



6 December 2019

(19-8432)

Page: 1/3

General Council

Original: English

LDC VIEWS ON WTO REFORM DISCUSSIONS AND PROPOSALS

COMMUNICATION FROM CHAD ON BEHALF OF THE LDC GROUP

The following communication, dated 6 December 2019, is being circulated at the request of the delegation of Chad on behalf of the LDC Group.

1.1. The multilateral trading system is facing serious challenges to its authority and effectiveness. The Appellate Body crisis is one of the most visible symptoms, but many Members have identified other areas that need urgent attention. Under the rubric of WTO Reform, Members have made a number of proposals covering a wide range of topics. In this proposal, the LDC Group wishes to focus on three recently-raised topics: Appellate Body Reform, Notification and Transparency, and Procedures in Council and Committees.

1.2. In approaching the WTO Reform discussions, LDC Members emphasize the importance they attach to the following principles regarding discussions and proposals.

1.3. WTO reform should:

- i. Take full account of the widespread capacity constraints of LDC Members, in the levels of obligations and implementation expected of them;
- ii. Ensure that inclusive negotiating processes and consensus-based decision-making are constantly used; and that whatever the negotiating format, all WTO Members have the right to access promptly all documents examined during the negotiations;
- iii. Ensure that proposed reform measures, including those related to the provision of technical assistance to LDCs, can help them to effectively and sustainably address their structural capacity constraints in order to enable them to meet their commitments towards the WTO;
- iv. Guarantee the preservation and improvement of the gains granted to LDCs in terms of the legal and procedural flexibilities contained in WTO agreements and decisions; and,
- v. Consider the capacity limitations of the graduated LDCs and allow them to continue with LDCs flexibilities for a period of time for smooth transition.

a. Appellate Body Reform

- i. The LDC Group views a functioning dispute settlement system, including fair and effective appellate review, as essential to the role of the WTO. Fair and effective appellate review provides the underlying credibility that sustains the rules-based system serving all WTO Members, including LDC Members.
- ii. The LDC Group thus urges all Members to:

- (1) Examine closely the draft General Council decision put forward by the Facilitator of the Informal Process (JOB/GC/222), with a view to moving as soon as possible toward a final decision;
- (2) Resolve the current impasse in AB member nominations, by including in the General Council Decision an instruction that the DSB launch without delay a selection process to fill vacant Appellate Body positions;
- (3) Avoid creating rules and procedures that impose administrative burdens or additional complexity that would disproportionately affect potential LDC parties or third parties in disputes in any further discussions on Appellate Body reform;
- (4) Take account of the desirability of encouraging the nomination of Appellate Body members from LDC Member countries, in any discussions on increasing the capacity of the Appellate Body;
- (5) At the request of an LDC Member involved in a WTO dispute, and pursuant to Article 27.2 of the DSU, ensure that the Secretariat is able to provide legal advice and assistance to that LDC Member during each stage of the dispute settlement proceeding, including at the Appellate Body level.

b. Notification and Transparency

- i. The LDC Group recognizes that effective transparency and notification requirements are important, and that all the WTO Members, including developed Members, need to improve their implementation of these requirements. In this respect developed country Members should be prepared to lead by example.
- ii. The LDC Group does not support the imposition of additional/new notification and transparency obligations on LDC Members, if these new obligations do not take full account of LDC capacity constraints, many of which cannot be resolved simply through short-term Secretariat technical assistance and capacity building. In all circumstances, the LDC Members shall be provided technical and financial assistance by the Secretariat to fulfill their notification and transparency obligations.
- iii. The LDC Group does not support under any circumstances the imposition of punitive measures on LDC Members, who may already be subject to similar measures, including ineligibility for technical assistance due to arrears in WTO dues. The Marrakesh Agreement (particularly Article XI.2) and the Uruguay Round Ministers' Decision on Measures in Favour of Least-Developed Countries (paragraph 1) ensure that LDC Members are required to undertake only those commitments and concessions where they have recognized capabilities. LDC Members are not to be forced to act beyond their capacities and limitations. More positive incentives and solutions should be envisaged for LDC Members. In this regard, existing difficulties in notification should be reviewed, and where required, the templates and procedures for LDC Members should be simplified.
- iv. The reform proposals submitted by other Members that aim to improve and enforce notification obligations recognize, and are sensitive to, the difficulties faced by LDC Members in meeting the notification expectations set out in various WTO agreements. Accordingly, the LDC Group urges the Secretariat to provide the necessary support to LDC Members to overcome any observed shortcomings in this area, and to develop a support plan to create a national framework that will enable LDC Members to respond effectively and in a timely manner to notification and transparency obligations.

c. Procedures in Councils and Committees

- i. In order to facilitate the application of procedures in the WTO Councils and Committees, the LDC Group supports the need to clarify in advance the definition and scope of the notion of "trade concerns" that may be brought by one Member to the attention of another.

- ii. The LDC Group accepts the potential benefits of improving the functioning of the WTO Councils and Committees through better and more structured meeting procedures. However, it does not support tightened deadlines, the structured written exchange between Members of information on trade-related measures, and related Chair consultative processes, when these would impose a disproportionately greater burden on the LDC Members, given their lower capacity levels in capitals and Geneva.
 - iii. The LDC Group supports proposals that would improve transparency through avoiding scheduling conflicts between various Councils and Committees, avoiding the proliferation of open-ended meetings with no written records, and requiring annotated agendas circulated prior to Council for Trade in Goods meetings. Given the language profile of many LDC Members, the Group also attaches great importance to the maintenance of full translation and interpretation services.
 - iv. With respect to Ministerial Conferences, the LDC Group supports full transparency and inclusivity in decision-making in their preparation and organization.
 - v. For the LDC Group, proposals for procedural reform in WTO Councils and Committees should contribute to strengthen the monitoring and implementation of all decisions taken in favor of the LDCs, and to achieve more results that can positively impact their economies.
 - vi. Multilateral approaches should be encouraged with respect to the negotiation of any possible agreement.
-