

*Virtual Dialogue*

# Upcoming MC12: Bangladesh's Expectations and Possible Stance

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## ***Section 1: The Context***

- Bangladesh's LDC graduation, scheduled for 2026, and middle income graduation (from LIC to LMIC in 2015) are indicative of the country's success in terms of key socio-economic indicators and the country's resilience against many odds: Bangladesh was termed by some as **The Test Case for Development**
- Bangladesh became a member of the LDC group in December 1975
- Recommendation for Bangladesh's graduation, in 2026, made at the 2021 meeting of the UN-CDP, after four and half decades of life as an LDC and announced in the year when we celebrate the Birth Centenary of Father of the Nation and Fiftieth Anniversary of our Independence, are indeed occasions for celebration for our country and our people
- Bangladesh looks forward to taking advantage of its strengthened position to reap the benefits of LDC graduation
- However, as the UN resolution says, **graduation is only a milestone, not the destination of a nation's journey**
- While welcome, graduation will entail many new challenges which Bangladesh will need to address to make **graduation sustainable**

- Understanding the implications of LDC graduation and charting the pathways forward will be of crucial importance in this backdrop
- In view of the upcoming **WTO-MC12**, to be held on November 30-December 3, 2021 in Geneva, where the Honourable Minister for Commerce will lead the Bangladesh delegation, the discussion on the way forward assumes particular significance
- MC12 will be followed by **LDCV in Doha**, Qatar on 23-27 January 2022 where a decadal programme of action in support of the LDCs (2021-2031) will be adopted at the highest political level. Thus, on both counts this discussion is very timely

## ***Section 2: WTO Mc12 and the Emergent Scenario***

- LDCs are graduating in the **shadow of the pandemic**
  - All macroeconomic performance indicators have been adversely affected including EVI and HAI sub-indicators
  - Out of 12 LDCs slated for graduation in 2018, only 7 were recommended by the CDP in its meeting held in February, 2021
- Embedded Structural Weaknesses
  - LDC graduation criteria do not capture the structural vulnerabilities that afflict the LDCs. The EVI and HAI criteria do not include **many structural issues**; the GNI per capita does **not capture inequalities** and distributional aspects
- A much Weakened WTO
  - MC12 is taking place following the **Mc11 in Buenos Aires in 2017** which failed to come up with an agreed Ministerial declaration
  - **Systematic issues** in the WTO are being questioned
  - **Operational modalities** of the WTO have been significantly weakened (e.g. dysfunctional DSB)
  - **Rise of protectionism** during the pandemic (e.g., export ban; highly restrictive tariffs)

- Frustrating experience of the implementation of the **decadal IPOA** (2011-2021) which had set many ambitious targets (e.g., helping LDCs double their share in global export)
- The ascendancy of the **mega-regional groupings** (e.g., CPTPP, RCEP)
- Bangladesh will have to face the challenges of **dual gradual** (LDC graduation and middle income graduation)
- The rules of the game were changed. If between 1971 and 2021 only six LDCs have graduated, now 16 LDCs are at various stages of graduation, of which 7 will be graduating over next few years. This is because the values of **HAI and EVI were fixed at 66 and above and 32 and below** respectively in 2012

## Among the Graduating LDCs Bangladesh is far the most important economy

Table: Selected data on LDCs and graduating LDCs (billion USD)

Countries	GDP	Total export of goods	Total export of services	Total import of goods	Total import of services
World	84705.43	17347.77	5041.74	16995.23	4706.09
All LDCs* (including 16 graduating LDCs)	1108.69	170.55	41.86	237.73	60.14
LDCs recommended for graduation (7)	443.77 (100%)	61.15 (100%)	8.68 (100%)	75.74 (100%)	16.74 (100%)
Bangladesh	324.24 (73.1%)	32.47 (53.1%)	6.31 (71.2%)	48.85 (64.5%)	8.41 (50.2%)
Bhutan	2.41	0.65	0.13	0.96	0.23
Nepal	33.66	0.89	0.90	9.59	1.09
Angola	62.31	20.94	0.07	9.54	5.58
Lao PDR	19.14	5.81	1.18	6.27	1.25
São Tomé and Príncipe	0.47	0.01	0.04	0.12	0.04
Solomon Islands	1.55	0.38	0.05	0.40	0.15
Other graduating LDCs (9)	152.38	44.24	11.92	51.84	9.73
Other LDCs (16)	512.58	61.16	21.26	110.16	33.66

Source: World Development Indicators (WDI), World Bank (2019)

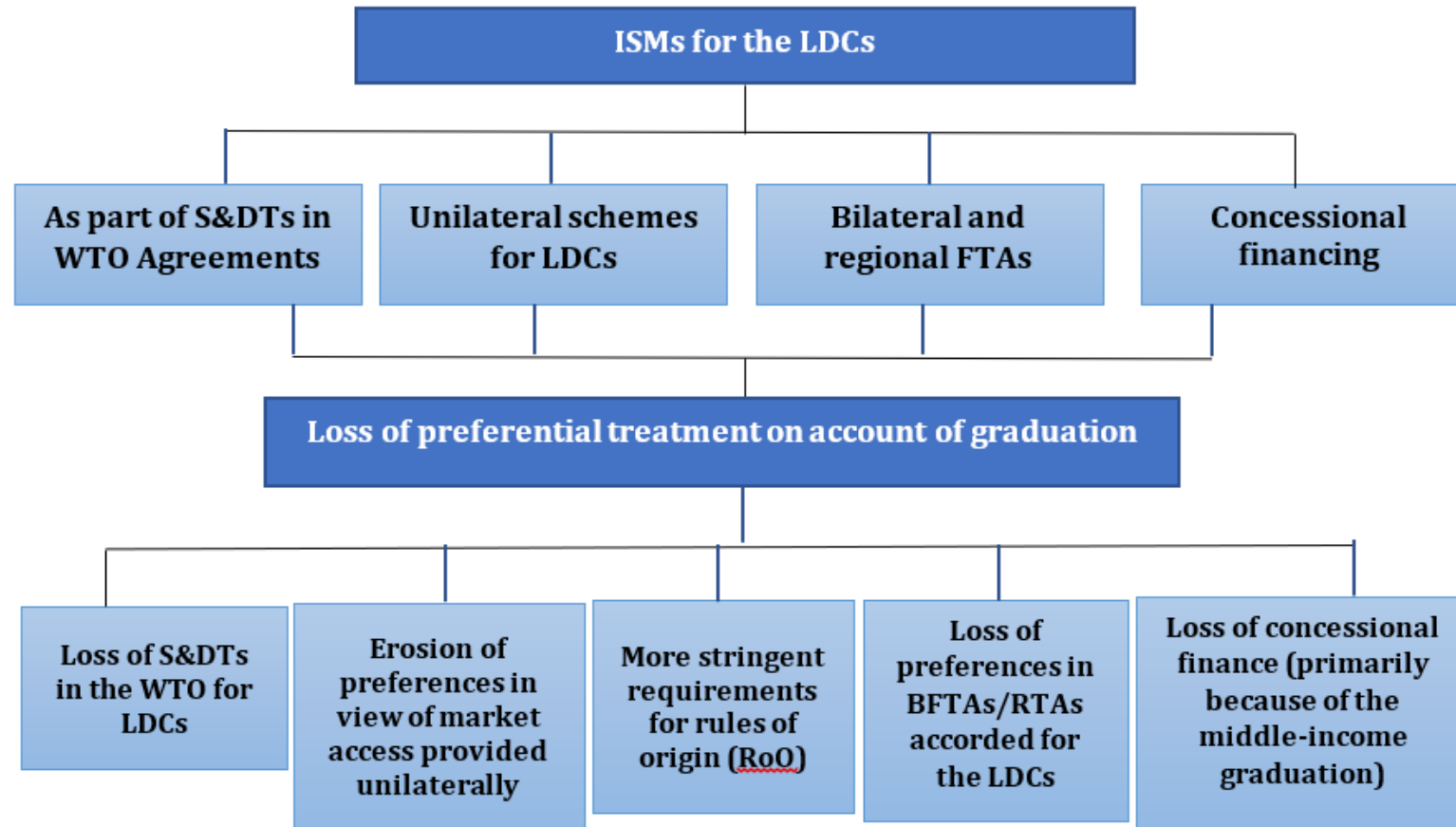
**Note:** a. (\*) Central African Republic, Chad, Eritrea and Somalia are not included because of lack of data. However, the concerned magnitudes are insignificant.

b. Respective shares of seven LDCs in the LDC group in view of the five indicators are: 40.1 per cent, 35.9 per cent, 20.7 per cent, 31.9 per cent and 27.8 per cent.

- *Figures in parentheses show Bangladesh's share in graduating LDC group*

## Section 3: Implications of LDC Graduation for Bangladesh in view of the WTO Provisions

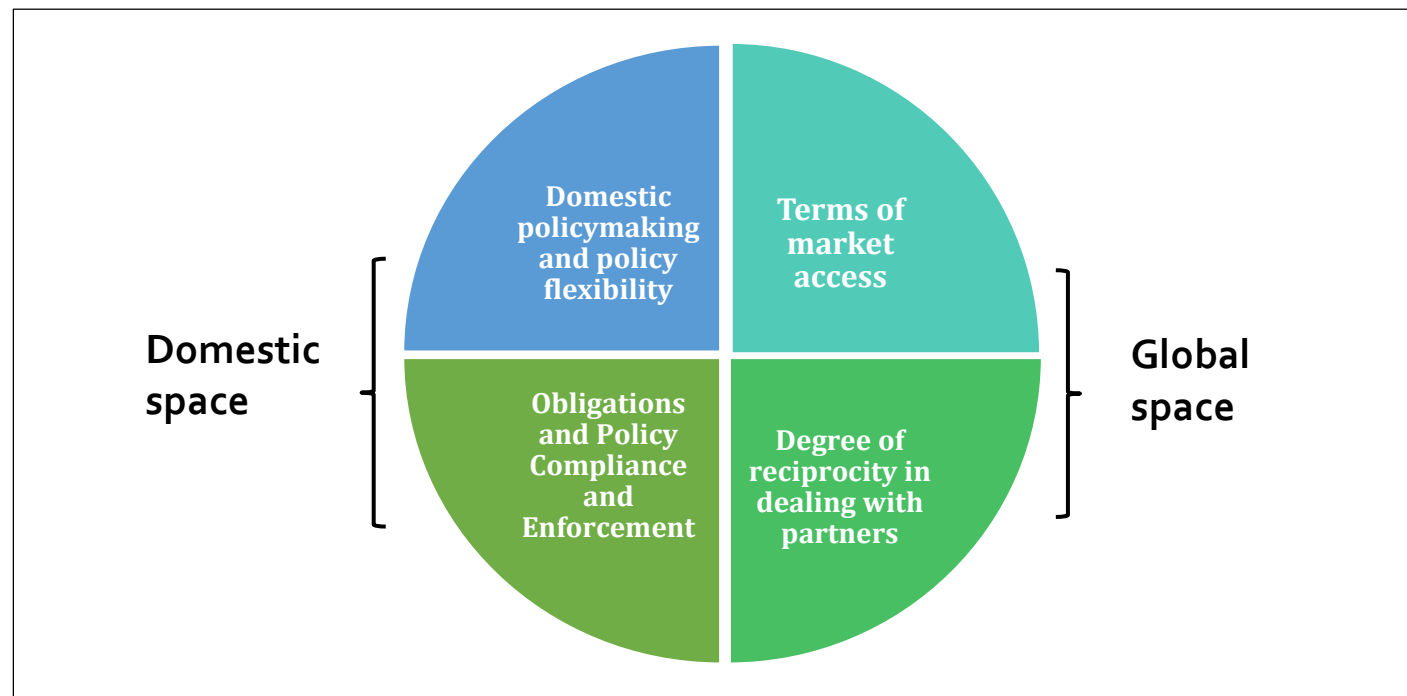
### Graduation and Loss of International Support Measures (ISMs)



Source: Developed by the author

- It is reckoned that the impacts on the graduating LDCs – will be felt at both **Domestic Space and Global Space**, as depicted in Figure 2. These will likely concern four areas: (a) policy-making and policy flexibilities; (b) obligations, compliance and enforcement relating to various WTO Agreements; (c) terms of market access; and (d) degree of reciprocity in dealing with partners.

Figure: Impact of LDC graduation on policy space



Source: Author's elaboration



- There is a significant number of S&DT provisions in the various WTO Agreements. Some of these are specifically targetted for the LDCs
- Number of S&D provisions in the **various (16) WTO Agreements: 183**
  - S&DTs exclusively **for LDCs:25** (Low, Patrick, 2021)
- S&DTs enjoyed by the LDCs are in the form of:
  - **Extended period for Implementation** of obligations through granting of transition period (e.g. TRIPS 66.1 transition till end of 2032)
  - **Waivers granted** to allow offering countries preferences to providers from LDCs (e.g. services waiver to LDCs in GATS)
  - **Flexibility of commitment** as regards use of policy instruments and obligations (e.g. Category A, B and C Trade Facilitation Agreement)

- **LDCs also enjoy preferential market access** under autonomous initiatives operated by preference-providing WTO member countries. For example, as part of LDC-specific preferential market access schemes
  - These preferences are allowed and codified under the **WTO Enabling Clause** of 1979
  - These are offered: **bilaterally** (e.g. EU-EBA, LDC- specific GSP Schemes). And also as part of **RTAs** (e.g. in SAFTA, India offers DF-QF market access to all SAARC LDCs)
- Together the above constitutes **international support measures (ISMs)** for the LDCs
- On graduation, LDC-specific ISMs will no more be available to concerned LDCs

## Box: Implications of LDC Graduation in View of Selected WTO Agreements

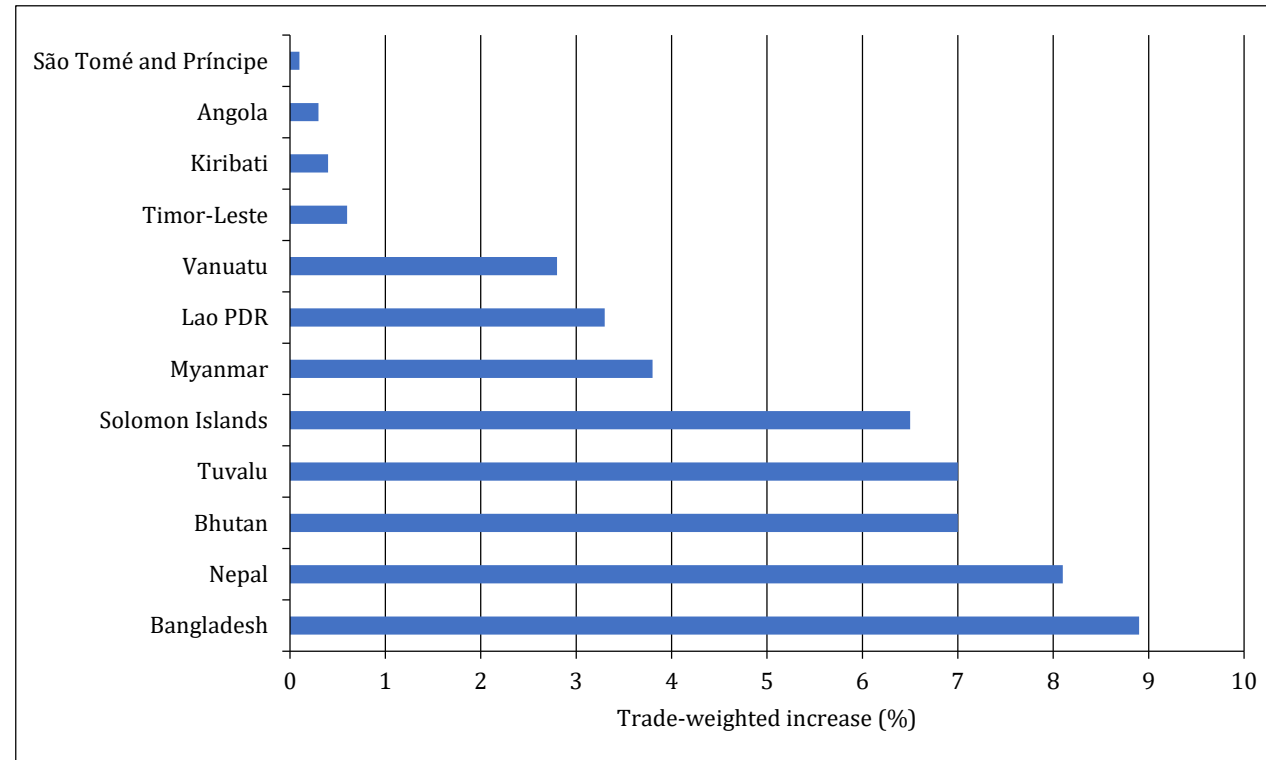
Provision	LDC Flexibilities	Implications for LDC Graduation
<b>Subsidies and Countervailing Measures (SCM)</b>	<p>Flexibility concerning subsidies contingent on local content requirement for export provided to LDCs has expired in 2002. However, pursuant to Article 27.2 and Annex VII (a) LDCs are exempt from prohibition of export subsidies for non-agricultural products. Annex VII(b) allows countries whose per capita GNI is less than \$1000, in 1990 terms, to enjoy flexibilities in this regard.</p>	<p>Many graduating LDCs including those in South Asia provide subsidies for a large number of items in the form of cash schemes (e.g. for new products and new items in case of RMG exports by Bangladesh), export credit support, incentives for backward linkages. Some have subsidies in place contingent on local content requirement in case of export. With regard to subsidies for export of non-agricultural products, the exemption will no longer be available on graduation. LDCs may try to get into the list of Annex VII (b) countries whose per capita GNI (in 1990 terms) is less than 1000 US\$. Bangladesh is not expected to benefit from this provision.</p>
<b>Agreement on Agriculture (AoA)</b>	<p>LDCs are not required to undertake tariff reductions commitments, but only bind tariffs in the WTO. With respect to Export Competition agreed at MC10, LDCs and NFIDCs can provide certain subsidies and are allowed to monetise international food aid. They are also permitted lower frequency of notification. LDCs are required to notify every two years as regards domestic support.</p>	<p>LDCs have bound tariffs for agricultural and manufacturing goods, but not to the fullest extent. These bound tariffs will remain unchanged. However, agri-export subsidies will not be allowable. However, a member can continue to enjoy flexibilities if it is listed as a net-food importing country (NFIDC). Indeed, 42 out of 47 LDCs are NFIDCs. On graduation, LDCs will be subjected to more frequent notifications.</p>

<b>Trade-related Investment Measures (TRIMS)</b>	TRIMS does not allow local content requirement or value/ volume ceiling on import content as per cent of exports. However, LDCs are granted exemption till December 2020.	LDCs have not made any notification to the WTO as regards taking recourse to any TRIMS flexibilities. However, certain sectors do have local content requirements in place. This will no longer be allowable. Industrial Policy and Export Policy of graduated LDCs will need to be made WTO-compliant.
<b>Trade-related Intellectual Property Rights (TRIPS)</b>	TRIPS Article 66.1 allows LDCs flexibilities in implementing TRIPS provision till July 2021 (latest extension).	At the 29 <sup>th</sup> June 2021 meeting of the TRIPS Council the transition period has been extended for LDCs till July 2034. But an LDC will lose eligibility to enjoy the benefits from the time it will graduate.
<b>TRIPS and Public Health</b>	TRIPS and Public Health decision allows the LDCs flexibility in areas of patents and licensing requirements (effective till end-2032)	LDCs such as Bangladesh have made good use of TRIPS flexibilities. For example, 20 per cent of Bangladesh's Pharma industry's drugs are generic versions of patented drugs. Import restrictions and price regulations are also in place. IP legislations and patent laws will need to be made compatible with TRIPS regime. Price of a common drug like insulin could rise eight-fold.
<b>Trade Facilitation Agreement (TFA)</b>	LDCs are allowed to self-determine the process of implementing TFA (categories A, B and C). They have also been granted extra time for notification. Longer grace period for dispute settlement creates flexibility in expending commitments as regards B and C.	The LDC-specific timeline for notification as regards definite dates of implementation of category C commitment will expire in August 2022. Thus, graduating LDCs will need to comply with this even before graduation. On graduation, graduating LDCs will lose the flexibilities as regards dispute settlement and extension of B and C categories of commitment.

<b>Trade in Services</b>	Under the WTO GATS, LDCs are allowed to liberalise at slow pace. LDCs are to be given special priority in accessing sectors and modes of supply of export interest to the LDCs. In the context of LDC services waiver, members are to provide preferential treatment to services and service suppliers of LDCs with regard to market access. The waiver is currently valid till end of 2030.	24 WTO members have provided waiver notification that cover a wide range of areas and all four modes of services. However, these are yet to be operationalised. A large number of LDCs will graduate earlier than 2030. Accordingly, they will cease to benefit from current benefits or any benefits to be agreed upon later, accruing from operationalisation of the services waiver.
<b>Climate Fund</b>	There is a dedicated fund for LDCs for climate related support	Support from LDCF will no more be available. However, graduated LDCs will continue to have access to Special Climate Fund (SCCF) and Green Climate Fund as these are open to all vulnerable developing countries.
<b>Sanitary and Phytosanitary Measures (SPS) Agreement</b>	SPS Agreement provides for technical and capacity building support to both LDCs and developing countries. However, LDCs are to get preference as regards support from Standards and Trade Development Facility (STDF) and are required to have a lower level of co-financing (10 per cent).	Impact of graduation is anticipated to be limited. However, graduating LDCs are likely to receive lower priority in getting support from STDF once they graduate. Their share of financing contribution will rise from 10 per cent to 20 per cent.

**Source:** Compiled by the author on the basis of information in WTO (2020)

Figure: Projections as regards impact of LDC graduation on tariffs



Source: Extracted from Integrated Database (IDB), WTO

- Tariff rates facing Bangladesh **will be the highest** following graduation

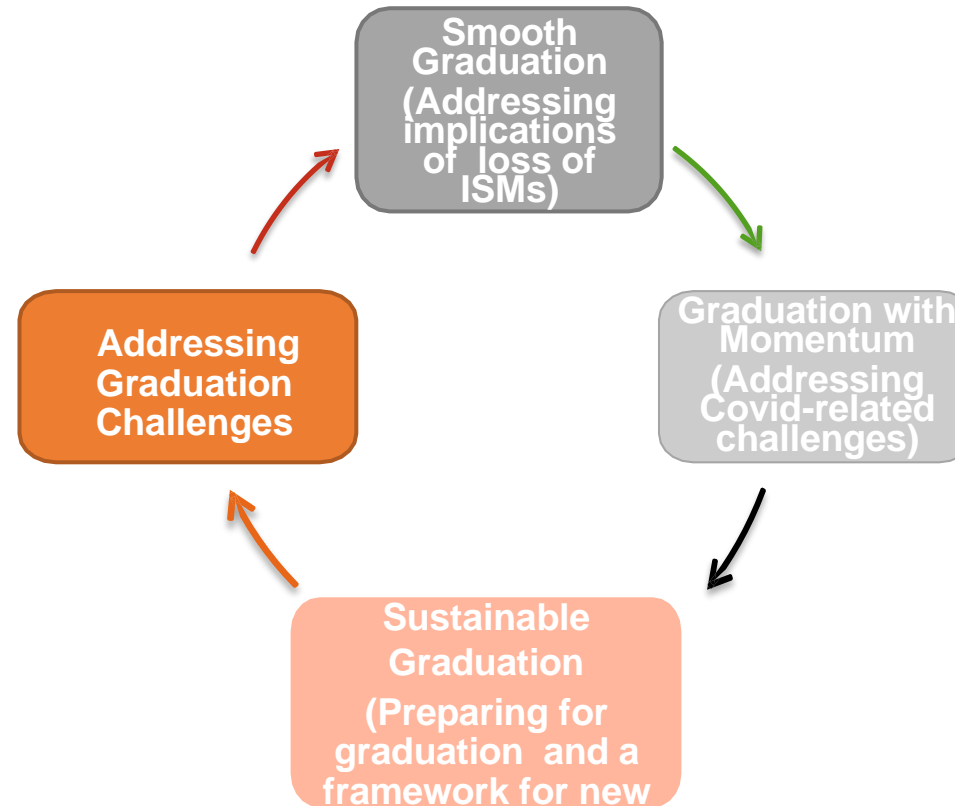
Table: Impact of loss of preferences and tariff changes

Graduating LDCs	Initial export (billion US\$)	Change in export (billion US\$)	Change in export (in per cent)	Effective tariff change (per cent)
Bangladesh	37.63	- 5.37	-14.3	573.0
12 Graduating LDCs	94.52	-6.02	-6.4	258.0
Bangladesh as % of total for all 12 LDCs	39.8 %	89.2%	More than double	More than double

Source: Based on WTO (2020).

- **About 90 per cent of total export losses** on graduation (of all 12 graduating LDCs in 2018) will be borne by Bangladesh
- With the recent rebasing and re-estimation of per capita GNI (**US\$ 2554.0** as against the earlier **US\$ 2227.0**), Bangladesh's eligibility for flexibility under SCM Annex VII (b) is highly unlikely

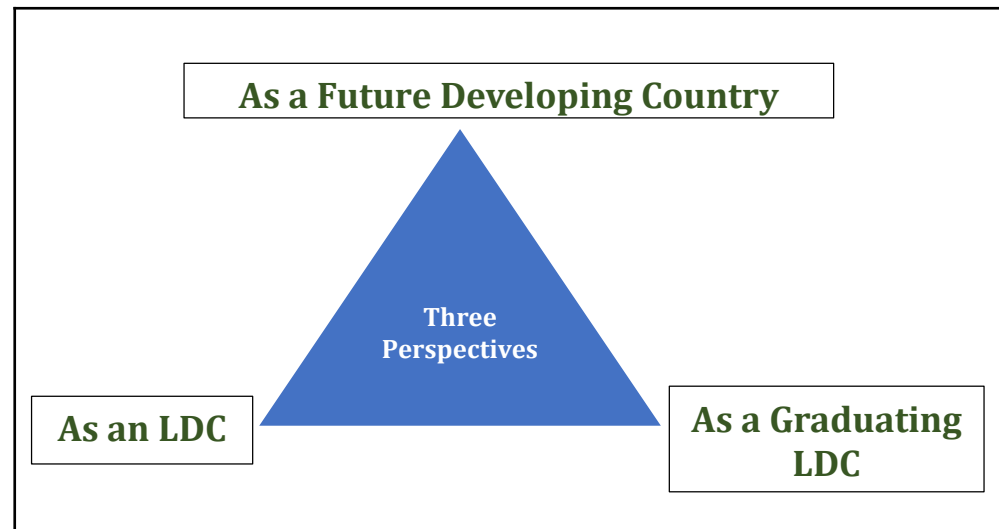
## LDC Graduation Implications and Attendant Challenges



**Source:** Author's elaboration



- Bangladesh as a Graduating LDC will need to be guided by Three Perspectives



Source: Author's elaboration

- Bangladesh as a graduating LDCs will need to take advantage of its status as LDCs over the next few years, strive to **secure a new set of ISMs** as a graduating LDC and, most critically important of all, must take adequate preparation towards **Sustainable Graduation**

**Table: Make use of Support to Graduating LDCs in Various Trade-related Areas**

<b>Programme</b>	<b>Area of support and the provider</b>	<b>Extension period after graduation</b>
<b>EU's Everything but Arms scheme (EBA)</b>	Trade related LDC-specific market access support by the European Union	3 years
<b>Enhanced Integrated Framework (EIF)</b>	Trade related capacity building multi-donor support managed by United Nations Office for Project Services (UNOPS)	5 years
<b>UN Capital Development Fund (UNCDF)</b>	Finance related support for the LDCs	3 years + 2 years on an equal cost sharing basis
<b>Least Developed Countries Fund (LDCF)</b>	Climate fund operated by Global Environment Facility (GEF)	Projects approved before graduation would be funded
<b>UN Technology Bank for LDCs</b>	ICT and knowledge sharing platform	5 years
<b>International Development Law Organization (IDLO) pro-bono legal support</b>	On-demand legal and professional assistance to LDC governments	5 years
<b>UN travel support for GA sessions</b>	Travel support fund extended by UN agencies	3 years

Source: UNOHRLS, (n.d.)

## Section 4: Bangladesh's Stance at MC12: Secure Support for Graduating LDCs

### S&DT and LDC Proposal at WTO-GC

- At the General Council (GC) Meeting of the WTO, LDCs have floated a proposal asking that they be allowed to enjoy LDC-specific ISMs (S&DT and preferential market access) for 12 years after an LDC has graduated from the group
- In view of the above, the following arguments may be put forward:
  - Graduation of current slot of LDCs is taking place under the long **shadow of the pandemic**
  - The requested support is **not being sought by 'graduated LDCs'** but by LDCs, a group recognised in the WTO, which will be graduating over time depending on meeting certain eligibility criteria.
  - There is already support **measures in place within the ambit of the WTO** (EIF, Technology Bank) which extend support to LDCs following their graduation. These allow LDCs to enjoy benefits for additional periods (for an additional five years in both the aforesaid cases, following graduation).

## Section 4: Continued

- It is not that WTO does not recognise differentiation among the developing country. For example, the **WTO-SCM** (subsidies and countervailing measures) Agreement (Annex VIIb) allows for derogation from obligations on grounds of per capita income (US\$1000 in 1990 terms). Also the WTO Agreement on Agriculture (AoA) offers flexibility to net-food importing developing countries (NFIDCs).
- There is precedence in the WTO as regards support to graduating LDCs: **Maldives LDC graduation**: Deferment of TRIPS implementation by 3 years.
- At the least, currently graduating LDCs should be allowed to enjoy the **flexibilities that are already in place**, for a time-bound period (e.g., TRIPS patent waiver till 2032; GATS Services Waiver till 2030)
- The **scores for HAI and EVI** (which were moving averages earlier) **have been fixed in 2012** (at 66 and above and 32 and below) leading to many LDCs being eligible for graduation
- **The EU has already offered** that LDCs will be allowed to enjoy preferential market access **under the EBA for three years** following their graduation from the group. Other countries can offer similar extension

## Support of G-90 Proposals to Operationalise S&D Provisions

- G-90 Proposal to improve operationalisation of S&DTs is of high relevance and heightened importance to the LDCs and Graduating LDCs from the perspectives of:
  - *Meaningful operationalisation of the S&DTs*
  - *Implementation support to help reap benefits of the S&DTs*
  - *Extension of S&DT benefits to the graduating LDCs for time-bound period*
- LDCs and Graduating LDCs have many concerns as regards the S&DTs

- Many S&DTs favouring the LDCs in the GATT built-in agendas and as part of various WTO decisions have not been implemented. For example:
  - **NAMA:** Duty-free, Quota-free market access for the LDCs: Hong Kong MC6 decision in 2005 (not many notification as yet as regards the list of 97 per cent items DF-QF Market Access)
  - **GATS:** Operationalisation of LDC services waiver decision: Geneva MC8 decision in 2011 (while offer and request lists have been submitted, the waiver is yet to be operationalised)
  - **Monitoring Implementation:** Implement S&D Monitoring Mechanism : Bali MC9 decision in 2013 (however, the decision allows only recommendations to be made to relevant WTO bodies; no enforcement mechanism)
  - **RoO:** Implementation of LDC-Friendly RoO: Nairobi MC10 decision in 2015 (work still in progress)
  - **TRTA:** Resource commitment to EIF has been far lower than the support needed for the LDCs (the current phase of EIF ends in 2022)

## A New ISM: Elements of a Possible Graduation Support Package

- Extend S&DTs for a time-bound period
- **Urge the countries** providing preferential market access to LDCs on bilateral basis (EU, India, China, Japan, USA, Canada and others) or as part of regional agreements (e.g. India in SAFTA), **to extend the preferences for a time-bound period**
- **Design a Debt Relief Initiative** for graduating LDCs to incentivise graduation and release funds to undertake activities in support of sustainable graduation
- Put in place a **Graduation Support Fund**
- **Support the proposal floated** to provide preferential access to the extent of **Domestic Value Addition** in graduating LDCs
- **Embed concerns of graduating LDCs** in ongoing negotiations where decisions may be taken at MC12, keeping in the purview the perspectives as both **graduating LDC** and **future (non-LDC) developing country**

- **Agreement on Fisheries Subsidies:** Ensure that Bangladesh's concern as regards safeguarding the interests of country's fisheries sectors and livelihood of small-scale fish folks is ensured – Territorial Waters, Exclusive Economic Zones and High Seas; actionable subsidies, general exceptions and S&DT. The revised text introduced by the Chair, Mr. Santiago Wills of Columbia, has been opposed by India and other developing countries since an appropriate time frame for transition have not been incorporated in the text (asking the developed country members to follow the principle of 'Polluter Pays' and 'common but differentiated responsibilities')
- **Agreement on Agriculture:** A number of issues are being discussed – Domestic Support; Cotton Subsidies; SSMs; Public stock holding; Export Restriction; Exemption for humanitarian food purchases under World Food Programme Improved Transparency. These must take cognisance of concerns of graduating LDCs



- **Member-led discussion:** Be part of the discussions on e-commerce; MSMEs; Investment Facilitation
- **Support proposals to make trade work for addressing the pandemic impacts:**  
Bangladesh should strongly support the proposal of the WTO-DG for temporary TRIPS waiver to combat health risks originating from Covid 19 pandemic

*Proposal Submitted by LDCs for inclusion in MC12 Outcome Document at October, 2021 meeting*

- Unilateral trade preferences in favour of LDCs
  - Members granting unilateral trade preferences to LDCs shall seek to have procedures in place to extend and gradually phase out their preferential market access scheme over a period of **six to nine years** after the entry into force of a decision of the UN General Assembly to exclude a country from the least developed countries category

- Package of support measures in favour of graduated LDCs
  - We instruct the Sub-Committee for Least-Developed Countries **to prepare a package of support measures** to be applied to any LDC Member from the effective date of its graduation following a UN General Assembly decision excluding that Member from the LDC category, and to report to the General Council at its first meeting in 2023
  - The package of support measures referred to in paragraph 2 shall apply automatically, equally and unconditionally to all graduated LDCs for a uniform period of time after their exclusion from the LDC category
  - Support measures covered under the package shall include:
    - i. WTO provisions and decisions related to special and differential treatment or exemption in favour of LDC Members
    - ii. LDC specific technical assistance and capacity building facilities provided under the WTO system
    - iii. Any other relevant measure or exemption in favour of LDCs
  - The LDC proposal can be agreed upon **in the form of a Waiver. The Plan B is to constitute a Working Group** to discuss the LDC proposal and make concrete recommendation for subsequent decision at MC13
- **Notwithstanding the MC12 outcome**, Bangladesh should open up discussion with bilateral partners (e.g., EU, India, China, Canada, Japan) for extension of support under respective LDC-specific GSP schemes for a time-bound period following graduation

## ***Section 5: Design and Implement an Adequate LDC Graduation Strategy***

- The GED has prepared an LDC Graduation Strategy Paper
- A high level LDC Graduation Task Force has been set up to design and oversee implementation of LDC Graduation Strategy. A number of bodies have been set up that include high level government officials, trade bodies, and experts
- **Needed: A Time-Bound Action Plan, with implementation Schedule, Allotted responsibilities and Appropriate Monitoring**

# The Home Work

## *Some priority areas for consideration*

- Gear Bangladesh's strategies from **preference-driven competitiveness to productivity and skills-driven competitiveness**
- **Restructure incentives** towards technology upgrading and skills formation
- **Ensure triangulation** of trade, investment and transport connectivities with proper logistics and trade facilitation towards strengthening development of regional value chains and production networks, to take advantage of the Asian Century
- Pursue **strategic trade and investment policies** towards sustainable LDC Graduation
- Put in place a **Negotiating Cell**, with adequate human and financial resources and backed by the needed analytical capacities, to design Bangladesh's **offensive and defensive interests** and conduct the complex negotiations. Negotiate with trading partners that matter, to get into CEPA type RTAs, with a view to attracting efficiency-seeking FDI, targeting the regional markets

# Concluding Remarks

- For Bangladesh, all routes matter as the country moves towards 2026. MC12 is only one of the possible routes. However, the key will be to prioritise the domestic homework in areas of reforms, strengthening of institutions, infrastructure and capacity building, technological transformation and skills enhancement and human capacity building **to ensure the transition from preference-driven competitiveness to skills and productivity-driven competitiveness**
- What we do today will determine whether Bangladesh's graduation will be one which is **smooth, with momentum, and is sustainable and irreversible**

# Thank You