term perspective. Regardless of the opportunities for graduation, current negotiations at the WTO in Geneva and the decisions to be taken during MC9 regarding a “LDC package” and beyond are of great interest and importance to all LDCs—tomorrow’s developing countries.

The conference was organised by the Centre for Policy Dialogue (CPD), a leading South Asian think tank based in Dhaka, in partnership with six reputed institutions: the Commonwealth Secretariat, Friedrich-Ebert-Stiftung (FES), International Centre for Trade and Sustainable Development (ICTSD), IDEAS Centre, South Asia Watch on Trade, Economics and Environment (SAWTEE), and Think Tank Initiative (TTI).

The objectives of the conference were to: (a) create an opportunity to deliberate on key elements of the “LDC package” being discussed at the WTO, (b) endeavour to come to a common stance on key LDCs deliverables in Bali, and (c) prepare the Dhaka Outcome Document to highlight desirable elements of a Bali consensus on LDCs deliverables. The event was an exercise in transparency, inclusiveness and knowledge sharing. Speakers and participants included ministers, ambassadors, negotiators, high-level policymakers, representatives from the WTO Secretariat, civil society groups, academics and experts from Asia, Africa, Europe and North America. Discussions were held in two plenaries titled “State of Play as regards Current Negotiations” and “Systemic Issues and the Way Forward” and four thematic sessions on (a) duty-free, quota-free market access for the LDCs, (b) agriculture issues (including food security, cotton, etc.), (c) the LDCs services waiver and (d) trade facilitation.

## 2. Market Access for the LDCs

### *Duty-free, quota-free*

Commercially meaningful market access through duty-free, quota-free (DF-QF) treatment *for all goods originating from all LDCs* has been a key demand of the LDCs during the Doha Round negotiations. DF-QF treatment within the WTO is crucial for predictability and security of market access. Despite various Generalized System of Preferences schemes providing DF-QF treatment for LDC products, important LDC exports continue to face high tariffs in some developed countries, particularly the United States. The Hong Kong Ministerial Declaration, agreed at the Sixth WTO Ministerial Conference in Hong Kong in 2005, relating to DF-QF certainly represented progress, but it was limited by the “97 per cent” caveat. Because of high concentration of exports in the LDCs, it is apprehended that exclusion of three per cent of the aggregate tariff lines will mean that a significant part of LDC export (in value terms) will not be able to enjoy DF-QF market access in some important markets, particularly in the US market. Regrettably, current negotiations have exposed serious fault lines among the LDCs. Some African and Caribbean LDCs have expressed concern about the likely adverse impact of the 97 per cent DF-QF access on their existing shares of exports in key markets.

WTO members must find solutions that are acceptable to all LDCs in Bali. Overlapping tariff lines among Asian and African LDCs could be identified and mutually acceptable solutions that provide enhanced market access without adverse implications for concerned LDCs could be agreed upon. Indeed, Bangladesh and Cambodia export a range of products that are not exported at all by African countries. Some recent policy and academic studies have offered concrete proposals that could generate a balanced outcome for all LDCs. The exclusion of select tariff lines from DF-QF market access for competitive LDC exporters would still allow roughly half of apparels exports from Bangladesh and almost 60 per cent from Cambodia to receive duty-free access in the United States. Some modalities to take on board the concerns of affected LDCs could perhaps be developed based on certain agreed criteria.

On a line by line basis, information should be offered about DF-QF market access to be provided by developed and developing countries “declaring themselves in a position to do so”. LDCs need transparency on implementation of the Hong Kong Ministerial DF-QF decision. A concrete timeframe for inclusion of the “3 per cent exclusion list” (towards hundred per cent DF access) should be outlined to ensure a predictable transition from “partial” to “full” implementation of the DF-QF decision.

At MC9, a set of measures to operationalise a time-bound commitment to implement the Hong Kong Ministerial DF-QF decision in a commercially meaningful way must be adopted. To that end, the following steps should be pursued:

- Identify tariff lines of African LDCs and ‘developing countries at similar levels of development’ for time-bound exclusion from the immediate scope of DF-QF implementation .
- Stipulate a specific timeframe for integration of remaining excluded tariff lines (of the 3 per cent) by preference-giving members to achieve progressive compliance with the Hong Kong Ministerial DF-QF decision.

- Strengthen the monitoring mechanism at the WTO to expedite implementation of the Hong Kong Ministerial DF-QF decision and advance measures undertaken since then.

#### *Preferential rules of origin*

*Preferential rules of origin* are key to ensuring that LDCs are actually able to realise the market access benefits provided as part of the DF-QF initiative. One encouraging sign is the WTO Trade Negotiation Committee chair's recent statement that the revised submission made by the LDCs on preferential rules of origin is considered by WTO members to be "a step in the right direction". In Bali, changes to rules of origin must give preferential market access to LDC exports.

- Domestic value addition criteria, whether ad valorem tariffs, changes of tariff headings, or manufacturing or processing operations are concerned, should be defined in a manner that takes into account the domestic supply-side productive capacities of the LDCs and be easy to comply with.
- "Cumulation" should be defined by preference-giving members in a way that enhances the capacities of LDCs to realise the benefits of preferential access.
- The rules of origin as defined under the Canadian Generalized System of Preferences scheme—a 25 per cent local value addition requirement—could serve as a simple, general criterion that improves market access for LDCs.
- Any new guidelines on market access that favour LDCs decided at MC9 should be binding.

### **3. Agriculture, Food Security, and Cotton**

The three main agricultural issues that have been covered during current WTO negotiations are public stockholding for food security and domestic food aid purposes, with proposals made by the Group of 33, and tariff-rate quota administration and export competition, with proposals made by the Group of Twenty. Without changing the rules of the WTO Agreement on Agriculture, developing countries should be allowed some flexibility to exceed their domestic support limits when they buy, stock, and supply cereals and other foods to ensure food security for the poor. While it will take time to strike a deal on a complex formula involving inflation indexing, shifting baseline years, and other methods for calculating levels of support for agriculture, it is likely that WTO members will agree to a 'peace clause' or 'due restraint agreement' to provide flexibility to developing countries. It is unclear whether the new agreement will take the form of a 'waiver from legal exemptions or a non-binding political statement' by the conference chair. The justification for such flexibility and the need for decisions on tariff-rate quota administration, export subsidies, and export competition to safeguard the interests of developing countries cannot be denied. Given that 42 of the 49 LDCs are net food-importing countries, there is also a critical need to carefully assess the implications of this flexibility and these decisions for food availability in the global market and the dynamics of global food prices. In view of the problems with access to food in the global market that led to severe food shortages in some LDCs and recent volatility of global food prices that disproportionately affect the poor, MC9 should take into consideration the concerns of the LDCs in these regards and put in place safeguard measures to address persisting issues.

The issue of cotton, a key export of a number of African LDCs denied market access by developed countries that subsidise their own cotton, remains on the negotiating table and deserves renewed attention in Bali. In 2004, the WTO General Council agreed that the cotton issue should be addressed ambitiously, expeditiously, and specifically within the agriculture negotiations on trade-distorting policies relating to market access, domestic support, and export competition. At the Hong Kong Ministerial Conference the following year, it was agreed that all forms of export subsidies would be eliminated by 2006 and developed countries would give DF-QF access to LDC cotton exports beginning from the commencement of the implementation period of the Doha Round Decisions. Regrettably, as current negotiations in Geneva indicate, developed countries are not ready to make any firm commitments on cotton. Ministers should demand an agreement on cotton as a key deliverable in Bali, which along with a DF-QF decision would address the distinct ambitions and concerns of the LDCs.

In view of the above, the following steps should be taken at MC9:

- Prioritise LDCs' food security concerns by establishing a WTO work programme that looks at all relevant issues in a holistic manner. Changes in global agricultural production, agricultural productivity, and climatic conditions need to be examined to devise long-term solutions so that LDCs benefit from the WTO's rules on agriculture.
- Commit to not imposing export restrictions on LDCs during times of global food shortages and global food price volatility, when members are allowed flexibility through either a peace clause or due restraint agreement.
- Endorse the October 2013 proposal submitted to the WTO by Cotton-4 that calls for affirmation and implementation of the Hong Kong Ministerial Declaration, addressing distortions in the cotton sector including the elimination of export subsidies, and enhanced provision of technical assistance and capacity-building measures.

#### **4. LDCs Waiver in the Services Sector**

At the Eighth WTO Ministerial Conference in Geneva in 2011, WTO members adopted a services waiver and all agree that the next step is to operationalise it. The waiver allows countries to waive most-favoured-nation obligations for the LDCs in the General Agreement on Trade in Services and grant preferential market access to LDC services and service suppliers. In view of the increasing importance of services in the domestic economies of LDCs and growing share of services in global trade, the adoption of the waiver was an important development for LDCs. Regarding operationalisation of the services waiver, Nepal, on behalf of the LDCs, submitted a draft decision to the WTO in October 2013 for consideration as part of the outcome of MC9. The draft decision is primarily a process-oriented submission that proposes steps toward "commercially meaningful preferences". Notably, it proposes holding a Signaling Conference in July 2014, where members would indicate sectors and modes of supply where they intend to provide preferential treatment. Mode 4, movement of natural persons, is an area in which LDCs have particular interest, but the mode is often contingent on commercial presence in most of the current schedules, which makes it of little utility for the LDCs. It also urges members to eliminate or lower domestic regulatory and administrative barriers that impede current or potential LDC services exports.

In view of the above, the following measures should be taken at MC9:

- Exeditiously and effectively operationalise the services waiver to provide commercially meaningful preferences to LDC services and service suppliers, as was proposed in the draft presented by Nepal.
- Address issues associated with Mode 4 to facilitate LDC access to labour markets of developed countries.
- Immediately grant full market access to all LDC services and service suppliers and eliminate the need for economic needs tests.
- Increase technical and financial assistance to strengthen the domestic services capacities of LDCs so that they can take advantage of granted preferences.
- Mandate that members regularly report on steps that they are taking to operationalise the services waiver.
- Continue work after MC9 to identify sectors and modes of supply that are key for LDCs and urge WTO members to convene the High Level Meeting as early as possible in 2014 to address attendant issues.

## 5. Special and Differential Treatment

### *Monitoring mechanism*

Special and differential treatment (S&D) provisions that currently support developing countries and LDCs have been criticised for being weak in terms of implementation and enforcement. In view of this, a monitoring mechanism to ensure that S&D provisions service the needs of developing countries and LDCs is important. Such a mechanism was first proposed in 2002. It appears that this time around there is a likelihood that such a mechanism will be put in place.

- LDCs demand that a monitoring mechanism should be established at the WTO to conduct regular reviews of existing S&D provisions. Rather than being a forum for diagnostic analysis, this mechanism should have a prescriptive role and be empowered to make binding recommendations.
- The monitoring mechanism should have the ability to make recommendations to the appropriate technical body when any weakness is identified and be able to recommend to this body that negotiations be launched on particular S&D provisions.

### *Cancún proposals*

Current negotiations have failed to demonstrate readiness to consider the 28 Cancún agreement-specific proposals. At the Fifth WTO Ministerial Conference in Cancún, Mexico, in 2003, members agreed to an *in-principle agreement* relating to 28 S&D provisions in the WTO agreements. At the Geneva Ministerial in 2011, members agreed to take stock of these proposals, both to incorporate subsequent developments and examine the possibility of advancing implementation. LDCs have reiterated their position at the WTO that it is “all as a package or nothing”. This stance is dictated by the apprehension that opening discussion on some provisions could lead to opening discussions on others, inducing a review of the provisions and undermining the prospect of their adoption in Bali.

- At MC9, ministers should bring clarity to the WTO work programme on adoption of the Cancún proposals.

## **6. Trade Facilitation**

After several years of exploratory work, WTO members agreed to launch negotiations on trade facilitation, first highlighted in 1996 as one of the “four Singapore issues” at the First WTO Ministerial Conference in Singapore. Formal discussions were initiated in July 2004 on the basis of Annex D of the so-called “July Package”. As it now stands, an agreement on trade facilitation could be one of the key deliverables in Bali. Current discussions at the WTO have covered key areas, such as new disciplines, customs cooperation, flexibilities for developing countries and LDCs, and implementation plans, but concerns persist about many others, including access to and coherence of assistance.

Recent discussions indicate that consensus has yet to be reached on the levels of ambition and flexibility in a trade facilitation agreement, the “commitments” to be undertaken by developing countries, and technical assistance and capacity-building measures to be provided to developing countries and LDCs for implementation. LDCs are interested in the potential economic benefits of enhanced trade facilitation for producers, consumers, exporters, and importers, as well as raising the competitiveness of their products in the global market and economy-wide positive multiplier effects. The critical issue for the LDCs is access to finance for trade-related infrastructure and other support measures that address particular concerns about trade facilitation.

Given the above information, the following steps should be taken at MC9:

- Harmonise trade facilitation provisions with provisions of other WTO agreements (e.g., agreements on customs valuation, sanitary and phytosanitary measures, and technical barriers to trade)
- Do not bind LDCs by any time period for implementation because capacity-building measures in certain areas are necessary for LDCs to be able to implement a trade facilitation agreement.
- Extend flexibilities provided to LDCs to countries graduating from LDC status.

## **7. Systemic Dimensions**

Ongoing negotiations have brought to the fore a number of systemic issues concerning the functioning and decision-making processes of the WTO. Because of intractable differences and lack of progress toward convergence on key issues, some members have proposed different options for negotiations that would have important systemic implications for the WTO. Negotiations as a “single undertaking” (“nothing is agreed unless everything is agreed”, which provides the “balance” in the overall decision) in particular have come under scrutiny given the current impasse in key areas of discussions.

One argument is that likeminded members should move ahead in specific areas and conclude plurilateral agreements when they represent a critical mass (in terms of the volume of global trade or share of the global economy). Such an approach would strengthen the multilateral trading system assuming that other members will move to join once plurilateral agreements are in place. The counter-argument is that adopting plurilateral agreements as a modality of decision making is a violation of the most-

favoured-nation principle and seriously puts into question the “fine balance in the outcomes” embracing all areas of negotiation envisaged in the WTO architecture. Another argument is that plurilateral agreements should be inclusive, act as a stepping stone toward broader multilateral agreements, and be adopted on a most-favoured-nation basis only when a critical mass has been achieved. Any discussion as regards systemic dimensions concerning decision making process in the WTO must take into account LDC views and must be conducted in an inclusive manner.

### **8. Post-Bali Work Programme**

Signals transmitted from Geneva indicate that chances of a negotiated outcome in Bali is rather slim. This would mean that most of the expected deliverables for the LDCs will be left to the post-Bali work programme of the WTO. To enable the LDCs to secure the expected deliverables, commitments should be made in Bali on making the envisaged post-Bali work programme concrete and time-bound. A timeframe for assessment of progress of the work programme should be clearly spelt out in the Bali outcome document.