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ANALYSIS OF THE MODALITIES TO GIVE EFFECT TO THE DECISION ON SPECIAL PROVISIONS FOR THE LEAST DEVELOPED COUNTRIES AS CONTAINED IN THE FINAL ACT OF THE URUGUAY ROUND

Translating Uruguay Round special provisions for least developed countries into concrete action: issues and policy requirements

Report by the UNCTAD secretariat

A statistical annex, issued separately (in English only) as an addendum to this document (TD/B/WG.8/3/Add.1), contains the tables to which reference is made in the text.

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Abbreviations

AMS	aggregate measure of support
CVD	countervailing duty
DMEC	developed market-economy country
FDI	foreign direct investment
GSP	generalized system of preferences
GDP	gross domestic product
GATT	General Agreement on Tariffs and Trade
IPR	intellectual property right
LDCs	least developed countries
MFA	Multi-fibre Agreement
MFN	most favoured nation
MTNs	multilateral trade negotiations
NRPBs	natural resource-based products
NTMs	non-tariff measures
RTA	regional trading arrangement
S and D	special and differential [treatment]
TNC	transnational corporation
TPRM	trade policy review mechanism
TRIMs	trade-related investment measures
TRIPs	trade-related intellectual property rights
WTO	World Trade Organization

INTRODUCTION

1. The Ad Hoc Working Group on Trading Opportunities in the New International Trading Context is requested in its terms of reference (Trade and Development Board conclusions and decisions 415(XL), annex III) "to analyze the modalities to give effect to the decision on special provisions for least developed countries as contained in the Final Act" of the Uruguay Round. It will be recalled that the terms of reference of the Ad Hoc Working Group also provide that the Group "shall take into account, in particular, the Board's in-depth analysis and assessment of the outcome of the Uruguay Round". At the first part of the forty-first session of the Board on the outcome of the Uruguay Round (agreed conclusions 419(XLI)), Governments agreed, inter alia, that the "least developed countries are likely to face particular problems in adjusting to the results of the Uruguay Round as a result of the erosion of preferential margins, difficulties in effectively implementing the agreements" and that in addition, "these countries and net-food-importing developing countries might experience negative effects in terms of the availability of adequate supplies of basic foodstuffs from external sources on reasonable terms and conditions, including short-term difficulties in financing normal levels of commercial imports of basic foodstuffs." While noting that some of these problems had been addressed in the Final Act of the Uruguay Round, Governments agreed that UNCTAD could usefully make proposals for translating the Ministerial commitments into concrete action. In this context, it was suggested that UNCTAD should consider how such countries could benefit from a "safety net" which would assist them in dealing with the transitional costs of adjustment.

2. In paragraph 15 of its resolution 49/99 of 19 December 1994 on "International trade and development", the United Nations General Assembly has also requested UNCTAD "to make proposals for translating the Marrakesh ministerial commitments regarding the least developed countries and net-food-importing countries into concrete action". It is relevant to note that the provisional agenda for UNCTAD IX calls for the Conference to make proposals in this regard.

3. This report has been prepared by the UNCTAD secretariat to assist the Ad Hoc Working Group in its deliberations under agenda item 4 ("Analysis of the modalities to give effect to the decision on special provisions for the least developed countries as contained in the Final Act of the Uruguay Round".[1] Section I provides an overview of transitional effects of trade liberalization in the post-Uruguay Round period on least developed countries. Against this background, Section II discusses the various provisions in favour of the least developed countries contained in the Uruguay Round Multilateral Trade Agreements. Section III contains conclusions and recommendations for translating the modalities envisaged in the Final Act of the Uruguay Round into concrete action, including a "safety net" package of measures.

I. SOME MEDIUM-TERM IMPLICATIONS FOR LEAST-DEVELOPED COUNTRIES OF TRADE LIBERALIZATION IN THE POST-URUGUAY ROUND PERIOD

4. The momentum towards trade liberalization and a more integrated world economy has been given a new impetus with the successful conclusion of the Uruguay Round and the creation of the World Trade Organization (WTO). For the least developed countries (LDCs) in particular, an enhanced participation in the global economy is perhaps the only viable way for rapid and sustained economic growth and development. The trade liberalization resulting from the Uruguay Round complements the on-going efforts of many LDCs to implement structural adjustment reform programmes.[2]

5. While the global benefits of trade liberalization in terms of expanded trading opportunities and economic efficiency are generally recognized, their realization by individual countries will depend upon the capacity of their economies to adjust to shifts in market opportunities and to increased competition. Where an economy, because of structural weaknesses and underdevelopment, cannot adjust appropriately and quickly, difficulties (e.g. a worsened trade and economic situation) may result which could prove to be endemic.

A. Salient features of the trade of the least developed countries

1. Trade in goods: size, composition and direction

6. The trade of the 47 LDCs is small in relation to world trade and to that of developing countries. For example, the total value of exports by LDCs in 1992 amounted to $13.5 billion, or only 0.3 per cent of world exports and 1.6 per cent of developing countries' exports. On the import side, the imports of LDCs, at $25.8 billion, represented 0.7 per cent of world imports and 2.9 per cent of developing countries' imports. The share of LDC exports in world trade has been declining since 1975, when it stood at around 0.7 per cent.

7. The size of individual least developed country exports is equally small. Of the 47 LDCs, only three (Bangladesh, Botswana and Zambia) had total exports in excess of $1.0 billion in 1992. The next five (Guinea, Mauritania, Myanmar, Yemen and Zaire) each had exports of between $0.4 and $0.7 billion. The combined exports of the remaining 39 LDCs amounted to approximately $5.9 billion.

8. With regard to the composition of exports, LDC exports are characterized by a high concentration of primary commodities: 70 per cent of total exports in 1992 against 30 per cent for manufactures. In comparison, the exports of developing countries as a whole for the same year consisted of approximately 60 per cent manufactures and 40 per cent primary commodities. The comparable shares for the developed market economy countries (DMECs) were 80 per cent and 20 per cent, respectively. The range of manufactured products exported by LDCs, moreover, is quite limited. Aside from garments, manufactures do not figure among the leading exports of LDCs taken as a group (see annex table 1). At the individual country level, manufactures, mainly garments, are major export items only for Bangladesh, Haiti, Lesotho and Maldives; and carpets for Afghanistan and Nepal. The exports of all other LDCs consist largely of natural resource-based and agricultural (tropical) primary products (see annex table 2).

9. On the import side, for all LDCs combined, manufactures (60 per cent) and food items (20 per cent) predominate. For 27 LDCs, the share of food items in total imports is well above 20 per cent. In contrast, the share of food items in world imports is 9.5 per cent, in the imports of DMECs 9.7 per cent and 8.7 per cent for all developing countries combined. For the LDCs, net imports of major food items such as cereals, edible oils and dairy products in 1992 were equivalent to about 25 per cent of total export earnings (see annex table 3).

10. Concerning the direction of LDC trade, the principal markets are those of the developed market economy countries. Their relative dependence on DMEC

markets is much greater than that for all developing countries. In 1992, for example, nearly 70 per cent of LDC exports were absorbed by DMEC markets as compared to 56 per cent for all developing countries. The share for LDC exports of manufactures is even higher at about 80 per cent. For individual countries (27 of them), overall export dependence on DMECs is well above the group average.

11. Among the DMECs, the European Union (EU) is by far the principal market for LDCs (42 per cent) followed by the United States (13 per cent) and Japan (9 per cent). These three markets together absorb about 64 per cent of the non-fuel exports of LDCs. Aside from Haiti, Maldives and Tuvalu, for which the United States is the principal market, for Kiribati and Solomon Islands whose main market is Japan, and Samoa for which Australia is the chief market, the EU is the main market for nearly all other LDCs. The dependence on the EU market is greatest for African LDCs, ranging well above 50 per cent for most countries.

12. In 1992, about 25 per cent of LDC exports were absorbed by developing country markets and about 5 per cent by countries in Eastern Europe. The former share is probably much smaller in practice on account of the fact that a large number of LDCs are land-locked and what is recorded as exports to neighbouring countries may merely be transit or entrepôt trade. This seems to be true, for example, in the case of Bhutan, Mali, Nepal, Sudan and Zambia which have export shares for developing countries as destinations in excess of 50 per cent.

13. In summary, the size of LDC trade is relatively small, individually as well as overall. Furthermore, their exports are concentrated largely on low value-added primary products (natural resource-based and tropical agricultural) which are directed mainly to the DMECs, particularly the EU. Basic foodstuffs constitute a much higher proportion of their imports than for any other group of countries.

2. Trade in services

14. Although the services sector in LDCs is largely underdeveloped, its contribution to GDP, employment and foreign exchange earnings has been rising in recent years. With regard to trade, the relative importance of commercial services transactions for LDCs is illustrated in annex table 4. For LDCs, as for developing countries in general, there is a combined positive balance on travel (foreign tourists as purchasers of services in LDCs) and earnings derived from nationals working abroad (workers' remittances). Overall, the situation is one of deficit on the services account. On the export side, transport (port services), together with activities related to tourism, are the main source of non-factor income. For many LDCs, the earnings of nationals working abroad constitute their only exports of services and, in a few cases, their major source of export earnings. On the import side, LDCs import mainly intermediate services in connection with their production and export activities. Transport and other private services and income are the main debit items.

B. Some medium-term implications for LDCs

15. The medium-term implications for LDCs of the general trend toward liberalization and integration of the global economy in the post-Uruguay Round period need to be assessed against the background of the current size and structure of both their exports and imports, as well as their limited competitive supply capabilities. Account also needs to be taken of the current market access conditions from which they benefit in their traditional export markets. This section discusses the medium-term implications of global trade liberalization for the trade balances of these countries.

1. Merchandise trade balance

16. On the import side, aside from the obligation to tariffy non-tariff measures and to bind all agricultural tariff lines, LDCs were not required to make tariff concessions in the Uruguay Round. Nevertheless, many LDCs have

already reduced their import tariffs substantially as a result of unilateral liberalization efforts in the context of their IBRD/IMF supported structural adjustment programmes. The liberalization of their import regimes will increase access to their domestic markets and increase import flows.

17. On the export side, while the results of the Uruguay Round will improve access to markets generally, the implications for LDCs is less straight-forward. This is due to the fact that the reduction in MFN tariffs achieved during the Round will erode the preferential access benefits previously enjoyed by these countries under the generalized system of preferences (GSP) and other preferential arrangements such as the Lomé Convention. Because of their limited export competitiveness, including the range of products within their export capabilities, LDCs are likely to lose market shares to other exporting countries. As the preferential price advantages which helped LDC exporters to compete with more efficient producers are eroded, the promotional character of the trade preferences will thus be reduced, with a likely negative effect on their exports.

18. Estimates of the average loss in preferential margins for LDCs implied by the MFN tariff reductions of the Quad markets (Canada, European Union, Japan, United States) are shown below in table 1. The analysis takes into account, on a tariff line basis, the most favourable treatment applicable to individual LDCs in each of the markets (i.e. GSP, GSP-LDC, Lomé or CBI). On a trade-weighted basis using imports from LDCs of products covered by preferences, there is an overall loss in preference margins for all covered products of about 8 percentage points in Canada, 3 points in the EU and Japan, and 2 points in the United States. On a sectoral basis, the highest loss in preference margins in the EU occurs for tropical agricultural products (a loss of more than 4 percentage points); in the United States for non-agricultural tropical products (nearly 4 points); in Japan for leather and footwear (25 points); and for natural

Table 1: Average erosion of preferential margins for imports from the least developed countries in QUAD markets

(percentage points and percentages)

Products	Canada				European Union				Japan				United States			
	a	b	c	d	a	b	c	d	a	b	c	d	a	b	c	d
All preferential items	11.6	3.4	8.2	71	11.3	8.4	2.9	26	8.2	5.4	2.8	34	4.6	2.3	2.3	50
Agricultural products (non-tropical)	16.7	10.7	6.0	36	13.3	9.5	3.9	29	9.4	3.5	5.9	63	3.2	1.5	1.7	54
Agricultural products (tropical)	5.0	3.2	1.8	36	9.3	5.1	4.2	45	6.5	4.2	2.3	35	5.5	3.3	2.2	39
Tropical products (non agricultural)	13.9	9.0	4.9	35	4.8	4.2	0.7	13	9.6	5.6	4.0	42	4.5	0.7	3.8	84
Natural resource-based products	10.2	0.0	10.2	100	16.5	12.7	3.7	23	6.9	4.7	2.2	32	2.4	1.8	0.6	23
Textiles & clothing	19.9	12.6	7.3	36	12.4	10.5	1.8	15	10.4	7.5	2.9	28	6.1	4.5	1.6	26
Leather & footwear	10.7	7.0	3.7	34	6.3	5.3	0.9	15	59.8	34.3	25.5	43	4.1	2.8	1.3	32
Other industrial products	11.5	6.7	4.8	42	7.2	4.0	3.1	44	4.3	1.1	3.2	75	5.4	2.6	2.8	51

Source: UNCTAD Trade Control Measures Information System.

Note: a = margin prior to MFN tariff reductions; b = margin after MFN tariff reductions; c = margin loss (percentage points); d = erosion of preferential margin (percentage).

resource-based products in Canada, where an average preference margin of 10 percentage points is entirely eroded. The margin loss in the EU for LDCs which are also ACP beneficiaries (39 out of a total of 48 LDCs) is even greater.

19. The trade liberalization reform measures in the textiles and clothing sector are likely to have an impact upon LDCs in varying ways over time. LDCs that currently face MFA and MFA-type restrictions include Bangladesh, Cambodia, Lao People's Democratic Republic, Lesotho and Nepal in the Canadian market; Bangladesh in the EU; and Bangladesh, Haiti, Lao P.D.R., Lesotho and Nepal in the United States.[3] The phasing-out of the MFA and non-MFA restrictions, and in particular the provision for increases in growth rates of MFA quotas and the improvement in the application of the flexibility provisions are likely to expand, in the medium term, the export opportunities of those LDCs such as Bangladesh, Haiti and Lesotho that are WTO members. However, the situation for non-WTO members, namely Cambodia, Lao P.D.R. and Nepal, is unclear as the

provisions of the Agreement on Textiles and Clothing would not apply to such countries. In fact, the existing market shares of non-WTO members could come under threat as the quotas allocated to WTO exporting member countries grow.

20. At this stage, it is difficult to fully gauge the long-term impact on LDCs of the elimination of the MFA and other GATT-inconsistent non-MFA restrictions, including those applied to non-GATT/WTO members. The outcome for particular LDCs would very much depend upon whether they were able to build up a competitive export capacity during the ten-year transition period which, to some extent, would provide shelter from competition by more efficient suppliers. For some LDCs, however, particularly those that are not WTO members, the potential development and progress in this sector might be slowed down as investment in this industry is negatively affected by the uncertainty of competitiveness in the absence of MFA quotas.

21. In addition, the long-term prospects for the LDC textiles and clothing trade could also be adversely affected by MFN tariff reductions of the developed countries in conjunction with the phasing out of the MFA and other non-MFA restrictions, which would result in an erosion of their current preferential access (sometimes with duty-free treatment) to the markets of the major developed importing countries. In other words, their current guaranteed access to the markets of the latter countries under special arrangements (such as under the Lomé Convention in the EU market and preferential programmes in the United States market)[4] could be challenged as a result of the return of this sector to GATT, and their existing margins of preference could be eroded due to the reduction of tariffs by the major developed importing countries.

22. In the agricultural sector, commitments undertaken will impact mainly upon temperate products which are the main focus of the Agreement on Agriculture. The commitments will reduce the distortion in world markets for these products arising from the long history of protection of farmers in DMECs. There will be greater transparency in border protection (through "tariffication" - the conversion of NTMs into tariff equivalents), improved market access through the implementation of access commitments based on increased tariff quotas and reduced levels of export subsidies (both on volume and budgetary outlays) and of domestic support implemented through cuts in an aggregate measurement of support (AMS).

23. It seems likely that the Agreement will have significant effects on world prices and trade in those products where protection among OECD countries has been substantial - cereals (in particular, wheat, rice and coarse grains), meat, dairy products and sugar. The three reduction commitments of the Agreement will (i) reduce the quantity of these products which are "dumped" on the world market at subsidized prices; and (ii) increase the imports of these products by developed countries. These effects on world market supply and demand will tend to push up world market prices for the products concerned.

24. LDCs will be affected both as exporters and importers. However, as annex table 2 shows, LDCs are generally net importers of the products concerned (aside from live animal and meat). A rise in world prices for major food items such as cereals, dairy products, meats, edible oils and sugar, is therefore likely (because of an inelastic import demand - and inelastic supply response - in the likely range of price changes) to increase the food import bill of several LDCs. Some LDCs are also likely to experience losses due to the erosion of preferences on their agricultural exports to some markets (e.g. some LDCs that are signatories to the Lomé Convention with respect to in particular beef, sugar, vegetables and fruits, including bananas and cut flowers).

25. To summarize, there are important implications for the merchandise trade of LDCs in the post-Uruguay Round period. On the export side, a major issue is the erosion of the trade preferences which these countries currently enjoy. Because of their weak export capabilities, many countries will be unable to compete and hence will experience export losses. On the import side, because many of them are net food-importers, a rise in world food prices will likely lead

to a higher import bill. In addition, in so far as LDCs are buyers of cheap high-technology manufactures (including pharmaceutical products) from other developing countries, a rise in the prices of those goods, because of the impact of the TRIPs Agreement on the access to, and cost of technology, would also increase the import bill of LDCs.[5]

2. Services trade balance

26. The liberalization of international trade in services has been given a new impetus with the conclusion of the General Agreement on Trade in Services (GATS) in the Uruguay Round. The GATS establishes a mechanism for the progressive removal of restrictions on, and for the liberalization of, trade in various services sectors.[6] However, negotiations have not yet been concluded on major sectors, such as basic telecommunications, financial and maritime services, and on modes of supply such as the movement of natural persons. Once these negotiations are concluded, the market access results concerning trade in services would become amenable to a more precise evaluation.

27. The initial commitments by most developed countries under the GATs essentially accord the right to establish a commercial presence in a wide variety of sectors and, in most cases, provide for the binding of existing rules on movement of persons in the form of intra-firm transfers of executives, managers, specialists and representatives. However, most developing countries, and in particular the LDCs, are currently not in a position to compete and benefit from this commercial presence mode of delivery given the high cost of establishment abroad, particularly in developed country markets. LDC firms are notably weak with respect to financial and human capital as well as access to distribution networks and information channels and technology. Many developing countries, and particularly LDCs, have sought more extensive commitments from the developed countries with respect to the temporary entry of labour involved in the delivery of labour-intensive services.

28. In the context of the establishment of their GATS schedules, LDCs have been required to make initial commitments with respect to improve market access for foreign services and national treatment to foreign service providers. This is an indication of the willingness of these countries to participate in the general process of liberalization for which the GATS provides the framework for future negotiations. In general, the schedules of LDCs are confined to a few sectors, such as tourism, transportation, and other business services, and are concentrated on the "commercial presence" mode of supply, which could encourage an inflow of FDI and expand opportunities for promoting the services sectors concerned.

29. It is to be noted that many LDCs have also been liberalizing access to their markets unilaterally since the early 1980s. For example, in the context of structural adjustment or recovery programmes, many African LDCs have transformed their regulatory frameworks to allow for greater competition in the services sector. In this context, the financial sector of these countries is undergoing substantial changes through restructuring, privatization and the opening of participation to foreign capital.

30. The medium-term implications of the liberalization of international trade in services for LDCs need to be analysed in terms of the current state of development and competitiveness of their services industries. LDCs require access to high-quality services for their development process, but their strategy is to encourage this through promoting foreign investment. For LDCs already exporting services to the world market (e.g. tourist services and labour services), the challenge is to develop production of higher value-added products and to increase their exports.[7] However, for the medium term at least, the services balance of those LDCs that are structural importers of services could worsen further as their demand for services will greatly outstrip their ability to produce.[8]

3. Alternative medium-term scenarios of LDC trade balances in the post-Uruguay Round period

31. In order to provide a quantitative perspective to the preceding discussion, this section constructs alternative medium-term scenarios of the impact of the Uruguay Round Agreements on LDC trade balances. The exercise does not attempt to account for all of the effects of the Agreements, but only of those elements that are readily quantifiable at this stage. It does, however, suggest some rough orders of magnitude concerning the associated additional external financing requirements.

32. The assumptions underlying the analysis, summarized in the table below, are used to generate alternative scenarios of changes in LDC merchandise exports and imports. For estimating the impact of Uruguay Round MFN tariff changes on LDCs, including the effects of the erosion of preferences, UNCTAD's Trade Policy Simulation Model[9] was used. Owing to the lack of suitable data for all markets, only the tariff cuts in the Quad countries (Canada, European Union, Japan and the United States), which absorb 65 per cent of LDC exports, were analyzed. The price assumption on food imports is based on preliminary estimates derived from UNCTAD's Agricultural Trade Policy Simulation Model (ATPSM).[10] The framework is partial equilibrium and static.

Table 2: Main assumptions of alternative medium-term scenarios

Variable	Principal factors affecting change in variables and/or assumptions
Merchandise exports	• erosion of LDC preferential tariff margins resulting from MFN tariff changes; phenomena of trade creation and trade diversion (based on alternative average substitution elasticities of -3.0 and -5.0 for LDC exports in major markets); NTMs not significant constraint on LDCs exports, hence only tariff changes matter
Merchandise imports	• higher food import prices of 5 to 10 per cent for basic foodstuff - for which LDC import demand is inelastic in the range of projected price increases

33. The results of the scenario analysis are summarized in annex table 5. In the first, or "lower bound" scenario, which is based on the assumption of a substitution elasticity of -3.0 and a 5 per cent rise in food import prices, the combined losses of LDCS experiencing export declines is estimated at $163 million. The table shows that, apart from Lesotho, all African LDCs would experience export shortfalls. These are mainly attributable to the erosion of preferences in the EU market. In contrast, most LDCs in Asia - Bangladesh in particular - show export gains, stemming essentially from higher sales of textile products in the United States.

34. Under this first scenario, the assumed rise in food import prices leads to higher food import bills for all but two LDCs, making for a combined increase of $146 million. In fact, for the items under consideration, i.e. cereals, live animals and meat, dairy products, oils and fats and sugar, only Chad and Mali, which are net exporters, experience a gain. The overall losses of those LDCs showing a deterioration in their trade balances thus amount to $306 million.

35. The second, "upper bound" scenario is based on the assumption of a substitution elasticity of -5.0 and a 10 per cent rise in food import prices. Under this scenario, LDC exports decline by $265 million while food import bills rise by $292 million. For countries experiencing a trade balance deterioration, the combined loss amounts to $575 million.

36. In summary, therefore, when the implementation of the Uruguay Round Agreements takes full effect, the combined trade deficit of the LDCs could

deteriorate by between $300 and $600 million per year, or as much as between 2.6 per cent and 5 per cent of export earnings. Over a five-year period, these losses could reach $3 billion.

37. In isolation, these amounts might not be considered large enough to give rise to concern about the ability of the LDCs to deal with the negative impact of the Uruguay Round. The shortfall, however, should be seen in a broader perspective. It should be noted first of all that the scenario analysis excludes the possible impact on trade in high-technology goods and on services. It is likely that a much larger negative balance-of-payments effect would have emerged had it been possible to extend the analysis to these two areas. A second qualification is that these amounts must be seen in the context of the condition of individual LDCs. For example, the negative impact on the trade balance of Burundi, Ethiopia, Haiti, Malawi, Mozambique, Rwanda, Somalia and Uganda would be around 10 per cent or more of export earnings, and in the case of Guinea-Bissau and Cape Verde around 25 per cent and 50 per cent of export earnings, respectively. Many LDCs have per capita GNP levels of around $300 or less, and government budgets which are so financially constrained that even the loss of a few additional millions of dollars on the trade balance translates into a relatively large economic shock. Finally, the projected shortfalls must also be viewed in a dynamic perspective. For the LDCs, the early 1990s have been a period of decline following two decades of stagnation; and, in contrast to the revival of world economic activity in 1994 - in which the developing world in general has shared - there was no real improvement in the economic situation of LDCs as a group.[11] In these conditions, therefore, any factor which extracts resources from the LDCs through trade can only further increase the marginalization of these countries in the world economy in general, and in international trade in particular.

II. SPECIAL PROVISIONS FOR LDCs IN THE FINAL ACT AND MODALITIES FOR TRANSLATING THEM INTO CONCRETE ACTIONS

38. The Ministerial Declaration launching the Uruguay Round at Punta del Este recognized the special situation faced by the least-developed countries by providing that special attention be given to the particular situation and problems of the least developed countries and to the need to encourage positive measures to facilitate the expansion of their trading opportunities.

39. It is to be noted that at the outset of the Uruguay Round negotiations, developing countries and the least developed among them made a case for differential and more favourable treatment not through a special derogation or dispensation from the generally applicable rules, but through building into the various provisions of the negotiated agreements their special developmental, financial and trade needs. This approach was essentially aimed at treating developmental concerns in a longer-term perspective. The LDCs therefore sought not only to secure a balanced outcome from the Round, but also not to foreclose flexibility in the use of different development policy instruments. An attempt is made below to assess the extent to which these concerns were addressed in the various Uruguay Round Agreements, the capacities which exist to maximize the advantages offered by the provisions on differential and more favourable treatment, and how the modalities envisaged in the relevant Ministerial Decisions could be translated into concrete action. Drawing on this assessment, the section will conclude with some recommendations.

A. Analysis of important provisions in favour of LDCs in selected Agreements

40. The LDCs benefit automatically from the general provisions on differential and more favourable treatment applicable to all developing countries, in addition ‘to the specific provisions to respond to their own particular needs. The analysis which follows concentrates on the latter provisions in the Final Act of the Uruguay Round.

41. The various provisions on differential and more favourable treatment for

the LDCs reveal five qualitatively different approaches to meet different needs and concerns. These are:

(i) total and time-bound exemptions from obligations in the form of transitional periods, i.e. a longer time-frame in which to comply with those obligations;

(ii) quantitative thresholds, either to trigger compliance with obligations or to allow recourse to trade remedy instruments; or the so-called "de minimis" provisions;

(iii) provisions granting flexibility in the implementation of the Agreements as an integral part of the rules to enable LDCs to apply measures aimed at strengthening their productive capacity;

(iv) other capacity-building provisions, including for technical assistance;

(v) Ministerial Decisions on modalities to mitigate the transitional adverse impact arising from the implementation of certain Agreements and on measures to complement the S and D provisions in the Agreements.

42. Box 1 provides a summary of the type of differential and more favourable treatment provisions contained in the Uruguay Agreements in favour of the LDCs.

(i) Time-bound and total exemptions

43. A number of Agreements provide for a longer time-frame for the LDCs (as compared to that allowed for other developing countries) in which to comply with the obligations. Where this is the case, such as in the TRIPs and the TRIMs Agreements, the main objective would seem to be to take account of the weak administrative and institutional capacities of LDCs for putting in place the required changes or new legislation and administrative practices for the implementation of the various Agreements. In the TRIPs Agreement, for example, the same level of obligations would apply after the transitional period. The intention of the LDCs during the negotiations had been to seek sufficient flexibility in the TRIPs Agreement to enable them to pursue long-term development objectives, particularly technological capacity creation, through their national intellectual property rights regimes relating, for example, to choices of technology for patent protection and its duration, determination of patentability and control of rights abuse by the patent holders. It would seem that these objectives would remain valid after the eleven-year transitional period granted to the LDCs. Although, as stated in the Agreement, the granting of this transitional period stems from the recognized need to "create a viable technological base", what took developed countries several decades to realize is unlikely, even with the best of intentions, to be accomplished in a single decade in the case of the LDCs. There is thus room provided in the agreement for a possible extension of the transitional period upon request by a least developed country.

44. A similar time-bound transitional period linked to a development-need criteria is to be found in the special provision in the Agreement on Subsidies and Countervailing Measures. This exempts the LDCs from the prohibition of subsidies granted contingent upon the use of domestic over imported goods for a period of eight years following the entry into force of the WTO Agreement.

Box 1: Uruguay Round Agreements and how they apply to the LDCs

Type of S and D Provisions/UR Agreements	Total Exemptions from Specific Obligations	Time-Bound Derogation	Quantitative Thresholds or De Minimis Provisions	Technical Assistance for Institutional and Human Resource and other Capacity-building Provisions	Flexibility in Implementation
1. TRIMs		Seven-year transitional period to eliminate GATT-inconsistent TRIMs. Period could be extended by Council of Trade in Goods if difficulties in implementation can be demonstrated.			Temporary application of prohibited TRIMs in the Illustrative List justified under GATT Article XVIII subject to the disciplines contained in the provisions of the Understanding on Balance-of-Payments Provisions of GATT 1994 and the 1979 Declaration of Trade Measures Taken for Balance-of-Payments Purposes.
2. TRIPs		Eleven-year transitional period before full compliance with the provisions of the Agreement. This period could be extended by the TRIPs Council upon duly motivated request from a least developed country. Granting of National and MFN Treatment is required of all Members with no exception one year from the date of entry into force of the TRIPs Agreement.		1. Developed countries commit themselves to provide and encourage technology transfer to LDCs in order to enable them to create a sound and viable technological base. 2. Technical/financial cooperation in favor of LDCs including assistance in the preparation of domestic legislation for the enforcement and protection of IPRs and prevention of their abuse and support for the establishment or reinforcement of domestic offices and agencies and naming of personnel in these matters.	
3. GATS				There are specific commitments (Article IV:1(2:3) to facilitate the increasing participation of LDCs in world trade by strengthening their domestic services capacity and its efficiency and competitiveness.	1. Members are to take into account the serious difficulty of the LDCs in accepting negotiated specific commitments in view of their special economic situation and development. The LDCs had one year from the signing of the Final Act in Marrakesh to submit their final schedules on initial commitments in Services. 2. Appropriate flexibility will be available to individual LDCs as to all other developing countries for opening fewer sectors, liberalizing fewer types of transactions, link market access to their development needs with conditions attached for achieving their increased participation in international trade in services.

Continued

Box 1: Uruguay Round Agreements and how they apply to the LDCs

Type of S and D Provisions/UR Agreements	Total Exemptions from Specific Obligations	Time-Bound Derogation	Quantitative Thresholds or De Minimis Provisions	Technical Assistance for Institutional and Human Resource and other Capacity-building Provisions	Flexibility in Implementation
4. Agriculture	LDCs are exempted from reduction commitments in all three areas of domestic support, market access and export subsidies (Article 15:2).			In the Decision on Measures concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries assistance may be provided in the context of developed Member countries and programmes to the least-developed countries to improve their agricultural productivity and infrastructure.	
5. Application of Sanitary and Phytosanitary Measures (SPSM)		LDCs may delay for five years from the entry into force of the Agreement in the application of all the provisions except the obligation to explain reasons for introduction of SPSM and to notify on such measures and provide information.			
6. Subsidies and Countervailing Measures	Prohibition of Export Subsidies does not apply to LDCs.	1. LDCs granted <u>eight years</u> to phase out export subsidies if export competitiveness attained.	1. Export competitiveness is achieved when a share of LDCs' member's exports reaches a share of 3.25 percent of world trade of that product for two consecutive calendar years. 2. De minimis level of subsidization for countervailing duty investigation to be terminated is 2 per cent of the value of production per unit basis.		
7. Technical Barriers to Trade				Priority shall be given to the needs of the least-developed countries in the area of advice for the preparation of technical regulations.	
8. Trade Policy Review Mechanism				Technical assistance available from the secretariat on request in compiling reports for the TPRM due every six years or longer period interval.	

This provision recognizes the need for the LDCs to make use of policy instruments such as subsidies, to encourage local production based on domestically produced inputs not only to increase their earnings from exports but also to conserve meager foreign exchange and maximize value from local resource endowments. Since LDCs already face overstretched government budgets, they are likely to make limited use of this policy instrument. The development rationale behind this provision would retain its validity beyond the eight-year transitional period.

45. In some of the Agreements, however, such as the TRIMs Agreement, transparency requirements do not benefit from the transitional period arrangements for the LDCs.[12] This could pose a major constraint for the LDCs which have weak or non-existent information and data management systems necessary for compliance with transparency requirements. These requirements are met through notification by member countries, which for the LDCs could put pressure on weak or inadequate administrative systems where they are not covered by transitional arrangements or longer time intervals to comply with notification procedures.

46. There may be two shortcomings associated with the time-bound transitional period which limit the use to which they may be put. First, because of their relatively short duration, the transitional arrangements have limited impact on capacity creation for trade and production, e.g. in the case of TRIMS and TRIPs. Second, time-bound derogation from the obligations assumes existence of both the institutional and resource capacities to enable the LDCs to take maximum advantage of the relevant provisions. This is not true in the case of most of these countries. These shortcomings may be mitigated by the commitment contained in the Ministerial Decision on Measures in Favour of Least Developed Countries (paragraph 2(iii)) which requires a flexible and supportive application of transitional provisions to LDCs. This would include the possibility of extending transitional periods for LDCs.

47. These Agreements, which provide for complete exemption from certain obligations as long as LDCs members of WTO continue to meet the criteria of a least developed country as defined by the United Nations, recognize the use of certain trade or trade-related policy measures or instruments as essential for overcoming structural bottlenecks. Low income levels and low manufacturing capacity combined with a weak technological base constitute some of the basic characteristics of the economies of the LDCs. Thus, efforts to overcome these weaknesses would be permissible to the extent that these characteristics prevail and if such efforts would accelerate graduation from a least developed country status. The complete exemption from specific obligations has been granted against this rationale. Such provisions from which total exemption has been granted are the following: exemption from prohibition of export subsidies contingent upon export performance in the Agreement on Subsidies and Countervailing Measures; and from the reduction commitments in the areas of domestic support, border protection and export subsidies to be carried out as part of the reform programme in agriculture. It has been observed that the use of these policy instruments may be circumscribed in the context of structural adjustment programmes, where their use is already being curtailed.

(ii) Quantitative thresholds

48. An attempt has been made in some of the Agreements to provide yardsticks to determine the point at which compliance with specific provisions is expected from the LDCs, or when they could become subject to remedial action from trading partners. These "de minimis" provisions are to be found in the Agreement on Subsidies and Countervailing Measures to determine level of competitiveness[13] to be achieved before obligations apply as well as value and volume of subsidized imports not subject to countervailing actions.[14] The LDCs are not distinguished from other developing countries in the case of cumulation of volume of subsidized imports (this implies assessing injury by adding together imports across supplying developing countries). Since one of the principles governing the Uruguay Round negotiations includes the encouragement of positive measures to

facilitate expansion of the trading opportunities of the LDCs, all market access uncertainties associated with the possible use of trade remedy measures such as safeguards and countervailing action should have been eliminated.

(iii) Capacity building-related provisions

49. These provisions are intended to address the weaknesses in the areas of administrative and institutional capacities to implement the agreement concerned and spell out the need for technical assistance. Such provisions appear for example, in the Agreements on TRIPs, Technical Barriers to Trade, Pre-shipment Inspection, Customs Valuation and Trade Policy Review Mechanism.

50. Capacity-building provisions also take the form of flexibility in complying with obligations in respect of the use of certain policy instruments as in the case of TRIMs. The use of prohibited trade-related investment measures by all developing countries is permitted if this is intended, for example, to correct an adverse balance-of-payments situation. A possible limitation to taking recourse to balance-of-payments measures arises from the stringent rules governing their application, which require resort to price-based measures as opposed to quantitative restrictions.

51. The General Agreement on Services (GATS), provides a unique case by imposing contractual obligations on Members in Article IV to give priority to the LDCs in taking specific capacity-building measures aimed at increasing the participation of developing countries in world trade in services. It has already been observed that these measures can be given effect only when included in the schedules of concessions of developed countries through deliberate negotiating efforts of the LDCs. Article XIX allows the LDCs as well as other developing countries to attach conditions to market access concessions in order to achieve the objectives of Article IV. The GATS clearly states that "the process of liberalization shall take place with due respect to national policy objectives and the level of development of individual members, both overall and individual sectors." All developing countries shall have the flexibility to open fewer sectors, liberalizing fewer types of transactions and progressively opening their markets in line with their development situation. In general, the GATS goes a long way - perhaps more than any other Agreement - to meeting the development dimension test.

52. The most innovative domestic capacity-building measure relates to the commitment by developed countries to provide incentives to their enterprises and institutions aimed at building technological capacity in the LDCs. How this is to be achieved in practice is not spelled out. It is left to developed country Governments to determine the appropriate policy measures for encouraging technology flows through, for example, innovative fiscal relief measures as an incentive to their technology-supplying firms investing in the LDCs.

(iv) Modalities envisaged in Ministerial Decisions

53. It was recognized by the Marrakesh Ministerial Meeting that, in order to ensure increased and effective participation of the LDCs in the international trading system, the flexibility and special provisions introduced in the various Agreements must be supplemented and facilitated by more concrete operational measures. Some of these measures are contained in the two important Ministerial Decisions adopted at Marrakesh namely: the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on the Least-Developed Countries and Net Food-Importing Developing Countries, and the Decision on Measures in favour of the Least-Developed Countries (see boxes 2 and 3).

54. The Decision on Measures Concerning the Possible Negative Effects of the Reform Programme is the only one of its kind which sets out measures in recognition of the difficulties which may be faced by the least-developed and net food-importing developing countries during the implementation of the Agreement on Agriculture. Whereas the reform programme does not impose

unmanageable obligations on the LDCs (apart from tariffication and binding of all agricultural tariffs), the implementation of the agricultural reform programme by WTO Members is likely to result in a higher import bill for basic foodstuffs in the medium-term.

55. It is for this reason that the least developed and net food-importing developing countries sought to include special measures in the Agreement on Agriculture to offset the negative impact such a situation could have on their ability to satisfy minimum requirements for food imports and for the management of their debt and balance-of-payments problems. These measures are intended to serve two principal objectives: first, to alleviate the burden of higher world food prices on import bills and the balance-of-payments; and second, to enhance their capacity to increase agricultural productivity and production, especially of food, with a view to reducing their currently high dependence on imports.

56. The Ministerial Decision addresses the two objectives, but falls somewhat short of providing for operational modalities to give practical and concrete effect to these objectives. Appropriate guidelines for ensuring the availability of adequate basic foodstuffs in grant form and on concessionary terms are yet to be worked out. The recognition of the need for short-term financing of a normal level of commercial food imports and of the role of international financial institutions in this effort also needs to be translated into concrete arrangements with minimal conditionalities. Food aid would continue to constitute one of the important means to meet the needs of food-deficit LDCs. Mechanisms for increasing and improving the conditions of food aid to these countries will have to be worked out within the framework of the Food Aid Convention to include the food items which reflect their genuine needs.

57. In the implementation of the agricultural reform programme, the case for the LDCs with a relatively high level of food-import dependence, combined with severe balance-of-payments and debt-servicing difficulties and low levels of agricultural food production and productivity, presents a greater challenge to policy-makers in these countries as well as to the international community. Although the likely increase in agricultural food prices and the reduction in export subsidies should act as an incentive for increasing agricultural production in these countries, supply inelasticities resulting not only from adjustment lags but also from structural supply bottlenecks, including the low level of technology used in heavily dependent rain-fed production, renders these countries more vulnerable to the short and medium-term impact of the reform process. There is thus a compelling case for international and domestic policy measures to address not only the short- to medium-term shortfalls in the levels of food imports, but also for putting in place measures to enhance food productivity, through infrastructure development, upgrading of technology for agricultural production and strengthening of agricultural research and extension services.

58. In order to implement the Decision, the following issues would need to be elaborated upon: definition of beneficiaries and variables to be monitored (e.g. food import price levels); trigger mechanism for assistance (e.g. adequacy of food supplies, changes in import price levels); nature of assistance (food aid, financial assistance, including export credits) and technical assistance; adequacy of existing mechanisms and terms of access to them.

59. The decision on measures in favour of the LDCs is the result of an assessment conducted by the LDCs of the overall results prior to the formal conclusion of the Uruguay Round negotiations with a view to ensuring that their interests and special needs had been taken into account. It is thus a political response to the concerns expressed by these countries with regard to the difficulties they are likely to face during the implementation of the Uruguay Round Agreements and in particular, with regard to the improvement of their trading opportunities. It is implicit that in the case of the LDCs, the means for such improvement go beyond the achievements in trade liberalization and rules underpinning it in the Round. Some of the measures outlined in the Decision

represent an attempt to address this reality.

Box 2

Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries

1. *Ministers recognize* that the progressive implementation of the results of the Uruguay Round as a whole will generate increasing opportunities for trade expansion and economic growth to the benefit of all participants.

2. *Ministers recognize* that during the reform programme leading to greater liberalization of trade in agriculture least-developed and net food-importing developing countries may experience negative effects in terms of the availability of adequate supplies of basic foodstuffs from external sources on reasonable terms and conditions, including short-term difficulties in financing normal levels of commercial imports of basic foodstuffs.

3. *Ministers* accordingly *agree* to establish appropriate mechanisms to ensure that the implementation of the results of the Uruguay Round on trade in agriculture does not adversely affect the availability of food aid at a level which is sufficient to continue to provide assistance in meeting the food needs of developing countries, especially least-developed and net food-importing developing countries. To this end *Ministers* agree:

(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;

(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;

(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.

4. *Ministers* further *agree* to 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.

5. *Ministers recognize* that 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).

6. The provisions of this Decision will be subject to regular review by the Ministerial Conference, and the follow-up to this Decision shall be monitored, as appropriate, by the Committee on Agriculture.

Source: GATT, The Results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Text (Geneva, June 1994), pp.448-449.)

60. While the Decision represents a political commitment to carry out the measures spelled out, their implementation very much depends on political will and, therefore, for constant monitoring within, and outside, the WTO framework. Essentially, the measures are exhortative and "best endeavour" in their formulation and leave the means, scope and timing to be determined by individual member countries. However, given the necessary political will, some of the measures are sufficiently concrete in nature and amenable to immediate

implementation. This is the case, for example, with regard to the provision for advanced implementation, without staging, of the MFN tariff concessions where these would benefit LDCs, as well as the improvement of GSP and other schemes on products where there is room for increasing the preferential margins for the LDCs, notably in the agricultural sector.

61. The modalities for reviewing the implementation of the special and differential measures and those taken in the context of the Uruguay Round Agreements are not spelled out, although the Ministers agreed that the review of these measures should be on a regular basis. Also to be kept under review are the specific needs of the LDCs and the adoption of positive measures which facilitate their trading opportunities. It is important that the LDCs be provided with the necessary technical assistance to strengthen their institutional and negotiating capacities so that they can participate actively in the review process.

B. Translating special provisions and measures into policy action

62. The provisions on special and differential treatment will not have the intended impact unless maximum advantage is taken of them, or specific policy measures adopted to give them concrete operational effect. The measures contained in the Ministerial Decision on Measures in Favour of Least developed Countries were intended for the latter purpose. Their shortcomings in this respect have been mentioned above. These measures could be translated into policy action in the following three areas:

(1) Measures to assist in the implementation of the Uruguay Round Agreements would be based on commitments to assist LDCs in establishing a policy, legal and institutional framework compatible with the emerging international trading system, formulating trade policies and managing trade data and information geared to building domestic capacities for maximizing the benefits from liberalized access to markets.

(2) Provisions or measures which provide for flexibility in domestic policy options in order to address the particularities of the development needs of these countries. Specifically, these provisions leave flexibility for government policy intervention in a number of key sectors which may become necessary due to the inadequacies of the market mechanism not atypical for an LDC economy. While these actions will require the support of their trading partners in the context of the multilateral framework of rules, they will also need to be supplemented in a concrete manner by maintaining and improving market access, access to technology, financial aid and designing incentives schemes for promoting FDI in the LDCs. This kind of support is most relevant to the undertaking in the Ministerial Decision which seeks to develop, strengthen and diversify production and export bases of the LDCs.

(3) Additional measures spelt out in the two Ministerial Decisions mentioned above. These are aimed at minimizing transitional costs of adjusting to the reform programme in agriculture and at enhancing the participation of the LDCs in international trade by, *inter alia*, providing general and specific operational principles in relation to the implementation modalities of the special provisions in favour of the LDCs in the various Agreements. Some of the specific measures which are amenable to concrete action have already been discussed above. These and other measures are treated in greater detail in section III.

III. CONCLUSIONS AND RECOMMENDATIONS

63. The results of the Uruguay Round, in conjunction with on-going unilateral liberalization efforts, have implications in the medium term for the external balances of the LDCs as well as for the underlying trade and development prospects of these countries. While the move towards greater global trade liberalization underpinned by stronger multilateral rules and disciplines is to

Box 3

Decision on Measures in Favour of Least-Developed Countries

Ministers,

Recognizing the plight of the least-developed countries and the need to ensure their effective participation in the world trading system, and to take further measures to improve their trading opportunities;

Recognizing the specific needs of the least-developed countries in the area of market access where continued preferential access remains an essential means for improving their trading opportunities;

Reaffirming their commitment to implement fully the provisions concerning the least-developed countries contained in paragraphs 2(d), 6 and 8 of the Decision of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries;

Having regard to the commitment of the participants as set out in Section B (vii) of Part I of the Punta del Este Ministerial Declaration;

1. *Decide* that, if not already provided for in the instruments negotiated in the course of the Uruguay Round, notwithstanding their acceptance of these instruments, the least-developed countries, and for so long as they remain in that category, 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, or their administrative and institutional capabilities. The least-developed countries shall be given additional time of one year from 15 April 1994 to submit their schedules as required in Article XI of the Agreement Establishing the World Trade Organization.

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.

Source: GATT, The Results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Text (Geneva, June 1994), pp.440-441.

be welcomed, there is a risk, at least in the short to medium term, that this move could aggravate further the precarious economic situation of the LDCs. The trend towards increased trade liberalization will reduce the export promotional impact of the trade preferences from which LDCs currently benefit as well as the impact upon their imports. Given the size and structure of their trade, and the overall level of development and competitive strength of their economies, this could worsen their current-account balances in the medium term. The scenarios explored in this report suggest some rough orders of magnitude of the likely financial implications. The further marginalization of the LDCs in world trade implied by the projected deterioration in their trade balances suggests that their external accounts will become harder to manage as debt-servicing capacity and private capital inflows (particularly export-oriented investment) decline. The implied internal adjustments required to rectify persistent and growing external imbalances, as well as the associated reduced investment inflows, may dampen their long-term growth and development prospects.

64. In recognition of their special economic situation and trade needs, as part of the outcome of the Uruguay Round, Governments agreed to adopt complementary measures on both the export and import sides in favour of LDCs. In order to now move forward to concrete action, the Working Group may wish to consider the following recommendations as a "safety-net" package of measures.

1. Trade Measures

65. The aim should be to translate into concrete action the commitment to improve the trading opportunities of the LDCs, taking into account the impact of the Uruguay Round on their market access conditions as well as their relatively weak capacities to participate in an increasingly competitive global market in goods and services. Preferential tariff schemes, such as the GSP, Lomé Convention, etc., were established in recognition that the developing countries, particularly the LDCs, required tariff margins in their favour to be able to compete, even in traditional markets, with more advanced and competitive suppliers. The exigencies of multilateral tariff liberalization have reduced the advantage provided by these preferential schemes so that such preferences are no longer a viable measure for assisting these countries in the long term. Therefore, a package of measures should be devised to include a maximization of the remaining possibilities for preferential treatment combined with additional measures to assist the LDCs to compete in world markets. Compensatory market access improvements for the LDCs could include the following concrete measures:

(a) Elimination of tariff escalation, including through improvement in GSP schemes that affect mainly their semi-processed tropical agricultural and natural resource-based products;

(b) Providing deep preferential tariff cuts or complete duty elimination under GSP or other preferential schemes for products still subject to high tariff peaks, e.g. agricultural products, fish and fish products, leather and footwear, and textiles and clothing. There should be more flexible use of the rules of origin to encourage efforts towards industrialization and expansion of the export base;

(c) In applying anti-dumping and countervailing duties, the LDCs should be exempted from any cumulative assessment of injury; safeguard action should not be taken against imports from them. Advance policy pronouncements to this effect would positively influence investors’ decisions in the LDCs, encouraged by the predictability of market access conditions;

(d) As for textiles and clothing, LDCs, all of which are either new entrants or small suppliers, should be exempted from all restrictions during the ten-year transition period (whether or not members of WTO) to enable them to build up their export capacity and to improve their competitiveness;

(e) In order to promote more trade with the LDCs, developed countries should set up, in their own countries, import promotion agencies as already done by some countries, e.g. Norway, France and Japan. Such agencies would provide support services and act as contact points for business/trade missions from LDCs, undertake market research and give publicity to LDCs products. In addition, the trade and investment promotion agencies of developed and developing countries should be invited to consider modalities for identifying new opportunities in particular sectors and markets for the benefit of LDCs;

(f) In the area of services, while efforts should be directed at building and strengthening efficiency and competitiveness of the LDCs' infant domestic service sectors, their participation in trade in services could be enhanced by: effective application of Article IV of the GATS on a unilateral basis in favour of the LDCs, to liberalize sectors and modes of supply (i.e. movement of persons) of interest to them; facilitating their access to information networks and distribution channels and to technology; and by giving priority access to information to LDCs' service suppliers, to be made available through contact points to be established in accordance with the GATS.

2. Technical assistance

66. The administrative burden and financial cost for the required adjustment demanded by new obligations in several Agreements (new areas of TRIMs, services and TRIPs, in addition to adhering to all but four of the Tokyo Round Codes as amended in the Uruguay Round) could be considerable. At the same time, the LDCs will need to ensure that priority is given to their interest in the future trade agenda, that steps are taken to make effective their participation in the on-going and future multilateral trade negotiations and that they are able to exploit the benefits deriving from the improvement of the multilateral trading system. Thus technical assistance needs are likely to grow in order to cope with an increasingly complex trading system where the risk of marginalization for these countries is ever present. In order to ensure its maximum impact on the LDCs' participation in the international trading system, there is need, therefore, to focus such assistance in the following areas:

(a) The technical assistance already foreseen in the commitments undertaken in the various Agreements to facilitate their implementation should be provided expeditiously;

(b) The active participation of LDCs in trade negotiations should be supported through technical assistance for the study and analysis of trade issues of interest to them as well as by assisting the LDCs not yet WTO Members in their accession to the world body. UNCTAD's assistance to these countries during the Uruguay Round negotiations played an important role in sensitizing them to the issues under negotiation and in asserting their interests. The Framework for Action for Africa drawn up at the Tunis Ministerial meeting of November 1994 provides a good basis for attracting the support of multilateral and bilateral donors for African LDCs;

(c) Increased attention should be paid to providing assistance for human resource development in the areas of export production, development and promotion to help the LDCs cope with an increasingly competitive trading environment. In this connection, assistance should be extended in identifying appropriate technology, including that in the public domain, which could considerably reduce the high cost of imported technology resulting from the implementation of the TRIPs Agreement;

(d) An efficient domestic service infrastructure in the LDCs is essential for the support of production and trade due to its effects on productivity and competitiveness in goods and services. Technical assistance for the building and strengthening of the domestic service infrastructure should be provided as way of enhancing LDCs' supply capabilities. For example, the diagnosis of the strength and weaknesses of the services sector in ten African countries carried out under UNCTAD's Coordinated African Programme of Assistance on Services (CAPAS) has provided the participating countries with both a general and sectoral assessment of the deficiencies and potentials in the sector which should enhance capacity in policy formulation, including approaches to liberalization aimed at strengthening the domestic services sector.

3. Financial measures

67. Financial measures would inlcude the following:

(a) As discussed in Section I, the expected annual deterioration in LDC trade balances arising from the erosion of preferences and the likely increase in food import prices alone is estimated at between $300 million and $600 million, or up to $3 billion over a five-year period. It was pointed out that for certain countries the deterioration could be very pronounced. This suggests the need to protect affected LDCs from such losses. This would require improved conditions for, and an increase in, food aid; balance-of-payments support through, inter alia, easier access to compensatory financing schemes on concessional terms; and more vigorous debt-relief measures. Simultaneously, improvement of agricultural production and productivity should receive adequate donor financial support through technical assistance to extension services and financial aid for rural infrastructure development. Financial assistance is also required to help upgrade the transport and communications infrastructure in LDCs, which tends to impact negatively on domestic price levels and on export competitiveness.

(b) In addition to the expected deterioration in the services balance, the likely increase in the import prices of essential proprietary drugs as result of a higher level of patent protection could also put pressure on the health budgets and balance-of-payments of the LDCs. The "safety net" should therefore also take acount of these factors. It is important, moreover, that these countries be given assistance to formulate policies which would ensure availability of essential medicines at reasonable and affordable cost to their population, ensuring that the supply of essential drugs would not be vulnerable to an unstable balance-of-payments situation.

68. While the above measures and the special provisions on special and differential treatment in favour of LDCs would be essential in providing short term relief and in facilitating the adjustment process to the new multilateral trade rules, the major challenge confronting the LDCs in the post-Uruguay Round trading system would be to increase their competitiveness and, therefore, to secure the gains to be derived from liberalized markets and their participation in international trading system. In facing this challenge, the LDCs have to overcome structural handicaps which severely constrain their supply capacities. While the WTO through its trade rule-making role should continue to provide flexibility in the application of those rules in order to facilitate the development efforts of LDCs, much of this challenge would require action beyond its scope. The measures outlined above suggest that domestic policy responses supported by concrete measures by the international community would play a decisive role in integrating these countries in the emerging international trading system. Unless these concerted efforts are made, further marginalization of the LDCs is a likely prospect.

Follow-up action

69. In their Decision on Measures in Favour of the LDCs, the Ministers agreed 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 is important in order to adopt measures which correspond to the actual effects of the implementation of the Uruguay Round Agreements, in addition to those measures which would have to be taken in any case in recognition of the special situation of the LDCs. This would entail the need to complement the global assessment of the impact of the Uruguay Round results with individual country assessments in order to assist the international community to target these measures more efficiently. In addition, and given the structural weaknesses of the LDCs, the impact analysis should cover not only transitional short-term sectoral adjustment costs, but also long-term and wider economic effects.

70. The task of the international community in this respect would be to monitor the situation on a continuing basis, assisted by analytical studies on the actual impact of the various Uruguay Round Agreements on the LDCs. In addition, deliberations in the Ad Hoc Working Group would also contribute to more effective participation of the LDCs in the review process in the appropriate competent forums. The High-level Meeting on the Mid-Term Review on the Programme of Action for the LDCs for the 1990s (September-October 1995) could provide an impetus in this regard. A process of intensive analyses and debate should, moreover, be initiated with a view to identifying concrete measures which could be put into effect so as to assist the LDCs in developing competitive strengths with a view to expanding their trading opportunities and to reversing the trend towards marginalization in the world economy. In this context, it should be recalled that the provisional agenda for UNCTAD IX calls for the Conference to make "proposals for translating into concrete action the commitments made at the Ministerial Meeting in Marrakesh regarding the least developed countries and the net food-importing countries." (TD/B/41(2)/15(Vol.I), section I.A., agreed annotations to the provisional agenda for UNCTAD IX, Topic 2).

Notes

1. This report should be read in conjunction with UNCTAD, The Least Developed Countries - 1995 Report (TD/B/41(2)/4), and "An analysis of trading opportunities resulting from the Uruguay Round in selected sectors: agriculture, textiles and clothing, and other industrial products" (TD/B/WG.8/..). Earlier secretariat reports on the outcome of the Uruguay Round also provide useful background information and analysis. For example, see "A preliminary analysis of the results of the Uruguay Round and their effects on the trading prospects of developing countries" (TD/B/WG.4/11, 10 June 1994); and Trade and Development Report, 1994 and Supporting Papers to the Trade and Development Report, 1994 (UNCTAD/TDR/14 - Supplement).

2. These structural adjustment programmes (SAPs), which are supported by the World Bank and the International Monetary Fund as part of a rescue package in a situation of external payment crisis, are intended to restore domestic and financial stability and promote sustained economic recovery. Policy elements include not only fiscal reforms and monetary discipline to achieve financial stability, but also price and external sector liberalization to achieve economic efficiency and sustained growth.

3. See GATT document COM.TEX/SB/1975/Add.1, 16 November 1994.

4. These include United States imports under Harmonized Tariff Schedule Provisions 9802 and the Guaranteed Access Level (GAL) programme.

5. For a further discussion, see Chapter VIII, Supporting Papers to the Trade and Development Report, 1994 (UNCTAD, 1994).

6. For a fuller analysis of the GATS, see Chapter VII, Supporting Papers to the Trade and Development Report, 1994 (UNCTAD, 1994).

7. Most LDCs have a considerable potential in the three major segments of the supply of tourist services (i.e. airlines, hotels and restaurants, tourist agencies and tourist guides). But they do not have the technological and managerial capacities to respond adequately to market changes, posing a challenge to them in gaining competitiveness in the sector. Inadequate communication infrastructures (transport and telecommunication) pose a further problem for LDCs. The achievement of this twofold objective presupposes a policy of diversification of tourism products as well as access to information networks and distribution channels for enhancing the competitive position on international markets.

8. In addition to the external current account, the momentum towards trade liberalization in the post-Uruguay Round period could also have medium-term implications for government finances (revenues and expenditures) in some LDCs. In the medium-term, cuts in tariffs could increase pressures on government revenues. At the same time, an increased participation of LDCs in the international trading system will require increased government administrative expenditures, not only for the domestic implementation of the Agreements (e.g. enforcement of the TRIPs agreement) but also for participation in WTO activities.

9. Sam Laird and Alexander Yeats, "The UNCTAD Trade Policy Simulation Model - A note on the methodology, data and user" UNCTAD Discussion paper No. 19 (October 1986).

10. This model is a substantial modification and extension of the UNCTAD/WIDER model discussed in UNCTAD, Agricultural trade liberalization in the Uruguay Round - implications for developing countries (United Nations, 1990).

11. The overall growth performance of LDCs in 1994 is estimated to have fallen to 1.4 per cent from the 1990-1993 average of 1.6 per cent. These figures, moreover, mask an above-average increase for the Asian LDCs and an estimated output decline of 0.1 per cent in African LDCs (see The Developed Countries 1995 Report, UNCTAD (TD/B/4(2)/4).

12. The TRIMS agreement requires all the trade-related investment measures which are not in conformity with the provisions of the Agreement to be notified to the Council for Trade in Goods within 90 days of the entry into force of the WTO Agreement. Only the measures so notified are eligible for the transitional arrangements provided in the Agreement. The transitional period available to the least developed countries is seven years.

13. A product has to reach a share of 3.25 per cent of world trade (in that product) for products enjoying export subsidies for the purposes of triggering export subsidy prohibition.

14. For the LDCs, the maximum value of subsidization allowed for a product per unit basis should not exceed 3 per cent of its value, while the volume of subsidized imports for that particular product should be no more than 4 per cent or less than 9 per cent for imports from developing countries taken collectively.