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## WTO SMOOTH AND SUSTAINABLE TRANSITION MEASURES IN FAVOUR OF COUNTRIES GRADUATED FROM THE LDC CATEGORY

### COMMUNICATION FROM DJIBOUTI ON BEHALF OF THE LDC GROUP

*Revision\**

The following communication, dated 13 January 2024, is being circulated at the request of the delegation of Djibouti on behalf of the LDC Group.

1. In response to the report by the chairperson of the Committee on Trade and Development to the General Council on LDC Graduation ([WT/COMTD/LDC/30](#)), the LDC Group would like to share its reflexions on discussions so far, and propose next steps on this critical issue for the LDCs. As highlighted in the report, discussions in the LDC Sub-Committee have gone through an in-depth review of the different LDC-specific provisions listed in Annex 2 of the LDC graduation proposal ([WT/GC/W/807/Rev.2](#)). In addition to factual presentations by the Secretariat, the LDC Group has explained at length the reasons for extending such provisions for a reasonable period of time in favour of Members after they leave the LDC category.

#### The rationale for smooth and sustainable transition measures in the WTO

2. LDC-specific provisions embedded in WTO Agreements and Ministerial Decisions have been agreed by consensus by the whole membership to respond to the unique vulnerabilities affecting LDCs. WTO Members have further recognized that they should equally apply to all LDCs. The question of extending those measures to graduating countries is therefore not whether these measures are appropriate or not, but rather if countries after graduation from the LDC category have achieved sufficient progress to render these support measures unnecessary. More generally, the question is whether graduated countries have been able to build sufficient productive capacity or reduce their vulnerabilities sufficiently to avoid a situation where the removal of those support measures would affect their development pathways or undermine the progress achieved so far.

3. Based on existing analysis by UNCTAD<sup>1</sup> and the UN CDP<sup>2</sup>, the experience so far suggests that LDCs meet the graduation criteria before operating the economic structural transformation, they need to engage in global markets on an equal footing with other developing countries. As a result, their productive capacity remains largely underdeveloped and undiversified. These findings provide a strong rationale for extending some of the LDC specific provisions listed in Annex 2 as part of a smooth transition set of measures.

4. In recognition of the fact that Members leaving the LDC category should at least commit to comply with the rules and disciplines that apply to other developing countries, the LDC Group has proposed that the smooth transition measures take the form of a peace clause. In other words, while graduated countries would make their best effort to comply with those new obligations, they should

\* For editorial improvement.

<sup>1</sup> UNCTAD (2021): "Achieving Graduation with Momentum through the Development of Productive Capacities". [https://unctad.org/system/files/official-document/aldc2021d4\\_en.pdf](https://unctad.org/system/files/official-document/aldc2021d4_en.pdf)

<sup>2</sup> UN CDP (2017): "Expanding productive Capacity: Lessons Learned from Graduating LDCs". <https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/publication/2017-cdp-policy.pdf>

not be subject to the dispute settlement mechanism during a reasonable period of time, in case they face difficulties.

### **Discussions in the LDC Sub-Committee**

5. Discussions in the LDC Sub-Committee so far have highlighted that some of the provisions listed in Annex 2 of the LDC Group's proposal ([WT/GC/W/807/Rev.2](#)) may need to be consolidated. On the Annex 1 of the LDC submission, Members have already adopted the 23 October 2023 General Council Decision ([WT/L/1172](#)), which encourages LDCs preference granting Members to provide a smooth and sustainable transition period for the withdrawal of their LDC-specific tariff or DFQF preference programmes. The LDC Group welcomes this Decision, which constitutes a step in the right direction and recognizes that its implementation by preference granting Members will address several of the market access-related issues listed in Annex 2. Based on these considerations, the LDC Group is ready to review the list of provisions in Annex 2 and to align it particularly with the General Council Decision on unilateral DFQF preferences.

### **Next Steps**

6. As we move towards MC13 and given the critical importance of this issue, instructing the Sub-Committee to continue the examination of Annex 2 of the LDC graduation proposal and provide an appropriate period of time, as envisaged in the LDC sub-committee Chair's report, is not the only option that the LDC Group expects. We fear that an endless discussion on questions that have already been answered by the LDC Group, will only delay any action on this critical development matter.

7. We request the General Council to agree on the principle of a transition period, which would apply to the provisions listed in Annex 2 for a fixed number of years. Regarding the transition period, as mentioned in the past, the LDC Group envisages, at a minimum, a 6-year peace clause. This is close to the term found in existing mechanisms, for example, 5 years available under the UN LDC Technology Bank, and the two triennial UN CDP reviews undertaken post- graduation to monitor progress. Based on such a decision, further discussions during the time remaining before MC13 could focus on which LDC specific provision might benefit from the proposed transition period.

8. As mentioned repeatedly, this is not about negotiating new flexibilities. Graduating LDCs have clearly expressed their commitment to comply with new obligations after they leave the LDC category, but they simply require a transitional time, in the form of a peace clause to guarantee a smooth transition process on a limited set of provisions. Granting such flexibilities will significantly contribute to facilitating a smooth and sustainable transition after graduation from the LDC category. The GC decision on Annex 1 is a clear recognition that a transition period after graduation from LDC category is crucial. Achieving a successful outcome on Annex 2 will send a strong signal that the multilateral trade system is responsive to the need of its more vulnerable Members and will generate most needed goodwill to address other critical issues on the MC13 agenda.

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