What MC13 Achieved for Least Developed Countries

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Delegates of the World Trade Organisation (WTO) met for the 13th Ministerial Conference (MC13) between the 26th of February and the 2nd of March in Abu Dhabi, the United Arab Emirates (UAE). Ten draft decisions and declarations were adopted, including a Ministerial Decision on WTO Smooth Transition Support Measures in Favour of Countries Graduated from the Least Developed Countries (LDCs) category[1]. This had been a priority of the LDC group going into MC13. MC13 also saw the accession of the Comoros[2] and Timor-Leste[3] (two LDCs), 11 ratifications of the Fisheries Subsidies Agreement; and working sessions on agriculture, dispute settlement reform, e-commerce, and inclusive trade and development.

In a communication dated 12 January, the LDC group listed their priorities going into MC13. Aside from LDC graduation transition matters, specific priorities included agriculture and food security, the WTO Agreement on Fisheries Subsidies, the moratorium on e-commerce and equality in accessibility to dispute settlement procedures. MC13 did not deliver much in the way of these matters – no agreement was reached on agriculture, fisheries phase two negotiations, or dispute settlement (where they agreed to continue work on negotiations rather than produce a draft agreement). That said, some progress has been made on the LDC graduation transition process (though modest), and special and differential treatment for LDCs.

i. MC13 and Smooth Transitions for Graduating LDCs

Arguably the most important matter for the LDC group at MC13, LDC graduation transition negotiations were emphasised as twelve[4] LDC WTO members are due to graduate from their LDC status. LDCs are afforded a series of support measures and special provisions within multilateral and unilateral trade

[1] WT/L/1189; WT/MIN(24)/34
[2] WT/L/1186; WT/MIN(24)/31
[3] WT/L/1187; WT/MIN(24)/32
[4] At the start of MC13, this number was 10, but has now increased to 12 with the accessions of the Union of Comoros and Democratic Republic of Timor-Leste.

agreements that other developing and developed countries are not. they then lose when they no longer meet the criteria to be called an LDC. The problem is that even though these countries will have improved their circumstances in order to graduate, rarely are these changes robust or systemic enough that countries can continue to progress without these measures of assistance. This is particularly important for Africa – Angola, Djibouti, Senegal, and Zambia are included in the member states affected.

Referencing a 2021 study by UNCTAD and a 2017 study by the UNDP, a previous communication from the LDC group[5] argued that graduating countries need to integrate themselves in global markets more before they would be ready to operate without support measures.

The discussion began in 2004, when a resolution passed at the UN General Assembly (UNGA) called for a 'smooth transition strategy' for countries graduating from their LDC status. In October of 2023, the General Council adopted Annex 1 of the LDC Group proposal (on a smooth transition process for graduating LDCs), which encouraged states with existing trade agreements with graduating LDCs to extend existing preferential treatment afforded on the basis of LDC status by a recommended six years.

In their January communication to the WTO, the LDC group identified several issues that they wanted addressed at MC13. Primarily, they wanted decisions to be taken on Annex 2 of the LDC Group proposal for the smooth transition of graduating LDCs[6]. This would dictate the timelines for the "phasing out" of LDC preferential treatment included in existing WTO agreements and decisions.

Of these many agreements and decisions relevant[7], MC13 only saw a decision taken on the application of the Special Procedures Involving LDCs set out in Article 24 of the Dispute Settlement Understanding. Graduating LDCs will now benefit from those same special procedures for three years after the date of graduation from LDC status. The phase-out timelines from all other provisions in WTO decisions and agreements were not established, but work will be continued, with a tentative deadline for recommendations by December 2024.

Annex 2 also called for graduating LDCs to retain access to technical assistance and capacity building programmes for an appropriate period of time, which the LDC group requested be determined at MC13. The MC13 Decision on transition support measures for graduating LDCs determined this period to be three years from graduation date.

[5] WT/GC/W/919/Rev.1
[6] WT/GC/W/807/Rev.2
[7] Detailed in Appendix 1 of WT/GC/W/807/Rev.2

In their January communication ahead of MC13, the LDC group also requested that a decision be taken on their 2018 proposal calling for graduating LDCs to be reclassified to the category of non-LDC countries exempt from the prohibition of export subsidies. LDCs are exempt from the subsidy ban under Annex VII(a) of the Agreement on Subsidies and Countervailing Measures (ASCM); while countries classified under Annex VII(b) are non-LDCs that are also exempt until such point as they hit the $1000 per capita GNI milestone. At this point, countries in category Annex VII(b) are allowed eight years to phase out their prohibited subsidies. At present, LDCs due to graduate would not receive any special treatment, and existing export and import substitution subsidies would be prohibited under the ASCM. In the MC13 decision, the recategorization of graduating LDCs in terms of the ASCM was not addressed. However, it was acknowledged as requiring a decision, and the deadline of December 2024 for recommendations was established.

ii. LDCs and Agriculture at MC13

The LDC priorities in terms of agriculture primarily emphasised food security. The January communication had requested that any agricultural agreement reached address trade-distorting domestic support, special safeguard mechanisms, public stockholding, and refraining from imposing export restrictions on food products purchased for food security purposes; with special emphasis placed on protecting food security in LDCs.

An agreement on agriculture was not achieved at MC13 – not surprising as it has continued to be a sticking point for over twenty years. However, in her closing speech Director-General Ngozi Okonjo-Iweala took an optimistic view on the negotiations – for the first time, member states are working off of the same draft document in negotiating an agreement on agriculture.

Additionally, in their communication, the LDC group specifically mentioned the cotton sector – crucial for many African LDCs, especially in West Africa – and called for the elimination of developed country domestic support for cotton at MC13. While no agreement was produced on cotton, the side event held in partnership with the international football federation, FIFA (Fédération Internationale de Football Association) launched the "Partenariat pour le Coton" initiative, which promises to benefit the cotton sector in at least four LDCs. The initiative seeks to collaborate with private sector to address challenges and promote sustainable development in the cotton sector by creating job opportunities further along the cotton-to-textiles value chain. The project targets the Cotton-4 (C-4) countries (Benin, Burkina Faso, Chad, and Mali) and Côte d'Ivoire, which is not a member of the C-4. The C-4 are all LDCs.

iii. LDCs and the Fisheries Subsidies Agreement at MC13

The Agreement on Fisheries Subsidies, which prohibits harmful subsidies that encourage illegal, unregulated or unreported fishing, was adopted at MC12 in 2022. Phase two of the negotiations held at MC13 covered extending the Agreement to prohibit subsidies that encourage overfishing that is legal, regulated and reported. This covers subsidies for shipbuilding, equipment, labour, and fuel related to the fisheries industry.

Overfishing disproportionately affects African states – where 33 of the world's 45 LDCs are located. Africa loses over $5 billion in revenue to illegal fishing activities, and 12 million Africans rely on fish as a food or income source. Further, LDCs contribute the least to overfishing practices, with the primary culprits including China and the EU. This was reiterated in the LDC communication ahead of MC13, where they called for proportional treatment. Specifically, they called for special treatment for LDCs and graduating LDCs – exemptions from dispute settlement procedures, and special allowances for small-scale, subsistence fishermen.

No agreement was reached on the second phase of negotiations at MC13, meaning that LDCs did not see this achieved at the conference. However, India has put forward the idea of a two-tiered system, whereby deep water fishing would be banned in developed countries whilst developing countries and LDCs would be allowed to continue for a period of 25 years. This is a promising development for LDCs; even if the proposal is watered down in later negotiations, a two-tiered system promises to be the proportional response LDCs might benefit from.

iv. E-Commerce

At MC13, it was decided that member states would continue to not impose duties on electronic transmissions[8] (such as software and streaming services) until the next ministerial conference or 31 March 2026 (whichever comes first). The agreement to not impose such duties, the moratorium on electronic transfers, was threatened by a push from developing states (India, South Africa and Indonesia) to end it at MC13. These states argue that the revenue from such customs duties will benefit developing economies, despite the findings of an OECD study, which asserts that the costs of imposing duties will outweigh the benefits. At the eleventh hour, India was persuaded to allow the extension of the moratorium, and the other objectors followed in an unexpected win for multilateralism.

[8] WT/L/1193; WT/MIN(24)/38

In an LDC group communication on the Work Programme for Electronic Commerce[9] circulated in January, the group stressed the fact that LDCs do not have the capacity to take advantage of the e-commerce economy. They also questioned whether or not the moratorium was beneficial to LDCs, and requested an LDC-specific study on the matter. Developing countries, including LDCs, will likely oppose a further extension when the time comes in favour of the extra revenue. This would be a mistake, as LDC domestic economies do not have the capacity to substitute for the services that would have duties imposed on them. Such duties would ultimately punish consumers in LDCs by making software, international servers and streaming services more expensive.

v. Declaration on Special and Differential Treatment

The clearest achievement for LDCs at MC13 was the adoption of the Declaration on Special and Differential Treatment[10] (S&DT). The decision focuses on the precise, effective, and operational implementation of S&DT provisions in the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) and the Agreement on Technical Barriers to Trade (TBT Agreement). The declaration acknowledges the challenges LDCs face in engaging on SPS and TBT matters and calls for improvements in training, technical assistance, and transparency measures to effectively implement SPS and TBT Agreements within LDCs.

[9] WT/MIN(24)/38; WT/L/1193
[10] WT/L/1191; WT/MIN(24)/36

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