

CUTS International Submission
to
Global Trade Preference Reform Working Group
Centre for Global Development

Trade preferences for developing countries have been a feature of industrialized countries' commercial policies from the times those developing countries got their independence. However, with overall trade liberalization in developed countries, tariff preferences are gradually losing importance, particularly in case of industrial products. In agriculture, on the other hand, they can still be potentially valuable because MFN tariffs are extremely high in many cases, though they are also in the process of being reduced. However, in spite of the preference erosion the issue still holds importance for both preference receiving and granting countries.

Going back, the original text of the General Agreement on Tariffs and Trade (GATT) did not allow for preferences in favour of developing countries except for some exceptions for countries earlier under European control. The only exception to the MFN principle built into the GATT legal framework from the beginning was the provision for reciprocal free trade within customs unions and free-trade areas (GATT Article XXIV), which is even valid today. This provision could not be applied to preferential imports from developing countries because no reciprocity was involved in these development-oriented trade preferences.

Since no other GATT provision could possibly provide shelter, trade preferences for developing countries were simply illegal at that time. It was only during the Tokyo Round negotiations that a more permanent legal solution for trade preferences was materialized in the form of 'Enabling Clause'. This agreement did not amend the text of the GATT, but as a decision by the GATT Contracting Parties it had an essentially equivalent legal effect.

Fresh from the adoption of 'Enabling Clause' in the Tokyo Round, the subsequent Uruguay Round did not take up this issue during the negotiations. The focus instead was on giving developing countries special & differential treatments in various agreements which were being negotiated and eventually became part of WTO. Developing countries too found them more attractive, only realising later that S&D commitments could not be enforced as most of them were 'best endeavour' clauses.

Apart from the historically granted trade preferences provided by Europe to the group of African, Caribbean and pacific nations (ACP), the beginning of the new millennium once again saw the revival of issue of duty free quota free market access to LDCs. In May 2000, the US' AGOA was passed as part of The Trade and Development Act of 2000, which provides beneficiary countries in Sub-Saharan Africa with the most liberal access to the U.S. market. Following the US' announcement, in February 2001, the European Union too adopted the so-called "EBA Regulation" ("Everything But Arms"), granting duty-free access to imports of all products from LDC's, except arms and ammunitions,

without any quantitative restrictions (with the exception of bananas, sugar and rice for a limited period). The Doha Ministerial Declaration too recognized the importance of this very issue and therefore makes commitment of fulfilling the objective of duty-free quota free market access for products originating from LDCs (Para 42).

In the course of the Doha round of trade negotiations, the issue of duty free quota free market access came into limelight during the Hong Kong Ministerial meeting in December 2005. The Hong Kong Ministerial Declaration finally made provision for developed countries to grant duty free quota free market access to LDCs on 97 percent of the tariff lines. It also urges large developing countries who are in a position to do so to grant similar preferences to LDCs. This 97 percent clause did not satisfy many LDCs as they thought that the 3 percent excluded tariff lines might cover all their products of export interest. The strongest opposition quite naturally came from Bangladesh who very rightly feared that its RMG export would definitely be excluded from the preferential tariff lines.

The subject of trade preferences is important as majority of LDCs are still struggling to integrate themselves into the multilateral trading system. They require meaningful market access, need support to diversify their production and export base and above all trade-related technical assistance and capacity building. The multilateral trading system in view of fast changing global economic situation needs to consider options for the future of trade preferences to poor countries so that it could be made more effective and help them to tide over the possible adverse impact of global economic crisis.

Based on the above analysis, following recommendations could be considered regarding the future of trade preferences in the current round of WTO negotiations:

Issues	Recommendations	Rationale
A binding multilateral agreement is needed to make trade preference schemes more effective so that these preference schemes meet their desired objectives for recipient countries.	It would be worthwhile to make it mandatory for all those countries who have more than one percent share in world trade to extend duty free quota free market access to LDCs. This could be in addition of having a mandatory clause for all developed countries to provide DFQF to LDCs as some of them do not have 1 percent share in world trade. For e.g., Norway, Denmark, Ireland etc. As per the WTO's International Trade Statistics of 2008, there are 29 countries who have more than 1 percent share in world trade. Most of these countries are already providing some kind of preferences to LDCs.	This will make the process dynamic and yet prevent preference granting countries from making any unjustified discrimination. For e.g., the US' preference schemes AGOA, CBI etc. discriminate against Asian LDCs like Bangladesh, Cambodia, and Lao.
Services trade is getting	Measures affecting services trade are typically non-tariff like instruments.	At present LDCs have a miniscule share in world

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<p>increasingly important in world trade. However, this is not yet covered under any trade preference schemes. The challenge is how to bring services under the fold of trade preference schemes</p>	<p>However, preferences could be granted through fixed quotas for foreign service workers from LDCs, preferential treatment through domestic regulation such as recognition of qualifications in professional services etc.</p>	<p>commercial services trade. In 2006, the combined share of LDCs in total world commercial services export was only 0.41 percent.</p> <p>Preferential liberalisation in services is likely to lead to higher all round welfare gains while protectionist measures do not generate benefits for the importing countries.</p>
<p>Preference for farm goods</p>	<p>Because of the ‘sensitive’ nature of their agricultural policies, developed countries have usually been reluctant to provide deep preferences for agricultural products. It would be worthwhile if these preferences could be made more effective in case of exports of farm goods coming from LDCs.</p> <p>Further, better preferences should be provided where MFN tariffs are subject to peaks and tariff escalation as there are numerous such examples in agricultural products.</p>	<p>In agriculture, the preference could be more valuable as MFN tariffs are extremely high in many cases. This is in addition to high domestic farm subsidies given to farmers in developed countries.</p> <p>The average MFN tariff on Japanese imports of agricultural products in 2002 was 15.6 percent.</p> <p>The average duty in the European Union is very high, at more than 17 percent.</p>
<p>Deep preferences for LDCs</p>	<p>Further, rather than working towards an expansion of ‘shallow’ preferences for all developing countries under GSP regimes, it may be more attractive to aim at ‘deep’ preferences for the LDCs and other vulnerable countries.</p>	<p>As on 2003, the US was giving preference to 143 developing countries under its GSP.</p> <p>Japan offers GSP preferences to 164 developing countries.</p>
<p>Conditionalities attached to trade</p>	<p>These should be removed where they are not in line with multilateral agreement in</p>	<p>These conditionalities often result in non-</p>

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preferences such as labour rights or environmental standards.	WTO. For instance, labour is not part of WTO agenda.	utilisation of preferences by the receiving countries. If multilateral trading system could work without these conditionalities then why not preferential trading?
Rules of origin	In addition to less stringent rules of origin requirements, emerging countries such as China and India may be allowed to source at least 1% of their exports to developed countries through LDCs. Studies say that this would have significant positive impact on LDCs' exports.	The actual utilisation of preference to a large extent depends upon the cost of satisfying the rules of origin requirements, governing preferences. The cost of satisfying the rules of origin in preferences schemes is a major reason for low rates of utilisation.
Utilisation of preferences	Studies are needed to assess more accurately the value of preferential arrangements to the recipient countries, including case studies of selected countries and commodities. Aid for Trade money should be used for assistance, including legal support, aimed at helping LDC exporters to cope with technical standards affecting trade. It includes SPS and TBT.	The inadequate trade-related infrastructure is a major hindrance for LDCs in accessing market of the developed countries.