



**Committee on Rules of Origin**

**UTILIZATION RATES UNDER PREFERENTIAL TRADE ARRANGEMENTS FOR LEAST DEVELOPED COUNTRIES UNDER THE LDC DUTY SCHEME**

NOTE BY THE SECRETARIAT<sup>1</sup>

*Revision*

**1 INTRODUCTION**

1.1. An examination and better understanding of preference utilization can offer useful insights about best practices and limitations of Preferential Trade Arrangements (PTA). If trade operators are not using preferences or only using them to a limited extent, the resulting low preference utilization could indicate that certain conditions are reducing the ability of exporters to fully seize preferential opportunities. Different factors could explain low utilization of preferences. However, because compliance with rules of origin is a central prerequisite to utilizing preferences, low preference utilization rates may indicate that origin requirements are overly strict or costly.

1.2. Acknowledging the usefulness of using utilization rates as a tool to examine preferential rules of origin, Paragraph 4.3 of the 2015 (Nairobi) Ministerial Decision on preferential rules of origin for least developed countries (LDCs)<sup>2</sup> stipulates that WTO preference-granting Members should notify the necessary information and data so that the Secretariat may calculate utilization rates of PTA implemented by WTO Members for LDCs (henceforth referred to as PTA for LDCs).

**2 DEFINITION OF PREFERENCE UTILIZATION AND METHODOLOGY FOR THE CALCULATION OF UTILIZATION RATES**

2.1. "Preference utilization" can be defined simply as the extent to which imports, which are eligible for trade preferences, are actually being imported under these preferences.

2.2. A preferential scheme can only be utilized if there actually is a preference (that is, a preferential tariff margin). In other words, tariff lines on which the rate is zero on a Most-Favoured Nation (MFN) basis, cannot offer any preference. In such cases, moreover, preferential rules of origin cannot stand as a trade barrier. As a result, MFN-zero tariffs are not taken into account for the calculation of preference utilization rates.

2.3. The Committee on Rules of Origin (CRO) has adopted, at the end of 2016, modalities for the calculation of utilization rates as recommended in paragraph 3.2(a) of document G/RO/W/161. The methodology compares the value of imports which "reportedly" benefitted from preferences with the value of total imports which would have been "eligible" for such preferences. For the reasons described above, only MFN dutiable lines are considered.

**3 USING PREFERENCE UTILIZATION TO EXAMINE RULES OF ORIGIN**

3.1. The economic usefulness of trade preferences - and therefore the likelihood of operators to utilize them - is contingent on at least two main factors:

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<sup>1</sup> This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights and obligations under the WTO.

<sup>2</sup> WT/L/917/Add.1.

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- (i) First, how attractive a trade preference is: the greater the preferential tariff margin (the difference between the MFN and the preferential tariff rates), the more likely it is that the operator would seek to comply with all conditions to export under the preferential scheme;
  - (ii) Second, how costly or difficult compliance with the prescribed regulations and procedures is: in particular, compliance with the general or product-specific rules of origin.

3.2. This note focuses on the second factor, that is, the impact that preferential rules of origin may have on preference utilization. In fact, a preference will be granted only when three origin-related pre-requisites are simultaneously met, namely:

- (i) compliance with the general or product-specific rules of origin (i.e. minimum criteria defining origin and substantial transformation);
- (ii) the presentation of a certificate of origin matching specific prescriptions (i.e. specific documentary requirements); and
- (iii) the ability to directly consign the goods from the beneficiary country to the preference-granting country (i.e. to comply with the prescribed transportation requirements).

3.3. Only when all three requirements are met will the preference be granted. Hence, low preference utilization could indicate that the rules that identify the conditions under which a product can acquire the origin of the exporting country are too demanding and cannot be met. Or it could also indicate that certificates are too costly to obtain. Or that an exporter is not able to ship the goods directly to the market of the preference-granting country. Conversely, a high utilization rate would indicate that origin requirements do not hinder trade and can be complied with most of the time.

#### **4 LIMITATIONS TO THE USE OF PREFERENCE UTILIZATION TO EXAMINE RULES OF ORIGIN**

4.1. It should, nonetheless, be noted that there are also limits to the use of preference utilization as a tool to examine the restrictiveness of preferential rules of origin. Rules of origin are, in fact, not the only factor which could explain less-than-full utilization of preferences.

4.2. For instance, trade preferences may not be utilized because the preferential margin is not sufficiently attractive (that is, the MFN rate is so low that the preferential margin does not work as an incentive to use the preferences).

4.3. Moreover, it must be noted that different trade preference schemes overlap in practice. Exporters may have the choice between different preferential schemes (non-reciprocal and reciprocal, each with different rules of origin). For example, the United States "African Growth and Opportunity Act (AGOA)" co-exist with the United States General System of Preferences (GSP). In the presence of such competing preferential schemes, traders will prefer to trade under whichever scheme is most beneficial. As a result, low preference utilization under, for instance, the US GSP may convey the wrong impression that the scheme is of little value for beneficiaries whereas, in reality, exporters may prefer to use AGOA. Likewise, Australia grants trade preferences to Cambodia both under the "Australian System of Tariff Preferences" (ASTP) and under the ASEAN-Australia-New Zealand free trade agreement (AANZFTA). Only a combined examination of trade under both schemes would enable a comprehensive overview of preferential trade patterns.

4.4. Finally, an examination of preference utilization is not sufficient to consider all developmental benefits of a PTA. For that, it would be important to also consider the total trade value and the profile of products being traded. For instance, there could be full preference utilization on very low trade values. Conversely, a very large amount of trade could be taking place subject to relatively low preference utilization.

## 5 INFORMATION AND DATA SOURCE

5.1. Information and data used in this note were drawn from notifications submitted by WTO preference-granting Members pursuant to the requirements of the Transparency Mechanism for Preferential trade Arrangements (WT/L/806). Accordingly, Members must notify as follows:

- (i) The list of tariff lines for which a tariff preference is available under a Member's PTA for LDCs; and
- (ii) The value of imports, at the tariff-line level, under:
  - a. The PTA for LDCs (i.e. trade having actually received preferences); and
  - b. Other treatment (trade having paid MFN duties or having entered under other preferences that may be available).

5.2. The preferential schemes reviewed in this report have been notified under the "Enabling Clause" in the case of developed country Members<sup>3</sup> and under the 1999 waiver for developing countries.<sup>4</sup>

5.3. All trade data used in section 9 below refer to 2015.<sup>5</sup>

## 6 DATA AVAILABILITY AND MEMBERS EXAMINED IN THIS NOTE

6.1. Not all WTO preference-granting Members have provided the Secretariat with the necessary trade data and information for the calculation of preference utilization rates. Section 9 below only reports preference utilization rates for certain WTO preference-granting Members. The status of notifications is as follows<sup>6</sup>:

- (i) Trade data is available for the schemes of the following WTO preference-granting Members: Australia; Canada; Chile; European Union; India; Republic of Korea; Chinese Taipei; Thailand; and the United States;
- (ii) The data submissions from Japan, Norway and Switzerland are currently being reviewed so the utilization rates reported in this note should be considered as preliminary results;
- (iii) Trade data is currently not available for the following WTO preference-granting Members: China; Iceland; Kazakhstan; Kyrgyz Republic; New Zealand; Russian Federation; Tajikistan; and Turkey.

## 7 DATA LIMITATIONS

7.1. A number of limitations should be noted with respect to the data used in this report.

7.2. First, data held by the Secretariat depends on the manner in which each WTO Member collects their preferential trade statistics. Some Members may record preferential trade on the basis of import declarations. In this case, the fact that a preference was claimed does not mean it was eventually granted. As a result, in some instances, there could be a slight overestimation of preferential trade.

7.3. Second, preferential trade values and the utilization of preferences vary from one year to another. As a consequence, a more comprehensive and more accurate picture would require the examination of preference utilization over several years. This note only reports on data for one year (2015).

<sup>3</sup> Paragraph 2 of the Decision of 28 November 1979 on Differential and More Favourable Treatment Reciprocity and Fuller Participation of Developing Members.

<sup>4</sup> Waiver Decision initially adopted by Members in 1999 (WT/L/304), and extended until 30 June 2019 (WT/L/759).

<sup>5</sup> According to paragraph 16 of the Transparency Mechanism (WT/L/806) Members have until 30 October of every year to notify their preferential trade statistics for the previous year.

<sup>6</sup> Document G/RO/W/163/Rev.1 contains a summary of notification requirements under the PTA Transparency Mechanism (WT/L/806) as well as a detailed status of notifications received and information available with the Secretariat for each PTA.

7.4. Third, WTO preference-granting Members define unilaterally the precise list of beneficiaries of their PTA for LDCs. While these lists largely overlap, there may also be some differences. Some WTO preference-granting Members may either permanently or temporarily exclude some LDCs if prescribed eligibility criteria are not met. Most schemes offer preferences to all LDCs officially designated as such by the United Nations<sup>7</sup>, but a few may also include non-LDC low-income countries. This note reports preference utilization rates for each PTA for all eligible LDCs, as defined by the preference-granting Member.

7.5. Finally, this report shows aggregated averages based on annual trade statistics. Averages, however, could conceal significant differences in preference utilization for some products, sectors or countries. An examination of individual transactions would allow a more detailed consideration of the capacity of individual operators and countries to seize preferential trade opportunities.

## **8 NOTES ABOUT THE PREFERENCE SCHEMES FOR WHICH PREFERENCE UTILIZATION RATES COULD BE REPORTED IN THIS NOTE**

8.1. The graph and two tables in section 9 below report the preference utilization rates of WTO preference-granting Members who have notified all the necessary trade data and information to the Secretariat. These rates should be considered in light of the trade and tariff specificities of each WTO preference-granting Member. As discussed above, there are several factors which may influence preference utilization (e.g. the existence of other reciprocal or non-reciprocal trade preferences). Some of these specificities are described in this section.<sup>8</sup>

### **8.1 Australia: "Generalized System of Preferences"**

8.2. Australia offers duty and quota-free access to 100% of products originating in LDCs. In addition, some WTO LDC Members also have preferential market access to the Australian market by virtue of the ASEAN-Australia-New Zealand free trade agreement (AANZFTA<sup>9</sup>), the 1980 South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA) and the recently signed (2017) Pacific Agreement on Closer Economic Relations (PACER) Plus<sup>10</sup>. Australia applies an MFN rate of zero to 47.6% of its tariff lines. The Australian government is currently conducting a comprehensive review of its trade preferences and preferential rules of origin.

### **8.2 Canada: "Least Developed Country Tariff (LDCT)"**

8.3. Canada offers duty and quota-free access to LDCs on 98.6% of its tariff lines. Canada applies an MFN rate of zero to 70.6% of its tariff lines.

### **8.3 Chile: "Duty-free treatment for LDCs"**

8.4. Chile's preferences for LDCs cover 99.5% of tariff lines. Chile applies an MFN rate of zero to 0.4% of its tariff lines.

### **8.4 The European Union: "Everything But Arms" (EBA)**

8.5. The European Union's Generalized Scheme of Preferences contains two sub-schemes, one of which is specifically designed for LDCs. Under the "Everything But Arms" initiative, LDCs benefit from duty and quota-free access on 98.8% of all tariff lines. In addition, after the negotiation of an "Economic Partnership Agreement" (EPA) between the EU and African, Caribbean and Pacific countries, reciprocal trade preferences are also being introduced for several WTO LDC Members. The EU applies an MFN rate of zero to 25.9% of all its tariff lines.

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<sup>7</sup> <https://www.un.org/development/desa/dpad/least-developed-country-category.html>

<sup>8</sup> Document WT/COMTD/LDC/W/65 contains further information on the value of imports from LDCs into WTO preference-granting Members. The figures concerning MFN duty-free rates cited below were extracted from the WTO IDB database (latest year available).

<sup>9</sup> Cambodia; Lao People's Democratic Republic; and Myanmar.

<sup>10</sup> Solomon Islands.

### **8.5 India: "Duty Free Tariff Preference Scheme for Least Developed Countries"**

8.6. India's "Duty Free Tariff Preference Scheme for LDCs" grants duty and quota-free treatment on 94.1% of India's tariff lines. In addition, India also provides preferences to Bangladesh and Nepal under the SAARC (South Asian Association for Regional Cooperation) Preferential Trading Arrangement and under the South Asian Free Trade Agreement (SAFTA). India has concluded a preferential trade agreement with Afghanistan and a Comprehensive Economic Cooperation agreement with ASEAN (trade preferences therefore also apply to ASEAN LDC members: Cambodia; Lao People's Democratic Republic; and Myanmar). Finally, India also applies trade preferences under the Generalized System of Trade Preferences (GSTP). India applies an MFN rate of zero to 2.6% of its tariff lines.

### **8.6 Japan: "Generalized System of Preferences"**

8.7. Japan's GSP offers duty and quota-free market access to imports originating in LDCs covering 97.9% of Japan's tariff lines. Under the Japan-ASEAN free trade agreement, Cambodia; Lao People's Democratic Republic; and Myanmar can also access the Japanese market under preferential conditions. An MFN rate of zero applies to 39.7% of Japan's tariff lines.

### **8.7 Korea: "Preferential Tariff for LDCs"**

8.8. Korea's PTA for LDCs covers 89.9% of all tariff lines. In addition, Cambodia, Lao People's Democratic Republic, and Myanmar also have preferential access to the Korean market by virtue of a Korea-ASEAN Free Trade Agreement. Bangladesh and Lao People's Democratic Republic are also beneficiaries of the Asia Pacific Trade Agreement (APTA, formerly known as the Bangkok Agreement). Finally, the Republic of Korea also applies trade preferences under the Generalized System of Trade Preferences (GSTP). Korea applies an MFN rate of zero to 16.6% of its tariff lines.

### **8.8 Norway: "Generalized System of Preferences"**

8.9. Norway offers duty and quota-free access to 100% of products originating in LDCs. In addition, Lesotho enjoys preferential access into the Norwegian market by virtue of a free trade agreement between the European Free Trade Association (EFTA) and the Southern African Customs Union (SACU) states. Norway applies an MFN rate of zero to 85.2% of its tariff lines.

### **8.9 Switzerland: "Generalized System of Preferences"**

8.10. Switzerland offers duty and quota-free access to 100% of products originating in LDCs. In addition, Lesotho enjoys preferential access in the Swiss market by virtue of a free trade agreement between the European Free Trade Association (EFTA) and the Southern African Customs Union (SACU) states. Switzerland applies an MFN rate of zero to 20.8% of its tariff lines.

### **8.10 Chinese Taipei: "Generalized System of Preferences"**

8.11. Chinese Taipei offers duty and quota-free market access to 30.8% of products originating in LDCs. An MFN rate of zero applies to 29.2% of Chinese Taipei's tariff lines.

### **8.11 Thailand: "Generalized System of Preferences"**

8.12. The Duty-free and Quota-free programme for LDCs covers 74.7% of Thailand's tariff lines. In addition, Thailand offers preferences to Cambodia; Lao People's Democratic Republic; and Myanmar within ASEAN. Thailand also applies trade preferences under the Generalized System of Trade Preferences (GSTP). Thailand has informed the Secretariat that no trade with LDCs has been reported under the GSP in 2015. Thailand was therefore not included in tables 1 and 2 below. An MFN rate of zero applies to 31% of Thailand's tariff lines.

### **8.12 United States: "Generalized System of Preferences"**

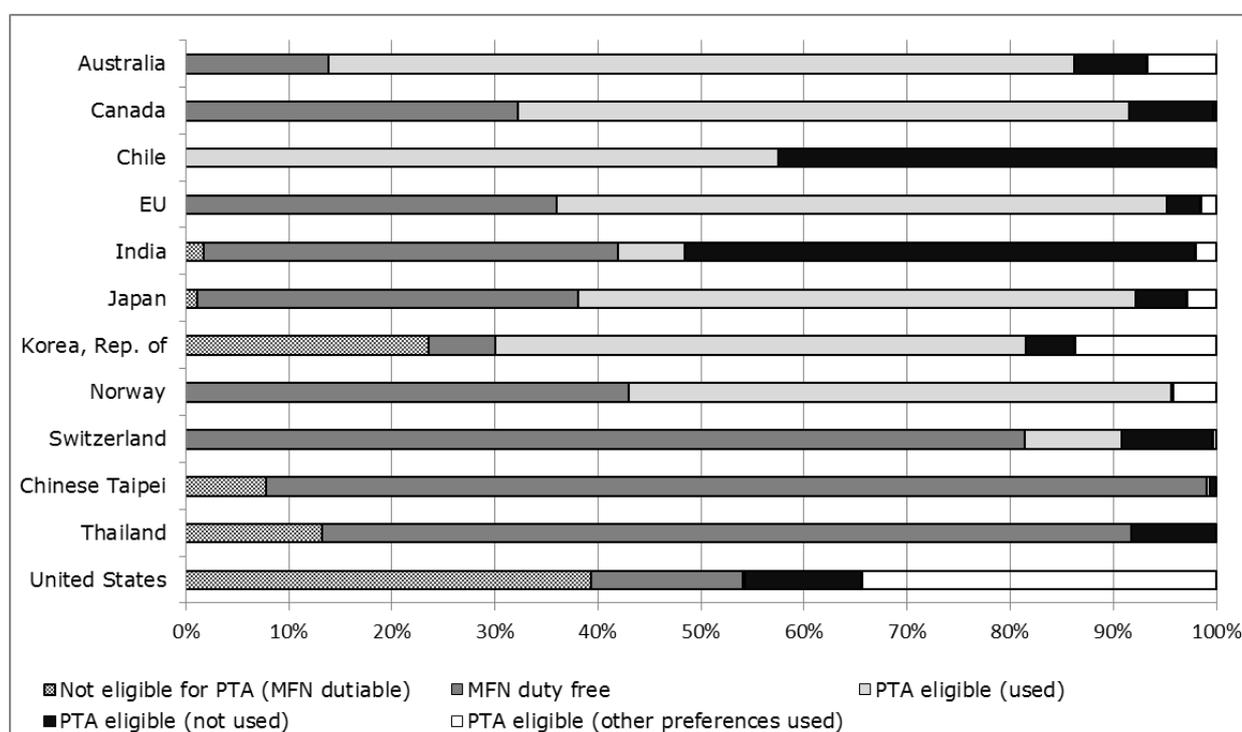
8.13. LDCs have preferential market access to the United States under three distinct schemes. Sub-Saharan African countries benefit from the African Growth and Opportunity Act (AGOA), which covers up to 97.5% of tariff lines for eligible countries. Haiti benefits from duty-free preferences on

all tariff lines by virtue of the Caribbean Basin Trade Partnership Act (CBTPA) and specific programmes. Other LDCs benefit from preferential market access under the Generalized System of Preferences, which covers 80.5% of tariff lines. Each scheme has its distinct preferential rules of origin and eligibility criteria. An MFN rate of zero applies to 36.9% of tariff lines in the US.

## 9 PREFERENTIAL TRADE AND PREFERENCE UTILIZATION RATES

9.1. The graph below shows a decomposition of total imports of each WTO preference-granting Member from LDC beneficiary countries. The bars are split into categories to show the proportion of imports which take place under specific conditions: in MFN dutiable lines (not eligible for preferences); in MFN-zero lines; under a PTA for LDC scheme (either utilizing or not utilizing the preferences); and under "other" preferences.

**Graph 1: Imports of WTO preference-granting Member from LDCs (2015)**



9.2. Table 1 presents the utilization rates for each preference-granting Member, detailed by 22 product categories<sup>11</sup>. It should be noted that the utilization rates reported below are subject to the limitations described in sections 4, 6 and 7. Utilization rates range from 0% (no utilization) to 100% (full utilization) for each sector. Empty fields are shown when no imports have been reported under the specific PTA for LDCs.

**Table 1: Preference utilization rates by product groups under each PTA (2015)**

Product category <sup>11</sup>	Australia	Canada	Chile	European Union	India	Japan	Korea, Republic of	Norway	Switzerland	Chinese Taipei	United States
	GSP	LDCT	Duty-free treatment for LDCs	EBA	DFTP Scheme for LDCs	GSP	Preferential Tariff for LDCs	GSP	GSP	Duty Free Market Access for LDCs	GSP
Animal products				20.4	0	100.0	99.6	100.0			0
Dairy products		0		0		84.4					0
Fruits, vegetables, plants	61.6	58.5	0	92.6	0.7	98.3	65.3	99.3	8.8	89.2	0.6
Coffee, tea	24.8	40.6	0	54.5	0	54.7	81.2	100.0	3.0	0	0
Cereals and preparations	61.7	80.1	0	97.8	0.5	96.6	70.7	99.6	37.9	0	20.2
Oilseeds, fats and oils	22.0	31.9	0	96.2	65.3	90.3	62.3	100.0	97.5		0
Sugars and confectionery	30.0	23.4		67.0	0	100.0	0		2.1		0.1
Beverages and tobacco	51.2	23.2	0	99.0	0	53.2	90.1		57.4		0
Cotton											
Other agricultural products		40.7	0	14.8	74.9	99.2	3.2	100.0	2.3		0
Fish and fish products	0	97.9	57.0	89.7	0.1	73.8	94.3	0		100.0	49.9
Minerals and metals	29.2	21.4	99.2	98.1	17.7	98.8	94.0		1.5	34.9	0
Petroleum			100.0	89.9	0						0
Chemicals	54.7	65.7	0	16.6	0	53.3	19.3		31.6	1.1	1.4
Wood, paper, etc.	35.5	84.0	0	70.9	0	80.5	58.6		56.7		0
Textiles	86.5	86.3	1.2	90.8	0	67.8	46.9	98.3	46.3	8.0	0
Clothing	91.5	88.4	2.9	95.4	0	89.4	32.2	97.2	51.6	0.4	0
Leather, footwear, etc.	16.0	85.9	3.5	95.9	1.2	94.5	75.3		41.7	48.8	0.1
Non-electrical machinery	0	0.1	0	0.9	0		0			0	0
Electrical machinery	0.5	0.1	0	14.3	5.0		49.9			0	0
Transport equipment	0	82.4	0	65.6	0		0		30.2	0	62.9
Manufactures n.e.s.	2.5	21.3	0	58.7	0	58.5	9.5		26.9	0.2	1.2

<sup>11</sup> The composition of product categories aligned to the Harmonized System (HS) can be found here: [http://stat.wto.org/idbdata/MTN\\_product\\_classification\\_e.pdf](http://stat.wto.org/idbdata/MTN_product_classification_e.pdf).

9.3. Table 2 presents preference utilization rates for each WTO preference-beneficiary LDC under each PTA. It should be noted that the utilization rates reported below are subject to the limitations described in sections 4, 6 and 7. Utilization rates range from 0% (no utilization) to 100% (full utilization) for each sector. Empty fields are shown when no imports have been reported under the specific PTA for LDCs.

**Table 2: Preference utilization rates for each WTO LDC beneficiary under each PTA (2015)**

WTO LDC Beneficiary	Australia GSP	Canada LDCT	Chile Duty-free treatment for LDCs	European Union EBA	India DFTP Scheme for LDCs	Japan GSP	Korea, Republic of Preferential Tariff for LDCs	Norway GSP	Switzerland GSP	Chinese Taipei Duty Free Market Access for LDCs	United States GSP
Afghanistan	79.9	2.9	0	59.0	0	30.4	0	100.0	2.8		10.9
Angola	0	0	98.6	45.2	0	28.8	0.5	100.0	0		0
Bangladesh	93.5	89.0	3.3	97.5	0	94.0	87.3	97.7	52.5	55.5	
Benin		2.3		58.0	4.6	0	90.0		8.5		0
Burkina Faso	0	53.6	0	84.7	0	88.9	0		6.8		0
Burundi		0	0	89.0	0	0	27.3	100.0	0		0
Cambodia	64.5	88.7	2.3	93.1	1.9	79.1	24.7	95.3	50.3	13.1	10.3
Central African Republic	0	0	0	1.5	0	0	0		0		0
Chad		0		0	0		0		0		0
Dem. Rep. of the Congo	0	0		39.6	0	0	96.5	100.0	17.0		0
Djibouti	0	0		0	0		98.9	100.0	0		0
The Gambia	0	0	0	98.2	0		92.5		0		0
Guinea	0	0.2		47.2	0	0	0		61.2		0
Guinea-Bissau		0		0	0				0		
Haiti	7.5	25.8	0	89.0	0	0	0	74.7	0	100.0	0.1
Lao People's Dem. Rep.	63.4	67.4	0	97.0	0	78.6	36.5	98.2	36.4	0	
Lesotho	97.9	77.2		70.8	0	90.8	0		0		0
Liberia, Republic of		0		0	0		0	100.0	0		0
Madagascar	39.8	78.9	0	0.8	77.6	95.4	95.1	98.9	37.2	0	0
Malawi		31.9	0	92.1	0	100.0	98.3		0		0
Mali	0	0	0	74.5	0.4	90.4	0	72.1	25.3		0.4
Mauritania	0	0	0	95.7	0	96.2	95.4	0	0		0
Mozambique	0	0	0	96.9	0.3	55.9	75.1		83.7		0
Myanmar	69.2		0.6	94.9	0.7	95.3	7.9	87.2	11.1	0.2	
Nepal	71.3	55.7	2.3	92.4	0	80.4	42.4	99.7	46.9	37.7	0.4
Niger	0	14.7		81.0	0	0	0		0		0
Rwanda	0	57.0	0	68.7	58.5	4.7	38.4	17.8	0		0
Senegal	16.3	12.0	0	97.3	0.6	63.7	48.0	98.3	60.7	98.4	0
Sierra Leone	0	0	0	83.3	0		0				0
Solomon Islands	8.6	0		98.0	0	37.3	0		96.3		68.2

<b>WTO LDC Beneficiary</b>	<b>Australia</b> GSP	<b>Canada</b> LDCT	<b>Chile</b> Duty-free treatment for LDCs	<b>European Union</b> EBA	<b>India</b> DFTP Scheme for LDCs	<b>Japan</b> GSP	<b>Korea, Republic of</b> Preferential Tariff for LDCs	<b>Norway</b> GSP	<b>Switzerland</b> GSP	<b>Chinese Taipei</b> Duty Free Market Access for LDCs	<b>United States</b> GSP
Tanzania	19.8	16.2	0	84.5	6.0	74.0	80.5	98.3	80.2	0	0
Togo	0	79.6		91.1	0	18.8	39.2		51.5		0.2
Uganda	6.2	6.8	0	97.6	15.6	65.5	93.3	99.9	79.7		1.0
Vanuatu	0	35.4	0	9.2	0	2.5	0		0		0
Yemen	40.9	0		41.0	0	0	99.5		0		4.3
Zambia	0	33.1	0	68.8	93.1	96.3	93.1	95.6	0		0