



International Conference on
Upcoming Ninth WTO Ministerial: Securing the LDCs Deliverables
Dhaka, Bangladesh; 25-27 October 2013

Session IV: LDC Waiver in the Services Sector
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THE LDC SERVICES WAIVER

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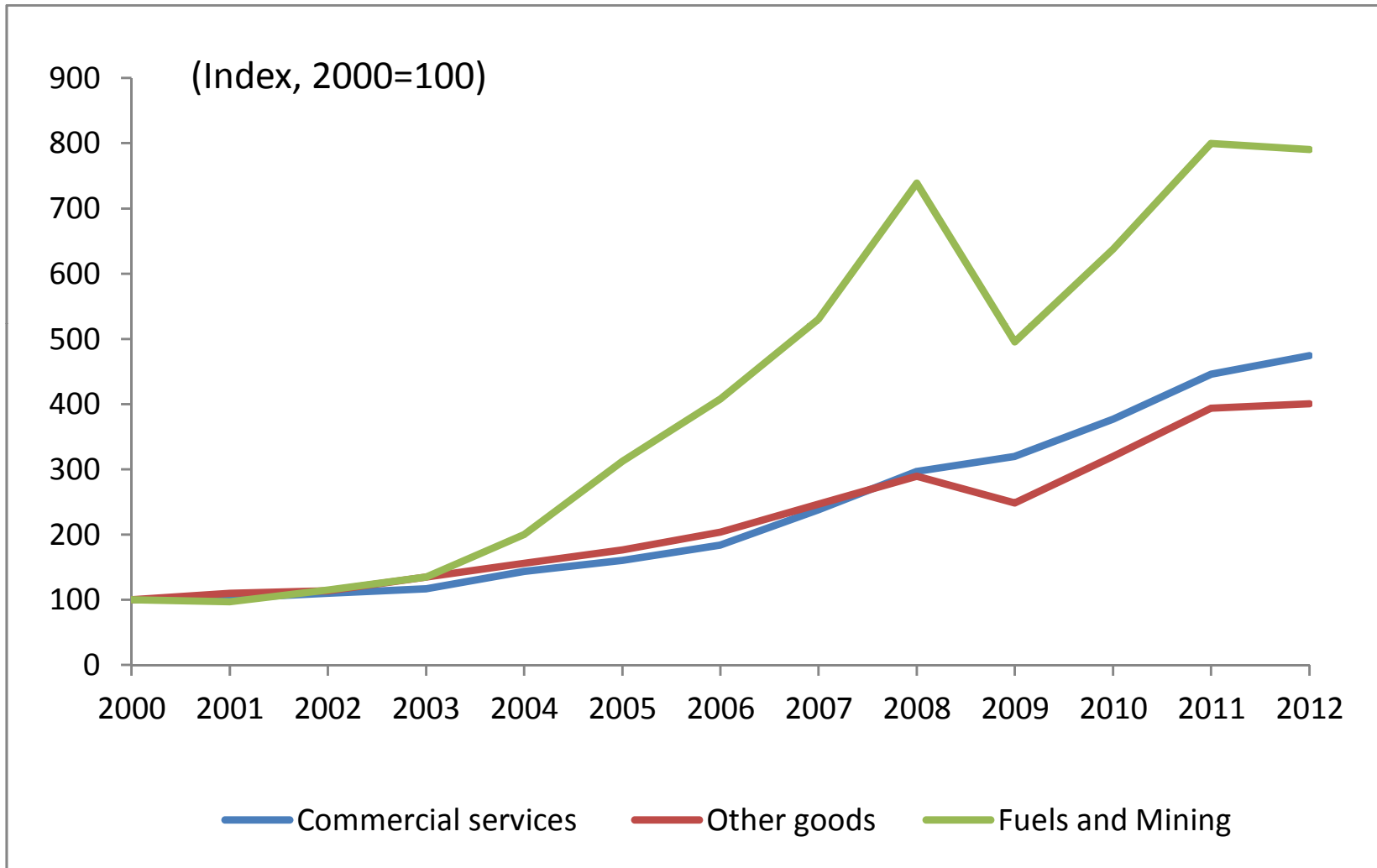
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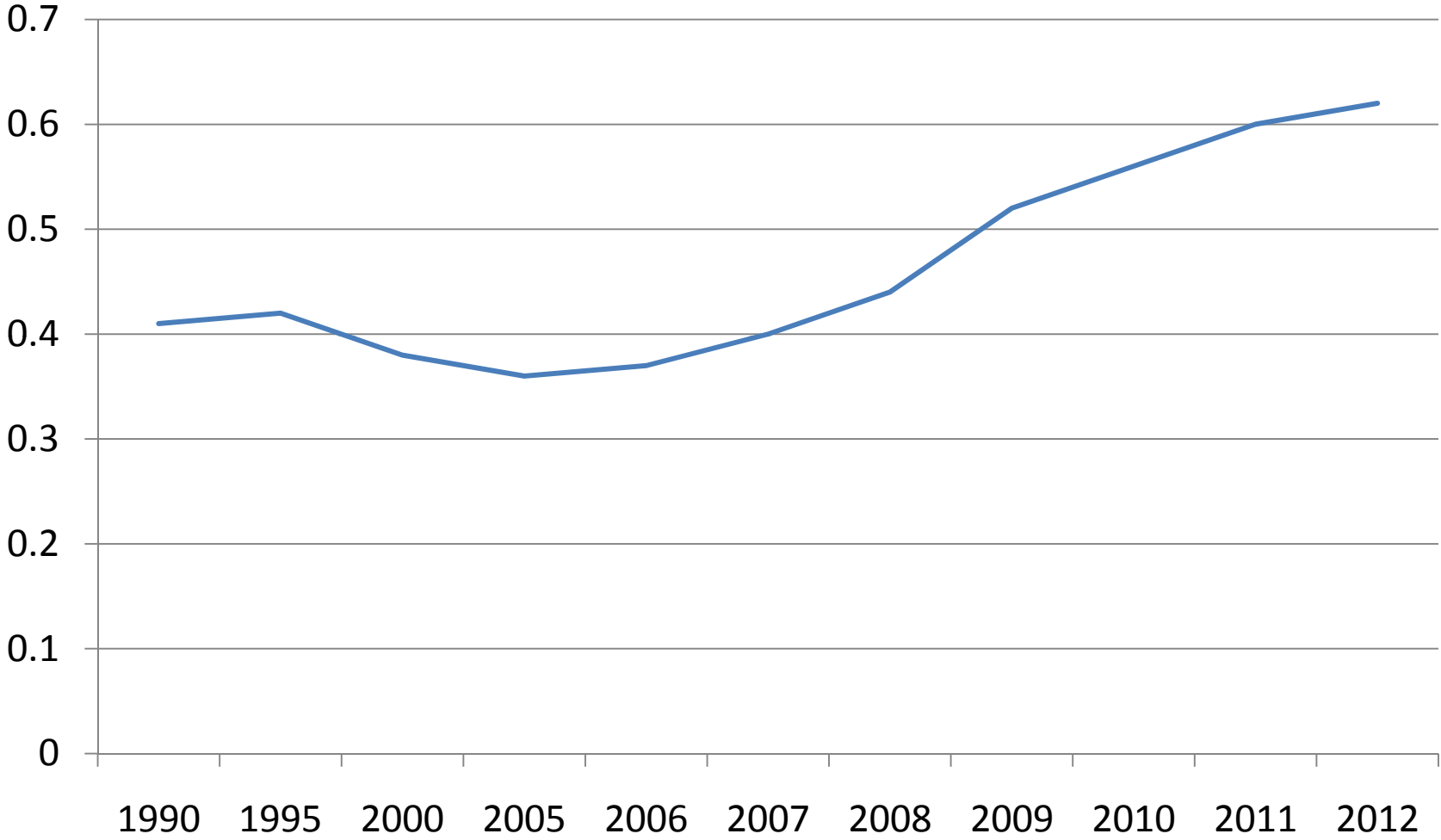
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EVOLUTION OF LDC EXPORTS 2000-2012

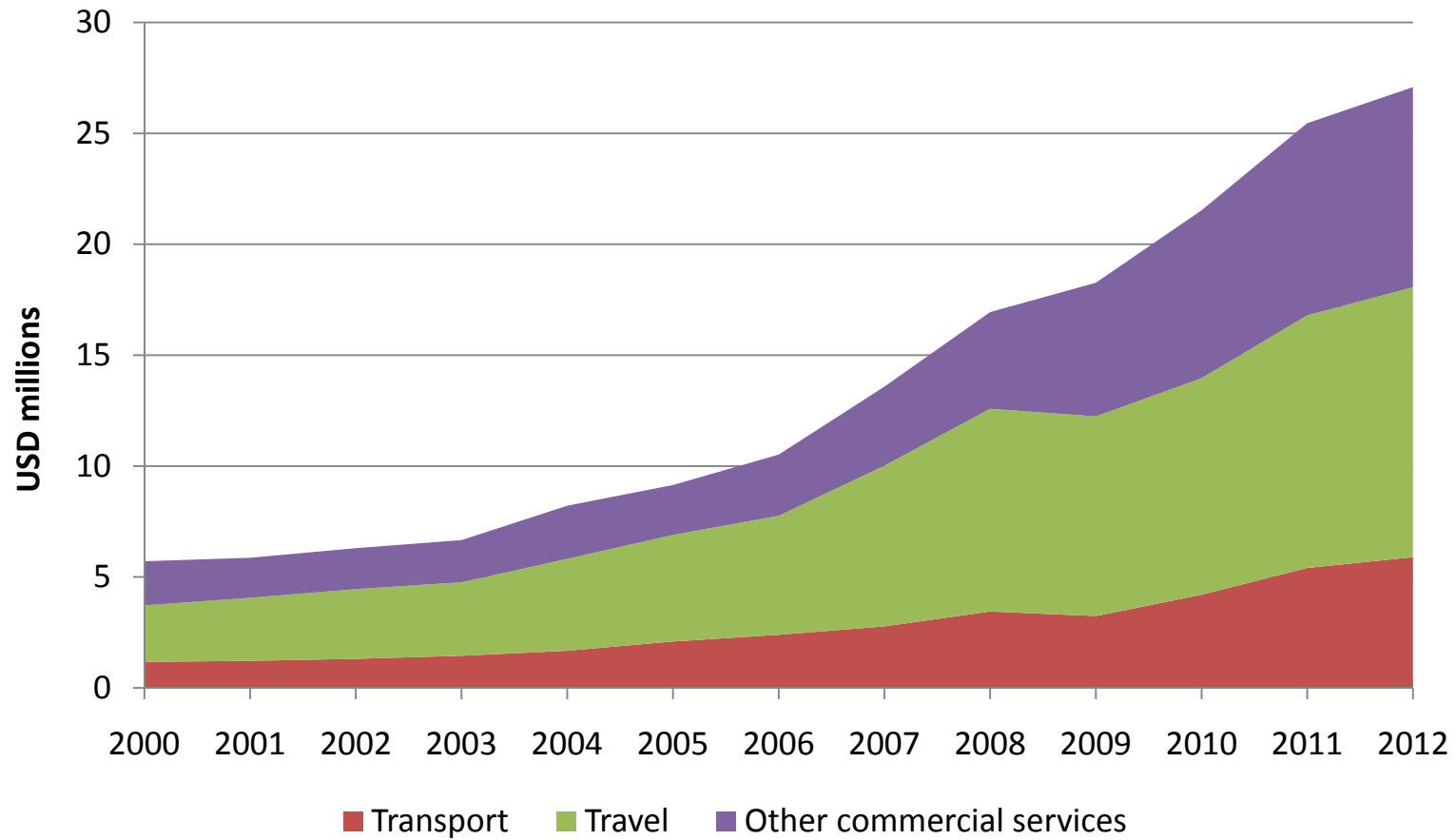


LDC SHARE IN WORLD SERVICE EXPORTS (%)



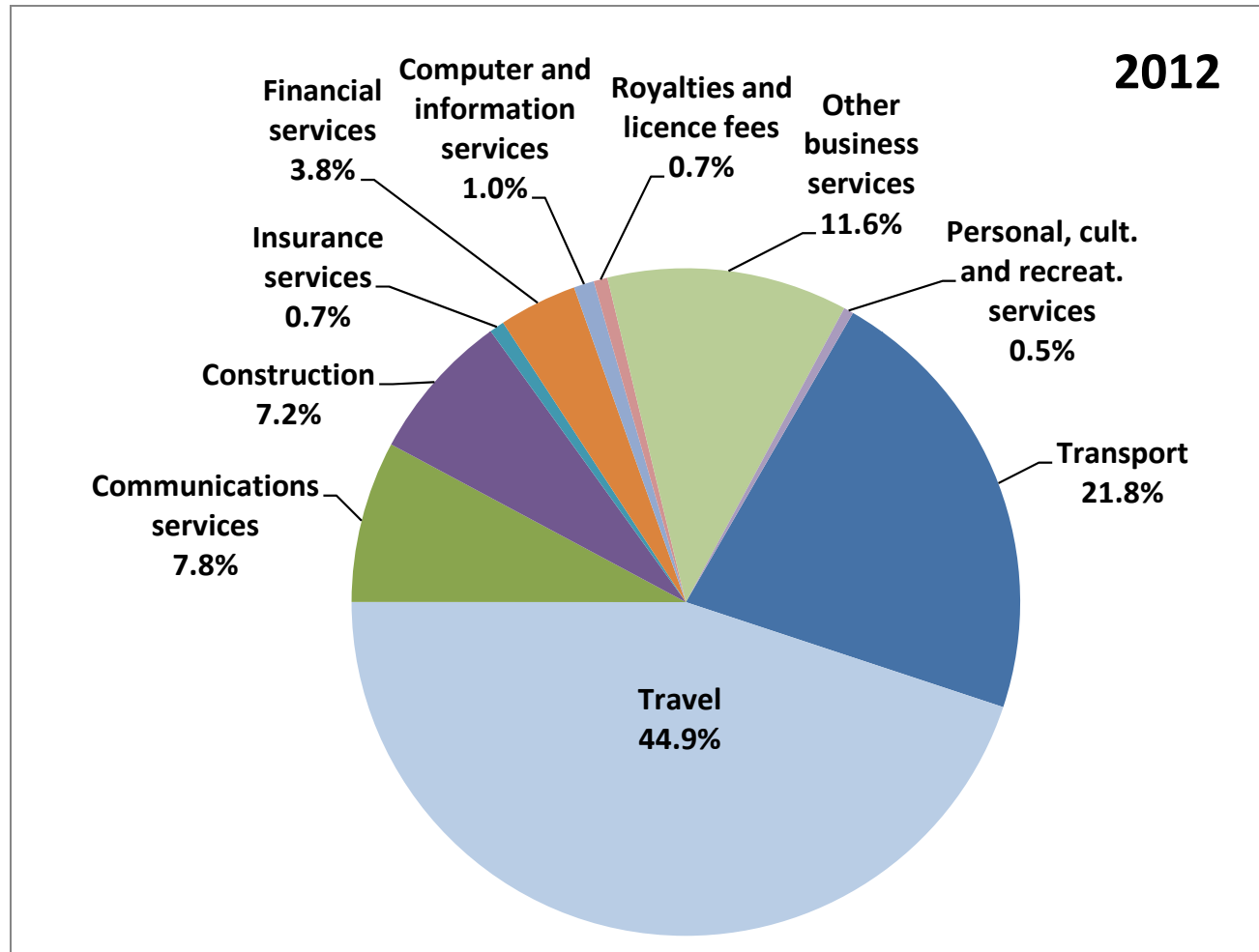
(source adapted from: WT/COMTD/LDC/W/58)

LDC COMMERCIAL SERVICES EXPORTS BY CATEGORY, 2000-2012



(source adapted from: WT/COMTD/LDC/W/58)

LDC STRUCTURE OF COMMERCIAL SERVICES BY SECTOR, 2012



OVERAL FINDINGS ON LDC SERVICES EXPORTS

- All LDCs export commercial services, depending on their geographic differences and their composition of services trade.
- In 2011, almost half of LDCs' services exports took place through mode 2, mode 1 accounted for roughly one third, followed by mode 4 and mode 3.
- High degree of diversification in LDC services exports, though Tourism is dominant
- Typically, individual LDC deficits in services, but LDC group surplus in Travel
- Recent increase in LDC share in total world services exports (0.62% in 2012)
- For as many as ½ of the LDCs , the share of services in total exports is at or well above the global average.
- LDC total services exports contribution to GDP value-added is steadily increasing, but still below the world average

(source: presentation by ITC at ICTSD's [Brainstorming](#))



HISTORY OF LDC SERVICES WAIVER

From special priority to an LDC waiver

- GATS Art. IV: 1, 3 – Members need to give LDCs «special priority» in taking measures to increase their participation in services trade (1995)
- LDC Modalities - required Members to «develop appropriate mechanisms» to achieve special priority. (2003)
- Mechanism should be a waiver (2008)
- LDC Services Waiver approved (2011)

Source: JOB/SERV/135

PREFERENTIAL TREATMENT TO SERVICES AND SERVICE SUPPLIERS OF LDCs

DECISION OF 17 DECEMBER 2011 (WT/L/847)

Five key messages:

1. Waives MFN treatment obligation
2. LDC specific enabling clause for services exports
3. Lasts for 15 years from the date of its adoption (until 11 December 2026)
4. Preferences can be granted immediately and unconditionally to services and service suppliers of all LDCs
5. Should not reduce the benefits of non-LDC members



THE SCOPE OF LDC SERVICES WAIVER:

1. Market access preferences
(GATS Art. XVI) (automatic)



GATS Art. XVI: Limitations on:

1. Number of suppliers
2. Value of service transaction or assets
3. Number of service operations or output
4. Number of natural persons per sector or supplier
5. Types of legal entity
6. Proportion of foreign capital

2. Non-market access preferences (subject to approval by the CTS)

- Regulatory preferences
- Preferential national treatment
- Other preferences (tax exemptions, licensing requirements, etc.)

Flexible Rules of Origin :

- LDC natural persons: eligible
- LDC juridical persons:
 - If LDC -owned or controlled: eligible
 - If Non-LDC owned: eligible IF “substantive business operations” in any LDC

WHAT'S NEXT: A TWO WAY APPROACH

- Looking at LDCs service exports and export potential:
 - LDCs should Identify priority sectors and modes of supply of interest to them
 - Identify target markets and barriers faced on those markets
- Potential preference granting countries can act proactively by looking at their existing restrictions and what they can do to remove/reduce them.

IDENTIFYING LDCs INTERESTS

PRELIMINARY RESULTS FROM LDC QUESTIONNAIRE*

Which sectors are most important?

1. Professional services (legal, accounting, architecture etc.) (50%)
2. Tourism and travel related services (45%)
3. Transport services (45%)
4. Communication services (35%)
5. Computer related services (30%)

What barriers are LDCs facing?

1. Regulatory or Administrative Barriers (RA) (29%)
2. Market Access (MA) (26%)
3. Discrimination - National Treatment – MFN (18%)
4. Other Issues (16%)
5. Taxes and other charges (11%) etc.

MODES OF SUPPLY BEING EXPORTED

TOP 5 EXPORTS BY MODE (IN ORDER OF PERCEIVED IMPORTANCE)

Top 5 sectors by mode (in order of perceived importance)			
Mode 1	Mode 2	Mode 3	Mode 4
Comm.	Tourism/travel	Transport	Professional
Professional	Transport	Financial	Health-related & social
Computer/ICT	Educational	Professional	Computer/ICT
Financial	Rec, cultural & sporting	Tourism/travel	Educational
Transport	Professional	Construction & Rel. engineering	Transport

Source: ICTSD – ILEAP – WTIA Questionnaire



COMMON EXPORT DESTINATIONS BY SECTOR


Professional	Transport	Tourism	Comms	Computer/ICT
EU + FR, UK	Worldwide	EU + UK	Worldwide	EU
USA	Senegal	USA	USA	USA
Russia	SADC	China	Senegal	Africa + Cote d'I
South Africa	Rwanda	Côte d'Ivoire	France	Japan
Canada	EU + France	Canada	South Africa	Canada
Botswana	Côte d'Ivoire	Japan	Malaysia	India
	Africa	India	EU + France	
		ASEAN	Africa	

Source: ICTSD – ILEAP – WTIA Questionnaire



WHAT COULD POTENTIAL PREFERENCE GRANTING COUNTRIES DO?

Option 1: take a bold approach:

- Immediately grant to LDC firms and service suppliers FULL market access for all scheduled services – i.e., remove ALL existing limitations as per GATS Art. XVI  At least ALL economic needs tests (ENTs) should be eliminated for services & suppliers from LDCs.
- Ambitious but probably not realistic and limited to Art XVI (i.e. market access)

Option 2: take a more targeted approach:

- Extend to LDCs MFN exemptions
- Extend to LDCs RTA preferences
- Targeted market access and regulatory barriers where preferences could be applied

1. EXAMPLES: MFN EXEMPTIONS

Member	MFN Exemption	Possible Preference for LDCs
Turkey	Turkey grants recognition of accountancy service providers' qualifications (and the resulting right to act as "financial advisor" in Turkey) to accountants from certain countries on the basis of reciprocity.	Grant same recognition to LDC accountants, without reciprocity, <ul style="list-style-type: none"> - On a blanket basis (unlikely) - or by applying facilitated recognition procedures (quite possible)
Philippines	The Philippines grant special visas and waives labour market test (i.e. economic needs test, or ENT) for foreign "traders and investors" from certain countries (on the basis of reciprocal treaties).	Waive ENTs for LDC providers or possibly for certain categories of LDC service providers, e.g. business visitors.
Switzerland	Switzerland grants easier access (work permits) to distribution service providers from EFTA (European Free Trade Association) countries.	Extend market access to LDC distribution service providers on a non-reciprocal basis (possibly limited to specialty shops).

2. EXAMPLES: RTA PREFERENCES

Member(s) / Agreement	RTA Preference	Possible Preference for LDCs
CARIFORUM-EU EPA	EU grants mode 4 access as Contractual Service Supplier (CSS) for fashion models and chefs de cuisine without graduate qualifications	Extend CSS access for fashion models and chefs de cuisine to LDCs
US-Canada	Eliminates the need for chartered accountants trained in US or Canada to duplicate all steps in the licensing process in the other country; also abbreviated examination requirements.	Extend these preferences to chartered accountants trained in LDCs, possibly under certain conditions (short of those applying normally to third-country accountants).
Japan-Mexico	Labour mobility: Access is limited to temporary entry and to four higher-skilled categories: business visitors, intra-company transferees, investors and professionals. Approval procedures and quantitative restrictions are removed for all four groups. Visas may still be required but processing fees have to take into consideration the administrative cost involved.	Extend same or similar privileges to these categories of service suppliers from LDCs.

3. EXAMPLES: CURRENT MA/NT LIMITATIONS

Member	Scheduled MA Limitation	Possible Preference for LDCs
Canada (Manitoba Province)	In order to supply catering services, Mode 4 services suppliers must meet a citizenship and residency requirement.	Abolish the need for the citizenship and residency requirement (possibly within an LDC-only quota). Alternatively, impose only a residency requirement and do away with the citizenship requirement to provide these services.
China	In China's services schedule, China maintains a national treatment (NT) limitation on Mode 3 providers of travel agency and tour operator services, whereby foreign or joint venture providers cannot engage in activities related to Chinese travelling abroad or to Hong Kong.	China could remove this limitation for LDC owned/operated travel agencies. China has, in fact, indicated that it may do so, experimenting first in the context of the new Shanghai Free trade Zone.
Switzerland	Switzerland has scheduled economic needs tests for restaurants and hotels (mode 3).	ENTs could be removed for LDC-invested providers (mode 3), possibly under a quota.

NEXT STEPS: WHAT ARE LDCs EXPECTING IN BALI

1. Process involving:

- ✓ Periodical review of operationalisation under the CTS;
- ✓ CTS may make recommendations on further steps to enhance operationalisation;
- ✓ Convene High-level meeting on the basis of LDC joint request where trading partners will indicate sectors and modes of supply where they intend to provide preferences.

2. Members encouraged to already extend to LDCs commercially meaningful preferences;

3. The need for enhanced financial and technical support aimed at overcoming supply side constrains;



FINAL THOUGHTS

- Services waiver as a low hanging fruit for Bali;
 - In the interest of every member to reach a quick consensus on Bali Decision;
 - A process outcome is realistic and a necessary first step;
- Shared responsibility (LDCs need to define their needs but this should not prevent trading partners to be proactive);
- As we move forward: need for demystification and confidence building.

THANK YOU

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